US TARGETED KILLING, SECRECY, AND THE EROSION OF THE ASSASSINATION NORM

By

ANDRIS BANKA

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Department of Political Science and International Studies

School of Government and Society

College of Social Sciences

University of Birmingham

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ABSTRACT

The objective of this thesis is twofold. First, by employing the norm 'life' and 'death' cycles grounded in constructivist scholarship, the research aims at determining to what extent the domestic norm against assassination in the United States has been weakened in the light of the 9/11 terrorist attacks and the advent of new technologies, namely Predator drones. To that end, the study conceptualizes the norm and provides a historical look of targeted killings as a foreign policy tool. It traces and evaluates normative assumptions about this method from the 1970s to the end phases of Barack Obama presidency, concluding that there has been a substantial normative erosion. Secondly, the presented thesis also attempts to make a more theoretical contribution by observing mechanisms by which the normative change transpired, demonstrating that in the case of targeted drone strikes, the US government relied on deliberate partial official secrecy - quasi-secrecy - in order to avoid overt justification and achieve the normalisation of otherwise controversial practice. The study concludes that there is a strong link between US governments initiated quasi-secrecy – a tool that was applied deliberately and strategically, and successful legitimization of a new practice – routine targeted killings. These insights allow to advance our understanding of how normative legitimization works, benefiting the theoretical literature on norms.

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Chapter 1: Introduction and Research Question

Assassination as a statecraft has existed for centuries and at a certain historical period evoked intense and diverse reactions, ranging from wide approval and enthusiasm to outrage and moral condemnation. In the United States, after a Congressional inquiry in 1975 had discovered government-initiated attempts against foreign heads of state, lawmakers officially rejected such practices, formalizing their normative stance in an Executive Order. In the context of the norm against assassination, the Church Committee in the 1970s symbolized a watershed moment when the United States drew a clear red line with respect to assassination as illegitimate and unacceptable means of state policy. With rare exceptions, the United States for decades steered its foreign policy without using the instrument of singled-out killings. Before 2001, there even was a considerable reluctance within the US national security bureaucracy to go after individual terrorism suspects. Targeted killing carried a stigma and policy makers wanted to disassociate themselves from activities that even slightly resembled anything like it.

But that was before the seminal event of September 11, 2001. Terrorist attacks on the World Trade Center in New York and the Pentagon in Washington, profoundly impacted previously set normative standards. International terrorism pulled the United States into an open ended war, and brought a tidal wave of policy changes. While the US government refrained from openly endorsing targeted killing as a method, its own routine practice of eliminating foreign enemies one by one outside conventional combat settings across various countries suggest that domestically there has been a substantial normative revision. The gravitational pull from this event may have been such that it had set in motion the erosion process of the norm against assassination. The ease with which US decision makers have signed under pre-meditated named killings, and extent to which such practices have been institutionalized and normalized, stand in sharp contrast with the United States historical record (1975 -2001) when such methods were explicitly rejected by political elites and the general public.

Almost concurrent with the terrorist attacks on 9/11, some notable developments took place in the realm of military technology. While initially the value of unmanned aerial vehicles, or drones, in eliminating specific enemies was not self-evident, with time this weapons platform became an

enabling factor in expanding the boundaries of what the public considers to be acceptable foreign policy behaviour. Historically, targeted killing as a practice was characterized by practically unreliable tools, shady personalities, and, above all, unpredictable outcomes. 'It is a nasty business that requires nasty people', Rand Corporation study had suggested back in 1987 (Jenkins, 1987). This is where the introduction of drones, remotely controlled from thousands of miles away, may have upended the calculus in favor of regular targeting missions. The optics of a weaponized drone silently hovering over a hostile territory and delivering high-precision strikes without any threat to the US personnel perpetuated the idea of a clean and risk-free military engagement. Predator drones markedly increased the success rate of targeting killing operations which historically had carried immense risks and practical complications. As Chair of the US Senate's Intelligence, Dianne Feinstein once remarked, drones in many ways are the 'perfect assassination weapon' (Edwards, 2013).

Taking into account these two key developments – major event (9/11) concerning US national security and the advent of a cutting-edge military technology, the argument advanced here is that the United States, in the context of regular targeted drone strikes, has weakened the established domestic norm against assassination. According to Axelrod (1986: 1096), a norm can change in 'surprisingly short time'. Sometimes even few violations may be enough to demonstrate that a norm is no longer valid (Thomas, 2005: 33). While the US commitment to the norm rhetorically has stayed the same, in practical terms the borderline of the 'appropriate' has seemingly been pushed further away. Highly controversial methods that were once considered unlawful are now presented as legitimate, humane and necessary. From last resort action, targeted killing has evolved into US trademark policy, a routine procedure, welcomed by politicians across a wide ideological spectrum and supported by the American public. Consequently, it is reasonable to fear that the domestic norm against assassination may have been eroded.

Apart from trying to establish to what extent there is a normative crises in the United States, the study is also concerned with the process by which such normative shift transpires. When it comes to norms, actors traditionally operate with the following accounts: 'apologies, denials, excuses and justifications' (Shannon, 2000: 304). While at the end of the Obama administration officials attempted to legitimize drone strikes through carefully scripted legalistic arguments and appeals

to national security, for almost a decade, the US government, under both Republican and Democratic presidents, attempted to hide more controversial aspects of this programme. Instead of explaining how flying drones over sovereign nations and delivering lethal strikes far away from recognized battle zones fit with the relevant laws and norms, the US government evoked its privilege to block and delay information flow, visibly undercutting public's ability to have an informed debate and to understand the true scope and costs of such operations.

Daniel Byman, who has studied Israeli targeted operations for years, argues that such policies have enjoyed sustained popular support in Israel because they have been subjected to public discussions (Byman, 2006: 109). In the case of US drone strikes, there has not been a full and transparent debate, yet support for this practice has remained impressively high for many years. The examined case can be theoretically revealing as it challenges conventional constructivist notions about rhetorical processes as key for understanding how new practices are introduced and legitimized.

Instead of engaging in argumentative processes about 'new behaviour' – systematic targeted killings, the US government for a long period of time did exactly the opposite – operated in the 'dark' with minimal efforts to justify its norm breaking behaviour. While most norm scholarship treats secrecy as a temporal measure that sooner or later will fade away or backfire, the empirical case regarding drone strikes points towards entirely different dynamics - a situation where long term 'hiding in the shadows' has served the government well and has helped to win over the public regarding what used to be a highly controversial practice.

Building on the constructivist school theorization of norms, the presented study approaches US targeted killings from a normative standpoint, and seeks to answer the following research questions:

> 1. *To what extent, if at all, have the US targeted drone strikes weakened the domestic norm against assassination?*
>
> 2. *By what process has the normative change occurred in the context of US targeted killings?*

The thesis is structured in two key parts; the first provides the theoretical foundations of the research, while the second is devoted to an empirical measurement and evaluation of the domestic norm against assassination. The conceptual part starts with an interrogation of the key concepts 'targeted killing' and 'assassination', with an aim to clarify these terms and justify linking of US drone strikes with the norm against assassination. Moreover, the conceptual chapter locates the study in the broader literature concerning norms. While the topic of targeted killing is most often investigated under the prism of law, strategy, ethics, and technology, the presented work finds itself more on the side of historical and normative analysis. The conceptual part also sheds light on constructivist theorization of norms, their emergence, relevance, and function.

In order to explain how norms are first introduced and accepted, the investigation will make use of Finnemore and Sikkink's (1998) norm 'life' cycle that structures norm dynamics in three separate stages. However, the presented research also argues that this particular model suffers from a certain limitation, namely depiction of norm development as a one-way process towards greater internalization. In the light of this shortcoming, the research further adds Ryder McKeown's (2009) norm 'death series' - a necessary theoretical supplement detailing how once internalized norms can lose their status and end up considerably weakened. In addition, the study theorizes various legitimization strategies with a particular focus on scarcely discussed elements in the norm based literature - government secrecy. Lastly, specific methods for the study of norms and targeted drone strikes are outlined.

Empirically, the chapter structure of the thesis will proceed as follows. The first chapter concerning the Church Committee will explore the origins and meaning of the domestic norm against assassination. Conceptually, it is linked to the norm life-cycle emergence stage, as it traces how the initial arguments against assassination emerged, analyses processes that shaped its path towards acceptance and looks at the wider ideational and political context in which introduction of such prohibition was possible. The centerpiece of this thesis part is the Church Committee - Congressional investigative group that was formed in the 1970s to examine allegations of serious US government abuses of the law, including various assassination plots against foreign leaders. The chapter details the fight for the assassination ban, outlining how norm entrepreneurs, using

their investigative platform and personal political skill, managed to make the case for the introduction of a formal prohibition outlawing assassination. The chapter further explores the meaning and specific parameters of the ban.

A subsequent chapter then assesses the strength of the norm in the post-Church Committee era (1975-2001). By looking at four case studies – presidencies of Jimmy Carter, Ronald Reagan, George H. W. Bush and Bill Clinton, the research details how normative constraints in the form of assassination ban shaped and guided US foreign policy behaviour. Various cases connected to the rise of international terrorism and rogue state dictators, or at times combination of thereof, tested the ban, as subsequent US presidents and their advisors grappled with the issue of targeted killing and its possible application for eliminating national security threats.

Subsequently, the investigation will turn to the US government activities in the light of terrorist attacks on September 11, 2001 – in many ways a 'critical juncture' for the domestic assassination ban. Conceptually this chapter is linked to the first stage of 'norm death series', where once taken-for-granted norm loses its salience and strength. The key task here is to illuminate how certain 'norm revisionists', namely the Bush administration, managed to covertly overturn the assassination ban, and by making use of new technologies – Predator drones, initiated a massive campaign to eliminate terrorist suspects on a global scale.

In the second part of domestic norm change, the research will examine how changes in the presidency from George Bush to Barack Obama resulted in further expansion of drone program. Over the course of two terms, the Obama administration came to rely heavily on drone attacks, viewing them as low risk, high reward application of military force. Once inconceivable, targeted drone strikes became routine operations that allowed to wage strikes in distant geographical spaces with great precision and no risk for the lives of American servicemen. What was historically seen as a last resort self-defensive measure, turned into routine institutionalized practiced, deeply embedded into national security apparatus. Having opposed the loosely defined Authorization for Use of Military as a candidate, when in office, President Obama would use it as a key legal backbone for striking individual terrorists in Pakistan, Yemen and Somalia.

Through expanded notions of 'imminence' and 'battlefield', the Obama administration targeted suspected militants far beyond the bounds of traditionally recognized zones of conflict.

Concerned with an outside response however, US officials attempted to hide behind convenient official secrecy, or more precisely 'quasi-secrecy', in order not to engage in discussions about more controversial aspects of this CIA-led program. By means of quasi-secrecy, the Obama administration purposefully chose to keep less comfortable details of such missions away from the public domain and beyond Congressional scrutiny while at the same time allowing the public to become familiar with the fact that such missions killed dangerous high-ranking terrorists.

With time, as complete secrecy became untenable, US policy makers reluctantly and carefully engaged in practices of normative legitimization by redefining some of the criteria constituting targeted killing and carving out a category of individuals which were deemed no longer covered by the assassination ban. In sum, the empirical chapter illuminates how the United States government managed to legitimize a controversial practice without actually going through the traditional stages of argument, explanation and contestation, and instead relied on 'quasi-secrecy': the strategic maintenance of convenient official secrecy regarding a policy that in general sense was known to the public. The final chapter sums up the findings of the empirical chapters and integrates them into the theoretical model that the thesis advanced. The work concludes with specific contributions of the research and possible avenues for further studies.

PART I

Chapter 2: Conceptual Framework

2.1 The norm against assassination in historical view

Assassination as a practice among states and various groups has existed for centuries. As Runkle (2011) reminds, despite the current fascination with new technologies that have enabled to carry out targeted killings in previously unseen ways, 'strategic manhunts themselves are almost as old as organized warfare itself'. Historically, the method of removing ones opponent through assassination was widely approved by statesman, with few questions raised as to the moral side of such activity (Thomas, 2005). Some deliberations on political assassination can already be found in Sun Tzu's classic work 'The Art of War', however purely from a practical standpoint (Tzu, 2009: 61). Similarly, in his masterpiece 'The Prince', Niccolo Machiavelli avoids any normative judgment, instead offering practical tips for leaders on how not to end up being killed (Machiavelli, 2003: 78). For a considerable time period in history, assassination was perceived as an ordinary behaviour, a standard function of states in order to attain political ends.

Between the period of Renaissance and Reformation, politically motivated assassinations were practiced widely and routinely among city-states in Europe, Venice being particularly notorious in this regard (Padover, 1943, O'Brien, 1998, Thomas, 2000, Rovner, 2006). From 1415 to 1525, Venice attempted 'two hundred assassinations for purposes of its foreign policy', and did so by publicly chronicling all such efforts (Thomas, 2000: 121). The records indicate that practically no offer of assassination was turned down by the Venetian government (Morgenthau, 1948: 80). The fact that statesman even did not bother to keep this a secret, further speaks to the acceptability of assassination as a political device for confronting enemies.

With time, Italian practices spread elsewhere across Europe, namely France, the Netherlands, England, and even up to Sweden (Padover, 1943: 685). According to Rovner (2006), such methods were also approved by the Vatican, who was known for its support of the assassination of Queen Elizabeth I of England (Rovner, 2006: 582). Equally, the English queen herself planned assassinations in Ireland (Amstutz, 2005: 167). Assassination was not met by some kind out outrage or condemnation. As Morgenthau (1976) observes: 'International politics was considered

exclusively as a technique, without ethical significance, for the purpose of maintaining and gaining power, such methods [like assassination] were used without moral scruples and as a matter of course' (Morgenthau, 1948: 80).

Before the 17th century, political assassination was treated as a conventional means of doing business among states, not that different from diplomacy and war (David, 2003: 115). The international law was framed in a way that did not distinguish between assassinating someone in the battle or elsewhere (Amstutz, 2005: 167). On the contrary, some argued that assassination was the more humane option when compared to other alternatives. As late as 1516, English philosopher Sir Thomas More advocated assassination over engaging in long and costly wars. 'Assassinations', he wrote, 'saved thousands of innocent lives at the cost of a few guilty ones' (More, 1965: 212). Similar type of reasoning seem to have been prevalent among state leaders, philosophers, and even the Catholic Church.

Attitudes gradually started to turn around in the early 17th century (Thomas, 2000: 112). According to Ward Thomas, who has traced the historical emergence of the norm against assassination, complex combination of both material and ideational factors contributed to the de-legitimization of assassination as a state practice (Thomas, 2005). He argues that the emergence of the norm was tightly linked to the rise of modern statehood. With the arrival of mass armies, powerful states preferred to pursue their objectives through the use of force on a large, rather than personal scale (Thomas, 2005: 32). A notion started to develop that 'making war was a proper activity of sovereigns for which they ought not be required to sacrifice their personal safety' (Wachtel, 2005: 685). Such historical reconstruction is also supported by Inbar (2003), who points out that by limiting conflict to clashes of large military forces the leaders of the major powers wanted to establish rules that maximized their advantages over smaller states that did not have such sizable armies (Inbar, 2003: 144). Thus, one can conclude that the norm against assassination was largely a product of the interests of most powerful actors in the system (Thomas, 2000: 121).

With time, political assassination was de-legitimized through various legal texts. Emmerich de Vattel, one of the principal architects of modern international law, condemned assassination in strongest terms possible by declaring that statesman who resorted to killing political rivals should

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be regarded as 'an enemy of the human race' (Rovner, 2006: 583). Italian jurist Alberico Gentili, in addition to moral condemnation, warned that assassinations 'threatened the international system with instability, because it was a practice that would inevitably reciprocate' (Kutz, 2014: 434). These two prominent lawyers laid the groundwork for illegitimacy of assassination as a state practice.

Thereafter, political assassination started to visibly lose its previous acceptability status. In the words of one of America's Founding Fathers, Thomas Jefferson, 'assassination, poison and perjury […] were legitimate principles in the dark ages which intervened between ancient and modern civilizations' (Wrage, 2011: 32). The practice of one state assassinating someone in the sovereign territory of another state had become morally repugnant and fully discredited. By the end of the 19th century, Europe turned towards mass conflict and increasingly away from individual assassinations (Padover, 1943: 690). While assassinations were still practiced domestically in some countries, in foreign affairs the method saw a rapid decline (Rovner, 2006, Aloyo, 2013: 348). From widely accepted and utilized practice once, assassination became 'an anachronism, a relic of an earlier, less enlightened age' (Thomas, 2000: 121).

2.2. Conceptualizing targeted killing and 'assassination'

In the context of designed research questions, it is important to establish some degree of conceptual clarity regarding the key terms in the text – 'assassination' and targeted killing. Accuracy here is needed because the choice of language can actually inform about the legality of what is being described. When writing about targeting of specific individuals, scholars usually employ the following terms - targeted killing or assassination. On the surface, these categories seem nearly identical, however, from a legal perspective, the distinction can make all the difference. It is important to carefully navigate between these concepts, detailing and defining their relationship. The following attempts to explain parameters of each of these terms, and justifies the drawn link between US targeted drone strikes and the domestic norm against assassination.

In public discourse and daily reporting terms like 'assassination', 'targeted killing', 'named killing', 'decapitation', 'preventive killing' and 'extra judicial execution' float around freely and with little attention to detail. Often they are used interchangeably. At times, officials have even opted for euphemisms like 'sudden justice', 'targeted thwarting', or 'preventive liquidation' when referring to targeting operations of known singled-out individuals (Plaw, 2008: 1). In academic literature, situation regarding the terminology is almost as confusing, with no universal agreement regarding definition. A number of authors have pointed out that the lack of a common definition is a major obstacle for those researching this topic (Lotrionte, 2003, Canestaro, 2003, Wachtel, 2005, Himes, 2016). According to Ben-Yehuda (1990), defining the terms have proven to be 'a Sisyphean task' (Ben-Yehuda, 1990: 347).

The term 'assassination' carries with it pejorative connotations of 'cowardice, subterfuge, and unlawfulness' (Pratt, 2015: 3). It is a value-laden term that conveys the notion of 'immorality and illegality' (Fisher, 2006: 714) As Kasher and Yadlin (2005: 41) note, 'assassination' is not an innocent word. That said, interpretations regarding what exactly constitutes assassination vary, with multiple definitions available in academic literature. Worst of all, some discuss assassination without any attempts to define it (Harder, 2002: 3). As a result, scholars have often ended talking past each other, and describing different phenomenon under the same 'assassination' label.

Assassination can be defined narrowly and broadly. Some take a narrow approach and by employing the term refer only to killing of elected officials and prominent figures (Bosco, 2009, Iqbal and Zorn, 2006). For example, definition put forward by Kasher and Yadlin (2005: 44) defines assassination as 'an act of killing a prominent person selectively, intentionally, and for political (including religious) purposes'. Others adopt a broader view, contending that any intentional killing of a singled-out person amounts to assassination, even if it is aimed at a suspect terrorist (Jenkins, 1987, Hosmer, 2010, Carvin, 2012).

For clarity, it might be helpful to unpack the nature and itemize the characteristics of this act. When a state opts for this particular policy tool, it has only one goal in mind - to eliminate a specific individual. The act does not involve due process as the person is 'not given a chance to defend his innocence, and there is no assessment of his guilt by any impartial body' (Blum and

Heymann, 2010: 148). If the operation is being launched, this means that someone in the government bureaucracy authorized branches of its military or intelligence to deliberately use force in lethal manner against a singled-out enemy (Plaw, 2008: 3). The aim of the mission is not to capture the enemy, monitor his or her movements, or acquire information; simply put, the objective is to kill the specific individual (Blum and Heymann, 2010: 148).

It cannot be accidental or unintentional. It is by definition, a deliberate action, overt or covert, where the target is designated in advance (Plaw, 2008: 4). This pre-meditation phase, where the government identifies a specific individual and deliberately decides to kill the subject, is what sets this particular method apart from 'unintentional, accidental, or reckless killings, or killings made without conscious choice' (Alston, 2011: 12). As Pratt observes, 'premeditation carries the implication that the killing is not a reflexive decision based on events during the episode of action but precedes the initiation of contact between the agent and the target' (Pratt, 2015: 6).

The nature of the act, Ben-Yehuda (1990: 349) explains, clearly is individual and not collective. He further notes that for a terrorist it would not make much of a difference what the targets are in order to successfully reach the set objective (Ben-Yehuda, 1990:349). Government-led singled-out killing is different in this respect, since the attacking side is interested only in the specific subject, and 'would not substitute it for something else' (Ben-Yehuda, 1990:349). To the same point, Otto (2010: 16) adds that its performers would regard the mission as a failure in case the targeted person would survive the attack. Thus, one can conclude that the death of the singled-out person is 'intended directly' (Otto, 2010: 16).

The act is not confined to any specific location. It can take place in 'public or private, during the day or at night' (Knoepfler, 2010: 471). Padover (1943: 680) notes that historically it has 'taken place everywhere'. Reasons behind such operations have also varied significantly. From vengeance and in hope of the throne to killings carried out in relation to religious issues, diplomatic assassination, or assassination in the name of class struggle (Bell, 1972: 82, O'Brien, 1998). Sniper fire, missiles from helicopters, poison, the use of car bombs - all have been used as a means for carrying out such missions (Alston, 2011).

That assassination is illegal under international law is the obvious part. To determine what exactly constitutes such act is significantly more demanding task. As Carvin (2012: 11) points out, 'it takes great pains to differentiate between 'assassination' and a policy of targeted killing'. While international law clearly outlaws assassination, it equally lists exceptions to the rule, further complicating already contentious debates on the topic. Prohibition of assassination is codified in a number of international legal texts. The first international attempts to prohibit assassination were the Hague Convention of 1907, and the 1937 Convention for the Prevention of Terrorism (Wachtel, 2005: 686, Eichensehr, 2007: 1874). Today, the most prominent legal body in relation to illegitimacy of assassination is the United Nations Charter (United Nations, 1945). From a legalistic standpoint, the UN Charter is the common point of reference which lawyers and scholars draw upon to debate the legality of particular singled-out killings. Wachtel (2005: 689) contends that whenever one debates the legality of killing leaders abroad or suspected terrorists, their starting point must be the UN Charter.

In contrast to 'assassination', targeted killing, carried out in exceptional circumstances in self-defence, can be legal exercise of force. The term historically gained its prominence after 2000, when the Israeli Defence Force (IDF) launched offensive against alleged militants in Palestinian territories, self-describing such acts as 'defensive targeted killings' (Stahl, 2010). Such killings are justified based on the UN Article 51 which states: 'Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security' (United Nations, 1945a). This is the narrow window through which targeting of specific individuals can be considered a legal act and would not amount to unlawful 'assassination'. In exceptional circumstances, the state can evoke the Article 51, which permits the use of pre-emptive force in self-defence.

This exception is a major point of disagreement between scholars and practitioners as they grapple with what exactly comprises 'armed attack', 'self-defence' and 'imminence'. First, deep divisions exist regarding whether the UN Article 51 can be invoked against transnational non-state actors. There has been an ongoing dispute concerning the question whether a legal state of armed conflict can exist between the United States and terror organizations like Al Qaeda (Plaw and Fricker,

2012). Watchel (2005: 706), for example, has argued that Article 51 does not in any way 'require the presence of a conflict between two states'. Others have been more cautious about it. UN Special Rapporteur on extrajudicial, summary arbitrary executions, Philip Alston, has suggested that outside recognized conflict zones in Iraq or Afghanistan, it has been difficult to demonstrate that the US is legally in an armed conflict with terrorist organizations (Alston, 2011).

The rise of modern terrorism has clearly muddled the waters as some of the targeted individuals blur the civilian-combatant categories. Without military uniforms, it has become increasingly hard to identify combatants. Moreover, civilians can also provide various material and logistical support for combatants (Allhoff, 2009: 266). What is the status of a person that makes the suicide vest but does not directly participate in the act of terror? What about those that simply bankroll terrorist activities? Can they also become lawful targets and if so where exactly is the line drawn? As Gross (2006: 328) comments on this issue, 'the complexion of modern warfare has changed in ways that many theorists and jurists hoped to avoid'.

In order to distinguish between illegal assassination and permissible targeted killing, scholars refer to the following considerations: imminence, proportionality and collateral damage. The concept of imminence is often the key when debating legality of singled-out killings. Interpretations of when exactly a state can launch pre-emptive self-defensive strikes in the context of Article 51 vary. Many would argue that for targeted strike to be in the line with the law, it must be a situation where the threat posed by the enemy is clear, imminent and no other option such as capture or arrest is possible (Statman, 2004, Printer, 2003, Zenko, 2012). Bisharat (2012), for example, notes that one must be able to prove beyond reasonable doubt that the individual targeted is 'actively involved in an imminent attack' (Bisharat, 2012). De Wijze (2009: 307) further notes that the strike has to be a result of a 'dire necessity', not simple preference (De Wijze, 2009: 307). According to Guiora (2012: 256) 'distant, unviable, or merely foreseeable' threats are not sufficient to claim the right for pre-emption. 'Timing' here is of crucial importance when debating state's right to self-defense under Article 51.

Others however have suggested that it is not reasonable for a state to sit and wait until some end-stage of planning materializes, and that force should be applied preventively to remove non-

imminent threats (Eichensehr, 2007, Sapiro, 2003). Even if there is no threat of an immediate attack, the state should still proceed with the targeting mission. This argument has often been connected to the logic that technology and globalization has enabled terrorist organizations to carry out attacks in faster and more deadly fashion, which consequently then requires broader and more elastic view of imminence. Summarizing the two sides, Phythian (2013: 296) notes that 'there is considerable debate as to how far in anticipation it is legitimate to act on the grounds of the right to self-defence'.

Additional requirement, is to weight the value of the target against the likelihood of collateral damage (Dershowitz, 2012). From a legal point of view, the strike has to be proportionate and not excessive to the objective that the state attempts to achieve (Fisher, 2006: 728). The state must suspend the attack, if it establishes that too many civilian casualties will be caused as a result of the operation (Otto, 2010: 539). Equally though, it must be noted that the international law does not impose on the state to have no collateral damage whatsoever. The state however must demonstrate that it did everything in its power to minimize threat to civilian lives (Guiora, 2013).

Furthermore, the aggressor state is required to articulate which part of the international law applies to the targeted strike, detailing its decision making process so that it can be held accountable for its use of force (Zenko, 2012). The same point is reiterated by Alston, who notes that when it is a matter of being able to kill someone in a foreign country, the requirement is that 'all such killings be legally justified, that we know the justification, and that there are effective mechanisms for investigation, prosecution, and punishment if laws are violated' (Bowden, 2013). 'Without transparency as to why an individual has been killed', a targeted killing 'might as well be considered an assassination or just plain murder' (Strawser and McMahan, 2013: 83). The burden of proof clearly rests on the attacking side, and it is the state's responsibility to come clean with the public regarding questions of why, when and how.

Based on outlined debates, the presented analysis will employ the term 'assassination' to describe attempts against elected foreign leaders in times of peace. In the context of this research, there is no doubt that US plots to kill heads of state, such as, Patrice Lumumba of Congo or Fidel Castro of Cuba, fall into the category of 'assassination'. In the case of terrorism suspects, the study will

make use of more value neutral and descriptive term 'targeted killing'. The presented analysis is cognizant of the fact that some of the harshest critics of the US drone program have in fact referred to such operations as 'assassinations' (Amnesty International, 2003, Human Rights Watch, 2002). However, the presented research here does not attempt to prejudge the legality of drone strikes by using value-laden terms such as 'assassination', and instead will make use of more neutral term 'targeted killing'. A helpful definition of targeted killing is provided by Philip Alston: 'a targeted killing is the intentional, premeditated and deliberate use of lethal force, by states or their agents acting under colour of law, or by an organized armed group in armed conflict, against a specific individual who is not in the physical custody of the perpetrator' (Alston, 2011: 298).

It is important to stress that it is well beyond the scope of this thesis to adjudicate the legality of each and every targeted US drone strike. The key focus of the thesis is normative. In the light of this, it is critical to point out that as a normative matter, the US government from 1975 to 2001 was opposed to both - attempts against leadership figures, and singled-out targeting of terrorist suspects. Before 9/11 terrorist attacks, US officials openly criticized Israeli off-the-battlefield singled-out killings (Keinon et al., 2001, Mayer, 2009), which attests that historically the norm was internalized in its broadest sense. Only in the post-9/11 era, when the US government routinely started to make use unmanned aerial vehicles, policy makers actively sought to draw a legal distinction between 'assassination' and targeted killing, arguing that the latter was both legally and morally acceptable. As noted by Robert Grenier, who for many years served as the CIA's leading counter-terrorism official, there was a major legal turn in the United States following the terrorist attacks of 9/11. 'Activities that before 9/11 we would have said were assassination – now we are simply exercising our sovereign right of self-defense', Grenier explained (Center for the Study of the Drone, 2014).

Clearly, the symbolic and strategic consequences of killing leader of a nation versus a terrorist are not the same. The distinction between prominent high level figures and militants, however, does not represent a conceptual obstacle in this work. As Plaw (2008) explains, even if the targeted person is a potential terrorist, it is reasonable to fear that 'too frequent and too prolonged' targeting operations might have eroding effect on the established norm against assassination (Plaw, 2008: 250). Similarly, Thomas (2000: 130) specifies that in the long run, non-transparent

actions even against terrorists can undermine the norm as a whole and 'erode the barriers to the use of assassination in other circumstances'. The outlined discussions provide the basis for connecting drone strikes to the norm against assassination.

2.3 Locating the study in literature

With the rapid development of drone technology, and routine US drone strikes under President Barack Obama, scholarly attention regarding targeted killing has grown remarkably. The topic has been studied from a broad range of perspectives: legal, strategic, technological and normative. A significant number of scholars have engaged in vigorous debate over the legality of targeted killings, especially as it pertains to operations taking place outside the recognized framework of war (Printer, 2003, Statman, 2004, Plaw 2008, Lubell, 2010, Yoo, 2011, Orr, 2011, Maxwell, 2012). Disagreements abound over who can or cannot be lawfully targeted, and what paradigm should regulate such behavior (Gross, 2010, De Wijze, 2009, Aslam, 2011, Otto, 2010, Luban, 2012). Another crucial question, in the context of the rule of law, is who exactly places limits on state power regarding lethal operations. As Guiora (2013) asks: 'Should such limits be imposed by the executive branch itself, the Congress, or maybe it should be the role of the judiciary?' After the killing of US-born cleric Anwar al-Awlaki, another branch of debate emerged exploring the conditions under which the US government can kill its own citizens in situations where they have joined terrorist organizations (Chesney, 2011, Ramsden, 2011, Powell, 2016).

Furthermore, there is now a significant subfield consisting of attempts to evaluate the strategic utility of targeted killings. Overall, the debate can be framed as a highly contested one with proponents emphasizing effective fighting against the threat of terrorism versus those that argue that such killings drive anti-Americanism and warn about long term negative consequences and 'boomerang effect' of this policy in the form of strained relations with other nations. Using Israel as an example, David (2003) has attempted to look at the effects that targeted killings have on Israeli state security. While he concedes that such missions have failed to stop all acts of terrorism, he still argues that there are 'strong arguments supporting the effectiveness of targeted killing', as the policy has prevented many more attacks against Israel (David, 2003: 119).

Several other studies have similarly demonstrated that targeted killings can play a major role in disrupting and degrading terrorist activities (Cortright ed. 2014, Johnston and Sarbahim 2016). Leading counterinsurgency experts, David Kilcullen and Andrew Exum (2009), found that 'drone attacks create a sense of insecurity among militants and constrain their interactions with suspected informers'. The proof that lethal strikes, directed with precision via Predator drones, have visible effects on how terrorists operate, can even be found in Osama Bin Laden's own letters to his associates. In one such declassified letter he writes: '[Drones] can distinguish between houses frequented by men at a higher rate than usual. Also, the visiting person might be tracked without him knowing' (West Point Combating Terrorism Center, 2012). Drone attacks have visibly delivered in short term by removing significant number of high-level enemy combatants in Pakistan, Yemen, and Somalia. Others would however point out that body count of those killed is not the right way to measure success, and that such approach misses the wider, more negative consequences. Even if on the surface drone technology allows execution of operations with seemingly no costs to the American side, this in itself does not prove that targeted killing is strategically wise.

Those on the other side of the argument have suggested that any statistical success has to be measured against the fact that such operations often are an invitation for revenge and each revenge only feeds the cycle of violence (Blum and Heyman, 2010: 166). Named killings can profoundly humiliate nation's sense of honor and weaken the legitimacy of local governments (Williams, 2010, Ahmad, 2014). While the United States government depicts such missions as clean and precise, those actually facing drone strikes on a daily basis often see them as a breach of their territorial sovereignty that interfere with local practices (Zaidi 2010: 268). A number of human rights organizations have documented negative psychological effects on the local populations caused by drones that hover over communities all day long and strike at will. One such comprehensive study conducted by the NYU School of Law & Stanford Law School (2012) revealed that people experience a sense of helplessness, and have described living under drones as 'hell on earth'. UN Special Rapporteur Ben Emmerson (2013), contends that targeted killings have actually deepened the problem of terrorism in the region, radicalizing a new generation of people.

Contrary to those claiming that drones strikes are a panacea for the problem of terrorism, a number of studies have showed that leadership targeting does not result in collapse of terrorist organizations (Pape, 1996, Hafez and Hatfield, 2006). In a major study, analyzing 298 occurrences of leadership decapitation against 96 organizations, Jordan (2009) found that removal of terrorist leaders did not lead to the collapse of organizations. In many cases 'targeting a group's leadership actually lowers its rate of decline' (Jordan, 2009: 755). Similarly, Price (2012) has demonstrated that killing terrorist leaders actually increased the survival rate of terrorist groups (Price, 2012: 11). Overall, the strategic debate has often been driven by the extremes which either depict targeted killing as the most effective way to keep the US safe or condemn it for driving anti- American sentiment (Williams, 2010).

In the post-September 11 era, targeted killings have also been closely linked to the development of cutting-edge unmanned aerial vehicle weapons platform. Scholars have discussed the many advantages of this technology which has enabled to reach designated targets well beyond traditional battlefield lines. Drones can operate in hard to reach environments (Sauer and Schörnig, 2012), fly through enemy airspace largely undetected (Zenko, 2013), and stay airborne longer than a manned aircraft (Hudson et al., 2012). Through technical ingenuity the United States has almost erased spatial and geopolitical variables (Enemark, 2011). It is for this set of capabilities that experts have praised them as warfare transformative weapons (Sauer and Schörnig, 2012; Wall and Monahan, 2011). While the UAV technology does have some weak spots – adversaries, for example, can compromise GPS systems that allow pilots to remotely fly them (United States Air Force Scientific Advisory Board, 2011), the vast amount of scholarly literature treats it as a significant development in military affairs.

Lastly, several authors (Plaw and Fricker, 2012, Tannenwald, 2008, Kutz, 2014, Jose, 2016) have approached targeted killings from a normative standpoint by connecting drone strikes with the norm against assassination. While helpful, such attempts have been quite limited in their scope, generally covering time period after the September 11, 2001 attacks. The presented work, on the other hand, draws together vast historical literature with more recent developments in attempt to evaluate the norm against assassination in more systematic and profound manner. By grounding the analysis in richer and broader historical context, the study is able to compare and contrast

normative behaviors of different US administrations, which consequently allows to arrive at stronger conclusion regarding the status of the domestic norm against assassination. The presented analysis makes a contribution to both the empirical study of targeted killing, and more theoretical side of how normative change occurs.

2.4. Theorizing norms in Constructivism

In order to answer outlined research questions, the analysis will draw upon constructivist school insights. Constructivists have devoted substantial time in exploring how norms emerge, spread and shape actor behaviour. While earlier constructivist work (Axelrod, 1986, Checkel, 1999, Finnemore, 1996, Nadelmann, 1990, Katzenstein, 1996, Wendt, 1999) sought primarily to demonstrate that norms 'matter' and have independent effects, more recent studies have sharpened their research focus by looking into, for example, norm diffusion mechanisms, conditions under which norms are likely to be accepted, different ways to measure strength or weakness of a norm, entrepreneur motivations, and norm legitimization strategies. Empirical studies in the security field have explored the torture norm (McKeown, 2009, Keating, 2013), the nuclear taboo (Tannenwald, 2005), the norm of noncombatant immunity (Kahl, 2007), the anti-mercenary norm (Percy, 2007) and other prohibitions for certain types of warfare. Overall, constructivist research programme has convincingly showed that even the most powerful states in system are subject to some normative regulation, and that ideational structures do have real binding power.

As a school of thought, constructivism can be defined by its focus on ideational factors. While material power in constructivist tradition is not ruled out as a factor, greater importance is placed upon shared norms, ideas and identities, which according to constructivists underpin interactions between states. International politics is viewed as 'a site of negotiation and contestation' where actors compete to define their identities and preferences for political action (Neumann and Waever, 1997: 72). Accordingly, to make sense of the world, constructivists propose to look beyond the 'league tables of relative state power' (Reus-Smith, 2007: 161). In their view, it is the ideas behind material resources that anchor and shape interaction between states.

Constructivism is in disagreement with realist claims about the 'system' that invariably compels actors to engage in power calculations and seek only self-interest. In constructivism, no concept is taken for granted. Even anarchy, an absolute constant in realism, is 'what you make of it' in constructivist tradition (Wendt, 1999). 'Anarchy of friends', writes leading constructivist thinker Alexander Wendt (1995: 78), 'differs from one of enemies'. Constructivists re-conceptualized and broadened the understanding of what international system is really made of. According to Wendt, it is exactly what realists say it is not: 'A social rather than material phenomenon' (Wendt, 1999: 20). As a result, those who adhere to this approach have been able to argue that states do not make decisions solely based on their material capabilities, but rather act in accordance of what they think is the most appropriate action in a given situation (Farell, 2002: 60).

Realism, a scholarly tradition most often associated with the work of Kenneth Waltz, places much 'lighter', if any, importance on norms as independent variables in international politics. For realists, material power is the centerpiece of political life, a key commodity for actors in the system where everyone is concerned about their own survival (Walt, 2016). Since there is no centralized power in the international system to enforce the rules, the best insurance is to look after yourself or as Waltz (1959) summed it up in his influential work: 'Do what you must in order to win it' (Waltz, 1959: 205). Power, from a realist perspective, is treated as an objective category which is universally valid (Morgenthau, 2002). When national security and survival is at stake, realists predict that all decision makers will behave in the same manner. 'Democrats, dictators, monarchs, and oligarchs will all seek to maximize a state's ability to meet the external threat' (Rousseau, 2005: 2). For this reason, realists are not particularly interested in what goes on inside the state.

Constructivists do not deny that power plays a role in how norms work. Relative state power can be an important ingredient for norm articulation (Clark, 2007: 105; Simon and Martini, 2004: 142). The United States, for example, can apply considerable bilateral pressure on others or use its influence in international organizations to shape normative frameworks (Foot and Walter, 2011: 344). Having a greater say, however, does not mean that major powers can simply dictate norms to others, or escape the process of argument and persuasion (Sandholtz, 2007: 266). This is where constructivists break away from realist assumptions by arguing that actors, even

powerful ones, require some level of social approval from domestic or international audiences (Dunne, 2007: 274). As Wheeler writes: 'Although the strongest states are in a position to substitute brute power for legitimacy, what is surprising is how rarely this happens. Even the great powers seek approval from their peers and domestic publics' (Wheeler, 2003: 33). Contrary to realist claims, constructivist studies has demonstrated that social structures are real and capable to independently influence state behaviour, and that not everything in international relations can be reduced to material factors.

In the norm-based literature, there is a consensus on the definition of a norm as 'collective expectations for the proper behavior of actors with a given identity' (Katzenstein ed., 1996). Broadly speaking, norms serve as 'rules of the road' (Wunderlich, 2013: 22). They tell us 'who shall play the political game, what the playing board will look like, and which moves are acceptable' (Raymond, 1997: 215). Norms regularize behaviour and help to govern state interaction in the absence of global government (Finnemore and Sikkink, 1998: 895, Hyde, 2011: 357). Holsti (2006:183) points out that in an imperfect world, norms are important in order to escape systematic conflict. Without them, Holsti contends, international system would resemble a state of perpetual war (Holsti, 2006:183).

While norms do structure and regulate what is possible, they do not always change behaviour or determine outcomes (Katzenstein ed., 1996: 118, Tannenwald, 2007). Norms can increase or decrease the odds of occurrence of certain types of action, but as such they do not guarantee that an actor will do what is considered 'appropriate' in a given situation (Tannenwald, 2007: 4). In addition to the regulatory side of norms that constrain choices and define parameters of action, norms also shape and constitute actors identity. For example, norms associated with liberal democracy will be important to those actors that value identity of being a democratic state. Here norms can be viewed as expressions of what states are, what kind of role they seek to play in international affairs, and what groups and organizations they want to belong to (Hurrell, 2002: 186).

Because norms are constructions of the 'appropriate behaviour', violation of them would come with a certain 'price tag' to the violator, for example, damaged legitimacy. Those who refuse to

conform to a specific norm are labelled as deviants and condemned by international community (Nadelmann, 1999: 479). If, for example, the use of force by a certain actor is perceived as illegitimate, it can damage actor's legitimacy among peers and create resentment (Finnemore, 2005: 202). Significant deviation, notes Dunne (2007: 274), can result in exclusion from the community. In more severe cases, norm violator could face military or economic sanctions (Thomas, 2000). On the other hand, if an actor is careful in following established norms, it can earn some positive social capital and attract allies. To sum up, norms work in manifold ways – they shape and regularize behaviour, constrain certain actions, and constitute actors identities.

2.5. Norm 'life' and 'death' cycles

Overall scholarly interest in norms has been substantial, and as a result we have a rich body of work documenting norm-building, acceptance and diffusion (Nadelman, 1990, Florini 1996, Clark, 2007, Acharya, 2004, Hyde, 2011, Payne, 2011). Still, with all the explanatory work regarding norm creation, there has been a lack of systematic attempts to engage with the opposite dynamics, namely norm change, regress, or even destruction of a norm. While several attempts have been made to explore norm weakening through various empirical cases (McKeown, 2009, Panke and Petersohn, 2011, Keating, 2013, Kutz, 2014), comprehensive norm degeneration models, explaining how and why normative scripts erode, are still lacking (Heller, Kahl and Pisoiu, 2012: 282, Wunderlich, 2013: 27). 'The actual decline dynamics', Beyer and Hofmann note, 'remain under-specified and under-theorized' (Beyer and Hofmann, 2011: 290). Similar conclusion is reached by Panke and Petersohn (2011), who find that in terms of disappearance of norms there is, both theoretical and empirical gap (Panke and Petersohn, 2011: 2).

According to Lantis (2011: 546), review of the norm-based literature suggests that once created, norms remain 'fairly static'. Constructivist scholars have tended to treat norms as something that are stable and fixed in terms of content (Krook and True, 2012: 108). For the most part, existing accounts depict norm dynamics as a one way line towards greater institutionalization and socialization. The presumption in scholarly literature has been that the 'winds of normative change blow in a progressive direction, toward greater or more stringent normative control of individual or state behaviour' (Kutz, 2014: 425). While not ruling out that some norms may

indeed survive various tests of time fairly easily, displaying a great deal of strength and stability, it seems erroneous to assume that every norm has such 'carved in stone' characteristics, and changes brought upon by agency or structure leave no effect on them. As Sandholtz (2008: 104) observes: 'Systems of rules or norms cannot be static; tensions between norms and behavior, and between different norms, drive a constant process of norm development'. Some norms may strengthen with time, but some, end up sliding in the opposite direction.

The presented study approaches norms from the standpoint that they do not reach an absolute end- point, but instead evolve and change long after their initial emergence and institutionalization. Even deeply internalized and institutionalized standards of appropriate behaviour can be weakened (Heller ed., 2012: 284). 'Cooptation, drift, accretion and reversal of a norm', are constant possibilities (Krook and True, 2012: 105). The key point here is that norms should be looked at as dynamic ideational structures, not 'frozen' entities that are completely immune from being weakened. Certain triggers or influences, such as, wars, depressions or economic shocks can lead to the reverse dynamics - a situation where once internalized norm loses its salience and constraining power. This is not to suggest that a norm always collapses immediately and completely, thus becoming totally irrelevant. Instead, it can also be weakened in a manner that its applicatory scope becomes more restricted (Panke and Petersohn 2015: 2). The key point here is that norms are dynamic creations that can end up sliding both directions - become stronger and more restrictive, or experience regress and lose their constraining power.

In the light of pointed critiques, it is clear that norm emergence and acceptance provides only a half of the 'full norm dynamics picture', and in order to gain complete grasp on how norms function, we need to have a theoretical model which explains how normative constructions can be eroded. To that end, the study combines dynamics of norm emergence and acceptance with equally possible scenario where a norm can be weakened. While cyclical approach to norms is not the only possible mechanism in explaining how norms change, it has been used by scholars as the primary conceptual lense in the norm-based literature in explaining various norm dynamics. According to Sandholtz (2008: 104), norm cycles are 'a fundamental feature of all normative systems, domestic and international'. The model was first introduced by Finnemore and Sikkink

(1998), and thereafter became a key analytical tool for those trying to capture and explain norm emergence and acceptance.

The norm 'life cycle', as outlined by Finnemore and Sikkink (1998), consists of a three-stage process: 1) Norm emergence. Here the authors start from the premise that 'norms do not appear out of thin air', but are actively built by entrepreneurs who have 'strong notions about appropriate or desirable behavior in their community' (Finnemore and Sikkink, 1998: 896). Agency plays a 'critical' role at this emergent stage of norm creation. During the first phase, norms have to compete with other 'firmly embedded alternative norms' and as a result intense contestation about what is appropriate takes place. In order for new norms to resonate among certain groups, norm advocates 'call attention to issues or even create issues by using language that names, interprets, and dramatizes them' (Finnemore and Sikkink,1998: 899). Those that want to change of redefine existing rules, also need to have some organizational platform to be able to successfully argue their position and convince others; 2) Broad norm acceptance. In the second stage of the 'life cycle', the norm reaches a certain 'tipping point' after a critical mass of actors have adopted the new norm; 3) Internalization of a norm. At the far end of the cycle, the norm becomes so deeply entrenched that it achieves a certain 'taken-for-granted' quality, which makes 'conformance with the norm almost automatic' (Finnemore and Sikkink, 1998: 904). The standards of appropriate behaviour have moved away from debates, and certain actions become almost a habit. Lastly, it is useful to note that the completion of the 'life cycle' is not inevitable. Some norms may enter the race for acceptance, but never pass the 'tipping point' and instead end up fully rejected.

Overall, Finnemore and Sikkink's model provides a useful framework for capturing basic norm 'life cycle' dynamics. However, as already noted, the model suffers from a limitation, namely depiction of norm development as one-way process that cannot be turned around. In the light of this shortcoming, Ryder McKeown (2009), in his article 'US Revisionism and the Slow Death of the Torture Norm', has drawn attention to the opposite dynamics and designed a complementary 'norm death series' – a necessary supplement which explains how once internalized norms can lose their status and end up being eroded. It is important to note here that both of these norm models have been devised to examine an international norm with states as key actors. The

presented research however investigates the norm at a domestic (US) level, exploring how norms interact with actors inside the state. This structural focus will be further explained later in the text.

McKeown (2009: 11) starts his three part 'death series' theoretical model exactly where Finnemore and Sikkink's model ended - norm internalization. 1) In the first stage, certain norm revisionists whose objective is to change prevailing normative understandings pose a challenge to once internalized norm through changes in policy, practice and or discourse. McKeown (2009: 11) notes that this challenge does not necessarily need to be 'a direct public statement questioning the norm' and instead can consist of 'quiet changes in policy away from compliance with the norm'. He describes this as a highly contested stage 'where defenders of the norm seek to resist the new interpretation of the revisionists' (McKeown, 2009: 11). Such fights regarding norms may take place 'both in public discourse and within government institutions such as Congress and the courts' (McKeown, 2009: 11); 2) Secondly, if the new challenges to the norm have been largely accepted and this in turn has shifted public opinion towards acceptance of revisionism, the norm suffers a crisis of legitimacy; 3) Lastly, if norm revisionism is being replicated by other actors, the norm suffers an international crisis of legitimacy which can then lead to the expiration of the norm (McKeown, 2009: 12).

2.6. Norm cycles in the domestic arena

As already noted, the research, while premised on accepting the framework of 'life' and 'death' cycles, is solely concerned with a domestic US prohibition. As such, the level of analysis here is confined to US institutions and public. While the analysis might generate some relevant data regarding the international level, the investigation does not attempt to explore the link between norm dynamics in the United States and how that may impact the international assassination norm. Taking this into account, third stage of McKeown's 'death' cycle, that seeks to observe to what extent norm revisionism in one country is being replicated by other members of the international community, does not apply here. As a result, the 'death' cycle domestically consists of 2-stage rather than a 3-stage process.

For the purposes of this research, norm cycles are adjusted to fit the domestic level. This does not present a conceptual obstacle here. As Finnemore and Sikkink (1998: 893) point out, norm cycles at an international level are applicable and transferable to the national level. Similar conclusion is reached by Sandholtz (2008: 104), who points out that the same logic of norm mechanics can be observed at both levels of analysis. While the overarching principles and stages of norm emergence, acceptance and decline stay the same, exploring norms via domestic arena requires a shift in focus regarding actors and institutions that shape norms. This means that the state needs some additional 'unpacking' in order to identify key agents within the state that traditionally carry the bulk of normative weight, and are in a position to influence or change normative frameworks. Furthermore, some understanding of the domestic political institutions, and organizational culture through which norms must work their way through is required.

When it comes to norms in the domestic arena, studies have consistently identified federal government officials as the key agents of change (Cortell and Peterson, 1999: 183; Breuning; 2013: 309). Some divisions exist as to the exact motivations of such actors. Finnemore and Sikkink believe that ideational commitment' is key in understanding why norm entrepreneurs promote certain norms or ideas, even though this pursuit 'may have no effect on their well-being' (Finnemore and Sikkink, 1998: 898). Such perspective is contrasted by those who emphasize that such normative agents can be politically self-interested actors who engage in political calculations about how their efforts will affect their power position (Breuning, 2013, Wunderlich, 2013: 32; Cortell, and Peterson, 1999: 188).

When elected officials desire to see certain normative change, their ability to introduce new norms or redefine old ones may be thwarted by various structural conditions based on specific state bureaucracy (Cortell, and Peterson, 1999: 188). The prevailing institutional setup can visibly limit the ability of individual policy makers to push through their normative preferences (Bae, 2011: 45). In some instances, pure commitment to see normative change might be insufficient. As explained by Panke and Petersohn (2015), 'an actor cannot change a norm single handily; rather, a majority, at least among crucial actors, is required' (Panke and Petersohn, 2015: 4). In democratic societies, decision makers also usually need to get domestic audience on their side. In order to translate ideas into real normative change, norm entrepreneurs must possess the political

skill in order to navigate the complex waters of domestic political decision making (Breuning, 2013: 312). In addition to being committed to promotion of a certain norm, agents must have a clear understanding of their 'institutional context and the processes by which winning coalitions might be constructed' (Breuning, 2013: 312).

Since the norm against assassination is closely tied to US national security, it can be useful to outline the general structure and actors that drive decision making process in this area. Literature identifies a wide variety of factors that shape US foreign policy from strategic, economic, and bureaucratic interests to organized lobbies, mass media and public opinion (McCrisken, 2004, Jacobs and Benjamin, 2005, Walt, 2006). That said, in the context of security affairs, the president of the United States holds the highest degree of power (Howell, 2005, Holsti, 2006). Presidents have long enjoyed an advantage relative to Congress in the conduct of foreign policy. While by Constitution Congress has the power to declare wars (US Constitution, 1788), in reality US Presidents have 'demonstrated greater power to wage wars since the end of World War II' (McMahon, 2011).

In comparison to European systems of governance, a great deal of authority is vested in the White House. According to historian Robert Dallek, modern US presidents have become the 'undisputed architects of foreign policy' (Dallek, 2011). Morton Halperin and Priscilla Clapp note that in the US-based system the President 'stands at the center of the foreign policy process' and his role is 'qualitatively different from that of other actors' (Halperin and Clapp, 2006: 4-16). US President's role is further elevated during national times of crises when people are willing to hand him a greater degree of latitude in shaping foreign policy decisions (McCormick, 2012: 5). During fast-moving events like wars and economic crises, presidents face less resistance, and have a relatively free hand for advancing various policy proposals (Young, 2013). Based on the outlined points, special attention here will be placed upon the public discourse of the White House and presidential decisions.

2.7. Norms and strategies of legitimization

When examining the possibility of norm change, legitimacy serves as a useful conceptual lens (Keating, 2014). A key feature of any norm is that it is perceived a 'legitimate behavioral claim' (Florini, 1996: 365). 'No matter how a norm arises', stresses Florini, 'it must take on an aura of legitimacy before it can be considered a norm' (Florini 1996: 365). Normative structures have a clear inter-subjective dimension as the very idea of 'appropriate' behavior presupposes that there is a community 'able to pass judgments on appropriateness' (Risse et.al, 1999: 7). No actor can establish normative legitimacy unilaterally; it can only be handed by others (Finnemore, 2009: 61). Reus-Smit (2007: 159) writes that whenever we are saying that someone has a 'right' to act, 'right' to rule, or a 'right' to govern, we don't mean that they only have the capacity to do so, but that they are also 'socially endorsed' (Reus-Smit, 2007: 159). Thus, legitimacy implies that behaviour is validated by other members of the group (Bellamy, 2012: 27). Multiple members of a group agree that certain norms exist and share 'a practice of applying these norms to specific choices' (Kutz, 2014: 427).

Legitimacy is constructed and sustained through rhetorical means when actors introduce and define certain modes of conduct, and other members of the community validate or contest these ideas. It is during this rhetorical engagement of 'defining and refining collective identities and interests' that norms become relevant and consequential (Risse, Ropp, and Sikkink, 1999: 9). Norms are not self-explanatory. They need someone to communicate, conceptualize and interpret the nature and parameters of the 'adequate' behaviour. In order to reach a common understanding about social rules, persuasion, argumentation and dialogue takes place between individuals and groups. This can apply even to already internalized norms, as debates regarding their utility do not disappear. This is because the fit between rules and various situations can be imperfect. As Sandholtz (2008:105) notes, norms cannot spell out the exact 'behavioural requirements for every situation, nor can they foresee all possible circumstances or disagreements'. Events in international relations often fall within grey areas, and for this reason, to make sense of what is appropriate in such a situation, actors must engage in communicative processes.

Even knowing that there are costs associated with norm violation, actors at times choose to defect from established rules and practices. When actors violate norms, what they hope for is that they can minimize negative costs and 'prevent the erosion of their legitimacy as an actor' (Bellamy, 2012: 31). Even powerful actors are limited in the costs they can take on and thus will attempt to provide some rationalization for their rule-breaking actions (Bellamy, 2012: 31). In order to lessen the damage and fight off criticism, actors can apply a number of legitimization strategies. A useful conceptual framework, detailing four legitimization strategies is offered by Keating (2013). Applying these strategies can help us to better understand norm dynamics and actors intentions regarding them.

In the first scenario, Keating (2013) points out, the state can break a norm without any attempt to justify its behaviour. If the norm is well-established, he argues, this will be only a temporary strategy as others will demand explanation for such norm-violating behaviour (Keating, 2013: 6). Valuing their own reputation, even states that have little regard for international rules will be compelled give reasons for their defection (Keating, 2013: 6). This then leads to the second possible strategy - overt justification, where the actor claims that it has complied with the norm only if the situation is 'properly' interpreted (Keating, 2013: 6). Shannon (2000: 304) adds that in such instances actors do accept the responsibility for an act but 'deny the pejorative quality associated with it'. The actor here does not attempt to overtly change the norm, rather draws attention to the fact that the situation can be interpreted in a different manner which reveals compliance with the existing normative constructions.

The third is overt innovation. Here, the actors openly and actively push for norms to be rewritten according to their own preferences (Keating, 2013: 6). The norm entrepreneur is directly and confidently expressing its preferences and puts forward arguments that suggest change in the norm's substance (Keating, 2013: 6). Lastly, there is secrecy, where the actor denies any norm breaking behaviour. Compared to other legitimization approaches, the goal of this strategy is not to engage, explain, or convince, but in fact avoid legitimization as such. This tactic usually is utilized when the actor realizes that it will not be able to defend its actions publicly (Morris et al, 2009: 5). Ian Hurd (2007) adds that secrecy can only be considered a temporal measure, and overall represents a 'high-risk strategy'. This specific approach will be further elaborated and

unpacked in the next section. Finally, it must be also noted that these legitimization strategies are not totally separate categories and can end up being used in combination with one and other (Keating, 2013).

In addition to outlined strategies of legitimization, it can also be useful to account for some contextual factors that might shape and influence processes of legitimization. First, as acknowledged by a number of scholars, material power can play an important role. Not all states play an equal role when it comes to norm creation. Powerful states clearly matter, others less so (Tannenwald, 2007:72). According to Florini (1996), the powerful simply have more resources and opportunities to persuade others of the rightness of their views. Also they can withstand outside criticism and pressure longer after norm breaking behaviour (Keating, 2014). From a practical point of view, big powers are in a favorable position and have greater impact on norm promotion because they have more bilateral interactions than other minor powers (Axelrod, 1986: 1103). Clearly 'norms backed by the United States are likely to become more widespread and effectual than otherwise similar norms originating in Luxembourg' (Kowert and Legro 1996:491). From a practical point of view, big powers are in a favorable position and have greater impact on norm promotion because they have more bilateral interactions than other minor powers (Axelrod, 1986: 1103). By and large, the point here is that states are not equal when it comes to normative weight in international arena. This surely is something to keep in mind given that the main research object here is the United States.

Among various contexts in which new norms emergence or old ones are discredited, constructivist scholars have also drawn attention to major events as generators and accelerators of normative change (Finnemore and Sikkink, 1998, Heller, Kahl, and Pisoiu, 2012, Cortell, and Davis, 2005). Substantial body of literature suggests that revolutions, wars, depressions and upheavals create a 'window of opportunity' for state leaders to claim that current policies are inadequate to deal with new realities and help delegitimize previously established practices (Cortell, and Peterson, 1999: 188, Avant, 2000: 49). Shocks help reformers make the case that the system is broken, opening the path for construction of new norms and rules.

2.8. Quasi-secrecy as an alternative to legitimization

Scholars studying norms have often called attention to the fact that it is through the communicative practice - a rhetorical back and forth between different actors and groups that norms are established and gain their legitimacy. Even major powers, Sandholtz notes (2007: 266), cannot escape the process of argument and persuasion. Since actors do require social approval, and are interested in maintaining a positive self-image, they try to persuade others that their conduct complies with appropriate standards of behaviour. When actors enter public debates their justifications are exposed to criticism, and if an actor is 'unable to present a persuasive defence of its claims, then it will lose legitimacy in the eyes of its peers' (Wheeler, 2003: 33). Establishing and maintaining legitimacy is thus a discursive phenomenon (Reus-Smit, 2007: 163).

The case regarding targeted drone strikes, however, might challenge traditional constructivist notions about rhetorical processes as a key for understanding norm dynamics. From the very first targeted strike outside an area of active hostilities in Yemen in 2002, US government officials, by appeal to considerations of national security, resisted information disclosure, and declined to articulate how such practices fit with established norms and law. The government evoked its privilege to block and delay information flow in its attempts to keep more controversial aspects away from the public eye. Instead of explaining, clarifying, and engaging in argumentative processes about what had become central counterterrorism policy, two consequent administrations, Republican and Democrat, for almost a decade did exactly the opposite – operated in the dark with minimal effort to defend publicly and on the record the more inconvenient sides of the drone programme.

As already noted by Keating (2013), actors can attempt to keep their norm-breaking behaviour a secret. The presented case however differs from Keating's take on secrecy. What he describes is a situation where after a certain violation of a norm an actor attempts to hide its illegitimate behaviour in hopes that others don't find out about it. If the actions remain a secret, Keating explains, then an actor has successfully avoided the costs of its illegitimate behaviour (Keating, 2013). Targeted drone strikes were different in this regard. The basic fact that the US government was engaged in neutralizing individuals in foreign countries using remotely controlled technology

was known and publicly reported fairly quickly. The practice itself was not a secret. International media systematically reported on such strikes, books were written, and even jokes made at the White House Correspondents Dinner.

The details concerning such operations however, continued to be treated as secret on the grounds of national security, preventing a serious debate, and undercutting public's ability to fully understand the true scope and costs of such operations. Mark Phythian (2013) referred to it as 'a new kind of 'action' that is neither fully covert nor overt' (Phythian, 2013: 283). Those that paid close attention to national security developments, knew about US government efforts to kill suspected terrorist leaders overseas with the help of armed Predator drones. In this sense, one cannot talk about complete blanket secrecy. Rather, it was a quasi-secrecy with decision makers strategically picking and choosing what kind of information will reach the public. Such approach stands in contrast with traditional constructivist talk about dialogue, persuasion, and informed debates being at the 'heart' of norm legitimization processes.

Here the case study of drone strikes can serve as a test for scarcely discussed element in the norm based literature – deliberate partial official secrecy, or quasi-secrecy. For almost a decade the US government managed to escape traditional legitimization practices, keeping essential details of the lethal programme to itself. The overt justification or advocacy for overt innovation, which is so central to constructivism, and its understanding of how norms work, was missing. Judging by the opinion polls, the US government did not pay any cost for attempting to control and limit the information flow. On the contrary, the practice of targeted killings now seem to be fully sanctioned by, both political elites and the public, suggesting that quasi-secrecy can be an important mechanism by which legitimization takes place. Taking this into account, special attention here will be paid to largely unexamined connection between norm legitimization and secrecy.

2.9. Methods of research

Since norms are part of the ideational world, we cannot observe them directly. Empirical measurement of a norm, note Kowert and Legro (1996: 381), can be a 'formidable task'. The

study of norms concerns 'what goes on people's minds' (Goertz and Diehl, 1992: 643), and for this reason the task can be a frustrating one. Because of the intangible qualities of normative structures, attempts to measure them are bound to be imperfect (Raymond, 1997: 222). Nonetheless, because norms generate quite real and observable effects, this opens up the space for an investigation. Constructivist scholars do not single out one particular method that the researcher should be following. A number of authors however, have suggested looking at norms as a discursive phenomenon. Because norms embody certain 'oughtness' and shared moral assessment, note Finnemore and Sikkink (1998: 892), they leave 'an extensive trail of communication' that we can study. The pronouncements of national leaders can serve as a lense through which one can evaluate normative constructions (Cortell and Davis, 2002).

While we cannot directly access what people think about norms, 'we can observe what they say and how they respond to claims and counter-claims' (Krebs and Jackson, 2007: 42). Crawford (2004: 88) points out that normative beliefs in many instances have a 'traceable history and actors will often be able to say when and sometimes why […] they thought a normative belief was right'. In addition, one can confirm norm shifting processes through changes in institutions, and behaviour (Tannenwal, 2007, Cortell and Davis, 2000).

In the presented work, in order to identify key normative turning points in relation to the norm against assassination, rhetorical pronouncements will serve as an important measure. Communicative measure will be applied to those periods when the US government overtly engaged in practices of legitimization (later stages of Barack Obama presidency). Here, the research will always prioritize primary sources, such as, official speeches, press conferences, hearings, Congressional debates, legal documents, interviews and other forms of political communication. Where primary sources are not available, secondary data will be used to supplement research.

In addition, one can confirm norm shifting processes through changes in institutions, and behaviour (Tannenwal, 2007, Cortell and Davis, 2000). Given that targeted killings in the post-9/11 era were connected to the introduction unmanned aerial vehicles weapons systems, this also had some visible and lasting effects on the very institution that was operating them, namely the

CIA. For this reason, attention will also be paid to possible institutional change as an additional indicator of norm shifting processes.

However, in order to have a complete grasp on the issue, some access to conversations behind closed doors is needed. Given the systematically secretive approach on the part of the US government, it is necessary to supplement the analysis with other ways of empirically relevant data. Because the topic is a highly sensitive one, it has often been a challenge to perform the research adequately (Bosco, 2009: 350). Even high-level UN special inspectors like Philip Alston have reported serious obstacles when attempting to collect necessary data regarding US drone operations outside areas of active hostilities. As Alston (2011) points out, 'there has been an almost surreal tendency on the part of the executive and the courts to pretend that information that has been comprehensively leaked, remains unknown or at least uncognizable' (Alston, 2011: 12). According to him, 'phrases like 'plausible deniability', 'unknown unknowns', and 'neither confirm nor deny' pepper the relevant literature' (Alston, 2011: 12).

His suggestion, in order to properly research this topic, is to draw upon disparate sources, such as, leaked diplomatic cables, testimonies, background briefings by intelligence officials, and reports from wide variety of media sources (Alston, 2011: 12). Similarly, Ben-Yehuda, an Israeli scholar who has written a whole scholarly article on how to properly investigate government related 'dark secrets,' advises that one must gather fragmentary information from a wide variety of sources, and then try to put it all together like a jigsaw puzzle (Ben-Yehuda, 1990:369). The presented research will follow these outlined data gathering methods when covering those periods during which the US government was unwilling to share information regarding missions of targeted killing.

Given the historical nature of the thesis, covering substantial time period (1975-2016), sources of information will vary. When covering the initial emergence of the norm against assassination during the Church Committee-era, substantial part of information will come from archival sources, especially declassified materials from the National Security Archive at the George Washington University and documents from Gerald Ford Presidential Library. According to John Lewis Gaddis, a prominent political scientist, the US government goes 'to a considerable amount

of trouble and expense to preserve, arrange, and ultimately make available to scholars the written record of their activities in virtually all fields' (Gaddis, 1987: 15). In his view, such archival databases are 'comprehensive, coherent, accessible, reflective of what goes on behind the scenes as well as what happens in public' (Gaddis, 1987: 15). In this interrogation process, national security archives will form a key data source foundation.

In the next chapter, analysing the administrations of Jimmy Carter, Ronald Reagan, George H. W. Bush and Bill Clinton, in addition to archival material, the research will be built upon various newspaper accounts, biographies, notes of presidents and other top officials. For chapters covering the administrations of George Bush and Barack Obama, given the secretive nature of targeted killings, the research will additionally rely upon the work of investigative journalists which produced regular accounts of inner policy debates. For the same secrecy reason, conducting interviews was ruled out as a data collection method.

In terms of targeted drone strike statistics, the investigation will draw upon the work of UK's Bureau of Investigative Journalism and New America Foundation, organizations that are well known for their credible drone related data collection. Seeking to provide accurate answers to outlined research questions, the information whenever possible will be checked against each other. Overall, sources were selected on the basis of relevance to the topic of targeted killing. In terms of time-frame limits, the research covers the period from the Church Committee investigation (1975) all the way to the end phases (up to August 2016) of the Presidency of Barack Obama. In the following chapters, to show when the assassination norm mattered and when it did not, comparison is made between various administrations detailing, both 'use' and 'non-use' cases, thus illuminating normative change across time.

Conceptually, additional note needs to be made concerning the distinction between singled-out targeted strikes and so-called 'signature strikes'. While to some degree these two are similar in their nature – both are launched via drone technology against suspected terrorists – in the context of presented research, it is important to draw a distinction. Unlike targeted killings, which are aimed at individuals whose personality is identified before the mission, 'signature strikes' are carried out against individuals whose identity is unknown. During the latter, militants are striked

based on certain demography or other characteristics. The logic here, as explained by high ranking US officials, is that 'people in an area of known terrorist activity, or found with a top Qaeda operative, are probably up to no good' (Zenko, 2012).

'Signature strikes' were covertly initiated at the later stages of the Bush administration (Schmitt and Sanger, 2008). Officials had reasoned that it was fine to launch Predator missiles against suspected militants even without confirming their exact identity. As long as they 'bear the characteristics of Qaeda or Taliban leaders on the run', it was fine to kill such anonymous men (Schmitt and Sanger, 2008). Initially, President Barack Obama opposed 'signature strikes'. When Steve Kappes, the CIA's deputy director, bluntly explained that 'we can see that there are a lot of military-age males down there, men associated with terrorist activity, but we don't necessarily know who they are', Obama reacted negatively. 'That's not good enough for me,' he reportedly said (Klaidman, 2012: 41). With time however, he came to accept and authorize such missions, primarily in Yemen and Pakistan (Miller, 2015).

While admitting that there seem to be a certain closeness between categories of 'targeted killing' and 'signature strikes', given the focus of the thesis, the latter will not be investigated in greater detail. This is because conceptually targeted killings by default are aimed at known targets that are designated in advance (Plaw, 2008). Knowing the identity of the person is what sets this method apart from other types of killing (Alston, 2011, Pratt, 2015, Otto, 2010). Signature strikes simply do not fit this category. As Richard Clarke, former US Counterterrorism Chief, explains 'when you do these signature strikes, meaning by definition, you don't know who you are killing, you just know the facility looks like an Al-Qaida facility' (Carroll, 2015).

While not investigating 'signature strikes' *per se*, these missions do impose some limitations regarding overall application of drone strike statistics. This is because non-governmental organizations have often counted drone strikes without separating between targeted strikes and 'signature strikes'. In fact, Heller (2013: 90) estimates that majority of drone strikes have been 'signature strikes'. On the balance however, even if half or more drone strikes have been 'signature strikes', this in itself does not change the overall dynamics that in the post-September 11 environment targeted killings increased substantially and became systematic.

PART II

Chapter 3: The Birth of the Norm: The Church Committee

3.1. Introduction

The following chapter provides a historical account of the norm against assassination in the United States. Conceptually, it is linked to the norm life-cycle emergence stage, as it traces the roots of the norm, analyses processes and forces at work that shaped its path towards acceptance, and looks at the wider context in which introduction of such prohibition was possible. Historical contextualization, according to Percy (2007), is essential for the study of norms as it allows to draw comparisons and highlights how the meaning of the 'appropriate' has changed over a period of time. By tracing how this domestic prohibition first emerged and analyzing processes and pressures that led to its institutionalization, this also provides for some better understanding of mechanisms in place for the reverse process – norm erosion. The chapter serves as an empirical departure point from which normative shifts can be assessed, compared and measured. The centrepiece of this historical study is the Church Committee. Chaired by Idaho Senator Frank Church, the Committee, consisting of 11 Senators, both Democrats and Republicans, was formed in 1975 to investigate allegations of various wrongdoings in intelligence agencies, including plots to assassinate foreign leaders who were perceived to be hostile to the US political or economic interests.

In the context of the domestic norm against assassination, the investigation symbolizes a high-water mark moment when for the first time US officials drew a red line with respect to assassination as illegitimate and unacceptable means of foreign policy. Committee's produced report chronicling US involvement in assassination plots against Patrice Lumumba of Congo, Fidel Castro of Cuba, Rafael Trujillo of the Dominican Republic, General Rene Schneider of Chile, and Ngo Dinh Diem of South Vietnam caused a public outrage, provoked intense debates, and subsequently forced the Ford administration to officially reject such practices. Church Committee's fact finding mission was, of course, not limited only to assassinations. Domestic spying, harassment of civil rights activists, and many other illicit government activities were also part of this 15 month inquiry. That said, the topic of assassinations clearly dominated Committee's agenda, attracting significant public interest at home and abroad. While the investigation

produced numerous intelligence-related reforms, formal assassination ban, as spelled out in Executive order 11905, remains the most memorable imprint of the Church Committee era times.

The material made available to the public as a result of the Committee endeavors is considered to be the most thorough public record about modern US intelligence bureaucracy and its hidden activities. The so called 'Year of Intelligence' was by far the most extensive probe into the covert world of US intelligence. As once described by CIA Director William Colby, it was an 'inspection of almost thirty years of CIA's sins' (Colby and Forbath, 1978: 397). The wealth of data - testimonies, notes, raw files and other forms of political correspondence, provide a solid basis for comprehensive examination of assassinations, a subject that often cannot be easily investigated due to its politically sensitive nature. Drawing on the Church Committee produced reports and other declassified documents, the chapter details the process by which the assassination ban came into force, exposing US government's inner debates, justifications and strategic reasoning behind attempts to assassinate foreign leaders.

3.2. Establishing the Church Committee

How and under what conditions new normative understandings emerge are key questions in the norm-based scholarship. According to Peter Katzenstein (1996), the path through which norms are established and come into force can be 'highly varied'. The same point is reiterated by Ward Thomas (2005), who writes that although norms often rest on moral assumptions, each case is too complex and reflects historically unique circumstances (Thomas, 2005: 28). The emergence of the US domestic norm against assassination is no different in this regard, as some of the variables and dynamics that shaped and conditioned its arrival appear to have been quite distinctive. The key institutional framework, an investigative Congressional body through which the norm worked its way through, was rather unconventional.

At the outset, it might be helpful to identify key actors that played a role in the creation of this prohibition. The assassination ban clearly was a product of US domestic processes and pressures, with external actors playing no direct role in emergence of it. It was a democracy examining itself, and attempting make necessary self-corrections and adjustments. International NGOs, global

institutions, and other external actors that often figure in the norm-based literature as important factors (Checkel, 1999), played no part in this process. While the overall context of the norm was international – United States had attempted assassination plots in foreign countries such as Congo, Cuba, Dominican Republic, Chile, and Vietnam, the norm itself originated from within the US domestic arena. Norm entrepreneurs as well as opponents in this case were all linked to the domestic politics. As such, the narrative here concerns the national level where certain actors can challenge and consequently change notions of the 'adequate' behaviour from within the state.

Initially, to set the process in motion, the general public and mass-media played a significant role by applying pressure on policy makers to start rethinking existing government practices and policies. However, when taking a measure of the whole norm emergence stage, it becomes apparent that the bulk of the weight was carried by individuals at the political elite level. If not for the work and efforts of individual Church Committee members, and subsequent detailed reports that they managed to produce, US government initiated assassination plots involving foreign leaders may as well have gone down in history as 'one of these conspiracy theories' that people talk about (Bradford, 2013).

Above all, the final outcome here hinged on the ability and willingness of individual investigators of the Church Committee to mobilize support, shame the Ford administration, and coerce it to reveal reputation-damaging facts about the United States government. As Finnemore and Sikkink (1998: 899) note about the 'life cycle' emergence stage, for new ideas to resonate, norm advocates have to call attention to issues using language that 'names, interprets, and dramatizes them'. Members of the Church Committee skilfully performed this function in order to get to the assassination ban.

The creation of the Church Committee was a result of mounting suspicions about various abuses in the US national intelligence system. In December 1974, the New York Times journalist Seymour Hersh broke a cover story titled 'Huge CIA Operation Reported in US Against Anti-War Forces, Other Dissidents in Nixon Years', detailing numerous illegal domestic intelligence operations (Hersh, 1974). The investigative piece, which accused the government of running various unlawful operations, immediately caused a major political firestorm. The CIA already

had some prior knowledge about Hersh's attempts to come up with a substantial report on this matter as early as 1972 (CIA History Archives, 2007). William Colby, Director of the CIA later recalled: 'He was going to write something, I knew it. I was hoping to bring him down a bit and didn't' (CIA History Archives, 2007). While some government officials, President Gerald Ford included, had hoped that the scandal would somehow subside on its own, the accusations were far too egregious for that to happen. A number of newspapers across the nation reprinted Hersh's cover story, and soon Congressional offices started fill with thousands of letters from citizens demanding an explanation (Johnson, 2004). The report had triggered a nationwide discussion about the role and purpose of the Central Intelligence Agency, and extent to which it should make use of clandestine operations without the knowledge of the public.

In reaction to accusations that had flooded the press, Senator John O. Pastore on 21 January, 1975 put forward a legislation to establish a 'Senate Select Committee to Study Government Operations With Respect to Intelligence Activities'. Introducing the legislation, Pastore pointed out that in recent weeks there have been 'charges spelled out on the front page of every newspaper', which had left the 'American people confused about the organizations that were essential for the security and survival of the nation' (Johnson, 1985: 12). In order to restore public trust, Pastore urged creation of an independent Congressional body which would look into possible abuses.

The proposed legislation was passed by a landslide vote of 82 - 4, and bipartisan group of 11-members established, with a broad power to investigate possible 'illegal, improper, or unethical' government activities (State Department Office of the Historian, 1975). Senator Frank Church, Idaho Democrat, was named to lead the Committee (State Department Office of the Historian, 1975). Soon after, the Committee adopted the name of its chair - the Church Committee. Trying to capture the overall sentiment of the day, Frank Church had described the CIA as 'a rogue elephant rampaging out of control' (Senate Reports, 1975). He interpreted the mandate given to this Congressional group as follows: 'To determine what secret governmental activities are necessary and how they best can be conducted under the rule of law' (CIA, 2008).

Initially, domestic issues were at the top of the Committee's agenda, and inquiry into foreign assassination plots emerged only gradually, and in some ways even accidentally. On January 16,

1975 during a lunch with the New York Times editors, President Gerald Ford had made a careless remark by mentioning that previous administrations, among other clandestine operations, had also been engaged in plotting assassinations abroad (Andrew, 1995, Prados, 2003: 301). Quickly realizing potential damage of this gaffe, the President tried to save the situation by stressing that the information disclosed was strictly off the record. Speculations regarding possible attempts against Cuban leader's Fidel Castro's life had surfaced numerous times before, but such sensational admission by someone at the highest political office carried a completely different weight. Gerald Ford's words soon became a source of political rumors, and soon after a public knowledge.

Journalist Daniel Schorr of CBS News quickly picked up the controversy with CIA Director William Colby, directly confronting him if the agency had ever been involved in assassination plots (Schorr, 1977: 145). Surprised and cornered, Colby awkwardly replied: 'Not in this country', leaving the impression that the agency may have carried out such activities abroad (Colby and Forbath, 1978: 410). In another interview, CIA chief had clarified that while the CIA had not carried out assassinations, there nonetheless 'have been discussions of it' (Rich, 1975). With this admission, the press pushed for an independent inquiry into the matter. Describing the atmosphere of those days, CIA chief Colby later wrote: 'All the tensions and suspicions that had been building about the CIA [...] now exploded. On the subject of assassination a hysteria seized Washington' (Colby, 1978: 410). Caving to public and media pressure, Chairman of the Committee, Frank Church, announced that the inquiry would also take on the examination of possible government assassination plots. 'In the absence of war no agency can have a licence to murder and the President can't be a Godfather', Church was quoted saying (Rich, 1975). With the addition of foreign assassinations plots, Committee's original timetable was swept aside and expanded from nine to fifteen months (Horrock, 1975). Due to its highly sensational nature, the topic of assassinations soon became the most talked about news in the country.

All things considered, it was a number of events and dynamics that led to a Congressional body scrutinizing highly sensitive US intelligence matters. Newspaper reports provided the initial trigger for what would later become massive governmental inquiry. Richard Helms, former CIA Director, believes that the single most important factor that led to the Church Committee hearings

was Hersh's New York Times front page story (CIA History Archives, 2007). In terms of assassination plots however, it was President Gerald Ford himself who had 'let the cat out of the bag' by carelessly admitting that the CIA had previously contemplated assassinations of foreign heads of state. Many years later Helms would admit that President Ford had displayed 'terrible judgment' in this particular situation (CIA History Archives, 2007). Hersh's article and President Ford's own admission were the two initial stepping-stones for the Church Committee to start an extensive investigation into the matter of assassinations.

Equally though, it is also important to account for some of the contextual factors that allowed for creation of such powerful investigative body like the Church Committee. Only few years had passed since the Watergate scandal, during which public's trust in government institutions had been seriously eroded. When accusations about intelligence wrongdoings first surfaced, government officials were not in a position to simply sweep them under the rug. CIA's approval rating at the time stood at staggering 14 percent (Warner and McDonald, 2005: 29). As Chairman of the Committee, Frank Church, pointed out, political elites did not have the strength to resist 'the tidal shift in attitude' (Olmsted, 1996: 12). Past political scandals during the Nixon years - excessive government secrecy, cover-ups, lies and illegal wiretapping, had prepared a suitable soil for substantial normative rethinking and wide-scale reforms regarding the functioning of intelligence agencies. In the post-Watergate-era, Congress was willing to grant broad authority with substantial investigatory powers to an independent body in order to examine highly sensitive matters. It was the accumulated disbelief in government and intelligence structures that made this unprecedented inquiry possible in the first place.

3.3. The fight for the assassination report

Just because the Church Committee had opened its investigative session, did not necessarily mean that the assassination ban was something inevitable. Emerging normative understandings customarily face battles, both in public discourse and within government institutions, and not every norm is able to reach the stage of acceptance and institutionalized (Finnemore and Sikkink, 1998). In the case of the assassination norm, the critical task for norm entrepreneurs – members of the Church Committee, was not so much convincing the general public about the need of such

prohibition - that in fact turned out to be the easy part - but to get highly sensitive information out of the intelligence agencies vaults and classified folders. Early on, a clear battle line emerged between those who believed that it was not in the nation's best interest to bring out CIA's past secrets, and those who advocated full disclosure of facts. Intense clashes regarding this issue took place in different corridors of power, most notably the White House and CIA. Having obtained a broad investigative mandate, the Church Committee was eager to leave 'no stone unturned', doing everything in its power to deliver a detailed report on the controversial topic of assassinations, while the Ford administration together with intelligence agencies pulled exactly the opposite direction, trying to stonewall such efforts, and suppress information disclosure regarding US involvement in plotting assassinations abroad.

A series of declassified government memos and cables reveal intense and lengthy behind-the-doors struggle between the Congressional Committee and Ford administration. As soon as the Seymour Hersh story broke out, the White House with Henry Kissinger in charge, kept a close eye on the developments. Early communication between Kissinger and Donald Rumsfeld, White House Chief of Staff, indicate that the administration was initially caught by surprise, and was not aware of the full extent of CIA's illegal activities (US Department of State, 1974). After studying the issue in more detail, Kissinger warned President Ford that the first revelations were only 'the tip of the iceberg', and in case further newspaper reporting on this issue is not stopped, 'blood will flow' (Memorandum of Conversation, 1975). Just one day after Hersh's cover story, Kissinger had predicted that things will get 'very rough' and suggested that the President surround himself with the right people who have a good grasp of the national interest (Memorandum of Conversation, 1975).

From the beginning, the Ford administration acutely resisted idea that an independent Congressional group would be granted limitless access to highly sensitive intelligence materials. 'Asking for information is one thing, but going through the files is another', Kissinger fumed in a closed door meeting (Memorandum for the President, 1975). He believed that the investigation, by disclosing various unsavoury intelligence activities, threatened to leave the country 'naked in a vital area of national security' (Kissinger, 1979: 780). Henry Kissinger would become a frontline figure in the fight against Committee's investigative efforts, and often work the

backrooms, trying to persuade members of the Congress that publishing of scandalous foreign assassination plots would do no good for the country (Kissinger, 1979: 780).

Many in the Ford administration feared that if the Committee would start revealing CIA's past involvements abroad, this would severely damage relations with countries like Cuba, the Dominican Republic, Laos and Congo (Kissinger Papers, 1975). Addressing a joint session of Congress shortly after accusations in the press, President Ford stated: 'It is entirely proper that this system be subject to Congressional review. But a sensationalized public debate over legitimate intelligence activities is a disservice to the nation and a threat to our intelligence system. It ties our hands while our potential enemies operate with secrecy, with skill, and with vast resources' (Ford, 1975: 179). Later in his memoirs, President Ford only sharpened this point by suggesting that the only thing this inquiry could achieve was to cripple the intelligence apparatus (Ford, 1979: 230). Dick Cheney, Ford's Chief of Staff, who played an important role in framing administration's response to the Congressional investigation, had a similar reading of the situation, holding on to the belief that possible exposure of assassinations would only lead to wrecking of the US intelligence capacity (Cheney, 2011: 65). In short, the White House believed that the massive inquiry could seriously damage the CIA, and therefore was poised to protect it (Cannon, 2013: 324).

Resistance and hostility towards the Church Committee was also strongly felt inside the CIA, which was logical given that its own reputation now hinged on the revelations of this inquiry. In the words of CIA Director William Colby, he had 'flung into a struggle to prevent an investigation into the subject of assassinations' because the only thing an investigation into the matter could accomplish was to seriously 'harm to the good name of the United States' (Colby and Forbath, 1978: 410). 'These exaggerations and misinterpretations of CIA activities can do irreparable harm to our national intelligence apparatus and if carried to the extreme could blindfold our country as it looks abroad', Colby was quoted saying (Johnson, 1985: 47). Visibly, the Church Committee was at odds with the Ford administration and the CIA over exposure of highly secretive operations.

Publicly, however, the Ford administration applied a different posture, attempting to create an impression of goodwill and cooperation in its dealings with the investigators. President Ford had openly declared maximum assistance on the issue of assassinations (Madden, 1975; Horrock, 1975a). When asked about handover of highly classified data to investigators, White House Press Secretary, Ron Nessen, described the process as 'easy' and 'without serious obstacles' (The New York Times, 1975). 'As far as I know, nothing has been denied', Nessen had assured (The New York Times, 1975). In reality, White House staff was instructed to do everything in its power to shield sensitive information regarding assassination plots abroad, and secretly put various bureaucratic hurdles in Committee's way. Chairman Frank Church had expected to encounter fact-finding problems and bureaucratic resistance, but assumed that once officials were convinced that this was judicious inquiry, the Committee would be entrusted with sensitive information (The New York Times, 1975a). This never fully materialized, as resistance from the Executive Branch only exponentially intensified. As soon as the investigation got underway, White House staff designed strategies for limiting the material available to investigators (White House, 1975).

In order to effectively push back against information disclosure, an 'Ad-Hoc Coordination Group' was established inside the CIA for handling of sensitive material (CIA, 1975a). A memo prepared internally for CIA employees details setting up a mechanism for sharing information with Congressional investigators (CIA, 1975a). The instructions clearly read that data deemed most damaging to national security will 'not be available to Select Committee Staff in its raw form' (CIA, 1975a). In particular, the memo suggested filtering and protecting correspondence to and from the Presidential office. Contrary to what was publicly promised by the Ford administration regarding access to materials and free flow of information, declassified memos speak to the fact that the CIA attempted to block its most valued records with a clear goal of undermining Church Committee's investigative efforts.

Furthermore, in order to effectively counter the Church Committee, the Ford administration decided to purposefully evoke concerns over national security. 'We must say this involves the profoundest national security. Then we could go to the public and say that they [Church Committee] are undermining the country', Kissinger outlined the approach that should be followed (White House, 1975). References to national security soon became the key block around

which opposition was built and mobilized. When calls for transparency and accountability surfaced, White House swatted them away by arguing that exposure of certain information would severely undermine the security of the nation, and tarnish its good name. A briefing memo prepared for President Ford sheds more details on this approach. On the one hand, the document recommended to publicly extend the hand to investigators while at the same time warning that giving away too much information would turn CIA into 'a newspaper clipping and filing service' (White House, 1975a). 'We must not expose before our opponents - or even our friends - our successes and failures, our strengths and weaknesses, our methods and operations', the memo had suggested (White House, 1975a).

On the opposing side, facing systematic delays and unwillingness to cooperate, the Church Committee had to come up with its own strategy for effectively obtaining the material needed for completion of the planned assassination report. Loch Johnson, who served as an assistant to the Committee, captured the fundamental issue facing investigators: 'We were unable to dance alone. Like it or not, our partner was the executive branch, for it had what we needed to conduct the inquiry; information on intelligence activities' (Johnson 1985: 28). As a counterstrategy to administration's unwillingness to share information, the Committee often relied upon public shaming. This is where the long shadow of Watergate played in Church Committee's favor. Frederick Schwarz, chief counsel to the Church Committee, points out that Congressional investigators were aware of the fact that the Ford administration simply could not afford to be seen as obstructionist in the public (Schwarz, 2015: 273). They knew that the President was under significant pressure to cooperate (Schwarz, 2014). Caught between advisors who advocated confronting the Committee at any cost, and fear of being seen in the same disgraceful light as his predecessor Richard Nixon, President Ford would end up transferring valuable materials to investigators.

The Church Committee used the public domain to empower itself, change public's perceptions, and to put pressure on White House to cooperate. Initially, Frank Church had promised not to create 'a legislative carnival', or a 'television extravaganza' out of the investigation (The National Press Club, 1975). He ended up keeping his word only partially. On the one hand, Frank Church dismissed the suggestion that interrogations of CIA officials be held in public. 'The assassination

matter would have been unprecedented box office. It would have been the most sensational hearings held in this century. I was against bringing this out because I thought it would have caused damage to the nation', Church had explained in an interview (Hesrh, 1975a). Nevertheless, when facing-off against obstructive Executive branch, his position would slightly change. During one televised session, for example, Church purposefully displayed a secret CIA weapon - poison dart gun that the agency had developed explicitly for assassination plots. The optics of the Senator holding an exotic weapon stunned the public, and showcased how far the CIA had gone in its plans to assassinate leaders of foreign nations. The Committee was using various means to dramatize CIA's wrongdoings in order to win over the public opinion.

Around the midpoint of the investigation, internal Ford administration records indicated that the Committee was gaining the upper hand. A memo prepared by Dick Cheney noted that the Ford administration had no coherent policy for defending against various Congressional requests (White House, 1975b). Administration officials were surprised by Committee's ability to press on various fronts, and had clearly underestimated its willingness and capacity to push through various bureaucratic obstacles (Memorandum for the President, 1975a). Having personally testified before the Church Committee, CIA Director Colby shared his experience during an internal meeting: 'It was like being a prisoner in the dock [...] all the questions were on assassination and it was like when did you stop beating your wife? That was all they wanted to talk about' (White House, 1975d). Moreover, Colby revealed that the Committee had already started to think about a formal law prohibiting government sponsored assassinations. 'It is an act of insanity and national humiliation to have a law prohibiting the President from ordering assassination', Kissinger immediately intervened (White House, 1975d). As the investigation drew nearer to its end, the fault lines between the Ford administration and the Church Committee only deepened.

After finally completing the report titled 'Alleged Assassination Plots Involving Foreign Leaders', the Church Committee, as it was previously agreed, first forwarded it to the White House for an internal private reading. Having opposed Committee's work all along, the Ford administration, after reading the material, now doubled its efforts. The assassination report, 247

pages long, was incredibly nuanced and highly embarrassing, detailing US involvement in Congo, Cuba, Dominican Republic and Vietnam.

The report suggested that the first democratically elected leader of the Democratic Republic of the Congo (DRC), Patrice Lumumba, had been perceived by the US government as a serious political threat, and someone who in the midst of Cold War rivalries was gravitating towards the Soviet Union (Senate Reports, 1975: 25). His removal was deemed to be an 'urgent and prime objective' (Senate Reports, 1975: 13). To that end, in the fall of 1960, two CIA agents were clearly instructed to assassinate Lumumba (Senate Reports, 1975: 4). In order to carry out the mission, the agency had turned to a well-known chemist, asking him to join the assassination planning team. Under the code name 'Joe from Paris', the chemist prepared a poison that was supposed to be put in the victim's toothpaste (Senate Reports, 1975: 25).

The situation in later stages unfolded in a way that did not require the CIA to complete the plan. Lumumba had gained other enemies, and in the end was shot dead on 17 January 1961 by Congolese rivals with direct assistance from the Belgian government. Nevertheless, the Church Committee established that the CIA was fully prepared to kill the legitimate leader of Congo. The dispatch of poison to Africa clearly speaks to the fact that the plot had moved beyond simple 'assessment' and 'contingency planning' (Senate Reports, 1975: 35). It is also worth noting that two witnesses testifying during the Committee hearings had suggested that the assassination had been ordered at the highest level, directly linking it to President Dwight Eisenhower (Senate Reports, 1975: 19-32).

In comparison to other US assassination plots of the 70s, this particular case had come the closest to actual completion. It is important to stress that the newly elected Congolese President had 'neither committed any crime nor even voiced any threat against the US' (Plaw, 2008: 99). He had merely reached out to the Soviet Union for assistance, flirting with the idea of establishing closer ties with Moscow. For Washington, Lumumba's Soviet sympathies were a reason enough to try to assassinate him (Senate Reports, 1975). Retrospectively, his ties to and willingness work with Moscow were called into serious question. CIA Director Allen Dulles later admitted: 'I think we overrated the Soviet danger, let's say, in the Congo' (Weissman, 2010: 202).

In the second examined case, the Committee had found 'concrete evidence' of at least eight plots involving the CIA to kill Cuban leader Fidel Castro from 1960 to 1965 (Senate Reports, 1975: 71). Located mere 90 miles away from the US shores, Cuba, led by revolutionary Castro, infuriated lawmakers in Washington. As Henry Ramsey from the State Department Policy Planning Staff noted in 1960, 'we have never in our national history experienced anything quite like it in magnitude of anti-US venom' (State Department Office of the Historian, 1991). Over the years, in its plans to kill Fidel, the CIA had reached out to foreign citizens with criminal background, mafia type personalities as well as Cubans hostile to Castro's government. While some of the assassination schemes, such as, the exploding seashell and diving suit contamination were abandoned already 'at the laboratory stage', others advanced well beyond that, including dispatching teams to commit the act (Senate Reports, 1975: 71).

Similarly as was the case with Congo's Lumumba, US plans to kill Castro appear to have evolved primarily from political and ideological considerations, not imminent security threats to US citizens (Senate Reports, 1975). The report did make a note that out of all examined cases, Fidel Castro did in fact pose a physical threat to the United States during the period of the Cuban missile crisis (Senate Reports, 1975: 258). However, it equally reminded that attempts to assassinate him 'had begun long before that crisis' (Senate Reports, 1975: 258). At the time, the Church report was not able to provide a conclusive evidence regarding the extent to which these plots had received the blessing of the top Kennedy administration officials. Declassified documents decades later however, unequivocally stated that 'the Director of Central Intelligence, Allen Dulles, was briefed and gave his approval' (Monje, 2008: 50).

In other three cases, the Church Committee found less direct authorizations for assassination, while still detecting some form of US involvement in attempts to kill foreign leaders. In the case of Rafael Trujillo, a brutal dictator of the Dominican Republic who had ruled the island nation for almost 30 years, subsequent US administrations had provided arms and financial assistance to local dissidents (Senate Reports, 1975: 191-215). The report revealed that the CIA was well aware of the fact that Dominican opposition groups intended to overthrow the oppressive dictator, most likely by assassination (Senate Reports, 1975: 191).

Trujillo was ambushed and gunned down on 30 May 1961 near city of San Cristobal. The assassination was carried out by the opposition group to whom the US side had delivered carbines. While the United States government did not instigate any assassination activity, it clearly knew that such outcome was in the realm of possibilities when aiding the dissident group (Senate Reports, 1975: 191-215). As one US diplomatic cable sent from Santo Domingo station to Washington explained: 'We don't care if the Dominicans assassinated Trujillo - that is all right. But we don't want anything to pin this on us, because we aren't doing it, it is the Dominicans who are doing it' (Senate Reports, 1975: 213). Years later, the project to change the government in the Dominican Republic was described in CIA's internal files as a 'success' in that it had helped end oppressive dictatorship (Senate Reports, 1975: 191).

The CIA played a similarly indirect role in the killing of South Vietnamese President Ngo Dinh Diem and Chilean General Rene Schneider. In the case of South Vietnam, after President Diem's brutal clampdown on an anti-government Buddhist monks in 1963, President John F. Kennedy had moved ahead with coup plans. On one occasion, prominent Vietnamese generals had outlined to a CIA officer the possibility of using assassination methods for coup attempt in the future. After receiving information about such proposal, CIA Director John McCone sent the following message to Saigon: 'We certainly cannot be in the position of stimulating, approving, or supporting assassination, but on the other hand, we are in no way responsible for stopping every such threat of which we might receive even partial knowledge. We certainly would not favor assassination of Diem. We believe engaging ourselves by taking position on this matter opens door too easily for probes of our position re others, re support of regime, et cetera. Consequently believe best approach is hands off' (Senate Reports, 1975: 217).

While the Americans clearly displayed dissatisfaction with the autocratic Ngo Dinh Diem government and sided with the South Vietnamese Generals' who attempted the coup, the Committee established that that the US government 'neither desired nor was involved in the assassination' (Senate Reports, 1975: 217). Moreover, evidence suggested that even the South Vietnamese generals themselves did not initially plan to kill Ngo Dinh Diem. It turned out to be

more of a 'spontaneous act' occurring during the coup (Senate Reports, 1975: 213). Following the death of Diem, South Vietnam descended into political chaos.

In 1970, President Richard Nixon had informed the CIA that a socialist regime by Salvador Allende in Chile would not be tolerated by the United States. To that end, the agency was instructed to play a direct role in orchestrating a military coup to block Allende's coming to power (Senate Reports, 1975: 225). A key obstacle in this plan was Chilean Commander-in-Chief of the Army General Rene Schneider, who opposed the coup plotters and insisted upon respect of democratic process. The removal of the Chilean army commander thus became 'a necessary ingredient in the coup plans' (Senate Reports, 1975: 225).

The United States government directly aided various military figures who opposed Allende with 'financial aid, machine guns and other equipment' (Senate Reports, 1975: 5). The Chilean coup plotters whom the CIA had assisted made an unsuccessful abduction attempt of General Rene Schneider on 19 October 1970, repeating the same – again unsuccessfully – the next day. In another kidnapping attempt a few days later, Schneider was wounded and later died. While CIA continued to support coup plotters throughout the process, the Committee found 'no evidence of a plan to kill Schneider or that United States officials specifically anticipated that Schneider would be shot during the abduction' (Senate Reports, 1975: 5).

Realizing how detailed, shocking and embarrassing the assassination report was, President Ford insisted upon limiting its availability only to the Senate and House Select Committees. The administration suggested to iron out past mistakes quietly, behind closed doors. In a major address, first after reading the assassination report, President Gerald Ford applauded Committee's efforts, and described the produced document as 'fair, frank and balanced' (Press Conference of the President of the United States, 1975). While expressing his 'total opposition' to assassinations, the President nonetheless urged the Committee not to make the report public due to 'extremely sensitive matters' it contained (Press Conference of the President of the United States, 1975). Ford believed that it was not appropriate for him to publicly point finger at any of the previous presidents, even if they had been in some way involved in directing questionable clandestine activities (Office of the White House Press Secretary, 1975). Moreover, he signaled that the White

House was not ready yet to commit to a legislation directly outlawing covert CIA activities like assassinations plots (Horrock, 1975c).

In Ford's view, it was sufficient enough that he had instructed intelligence agencies that 'under no circumstances should any agency in government participate, in or plan for any assassination of a foreign leader' (White House, 1975e). Similarly, Director of Central Intelligence, William Colby, had publicly guaranteed that the agency will have nothing to do with assassinations. 'It would not stimulate them, condone them, support them or conduct them' (Face the Nation, 1975). Equally though, Colby too opposed the idea of a public report. Assassination, according to him, was not appropriate subject for a public debate, and could 'sear into national history a very damaging wound' (Face the Nation, 1975).

This clearly did not please the Church Committee, which all along had counted on public release of the report. Chairman Frank Church dismissed the claims that exposure of CIA's past mistakes served no useful purpose. 'I don't accept that thesis. We need to know what went on and the degree to which assassination was an instrument of foreign policy', Church insisted (The New York Times, 1975c). In a televised interview, he further justified his position: 'The greatest strength of this nation is that it has had the capacity to look at what's gone wrong, look at the sins of the past, look at the wrongdoing in government, to expose what had to be exposed, and then to correct it. That's the thing that makes the United States of America unique in the world, and people who don't understand that ought not to be sitting in the seats of power' (Face the Nation, 1975a). He believed that the national interest was better served by informing the citizens about the mistakes made by their government regardless of how embarrassing they may have been (Crain, 2009: 121).

The confrontation between both sides reached its peak at the end of November 1975. Fearing that the Committee might strike on its own and publish the report, President Ford had sent a 'strongly worded' letter urging members of the select Committee not to make it public (Horrock, 1975b). At this point, Chairman Church responded with equally bold move - an ultimatum threatening to resign unless the report was being published (Olmsted, 1996: 106). Consequently, a compromise was reached between the two. The report would be sent to the Senate which would then decide

what to do with it - keep it classified or make it public. After several hours of intense discussion, the Senate was unwilling to take a clear stand. It refused to block the document's release, but equally did not approve publishing of this material (Olmsted, 1996: 106). Instead it forwarded the report back to the Church Committee, suggesting that its own internal decision would also be the final one. With all 11 members of the Committee voting in favor, the assassination report finally became available to the wider public. In the end, the Committee had prevailed, and managed to fully present its findings, laying the necessary groundwork for formal assassination ban.

In sum, the presented analysis demonstrates that the path to assassination ban was long, torturous, and full of obstacles. There was nothing inevitable about the final outcome. Different end result was not only possible, but at times even appeared more likely. The inquiry, for example, could have concluded with a report that was available exclusively to the Senate Select committees, and not the general public. Alternatively, the final document may have been crafted as a 'watered-down' version, describing events in fuzzy general terms, which was something that the Ford administration had hoped for all along. Instead, what the Church Committee managed to achieve was a 247 pages long report exposing secret conversations of the political elites in a highly detailed manner. Christian Science Monitor, an international news organization, called the report a 'best seller', adding that no other government had ever published anything like it (Miller, 2008: 85). The Church Committee had accumulated a massive amount of data comprising over 8 thousand pages of testimonies taken from over 75 witnesses, including individuals at the highest echelons of power (Senate Reports, 1975: 2). Investigators managed to get their hands on virtually all White House authorizations for foreign intelligence activities, and consequently were able to present a complete anatomy of US assassination plots abroad (Madden, 1975).

The final report was not merely an informative piece. For the Church Committee it served as a vehicle through which it made its case for normative change, and introduction of formal assassination ban. The un-sanitized language in which the report was produced was not a coincidence. The document was purposefully crafted in a way to shock the public about government abuses, and to build momentum for normative change. The report had outlined that in Congo, the agency had prepared toxic biological materials to assassinate Patrice Lumumba. One station officer's testimony revealed that he had received 'rubber gloves, a mask, and a syringe

along with lethal biological material […] to be injected into some substance that Lumumba would ingest' (Senate Reports, 1975: 19). In the case of Fidel Castro, the agency had explored the following devices to kill the Cuban leader: 'contaminated diving suit, exploding seashell, poison pills, poison pens, deadly bacterial powders, and other devices which strain the imagination' (Senate Reports, 1975: 71). Other discussed schemes involved 'spraying Castro's broadcasting studio with a chemical which produced effects similar to LSD', 'dusting his shoes with thallium salts, a strong depilatory that would cause his beard to fall out' and also a simple 'gangland-style killing' (Senate Reports, 1975: 72-80). Some of the figures that the CIA had reached out for completion of the assassination included Mafia figures Sam Giancani, Santos Trafficante and Johnny Rosselli (Senate Reports, 1975: 72-80).

While admitting that the presented story about US government assassination plots was 'sad', Congressional investigators equally believed that the country had the strength to hear the story, learn from it, and follow through with necessary adjustments (Schwarz, 2015: 9). 'We reject any contention that the facts disclosed in this report should be kept secret because they are embarrassing to the United States. Despite temporary injury to our national reputation, the Committee believes that foreign peoples will, upon sober reflection, respect the United States more for keeping faith with its democratic ideal than they will condemn us for the misconduct revealed', the final report had noted (Senate Reports, 1975: 2)

Given their role as Congressional investigators, it can be conceptually challenging to label members of the Church Committee as norm advocates. They were tasked to investigate potential breaches of the law in neutral and impartial manner, and their formal positions differed from the ones usually associated with the introduction of new norms. That being said, the presented analysis clearly shows that the assassination ban came into force because of the tireless efforts of the Church Committee members. In every step of the way the Committee faced stiff bureaucratic resistance, as it was engaged in a power struggle with the Ford administration over what secretive intelligence materials would reach the daylight. Intelligence agencies had to be systematically pushed to cooperate, and role of individual Committee members were crucial in forcing the topic of assassinations into the open.

It is also important to note that their success rested not only on ideational commitment to expose government wrongdoings, but also the right strategy. As Breuning (2013) points out, norm leaders must not only be sympathetic to normative change, but also possess the political know-how in order to achieve desired ends (Breuning, 2013: 322). Church Committee members, most of whom were savvy senior politicians, understood the US political system and its intricacies well, and successfully applied a wide range of strategies – threats, negotiation, cajoling, in order to produce a full public report on government assassination plots.

3.4 Church Committee findings & recommendations

Drawing on the investigative work of the Church Committee, what were the key lessons learned regarding US government assassination plots? What exactly led the United States into such extremes? The Church Committee was unable to directly link assassination plots to any of the former US Presidents. Some of the investigators believed that Presidents Eisenhower, Kennedy, Johnson, and Nixon had at least tacitly endorsed the plans to eliminate foreign leaders (Olmsted, 2006). Despite this, the Committee proclaimed that it was not interested in pointing a finger of guilt toward any former President in the absence of 'clear and convincing evidence directly linking them to assassination plots and assassination attempt' (The New York Times, 1975c). Investigators were unable to present officially written authorization to kill, signed by any President. This however did not mean that US presidents did not take part in planning, overseeing and authorizing assassinations. As Richard Helms, former CIA Director, testified before the Committee: 'I can't imagine anybody wanting something in writing saying I have just charged Mr. Jones to go out and shoot Mr. Smith' (Hersh, 1984).

There were a number of similarities and common patterns in plans to assassinate foreign leaders that took place under the watch of both Republican and Democrat administrations. One common characteristic was that they were aimed at individuals who the US government deemed to be sympathetic to the ideas of communism. Fear of Soviet expansion was the uniting element in Washington's desire to remove foreign heads of state from their office. In Congo, the newly elected Prime Minister Patrice Lumumba was seen as a 'Castro or worse' (NSC, 1960). Fidel Castro had provided the Soviet Union with 'entree into the backyard of the United States' which

granted relentless attempts against his life (Pérez, 2002: 232). At the time, policymakers viewed the CIA as a 'primary means of defence against Communism', and covert operations as a 'vital element in the pursuit of US foreign policy objectives' (Senate Report 1976: 110).

In the eyes of US lawmakers, removing foreign leaders was a necessary evil if the United States wanted to protect its spheres of influence, and limit the spread of leftist ideas around the world. Declassified CIA file titled 'A Study of Assassination' (1953), provides an insightful illustration into how policy makers thought about assassinations, and validated its practice during the early stages of the Cold War. The document, intended for internal CIA field agent reading, explained that murder as a practice is 'not morally justifiable', however, this changes in a situation where one can identify 'a political leader whose burgeoning career is a clear and present danger to the cause of freedom' (Study of Assassination, 1953:6). In such cases, the manual suggested, assassination 'may be held necessary' (Study of Assassination, 1953:6).

Assassination as a practice was connected to wider ideational architecture, and different layers of national interest. Those that favored going after specific world leaders, justified their position on the grounds of their version of the national interest. Later, when CIA officials testified before the Church Committee, they all agreed that assassination was 'stupid, foolish, ridiculous, unworkable; worse than a crime' and the only justification that they came up with was 'the climate of the time' (Powers, 1979). The Church Committee was not blind to the political and ideological environment in which these assassination plots had occurred. In fact, the final report clearly makes note of the 'historical context' within which they were carried out (Senate Reports, 1975: 256). Still, for investigators the threat posed by the Soviet Union only explained why the phenomenon had occurred, but in itself did not justify such extreme measures.

The United States was not engaged in an armed conflict with the countries whose leaders it tried to covertly kill. The Cold War, intense as it was, did not change the fact that assassination as a method was unacceptable for American style democracy (Senate Reports, 1975: 258). In a letter to one constituent, Frank Church wrote: 'I believe the best method of countering them [Soviets] abroad is not to imitate their tactics of subversion and deceit but to provide an example of decency and honestly for other countries to emulate' (Miller, 2008: 83). The Church Committee contended

that means were as important as ends, and that the United States should not attempt to justify its actions by the standards of totalitarians; instead its standards must be higher than the ones of Soviet Union (New York Times, 1975d).

Another commonality among the plots was that they all involved relatively weak countries - Congo, Cuba, the Dominican Republic, Chile, and South Vietnam, none of which were in a position to seriously challenge or threaten the United States. The Church Committee did not rule out that in exceptional circumstances the nation could end up relying on certain covert operations, however adding that such step should be undertaken only when the national security truly called for it, and when overt means no longer sufficed (Senate Report, 1976: 160). The situations and circumstances in which the US government had gone after foreign leaders clearly did not meet these requirements.

Putting questions of ethics and morality aside, the Committee also concluded that as a practical matter assassination carried many risks. Review of government cables and documents suggest that even for a superpower like the United States, assassination was difficult to pull off. Because of previous intelligence agencies achievements – quick and bloodless operations in Guatemala and Iran, officials had gained a great of deal of confidence in CIA's operational capabilities (Senate Report, 1976: 111). In comparison, assassinations turned out to be a very different story. Great technical expertise and financial means did not lead to successful outcomes. Countless failed attempts against Castro's life serve as the best testimony to this. Assassination plots turned out to be risky and unpredictable, threatening to blow up at any moment. Examined cables revealed that officials in Washington had thought they could tightly control the groups which were tasked to carry out the killings. Events on the ground demonstrated otherwise.

Richard Helms, former CIA director and a man who had personally orchestrated some of the plots, in later years admitted that assassination was simply not a 'smart thing to do' (PBS, 2002). Even if a plot were to be successful, Helms explained, 'there was no guarantee that the next person running the country would be somehow different' and more pleasing to interests of the United States (The New York Times, 1975d). CIA Director, William Colby, later admitted that assassinations had led to 'absolutely uncontrolled and unforeseeable results, usually worse results

than by continuing to suffer the problem that you are facing' (New York Times, 1975e). 'You think you can solve something by eliminating a guy - it's playing God. You have no idea who is going to succeed him, you have no idea what the repercussions will be, or, the worst, you getting caught doing it. The repercussions are potentially enormous', Colby outlined his position (CIA History Archives, 2007). In sum, a major takeaway from the investigation was that not only assassination was morally abhorrent, but also from a practical perspective, quite unreliable and unpredictable.

What made such attempts even more complicated, was the fact that the United States clearly wanted to keep its hand hidden. Killing a foreign official was one thing, making it look like an accident was substantially more demanding task. 'I mean you couldn't invite [the victim] to a cocktail party and give him a drink and have him die a short time later', explained one CIA agent that had worked for the agency in the 1970s (Democracy Now, 2011). Moreover, officials were concerned that if information about foreign plots became a public knowledge, this would invite a 'reciprocal action from foreign governments' (Senate Reports, 1975: 282). American officials could then become prime targets themselves. As Walter Mondale, member of the Church Committee, explained: 'When we pursue a strategy of assassinating foreign leaders, I think we ought to concern ourselves with the possibility that foreign leaders might decide that if we are going to play such a game against them they can play it against us' (Congressional Record, 1975).

The Church investigation further established that there was a link between excessive secrecy that run through government and intelligence bureaucracies, and the kind of operations CIA ended up engaged in. Every president from Franklin D. Roosevelt to Richard Nixon had in some way abused their secret powers (Senate Report, 1976). When facing unfriendly governments, officials often chose to bypass traditional democratic processes and instead relied on controversial clandestine actions. Because policy options were not openly weighted and discussed, this often had led to 'questionable foreign involvements and unacceptable acts', above all, shocking assassination plots against legitimate leaders of other countries (Senate Report, 1976: 17). 'A system which relies on secrecy', the report noted, created the 'risk of confusion and rashness in the very areas where clarity and sober judgment were most necessary' (Senate Report, 1975: 7).

The Committee did recognize that even in a US style democracy, there was a legitimate place for some government secrets. Certain information was supposed to be concealed from the general public potential enemies. The issue here, as the Committee saw it, was more in terms of striking the right balance between secrecy and accountability. In reconstructing how the CIA had functioned over the years, the Church investigation concluded that the pendulum had swung way too far in the direction of secrecy, depriving citizens from real debates and impairing policy judgments. 'I accept that secrecy is sometimes necessary, particularly in the field of intelligence. But we cannot tolerate both secrecy and lack of accountability and expect to survive as a democratic nation', Walter Mondale warned (Minneapolis Star, 1975). Similarly, Frank Church noted that he did not advocate banning all covert operations. 'I can conceive of a dire emergency when timely clandestine action on our part might avert a nuclear holocaust and save entire civilization', he pointed out (Church, 1976). Instead, what the Committee recommended was to look at covert action as an exceptional act that should be undertaken only when the national security is truly at risk, and other means to change the course of events had been fully exhausted (Senate Report, 1976: 160).

The investigation further exposed that assassination plots had flourished in an atmosphere 'plausible denial'. In every single administration there was a failure of control by all of the presidents. It was unclear where exactly the power resided in terms of ordering covert intelligence activities. During the testimony, when CIA witnesses were questioned, their answers usually rested one of the following phrases: 'Could,' 'would,' 'probably,' 'assume,' 'might,' 'have a feeling' (Johnson, 2009). The Committee concluded that many of the abuses was a result of lack of reasonable accountability requirements. Ambiguous language in statutes and instructions had facilitated government abuses (Schwarz, 2007: 280). Agencies were not accountable to the White House, and there was a great deal of inertia in terms of intelligence oversight. Covert activities were never cross-examined outside the agency walls. While the Committee provided impressively thorough report on assassination plots, it equally failed to establish individual responsibility. Pinning down responsibility for covert action, Walter Mondale complained, was 'like nailing jello to a wall' (Crain, 2009: 121). The Committee concluded that accountability measures and procedural barriers were inadequate for covert action, and that they needed to be visibly strengthened (Senate Report, 1976: 160).

In reaction to all of these discoveries - excessive secrecy, plausible deniability and lack of oversight, Church Committee put forward a number of intelligence reforms in order to curb ill-advised covert operations. As a result of the reforms, the president now had to formally approve of all major covert actions, making him personally accountable if things went wrong. Furthermore, Congress established permanent Senate and House intelligence committees, and created stronger reporting mechanisms (Johnson, 2004, Warner and McDonald, 2005). The reforms significantly altered previous relationships that had existed between the Congress, intelligence agencies and White House. According to Loch Johnson, who worked for the Church Committee, the differences in intelligence accountability before and after 1975 'were as stark as night and day' (Johnson, 2008: 201).

3.5. Introduction of the assassination ban: Executive Order 11905

After a massive investigation, and the subsequent revelations, the Church Committee strongly supported a flat assassination ban written into law (Senate Reports, 1975: 281). For Congressional investigators, assurances from the CIA and White House that such methods will no longer be tolerated and applied, were insufficient. 'Administrations change, CIA directors change, and someday in the future what was tried in the past may once again become a temptation. [...] It would be irresponsible not to do all that can be done to prevent their happening again. A law is needed', the report plainly suggested (Senate Reports, 1975: 283). Having opposed Committee's work all along, even Henry Kissinger publicly had stated that there can be tighter control to stop assassination plots (Horrock, 1975c).

In the end, Committee's recommended statutory charter for the US intelligence community failed to go through the Congress (CIA, 1976). Instead, President Ford dealt with the issue in administrative manner, on February 18, 1976 issuing Executive Order 11905 which stated that: 'No employee of the United States Government shall engage in, or conspire to engage in, political assassination' (Executive Order 11905). Senator Frank Church welcomed the order by commenting that it was 'simply intolerable that any agency of the government of the United States may engage in murder' (Knott, 1996: 171).

Once adopted and written in Executive Order, what exactly did the assassination ban convey? Tannenwald (2007: 2) suggests that any norm operates in various ways and may have 'multiple effects'. The assassination ban clearly had a prohibitive and restraining quality, signaling about the potential dangers and consequences of using assassination as an instrument of US foreign policy. Single sentence illegalizing assassination as a state practice, of course, did not guarantee that the government would not end up walking down the same road again. As previously noted, norms cannot physically prevent actions, or ensure changed outcomes (Wheeler, 2000: 9). An established norm, however, can 'increase or decrease the probability of occurrence of certain courses of action' (Tannenwald, 1997: 4). As such, the assassination ban, formalized in Executive Order 11905, lowered the possibility of someone in the US government ordering lethal operations against singled out individuals. It pushed officials to seek alternative policy avenues through which to influence foreign countries.

Moreover, norms not only constrain and regulate behavior, but can also constitute and reinforce actor's identity. In a way, the assassination ban provided an insight into how the United States perceived itself, and how it wanted to be perceived. The ban was an expression of the US democratic character, and its willingness to be associated with liberal democracy, a form of government that does not try to accomplish its foreign policy objectives by all means possible. The United States publicly drew a red line in relation to assassination as a state tool, arguing that crossing of it would risk putting the country in the category of totalitarian states. The ban was a clear value orientation, which contained information about US future intentions, and likely behavior in the international arena.

In the end, it is also important to note a certain limitation, or even a possible weakness associated with the introduction of the assassination ban. The term 'assassination' was not defined in the Executive order 11905. The ban did not specify conditions of application, simply read that 'no employee of the US Government shall engage in, or conspire to engage in political assassinations' (Executive Order 11905). Some have argued that this was done intentionally to grant the president flexibility in interpreting the applicability of this order in times of national crises (Rothe, and Collins; 2014: 379). Some believe that the order, given its historical context, was intended to

protect only national leaders from being assassinated. Others have disagreed by stressing that the ban was intended to prevent much broader activities – 'directing, facilitating, encouraging, or even incidentally causing the killing of any specified individual' (Bazan, 2002). One helpful qualification provided by the Church Committee explained that the ban was intended to control the activities of the CIA during a time of peace (Senate Reports, 1975). As such, individuals targeted outside the traditional framework of war, should be seen as a violation of the ban.

At the time, such absence of explanatory definition of the scope of the ban did not seem particularly controversial, but in the later years, as the United States faced violent non-state actors, the lack of specificity of the order led to many debates and disagreements among decision makers regarding what exactly constitutes violation of the ban. A number of scholars have explored the importance of norm precision and its impact on development of normative structures. Miles Kahler (2000) has found that without some degree of definitional precision 'the content of norms is likely to remain contested for longer period of time' (Kahler, 2000: 679). Other scholars have similarly linked conceptual clarity and precision with how often the norm will be contested in the future (Percy, 2007). For this reason, one can argue that the assassination ban was introduced with a certain 'weak' aspect – lack of exact definition, and parameters regarding its application.

3.6. Conclusion

Overall, various processes and dynamics contributed to the introduction of domestic assassination ban in the United States. Its path towards acceptance was met with considerable opposition and obstacles. At first, investigative newspaper reports torn open the initial debate about CIA's role, and its reliance on questionable covert operations. President Gerald Ford's own careless admission regarding US assassination plots, however, granted that this topic was added to Church Committee's investigative agenda. Moreover, widespread distrust in government institutions in the post-Watergate era had created an unusual window of opportunity for a major investigation, and change of rules by which the government had operated. But as Cortell and Peterson (1999) point out, even big opportunities by themselves do not guarantee normative change (Cortell and Peterson, 1999: 188). Individual actors - norm leaders, must also want to change existing normative perceptions and move to exploit such opening. The members of Church Committee

wanted to see significant changes in how the intelligence agencies functioned, and put great effort in order to get formal assassination ban over the finish line.

The Ford administration clearly did not share the same views, and wished to avoid a public report on assassination plots by any means possible. Many believed that bringing such information into the open would only inflict a deep wound into nation's self-esteem, and damage the CIA as an organization. The battle between the two sides – norm revisionists and defenders of the previous practices - often took place behind closed doors. Only few held the keys to highly secretive CIA materials detailing US government assassination attempts against foreign leaders. As a result, the process involved numerous behind the scenes clashes regarding information declassification and disclosure.

In the end, the Ford administration lost the battle to hold back the assassination report, but that certainly was not because of not trying. It had tried to fight off the Congressional inquiry from the very beginning, and along the way had attempted to purposefully evoke concerns of national security in order to prevent such report. Given the overall political mood in the country, the Ford Administration however did not enter the fight from a position of power. It simply could not afford to be seen as obstructionist or preventing the Church Committee from obtaining essential documents. The Committee members skilfully exploited their own organizational platform to promote their version of 'appropriate behavior' and in the end prevailed by publishing a full report on US assassination plots abroad. After presenting the final document – a substantial body of evidence, the Committee laid the groundwork for assassination ban, later formalized by President Gerald Ford's Executive Order 11905. After 1975, there was a substantial audience in the United States that accepted and internalized the notion that assassinations should not be part of its foreign policy.

Chapter 4: The Norm in the post-Church committee era (1975- 2001)

4.1. Introduction

The following chapter examines the strength of the norm against assassination in the post-Church committee era (1975 - 2001). By looking at four case studies - presidencies of Jimmy Carter, Ronald Reagan, George H. W. Bush, and Bill Clinton, the principal aim here is to find out to what extent normative constraints, in the form of domestic assassination ban, shaped and guided US foreign policy behaviour. During the 1980s, international terrorism, emanating from the Middle East, emerged as a grave threat, exposing United States vulnerability to asymmetrical warfare. In its modern shape, terrorist activities generated tensions between self-imposed rules, which were there to restrict certain actions, and external realities which increasingly demanded swift and flexible measures in order to protect the American people, and ensure international order. Because the nature of the threat was so unconventional, this put great pressure on those norms that were designed to deal with different set of actors – rational states. Should the United States retaliate to every single terrorist attack, how harshly, and what were the appropriate means for a democratic country – these were some of the questions officials frequently debated. Extremist elements, poised to harm the United States at any cost, tested the patience of decision makers, and once again re- opened the door for discussions about the utility of targeted killings.

Furthermore, dictators like Muammar Gaddafi, Saddam Hussein, and Manuel Antonio Noriega, with provocations, repeated violations of the international law, and aiding of terrorist networks, had set themselves up in direct opposition to the US-led order. They undermined the international system to the extent that at some point they themselves became targets for direct military strikes. The assassination ban protected foreign individuals from extra judicial executions, but since these political figures had chosen aggressive and militaristic policy paths, in the interpretation of US government, their immunity against assassinations vanished under the formal act of war, and anticipatory self-defence. International terrorism and rogue state dictators, or at times the combination of both, tested Church Committee's introduced assassination ban as US presidents wrestled with the issue of authorizing targeted killing on a number of occasions.

Pushed by a volatile and changing external environment, the norm went through a certain transformative process. The lack of clear understanding of the key term - 'assassination', exposed a loophole in the prohibition. When credible opportunity presented itself, policy makers used the ambiguous terminology to draw a legal distinction between violent terrorist leaders and heads of states, concluding that targeting the former was a fair game and did not qualify as assassination. Moreover, a line of separation was drawn between what was acceptable during a time of peace, and armed conflict. As a result, the norm may have become more open to exceptions. During this period of time, the concepts of pre-emptive military action and self-defensive strikes were first seriously discussed as part of broader counterterrorism strategy. With the help of legal advisors, US presidents, by evoking the right to self-defense, had already found a way to circumvent the assassination ban. What is notable, however, is that even with such legal 'green light', US decision makers were not willing to go down the path of targeting enemies abroad. The study lends evidence that US officials in the post-Church committee era seriously factored in normative constraints, and were interested in normative compliance. The examination of three presidencies demonstrate that the norm against assassination had successfully found its way into government structures, and bureaucracy, visibly affecting how the United States government approached this issue. Assassination ban produced real effects, and had constraining influence on US foreign policy behaviour.

4.2. The Carter administration: complete opposition

Jimmy Carter, the 39th President of the United States, entered the office in the wake of Watergate scandal, and stunning revelations of the Church Committee. In the light of this, he had called for a new foreign policy approach centered upon noninterference in others nations internal affairs, and respect for human rights around the world. On the campaign trail, he had talked about the past 'excesses of the CIA', arguing that many of the US foreign policy debacles stemmed from the government forging ahead 'without consulting the American people' (State Department Office of the Historian, 1976). In another address, already as a President, he acknowledged that the United States had often been guilty of adopting the 'flawed principles and tactics of our adversaries' (Carter, 1977). While during his term Carter did end up signing off certain covert activities, most notably 'Operation Eagle Claw'- an effort to save fifty-three Americans held

hostage in Iran, there is no evidence that would point towards deliberations or actual plans regarding pre-meditated killing of known individuals abroad.

Filling the position of Vice President in the Carter administration was Walter Mondale, an original member of the Church Committee, and someone who had established reputation as a relentless interrogator during this Congressional investigation. According to counsel of the Committee Frederick Schwartz, while Frank Church had been the public face of the investigation, Mondale was the true operational leader of the Church Committee (Schwartz, 2015). Given that Mondale was among those who had been personally involved in pushing for formal assassination ban, it is likely that he would have opposed such methods while serving as a Vice President.

Decades later, when the United States government engaged in routine missions of targeted killing via armed drones, both Jimmy Carter and Walter Mondale publically opposed the policy. In an op-ed for the New York Times, Carter offered harsh words for the Obama administration counterterrorism strategy: 'Revelations that top officials are targeting people to be assassinated abroad, including American citizens, are only the most recent, disturbing proof of how far our nation's violation of human rights has extended' (Carter, 2012). On the same issue, Mondale suggested rethinking the value of drone strikes, and looking for ways to make the CIA more accountable (Debevec, 2013). In sum, the historical analysis indicates that while in office Jimmy Carter and Walter Mondale staunchly opposed singled-out killings, equally questioning the wisdom of targeting terrorists decades later.

4. 3. Lebanon: short-lived consideration of 'hit squads'

With nearly all attention devoted to Soviet Union and fighting the Cold War, United States was slow to recognize the growing threat posed by extremist organizations in the Middle East. In the early 1980s, it was still largely seen as a marginal issue, according to then Head of the State Department Office for Combating Terrorism – 'a manageable threat' (Toaldo, 2012: 10). After a series of bombings, aimed against US installations in Lebanon and Kuwait, this vividly was no longer the case. Public opinion polls revealed that the American people were deeply troubled by the threat of international terrorism, and considered it to be among nation's top problems (US

Department of Justice, 1986: 17). As extremist networks took a stronger root across the Middle East, United States, thinking about its own national security, started to look for the most effective tools in order to combat terrorism. Conventional means, such as, diplomacy, aid or sanctions were of little help when dealing with elusive non-state elements, and situations like car-bombings, indiscriminate shootings, aircraft hijacking, or hostage taking. When seeking measures against unconventional enemy, previously outlawed methods like targeted killing quietly found their way back into policy debates.

Ronald Reagan, 40th President of the United States, had entered his first term with a confident foreign policy tone, and a clear message to confront terrorism, vowing to take 'swift and effective retribution' whenever the 'rules of international behaviour were violated by terrorists' (Reagan, 1981). This however did little to deter groups like the Islamic Jihad and Hezbollah, which often acted as proxies for the governments of Libya, Syria and Iran. From 1982 to 1985, militants in the Middle East managed to pull off a string of bloody attacks against US personnel abroad, leaving the Reagan administration in search for effective countermeasures. Consequently, this led to behind-closed-doors, discussions of direct neutralization of terrorist leaders.

In the spring of 1984, Lieutenant Colonel Oliver North, who was in charge of administration's counterterrorism approach, took the lead by drafting a secret proposal, which reportedly included language that authorized the CIA to take deadly force against individual terrorists (Chesney, 2012: 550). North had hoped to covertly contract local Lebanese hit-teams that would work for the CIA. The plan was intended to be covert, and not traceable back to Washington (Woodward, 1987). In order to get the proposal on some kind of legal footing, CIA lawyers had built their case upon rationale of pre-emptive self-defense. Stanley Sporkin, General Counsel to the Central Intelligence Agency, in private conversations explained that there was a clear distinction between political assassinations like the ones carried out by the agency in the 1970s, and application of force in self-defense (Chesney, 2012: 550, Fuller, 2015). Pre-emptive strikes in this context, Sporkin rationalized, 'would be no more an assassination than would a case in which a policeman gets off the first shot at the man who is pointing a gun at him' (Woodward, 1987: 161). As long as the CIA did everything to minimize possible civilian casualties, and informed relevant

congressional committees, lawyers saw no problem in killing known terrorist leaders (Fuller, 2015: 779).

But despite the support from lawyers, not everyone inside the Reagan administration was comfortable with what had been proposed. The idea that the CIA would again serve as a platform for managing and directing covert named killings did not sit well with the 'CIA's old guard', i.e. people who had personally gone through the Church Committee hearings, and still had fresh memory of the embarrassment, and reputational damage that this had brought to the agency. Appalled by the proposition, CIA Deputy Director John McMahon confronted Colonel North, reminding him about the painful history lessons. 'CIA did intelligence not killing', he opposed (Woodward, 1987). McMahon was convinced that contracting local militia men in Beirut effectively violated President Gerald Ford's assassination ban (Mazzetti, 2013: 68). Former Director of Central Intelligence, Richard Helms, one of the chief architects of the 1970s assassination plots, similarly disapproved of such actions, and reached out to Vice President George H.W. Bush, expressing his belief that the United States should not adopt the Israeli model of 'fighting terrorism with terrorism' (Mazzetti, 2013: 82, Woodward, 1987). Secretary of Defense, Casper Weinberger, was equally unwilling to rely on the use of lethal force in struggle against extremism. He argued that 'international terrorism was a criminal activity rather than a threat to national security, and suggested that it ought to be dealt with through the United Nations' (Fuller, 2015: 744).

Targeted killings via Lebanese proxies were never discussed in the public. At the same time, a number of speeches given by key officials, and crafted policy documents signaled about profound strategic shift in how the United States viewed the struggle against diffuse terrorist movements. First, President Reagan had signed National Security Directive 138, which clearly stated that for the United States to be effective against terrorist organizations, the country needed to make a strategic turn from 'passive to active defense measures' (National Security Directive 138, 1984). The document further emphasized that 'the practice of terrorism by any person or group in any cause is a threat to the US national security' (National Security Directive 138, 1984). Moreover, the directive also for the first time indirectly touched up the idea of pre-emption: 'Whenever we have evidence that a state is mounting or intends to conduct an act of terrorism against us, we

have a responsibility to take measures to protect our citizens, property and interests', the document concluded (National Security Directive 138, 1984: 2).

This forward leaning approach was also cemented through numerous policy speeches. In a key address at the annual convention of the American Bar Association, Ronald Reagan had labelled outlaw governments of Iran, Libya, North Korea, Cuba, Nicaragua a 'new, international version of Murder, Incorporated', and warned that the United States would not hesitate for a moment to fight back. 'Under international law', Reagan said during the speech, 'any state which is the victim of acts of war has the right to defend itself' (Reagan, 1985). With a similar appeal to self-defense, Robert McFarlane, National Security Advisor to President, noted that Article 51 of the United Nations charter explicitly sanctioned states to use force in anticipatory self-defense (McFarlane, 1985). While none of these speeches openly called for direct use of lethal force against terrorists, they nevertheless hinted about the range of options that the US government was now considering. Targeted killing as a method is usually accompanied with rhetoric that calls for more aggressiveness, flexibility, and pre-emptive action, and this was exactly how the Reagan administration had framed its future counterterrorism approach.

The biggest supporter for using pre-emptive military force against specific terrorist leaders in the Reagan administration was Secretary of State George P. Shultz, who behind closed doors was also among the fiercest advocates for Lebanese hit teams proposals. For Shultz, terrorism was not something that the US could solve as a matter of law enforcement. 'We may never have the kind of evidence that can stand up in an American court of law', Shultz had warned in a major speech (New York Times, 1984). As a useful example, he pointed towards the state of Israel, which in his view applied 'swift and sure measures' against terrorists, both to prevent attacks and to retaliate for them (New York Times, 1984). Later in his autobiography, Shultz further explained that in his view, when terrorists purposefully aimed to kill innocent American citizens, they were essentially 'waging war' against the US (Schultz, 1993: 643). Shultz clearly believed in the right to launch pre-emptive strikes, even before an act of terror had occurred. 'Every nation has the right under international law to take defensive action. Part of that defense is to be prepared to take the offensive when the proper occasion arises', Schultz had written in his autobiography (Schultz, 1993: 643).

Later in the summer of 1985, after US government had struggled for weeks to free Americans held hostage by Shia Muslim militia in Lebanon, Reagan administration created a task force to devise a long-term counterterrorism strategy. Vice President George Bush was put in charge of this task force. Among various policy considerations, some officials called for 'clarification' of the assassination ban. A number of lawmakers believed that the prohibition, in the light of new realities which had demonstrated how easy it was to harm Americans living abroad, needed to be updated, so it allowed going after 'hijackers and bombers' (McManus, 1985). Those proposing more elastic interpretation of the ban, however, were careful to point out that they were not interested in eliminating the prohibition as such (McManus, 1985). After Church Committee's seminal investigation in 1975, this was the first time US officials had engaged in open debates about the scope of the ban, and extent to which it applied to terrorists. The extensive task force report had concluded with a recommendation for 'swift, forceful and even aggressive' future operations against terrorist organizations (US Department of Justice, 1986: 18).

Despite CIA's objections, Ronald Reagan at first had secretly approved the support for Lebanese hit-squads (Woodward and Babcock, 1985). According to Woodward (1987), around $1 million was put aside for training and supporting as many as three Beirut proxy units. The plan however was short lived. After one of the prospective Lebanese contractors went ahead with his own unapproved car bombing, killing 80 people and wounding additional 200, the White House immediately scrapped the plan (Woodward and Babcock, 1985). A number of senior officials, speaking on the condition of anonymity, said that the plan had cut too close of 'violating the longstanding prohibition against US involvement in assassinations' (Woodward and Babcock, 1985). According to report by Chicago Tribune (1988), together with cancelation of operational plans, the legal finding which made terrorist elimination permissible, was equally fully rescinded (Chicago Tribune, 1988).

Drawing nearer to the end of Reagan's presidency, a report surfaced in the media shining light on the fact that President at some point had handed CIA 'a licence to kill' (May, 1988). The Washington Post story, anonymously quoting official sources, stated that two secret orders signed by president were 'intended to circumvent a US policy against assassinations' (May, 1988). In

reaction to this story, White House reporter Helen Thomas directly questioned president at the Rose Garden: 'Mr. President, did you sign two orders, directive intelligence orders, which appeared to circumvent the assassination directive - ban on assassinations?' (Public Papers of the Presidents, 1988: 1292). Reagan acknowledged that he was aware of the media report, but claimed that at no point did he issue a 'permit to assassinate anyone' (Public Papers of the Presidents, 1988: 1292). The same point was later reiterated by White House Press Secretary Marlin Fitzwater. Acknowledging the fact that two intelligence findings had been rescinded by the National Security Council, Fitzwater however disagreed that they had included authorization for assassinations (Chicago Tribune, 1988). Equally, Vice President George Bush denied sanctioning any targeted killings. (Chicago Tribune, 1988).

Years later, in his own biographical account, Ronald Reagan admitted that 'few people within the executive branch wanted to follow Menachem Begin's [Prime Minister of Israel] slogan of 'an eye for an eye' and assassinate leaders of the most bloodthirsty groups that had committed terrorism against the United States' (Reagan, 1990: 713). In Reagan's own words, this was a 'game that America couldn't and didn't play' (Reagan, 1990: 713). His personal account is absent of the fact that initially he had personally put the Lebanese assassination teams proposal in the approved pile, and only later, with opposition from the CIA, and growing concerns about practical reliability of proxies themselves, had dropped the idea. At least for a moment, he too believed that this was the most effective way to combat international terrorism, and protect American citizens abroad. Robert Oakley, former State Department coordinator for counterterrorism during the 1980s, recalled that there was 'a great debate about whether or not one could do this and a lot of the laws and regulations and executive orders were studied very, very carefully'. There were 'differences of opinion within the executive branch', and only in the final analysis the president decided, 'no, we are not going to go that route' (Oakley, 2003).

While the Reagan administration was clearly interested in effective measures, it did have internal limits on how far it was willing to go to counter terrorist organizations in the Middle East. Even when public opinion polls overwhelmingly (78%) favoured more action-orientated approach to eradicate terrorism, the Reagan administration displayed reservation and restraint (Toaldo, 2013: 111). Bill Cowan, who was sent to Beirut by Pentagon to investigate terrorist attacks, noted that

while domestically there was a growing sentiment for retribution and revenge, in the Reagan White House did not take a 'proactive approach in getting back at these people' (Cowan, 2001). Instead, responding to the attack on the US barracks, Reagan had ordered to withdraw the US marines from Lebanon (2008: 107).

In 1978, President Jimmy Carter reaffirmed opposition to assassination by issuing Executive Order 12306, which generally repeated the language of first Gerald Ford's ban, however dropping the word 'political' from 'assassination' (United States Foreign Intelligence Activities, 1978). Similarly, Ronald Reagan in 1981 issued Executive Order 12333, repeating Carter's used language, a regulation that has never been openly repealed (United States Foreign Intelligence Activities, 1981). Reagan had also added a new sub-section to the order: 'Indirect Participation: No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this order' (United States Foreign Intelligence Activities, 1981). Plaw explains (2008: 105) that this addition extended President Ford's initial prohibition of conspiring to engage in assassination to 'any participation in any operation which involved assassination, whether or not US agents themselves were to be involved in the assassination'. One has to note that neither Carter's nor Reagan's order offered a clear definition of the term 'assassination', leaving the door open for fierce debates regarding the scope of the ban.

The overall picture that emerges in the context of the norm against assassination is not one sided. Ample evidence suggests that certain lawmakers did favor destruction of terrorists through targeted killings using Lebanese proxies. Such plans had moved well beyond the purely hypothetical, with finances allocated, and secret legal orders signed by President Reagan. That said, the plan was short lived, and later fully abandoned. There is no single answer as to why this happened. A number of people, knowledgeable of inner administration debates, identified mistrust in Lebanese hit teams, and their inability to follow through orders from Washington and deliver needed results as the key reason for abandoning initial targeted killing plans. Others, however, have placed greater importance on the internal normative pushback within the executive. Above all, unwillingness of the CIA to be involved in anything that even slightly resembled assassination. It might be useful to make a conceptual note here that viewing norms in 'all-or-nothing terms can lead to a flawed understanding of how they operate' (Thomas, 2000:

132). The episode may serve as a good example of this, as multiple factors seem to have contributed to the final 'non-use' decision. It does not mean that the norm against assassination did all the work itself. Strategic calculation, namely fear that Lebanese proxies may not be adequately controlled, certainly played a role in why targeted killing plans were abandoned. This however should not diminish the evident normative reluctance among senior officials that equally contributed to the final outcome of why the Reagan administration did not end up relying on targeted killings.

4.4. Gaddafi's dual status: leader and terrorist

Non-state actors were not the only ones that tested Church Committee's introduced ban. Over the years, Libya's Muammar Gaddafi, by aiding terrorist's organizations, had put himself in direct opposition to Washington. Because of Libya's support of international terrorism, President Gaddafi was viewed as 'terrorist enemy number one' (Bremer, 2003). According to one account, biography of one of the most influential Reagan's staff members, assassination of Gaddafi was first put on the table by the French intelligence services shortly after Reagan's inauguration (Kengor, 2011). The French had suggested to remove Gaddafi from power by assassinating him during a parade. Reportedly, the United States government responded along the lines of – 'we understand your feelings towards the man, but we don't do assassinations' (Kengor, 2011). Reagan's adviser pointed out that the president had been well aware of the executive order banning assassinations, and had no desire of violating it.

The US position later moved in response to a bomb explosion in a night club popular among Americans in Germany, which left two Americans dead and many more injured. US intelligence services directly tied the explosion to Libyan government. Moreover, other CIA reports further indicated about Libyan attempts to attack the United States diplomatic facilities in Europe and Asia (Schmitt, 2011: 341). For the first time, Reagan favored direct military-based answer. So did the American people. In a public opinion poll just before intervention in Libya, 61% of the respondents said they were comfortable with the US covertly assassinating 'known terrorist leaders' (Jenkins, 1987: 2). As a response, US air force took to the skies on 14 April 1986, pounding targets in Tripoli and Benghazi. The White House had described the mission as

'carefully planned air strikes against terrorist-related targets in Libya' (White House, 1986). Others however suspected that Gaddafi was purposefully being singled-out. One of the targets was his own residence. According to investigative journalist Seymour Hersh (1987), who examined the episode in great detail through interviews with more than 70 government officials in the White House, the State Department, the Central Intelligence Agency, the National Security Agency and the Pentagon, assassination of Gaddafi was in fact the primary goal of the operation. 'There's no question they were looking for Gaddafi. It was briefed that way. They were going to kill him', Hersh quoted one US Air Force intelligence officer. 'It was just an accident, a bad day that Gaddafi stayed alive', added another representative (Hersh, 1987).

Ronald Reagan denied that he had purposefully targeted Libyan leader, at the same time ambiguously adding: 'I don't think any of us would have shed tears if that [killing of Gaddafi] had happened'. If indeed Reagan was trying to single out and target Gaddafi, would that have constituted a violation of the ban? On the one hand, given that Gaddafi was the legitimate leader of the Libyan government, the answer seems to be a clear – yes. At the same time, one must factor in that over the years Colonel Gaddafi had also acquired reputation as the key financer and supporter of international terrorism. Unlike Congo's Patrice Lumumba or Cuba's Fidel Castro, who were targeted in the 1970s simply because of their 'wrongly' chosen political ideologies, Gaddafi did represent an actual security threat. According to the Church Committee investigation, none of the individuals targeted during the 1970s actually represented an 'imminent danger to the United States' (Senate Reports, 1975: 258). Gaddafi was different in this respect as the threat posed by him was not speculative; his actions had already caused significant bloodshed and destruction.

The Executive Order banning assassinations did not specify a situation when a foreign leader was simultaneously a supporter of terrorism. The situation was not straightforward, and Reagan had to convince others that Gaddafi's terrorist links overshadowed his formal position as head of state. In order legitimize his actions, the President declared that the United States had obtained 'direct', 'precise' and 'irrefutable' evidence that the Libyan regime was behind the attacks in Germany (Reagan, 1986). Moreover, Reagan highlighted that other peaceful policies had proven to be futile when dealing with Gaddafi, who had been personally responsible for training and assisting of

terrorists in their attempts to kill US citizens. As a result, Reagan argued, military action was the only solution left on the table. Consequently, by evoking the US right to self-defence, Reagan launched strikes against Libya's regime. Gaddafi managed to stay alive.

In the light of the Libya attack, a number of Republicans introduced a bill in both Houses of Congress, which if passed, would have granted the President the right to 'order the assassination of a foreign head of state under some circumstances' (Greenhouse, 1986). This was exactly the kind of action that was prohibited by the assassination ban. The bill was intended to apply to both pre-emptive strikes as well as to action in response to already completed act of terrorism (Greenhouse, 1986). One of the sponsors of the bill, Senator Jeremiah Denton, Republican of Alabama, stated in the news conference that the intended changes to Executive Order 'would authorize the assassination of a head of state who was personally involved in the terrorist actions' (Harder, 2002: 22). Republican Senator Larry Pressler, commenting on why such changes were necessary said: 'I know it is repugnant to our thinking and repugnant in a democracy to even talk of such things, but we may be living in an era in which, to protect the lives of American citizens, we might need to consider changing that Executive Order' (Harder, 2002: 22). In the end, the bill was not passed, and no amendments to the ban made.

4.5. The Bush administration: aiming at Noriega

Another instance where US officials grappled with the interpretation of assassination ban, was in the case of Panamanian General Manuel Antonio Noriega, who was well known for his international drug trafficking activities. After unsuccessful *coup d'etat* against the military strongman in 1988, debate ensued in Washington regarding just how far the United States government could legally go in providing assistance for coup plotters. If in the process of aiding opposition forces and unseating Noriega he would end up being killed, would that constitute a violation of the assassination ban? During the Reagan administration, congressional intelligence panels had objected to such possible mission on the grounds that, 'if he [Noriega] died during the attempt, it would count as an assassination' (Schonefeld, 2007). Brent Scowcroft, White House National Security Adviser, admitted that 'fear of violating the ban on assassination' was

responsible for the reluctance on the part of the United States to assist in the coup against Noriega (Fritz, 1989).

Realizing that the ban may have led to paralysis in CIA's ability to play any role in such coups, some argued for less stringent interpretation of the Executive Order banning assassinations. After a meeting with President George H. W. Bush, Senate Intelligence Committee Chairman, David L. Boren, informed the press that the Congress welcomed a proposal from the administration that would 'clear up any ambiguity' regarding Gerald Ford's introduced assassination ban. William H. Webster, the Director of Central Intelligence, had openly requested greater freedom when assisting Panama's exiled officials in ousting Noriega from power. The US government does not take part in 'selective, individual assassination', Webster clarified, 'but the rules, should be more clearly defined that would allow aiding potential plotters' (Congressional Record, 1990). Summarizing official position of the Bush administration, White House Press Secretary announced: 'We are opposed to assassination but there is clarification needed' (Fritz, 1989).

According to reports by the press, the Bush administration did grant the CIA greater latitude when assisting opposition groups, which in turn may in some instances lead to indirect killing of individuals like Noriega. This was agreed by the White House and the House and Senate Intelligence Committees (Associated Press 1989, Wines, 1989). The memorandum was not made public. At the same time, policy makers were quick to assure that the 1976 ban remained in place (Wines, 1989). The secret 15-page ruling, according to anonymous sources, was a culmination of two years of drafting and input from various government branches (Wright, 1989).

A key takeaway from these discussions appear to have been that assassination was considered to be an act that was premeditated in its nature. If during a coup a person such as Noriega was caught in the fire, and unintentionally killed by those that the US side had supported, this would not constitute violation of the ban (Associated Press, 1989). Assassination is when a man is 'standing on a rooftop with a sniper scope aiming at a predetermined target', explained a legal counsel from the Bush administration (Associated Press, 1989). 'The death of a drug lord who intervened violently during US assisted raid on narcotics lab would be exempt from the ban', he added (Associated Press, 1989). Under the new legal ruling, it would simply be considered his 'bad

luck', another official noted (Associated Press, 1989). In the end, with the ordering of American troops into Panama, General Manuel Antonio Noriega was forced to surrender to the United States military authorities.

4.6. Saddam Hussein and the war & peace distinction

In the early hours of August 2, 1990 Iraqi army forces invaded and occupied its tiny neighbor Kuwait. Reacting to Iraq's aggression, George Bush plainly stated that American interests in the Persian Gulf were 'vital to the national security,' and if necessary the United States would be willing to defend these interests through the use of military force (Bush, 1990). Saddam Hussein showed no interest in fulfilling UN Security Council ultimatums, as he had calculated that Kuwait was too insignificant for Americans to come in rescue. His judgment turned out to be wrong. Nations one by one joined American-led international coalition in order to expel Iraqi Republican Guard from the oil-rich Kuwait.

During the preparations for liberation of Kuwait, allied countries held joint strategic meetings, and on separate occasions President Bush was briefed on a British proposal to kill the Iraqi leader (Thomas, 2005). According to Yossi Melman (1991), Israeli intelligence agencies had prepared detailed analysis of Hussein's 'personality, habits and whereabouts'. With the help of psychologists and historians, the study had concluded that Iraqi leader was 'shrewd, cautious and suspicious person', someone who took extra precautions, and was always protected by heavily armed bodyguards (Melman, 1991). However, with adequate preparations, intelligence analysts suggested, taking out Saddam was still viable. The plan for assassinating Iraqi leader was reportedly approved in London, but vetoed by George Bush in Washington. Melman (1991) contends that it was exactly because of the executive order that Bush was not willing follow though this proposal.

Careless comments by one US Air Force representative, revealed just how sensitive the issue of political assassinations was in the eyes of the administration. During an interview with the Washington Post, Air Force chief of staff Michael J. Dugan had indicated that decapitation of Saddam Hussein was the primary objective of the upcoming Operation 'Desert Storm'. Dugan, a

four-star officer, was immediately fired by Defense Secretary Dick Cheney; the first top general dismissed since President Harry Truman discharged Douglas MacArthur in 1951 (Schmitt, 1990). Explaining why the high ranking official had been let go, Cheney declared that military representatives should never publicly engage in discussing 'targeting of specific individuals who are officials of other governments' (Broder, 1990). Cheney noted that such act would constitute a violation of the standing presidential executive order banning assassinations (Broder, 1990).

Once the United States in legal terms had entered the war with Iraq on January 16, 1991, Hussein's status also changed, and all previous restrictions were off. The ban clearly was intended to restrict and control government activities during times of peace, but armed conflict was something different. James Baker, Former Secretary of State, explained: 'We were very careful to observe the executive order which prevents action leading to the assassination of foreign leaders,' however the 'legal experts had told the military that it would be perfectly legal and within our laws and regulations in the context of war, to kill anyone involved in the command and control establishment of Iraq' (Baker, 1996). War cleared the way for targeted killings, and as a Commander in Chief of the Iraqi armed forces, Hussein was now a legitimate target. Such legal position, that targeting of enemy combatants in wartime does not constitute 'assassination', has been supported over the years by a number of scholars upon close reading of the international law (Luban, 2012, Lotrionte, 2003, David, 2003, Alston, 2010). Even conscripted cook, Luban explains (2012: 40), becomes a legitimate target during a state of armed hostilities.

President Bush had waited for the 'right' legal moment to go after Saddam Hussein. He was not interested in the proposal to get rid of the Iraqi leader through covert assassination attempt before the war, but once lawfully engaged in armed hostility, Bush did not hesitate to order airstrikes aiming for the potential whereabouts of Hussein. The United States bombed 580 command and control sites (Canestaro, 2003). 'None of us minded if he was killed in the course of an air attack', Bush later admitted, in many ways echoing Reagan's statements during airstrikes against Gaddafi (Bush and Scowcroft, 1998: 1244). Similarly, General Charles Horner, commander of the American Air Force in the Persian Gulf, confessed that the Air Force had purposefully 'dropped bombs on every place' that Saddam should have been at work (Horner, 2000). All things considered, the Bush administration read the situation very carefully, and was respectful of the

assassination ban in times of peace, but once legally at war, the US did not hesitate to target Hussein. 'This is a war and if he gets hit with a bomb in his headquarters, too bad', Bush had rationalized (Bush, 1998: 1244).

4.7. Bill Clinton and the hunt for Osama Bin Laden

Until 1998, not many in the United States security establishment knew who Osama Bin Laden was. While the CIA had already set up a special division for analyzing and monitoring his movements, in the context of national security, he still was perceived as a 'low priority' threat (9/11 Commission Report, 2004: 110). Intelligence agencies portrayed Bin Laden as someone with major financing capabilities, not an individual who could actually direct sophisticated plots. This assessment proved to be wrong in 1998 when two bombs rattled US embassies in Kenya and Tanzania, killing hundreds. While the mode of violence was similar to that experienced in Lebanon and elsewhere in the Middle East, these plots struck analysts as particularly brutal, skilfully coordinated and well financed. CIA official described the bombings as, 'on a scale of 1 to 10 [with one being the highest], that's a 1' (Zenko, 2012). If the United States did not respond, lawmakers warned, similar massacres would become routine events.

Moreover, Bin Laden's own murderous messages - calling for civilian deaths and openly stating his interest in acquiring chemical and nuclear weapons which he would then use to kill more Americans, only helped to create the kind of environment that would justify seeking measures outside traditional boundaries. It seemed somewhat illogical that after Africa bombings, which had left 213 dead in Nairobi and 11 in Dar es Salaam, individuals like Bin Laden were protected by domestically self-imposed constraints. As Pape (2002) points out, 'an absolute prohibition on the use of assassination under any circumstances' simply ignored the realities that the United States faced. Prior to these attacks, United States government had attempted to capture Bin Laden alive in Afghanistan with hopes to bring him back to stand a trial in the US (9/11 Commission Report, 2004). Now, after two deadly explosions, patience in Washington had run out, and President Bill Clinton started to weight possible alternatives. The magnitude of what had happened made it easier for policy makers to call into question some of the 'rules of the game' by which the US had previously operated.

In the wake of the 1998 bombings, President Clinton had signed a Presidential Finding that authorized a covert action in order to capture Bin Laden, and in case he resisted arrest, to kill him. Clinton would later amend the secret 'Memoranda of Understanding' a number of times, first by expanding the targets of the covert action beyond bin Laden to include some of his key lieutenants (fewer than ten people), and later authorizing shooting down an aircraft or helicopter that Bin Laden might use to try to escape Afghanistan (Cogan, 2004: 315, Zenko, 2011). Richard Clarke, former Counterterrorism Chief under Clinton, notes that because of the reluctance towards pure assassination, the Clinton administration produced a series of bizarre documents that gave 'extremely specific authorities for particular CIA operations aimed at bin Laden' (Waterman, 2005). According to Clarke, 'there was concern in both the Justice Department and in some elements of the White House and some elements of the CIA that we not create an American hit-list that would become an ongoing institution that we could just keep adding names to and have hit teams go out and assassinate people' (Democracy Now, 2014). As a result, the authorizations contained a number of qualifications that needed to be met before targeting was considered to be legal. Investigate report Jeremy Scahill (2013), who had accessed many of the Clinton-era national security files, argues that what comes out of these documents is that the use of military force outside traditional war zone was seen as almost off the charts completely, but if necessary extremely rare. The authorization for killing Bin Laden was built in a way that there almost was one scenario where he could be killed – 'when he was in certain kind of a house, with a particular brand of lock on the door and only then you can strike the house' (Scahill, 2013).

This reluctance to simply authorize targeted killing has also been documented elsewhere. According to CIA Director George Tenet, 'almost every authority granted to CIA prior to 9/11 made it clear that just going out and assassinating Bin Laden would not have been permissible or acceptable' (Tenet, 2007: 110). Years later, during 9/11 Commission hearings, CIA managers and lawyers uniformly said that they had interpreted authorities signed by Clinton as instructing them to try to capture Bin Laden alive and the only context for killing him was a credible capture operation (9/11 Commission Hearing, 2004: 3). In fact, two senior CIA officers said they would have been 'morally and practically opposed to getting CIA into what might look like an assassination' (9/11 Commission Hearing, 2004: 3). One of them even went as far as saying that

he would have 'refused an order to directly kill Bin Laden' (9/11 Commission Hearing, 2004: 3). This shows that there was a substantial objection to simple and straightforward kill-only mission.

On August 20, 1998 President Clinton finally decided to retaliate for Africa bombings by launching strikes against Al Qaeda bases in Afghanistan and a factory in Sudan. Addressing the nation, he explained that the strikes were necessary because of the imminent threat terrorists presented to national security, and clear evidence that more attacks against American citizens were planned (Clinton, 1998, CNN, 1998). Because the administration did not want to throw out the ban on assassination, but merely temporarily exempt itself from compliance, it needed to convince domestic and international audience that this exception was in fact necessary and legitimate. To that end, Clinton tried to rhetorically carve out a 'state of exception' by underlining the inhumane nature of the adversary. According to public opinion polls, two thirds of Americans approved of the US military strikes and did not take issue with the fact that in the process some terrorist leaders may have been killed. Operation codenamed Infinite Reach, however, failed to kill its prime target - Bin Laden. Commenting on the episode years later, former Counterterrorism Chief, Richard Clark, admitted that this 'was the time when we actually crossed the barrier [assassination ban] because we had a name on the hit-list' (Democracy Now, 2014).

While in the end assassination ban did not prevent President Clinton from going after Bin Laden, one cannot say that it did not affect US government's policies. Cruise Missile strikes aimed at particular named individual was an act of last resort. Targeted killing was viewed among many in the administration as something that the US government should not be practicing, certainly not in a permanent fashion. According to former Senior Advisor for Policy and Strategy, George Stephanopoulos, no word was more taboo in Clinton's White House than 'assassination' (Stephanopoulos, 1997). In 1998, US policy makers still believed that they could successfully steer US foreign policy without engaging into systematic targeted killings.

4.8. US opposition to Israel's targeted killings

Before terrorist attacks on September 11, 2001, only one country – Israel, regularly engaged in targeted killings, and was actually harshly criticized for that by the United States (Statman, 2004).

Since the establishment of the State of Israel in 1948, Israeli security forces have killed various enemies, including Egyptian intelligence officers, members of the Palestinian terrorist organization Black September after the Munich Olympics massacre of 1972, and leaders of known Palestinian and Lebanese terrorist networks (Blum and Heymann, 2010: 151). At times, such missions have gone horribly wrong. In 1973, for example, Mosad, the national intelligence agency of Israel, on a mission to kill leader of a Palestine Liberation Organization in Norway mistakenly targeted innocent restaurant employee, causing diplomatic incident (Luft, 2003). Despite such mistakes, Israel has openly and systematically relied on such of operations. As one Israeli Deputy Minister of Defence stated: 'I can tell you unequivocally what the policy is. If anyone has committed or is planning to carry out terrorist attacks, he has to be hit. It is effective, precise, and just' (Otto, 2010: 2).

United States historically did not approve of such Israeli targeted killings. After Israel used such methods against suspected terrorists in Palestinian territories in 2000, United States fiercely condemned the killings. Just two months prior terrorist attacks on the World Trade Center, US Secretary of State, Colin Powell, commented on Israel's targeted hits: 'We continue to express our distress and opposition to these kinds of killings and we will continue to do so' (Keinon et al., 2001). On a similar note, then American Ambassador to Israel, Martin Indyk stated that the United States government is very clearly on record as against such operations. 'They are extrajudicial killings, and we do not support that' (Mayer, 2009). It is worth emphasizing ambassador's choice of language. Instead of using more neutral term 'targeted killing', Indyk called such operations 'assassinations'. This shows that in the pre-9/11 era, the norm was internalized in the United States in its broadest sense, covering both elected leaders and terrorism suspects. A poll taken in August 2001, showed that the American public was also quite critical of Israel's targeting policies, with 68% of the respondents disapproving targeted killing as a policy (Kutz, 2014: 437). Targeted killings by Israel were included in the US State Department human rights report under the section of 'serious human rights abuses by Israel' (Kutz, 2014: 437). In short, prior to September 11, 2001, terrorist attacks there was a considerable push-back within the United States, both at political and societal level, regarding targeted killing as a tool of foreign policy.

4.9. Conclusion

When the Ford administration, upon the recommendation of the Church Committee, introduced the assassination ban, it could not foresee all possible future scenarios, brought on by the international system, in which the prohibition may be tested. Some of the individuals and political leaders that the United States opposed during the period between 1975 and 2001, did not neatly fit into traditional categories of civilians, militants, and government leaders. Muammar Gaddafi was Libya's legitimate ruler, but also someone who had directly supported terrorist networks and causes. General Manuel Antonio Noriega was in power in Panama, while at the same time being involved in substantial money laundering schemes and drug trafficking. Furthermore, many of the terrorist leaders in the Middle East similarly blurred the usual civilian-combatant lines. Were all of these foreign individuals fully protected by the domestic assassination ban? Ford's Executive Order provided no guidelines for answering this question. As a result, each of the administration wrestled with the issue in its own way.

The examined case studies of presidencies of Jimmy Carter, Ronald Reagan, George H. W. Bush, and Bill Clinton, appear to have followed a similar pattern. First, reacting to some national security crises, there is an impulse to look for methods which have been previously abandoned, and which on the surface have the appeal of effectiveness. Then, usually behind closed doors, the President and his closest advisors in consultation with legal experts try to determine what exactly is allowed and what prohibited by the executive order banning assassinations. Each of the administrations, evoking the concept of self-defense, did manage to find a legal way around the ban. The analysis demonstrates that lawyers took advantage of the fact that the key term 'assassination' was not clearly defined in the order. In many ways, the intellectual ground for 'pre-emption' and 'self-defense', concepts that later underpinned the 'war on terror', were developed during these three presidencies of Reagan, Bush and Clinton.

But while each of the administration found some legal backing, this does not mean that they actually followed through with the targeted killing plans. US officials still did not feel sufficiently comfortable with the idea of singling out individuals, and doing something that even slightly resembled 'assassination'. This is where the norm against assassination actually did restraint

possible actions, as in each administration there was some visible normative pushback from a certain branch of the government. There may as well have been other factors that shaped the final outcome in particular cases. For example, in the case of Lebanon the Reagan administration simply did not find the proxy units trustworthy for missions of targeted killings. In other instances, the US lacked the practical tools to effectively executive planned operations. At the same time, evidence clearly demonstrates that the norm against assassination was an important factor why the US presidents did not authorize targeted killings.

Strikes against Gaddafi, Hussein, and Bin Laden were exceptional, and isolated cases. These individual strikes differed substantially from the ideologically motivated Cold War plots. Attempts against Lumumba and Castro in the 1970s were political in their nature. In the end, Church committee was not even able to fully establish personal responsibility in these cases. In comparison, after strikes against Gaddafi, Hussein and Bin Laden, US presidents addressed the issue directly in attempt to justify such actions. Just because the use of force was overt did not mean it was by default legal and acceptable. Still, public legitimization efforts gave a fighting chance to presidents to exempt themselves from normative constraints. While debatable, each strike was approved by lawyers, who had closely examined the legal basis for such action. As a whole, post-Church Committee presidents were not keen on shaping international politics through the use of targeted killings. They understood that this was a delicate matter, and were largely unwilling to sign under such missions. Norm breaking behaviour was exception, not the rule.

Chapter 5: September 11 and the norm against assassination

5.1. Introduction

The following chapter discusses terrorist attacks of September 11, 2001, and their impact on the norm against assassination. Historically, unforeseen events, and crises situations had been the primary driver behind normative change concerning targeted killing as an instrument of foreign policy. Terrorist attacks on the World Trade Center in New York and the Pentagon in Washington, instantly prompted a revisiting of the principles upon which the US had operated, profoundly impacting previously set normative standards. In fact, one can credibly make an argument that this was the single most important episode in the existence of the assassination ban

since its introduction by Gerald Ford in 1976. It was a critical juncture that allowed to push normative boundaries further, and impacted the United States external behaviour for years to come. Conceptually, this chapter is linked to the first stage of McKeown's (2009) 'norm death series', where taken-for-granted norm loses salience.

International terrorism pulled the United States into an open ended war, and brought a tidal wave of various policy changes. Methods that were previously listed as too radical were now given a second look. As Jenkins (1976:2) observes, targeted killing always had a certain emotional appeal for people who feel 'frightened, frustrated, and angry', and this is many was the collective mood of the American society after terrorists had crashed airliners into symbolic buildings, killing thousands. In the wake of national security emergency, in order to operate effectively and with less restraint, the government untied its own hands, and re-introduced lethal authority in order to go after singled- out individuals, in many ways resembling the pre-Church Committee era times. The norm against assassination was put under considerable strain, and while publicly the norm was not set aside, policies pursued by the Bush administration clearly violated previously established normative boundaries.

The domestic norm against assassination did not collapse immediately, and completely. The US government, for example, did not attempt to assassinate elected leaders of other nations, as it had done in the 1970s. Instead, lawmakers carved out a category of individuals, loosely defined as terrorists and associated forces, and under new legal interpretation declared them no longer covered by the ban. In order to prevent another attack on the homeland, the CIA was granted new rules of engagement, which included the right to hunt down and kill individuals far beyond conventional battlefields. The rewriting of rules did not instantly translate into massive targeted killing campaign. Initially, it still was a rather narrowly defined campaign against Al Qaeda top leadership. Nevertheless, it set in motion the process by which the United States years later would see substantial expansion of military interventions. From limited missions it would eventually grow into fully institutionalized, and codified targeted killing program against individuals that had no direct connection to 9/11 terrorist attacks.

All of this was done in an atmosphere of secrecy. While norm revisionists, in this case the top leadership of the Bush administration, did claim that the old way of doing things was inadequate, they did not however attempt to openly and actively legitimize the new practice of targeted killing. In fact, it would take another administration and almost a decade for full legitimization to be officially offered by the US government. With time, the national security bureaucracy was rebuilt in ways that perpetuated targeted missions via armed Predator drones. Absent of terrorist attacks on September 11, 2001, targeted killing as a method would likely not have become a permanent feature of US foreign policy. One however should not oversimplify the processes that led to such sharp shift in policy. While devastation of the attacks created a favorable environment for relaxing of normative standards, analysis shows that new technological developments, namely introduction of armed drones, also played an important role in the process of normative erosion.

5.2. Debating the assassination ban

Substantial body of constructivist literature speaks to the idea that crises situations create opportunities for lawmakers to change existing rules and practices (Acharya, 2004, Cortell and Peterson 1999, Cortell and Davis, 2005, Kegley 1986). In the light of unexpected events, goes the argument, it is easier for norm revisionists to claim that the 'system is broken' and needs to be reformed (Avant, 2000: 49). More specifically, in the context of US politics, Ikenberry notes that fundamental changes in the US-based system have stemmed from moments of crisis 'when existing institutions break down or are discredited' (Ikenberry, 1988: 223-224). September 11, 2001 attacks, which in its magnitude drew comparisons to the Japanese attack against Pearl Harbor, instantly facilitated questioning of norms by which the United States had operated.

In the turbulent days after the attacks, with realization that the country had been ill-equipped for dealing with violent and diffuse non-state actors, senior officials signaled that the United States would seek to substantially shift its perspective on how it dealt with trans-national terrorism. The message from the Bush administration was that the external attack had been a dramatic deviation from the normal course of events (White House, 2001a); a 'seminal event incomparable to previous terrorist attacks' (Rumsfeld, 2011); that the enemy was 'like never seen before' (US Department of State, 2001), and response would require a 'new thought process' (Stout, 2001).

From the outset, reformist language and tone dominated discussions about how the United States should move forward.

In the context of the attacks, legacy of the Church Committee, and its introduced assassination ban, came under close scrutiny. Several prominent Republican congressmen attempted to pin blame for what had happened on Committee's instigated intelligence constraints in the 1970s. In their view, the Church Committee had disarmed the intelligence community, and broken its covert abilities (Mooney, 2001). Paul Bremer, Chairman of the bipartisan National Commission on Terrorism, told the CNN that the 1970s did 'a lot of damage to our intelligence services', especially in terms of restraining the agency to go after terrorist leaders (Corn, 2001). Henry Kissinger, who had fiercely opposed the Committee's work decades earlier, and subsequently lost the fight against introduction of formal assassination ban, now argued that controls imposed on US intelligence operations had facilitated the rise of terrorist organizations like Al Qaeda (Burbach, 2003).

James Baker, former Secretary of State under George H. W. Bush, already had some personal experience dealing with the assassination ban after Iraq's invasion of Kuwait in 1990. Back then, with increasing calls directly go after Hussein, Baker had been very careful in trying to understand the scope of the prohibition. Now, after major national security crises, he supported the idea to eliminate executive order prohibiting government assassinations (PBS, 2001). Sensing a possible shift in policy, Los Angeles Times cover story, just three days after terrorist attacks, pondered if the assassination ban would survive after massive casualties in New York and Washington. 'The assassination ban has lasted through five administrations and a succession of military operations', the article noted, however, with demands to wage a war by all means possible, it now faced is biggest test ever (Savage and Weinstein, 2001).

Senator Jesse Helms of North Carolina was the first among in-office representatives to publicly question the usefulness of having an executive order banning assassinations, just few hours after the attacks calling for 'whatever action was necessary, including assassination, to punish those responsible for the attacks' (USA Today, 2001). While Helms may have simply been carried away by the unfolding dramatic events, he was not the only one proposing serious rethinking of the

tools available to government when countering violent non-state actors. High ranking US officials: Vice President Dick Cheney (Burkeman, 2002), Secretary of State Colin Powell (Smith, 2001), Secretary of Defense Donald Rumsfeld (US Department of Defense, 2001), and Chairman of the Intelligence Committee Bob Graham (Risen, and Johnston, 2001), on separate occasions explicitly acknowledged that there now was a need for reassessment of suitability of 25-year old assassination ban. Appearing on live television, Senator Bob Graham announced that if he had to choose between assassinating Osama bin Laden and the rubble of the World Trade Center and Pentagon, he would 'have to opt for the assassination' (CNN, 2001).

Searching for new counter strategies and techniques, no proposal was off the table. Porter Goss, chairman of the House Intelligence Committee, drew attention to the fact that not everyone in the international arena was playing by 'Marquess of Queensberry rules', hinting that the Bush administration was now prepared to seriously re-examine its own normative rulebook (Smith, 2010). Former president, George H. W. Bush, equally agreed that there was a need to free up the intelligence bureaucracy from some of the previously imposed constraints (Smith, 2001). Because of the failure to predict or prevent the attacks, 'everything', according to Secretary of State, Colin Powell, was now under review, and the Bush administration was intensively examining laws that needed to be changed in order to effectively deal the threat posed by international terrorism (Smith, 2001).

A growing number of lawmakers had come to the conclusion that addressing terrorism as a matter of criminal justice was insufficient and outdated. According to vice-chairman of the Senate Intelligence Committee, Senator Richard Shelby, this was a different type of war in which the enemy will gladly assassinate and blow up buildings unless 'we eradicate them first' (Savage and Weinstein, 2001). The desire for more effective methods was also resonating among the American people. New York Times poll, taken in the aftermath of the September 11, 2001 attacks, revealed that 65% favored reversing the assassination ban (Benac, 2001). After devastating attacks on the homeland, the public saw retaliation by assassination as a fair game. In the words of news analyst, Daniel Schorr, the assassination ban had become 'totally anachronistic' (Schorr, 2001).

Not everyone, however, supported the idea of scrapping the Executive Order on assassinations. Lee Hamilton, chair of the House Foreign Affairs Committee, pointed out that as a historical fact the United States was actually never good at carrying out operations (Savage and Weinstein, 2001). Former CIA director, Robert Gates, also had some reservations about the elimination of the ban. 'We are the most vulnerable country in the world when it comes to our political leadership. If we abandon a policy that we've had for 25 years, then I think we open ourselves to significant retribution and we would be sorry we ever did it', Gates was quoted in the press (Benac, 2001). While not completely ruling out the idea of applying premeditated lethal force against terrorism suspects, Democrat Senator Christopher Dodd recommended to have tight controls over such practices (Rennie, 2002).

Returning back to McKeown's (2009) 'norm death series', he argues that the initial phase is usually highly contested, 'where 'defenders' of the norm seek to resist the new interpretation of the revisionists and their 'accomplices' in a discursive battle over the appropriateness of the practices making up the challenge' (McKeown, 2009: 11). Suspecting substantial policy change, various non-governmental organizations and lawyers mobilized their efforts to push back against 'revisionist' arguments. A week after September 11 terrorist attacks, Human Rights Watch had forwarded a letter to President George Bush, urging him not to ease previous restraints on assassinating foreign individuals. The United States should remain committed to 'investigation, arrest, trial and punishment', not 'executions or targeting non-combatants', the letter had strongly advised (Human Rights Watch, 2001). Moreover, a number of international lawyers had expressed their distress with proposed targeting policies. 'I think it is a wise policy to not have the intelligence agencies be judge, jury and executioner all wrapped into one. The potential for abuse is too big and the symbolism is too harmful', one international lawyer warned (Savage and Weinstein, 2001).

While some weighed pros and cons of repealing the ban, others addressed the issue from a legalistic perspective. Yale law professor Harold Koh, for example, suggested that the Bush administration could legally go after Bin Laden without actually having to lift the ban (Savage and Weinstein, 2001). 'What the Bush administration would argue is this situation is closer to the use of force against Iraq in 1991 than the assassination scenarios that triggered the Ford executive

order,' Koh explained his legal reasoning (Savage and Weinstein, 2001). Spokesman for the White House, Ari Fleischer, without going into detailed analysis, had already told reporters that the ban did not limit the US ability to carry out strikes in self-defense (Benac, 2001). Other officials, on the other hand, openly admitted they were not entirely sure about the scope of the prohibition, and its precise legal application. Asked directly if there was a law which outlawed targeting terrorist leaders, Dick Cheney said he did not think so, adding that he would have to 'check with the lawyers on that' (Burkeman, 2002). Responding to the same question, Defense Secretary Donald Rumsfeld avoided a clear yes or no, simply pointing out that there is no question that the ban does have effects. (Benac, 2001).

In reaction to these debates, Congressman Bob Barr of Georgia, representing the most-conservative wing of the Republican Party, took lead on this issue by proposing a bill in the House of Representatives that would have nullified the assassination ban. Unlike in other instances where decision makers had debated the applicatory scope of ban, this was open and intentional effort to eliminate it. Returning to Keating's (2013) classification of legitimization strategies, here an actor openly and actively pushed for a particular norm to be rewritten.

For Congressman Barr, this was not the first try at eliminating the Executive Order prohibiting government assassinations. Already in 1999, he had advocated amendments so that the United States could legally target foreign dictators and terrorist leaders (Congressional Record, 1999). 'While the removal of terrorist leaders is a draconian measure that should be used only sparingly, there are, unfortunately, cases where it is clearly warranted', Barr had argued in 1999 (Congressional Record, 1999). Back then, his advocated amendments to the ban had failed.

Realizing that the post-9/11 threat environment was quite different, Barr tried again by putting forward 'Terrorist Elimination Act of 2001'. In his view, the prohibitive Executive Order had become unnecessary hurdle that limited 'the swift, sure, and precise action needed by the United States' to protect its citizens (Terrorist Elimination Act, 2001). To that end, he proposed a legislation that would have repealed 'those portions of executive orders purporting to prohibit the government from directly eliminating terrorist leaders' (House of Representatives, 2001). While Barr managed to get 14 representatives to sign as co-sponsors, in the end his efforts were

insufficient, and proposed amendments were not passed (Addicott 2002: 758, Ennis, 2005: 263). The overtly waged challenge to change the norm had been unsuccessful. Officially, the ban was saved, and the US government was operated by the same rules as before the attacks on the World Trade Center and Pentagon.

In sum, first few weeks after terrorist attacks on September 11, 2001, there was some deliberation and exchange of ideas regarding the assassination ban at the highest political level. Targeted killing was discussed from a variety of angles: legal, strategic, and ethical. The national security crises had created a space for discussing the relevance of some of the rules by which the US had operated, and as part of self-introspection, assassination ban was among the first to come under scrutiny. A substantial debate emerged among those who favored relaxation of the rules and those who warned about negative consequences of changing decade's old ban. Moreover, some lawmakers admitted that they were not entirely sure about what kinds of action this ban prohibited. This was then followed by Congressman Bob Barr's official and unsuccessful attempt to rewrite the assassination ban. At least within the halls of Congress, norm revisionists were not able to persuade others about the need for changing rules.

5.3. Secret changes to the assassination ban

Just because the assassination ban had survived publicly, did not necessarily guarantee that it would not be amended or eliminated behind closed doors. As McKeown (2009: 11) notes in his 'norm death series' framework, the challenge to the norm does not always consist of 'a direct public statement questioning the norm'. It also can consist of 'quiet changes in policy away from compliance with the norm' (McKeown, 2009: 11). A substantial body of evidence suggests that this is exactly what happened to the assassination ban. Writing on US legal procedures, Ulrich (2014) explains that President of the United States is in a position to amend or revoke an Executive Order without publicly announcing that he has done so (Ulrich, 2014: 1034). Congressional Research Service further notes that 'the President may modify or rescind the assassination ban in Executive Order 12333' and that unless there are specific circumstances, 'an executive order revoking a previous order would have to be published in the Federal Register' (Bazan, 2002: 5). However, 'in the event of an attack or threatened attack upon the continental United States' […]

'the President may, without regard to any other provision of law, suspend all or part of the requirements of law or regulation for filing with the Office or publication in the Federal Register of documents or classes of documents' (Bazan, 2002: 5). The analysis here reveals that President George Bush had chosen the option of revoking or substantially amending the assassination ban without any public statements.

On 15 September, 2001, Bush's national security team gathered at Camp David to discuss ways to adjust to a new type of enemy that it now faced, and to conceptualize the upcoming 'war on terror'. Retrospectively, this meeting turned out to have an immense impact on the status and relevance on the norm against assassination. Initially, as a response to terrorist attacks, General Hugh Shelton had suggested launching cruise missile strikes directed at terrorist hide-outs, in many ways echoing Bill Clinton's approach in the 1990s (Rumsfeld, 2011: 252). President George Bush immediately intervened and vetoed this suggestion. We need to 'unleash holy hell,' he had told Shelton (Rumsfeld, 2011: 252). Bush believed that previous presidents had been 'too soft' in their counterterrorism efforts and long-distance strikes proved to be ineffectual (Bush, 2010: 169). What he favored was more forceful interventionist approach. Members of the national security team concurred - in order to keep the United States safe from future attacks, the country needed a new way forward, an offensive strategy that would allow going after the terrorists where they lived (Cheney, 2011). It wasn't enough that the consequences be costly for terrorists, they needed to be 'completely devastating', Bush explained (Bush, 2001b).

This new offensive mind-set, as explained by Bush's closest advisors, was a result of the unusual threat that the nation now faced. 'It's not like a state or a country. The notion of deterrence doesn't really apply here. There's no treaty to be negotiated, there's no arms control agreement that is going to guarantee our safety and security. The only way you can deal with them is to destroy them', Vice President Dick Cheney had articulated his take on the problem (Woodward, 2001). Similarly, Defense Secretary Donald Rumsfeld noted that the only defense against terrorists attacks were to be found in prevention and pre-emption, and the key task for the administration was to destroy the enemy before it had managed to strike the US homeland (Arkin, 2002).

While President George Bush repeatedly stressed that the new war would be fought on various fronts and by different means, such as, diplomacy, intelligence, law enforcement, and financial influence (White House, 2001a, White House, 2001b), he primarily saw it through the prism of specific individuals that posed a threat to the United States, and therefore needed to be liquidated. According to investigative journalist Bob Woodward, during National Security Council meetings, Bush had repeatedly requested a scorecard - a list of top Al Qaeda members, to be crossed out after their elimination (Woodward, 2006). Later scorecard served as the main yardstick for the President in measuring the success or failure of the 'war on terror' (Bergen, 2012: 142, Risen and Johnston 2002, Woodward, 2006: 330).

In order to effectively go after those responsible for 9/11 attacks, CIA Director George Tenet had put forward a plan that included broad-sweeping changes in how the US approached counterterrorism, with previously unseen CIA authority, and mission reach. At the core of Tenet's action-plan was a pledge to hunt down, and if necessary kill Al-Qaeda members, and individuals from associated terrorist groups. The strategy had no declared geographical limitations. If needed, the United States would be willing to use force in places far away from traditional war zones (Mazzeti, and Shane, 2009). While Afghanistan was identified as the militant hotspot, the 'war on terror' was framed in much broader, almost territorially limitless, terms. During the Camp David debates, Tenet also for the first time briefed administration officials about the reach of armed Predator drones (Tenet, 2007: 178). Soon after, Defense Secretary Donald Rumsfeld, and CIA Director George Tenet worked out a 'joint ownership' deal over who 'paid for the unmanned aerial vehicles, where they would operate, and who would pull the trigger' (Woods, 2014: 9).

John Rizzo, at the time leading CIA lawyer, who was involved in drafting the proposal, later admitted that he had never seen 'as far-reaching and as aggressive' authorization put before the president (Bergen, 2012: 71). The document, according to Assistant General Counsel at the CIA, was very generally worded, basically consisting of 'go out and get the bad guys. Disrupt them, kill them, interrogate them' (Frontline, 2011). William Banks, professor of national security and counterterrorism, believes that the authority transferred to the CIA as a result of this meeting was the 'most sweeping and most lethal' since the founding days of the agency (Banks, 2005). A decade later, President Bush acknowledged signing of the top secret document that delegated

broad authority to CIA for covert actions, including 'permission to kill Al Qaeda operatives' (Bush, 2010: 165). Bush was also aware that the decision represented a significant departure from how the US had conducted its foreign policy over the past two decades (Bush, 2010: 169).

As a result of the meeting, instructions were then passed on to the appropriate national security bureaucracies. Cofer Black, who served in the Bush administration as a Coordinator for Counter-terrorism, reportedly briefed his team as follows: 'I want to give you your marching orders, and I want to make them very clear. I have discussed this with the President and he is in full agreement [...] I don't want bin Laden and his thugs captured, I want them dead [...] They must be killed. I want to see photos of their heads on pikes. I want bin Laden's head shipped back in a box filled with dry ice. I want to be able to show bin Laden's head to the President. I promised him I would do that' (McCrisken and Phythian, 2014: 186). Gary Schroen, who was in charge of CIA's incursion in Afghanistan, later noted that the meeting was the first time he had received an order to kill rather than capture a target (Schroen, 2005: 38). Activities that once seemed outside the realm of possibilities, were now explicitly approved at the highest political levels.

Consequently, the CIA prepared a list of terrorist leaders which could now be actively targeted and eliminated (Chicago Tribune, 2002). 'It's not one individual, it is lots of individuals and it is lots of cells', Colin Powell had told the reporters (CNN, 2001). 'Osama bin Laden is the chairman of the holding company, and within that holding company are terrorist cells and organizations in dozens of countries around the world, each capable of committing a terrorist act,' Powell added (CNN, 2001). According to the Chicago Tribune (2002), apart from Osama bin Laden, who the United States had searched for years, the list included his chief deputy Ayman al-Zawahiri, and other key figures in the Al Qaeda network (Chicago Tribune, 2002).

It is worth noting that CIA as the primary institution for targeting terrorist suspects was quite unthinkable prior to September 11, 2001 attacks. According to the 9/11 Commission report, CIA's George Tenet was among those who had opposed taking on such tasks. 'What is the chain of command? Who takes the shot? Are America's leaders comfortable with the CIA doing this, going outside of normal chain military command and control', Tenet had asked during a meeting (9/11 Commission Report, 2001: 228). In his view, the agency had no authority for performing

such duties. In the new post-9/11 threat environment, his stance had markedly changed in favor of lethal targeting of terrorist suspects, even if they were located far away from traditional war zones. Describing the changes inside the CIA, Cofer Black, who was in charge of various secret counterterrorism operations, said: 'Now, basically, in a nanosecond, we're going from where we were staked to the ground like a junkyard dog [...] to new authorities, new rules of engagement, lots of funding to support this' (PBS Frontline, 2001). This, according to Black, was 'a whole new ball game' (PBS Frontline, 2001).

In the context of authorization for lethal strikes, George Tenet had requested to grant power of action without having to wait each time for approval from the White House. For Tenet, the previous process involved 'too much time, lawyering, reviews and debate' (Woodward, 2002: 66). George Bush agreed to sign-off this specific request (Bush, 2010: 165). In the end, CIA officers were even allowed to add names to the kill-list without presidential approval (Rennie, 2002). This is many ways represented a complete reversal of the Church Committee recommendations. In the 1970s, one of the key findings of the Congressional investigation was that many of the abuses in the system, including assassination attempts against foreign heads of state, had resulted from lack of clear accountability requirements (Horrock, 1975). In order to create accountability within intelligence bureaucracy, the Committee had recommended a number of oversight laws that required the president to personally sign under all major CIA missions. Bush's secretive essentially had reversed this practice. It was unclear who exactly was in charge of approving targeted killings, and who made the final call.

The decision had far reaching consequences. As it later turned out, not only the CIA was granted a broad permission to target terrorist suspects on a global basis, the agency itself outsourced this privilege to a private company. Blackwater, later known as Xe Services, was given 'full operational responsibility' for targeting designated terrorist leaders (Warrick and Smith, 2009). While in the end the company did not carry out any of the planned killings, likely because of the success of the drone campaign, it still had received millions of dollars from the CIA preparing specialized teams for the sole purpose of eliminating members of the Al-Qaeda network (Mazzetti, 2009). Only after President Bush's departure from office, Leon Panetta in a closed-door meeting briefed the Congress about Blackwater's intended missions (Miller, 2009). The fact

that different entities, one of which were a private company, had been granted the power to target individuals abroad, raised serious questions about oversight and accountability. If CIA's own history was any indicator, organizational set-up without clear lines of responsibility, increased the risk of miscalculation and overreach.

Two days after issuing the directive in secret, which authorized the CIA to engage in various covert operations, including targeting of named individuals, President George Bush publicly remarked that Osama Bin Laden was now 'wanted dead or alive' (ABC News, 2001). The statement was quickly picked up by journalists, who questioned officials about the status of the long standing assassination ban. Because this particular presidential directive remains a classified document, it is unclear to what extent the ban was modified or actually fully lifted. Ari Fleischer, president's spokesperson, assured that the Executive Order 12333 banning assassinations remained in effect, while at the same time refusing to provide nuanced explanation regarding applicability of the ban (Gellman, 2001). Other high level administration officials off the record assured that the order remained in force (Rennie, 2002, Chicago Tribune, 2002). Some reports, however, suggested otherwise. With CIA receiving an 'explicit go-ahead to carry out covert missions to assassinate Osama bin Laden and his supporters around the world', the ban had been effectively eliminated, one account had suggested (Gow, 2001).

Regardless whether the ban still technically remained in effect or not, it was essentially treated by the Bush administration as a 'dead letter'. As a nation at war, the United States had divorced itself from particular dimension of the assassination norm. While the US government did not plot assassinations against elected heads of state, it was nonetheless willing to carry out selective targeted killings against members of Al Qaeda. Reconstructing the events on the day of September 11, 2001, Richard Clarke, the chief adviser on the National Security Council, claims that President Bush had made up his mind already on the day of the attacks when he told his staff the following: 'I want you all to understand that we are at war and we will stay at war until this is done. Nothing else matters. Everything is available for the pursuit of this war. Any barriers in your way, they're gone' (Clarke 2004: 24). In the following weeks, CIA headquarters became the lynchpin for day-to-day counterterrorism operations. 'The president has given the agency the green light to do whatever is necessary. The gloves are off. Lethal operations that were unthinkable pre-September

11 are now underway,' one senior official was unanimously quoted in the press (Woodward, 2001).

5.4. The opening drone strike: Yemen

The origins of the Predator drone can be traced back to the 1980s when the CIA and the Pentagon administered experiments with unmanned reconnaissance drones (Phythian, 2010: 1). In battle settings, remotely controlled aircraft was first introduced during the Balkan crises in 1995 (Kaplan, 2013, Phythian, 2010). This was after Bill Clinton had complained in 1993, that the US military was unable to locate Serbian artillery being used against Bosnian civilians in Sarajevo (National Security Archive, 2014). In a declassified memo, Undersecretary of Defense John Deutch had emphasized that there was an urgent need to develop 'the capability of an Endurance Unmanned Aerial Vehicle system' (Department of Defense, 1993). In 1995, the pilotless plane did not have an actual striking capability, being able to offer only surveillance. First missions produced mixed results at best. The technology, according to drone technology expert Richard Whittle, was still 'pretty flimsy', and a number of American UAV's were shot down by the Serbian government (Whittle, 2014a). While initially there were a number of problems associated with the technology, for example, its wings could freeze up, overall the Predator drone was proving its worth with impressive reconnaissance ability (Woods, 2015). As one Air Force General commented: 'the bad guys used to just wait for our fighter pilots to leave. They didn't have that option anymore' (Woods, 2015).

The idea about drones as helpful tools in eliminating specific militants gradually emerged during the Clinton years. After the CIA through drone camera eye had spotted Osama Bin Laden in Afghanistan in 1999, the President was immediately informed about what appeared to be a golden opportunity to eliminate individual at the very top of most wanted terrorists list. Bill Clinton did not oppose the idea of striking the target. However, in order to successfully reach the objective with a cruise missile, the Pentagon had asked for five hours of preparation time, a window big enough for Bin Laden to escape (CBS, 2012). Richard Clarke, who served as Clinton's security advisor, recalled that the missing element during the time clearly was 'reconnaissance and strike

capability in one' (Spiegel, 2011). After yet another wasted opportunity to kill Bin Laden, project for figuring out how to arm drones with Hell-fire missiles was put on a fast-track (CBS, 2012).

The task of arming drones was finally completed in the summer of 2001. Not everyone inside the US national security bureaucracy however agreed upon the 'right' deployment of these cutting-edge military weapons. The State Department, CIA and Pentagon were all engaged in a heated argument over the prospect of flying remotely controlled airplanes over sovereign nations, and firing at individual targets. The Central Intelligence Agency, led by George Tenet, initially displayed the strongest institutional opposition to the idea. Just one week before 9/11, CIA Director was quoted saying that it would be 'a terrible mistake' for the agency to fire a weapon like this (Mayer, 2009). Tenet, together with others inside the CIA, questioned the wisdom of an intelligence agency 'killing people with a military weapon' (Whittle, 2014b). The US Department of State had its own objections, as some its lawyers worried that launching missiles from drones would possibly violate a landmark 1987 arms control treaty with Russia, which banned the use of cruise missiles within a certain range (Whittle, 2014a, National Security Archive, 2014). In short, there were contrasting, and at times directly opposing views inside the national security establishment regarding Predator drones and their application on the modern battlefield.

Attitude towards the use of weaponized drones changed almost overnight on 11 September, 2001. Terrorist attacks put this technology in completely different strategic light, elevating these weapons to whole another level of importance. All the previous institutional fighting, according to then Director of CIA, George Tenet, suddenly 'became a non-issue' (National Commission on Terrorist Attacks Upon the United States, 2004: 16). One day after attacks on World Trade Center and Pentagon, three armed Predators that the CIA had been previously reluctant to deploy were underway to a secret base in Uzbekistan (Whittle, 2014b). According to Tenet, first drone mission was flown over Afghanistan on 18 September, 2001. With subsequent host government approval the first armed drone appeared in the skies on 7 October, 2001 (Tenet, 2004:17). MQ-1B Predator and the MQ-9 Reaper were now being deployed by the Bush administration with a clear objective to seek and eliminate designated terrorists (Kaag and Kreps, 2014). From a simple eye in the sky, the technology had become platform for launching targeted killings.

The first targeted Predator drone strike took place in November of 2001 in Afghanistan. At the time, President Bush was not directly following the operation as he was hosting Russian leader Vladimir Putin (Fox News, 2001). The first targeted drone strike outside an active warzone, however, was launched on 3 November, 2002 in Yemen. It is useful to interrogate this particular episode in more detail, as it set a standard regarding how the US would exercise the use of power in its self- proclaimed 'war on terror' for years to come. After intelligence agencies had located whereabouts of Qaed Salim Sinan Al-Harethi, a high-level Al-Qaeda operative, who played a major role in the USS Cole attacks two years earlier, his car was blown up with a pinpointed drone missile strike, resulting in his death together with five other Al Qaeda militants (Hosenball, 2002).

The strike was noteworthy for a number of reasons. First, the President of the United States had not been asked to authorize the mission' it was approved by 'senior officials' who had been closely monitoring the situation (Jonhston and Sanger, 2002a). Later, in an interview to PBS Frontline, Lt. Gen. Michael Delong offered a deconstruction of how the operation had unfolded: 'I am sitting back, looking at the wall and talking to George Tenet. And he goes, 'You going to make the call?' And I said, 'I will make the call.' He says, 'This SUV over here is the one that has Ali in it.' I said, fine. Shoot him' (PBS, 2006). The operation had demonstrated that the rules of engagement, as previously signed-off by President Bush, had started to materialize. Operational control over strikes against Al Qaeda targets were in the hands of senior military and intelligence officers (Johnston and Sanger, 2002b). The targeting process, intelligence experts observed, now involved 'fewer decision-makers in its trigger-pulling chain of command than even the nimblest military operation' (Priest, 2002).

The episode also raised profound questions about the Bush administration's lack of explicit effort to seek legitimization for its use of lethal force. At first, Deputy Defence Secretary Paul Wolfowitz, had openly taken a celebratory stance, praising the drone strike on live television as 'very successful tactical operation' (BBC, 2002). 'One hopes each time you get a success like that, not only to have gotten rid of somebody dangerous, but to have imposed changes in their tactics and operations', Wolfowitz had stated (BBC, 2002). His remarks, however, seriously enraged the Yemeni side, which previously had struck a deal behind closed doors with

Washington for claiming the responsibility for the attack (Smucker, 2002, Hosenball, 2002). 'If questions did arise, the official Yemeni version would be that an SUV carrying civilians accidentally hit a land mine in the desert and exploded. There was to be no mention of terrorists, and no mention of missiles fired', General Michael DeLong later laid out the details of the agreement between CIA Director George Tenet and President of Yemen, Ali Abdullah Saleh (Scahill, 2013: 94). After this public mismanagement, the US government's stance on information disclosure regarding drone strikes would change significantly; from here on, it would be almost a decade before high a level government representative would openly comment on a particular drone strike.

The White House purposefully avoided directly addressing the episode in Yemen. Instead, President Bush repeated often used remarks that he was determined to eliminate the Al Qaeda network. 'The only way to treat them is for what they are - international killers', Bush had stated (Miller and Meyer, 2002). A few weeks later, the President asserted that 'you can't hide from the United States of America. You may hide for a brief period of time, but pretty soon we're going to put the spotlight on you, and we'll bring you to justice. [...] Some have met their fate by sudden justice' (Amnesty International, 2005). In this instance, 'sudden justice' served as a metaphor for lethal strikes conducted via Predator drones. In similar fashion, Pentagon and CIA officials refused to discuss any details of the attack, unanimously admitting that they were quite pleased with the outcome of the first targeted killing outside areas of active hostilities (Miller and Meyer, 2002). It is noteworthy that the strike was also not recorded in the annual State Department's human rights report on Yemen. 'There were no reports of arbitrary or unlawful deprivation of life by the Government or its agents', the US Department of State report read (US Department of State, 2003). This was despite the fact that the Yemeni side had publicly taken responsibility for the strike.

Loch Johnson, who was deeply involved in the Church Committee's work in the 1970s, flagged up the absence of public discussions: 'If you're going to accuse someone of being a terrorist, should you present some evidence? Is America going to send drones into any country we choose to kill people we think are terrorists,' Johnson had commented in the press (Shane, 2002). The Bush administration had made no effort in trying to publicly articulate reasons behind the lethal

operations outside an area of active hostilities. The Yemeni episode, killing of an individual far from a theatre of conventional war, was a novel development, but instead of engaging in legitimization, the Bush administration had opted for silence. The new chapter in the 'war on terror' was opened with a significant layer of secrecy surrounding the drone programme.

In sum, the operation in Yemen had crystallized two aspects about targeted killing via Predator drone. On the one hand, inside the US national security establishment, the episode was heralded as a tactical success. According to Whittle (2014a), President Bush was so impressed by what had been achieved without any risk to US personnel, that he told his advisors: 'Why do we fly only one Predator at a time, we ought to have fifty of these things' (Whittle, 2014a). The strike was a demonstration that the US was capable of launching precise strikes against Al Qaida organization far away from traditional war zones. Previously the US military had faced considerable obstacles for operating in ungoverned spaces like the ones in Yemen or Pakistan. With the help of unmanned aerial vehicles, it was considerably easier to navigate complex terrains, and accomplish set objectives. 'This is an extraordinary change of threshold', a former intelligence operative unanimously commented (Priest, 2002).

At the same time, the strike immediately brought to the fore questions about how such operations fit with laws and norms by which the US claimed to abide. Gary Solis, law professor at West Point, pointed out that this was a precedent setting event, and represented emergence of a different interpretation of international law regarding targeted killing (McManus, 2003). 'Until just a few months ago, we would all have expressed abhorrence [...] of targeting individuals off the battlefield', Solis said. 'But now, having had it brought home to us, we are taking a new approach' (McManus, 2003). Internationally, the Swedish foreign minister, Anna Lindh, drew the harshest critique by calling the attack 'a summary execution' (Whitaker and Burkeman, 2002). Early on, a fault-line emerged between how targeted killing, executed with the help of innovative technology, was perceived domestically in the United States, and how such method was viewed internationally. In sum, first ever targeted drone strike outside the recognized framework of war generated excitement within the Bush administration about a new technology that allowed to reach targets with minimal costs to the attacking side. Equally, those outside the Bush

administration raised a number of red flags regarding the lack of accountability measures, and questioned the fit between the practice and existing laws and norms.

5.5. Predator drones: upending the risk calculus

While in tactical terms the opening strike in Yemen was considered a success, there was no immediate snowball effect in terms of similar operations. Time magazine even predicted that similar type of attacks as in Yemen were 'unlikely to become a norm' (Karon, 2002). The use of weaponized drones outside Afghanistan was still episodic. The next drone strike would take place in Pakistan only in the summer of 2004. The target was Taliban leader Nek Mohammad, well known Pakistani mujahedeen, and a highly wanted man in Islamabad. Prior to the strike, CIA officials had lobbied the Pakistani side for months to gain permission for Predator flights over the notorious tribal areas. In the end, both sides managed to cut a deal – drones would be allowed to fly over the territories as long as the US agreed to kill Nek Mohammad (Mazzetti, 2013: 150). The CIA took a chance and killed Mohammad, along with five other militants in South Waziristan. The Pakistani side immediately claimed responsibility for the attack, denying any American involvement as 'absolutely absurd' (Rhode and Khan, 2004). Only years later did Pakistan's former President Pervez Musharraf admit that he had personally signed-off some of CIA's targeted drone strikes (Robertson and Botelho, 2013). The strike, first on the Pakistani soil, was a major event, as it ushered in a new phase in which operations would take place in the so called Federally Administered Tribal Areas, a focal point for terrorist activities.

Overall, drone strikes during the Bush years can be divided in three major phases. The first phase (2002 – 2004) can be generally described as a testing period during which there were limited strikes against high-level militants. Then from 2005 to 2007, there was a slight increase in strike numbers. Having authorized just nine strikes outside the context of combat until 2007, the Bush administration authorized '36 such strikes in its last year of office' (Kaag and Kreps 2014:11, The Bureau of Investigative Journalism, 2011). During the last phase, CIA officers were able to cross out a number of leading terrorist figures names on the list first prepared in the days immediate after 9/11 attacks. Some of the targets were considered to be high level Al-Qaeda figures, while others were largely unknown to the wider public. Given the secretive nature of these attacks, it is

difficult to establish exact strike numbers and their casualties. According to the Long War Journal (2014), during his term in office George Bush had authorized 46 drone strikes. The New America Foundation (2014) put the strike count at 48, with 205 - 350 militants killed. While according to UK's Bureau of Investigative Journalism (2011), total number of drone strikes under President Bush reached 51, with estimated 410-595 individuals killed. While the White House had systematically refused to disclose any drone related data, few days before George Bush's departure from the office, it had publicly and proudly highlighted that under his leadership the United States had 'captured or killed hundreds of Al Qaeda leaders and operatives in more than two dozen countries' (White House, 2008).

Even if the United States would have not developed armed drone capability, it is likely that targeted killings would still have been a crucial part of the 'war on terror'. Drones did not introduce targeted killings. As indicated, after 9/11 attacks, Pentagon's Special Forces or private contractors were fully prepared to take on such tasks. Still, while drones did not perform a unique function, they did however greatly influence how policy makers thought about this particular tactic. Because of their ability to fly into ones territory unnoticed, capacity to operate in volatile environments, and strike enemy targets with high precision, lawmakers were more willing to sign under lethal operations.

In order to fully grasp the importance of drones, it is useful to remember that historically the United States had considerable practical difficulties executing designed assassination plots. The final Church Committee report stressed that apart from moral and ethical considerations there were also some 'very practical reasons' why the United States should never engage in such activities (Senate Reports, 1975). At the end of the day, no matter how well planned, government initiated assassination plots had all failed. As CIA historian Jeffrey Richelson notes, such missions always carried a 'high risk of failure' and the agency never succeeded in killing anyone (Gow, 2001). With the introduction of drones, this was no longer the case. Armed Predator drones markedly increased the success rate of targeted killings.

Drones were ideal weapons for reaching faraway ungoverned areas where it was too dangerous to send teams of manned personnel. Places in Pakistan and Afghanistan that were once impossible

to navigate, were now under a 24 hour drone camera watch. The US had acquired the capability to strike whenever and wherever it wanted without putting at risk American serviceman. As a tactic targeted killing was centuries old. Drone technology refashioned it in previously unimaginable ways, minimizing risks for the attacking side, and thus making it a more attractive policy option for lawmakers. Just few months after 9/11, George Bush in a policy speech noted that before the war on terror, 'the Predator had its skeptics, because it did not fit the old way' (Bush, 2001b). Now it was clear the military 'did not have enough of these weapons' (Bush, 2001b). Before September 11 attacks, the norm against assassination had been additionally reinforced by a practical problem - no reliable means for carrying out such missions. It had added a further restraint on political leaders. Events of 9/11 were the reason why the 'gloves came off' in the first place, and US government had plunged back into targeted killings. The advent of cutting-edge drone technology, however, eliminated previous practical problems, which only further increased the quantity of such operations.

5.6. Legal foundation for targeted killing

Targeted drone strikes during the Bush years in office went unacknowledged. The administration failed to outline a clear legal case for this controversial program in an open and transparent manner, where others would be able debate and contest official claims. At best, such operations were addressed from a level of high generality, often through bureaucratically vague terms or 'war on terror' related metaphors. Meaningful debate was substituted with personal assurances that everything done was within the confines of the law. The legal position taken by the Bush administration was that drone strikes against Al Qaeda and their associate forces were lawful under both domestic and international law. Such operations, US officials claimed, did not amount to what the Amnesty International, and other international human rights organizations had called 'extrajudicial executions' on the part of US government (Amnesty International, 2005).

The key enabling legal foundation from which the United States had derived its power to go after singled-out individuals, even outside declared war zones, was the Authorization for Use of Military Force (AUMF). The authorization, a mere 60 word sentence, passed in the immediate days after September 11 attacks, became the legal backbone for US military engagements abroad,

including covert operations carried out by the CIA. The AUMF stated that: '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' (AUMF, 2001).

During the debates regarding the authorization, Congresswoman Eleanor Holmes Norton of the District of Columbia warned that the language in which the document was being crafted essentially allowed 'war against any and all prospective persons and entities' (Congressional Record, 2001). 'The point is to give the president the authority to do what he has to do, not whatever he wants to do', Norton had objected during the debate session (Congressional Record, 2001). In the turbulent days after 9/11 attacks, other lawmakers however saw no issue with such loosely-worded and ill- defined text. The authorization was passed by Congress with an overwhelming 420-1 vote, granting President Bush sweeping powers to pursue those responsible for 9/11 attacks (Congressional Record, 2001).

While the AUMF itself contained no direct reference to the assassination ban, the breadth of the resolution, according to Rovner (2006), was sufficient to 'authorize actions that otherwise would be prohibited under the executive order banning assassination' (Rovner, 2006: 48). The central claim in the document was that the United States had entered into an armed conflict with a 'transnational non-state network' and as a result certain norms and laws no longer applied to its conduct (Ralph, 2014: 4). The President's Military Order, issued on 13 November, 2001 stated that international terrorists had carried attacks on US facilities and citizens on a scale 'that has created a state of armed conflict that requires the use of the United States Armed Forces' (President's Military Order, 2001). As Vice President Dick Cheney later put it, the way forward after 9/11 was based on the recognition that 'we were at war' (Cheney, 2011: 216). Under this 'at war' logic, an active terrorist was now considered an 'enemy combatant'.

Terrorism was no longer classified as a crime. Strikes against the US homeland were considered an armed attack, which in legal terms 'gave the aggrieved state the right to respond in self-

defence' (Ronzitti, 2004: 18). The ground-breaking part of the statue, as Weed (2013) points out, was that it empowered the president to go after non-state actors 'even to the individual level' (Weed, 2013). Moreover, the way in which the AUMF was framed suggested that metrics and measures of what was now considered a credible threat had also changed. Anyone who 'planned, authorized, committed, or aided the terrorist attacks that occurred on September 11' could now be legally singled-out and targeted (AUMF, 2001). The existing framework of international law was often depicted as outdated in the face of 'new threats'. The 2002 National Security Strategy, for example, suggested that conventional approaches such as deterrence were ineffective against 'shadowy terrorist networks' (National Security Strategy, 2002). According to President Bush, the United States needed to 'adapt the concept of imminent threat to the capabilities and objectives of today's adversaries' (US Department of State, 2002).

Similarly, Donald Rumsfeld, then Secretary of Defense, had pointed out that it was 'not possible to defend yourself against terrorists at every single location in the world and at every single moment' (Gow, 2001). 'The only way to deal with terrorists is to take the battle to them and find them and root them out and that's self-defence', Rumsfeld explained (Gow, 2001). The core of the argument here was that in order to thwart terrorist threats, operations needed to become more preemptive. Attacking in advance, was now seen as a necessary self-defence mechanism. This represented a novel and expansive definition of self-defence, compared to how it had been understood traditionally.

Because of official secrecy, it remained unclear what precisely, in legal terms had happened to the executive order banning assassination. According to sources close to the administration, White House lawyers had secretly concluded that the assassination ban did not prevent the United States from legally striking individual terrorists, even if they resided in places like Pakistan, Yemen or Somalia (Gellman, 2001, CNN, 2002a). Because Al Qaeda members were now defined as 'enemy combatants', they had become legitimate targets for lethal force (Rennie, 2002). Similar interpretation was offered by Charles Allen, Deputy General Counsel of the Defense Department, who was convinced that 'the world agrees that the US was attacked and is in armed conflict with that stated enemy'. 'In exercising our right of self- defense,' Allen continued, 'we can target members of that enemy force' (McManus, 2003).

Speaking on the condition of anonymity, one official later explained that 'the self-defense exemption was a legal fabrication to save face, to say, Yes, [the ban] still applies, but just not in these cases' (Waterman, 2005). Richard Armitage, who at the time served as a deputy Secretary of State, noted that in addition to the secretive order passed by George Bush, which had enabled the CIA to go after terrorism suspects, there was an additional secret order issued in early 2002, explicitly relating to targeted killings using the Predator drone. 'I don't recall necessarily the words, but it was clearly that. It was loosening the Executive Order 12333 against assassinations. And the reasoning as I recall was, its wartime, it's not an assassination', Armitage explained (Woods, 2014: 14).

On the one hand, the fundamental legal premise advanced by the Bush administration that going after high-level terrorist operational leaders did not violate the assassination ban, was not entirely novel. Similar legal readings of the ban had already surfaced during the Reagan administration. Same can be said about the Bill Clinton presidency – a classified legal document had suggested that Osama Bin Laden was a lawful targeted and his elimination would not violate the assassination ban (9/11 Commission Report: 212). On the other hand, there were also some significant differences between orders that were produced in the pre-9/11 era, and those that appeared thereafter. First, the number of people deemed 'targetable' in the Bush administration had greatly increased. Individual targets went well beyond Osama Bin Laden and 'his immediate circle of operational planners' (Gellman, 2001). 'We have the plans in place to do them globally', unanimously noted one CIA counter-terrorism official (Meyer, 2006). George Tenet would later boast that the CIA had pursued Al Qaeda members in 92 countries around the world (Tenet, 2007: 178).

More importantly, there was a substantial difference in terms of normative attitude towards targeted killings. While lawyers had granted the 'legal green light' to strike certain militants already during previous US administrations, in most instances US presidents chose not to act on it. As Richard Clarke, someone who led many of the counterterrorism efforts during the Clinton administration, pointed out during a testimony to the Joint Congressional Inquiry into the September 11 attacks, while legally it was permissible to kill Bin Laden in 1998, there still was

'enormous resistance to the idea of authorizing the deliberate killing of specific individuals' (The Washington Times, 2005). This was a fundamental difference with the post-9/11 era, in which US lawmakers were quite willing to use lethal force against named individuals, even outside traditional battlefields. Overall, this represented a sharp turn in policy regarding targeted killings.

5.7. Keeping targeted killings in the shadows

While the general shapes and shades of the CIA-led targeted killing program were visible from the beginning, the actual breakdown of specific numbers of strikes and their casualties were never openly revealed by the officials. The Bush administration purposefully evoked government secrecy to shield the details of this counterterrorism policy. Over the course of his presidency, George Bush refused to bring to light the number of drone strikes he had authorized, how many people had been killed as a result of such operations, and by what criteria individuals were selected and put on the kill-list.

Already in 2001, Alvin Bernard Krongard, Executive Director of the Central Intelligence Agency, had ominously predicted that upcoming 'war on terror' will be 'won in large measure by forces you do not know about, in actions you will not see and in ways you may not want to know about' (Scahill, 2013: 50). Similarly, Dick Cheney, just few days after the terrorist attacks had argued that the US would need to do things 'quietly, without any discussion' if it is going to succeed in its efforts to eradicate Al Qaeda and its associate forces (Froomkin, 2005). From the early stages of the 'war on terror', a climate of secrecy surrounded lethal killings via Predator drones.

Some of the strategic documents contained hints and traces of what the government was doing, but it was never a full acknowledgment of targeted killings. 2003 National Strategy for Combating Terrorism, for example, noted that the United States was now willing to use 'every tool available to disrupt, dismantle, and destroy [terrorist] capacity to conduct acts of terror' (US Department of State, 2003: 15). It further added that it had designed 'an aggressive, offensive strategy to eliminate capabilities that allow terrorists to exist and operate […] and to attack leadership' (US Department of State, 2003: 15). Equally though, the document had noted that 'divulging the

details of this aspect of the strategy would be imprudent' (US Department of State, 2003: 15). Official documents were absent of words such as 'drone' or 'targeted killing'.

Even when the United States faced mounting international pressure, officials did not feel compelled to disclose any drone related information. Just few days after the first US targeted operation in Yemen, the UN special rapporteur on extrajudicial, summary, or arbitrary executions, Asma Jahangir, wrote to the United States requesting comments on the reported Predator drone strike. In the letter, the UN representative warned: 'The Special Rapporteur is extremely concerned that should the information received be accurate, an alarming precedent might have been set for extrajudicial execution by consent of Government. The Special Rapporteur acknowledges that Governments have a responsibility to protect their citizens against the excesses of non-State actors or other authorities, but these actions must be taken in accordance with international human rights and humanitarian law. In the opinion of the Special Rapporteur, the attack in Yemen constitutes a clear case of extrajudicial killing' (United Nations, 2002). The US government responded some five months later, declining to comment on most of the allegations concerning the incident in Yemen and dismissing that such operations constituted 'extrajudicial executions' while equally suggesting that the UN Human Rights Council was not the aproypariate forum for discussing such 'narrowly focused weapons delivery system' (Office of the Legal Adviser US Department of State, 2003, US State Department, 2003).

In August 2005, UN inspector, Phillip Alston, submitted a similar request about a drone strike that had killed Haitham al-Yemeni in Pakistan (Zenko, 2012). The UN representative had raised four questions regarding the strike: 'What body of international law applied, what procedural safeguards were in place, why he was killed and not captured, and whether Pakistan consented' (Zenko, 2012). The response was almost identical to the previous one, with the US side providing no comments on the specific allegations raised by the UN inspector (Zenko, 2012). When journalists at home pressed the presidential spokesman Ari Fleischer for more details on such missions, he would sidestep the subject by pointing out that the US was engaged in a war in which at times 'there are going to be things that are done that the American people may never know about' (Pincus, 2002). Letters from advocacy groups including Amnesty International (2002) requesting clarification of legal framework for such strikes, went unanswered. The United States

was effectively blocking inquiry into this matter. The public, both at home and abroad, was kept in the dark regarding specific rules and procedures governing drone strikes. Did the United States made any effort to arrest these individuals? Did the host country play any role in the attacks? Was the Congress briefed on these missions? Questions like these went unanswered for years. Officially, targeted killing program did not even exist.

Speaking on the condition of anonymity, lawmakers occasionally tried to assure that the process for selecting and targeting designated terrorists was done with great care and caution. 'We have more lawyers than Predator pilots', one official was quoted saying (McManus, 2003). The problem was that no one could externally verify the extent to which the practice fit with pre-existing laws and norms. At least initially, US government initiated secrecy had an important international dimension. When the CIA had asked permission for access of airspace to host nations - Pakistan and Yemen, in return these governments had requested that the US would not publicly take credit for conducting drone strike operations and remain silent. Secrecy played a major role in establishing working relations with governments in Sana'a and Islamabad. When in 2002, Assistant Secretary of Defense, Paul Wolfowitz, violated the secrecy pact by publicly boasting about US targeting capabilities, this, according to knowledgeable sources, had seriously enraged Yemen's President Ali Abdullah Saleh (Hosenball, 2002). 'This is why we are reluctant to work closely with Americans. They don't consider the internal circumstances in Yemen', after Wolfowitz's public revelations said Brigadier general Yahya Al Mutawakel, the deputy secretary general for the ruling People's Congress party in Yemen (Smucker, 2002). Initially, external considerations were the key driver for secrecy surrounding this program.

With time however, secrecy abroad started to turn inwards. Even when thanks to media reporting it became clear that the US government was behind strikes in Yemen and Pakistan, drone programme remained veiled in secrecy. The lack of any legitimization efforts on the part of the US government, naturally gave way to many questions about how such operations differed from the Israeli policy of targeted killings, which previously were denounced by Washington in strong terms. Asked to explain the difference between Israeli deadly attacks and own targeted killings, officials failed to come up with a credible answer. Presidential spokesperson tried to argue that the United States was engaged in 'a different kind of war with a different kind of battlefield'

(Johnston and Sanger, 2002b). 'What makes it different in this case is that we have a situation in the Middle East where we're trying to get a peace process moving', similarly suggested Secretary of State Colin Powell (Witt, 2002).

While one can credibly advance an argument that the Israeli - Palestinian conflict does have its own unique dynamics that in itself did not change the fact that conceptually there seemed to be no distinction between Israel striking suspected terrorists, and Washington essentially doing the same. Privately, administration officials admitted that the difference was only of 'scale and frequency' (Hosenball, 2002) and that the US had borrowed the legal rationale from Israel's example (Mayer, 2009). As Gary Solis, law professor at West Point, pointed out, with the advent of the drone technology 'things we were complaining about from Israel a few years ago we now embrace' (Mayer, 2009). Through state's secret privilege, the drone programme remained in the shadows for many years to come.

5.8. Conclusion

Terrorist attacks on September 11, 2001 ushered in a new understanding about the reach of international terrorism, having unparalleled impact on the US external behaviour. Early on, it was clear that the United States would not be a bystander and would seek to significantly shift its strategic posture to the offensive. Searching for the right response, cruise missile strikes were ruled out as ineffective, and the hands of US law enforcement too short to reach terrorist hide-outs across the Middle East. Compared to alternatives, targeted killings seemingly promised the best insurance policy against future terrorist attacks. During the first weeks after the attacks, the assassination ban came under close scrutiny, and was debated among policy makers in relatively open fashion. Sensing a considerable shift in attitudes, an attempt was made to pass a bill in the House of Representatives that would have directly nullified the assassination ban. This overt challenge to the norm however was defeated: not enough Congressmen were convinced that it was wise to abandon the 25-year old ban, even in the light of serious national security crises.

While the Bush administration was determined to uphold the norm rhetorically, behind closed doors there was a significant collapse of internal commitment among key officials regarding the

prohibition. As McKeown explains (2009: 11), the challenge to the norm does not always consist of 'a direct public statement questioning the norm'. In case of the Bush administration, there was no direct public claim justifying targeted killings via Predator drones. Instead, as McKeown (2009: 11) points out, the challenge to the norm can also consist of 'quiet changes in policy away from compliance with the norm'. Secretive order, signed by President George Bush just days after the attacks, lends evidence that this is exactly how the norm was challenged. There was no public defence of this newly introduced controversial policy. The United States government had embarked on a massive man-hunting mission without any meaningful public legitimization efforts.

Shortly after the 9/11 attacks, with the passing of the Authorization for the Use of Military Force, the Bush administration had framed its upcoming struggle against terrorists 'a war'. This, according to White House lawyers, made it lawful to carry out self-defensive selective killings against Al Qaeda members. While the legal rationale itself was not entirely novel, the Reagan administration had already pioneered it, the normative willingness to engage in such operations, combined with unprecedented technical ability to successfully execute such missions, resulted in systematic targeting killings across vast sovereign territories. All things considered, the analysis here demonstrates that there was a significant shift in how the US government approached targeted killings as a foreign policy tool. Before September 11, 2001, the United States had strongly opposed targeting of named individuals. After terrorist attacks on World Trade Center and Pentagon, the US government still opposed the policy in-name, while in secret routinely embraced targeted killings in order to effectively fight the 'war on terror'.

Chapter 6: The Obama administration and expansion of targeted killings

6.1. Introduction

The following chapter examines the Obama administration approach to targeted killings and its impact on the domestic norm against assassination. The analysis demonstrates that over the course of the Obama presidency, the norm was greatly strained and significantly lost some of its prohibitive power. Targeted killing, a method that historically had served as a last resort self-defensive option, was turned into a dominant tool for addressing national security threats. By

allowing the CIA to target overseas terrorist suspects far beyond the bounds of traditionally recognized war zones, the Obama administration came to rely on targeted killings like no other US administration in the history.

Drawing upon speeches, Congressional hearings, newspaper accounts, leaked documents, and other forms of political communication, the chapter structures the erosion of the domestic assassination norm in three key phases. First, it focuses on how the transition from Bush to Obama presidency resulted in substantial expansion of the drone programme and surge in lethal strike numbers. Second, it explores the strategic use of quasi-secrecy as an alternative to open legitimization by the administration officials and their attempts to control and delay information disclosure. Lastly, the chapter also analyses administration's overt revisionist efforts - the redefinition and legitimization of new set of criteria constituting targeted killing.

As a candidate for the presidential office, Barack Obama had been highly critical of the Bush-Cheney era counterterrorism policies, most notably torture, and upon his inauguration on 20 January 2009, many expected that practices such as targeted killings would be used more sparingly, if not completely abandoned. Moreover, Obama had repeatedly stressed his personal commitment to rigorous adherence to public process where policy choices are being debated, weighed and contested in an open democratic manner. Early in his presidency, he had promised to fight against terrorism 'with an abiding confidence in the rule of law and due process; in checks and balances and accountability' (White House, 2009). Collective deliberation was supposed to be a cornerstone of how his White House functioned. In hindsight, such assumptions turned out to be misplaced.

Having issued a new executive order for closure of Guantánamo on his second day, already on the third day Obama administrated a drone strike deep inside the sovereign borders of Pakistan. With time, lethal targeting of suspected militants linked to Al Qaeda became a regular exercise of US power, institutionalized and normalized practice, deeply embedded into various state bureaucracies. These were not opportunistic targets, but individuals whose name appeared on an extensive kill-list associated with the so-called 'war on terror'.

Shaped by the sobering experience in Iraq and Afghanistan, the Obama administration came to heavily rely upon remotely controlled drone airstrikes, viewing them as low risk, high reward application of force. Unmanned aerial vehicle technology clearly matched policy objectives, and arguably had unparalleled success in disrupting terrorist activities in the lawless Afghan-Pakistan border regions, territories that were deemed critical for US national security. By holding on to the previous presidential finding (AUMF) that authorized the use of lethal force against Al Qaeda and its associates, the Obama administration visibly expanded definition of what constitutes 'imminence' and 'battlefield', going after individuals that had no real connection to the 9/11 attacks.

In order to sustain targeted killings, a method that historically had generated a great deal of controversy and opposition, the administration initially relied on official secrecy. Following the path of the outgoing administration, lawmakers for a long time did not confirm specific strikes and their casualties abroad. The Obama administration chose to keep details of such missions away from the public domain and beyond Congressional scrutiny, while at the same time fighting advocacy groups against information disclosure at the court room. With time however, realizing that blanket secrecy was unable to fully deliver required legitimization, the approach was modified to 'quasi-secrecy', understood as a conscious strategy that combined official secrecy with tight information control where only facts that put the administration in favorable light were disclosed.

Over time, the US government slowly loosened the level of secrecy governing the lethal CIA-led program, allowing more facts to be known regarding both legality and operational side of such missions. Almost a decade after the first CIA drone strike away from legally recognized battlefield in Yemen in 2002, through carefully crafted appeals to national security and the exceptional nature of the threat of terrorism, the policy slowly emerged from the shadows. By means of quasi-secrecy, the Obama administration strived to present drone campaign in positive light, while still claiming the privilege to pick and choose which aspects of drone warfare to disclose and publically debate. The administration maintained a certain structure of official secrecy in case it was challenged by more controversial questions. Judging by the deep and

unwavering political support in Washington, and high approval rate among American citizens, quasi-secrecy proved to be an effective strategy for legitimizing historically stigmatized method.

6.2. Inheriting & expanding targeted killings

Targeted killings during the Bush administration were clearly born out of an exogenous shock – 9/11 attacks. After this event, drone technology, which was primarily run out of CIA headquarters, became the key counterterrorism weapon, often aimed at individuals outside areas of active hostilities. As such, there was a clear link between what transpired on 9/11 and revision of norms governing national security. It is possible to pin down and reconstruct the normative breakdown during the Bush-era fairly clearly: from the secretive executive order which explicitly gave the CIA permission to kill All Qaeda operatives on a global basis to the first CIA- led lethal strike in Yemen. In the case of the Obama administration, such reconstruction is a more complex and demanding task. This is because there was no self-evident moment revealing government's stance towards the policy of targeted killing. Barack Obama had quietly inherited already secretive CIA pilotless aircraft program without any public statements about how this powerful counterterrorism tool fit with his foreign policy vision. That said, fragmented pieces of evidence did however point towards the fact that as a commander-in-chief Obama had quickly accepted the world of clandestine counterterrorism operations and recognized the strategic advantages of flying drones over foreign territories.

During the transition period, president-elect Obama was repeatedly briefed about the scope and reach of CIA covert missions that he would soon inherit and manage. On 9 December 2008 CIA Director Michael Hayden laid out for him all classified missions run by the agency – 'the nature of those actions, and the written findings from Bush and other presidents', including the authorization to conduct lethal counterterrorism operations (Woodward, 2011:5). Reportedly, Obama's greatest interest during the session was in relation to paramilitary options available for Pakistan (Woodward, 2011: 5). Just four days before the inauguration ceremony, another intelligence gathering took place in Chicago between the outgoing President Bush and President-elect Obama during which the former advised the latter that in the matters of national security there were two programs that he will not be able to do without. One was being prepared for a

cyber- attack against Iran; the other - drone strikes over Pakistan (Sanger, 2012). According to people involved in these discussions, Obama displayed a great deal of acceptance of both policies (Sanger, 2012).

While somewhat indirect, Barack Obama's inclination towards targeted strikes against individual Al Qaeda militants as the best means for countering terrorism, can be traced back even further. By denouncing long and costly US military deployments, already on the campaign trail he had emphasized the importance of kinetic operations. 'I will ensure that our military becomes more stealth, agile, and lethal in its ability to capture or kill terrorists', he promised in a major foreign policy speech in 2007 (Obama, 2007). Furthermore, advocating a strategic shift away from ill-advised war in Iraq to rooting out Al-Qaeda in places like North Waziristan, Obama assured that once in office, he would not think twice about going after high-value targets inside Pakistan. 'If we have actionable intelligence about high-value terrorist targets and President Musharraf won't act, we will' Obama had pledged (Obama, 2007). The combative speech, which caught many by surprise, angered the Pakistani side to the extent that President Bush had to phone Islamabad to assure that the United States respected Pakistan's sovereignty and appreciated its resolve in fighting various extremist organizations (Falcone, 2007). According to the Bureau of Investigative Journalism (2011), as a candidate Obama mentioned taking the war to Pakistan in over 30 speeches. While one should not overestimate the value of promises made during the campaign, these public utterances did nonetheless offer a glimpse into Obama's early foreign policy outlook. While restrictive and careful in his language, omitting phrases such as 'targeted killing' or 'drone', some of his early speeches clearly signaled about his readiness to unilaterally pursue individual Al Qaeda members.

As the key officials in the new administration were going through the confirmation hearing process, some of their answers regarding national security questions contained more policy continuity with the Bush administration than many had previously anticipated (Savage, 2016). Having envisaged a sweeping change, the majority of the counterterrorism policies, as laid out by these officials, were actually aligning closely with what the Bush administration had previously pursued (Savage, 2016). Gradually, through public statements and interviews, many points of

continuity between the Bush and the Obama administrations had emerged to the degree that few had initially predicted.

While there was no official statement regarding targeted killings by drones on part of the incoming president, it is clear that the transition immediately had resulted in enhanced pace and intensity for such missions. Later in his presidency, after drone campaign would be formally acknowledged, Obama admitted that initially this sophisticated technology was used without thinking through all the ramifications' (Gaouette, 2016). Just three days after Obama was sworn in as the 44th President of the United States, the CIA carried out a targeted strike well inside Pakistan, a country which in legal terms was not in an armed conflict with the United States. Given that the strike took place almost immediately after Obama had taken over the presidency, it is difficult to establish to what extent this was his own foreign policy convictions and priorities starting to take shape, and how much of it was the effects of his predecessor's decisions and established bureaucracy producing certain results. According to Michael Leiter, who served as head of the National Counterterrorism Center for both Bush and Obama administration, the decision was taken by the White House after consulting with the intelligence community (Junod, 2012).

The recently inaugurated president, who had staunchly opposed methods of torture, did not stand in the CIA's way, allowing the agency to carry out a targeted killing outside traditionally recognized framework of war. While at first the strike reportedly had eliminated 'foreign militias', it later turned out that it had clearly missed its intended high-value targets and instead killed civilians (Bureau of Investigative Journalism, 2011). According to investigative journalist Daniel Klaidman (2012), the strike 'struck the compound of a prominent tribal elder and members of a pro-government peace committee', leaving the president 'understandably disturbed'. What followed was 'a tense back-and-forth over the CIA's vetting procedures for drone attacks' between the President and CIA director Michael Hayden (Klaidman, 2014).

Debates and disagreements inside the administration following the first unsuccessful drone attack however did not halt preparation for the next striking opportunity. President Obama was wrestling with the issue, but in the end, 'there was no serious disagreement with the decision to continue

the program', one high ranking official unanimously explained (Baker, 2010). Among elite policy makers there was a consensus that such operations would be sustained for a long period of time (Sanger and Schmitt, 2009). In less than a month, the CIA launched another attack against the Pakistan Taliban (TTP) and its leader Baitullah Mehsud in South Waziristan, killing more than 30 people (Shah, 2009, Wazir, 2009). Slowly, the pattern for future operations was being set. The CIA would engage in monthly covert operations, primarily focusing on targeting Al Qaeda linked militants in Afghan-Pakistan border regions.

The sense of urgency for such missions was further elevated when on 25 December 2009 a Nigerian passenger, named Umar Farouk Abdul Mutallab, on a Detroit-bound flight attempted to detonate an explosive. After the unsuccessful attempt, the White House put a 'huge pressure' on the agency to prevent similar incidents from materializing (Shane and Schmitt, 2010). This also reflected in various policy speeches. John Brennan, then Assistant to the President for Homeland Security and Counterterrorism, noted that administration's counterterrorism strategy did not hinge only on preventive measures. 'We will not merely respond after the fact - after an attack has been attempted', Brennan said. 'Instead, the United States will disrupt, dismantle, and ensure a lasting defeat of al Qaeda and violent extremist affiliates', he added (White House, 2010). This proactive strategy for reducing the threat from Al Qaeda was primarily, albeit at that point still covertly, implemented through systematic targeted drone strikes, killing named terrorist suspects one by one.

When President Obama entered the office, he soon learned that most of the Predator drones were assigned to missions in Iraq and Afghanistan, while only a handful were flown over Pakistan (Baker, 2010). Consequently, to expand the reach, he authorized doubling the number of unmanned aerial vehicles in the Pakistan's border area (Baker, 2010). National Security Strategy (2010), document that communicates fundamental US foreign policy strategy and objectives, was reflective of this geographical emphasis shift. Federally Administered Tribal Agencies in Pakistan were circled as the most troublesome spot for US national security interests, an epicenter for Islamic fundamentalism and a focal point for the United States counterterrorism campaign. Obama ended his first year in office having authorized more lethal strikes – 52, than George Bush did in his entire eight years in office (Bureau of Investigative Journalism, 2011). Some of the

killed individuals were high-value militants, such as Baitullah Mehsud, leader of Pakistani Taliban; Saad bin Laden, Osama bin Laden's oldest son; Tahir Yuldashev, leader of the Al Qaeda associated Islamic Movement of Uzbekistan (Shah, Tavernise and Mazzetti, 2009, NPR, 2009, Warrick, 2009, Roggio, 2009; Ismailov, 2009). Others, however, were largely unknown to the wider public.

The following year, the United States under President Obama doubled its efforts, carrying out 128 drone strikes (Bureau of Investigative Journalism, 2011). 'The CIA really went to war', and Obama was 'supportive of that', one White House official later recalled (Coll, 2014). Requests for larger targeting spaces in Pakistan and more armed unmanned vehicles were immediately approved by the White House (Goldsmith, 2014). On an average day, there were now around a half-dozen armed Predator drones in the air over Pakistan's tribal regions, which was an increase of about 40% compared to previous year (Ignatius, 2010). The administration was vastly expanding its drone reach across the Middle East. Even former UN Ambassador, John Bolton, who had often been highly critical of the Obama presidency, admitted that the drone policy basically looked like an extension of the Bush-era policies. 'It seems to me that the approach that the Obama administration is following is consistent with and really derived from the Bush administration approach to the war on terror', Bolton noted in an interview (Israel, 2013).

Exact strike numbers and related fatalities are impossible to come by given the Obama administration routine determination not to disclose such information. At the same time, it is beyond discussion that with Barack Obama in office, the number of US targeted killings increased immensely. Organizations such the New America Foundation and UK's Bureau of Investigative Journalism have counted and detailed drone strike numbers and incurred deaths to the best of their abilities. According to UK-based agency, until July of 2016, the Obama administration had carried out 373 strikes in Pakistan, killing from 2499 to 4001 people, out of which 425 to 967 are thought to be civilians (UK Bureau of Investigative Journalism, 2016). The New America Foundation, for the same time period, provides the following numbers for Pakistan: Out of 403 strikes the total number of estimated people killed stand between 2284 and 3625, out of which 255 to 325 are considered to be civilians. Similar data for Yemen, put the total strike number at 154, with 1011 to 1269 individuals killed (New America Foundation, 2016).

Two key factors seem to have driven the unprecedented reliance on targeted killings via Predator drones. First, it was Obama's strong belief in limited 'boots on the ground' abroad. Barack Obama was elected on the platform for ending the war in Iraq and throughout his presidency displayed a great reluctance for prolonged deployments of US troops in foreign countries. Waging wars with US servicemen occupying large land masses, Obama noted in one interview, simply resulted in greater loss of human lives compared to that of drone strikes (Remnick, 2014). Aversion to one way of dealing with strategic problems, gave way for much greater appreciation of what can be achieved remotely and in limited fashion from the air.

Drones were seen by the administration as the lesser evil, something that allowed extinguishing national security threats abroad without having to resort to lengthy occupations of other nations. These weapons platforms offered a middle road between sending massive military forces and doing nothing. John Brennan, then president's chief counterterrorism adviser, metaphorically explained that instead of a hammer, the administration was looking for a scalpel in order to deal with terrorism (De Young, 2010). Excited about the advantages that drones brought to the table, CIA Director, Leon Panetta, noted in a policy speech that 'very frankly, it's the only game in town in terms of confronting and trying to disrupt the al-Qaeda leadership' (Panetta, 2009).

Secondly, systematic targeted killings were also driven by technological advance. The timeline of the Obama presidency coincided with the continuous advancement of remotely piloted aircraft. While armed Predators were already available and used during the Bush years, only during Obama's time in office it was possible to deploy these weapons on a truly sizable scale. In addition to flying drones from allied bases in Turkey, Italy, Saudi Arabia, Qatar, the United Arab Emirates and the Philippines, secret bases were built and completed in the Horn of Africa and the Arabian Peninsula, intended primarily for campaigns against Al Qaeda branches in Somalia and Yemen (Whitlock and Miller, 2011, Gorman and Entous, 2011 Whitlock, 2013). With time, it became possible to cover significantly wider territories. As one Congressional study (2011) noted, 'unmanned aircraft systems have long held great promise for military operations, but technology has only recently matured enough to exploit that potential' (Congress of the United States, 2011:5).

Dianne Feinstein, chairman of the Select Committee on Intelligence, even went as far as stating that because of technology's growing sophistication it was 'inevitable' that the Obama administration would end up relying on targeted strikes as the primary means for fighting Al Qaeda (Miller, 2011). A similar point years later was brought up by Obama himself: 'When I came into office, we were still in the midst of two wars, in Iraq and Afghanistan [...] And drone technologies began to develop in parallel with - had developed prior to my presidency, but started to really accelerate in terms of the technology and the precision with which strikes could be taken' (White House, 2016). Obama's vision for limited engagement abroad may have been the key driver for systematic targeted killings. However, continuously evolving technological capabilities clearly added some additional stimulus, making such operations more attractive for lawmakers to sign off.

6.3. Targeted killings: from secrecy to quasi-secrecy

Throughout the Obama administration, especially at the outset, officials took extraordinary steps in order to keep the targeted killing program in the shadows, undercutting public's ability to fully understand the scope and costs of such operations. Appealing to national security concerns, information flow was closely guarded by officials, who deliberately hid some of the more controversial aspects of terrorist targeting. Equally though, the administration wanted to gain some political capital by informing the public that it was effectively pushing back against organizations like Al Qaeda by killing its leadership via drones. It was a delicate and at times awkward balance to strike between maintaining official partial secrecy and a parallel desire to be seen positively with regard to the drone strikes as effective counterterrorism tool.

On the one hand, the Obama administration clearly was not ready for full disclosure of facts and defending the policy in open debates. As a result, it relied on selective secrecy, often making rhetorical circles around words such as 'drone' or 'targeted killing'. On the other hand, it equally understood that killing of high-value targets put the administration in positive light and as a result officials consciously attempted to propagandize 'the good news'. The end result, as captured by Phythian (2013), was that the drone policy was 'neither fully covert nor overt' (Phythian, 2013:

286). The Obama administration did not take the traditional legitimization path through open debates where pros and cons are weighed publicly. Instead, it attempted to hide behind the veil of secrecy, while simultaneously feeding the public carefully chosen parts about the CIA-led lethal targeting program. Such approach further in the text will be described as quasi-secrecy.

As an organizing principle, quasi-secrecy came in different shapes and forms, and was applied by different actors and bureaucracies with various degrees of intensity. Categorizing and separating these attempts can help to advance analytical clarity here and shed light on what exactly the Obama administration tried to achieve by applying it. First, quasi-secrecy manifested itself in administration's discursive practices, or more precisely, lack thereof. For years, officials declined to confirm or comment on targeted strikes, which had surged since 2009 with Barack Obama in office.

It is important to note here that not all drone strikes were treated the same way. The Pentagon, which traditionally discloses information about its application of military force, was at times, although not always, more forthcoming about its use of drones in Afghanistan - a legally recognized theatre of war (Agence France-Presse, 2011, Barnes, 2012). The CIA, on the other hand, which had become the leading institution for carrying out targeted killings in places like Pakistan, Yemen and Somalia, had much tighter grip on information disclosure and refused to disclose almost any information. As noted by UN inspector Philip Alston, when the CIA does it, 'by definition they are not going to answer questions, not provide any information, and not do any follow-up' (Savage, 2010). CIA spokesperson, Marie Harf, once explained that 'as a rule, the CIA does not comment on allegations of prospective counterterrorism operations' (Gorman and Entous, 2011). The agency was not even willing to publicly disclose how many drones it had acquired post-9/11 (Miller, 2011).

The culture of secrecy with respect to drone strikes first took root and was cultivated during the George Bush years. The practice was then picked up by the Obama administration, which similarly refused to shed light on inner deliberations and explicit rules associated with targeting of alleged terrorists by unmanned drones. After the first strike with Barack Obama in office, White House press secretary Robert Gibbs declined to engage in debates about what had

transpired, simply stating that he is not going to get into these matters (Smith, Rondeaux and Warrick, 2009). With time, this would become the routine official response. It was a coordinated effort among various government branches, working in the same direction to keep details of drone operations away from the public eye.

During the first years of the Obama administration, the internal rule book governing targeted killings was considered to be so highly classified that it was 'hand-carried from office to office rather than sent by e-mail' (Shane, 2012a). 'We didn't even know if we were allowed to write the word 'drone' in an unclassified e-mail', one State Department employee unanimously explained (Coll, 2014). Robert Gibbs, who served as the White House Press Secretary in Obama's first term, after leaving the office admitted that extreme secrecy was expected from everyone inside the administration. 'When I went through the process of becoming press secretary', Gibbs explained, 'one of the first things they told me was you are not even to acknowledge the drone program. You're not even to discuss that it exists […] And here is what is inherently crazy about that proposition. You are being asked a question based on a reporting of a programme that exists' (Gentile, 2013).

Moreover, the way in which the bureaucracy was set up for administrating and carrying out targeted drone strikes, strengthened administration's hand in its acts of denial. The Department of Defense, or more precisely its sub-unit the Joint Special Operations Command (JSOC), was in charge of flying drones in active war zones like Iraq and Afghanistan, while the CIA was responsible for operations away from declared theatres of war, such as, Pakistan, Yemen and Somalia. The issue here went beyond simple 'who and when is pulling the trigger'. Such division of labour had visible implications for transparency and accountability. These two national security entities have varying responsibilities, jurisdictions and accountability mechanisms. Strikes carried out by the CIA fall under the 'Title 50 of the US Code', which states 'that the role of the United States Government will not be apparent or acknowledged publicly' (US Code: Title 50). Among many national security bureaucracies, the CIA is the only one that can legally carry out covert activities. As an institution, it is not meant to be transparent by its very design. As explained by Mazzetti, CIA answers directly to the White House and can carry out orders more quietly than the military (Mazzetti, 2013: 69). Strikes conducted by the Department of Defense, on the other

hand, are guided by the 'Title 10 of the US Code', which is considerably more demanding in terms of accountability measures (US Code: Title 10).

After the terrorist attacks of 9/11, Central Intelligence Agency, with its extensive knowledge of various militant groups in Afghanistan and prepositioned assets around the region, emerged as the leading national security institution in the 'war on terror', almost immediately incorporating Predator drones in its toolbox. It is likely that initially the CIA was put at the forefront of lethal operations because it was simply better prepared for targeted missions based on the knowledge it had accumulated about various extremist networks. But the fact that a decade later, an intelligence agency was still performing tasks that are usually carried out by the military, speaks to the fact that there were some additional benefits associated with utilizing CIA as the principal platform. The so called 'Title 50', under which the CIA operates, allowed the Obama administration to keep targeted killings in the shadows and away from public scrutiny.

For years, high level officials on both sides of the political spectrum have debated the transfer of drone strike operations from the CIA to the Pentagon, which would subsequently require the While House to be more forthcoming with information disclosure. The issue was first seriously raised during the nomination hearing of CIA Director John O. Brennan in 2013, when the Director himself had encouraged putting the programme into the hands of the Department of Defense. 'The CIA should not be doing traditional military activities and operations', Brennan had objected (Brennan, 2013). The idea regained its momentum in 2015, after a drone strike had mistakenly killed an American and Italian citizens. Even Chairman of the Senate Intelligence Committee, Dianne Feinstein, who for years had opposed ceding authority for drone strikes to the Pentagon, had switched sides, now fighting the other side of the argument by emphasizing that CIA should not be 'in the business of carrying out wars' (Mazzetti, 2014, Miller, 2014, Bender, 2015). High ranking Republicans, John McCain and John Kasich, similarly supported transfer of the programme (Acosta, 2015, Reuters, 2015).

At the end of his presidency, Barack Obama openly questioned the wisdom and sustainability of intelligence agency essentially filling the role of a paramilitary organization (White House, 2016). During his 2016 speech at the University of Chicago he stated: 'As much as possible this [drone

strikes] should be done through Defense Department so that we can report, here's what we did, here's why we did it, here's our assessment of what happened. And so slowly we are pushing in that direction' (White House, 2016). But despite such assurances, the CIA, which often operates on the margins of legality, remained in charge of drone strikes, which in turn have had visible consequences for accountability and oversight. Such bureaucratic setup and division of labour between Defense Department and CIA provided a legitimate escape route for the White House whenever it wanted to selectively avoid inconvenient questions regarding drone strikes.

While publicly the administration was united in its 'no comments' policy, behind the scenes there was a continuous tension regarding the 'proper' level of attachment to secrecy between various bureaucracies and agencies: Defense Department, the CIA, Justice Department and State Department (Shane, 2012a, Barnes, 2012, Hirsh and Roberts, 2013). A number of senior officials favored more transparent approach and public engagement, while others believed that such missions did not require detailed explanations or even basic acknowledgment of specific drone strikes. Then Secretary of State Hillary Clinton, for example, privately complained that denial made it much harder to invalidate exaggerated accusations about civilian casualties from targeted killings in Pakistan (Shane, 2012b). In her own biographical account, Clinton touches the subject by noting that while President Obama would eventually 'declassify many of the details of the program', in 2009, all she could say was 'no comment' whenever the subject was raised (Clinton, 2014: 690). 'Because the program remained classified', Clinton further noted, 'I could not confirm or deny the accuracy of these [drone related] reports. Nor was I free to express America's sympathies for the loss of any innocent life, or explain that our course of action was the one least likely to harm civilians' (Clinton, 2014: 690).

After leaving the office, Leon Panetta, who personally oversaw the Predator programme for years, in his memoir further confirmed that there was a longstanding internal clash, with some officials taking a strong stance against secrecy, especially since such operation were already widely reported by the media (Panetta, 2014: 388). Panetta further notes that while he thought President Obama needed to be 'far more transparent' in explaining such policies, he equally believed that when it comes to security, the commander-in-chief needed 'a range of tools to defend the nation' and secrecy was 'one of those tools' (Panetta, 2014: 388-391). Despite intense behind the scenes

disagreements, the Obama administration nevertheless ended up routinely stamping information related to drone strikes as a national security secret, using it as an asset to avoid public discussions about controversial counterterrorism practice.

6.4. Official secrecy & selective leaks

While targeted killings were officially unacknowledged, members of the Obama administration nevertheless sought to portray counterterrorism policies in in a favorable light through careful and limited rhetorical pronouncements. The narrative did not involve direct admission of guilt for targeted strikes; still it suggested that all CIA operations were carried out effectively, precisely and lawfully, and as a result organizations like Al Qaeda were being kept on the run. Two months into the Obama drone campaign, Admiral Mike Mullen was asked in an interview about the escalation of targeted killings, which appeared to have been far more frequent with the new President in office. Mullen declined to share details, merely pointing out that those threats in Pakistan that 'need to be addressed, have been addressed, and will continue to be addressed' (Fox News, 2009). In similar fashion, John Brennan refused to directly address the matter, while offering assurances that all counterterrorism operations have been 'legal', 'highly effective', and 'very focused' (Hsu and Warrick, 2009, Finn and Warrick, 2010).

Same approach was taken by CIA Director Leon Panetta, who was questioned about drone strikes at the Pacific Council in 2009. 'Obviously because these are covert and secret operations I can't go into particulars. I think it does suffice to say that these operations have been very effective because they have been very precise in terms of the targeting and it involved a minimum of collateral damage', Panetta told an audience (Panetta, 2009). In another interview, Panetta further praised the CIA work by calling it the 'most aggressive' in history, but stopping short of disclosing exactly by what methods Al Qaeda was being disrupted (Warrick and Finn, 2010). Similarly, Vice President Joe Biden listed accomplishments of the Obama administration during NBC's 'Meet the Press': 'We have eliminated 12 of their top 20 people. We have taken out 100 of their associates. We have sent them underground. There has never been as much emphasis and resources brought against Al-Qaeda. The success rate exceeds anything that occurred in the last administration' (NBC, 2010).

Accounts like these, emphasizing successful fight against terrorism, were always framed in a way to preserve deniability about exact methods that were utilized. The CIA constantly swatted away any questions relating to the Predator drone programme, merely suggesting that tools the agency uses in its fight against Al Qaeda are 'exceptionally accurate, precise and effective' (Shane, 2009, Shane and Schmitt, 2010). After the UN special rapporteur on extrajudicial executions, Philip Alston, had called on the US government to share basic drone strike data, the CIA dismissed the request by pointing out that it does not discuss or confirm specific activities, similarly as in previous instances stressing that all operations have been very precise, and within the framework of established law (Savage, 2010). In unconventional manner, policy makers blended self-promotion with official secrecy and refusal to take responsibility for drone strikes.

This dual approach of official secrecy on the one hand and self-congratulatory statements about what has been achieved with the help of Predator drones on the other continued for years. When in 2011, a US drone strike killed American born citizen Anwar al-Awlaki, President Obama proudly announced that his death represented a 'major blow' to Al Qaeda, and called the killing 'a tribute to our intelligence community' (White House, 2011). Later the same year, Obama bragged that 'twenty-two out of thirty top al-Qaeda leaders have been taken off the battlefield' (Roggio, 2011). Neither of these official statements, however, included any mention of drone strikes. On another occasion, Diana Feinstein, chairman of the Select Committee on Intelligence, talked extensively about the upside of recent technological developments, which in her view helped to keep Americans out of harm's way. While clearly referring to drones, she nevertheless avoided even basic confirmation that the program exists (Miller, 2011). The administration was quite clear about the fact that it was decimating Al Qaeda's core, but vague, selective and unresponsive about the exact means by which it was accomplishing this.

Another way how the Obama administration communicated with the public in indirect manner, was by means of systematic authorized anonymous leaks. Similarly as in previous instances, the message that the government tried to push through was that counterterrorism operations were conducted in precise and effective manner, bringing great damage to terrorist networks. Senior journalist David Ignatius of the Washington Post, sharing his experience with the White House,

pointed out that it was willing to cooperate and discuss otherwise secretive drone campaign with him, but only when it promoted the idea of the administration relentlessly fighting Al Qaeda and its associate forces. 'These rules about covert activities can be bent when it becomes politically advantageous', the journalist explained (McKelvey, 2011).

Jonathan Landay, correspondent for Washington-based news organization McClatchy, equally pointed out that when information worked in administration's favour, 'you get quite a detailed readout' (McKelvey, 2011). According to the UN special rapporteur on extrajudicial executions, Philip Alston, such government authorized leaks 'played a powerful role in legitimizing the targeted killings program' (Alston, 2011: 89). By leaking to the press the administration put forward self-serving claims that could not be openly challenged, verified or falsified. As pointed out by Kenneth Anderson, law professor at the American University, the administration was essentially conducting its foreign policy 'by leaked journalism' (Brisbane, 2011).

6.5 Fighting the ACLU, Congress and the UN

Apart from refusing to comment on targeting practices, the administration also took other steps in order to limit the flow of information regarding drone strikes. Over the years, the American Civil Liberties Union (ACLU) persistently confronted the Obama administration at various court settings, arguing that the program operated far too deep in the shadows, essentially creating a situation where no external overview of such practices was possible. With the help of the Freedom of Information Act, the ACLU demanded access to crucial information regarding government's drone strikes, such as, precise statistics, dates and locations. In turn, the White House lawyers fought tenaciously to withhold documents that detailed the legal reasoning and criteria for drone strikes.

In 2010, the ACLU opened the first lawsuit, asking for 'disclosure of the legal basis, scope, and limits on the targeted killing program' (ACLU, 2010). In 2012, three additional cases were filed: lawsuit challenging the killing of Anwar al-Awlaki, request regarding targeted killings in Yemen in 2012 and an additional request to disclose information about a drone strike on a community in the al-Majalah region in Yemen (ACLU, 2012). In 2103, federal court finally ruled one case in

favor of the union, concluding that it was neither 'logical nor plausible' for the US government to argue that the CIA had no interest in conducting targeted strikes abroad (United States Court of Appeals, 2013: 12). 'It is hard to see how the CIA Director could have made his agency's knowledge of and therefore 'interest' in drone strikes any clearer', the final ruling had noted (United States Court of Appeals, 2013: 12). While this clearly counted as a minor victory, on the whole, during Obama's initial years in the office, the administration managed to push back against ACLU, effectively resisting essential information disclosure regarding the circumstances in which the administration believed it was appropriate to carry out targeted killings via drone strikes.

The Obama administration also tried to marginalize the role of Congress. In 2012, twenty six Congressmen signed a request for more transparency, arguing that targeted killings carried major implications for the United States and as a result the people had the right to know what has been done in their name (Nichols, 2012). When open requests like these failed to produce any results, members of the Congress used confirmation hearings as a forum to press the officials for more details. In 2011, the Senate Select Intelligence Committee held a hearing on the nomination of General David Petraeus to become CIA Director. Roy D. Blunt, Republican of Missouri, used the occasion to question the army general for details on systematic lethal killings by drones. In response, General Petraeus carefully and wisely turned to drone operations in Afghanistan, where such missions operated in completely different legal context as compared to Pakistan, Yemen and Somalia. 'I would note that the experience of the military with unmanned aerial vehicles is that the precision is quite impressive, that there is a very low incidence of civilian casualties in the course of such operations', Petraeus highlighted only the positives (C-Span, 2011).

Similarly, but with greater intensity, members of the Senate Intelligence Committee in 2013 pressured John Brennan, President Obama's nominee for CIA director position, about the secrecy and legal basis for drone strikes. Brennan, who previously served as Obama's chief adviser on counter-terrorism, had been one of the key architects of the program. During his opening statement he noted that there was a 'widespread debate' within the administration about the various counterterrorism operations and policy makers wrestled with such issues, at the same time defending such practices by pointing out that the US was at war with Al Qaeda (United States

Senate, 2013). Senator Ron Wyden, Democrat of Oregon, during the hearing emphasized that the committee had never seen the full list of countries in which the CIA has carried out lethal operations (United States Senate, 2013). Overall, the hearing unveiled just how little information Congress had when it came to drone strikes. The Senate intelligence committee had seen only 'two of an estimated 11 legal opinions' on the program (Anders, 2013). Afterwards, committee's chairwoman, Senator Dianne Feinstein, told reporters: 'I think that this has gone about as far as it can go as a covert activity' (Mazzetti and Shane, 2013).

After instituting official secrecy domestically, the Obama administration took the same approach internationally, on numerous occasions refusing to cooperate with the UN authorities. In 2010, the United Nations Human Rights Council report, for example, noted that the US had refused to 'provide factual information about who has been targeted under their policies and with what outcome, including whether innocent civilians have been collaterally killed or injured' (UN Human Rights Council, 2010: 27). After the completion of a report on targeted killings in Pakistan, Philip Alston, the United Nations special rapporteur for extrajudicial, summary and arbitrary executions, stated that it is an 'essential requirement of international law that states using targeted killings demonstrate that they are complying with the various rules governing their use in situations of armed conflict' (Finn, 2010). 'The international community does not know when and where the CIA is authorized to kill, the criteria for individuals who may be killed, how it ensures killings are legal, and what follow-up there is when civilians are illegally killed', he added (Finn, 2010). Summarizing his relations with the US authorities, Alston noted that when he had tried to engage with officials of the Obama administration, asking what the legal rationale was for carrying out targeted killings in a foreign countries, the response was 'that it is none of my business' (Alston, 2014).

In similar vein, his successor, Ben Emmerson, frequently called upon the US to open itself to an independent investigation into its use of targeted strikes, but with little success (Judd, 2012). 'The single greatest obstacle to an evaluation of the civilian impact of drone strikes is lack of transparency, which makes it extremely difficult to assess claims of precision targeting objectively', Emmerson had complained (The Bureau of Investigative Journalism, 2013). When in 2014, Pakistan's government tried to push a resolution through the UN Human Rights Council

that would allowed for greater understanding on how such targeted practices fit with the international law, the Obama administration boycotted the talks (Lynch, 2014).

The way in which the US government initially approached targeted killings by drones, did not neatly fit in any of the traditional legitimization categories. Denial was coupled with self-serving selective leaks and assurances that decisions inside the government were taken with great care and in good faith. Those following the developments in places like Pakistan and Yemen, knew fairly well about the extensive air campaign United States was carrying out with the help of armed Predator drones, yet most of the information was still treated as classified. Clearly, the government was not interested in full information disclosure, and used secrecy as a tool to avoid open debates and direct questioning. Policy makers avoided answering controversial questions that could possibly put these operations in completely different light and transmitted unchallenged messages about counterterrorism operations as being executed in precise, effective and legal manner. At no point during Obama's first term in office, did the citizenry have an opportunity to evaluate all possible costs and consequences regarding drone strikes.

Any government that enters long term military campaign, in which civilians are being killed, will be unwilling to share every single detail of the ugliness of that conflict. It can be a challenging at times to balance legitimate security concerns with the need to share information with the public. Still, as noted by Boyle (2015), democracies historically have gone further toward providing accountability and transparency to ensure that the use of force is applicable with relevant laws and ethical standards (Boyle, 2015: 117). In the case of the Obama administration however, secrecy seem to have been applied for far too long, and for reasons that had little to do with legitimate protection of national security interests. Those advocating for more disclosure of facts did not ask the administration to reveal drone flight patterns or names of informants on the ground, details which could harm the United States interests. Often such demands consisted of requests for clarification of the legal framework or other basic information that could not seriously harm the United States. For years, the United States failed to provide even the most basic data regarding drone strikes, even as the practice had turned into a regular exercise of the US power. The Obama administration did not share 'casualty figures for combatants or civilians, who or how many individuals are on its kill list, or the extent or findings of any post-strike investigations' (Human

Rights Watch, 2013: 21). At best, it addressed the issue in vague bureaucratic terms, at worst, it did not provide any comments at all.

While the number of countries in possession of unmanned vehicle technology has snowballed during the past decade, only two - the United Kingdom and Israel, have utilized Predator drones equipped with Hellfire missiles to strike individual targets in foreign territories. It is useful to note here that both of these countries, close allies of the US, have had quite different reading of the issue of secrecy surrounding drone strikes compared to that of Washington. While the UK has been at times criticized for not providing enough information (Cole, 2015), in comparison to US stance, it has been way more accountable.

According to Chris Woods, senior journalist from Bureau of Investigative Journalism, the British took a strategic decision to break away from the tight-lip approach practiced by the US to become far more transparent about their own drone activities (Woods, 2015). 'We have a situation today where UK authorities will disclose if you ask to them a number of drone strikes that they have carried out, the number of civilians they believed they have killed, and other mission related details. All of this is in the public domain and the British will release them whenever you ask them', Woods shared his experience with UK authorities (Woods, 2015). In 2012, UK's Ministry of Defence (MoD), for example, publicly released data regarding the number of missiles fired in the past five years (The Bureau of Investigative Journalism, 2012).

While the state of Israel has often come under heavy criticism for its targeted killing missions aimed at alleged Palestinian militants, it also has attempted to defend its position publicly. According to Daniel Byman, close observer of the Israeli targeted-killing practice, the government has worked closely with the media to ensure public awareness of how such operations take place (Byman, 2006: 110). 'Several nongovernmental organizations track the number of targeted killings and the policy is challenged in the media and the courts. As a result, mistakes in implementation have not shaken the Israeli public's support for the policy' he further explains (Byman, 2006: 110). The key point here is that two of the US closest allies have not followed the same secrecy model, evidently showing that different approach is in fact possible.

In sum, the presented analysis clearly lends evidence that during the initial stages of the Obama administration, officials talked only indirectly and in fragmented bits and pieces about missions of targeted killings. This pattern of behaviour can be interpreted as US government's fear that it would not be able to easily defend and justify such policies openly. The public was intentionally deprived from an informed debate about this controversial, yet routinely applied national security tool.

6.6. The gradual, partial 'opening up'

With time however, as technology developed, new drone outposts were built in Africa and the Middle East, and targeted killing programme had expanded way beyond its initial model, it became increasingly hard to operate with the initial degree of secrecy. Because of the sheer scale of these operations, public awareness, both at home and abroad had become widespread. At the end of the first Obama's term in office, policymakers had lost their ability to control the flow of information and manage negative drone-related headlines. Years of silence had sharpened demands for transparency and accountability from the media, Congress and international community, and numerous unanswered questions cast a shadow of hypocrisy over the administration. Slowly, high level officials began to be more forthcoming regarding information disclosure, attempting to bring some of the details regarding the programme into the public sphere. The veil of secrecy was lifting. The process, however, was slow, carefully staged and highly selective.

In 2010, State Department Legal Adviser Harold Koh, who had been a harsh critic of Bush-era counterterrorism policies, during an annual meeting for lawyers included assessment, few paragraphs long, of how targeted killings fit within the laws of war (Koh, 2010). Prior to the speech, Koh had resisted engaging into legal debates regarding drones (Shapiro, 2010). One administration lawyer later admitted that Koh's public defence was a result of 'unbelievably excruciating process of crafting a public statement that all the agencies can agree on' (Junod, 2012). Philip Alston, United Nations' Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, welcomed this engagement by pointing out that the UN had 'been asking for a legal

rationale for quite a long time, so that's a good start' (Democracy Now, 2010). That said, he equally noted that the speech failed to answer some key legal questions (Democracy Now, 2010).

In similar fashion, speaking at Harvard University in 2011, John Brennan offered his opinion of why it was acceptable for the United States to conduct targeting operations beyond 'hot' battlefields, additionally suggesting a more flexible and expansive understanding of 'imminence' (Brennan, 2011). Neither Koh nor Brennan disclosed something that the public did not already know from countess leaks and media accounts. As noted by Human Rights Watch (2011), no details that would lend insight into the process for determining whether specific strikes met international legal standards were provided (Human Rights Watch, 2011).

The information disclosed was essentially a broad outline of the case for using force against Al Qaeda and its associate forces. Asked directly 'Does the CIA have a drone program?', Brennan still refused to fully acknowledge it, jokingly adding: 'If the agency did have such a program, I'm sure it would be done with the utmost care, precision' (Brisbane, 2011). While visibly limited, these two official engagements offered at least some insight into the administration's thinking regarding drones, indicating that the White House was slowly shifting its approach from official secrecy to quasi-secrecy and more traditional legitimization efforts.

A possible turning point in terms of administration's legitimization approach was the killing of American-born Anwar al-Awlaki. On 30 September 2011 targeted missile strike in Yemen killed Anwar al-Awlaki, a US born Islamic cleric who had become a major propagandist for the Al Qaeda branch in Yemen. This was the first time since the Civil War that the US government had carried out a deliberate singled-out killing of an American citizen without due process (Mazzetti and Savage, 2013). After long an intense deliberations, White House lawyers had established that in the context of 'war on terror' al-Awlaki was a combatant and that US constitutional rights did not prevent the government from killing him without a formal trial (Mazzetti and Savage, 2013).

It is useful to note that the legal opinion advanced by the Obama administration, that American citizens siding with Al-Qaeda can be lawfully targeted and killed, was actually not novel. Already in 2001, in secret finding George Bush legal team had reasoned that the CIA could target Al-

Qaeda members anywhere around the globe, making 'no exception for Americans' (USA Today, 2002). In 2002 Yemen operation the CIA not knowingly had already killed a US citizen Kamal Derwish, who was in the car during the strike. In reaction to the operation, national security adviser Condoleezza Rice pointed out that the mission was lawful and raised 'no constitutional questions' (USA Today, 2002). Anwar al-Awlaki's case was unique in that he was knowingly targeted. As an American citizen his name had appeared on a kill-list and his neutralization by a drone strike was purposeful and not accidental.

Despite the Obama administration efforts to keep the details of the mission secret, the decision to kill a US passport holder became known to the wider public some 18 months after the strike. This generated unprecedented public debate and scrutiny about a programme that had for years been veiled in secrecy. Reacting to the news, Rand Paul, Republican Senator from Kentucky, staged the most visible opposition by attempting to filibuster the nomination of John O. Brennan to lead the CIA. With the opening line of 'I will speak until I can no longer speak', Paul went for nearly 13 hours detailing his objection to targeting Americans abroad (Little, 2013). He questioned how such operation fit with the Fifth Amendment of the US Constitution that was supposed to protect Americans from 'a president that might kill you with a drone' (Little, 2013). 'I am hopeful that we have drawn attention to this issue, that this issue won't fade away, and that the president will tomorrow come up with a response', he stated during the filibuster (Little, 2013).

The killing of al-Awlaki had elevated the issue of drone strikes on a national level, albeit the context of the debate was still quite narrow - concerning the rights of American citizens. Brennan's nomination had pressed the Obama administration for more clarity from different sides. In support of Paul, the ACLU, which had been fighting the Obama administration for more transparency, issued a statement: 'There is now a truly bipartisan coalition in Congress and among the public demanding that President Obama turn over the legal opinions claiming the authority to kill people far from a battlefield, including American citizens' (Finn and Blake, 2013). Prior to that, the administration had 'even refused to acknowledge the existence of a Justice Department memo providing legal justification for killing American citizens', even though memo's existence had been a widely reported fact in the press (The New York Times, 2012). Attorney General Eric

Holder had swatted away requests for any comments by saying that 'such operations require high levels of secrecy' (The New York Times, 2012).

After al-Awlaki's case had burst into public view, Holder stated that he expects greater transparency from the Obama administration. 'A number of steps are going to be taken. I expect you will hear the president speaking about this', Holder pointed out in a press briefing (Dinan, 2013). Similarly, Democrat Senator for Oregon Ron Wyden, who had been outspoken critic of the drone programme noted that the time had come to 'engage the country in a more extensive way in a debate on these issues' (Memoli, 2013).

Comprehensive study by McKelvey (2013) details how this episode led to significant US media interest and pressure on the Obama administration to be more forthcoming regarding the legal basis for killing a US citizen. According to the report:

> 'Of the dozens of articles about the program that appeared in The New York Times, The Washington Post, The Christian Science Monitor, Time and The Wall Street Journal from July 2009 to July 2010, only 37 mentioned legal issues about the program [...] During the following twelve-month period, a comparable period from July 2011 to July 2012, The New York Times, The Washington Post, and The Christian Science Monitor published roughly 120 articles, or more than four times the number of articles from a comparable period in the previous twelve months, that looked at legal aspects of the drone program. In addition, these newspapers published 33 articles that looked at moral aspects of the program, more than three times the number of articles during the previous twelve-month-long period of time' (McKelvey, 2013: 16).

In 2014, under order of the U.S. Court of Appeals for the 2nd Circuit in New York, secret government memo was released detailing US governments legal justification for the killing of Anwar al-Awlaki (Miller, 2014). The 41-page memo noted the following: 'We do not believe that al-Awlaki's U.S. citizenship imposes constitutional limitations that would preclude the contemplated lethal action' (US Department of Justice, 2010). Civil liberties groups welcomed

the disclosure, with ACLU Director stating that the release of the document represents 'a crucial step towards transparency' (Miller, 2014a).

Consequently, caving to public pressure, John Brennan addressed an audience at the Wilson Center, finally unequivocally admitting: 'Yes, in full accordance with the law, and in order to prevent terrorist attacks on the United States and to save American lives, the United States Government conducts targeted strikes against specific al-Qaida terrorists' (Brennan, 2012). He further noted that his remarks came as a result of President Obama's instructions 'to be more open with the American people about these efforts' (Brennan, 2012).

Brennan's speech represented a clear turning point in how the administration handled the program publicly. Since the first strike outside an area of active hostilities in Yemen in 2003, the drone program had been shrouded in deep secrecy. As of 2010, came general statements and hints that the programme was legal, precise and highly effective. Brennan's speech marked another phase, as it was a deliberate and more substantive effort to lay out the rationale for lethal targeted killings. Having criticized administration's clandestine approach for years, the ACLU Director called the speech 'an important statement' and 'clearest explanation thus far of the program's purported legal basis' (Miller, 2012). Soon after, several high level officials, including Jeh Johnson (2012), Eric Holder (2012), Stephen Preston (2012) followed suite and engaged in public defence of administration's use of drones. Finally in 2013, the president himself delivered a long-anticipated speech at the National Defense University in which he attempted to clarify administration's approach to counterterrorism in relation to targeted drone strikes (Obama, 2013).

6.7. Strategies of Legitimization

In the task of measuring and evaluating norms, speech acts serve as windows through which to asses if and how normative lines have been rearranged. Martha Finnemore (2003) in her work notes that the use of force always leaves a 'trail of justification' which informs us about 'normative context and shared social purpose' (Finnemore, 2003: 15). Legitimization efforts are central to the study of norms as it helps to uncover decision makers reasoning behind the use of

force. That being said, claims by officials should not be simply taken at its face value, but rather connected to one's actions and compared to other available information.

Equally importantly though, one should not lose sight of what policy makers are leaving out from their policy speech acts, what remains unanswered and hidden. While as of 2013, the Obama administration did attempt to bring the programme more into the public sphere by offering some defence of targeted killings, official government secrecy still underpinned the CIA-based program. The administration did not fully give up its privilege not to discuss some fundamental aspects of drone warfare. Thus, in addition to analyzing legitimization efforts, it is also critical to keep track of what was left out, as secrecy can be equally telling regarding decision maker's strategy and intentions.

In order to analyse various legitimization efforts in a more structured way, speech acts, drawing upon Vincent Keating's model (2013), will be divided in two categories: moral and legal. Moral legitimization efforts here will be understood as arguments that do not rest on some kind of body of law, but instead are grounded in some notions of righteousness. Legal legitimization strategies, on the other hand, are built upon some type of 'lawfulness' (Keating, 2013). The following speech acts have been identified as key overt legitimization attempts by the Obama administration: Harold Koh's (2010) speech at annual meeting for lawyers; John Brennan's speech at the Harvard University (2011) and his remarks at the Wilson Center (2012); Jeh Johnson's speech on National Security Law (2012); Eric Holder's address at the Northwestern University (2012); President Obama's speech at the National Defense University (2013). These rhetorical engagements were clearly aimed at explaining and justifying administration's policies in the context of targeted killings. In addition, the analysis will rely upon official memos, interviews and others forms of political communication that aimed at justifying the administration's use of targeted killings.

6.8. Moral legitimization efforts

A major part of legitimization discourses applied by the Obama administration rested on the idea that targeted killing missions was as a result of some kind of state of exception, and that terrorists, with their explicit and never changing agenda to attack the United States at any time, had

essentially brought such a response on to themselves. Such discourses reinforced the idea that those targeted were somehow posing a unique threat to the US homeland, and that traditional measures such as law enforcement or capture were not applicable.

The extraordinary challenge, as John Brennan (2012) identified it, was that these militants were 'skilled at seeking remote, inhospitable terrain', places where the United States and its partners were unable to capture them (Brennan, 2012). In the eyes of the administration, Al Qaeda was not a conventional enemy. It did not have a command structure or recognizable uniforms, nor did members of the organization carry arms openly or signal when they are about to attack (Brennan 2011, 2013). In the eyes of decision makers, the collapse of the traditional civilian and combatant categories represented a difficult challenge, which could be solved by relying on good intelligence and kinetic action through drone strikes. Given the geographical circumstances and nature of the new type of terrorist threat, it was not reasonable to ask for other course of action other than the one offered by Predator drones.

The 'state of exception' was then complimented with the argument that protection of American lives always came first and it was government's paramount duty to protect its citizens at all cost. Safety of the American people was government's top priority and for that reason it relied on 'every available and appropriate tool' (Holder, 2012, Brennan, 2012). Moreover, officials advanced the claim that the end result of such lethal air missions clearly 'enhanced the security and the safety of the American people' (Brennan, 2011). They 'mitigated the threat, stopped plots, prevented future attacks and, most importantly, saved lives' (Brennan, 2012). As such, targeted killing was presented as an effective method that alleviated significant security threat. In this specific context, lethal action against Al Qaeda and its associate forces was considered a 'fair game'.

Another type of discourse was connected to high risk probably of future attacks. This was a recurring theme in administration's public justification efforts. Officials in their pronouncements repeatedly warned that extremist elements were continuously seeking ways to attack the United States (Koh, 2010, Brennan, 2011, Obama, 2013). While Bin Laden's death in 2011 represented a symbolic milestone in effort to eradicate Al Qaeda, even that did not mark the end of the terrorist

organization itself, John Brennan argued (2011). Even severely crippled, Al Qaeda still retained the 'intent and capability to attack the United States' (Brennan, 2011). 'If given the chance', Brennan pointed out in another speech, 'they will gladly strike again and kill more of our citizens' (Brennan, 2012).

Similarly, Attorney General Eric Holder, while acknowledging some success against the organization, stressed that there still are individuals who are still occupied with 'plotting to murder Americans' (Holder, 2012). While taking into account that it is less likely terrorists would be able to carry out large scale attacks like on 9/11, president Obama highlighted that they still had the capacity to go after US embassies and businesses all over the world and that it was their explicit agenda to kill 'American civilians and children' (White House, 2013a, Remnick, 2014). The message that government officials tried to convey was that the threat was not a speculative one, but quite real and that the only way how to prevent it from materializing was to attack fist using unmanned aerial vehicles. The claim of ever-present and highly unpredictable threat was entrenched in all major drone related speech acts.

Another type of discourse legitimizing targeted killings was built upon the idea of unmanned aerial vehicle technology being exceptionally precise. According to Harold Koh (2010), drones allowed to 'narrow the focus when force is employed and to avoid broader harm to civilians and civilian objects' (Koh, 2010). Selective destruction via Predator drones was presented as more humane type of war. 'By targeting an individual terrorist or a small number of terrorists with ordnance that can be adapted to avoid harming others in the immediate vicinity, it is hard to imagine a tool that can better minimize the risk to civilians than remotely piloted aircraft', John Brennan vigorously defended the programme in a key counterterrorism speech (Brennan, 2012). He took the argument even further by declaring that the American people actually expected the government to use advanced technologies to prevent future attacks on US homeland (Brennan, 2012). The same point was reiterated by President Obama in his major national security speech: 'Conventional airpower or missiles are far less precise than drones, and are likely to cause more civilian casualties and more local outrage' (Obama, 2013). Emphasizing precision, the Obama administration framed the technology as an effective national security weapon, equally suggesting

that it saved lives and minimized civilian casualties (ABC News, 2012, Obama 2013, White House, 2016).

An independent body of evidence, generated by investigative journalists and various human rights organizations, however, have seriously challenged the narrative advanced by the US government portraying these strikes as 'clean' and 'precise'. One such report, undertaken by the human rights group Reprieve, suggests that targeted killings eliminate far more people than their intended targets. In a sample study it found that 'attempts to kill 41 men resulted in the deaths of an estimated 1,147 people' (Reprieve, 2014). UK's Bureau of Investigative Journalism has also systematically rebuked US government's claims about only small percentage of non-combatants being killed. One confidentially obtained document by the bureau - Pakistan government's internal assessment, indicates that out of 746 people killed, at least 147 clearly were civilians (Woods, 2013). When John Brennan, one of Obama's most trusted advisors in 2011 claimed that there 'hasn't been a single collateral death because of the 'exceptional proficiency and precision of drones', the bureau had detailed at least 45 innocent deaths, among which 6 were children (Brennan, 2011, Woods, 2011). Perhaps the most credible and striking evidence revealing a major gap between what government officials claim and what actually happens on the ground has been presented by an investigative news agency, the Intercept. Official documents leaked by a whistle-blower reveal that out of 200 people the US targeted in one particular period of time, only 35 were the intended targets (Scahill, 2015). Another study, which drew upon extensive research, concluded that drone strikes in non-battlefield settings 'result in 35 times more civilian fatalities than airstrikes by manned weapons systems in conventional battlefields, such as Iraq, Syria, and Afghanistan' (Zenko and Wolf, 2016).

Estimates offered by sources inside the Obama administration have been significantly lower than figures presented by nongovernmental analysts. In 2009, one official claimed that the civilian casualty number was approximately 20 civilian deaths (Shane, 2009). In 2010, another US counterterrorism official anonymously claimed that 'the number of non-combatant casualties was under 30' (Rodriguez and Zucchino, 2010). In another instance, pushing back against Bureau of Investigative Journalism report, one senior official put the total civilian casualty's number at 50 (ABC News, 2011). That same year, John Brennan went on the record by saying there has not

been a single collateral death (Brennan, 2012). Overall, when officials have talked about drone strikes, they have rarely mentioned civilian deaths. On those rare occasions when they have engaged with this particular dimension, their statements have been highly inconsistent.

One possible reason for the discrepancy between administration's figures and data put forward by non-governmental organizations could be the different ways in which civilians are being defined and counted. One of the leaked government documents explains that even if the person killed was not the intended target, it still counts as 'enemy killed in action' (Scahill, 2015). As such, unless evidence 'posthumously emerged to prove the males killed were not terrorists', it was counted as objective achieved (Scahill, 2015). This highly questionable method for counting civilians deaths has also been reported by the New York Times. Officials close to the administration unanimously explained that 'all military-age males in a strike zone' actually counted as combatants, which can then explain diametrically different figures (Becker and Shane, 2012). Overall, the precision of drone strikes and estimates for civilian's deaths is highly a contentious debate. Caution must be exercised regarding all claims, both governmental and non-governmental. It appears that at best the Obama administration has been inconsistent with its own claims about civilian casualties, and chosen to count them in a controversial way. At worst, as suggested by some human rights reports, officials have purposefully misled the public by putting forward incredibly low collateral damage estimates.

In order to draw some kind of legitimacy around the drone programme, officials, especially in the early phases, emphasized personal qualities of those involved in the decision making process. Traditional democratic accountability where outsiders can learn about details regarding the use of force was often substituted with personal assurances For example, in 2010 interview to the Washington Post, Leon Panetta, while refusing to directly acknowledge CIA's role in covert strikes, stated: 'Any time you make decisions on life and death, I don't take that lightly, that is a serious decision' (Finn and Warrick, 2010). Similarly, president Obama, while being reluctant to share details regarding CIA as an instrument of covert war, repeatedly stressed that whenever the issue of targeting was debated inside the administration, it was done in a very serious manner (CNN, 2012). 'We listen to departments and agencies across our national security team. We don't just hear out differing views, we ask for them and encourage them. We discuss. We debate. We

disagree', Brennan stated in a major policy speech (Brennan, 2012). While shielding basic details regarding the process by which people can be put on a kill-list, officials constantly emphasized that internally there was a great care taken when planning lethal operations (Koh, 2010, CNN, 2012, BBC, 2013, White House, 2014).

Instead of putting information out in the public, the administration frequently appealed to some kind of internal legitimacy which was built upon individual professionalism. John Brennan, for example, was convinced that the 'American people would be quite pleased to know that we have been very disciplined and very judicious, and we only use these authorities and these capabilities as a last resort' (Brennan, 2013). In another interview, he proclaimed that critics outside the government walls did not understand the 'agony that so many people go through in the counterterrorism community to make sure they don't make a mistake' when ordering targeted strikes (Cherlin, 2013). For critics, the problem here was that no one could externally verify the truthfulness of any of such claims regarding well established internal procedures. Instead, the administration built its case on assurances that those making decisions regarding targeted strikes had the right integrity and character, and that the process internally was constrained tightly in order to prevent possible mistakes. After leaving the post of Director of the Central Intelligence Agency in 2012, Michael Hayden, who had been intimately involved with the Predator programme, pointed out that the program for a long time had been built on the 'personal legitimacy of the president' (Becker and Shane, 2012).

Another type of moral legitimization discourse was built upon the argument that US government's preference was always to capture terrorism suspects rather than neutralizing them via drone strikes. 'Some have suggested that we do not have a detention policy; that we prefer to kill suspected terrorists, rather than capture them. This is absurd', John Brennan pushed against the critics in his Harvard University speech in 2011 (Brennan, 2011). Despite surging drone strike numbers, Brennan insisted that the White House was unequivocally committed to 'everything possible short of killing terrorists, bringing them to justice, and getting intelligence from them' (Brennan, 2013). Same premise was repeated by other high level officials who denied that it had become more politically convenient to use lethal force than to somehow try to detain alleged

terrorists. 'The desire to capture is something that we take seriously because we gain intelligence', in an interview explained Attorney General Eric Holder (ABC7, 2013).

Capture, according to President Obama, was a clear preference, and lethal operations were carried out only as a last resort, because many of the militants resided in 'some of the most distant and unforgiving places on Earth' where preventive arrest was simply not possible (Obama, 2013). Capture is 'always my preference, but if we can't [do that], I cannot stand by and do nothing', the president explained his reasoning (Remnick, 2014). The White House released fact sheet concerning counterterrorism operations outside of areas of active hostilities clearly read: 'The policy of the United States is not to use lethal force when it is feasible to capture a terrorist suspect, because capturing a terrorist offers the best opportunity to gather meaningful intelligence and to mitigate and disrupt terrorist plots' (White House, 2013).

Many however have questioned administration's commitment to bringing alleged terrorists to justice through preventive arrests. Michael Hayden, who led the CIA from 2006 to 2009, believes that with time national security bureaucracy started to function in a way that gave a clear preference to kill operations over possible capture of terrorists. 'I know the current Obama administration would disagree, but I would simply say - show me the examples [of capture]', Hayden said in an interview (Hayden, 2016). John Rizzo, former top intelligence lawyer, have pointed out that the administration obviously 'never came out and said they would start killing people because they couldn't interrogate them, but the implication was unmistakable' (Mazzetti, 2013: 281). In addition to former CIA officials, some representatives of Congress and former military officials have similarly challenged administration's assertions. According to retired Lt. Gen. Mike Flynn, the drone program became a 'convenient way to circumvent holding people' (CNN, 2014, Kane, 2016).

Obama administration stated preference for capture over lethal drone strikes does not match the actual numbers. As Micah Zenko observes, from 2013 – 2015 it is estimated that the United States carried out 215 drone strikes, killing around 1217 individuals. While it is difficult to establish the exact numbers for capture operations that have been approved and carried out during the same time frame, Zenko believes that the figure is around 12, with the reported operations taking place

in Libya, Somalia and the Philippines (Zenko, 2015). As a historical comparison, according to US Department of State 2002 report, Pakistan's government in 2002 'arrested and transferred to US custody nearly 500 suspected al-Qaida and Taliban terrorists' (US Department of State 2002: 35). The same year, Al Qaeda linked militants were arrested in more than 70 countries (CNN, 2002). Statistics here clearly indicate that over the years there was a considerable shift from attempts to arrest terrorists to kill operations via drones.

When directly challenged by a reporter in 2015, if the US was still committed to capturing terrorists, CIA Director Brennan responded that this task is 'critically important' (Brennan, 2015). Yet at the same time Brennan avoided giving an estimate regarding arrest operations abroad and instead emphasized that 'a lot of times they [terrorists] are captured here or arrested here in the United States' (Brennan, 2015). Some independent reporting has furthered countered administrations narrative about its willingness to arrest suspected terrorists. On 23 January 2013, US Predator drone struck a car in a tribal area in Yemen's capital of Sana'a, killing alleged members of al-Qaida in the Arabian Peninsula, Rabei Laheeb and Naji Sa'd, together with two civilians who were simply giving them a ride (Hauslohner, 2014). Extensive investigative report from Open Society Justice Initiative (2015) found that strike had occurred when the car was 'about 500 meters away from a military checkpoint, raising the question of why the passengers in the car could not have been arrested instead of being killed' (Open Society Justice Initiative, 2015: 80). Similar case studies have further questioned why in instances, which clearly allowed arrest to take place, the administration instead decided to use lethal force (Open Society Justice Initiative, 2015). By and large, there is substantial body of evidence, which visibly contradicts the Obama administration assertions regarding capture as the first and preferable course of action.

Lastly, on one occasion, when Predator drone inadvertently killed two innocent hostages – American and Italian aid workers, the White House publicly took responsibility for the act and offered 'deepest apologies' to the families of those killed (White House, 2015, White House, 2015a). The public admission was highly unusual step on part of the administration, which had for years avoided taking direct responsibility. Moreover, it offered detailed analysis of why the operation had gone wrong -another uncommon move by the administration (White House, 2015). While apologizing for the act, the White House did however praise itself for being transparent.

Addressing journalists from the press room, president Obama stated: 'As soon as we determined the cause of their deaths, I directed that the existence of this operation be declassified and disclosed publicly [...] even as certain aspects of our national security efforts have to remain secret in order to succeed, the United States is a democracy committed to openness in good times and in bad' (White House, 2015a). 'One of the things that set America apart from many other nations', Obama continued, 'one of the things that make us exceptional is our willingness to confront squarely our imperfections and to learn from our mistakes' (White House, 2015a). The statement stands in sharp contrast to what the administration had previously practiced for years. After hundreds of clandestine lethal strikes, this was the first time ever decision makers assumed full responsibility for action that had killed innocents. In other instances, when drone strikes did not go as planned, officials were reluctant to share any information with the public.

In sum, the Obama administration's moral legitimization efforts rested on various discursive types. Considerable emphasis was put on the unusual nature of the threat posed by Al Qaeda and its continuous threat, which justified pre-emptive lethal strikes against individual members of this organization. Furthermore, policy makers highlighted the precision of drone technology which according to them made such operations more humane and cost effective when compared to other possible alternatives. As such, the drone campaign was framed as morally fair and just. 'This is a just war, a war waged proportionally, in last resort, and in self-defense', president Obama stated in his national security speech (Obama, 2013). Substantial evidence generated by independent sources however have revealed serious flaws in the arguments put forward by the administration concerning drone strike precision and preference to capture rather than kill terrorism suspects.

6.9. Legal legitimization efforts

When the Obama administration openly engaged the public about drone strikes, it repeatedly assured that such operations were carried out in full accordance with both domestic and international law. Even covert missions, according to John Brennan, adhered to the rule of law (Brennan, 2011). The overarching legal narrative advanced by the US government has been one of targeted killings as self-defensive acts, employed only against imminent threats. Domestically,

the Authorization for Use of Military Force (AUMF) has served as the key legal block upon which policy makers have built their case for systematic drone operations. In the context of this authorization, officials have contended that the United States is engaged in an armed conflict with 'Al Qaeda, the Taliban, and their associated forces', and given their continuous plotting against the US, lethal targeting served as a lawful response (Obama, 2013).

Throughout the Obama administration officials explicitly rejected allegations that the use of force via drone strikes constituted 'assassination'. Assassination, officials argued, was 'repugnant' and 'unlawful', and something that the US government clearly was not practicing or supporting (Holder, 2012, Johnson, 2012). 'The use of that loaded term [assassination] is misplaced', stressed Attorney General Eric Holder (Holder, 2012). Drone strikes, officials specified, represented a totally different legal category. Because these missions were carried out only as acts of self-defence against high level terrorist leaders who presented an imminent threat of violent attack, the Executive Order banning assassination was not being violated (Koh, 2010, Holder, 2012, Department of Justice, 2013). Jeh Johnson (2012) in his speech drew upon historical context, contending that there was a substantial difference between the US government assassination plots of the 1970s and attempts to eliminate terrorist leaders by firing at them Predator missiles. 'Lethal force against a valid military objective, in an armed conflict is consistent with the law of war', Johnson noted, and therefore by definition does not constitute an 'assassination' (Johnson, 2012). In this case, while the actor – the Obama administration, fully accepted the responsibility for the act, it equally denied the negative quality attached to it. The US government did not contest the validity of the domestic assassination ban as such; it simply argued that what it was doing in non-battlefield settings did not amount to assassination.

Similarly as the previous administration, Obama-led White House leaned against the same legal architecture (AUMF), which had come into force in the immediate days after 9/11. The AUMF's central premise that force can be applied outside traditionally recognized zones of conflict, remained attractive to decision makers even 15 years after 9/11 terrorist attacks. While nothing in the authorization directly nullified the assassination ban, the elastic open-ended language in which it had been framed, essentially gave the green light for government-led targeted killings. Work by French and Bradshaw (2014) puts this authorization in a useful historical light.

According to them, of the 35 instances that Congress has historically authorized the use of military force, '60 percent contained geographic limitations, 43 percent precisely named the enemy, 37 percent limited the kinds of military operations or forces authorized to be employed, and 23 percent contained an expiration date' (French and Bradshaw, 2014:4). In comparison, the AUMF included none of the above mentioned restrictions. While originally it had clearly been crafted having in mind Al Qaeda and the Taliban, with time it was used to cover a wide spectrum of militants across various countries.

Both as a candidate and later a President, Barack Obama from time to time expressed his concerns regarding the broad language in which the authorization had been framed. On a campaign trail in 2007, he clearly recorded his opposition to the 'majority of a Congress' that had voted to pass the thinly worded authorization (Obama, 2007a, Obama, 2007b). Years later, in a major foreign policy speech he promised to 'engage Congress and the American people in efforts to refine and ultimately repeal' authorizations mandate (Obama, 2013). While the president may have been committed to this objective in principle, realistically he came to rely on the authorization's mandate in many instances. Already in 2013, citing ongoing threats of terrorism, he signed-off an order for keeping the authorization in its place (White House, 2013a). According to Republican Senator Bob Corker, since Obama's ambitious speech regarding the AUMF, the president had been 'silent and done nothing' (United States Senate, 2014). Although the White House constantly insisted that it does in fact feel strongly about the need for tailoring and ultimately repealing the loosely defined authorization, it equally drew upon it its broad authority to carry out hundreds of covert drone strikes away from the so-called 'hot battlefields' (White House, 2015b, 2016a; 2016b). Even after the core of Al Qaeda had been visibly weakened, the authorization still formed the legal backbone for targeted operations that had nothing to do with the 9/11 terrorist attacks, empowering the president to go after terrorists with little restrictions.

Another legal innovation effort concerned the place of such strikes. The United States government legal stance throughout the years was that authority to use force against Al Qaeda and its associate forces was not restricted to 'hot' battlefields like Afghanistan, where the US legally had been at war. According to Brennan (2011), the US had reserved the right, through the AUMF, to take action, including lethal strikes against singled-out militants, beyond active zones of conflict. Or

as Jeh Johnson (2012) pointed out, there was nothing in the wording of the 2001 AUMF or its legislative history that restricted the statutory authority to the hot battlefields of Afghanistan. In this case however, Brennan (2011) did admit that 'others in the international community - including some of our closest allies and partners - take a different view of the geographic scope of the conflict, limiting it only to the hot battlefields' (Brennan, 2011).

Above all, targeted killing in the context of international law must stand the test of imminence. Generally speaking, such action is only permissible when applied as a last resort measure to prevent an 'immediate and grave threat to human life' (Gross, 2010: 103). This tactic cannot be utilized for 'distant, unviable, or merely foreseeable threats' (Guiora, 2012: 256). Justifying targeted killings, the Obama administration always argued that those targeted via drone strikes represented imminent threats to the US homeland. According to key officials, only high-level operational terrorist leaders and those that posed immediate threat were being targeted (Brennan, 2012, Obama, 2013). Fact sheet released by White House in 2012 noted that if a terrorist did not pose such a threat, 'the United States will not use lethal force' (White House, 2012a).

While officials in their pronouncements did not act as norm revisionists, suggesting complete redefinition of terms, in some instances they actually did openly advocated some legal innovation regarding the parameters of what constitutes lawful targeted killing. The clearest attempt of this can be found in the Department of Justice (2013) memo, which challenges the commonly understood interpretation of 'imminence'. The memo states that:

> 'The condition that an operational leader present an 'imminent' threat of violent attack against the United States does not require the United States to have clear evidence that a specific attack on U.S. persons and interests will take place in the immediate future [...] By its nature, therefore, the threat posed by Al Qaeda and its associated forces demands a broader concept of imminence in judging when a person continually planning terror attacks presents an imminent threat, making the use of force appropriate' (Department of Justice, 2013).

The legal reasoning of 'imminence' in this document represents a significant turn in the application of the term. By explicitly stating that in order to carry our targeted strikes the United States does not need to have clear evidence that a specific attack on individuals will take place in the immediate future, the concept is being stretched beyond its traditional understanding. Based on the outlined reasoning, even threats that are distant could become legal targets.

Similarly in his speech, John Brennan touched upon the application of the concept of imminence by stating that:

> 'We are finding increasing recognition in the international community that a more flexible understanding of 'imminence' may be appropriate when dealing with terrorist groups, in part because threats posed by non-state actors do not present themselves in the ways that evidenced imminence in more traditional conflicts'[...] Over time, an increasing number of our international counterterrorism partners have begun to recognize that the traditional conception of what constitutes an 'imminent' attack should be broadened in light of the modern-day capabilities, techniques, and technological innovations of terrorist organizations' (Brennan, 2011).

Clearly, Brennan here is openly engaged in advocating widening of the interpretation of what constitutes an imminent threat. He further argues that such legal innovation is encouraged and supported by others in the international community. There is, however, very little evidence for this claim. In fact, many countries and major international organizations have condemned such legal interpretation of imminence. In 2014, for example, European Parliament in an official resolution overwhelmingly denounced US legal reasoning, labelling drone strikes 'extrajudicial executions' (European Parliament, 2014). Former CIA General Michael Hayden, who had been closely involved with the drone programme, admitted that 'there isn't a government on the planet that agrees with our legal rationale for these operations, except for Afghanistan and maybe Israel' (McManus, 2012). Other nations have interpreted the key term of imminence in much narrower sense than the US.

Furthermore, various independent investigations and leaks suggest that in practice there was even more considerable drop in criteria regarding who is considered a legitimate target. While the administration continually stressed that it only targets Al-Qaeda leaders that pose significant and imminent danger to the US homeland, the significant body of evidence does not support this claim. Katherine Tiedemann and Peter Bergen (2011), acknowledged terrorism experts, point out that majority of those killed in drone strikes have not been important insurgent commanders but rather 'low-level fighters' that can hardly pose a real danger to the US. Similar conclusions have been reached by others. Copies of the top-secret US intelligence reports reviewed by Washington based company McClatchy show that the United States has been engaged in drone warfare against targets that had little interest or capability of striking the US homeland. Out of 95 drone strikes that the company reviewed, 43 'hit groups other than al Qaida, including the Haqqani network, several Pakistani Taliban factions and the unidentified individuals described only as 'foreign fighters' and 'other militants' (Landay, 2013).

While during the Bush administration there was a focus on Al- Qaeda, with time the scope of targeted individuals was broadened, including members of the Tehrik-e-Taliban, Haqqani network and other local groups (Plaw and Fricker, 2012, Klaidman, 2012). Furthermore, internal documents obtained by investigative news agency the Intercept suggests that when ordering a strike the president gives '60-day window to hunt down and kill these individuals' and that on average it took 58 days for the president to sign off on a target (Scahill, 2015, Democracy Now, 2016). In this case then, it is hard to reconcile this fact with official statement regarding imminence. The target is still seen as legitimate even if it is not about to carry out an attack right away, which clearly does not resemble commonly accepted notions of what imminence is.

In sum, legal arguments put forward by the Obama administration suggest that there has been a significant reinterpretation of what constitutes a legitimate target. In many instances the administration stretched legal rules beyond how they have been traditionally interpreted. First, decision makers openly asserted that the US can legally go after individuals far away from any battlefields, even if these individuals were not part of Al Qaeda, and even if they did not pose an immediate threat to the homeland. Without clearly defined concepts, such as, 'battlefield' or 'associate force', the Obama administration essentially asserted the right to conduct lethal

targeting anywhere in the world. In historical light, the standards put forward by officials regarding who and where can be killed have significantly moved.

The original meaning of 'imminence' bears almost no resemblance to how it was understood before. As a result, individuals that would clearly be protected by the assassination ban in the pre-9/11 era, now, after a major legal reinterpretation, were deemed legally targetable. As pointed out by Guiora, who for years served as a legal advisor to the state of Israel, the state needs a clear method and a process for 'figuring out who poses a threat, why they pose a threat, and how that threat can be deterred or eliminated'(Guiora, 2012). 'In the high-stakes world of operational counterterrorism', he continues, 'there is no room for imprecision and casual definitions' (Guiora, 2012). The high degree of flexibility with which the Obama administration crafted its legal rationale, essentially allowed the US to conduct operations that were outlawed before. As senior UN official Christof Heyns put it: 'The spectre that haunts this sort of situation is one of a global war, of a war of all against all and that there are no boundaries to where these conflicts can actually be taken and where a specific people can be targeted' (Corera, 2012).

On separate occasions, officials did in fact admit that the application of the law had been a demanding task when it came to targeted killings (Koh, 2010). During a first term interview, Obama acknowledged that the legal governance of drone strikes was still a work in progress. 'One of the things we've got to do is put a legal architecture in place, and we need Congressional help in order to do that' (Shane, 2012). In another interview, he pointed out that 'creating a legal structure, processes, with oversight checks on how we use unmanned weapons, is going to be a challenge for me and my successors for some time to come' (Bowden, 2012). This shows that the administration was in fact cognizant of the controversial nature of the practice itself and how it fit with both the domestic and international law.

In the end however, many of the legal and moral discourses applied by the Obama administration come back to the debate regarding official secrecy. Whatever arguments officials advanced, the principal roadblock here was that it was impossible to independently verify any of these claims. As noted by United Nations special rapporteur Philip Alston, 'rules require, not surprisingly when it's a matter of being able to kill someone in a foreign country, that all such killings be legally

justified, that we know the justification, and that there are effective mechanisms for investigation, prosecution, and punishment if laws are violated' (Bowden, 2013). The fact that the US government was unwilling to share data and was not willing to open itself to independent investigation into its use of drone strikes, meant that no one outside the administration walls could reasonably arrive to an informed decision regarding the legality of such actions.

In public speeches top administration officials tried to assure that more transparency and accountability will soon follow. In his 2012 State of the Union speech Obama stated: 'In the months ahead, I will continue to engage with Congress to ensure not only that our targeting, detention, and prosecution of terrorists remains consistent with our laws and system of checks and balances, but that our efforts are even more transparent to the American people and to the world' (White House, 2012). Few months later, during his Harvard Law School speech, John Brennan suggested that openness was an important step in establishing the credibility for counterterrorism efforts and that the administration was committed to providing as much information as possible (Brennan, 2013). Despite such assurances, there was no real follow up. In fact, just few months after Brenan's guarantees, the administration failed to participate in the Senate's first ever hearing on drone strikes. Opening the session, Chairman of the subcommittee, Senator Richard J. Durbin stated: 'I do want to note for the record that I am disappointed that the administration declined to provide witnesses to testify at today's hearing' (US Senate Judiciary Committee, 2013).

Even following Barack Obama's major counterterrorism speech at the National Defense University in 2013, which by many was considered a momentous turning point for finally bringing the issue out of the shadows, promises for increased transparency and accountability never fully materialized. During his speech, President Obama had promised that the administration will engage the public in meaningful way and disclose the full legal basis for such operations, allowing people at home and abroad to understand under what circumstances the US engages in lethal operations (Obama, 2013). While there was a certain shift in tone and rhetorical practice – policy makers became more direct in their statements, many basic details remained shrouded in secrecy. With time, the rules of engagement may have been strengthened internally,

but apart from a level of high generality, the administration failed to communicate full details concerning targeted drone strikes.

Promises to step up oversight also fell short. In November 2013, the Senate Intelligence Committee voted to increase oversight of armed Predator drones, which would have required the CIA to come clean with the public about how many individuals have been killed or injured in such strikes. The Committee approved the bill by a vote of 13-2 (Hosenball, 2013). By April 2014, however, the bill run into a roadblock when the Senate as a whole removed this specific provision which would have demanded an official public declaration on the part of the president. Leading the opposition was Director of National Intelligence James Clapper who had suggested that this would harm national security by revealing intelligence 'sources and methods' (Associated Press, 2014). 'To be meaningful to the public, any report including the information described above would require context and be drafted carefully so as to protect against the disclosure of intelligence sources and methods or other classified information', Clapper explained his opposition (Associated Press, 2014).

The only instances when the Obama administration seem to have been willing to share details, is when it was trapped into a corner by a court or Congress. In 2014, David Jeremiah Barron was nominated for the 1st US Circuit Court of Appeals. Barron was closely involved in co-authoring memo that outlined the legal rationale for using military force to kill Americans abroad who are away from the so-called 'hot battlefields', a memo that essentially opened the door to the lethal targeting of Anwar al-Alwaki (Savage, 2011). The Congress decided to hold up the nomination until it was allowed to see the memo. The Obama administration gave in and 'allowed lawmakers from a secure room in the Senate, to view copies of two memos written by Barron' (Khan, 2014). Barron was appointed to Circuit Court by 53-45 vote. This was not the first time when Congress used confirmation hearing in order to push information out of the Obama administration, showing that instead of public appeals this was the most effective way for dealing with it.

When journalists on another occasion inquired about a specific legal justification, White House spokesperson replied: 'Despite that [president Obama's] commitment to transparency, there are still some limits about what I can say from here' (White House, 2014). The administration, despite

countless promises, was still unwilling to voluntary share information. Overall, while striving for transparency in public speeches, the Obama administration failed to deliver on those promises in practice. While it did manage to demystify some dimensions of the program, it never offered full clarification of the rules by which it functioned when engaging into targeting practices. As 2016 Stimson Center report noted: 'The government continues to oppose releasing any public information on the US lethal drone program, obstructing efforts to develop greater oversight and accountability mechanisms and reinforcing the administration's culture of secrecy surrounding the use of armed drones' (Stimson Center, 2016: 16).

6.10. Generalized acceptance of targeted killings

The analysis demonstrates that over the course of two presidencies, of George Bush and Barack Obama, a substantial normative revision took place in the United States regarding the use and acceptability of government-led targeted killing outside of a warzone. While there have been some voices of opposition, overall official government message about the legitimacy of targeted killings has strongly resonated among political elites and the American people. Ultimately, when it comes to norms, it is the response of the audience that is the 'judge of the legitimacy of a rule or an actor' (Hurd, 2007: 197). Through systematic polling over the years, we know that the practice has been overwhelmingly validated by the public. In 2012, the Washington Post poll registered 83 % support for Obama's drone policies (Wilson, and Cohen, 2012). A year later, another measure taken by Gallup showed that almost two-thirds of Americans (65%) were comfortable with their government striking individual targets in Pakistan, Yemen and Somalia (Gallup, 2013). While over the years there have been some minor fluctuations in one direction or other, overall the public has systematically backed targeted killings via drones (Pew Researched Center, 2015).

A similar consensus regarding drone strikes can be observed at the political elite level. The only instance of serious political push back arose when it was revealed that the Obama administration had legally determined that it is able to kill an American citizen. That said, the nature of this debate was very narrowly framed, essentially focusing on whether the US government had the Constitutional right to single out and kill an American passport holder. The debate did not raise

more fundamental questions such as how many civilians have been killed or what are the exact rules guiding this process.

It is useful to note that not everyone inside the government has been pleased with the routine policy of targeted killing. In some parts of the national security bureaucracy, certain stigma towards the method still appears to have existed. Elliot Ackerman, a CIA officer during the Obama administration, notes that internal discomfort was always there, even when lawyers had carefully drawn distinction between 'targeted killing' and 'assassination', which was supposed to make the former legal (Ackerman, 2014). 'The discomfort of my colleagues, where it existed, didn't stem from the act itself [...] The discomfort existed because it felt like we were doing something, on a large scale, that we'd sworn not to. Most of us felt as though we were violating Executive Order 12333 [assassination ban]. Everybody knew what was happening - senior intelligence officials, general officers, the Administration, even the American people, who ostensibly would not tolerate assassinations carried out in their name', Ackerman revealed (Ackerman, 2014).

Similarly, Cameron Munter, Obama's ambassador to Pakistan, had resigned from his post, privately complaining that 'he didn't realise his main job was to kill people' (Smith, 2012). Some representatives of military-intelligence circles also questioned the wisdom of targeted killings. Stanley McChrystal, the former ISAF General, who for years held a ring-side seat to US counterterrorism planning, admitted that the perception about these missions as being an 'easy fix' was actually quite misleading (Foreign Affairs, 2013). 'Although to the United States, a drone strike seems to have very little risk and very little pain, at the receiving end, it feels like war', McChrystal said during an interview (Foreign Affairs, 2013). This speaks to the fact that targeted killing as a normative and legal matter did raise some profound questions in some corners of national security establishment. However, taken as a whole, those opposing drone strikes have been a clear minority, at no point seriously threatening the viability of the policy.

The normative shift also reflected in how the targeted killing programme had altered the CIA as an organization. Reliance on drone strikes during the Obama administration was so profound that it noticeably changed how the agency functioned. From an intelligence gathering organization,

it was transformed into an institution whose core mission centered upon running covert drone operations. Instead of traditional espionage, agencies workforce was primarily tasked to target Al Qaeda higher-ups on a worldwide basis (Cogan, 2014: 316). 'We went from a purely espionage organization to more of an offensive weapon, a paramilitary organization where classic spying was less important', a senior officer explained (Miller, 2013). From having 300 employees before 9/11, CIA's Counterterrorism Center had grown to 2,000 people on its staff (Miller and Tate, 2011). Mazzetti (2013b) estimates that more than half of those that joined the agency in post-9/11 era, focused exclusively on man-hunt and kill operations.

While Barack Obama did not initiate this institutional shift, he clearly did not oppose it. Under his authority, the CIA modernized Bush-era kill list, turning it into a more sophisticated open ended data base in which 'biographies, locations, known associates and affiliated organizations' were meticulously catalogued (Miller, 2012, Cobain, 2013). Bruce Riedel, former Obama counterterrorism adviser, after leaving his post admitted that the administration spent much time 'codifying and streamlining the processes' of targeted killing (Miller, 2012). Going over suspected terrorist profiles and adding their names to the kill-list was turned into a bureaucratic ritual, with more than 100 members of the national security apparatus vetting who and where would be targeted (Becker and Shane, 2012). The bureaucracy was methodically organized in order to sustain targeted killings over a long period of time. It was a deliberate attempt to permanently integrate lethal force into the US security apparatus. As Adams and Barrie (2013: 246) point out, 'the idea of a program is significant, since it references a schedule, a pattern of killing reduced by the system'. Operations of targeted killings were no longer occasional. On the contrary, they were purposeful, highly organized, and with time became a habit (Adams and Barrie, 2013: 248).

Internationally, the majority of countries have opposed US targeted drone strikes on strategic or legal grounds. While international objections did not translate into slowing or stopping regular US strikes, they did however visibly contribute to pressuring the White House to explain and clarify the rules surrounding such killings. Over the years, protests have taken place in different parts of the world in different forms, from massive anti-drone campaigns in Pakistan (Masood, 2012), street art graffiti in Yemen (Root, 2013) to several thousand protesters at the US military

base in Germany (Reuters, 2016) and student demonstrations in South Africa (Mason and Felsenthal, 2013).

Pew Research has systematically registered severely negative attitudes towards drone strikes across the globe. 2012 Pew poll showed a widespread opposition outside the US, with 17 of 20 countries, more than half disapproving of US government's targeting of suspected terrorists (Pew Research, 2012). A similar Pew Global Attitudes Project a year later recorded that 'in 31 of 39 nations, at least half disapprove' of US drone strike policies (Pew Research, 2013). Out of 44 countries surveyed in 2014, only in Israel and Kenya at least half of the society supported drone strikes (Pew Research, 2014). Even among close US allies there has been an overwhelming opposition: Greece 89%, Brazil 87%, Spain 86%, Turkey 83%, Japan 82% (Pew Research, 2014). Despite the fact that for most of his presidency Barack Obama enjoyed relatively broad degree of international support, drone strikes have been the one policy area where global opposition remained fixed for years (Pew Research, 2016).

While the European Union countries, with the exception of UK, have been firmly opposed to the US legal rationale for such operations, overall EU response in relation to targeted killings can be described as passive and disengaged. It took more than a decade since the first 'out of area' US operation in Yemen in 2002 that the European Parliament hosted a briefing on this particular topic (Yachot, 2013). Following the session, a number of MEP's - Ana Gomes (S&D–Portugal), Sarah Ludford (ALDE–UK) and Rui Tavares (GREENS–Portugal), put forward the following statement: 'We are deeply concerned about the legal basis, as well as the moral, ethical and human rights implications of the United States' targeted killing programme that authorises the CIA and the military to hunt and kill individuals who have suspected links to terrorism anywhere in the world' (Yachot, 2013). The MEP's were also keen to emphasize that 'up to this day, no EU Member State has supported the US legal analysis and justification for use of armed drones in targeted killings' (Yachot, 2013). In 2014, the European Parliament, by a landslide vote of 534 to 49, issued a resolution that expressed 'a grave concern over the use of armed drones outside the international legal framework' (European Parliament, 2014).

Overall, European nations have rejected the US claims about lawfulness of targeted killing missions outside zones of conventional hostilities. According to Dworkin (2013: 7), Germany, Austria, and Scandinavian countries have been most critical of this counterterrorism method, while France and UK have had some 'greater sympathy with the US'. For the most part, given the US-EU strategic alliance, Europeans have not been willing to voice their concerns loudly and publically. Moreover, the EU has not visibly contributed in formulating a set of guidelines or regulatory framework regarding drone warfare. Despite European Parliament's call in 2014 to develop framework 'which upholds human rights and international humanitarian law' (European Parliament, 2014), the EU has generally remained on the sidelines.

On the international scene, the government of Pakistan has been the most outspoken and visible foreign critic of US drone program, with politicians in Islamabad framing such strikes as breaches of Pakistan's national sovereignty. That being said, one must additionally note that public outcry at times has been intended for domestic public consumption, while behind closed doors Pakistani intelligence services have worked hand in hand with the Americans. Since 2010, Pakistan's Ministry of Foreign Affairs has regularly forwarded 'Notes Verbales' to the US Embassy in Islamabad protesting the use of drones on the territory of Pakistan and emphasizing that Pakistan regards such strikes as a violation of its sovereignty and territorial integrity (United Nations, 2013). High ranking officials have often called out the US government to end drone strikes (Ali, 2013, Tarakzai, 2013). Among fiercest critics have been Pakistani politician Imran Khan, who has organized various 'marches' and protests, including a blockage of a vital NATO supply route in 2013 that runs from Afghanistan to India (BBC, 2012, Ali, 2013, Waraich, 2013).

Upon closer investigation however, it is also visible that Pakistan has often engaged in 'a double game' by protesting in public and approving drone strikes in private. In 2008, Wikileaks cable revealed that Pakistan's Prime Minister had told then the US ambassador to Pakistan, 'I don't care if they [the CIA] do it as long as they get the right people. We'll protest in the National Assembly and then ignore it' (The Telegraph, 2010). After years of denying collaboration with the CIA, Ex-Pakistani President Pervez Musharraf upon leaving office also acknowledged that his government had secretly authorized some of the US drone operations, but 'only on a few occasions, when a target was absolutely isolated and no chance of collateral damage' (Robertson

and Botelho, 2013). In another account, former Pakistani ambassador to Washington Husain Haqqani offered another side of Pakistani internal politics by pointing out that while the CIA and Inter-Services Intelligence (ISI) communicated regularly, the latter did not 'want Pakistani civilian officials finding out anything about their dealings with the United States about armed Predator drones (Haqqani, 2013: 677). Haqqani also acknowledged that while publically Pakistan protested against drones, privately there were ongoing negotiations with the CIA over who to target (Haqqani, 2013: 678).

Overall, there has been regular and visible international pressure regarding US drone strikes by various countries and non-governmental organizations. In addition to domestic opposition led by the ACLU, such international efforts clearly did contribute to pushing the Obama administration to be more forthcoming about the details of this controversial counterterrorism method. On the other hand, it is also obvious that outside pressure did not result in US government abandoning the practice. The fact that powerful countries can withstand international pressure is something that constructivist scholars have often talked about. As Foot and Walter (2011: 344) note, extraordinary power gives the US 'options unavailable to other states, such as bilateral pressure, exceptional influence in multilateral organizations, and the ability to convene new groupings for international or domestic political advantage'. When a superpower like the United States decides to defect from a specific norm, apart from public pressure and shaming, there are not that many tools left for others in order to effectively punish the defector. While international actors did add to the overall pressure on the Obama administration to come clean with the public, at no point did their opposition seriously endanger functioning of the program as such.

6.11. Norm change and quasi-secrecy: theoretical implications

When decision makers opt for the use of lethal force, they are clearly interested in shaping the narrative in such a way that it generates approval and legitimacy for their actions. For this reason, during the process of persuasion, some of the most gruesome details of conflict will likely be left out or sanitized by language. Governments do have various tools at their disposal to try to influence public perceptions. In 2003, for example, the United States purposefully embedded 700 journalists in Iraq in a manner that disproportionally accentuated the positive 'slices' of the

military campaign (BBC, 2003, CFR, 2003, Pew Research Center, 2003). The use of secrecy and some informational engineering in the realm of national security is by no means a new phenomenon, as politicians are placed in a favourable position regarding access to information.

What stands out in the presented case on drone strikes, however, is the systematic quality with which secrecy and later quasi-secrecy was applied by two different presidents, first George Bush and later Barack Obama, in order to build public support for what historically has been a highly controversial and stigmatized foreign policy method. For more than a decade, the White House managed to fight-off Congress and courts domestically, and push back against various human rights bodies in the international arena, while conducting hundreds of lethal strikes in the territories of sovereign nations. Even when blanket secrecy broke down under the weight of journalist reported facts, 'quasi-secrecy' still persisted, and played an important role in the process through which targeted killings were legitimized.

A principal assumption in the constructivist norm scholarship is that communication is at the heart of any norm change. Strategies, actors and environments may differ, but the key mechanism by which normative change occurs is persuasion through open debates (Finnemore and Sikkink, 1998; Reus-Smit, 2007, Cortel and Davis, Lantis, 2011, Wrage, 2011). Norms are formed, shaped and redefined through communicative action. The analyses of US drone campaign however suggest that there is an alternative path for norms to be changed. A path that circumvents public engagement for years, hides some of the more controversial aspects of the policy, and slowly builds support through self-serving leaks and vague assurances about personal integrity and qualities of lawmakers. After a decade of denial, during which the administration did not even acknowledge its role in targeted killings abroad, decision makers were gradually shamed into providing some moral and legal justification for their actions, proving the point that actors cannot completely escape the 'process of argument and persuasion' (Sandholtz, 2007: 868). But even when the Obama administration did engage the public, it simultaneously retained partial official secrecy sufficient enough to ignore or deny inconvenient aspects of targeted killings. The policy was still a quasi-secret as details for lethal killings were conveyed in limited and bureaucratic fashion, with selective secrecy on top of it.

A useful conceptualization of state secrets is provided by Pozen (2010), application of which can help to better understand the nature of secrecy during the Obama administration. Pozen divides secrets in two conceptual categories - 'deep' and 'shallow'. A deep secret is considered when the public is 'completely in the dark, never imagining the relevant information that it might had' (Pozen, 2010). Shallow secret, on the other hand, is when the public has at least some 'shadowy sense' that it is being denied relevant information. Using these two conceptual poles as a measure, one can conclude that from the very first drone strike in 2002 the United States has visibly moved away from 'deep secrecy' where the public knew almost nothing towards what Pozen calls are shallow secrets. While in incremental stages the public came to know more and more about what the US government was doing in places like Pakistan, Yemen and Somalia, overall the information still represents just a broad outline, or in Pozen's terms, a 'shadowy sense' of what it really is.

The presented analysis differs from those rare accounts that have touched upon secrecy in the context of norms. Writing on human rights norms, Risse et al. (1999) points out that the denial stage can actually 'last for quite a long time' which is something similarly observed here (Risse et al., 1999: 23). That said, the examples authors use are concerning authoritative and repressive governments that 'might kill off or buy off the domestic opposition' (Risse et al., 1999: 23). Clearly, the expectations regarding transparency and accountability are much higher when it comes to the United States. Yet, the evidence suggests that even a democracy like the US, which on the surface is very committed to open flow of information, can successfully keep policies in the shadows for years.

In another account, Ian Hurd (2007) contends that when it comes to legitimization of norms, secrecy can only be a 'temporary and unstable alternative' (Hurd, 2007: 210). Presented research suggests something entirely different. While complete denial was indeed only temporal, quasi-secrecy as such never disappeared. The Obama administration demonstrated that it is possible to win over the public by avoiding significant information disclosure. Legitimization can coexist with quasi-secrecy. Although the level of secrecy did change over the years, in some form it remained a constant variable throughout the Bush and Obama presidencies, and in the end turned out to be beneficial for the administration's side. Late in his presidency, Obama himself touched

upon this subject: 'What I do think is a legitimate concern is the transparency issue. The way this [drone programme] got built up through our intelligence agencies meant that it was not subject to the same amount of democratic debate' (White House, 2016). The statement shows that Obama himself is cognizant of the fact drone strikes policies were not properly weighed and discussed.

While suggesting that quasi-secrecy can go hand in hand with introduction of new norms, it is important to map out possible limitations which might affect the overall generalizability of this finding. Stephen Walt explains that although democracies in theory ought to be better at public policy by debating alternatives and weeding out bad policies through open debates, this is not always the case when it comes to foreign policy (Walt, 2014). He draws a distinction between domestic affairs where citizens can independently verify if and how specific policy is working and foreign policy where the public almost completely relies on what government officials are telling them (Walt, 2014). This aspect is more magnified in the case of drone strikes, which take place in hard to reach territories that are impossible to access by independent media. Given these conditions, the US government clearly was placed in a favourable position with regard to secrecy and information disclosure. If Predator drones were used domestically, government's ability to cover such strikes with the blanket of secrecy would be severely limited if not impossible. Geography helped the US government to maintain secrecy for longer period of time.

Furthermore, one should recognize that the US ability to push against information disclosure also has to do with its power position. Even when Washington was heavily criticized abroad, decision makers felt that they were in such a strong position that they could ignore repeated calls for transparency. It is hard to imagine any other country conducting routine operations away from recognized war zones for years without even publicly acknowledging it. Many constructivist scholars have noted that power is an important factor when it comes to norms (Abott, and Snidal, 1998. Clark, 2007). US power position surely has played a role, allowing the Obama administration to keep some of the information regarding drone strikes secret for a longer period of time.

6.12. Alternative explanations: why secrecy happened

A key take away from the analysis here is that deliberate official secrecy, and it later stages 'quasi-secrecy', was used as a tool by the US government to deliver legitimacy for once highly stigmatized method. But it can also be useful to consider competing explanatory avenues. A possible counterclaim can be made that secrecy was not applied as a conscious strategy on the part of the government by which to achieve normailisation of targeted killing, but instead it was implemented for legitimate reasons, namely protection of sensitive national security matters. Clearly, when it comes to the issues of national security, one cannot expect complete transparency. A government cannot risk revealing too much information to its enemies and intelligence agencies must seek ways to protect their sources (Gibbs, 1995: 214). Even in established democracies, information related to human sources and operational details can be legitimately withheld from the public. This was often the explanation offered by the Obama administration: officials could not go into particulars in order not to give away sensitive intelligence information that somehow would benefit the enemy.

Another alternative explanation can be can that the Obama administration was simply generally more secretive and that there was nothing special about government secrecy in relation to drone strikes. Associated Press study, for example, covering 99 different federal agencies over six years, had concluded that 'the Obama administration censored more documents and delayed or denied access to more government files than ever before', making it the 'most secretive presidency in American history' (Nicks, 2014). In its final year, the administration had spent 'a record $36.2 million on legal costs defending its refusal to turn over federal records under the Freedom of Information Act' (CBS New, 2016). David E. Sanger, veteran correspondent for The New York Times, complained that this was 'the most closed, control freak administration I've ever covered' (Committee to Protect Journalists, 2013). Taking this into account, one can advance an argument that targeted drone strike secrecy was simply part of a larger Obama administration approach on information sharing and disclosure. Both of the outlined arguments bear serious consideration.

While secrecy may have been legitimately applied in some instances, the overall effort does not appear as justifiable attempt on the part of the US government to conceal information in the name

of security. As Jameel Jaffer, deputy legal director at the ACLU explains, 'official secrecy infected every discussion of the program' (Jaffer, 2016: 46). Secrecy covered not only sensitive operational details, but also basic data regarding civilian casualties, standards and procedures by which individuals ended up on the kill-list. For most of the part, withheld was also 'the legal reasoning developed to undergird the program' (Jaffer, 2016: 46). What organizations like the ACLU were asking was not for every single memo ever produced containing the words 'drone' or 'targeted killing'. Instead, requests were made in relation to basic information, such as, what body of law governs strikes outside recognized framework of law, what were the limits of this lethal programme and who decided and regulated such operations. These aspects had nothing to do with legitimate concerns about protecting national security.

As the presented research has already outlined, while the US government systematically worked to keep targeted killing program classified, it also run a parallel effort where it leaked carefully selected information to the public in order to portray the programme in the most favourable possible light. ACLU's Jamel Jaffer, who spent years battling the Obama administration in the court, notes that 'the official secrecy surrounding the program was also, in significant part, a fiction' (Jaffer, 2016: 47). 'Senior government officials', Jaffer explains, 'filed declarations asserting that certain information about the drone program could not be disclosed without compromising national security, and then the very same information would be leaked to the media' by the same officials (Jaffer, 2016: 47). In 2012, ProPublica, a nonprofit journalism group, was able to identify more than two hundred instances in which government officials had anonymously provided more than 200 statements to journalists about the success of drone strikes and their precision, all while the program was officially still a secret (ProPublica, 2012). In the presented work, such approach was framed as 'quasi-secrecy' where structure of official secrecy was maintained in order to avoid discussions of some of the thornier sides of the programme while at the same time officials systematically leaked about more positive aspects. Furthermore, it is also obvious that secrecy in relation to drone strikes did not simply 'happen'. Even if the Obama administration was generally secretive and willing to censor information regarding various aspects of national security, it went to absurd levels when attempting to hide the drone programme. It was a coordinated effort among various state bureaucracies that lasted for years.

The argument here has been that government initiated 'quasi-secrecy' delivered legitimization for once highly controversial method. Equally though, it is important to note that we do not know what would be the actual support for targeted killings if from the very first strike in Yemen in 2002, the Bush administration would have opted for overt advocacy for normative innovation. Constructivist scholars have often emphasized that in the light of major unexpected events, and 9/11 clearly qualifies as one, there is a larger 'window of opportunity' to change existing rules and practices. One can only speculate regarding the possible reaction from the American public. What we do know however, is that at no point was the public offered full information in order to evaluate the drone campaign. As Jaffer notes, 'the American public supported the program, but their support, by and large, was not based on any intimate knowledge of the program's parameters and consequences. Americans did not - could not - know the program's full scope, or the legal basis for it, or its effectiveness at averting terrorist attacks, or the extent to which it had resulted in the deaths of innocents' (Jaffer, 2016: 52). Based on this, one can draw a connection between 'quasi-secrecy' and successful legitimization of once highly controversial method.

6.13. Conclusion

The Obama administration inherited the framework for drone strikes from the previous administration. Barack Obama expanded and visibly escalated drone strikes to previously unseen levels. Concerned with the outside response however, the White House was not willing to engage in open justification for targeted strikes. Especially at the outset, the administration retained its predecessor's desire to keep the program highly classified. Hiding behind official secrecy, the government attempted to engineer a positive narrative regarding drone strikes through leaks and indirect statements about effective fighting against Al Qaeda and its associate forces. As time passed however, the administration struggled to reconcile its desire to maintain blanket secrecy with waging an effective counterterrorism campaign via regular drone strikes. 'The effort and infrastructure of the drone campaign', explained New York Times journalist David Sanger, had 'become so sprawling that the official refusal to discuss the subject [had] become ludicrous' (Sanger, 2012: 249). As a result, the administration gradually loosened the level of secrecy governing the programme, allowing more facts to be delivered to the public. Simultaneously

however, it retained sufficiently restrictive official secrecy or quasi-secrecy in order to pick and choose which facts to debate.

As such, the norm against assassination was weakened by: 1) Greatly increasing the number of people who can be targeted; 2) Lowering the threshold of imminence; 3) Institutionalizing and expanding the practice of targeted killing. With time, as the program gradually expanded, it became increasingly hard to hide the more controversial details of it, which slowly gave way for open legitimization efforts on the part of the US government. Through various moral and legal discourses, officials tried to legitimize the once controversial practice. Evidence, in the form of political and societal approval, indicates that the Obama administration was successful in this attempt. With little resistance, the public has come to accept routine targeted killings.

While cyclical opposition to targeted killings has existed and at times managed to generate some momentum, overall it has never reached the level of seriousness needed to coerce top officials to end such practices. The only two instances when drone strikes became a serious matter of public debates was when CIA killed American passport-holder Anwar al-Awlaki in 2011 and by mistake two hostages, American contractor Warren Weinstein and Italian citizen Giovanni Lo Porto in 2015. These debates however have been quite narrow, focusing largely on the question if and when the US government can kill its own citizens, neglecting the fact that thousands of individuals of other nations have been killed as a result of drone warfare. Systematic polling over the course of many years within the US has shown wide support for drone strikes. A key finding of the presented analysis here is that quasi-secrecy can play a major role in legitimizing certain practices. During the Obama presidency, information about drone strikes were presented in tightly controlled manner, never reaching the level required for a democratic and open debate. By and large, the public never received a full and honest admission about the true scope and consequences of drone strike practices. In the long term, quasi-secrecy turned out to be more convenient and beneficial for the government than traditional open legitimization.

Chapter 7: Conclusion

The presented thesis set out two key tasks. First, by employing the norm cycles grounded in constructivist scholarship, it aimed at determining to what extent the original assassination norm, as first introduced by the Church Committee, had been eroded in the light of the 9/11 terrorist attacks and the advent of new technologies, namely Predator drones. To that end, using a broad range of historical sources, the research traced and evaluated normative assumptions about assassination and targeted killing as a tool of state policy from the 1970s to the end phases of Barack Obama's presidency. Secondly, the research also attempted to make a more theoretical contribution by observing and cataloguing mechanisms by which the normative change transpired, demonstrating that in the case of drone strikes, the US government had operated through an uncommon norm legitimization path. Instead of traditional legitimization, where new policies are being openly introduced and debated, officials took a different and 'darker' route through quasi-secrecy, with systematic attempts to control and limit information flow, thus avoiding discussions regarding less convenient sides of the programme. Equally though, when targeted drone strikes went as planned and neutralized high-level terrorist suspects, officials did not hesitate to put bits and pieces of such information into the public space through government authorized leaks and anonymous quotes. By making use of such a covert/overt approach, the United States government managed to simultaneously advance self-serving claims and avoid questions it did not want to address. In sum, the presented thesis has strived to contribute to, both empirical debates regarding the normative acceptability of targeting killings in the United States and a more theoretical sub-field of norm change.

7.1. Erosion of the norm against assassination

The empirical investigation began with the Church Committee and its revelations in the 1970s. A key takeaway from this chapter, which conceptually links to the norm life-cycle emergence stage, is that there was nothing inevitable about the domestic assassination ban. During this Congressional investigation, a long and fierce tug-of-war played out between those that believed it was not in the nation's best interest to bring out reputation damaging CIA's secrets and those who advocated full disclosure of facts, even at the expense of embarrassment and international

condemnation. In the end, it was the commitment and political skill of individual Church Committee members in combination with the powerful mandate granted to this investigative body that a highly sensitive report on the US government assassination plots was produced. As Finnemore and Sikkink (1998:896) note about initial life-cycle stage: 'Norms do not appear out of thin air; they are actively built by agents having strong notions about appropriate or desirable behavior'. By and large, it was because of convictions of individual members of the Committee - agents for change, that the government's darkest secrets and abuses were exposed. The final report, a substantial body of evidence, laid the necessary groundwork for a formal assassination ban. As Plaw (2008) observes, following the investigation, 'a strong consensus against assassination as an instrument of state policy emerged, both in the general public and the government' (Plaw, 2008: 105). To sum up the initial stage, the norm against assassination in the United States was born out of political scandals and shocking revelations, with individual norm carriers playing a major role in the introduction of this prohibition.

At the same time, it is worth noting that the ban contained a certain weakness – a lack of definitional clarity regarding the key term - 'assassination'. The Executive Order 11905 did not spell out conditions of application for particular situations, merely stating that 'no employee of the US Government shall engage in, or conspire to engage in political assassinations' (Executive Order 11905). This failure to specify the principal term would later lead to repeated discussions and disagreements regarding the exact scope of this prohibition, leaving wide room for varying interpretations. Whether or not this was done on purpose to grant the president flexibility of action in times of crises is debatable, but what is clear is that the absence of clear definition carried implications for a long period of time. Subsequent US presidents together with lawyers and advisors would end up revisiting the prohibition countless times, debating what is permissible and what constitutes violation of this order. As such, one can argue that some of today's confusion regarding targeted killings stem from the early days and the decision not to specify parameters of 'assassination'.

The next empirical section, focusing on the presidencies of Jimmy Carter, Ronald Reagan, George H. W. Bush and Bill Clinton, put the assassination norm to the test. With the rise of international terrorism emanating from the Middle East, US decision makers were slowly pulled back into

considering previously abandoned foreign policy methods. The historical context in which the assassination ban was introduced clearly outlawed assassinating foreign leaders in times of peace. At the same time, it was not self-evident to what extent this prohibition applied to terrorists that were poised to attack the United States and who did not abide by any laws or norms. Washington was not facing an army with clear uniforms that separated civilians and combatants, but rather elusive non-state entities. US presidents wrestled with the issue and exploiting the ambiguous terminology in which the ban was crafted, drew a legal distinction between heads of states and known militants, asserting that the use of force against the latter was 'fair game' and did not violate Gerald Ford's introduced assassination ban. From a legalistic point of view, this was the period during which concepts of pre-emption and self-defensive strikes were first developed with the underlying premise that terrorism should be addressed primarily through military means and less through law enforcement and policing. In theory, US presidents had already figured out a legal way to sidestep the assassination ban. For the most part however, such arguments stayed on paper and were not translated into direct action.

The study lends evidence that from 1975 to 2001 the United States, even with legal backing, was not willing to steer its foreign policy with the help of targeted killings. The normative assumptions held by key officials differed from legal interpretations. The CIA in particular felt disturbed by any proposals that resembled assassination plots and wanted to disassociate itself from such activities. Arguably in two instances – Ronald Reagan purposefully targeting Libya's Muammar Gaddafi and Bill Clinton launching cruises missiles directed at Osama Bin Laden, the US crossed the Rubicon and violated the assassination ban. As a whole however, given the pressures brought upon by numerous bloody terrorist attacks, lawmakers demonstrated restraint and patience, seriously factoring in normative constraints. Premeditated killing of foreign individuals in times of peace was not something that US officials felt comfortable with. Even if the case of terrorism suspects, there was a reluctance and serious doubts about resorting to targeted killings. Perhaps this stigma associated with targeting of singled-out individuals most visibly manifested in the harsh condemnation of Israeli targeted killings. Just two months before 9/11 attacks, Secretary of State Colin Powell stated that the United States is clearly on the record as being against such operations. It is also worth noting that high level US officials at the time openly referred

to Israeli counterterrorism actions as 'assassinations', which speaks to the fact that historically the norm was internalized in its broadest sense, covering both elected state leaders and terrorists.

Summarizing the post-Church Committee period, one of the leading analysts regarding targeted killings at the Council on Foreign Relations, Micah Zenko, argues that opposition to such operations was 'widely held and endured throughout the Ford, Carter, Reagan, Bush, and Clinton administrations' (Zenko, 2010). The presented work does not challenge this claim, in many ways confirming Zenko's statement. However, the analysis adds two important qualifications. First, in legal terms, evoking anticipatory self-defence, US officials had found a way around the ban. Secondly, even if the US presidents would have been more willing to engage in targeted killings, the CIA lacked the technological means to successfully carry out such missions. The evidence and analysis presented here indicates that the United States had serious practical difficulties achieving the objectives of targeted missions. As a result, the normative pushback was reinforced by a practical problem, the absence of reliable and effective tools, something that would change significantly after 9/11.

Terrorist attacks on 11 September 2001 turned out to be a 'critical juncture' after which many of the rules governing the use of force were altered in ways to effectively pursue Al Qaeda militants on a global scale. Conceptually, this chapter is linked to McKeown's (2009) 'norm death series', where once internalized norm starts to slide backwards. The first cracks in the assassination norm emerged just days after 9/11, when high ranking officials openly questioned the wisdom of having self-imposed constraints in the light of new realities. A number of lawmakers attempted to directly and unsuccessfully eliminate the ban by passing a bill in the House of Representatives. Although publically the norm had survived, and the Bush administration continued to pay lip service to it, behind closed doors officials had effectively eliminated the barrier in the form of the assassination ban. All of this was done in an atmosphere of secrecy. While the general shapes and shades of the CIA-led lethal program were visible early on, more controversial aspects were carefully shielded by the government. At the same time, when Predator drones managed to 'nail' some of the high level Al Qaeda militants, officials made sure that such favourably slanted information, through leaks and anonymous comments, reached the wider public. As such, the programme, quite

bizarrely, ended up being treated by the government neither as a complete secret nor something that could be openly debated.

It is worth noting that the normative collapse here was not absolute and immediate. The US government did not plot against elected leaders of other nations, as it had shamelessly done in the 1970s. One can argue that this particular slice of the norm, covering government officials, had even been strengthened over time. On the other hand, in the light of major national security crises, the Bush administration had carved out a particular group – loosely defined as Al Qaeda and its associate forces, and ruled that it was within the confines of the law to target and kill such individuals. First targeted strikes under President Bush were still largely aimed at operational leaders. Subsequently however, the standards were loosened and more names added to the kill-list together with geographical expansion of such operations. The key enabling legal foundation that was passed in the immediate days after 9/11 - the Authorization for Use of Military Force, suggested that it was now fine to go after singled-out individuals, even outside declared war zones. Drone technology played an important role in this process. Because of its effectiveness and low risk engagement for the attacking side, officials were more willing to authorize kill-missions. Before September 11, the United States had strongly opposed targeting of named individuals. In a short period of time it had moved to the other extreme, becoming the leading practitioner of this tactic.

After inheriting the drone program, President Barack Obama almost immediately expanded it to previously unseen levels, administrating his first lethal strike in Pakistan already on the third day of his presidency. Having opposed the loosely defined Authorization for Use of Military as a candidate, when in office, Obama used it as the principal legal foundation for striking individual terrorists in largely ungoverned spaces in Pakistan, Somalia, and Yemen on a truly massive scale. His strategic reluctance to deploy American ground troops for prolonged periods of time would give way for appreciation of what can alternatively be achieved in remote manner from the air. As John Brennan, then President's chief counterterrorism adviser, explained - instead of a hammer, the administration was searching for a scalpel (De Young, 2010). Drones were a potent weapon that did not directly put American lives at risk and.

With time, as the unmanned aerial vehicle technology advanced further, it was possible to deploy Predator drones to cover even wider geographical spaces. Consequently, targeted killing numbers surged to historical levels. The bureaucracy was re-organized and rebuilt in a way to sustain targeted killings over a long period of time. It was a deliberate attempt to permanently integrate this method into the US national security bureaucracy. As Jaffer notes, 'the president oversaw the design of a new bureaucracy responsible for nominating suspected militants to government kill lists. In regular meetings, more than a hundred government officials would assemble by videoconference to discuss whom the drone operators should kill next. In bureaucratizing the program, the president normalized it' (Jaffer, 2016: 25).

What had started in the Bush years as a narrowly defined program against Al Qaeda and its immediate circles, had expanded into a global campaign against various militant groups that often had no capacity of directly attacking the US homeland. While some of the militants were high-level targets, many did not bear any connection to the real perpetrators of the 9/11 terror acts. While part of the norm that protects elected heads of state from being assassinated held strong and was not violated, the other slice concerning non-state actors was considerably weakened. In sum, the norm against assassination was eroded by greatly increasing the number of people who can be targeted, stretching the original meaning of 'imminence' and 'battlefield', and by full institutionalization of the practice of targeted killing.

The presented study was solely focused on the domestic norm in the United States, without attempting to determine how and to what extent norm change in the United States has affected the norm internationally. In conclusion, it is possible to offer some very limited points with regard to the international arena and, as such, outline some ground for future research. First, it is worth pointing out that the Obama administration has been mindful of the fact that other countries sooner or later may follow US-set targeted killing precedent, and emulate its behavior. On one occasion, CIA Director John Brennan noted that 'as our nation uses this technology, we are establishing precedents that other nations may follow. If we want other nations to use these technologies responsibly, we must use them responsibly. If we want other nations to adhere to high and rigorous standards for their use, then we must do so as well' (Brennan, 2012). But as presented evidence shows, the United States for years conducted drone strikes with little or no

public justification, targeting individuals far away from traditional war zones. The policy was by no means well-articulated. At best, it was defined by fuzzy threat perceptions, stretched notions of imminence and highly selective engagement with the international law. At worst, lethal airstrikes were not even acknowledged. By being the principal practitioner of this tactic, the United States has failed to structure the conversation internationally and create any meaningful normative framework with clearly developed rules and measures of accountability for deciding when targeted killing is an appropriate means of conduct.

Nearing the end of his presidency, in the summer of 2016, President Obama rushed to formalize drone related rules and guidelines. In the last months of his tenure, he released aggregate numbers regarding targeted strikes and civilians deaths, information that human rights advocacy groups had requested for years (Shane, 2016, White House, 2016). While this certainly can be considered a step in the right direction for clarifying the policy, it is doubtful whether this amounts to the rigorous framework needed to regulate drone warfare internationally. It remains to be seen how the norm revision in the United States will translate into the international arena. On the one hand, other countries have not exactly rushed to copy the behavior of United States. Until now, only the United Kingdom has joined the 'bandwagon' by carrying out a targeted strike against a British national in Syria by evoking similar self-defensive arguments as the US (BBC, 2015, MacAskill and Norton-Taylor, 2015). At the same time, the United States does not hold a monopoly on this technology as it is continuing to proliferate through the international system, with other nations eager to acquire this military weapon. Micah Zenko believes that other states won't just emulate American practice but 'will adopt its justification', or lack of it, for targeted killings (Madrigal, 2013). This is where the importance of the American precedent lays. By engaging into unaccountable targeted killings for years, the United States has provided an excuse for the rest to do the same.

7.2. Legitimization through quasi-secrecy

Apart from evaluating the status of the norm against assassination in the United States, the study was further concerned with the process by which the normative change occurred. The puzzle here was as follows: how once rejected and stigmatized method became normalized, institutionalized

and widely accepted. The case study revealed a strong link between deliberate partial official secrecy or quasi-secrecy and successful norm revision. From the first targeted killing outside recognized framework of war in Yemen in 2002, the Bush administration attempted to restrict information flow in connection to such operations. While thanks to journalistic efforts it was possible to establish early on that the US was behind lethal airstrikes in places like Pakistan and Yemen, US government officials still treated such missions as a national security secret. The White House refused to release information regarding how and by what standards individuals could end up on a kill-list, location of strikes, the number of individuals known to be targeted, or estimated civilian casualties. Using the CIA as an instrument for flying drones, the Bush administration kept important details of such missions away from the public domain, and for the most part beyond Congressional scrutiny.

In similar manner, the Obama administration continued to avoid conversations about drone strikes and their more controversial aspects. Simultaneously, when opportunity presented itself, officials did not hesitate to leak information in order to put themselves in more favourable light. Such quasi-secrecy approach, attempting to hide details about what in many ways had already become a centerpiece of national security policy, was not accidental. It was a conscious and highly coordinated effort among various government branches working closely to avoid critical questions. There was a systematic quality to such attempts. The public was intentionally deprived of an informed debate about lethal operations which were now used to an unprecedented degree to eliminate perceived threats abroad.

For more than a decade, the White House managed to fight-off Congress and courts domestically, and push back against various human rights bodies internationally. At the rare instances when curtains were slightly parted, the reality was concealed behind dry, bureaucratic, and legalistic terms, which in the end raised more questions than provided answers. With time, however, far too obvious rift between silence and drone strike practice had emerged, forcing the Obama White House to reconsider its approach. Gradually the level of secrecy would be loosened allowing the public learn more details. In incremental steps, almost a decade after the first CIA targeted killing, through carefully crafted appeals to national security, and the exceptional nature of the threat of terrorism, officials attempted to overtly legitimize the practice.

Ultimately, when it comes to norms and legitimization practices, what counts is the response of the audience who is the 'judge of the legitimacy of a rule or an actor' (Hurd, 2007: 197). As Bellamy (2012) notes, 'behaviour is considered legitimate to the extent that these claims are validated by other group members' (Bellamy, 2012). Judging by domestic indicators - public approval and wide political support, the Obama administration has managed to fully legitimize a tactic that the United States government once staunchly opposed. Norm revisionists, with the help of the strategic maintenance of convenient official secrecy, or quasi-secrecy, successfully convinced the public about the acceptability of this method. While recently there has been a substantial drop in strike numbers, and the peak of the program may have already passed, there is no evidence suggesting that this is because of some sudden normative aversion to the method. More likely, the lethal program has been a victim of its own success, as it has effectively killed thousands of alleged militants around the globe. If demanded by strategic environment, the strike numbers could rise again.

Even in today's highly partisan US political environment, the support for the CIA-run program has crossed party lines. Judging by the deep and continuous political support on Capitol Hill, it is hard to see what could possibly derail it. As pointed out by Hugh Gusterson, professor at George Washington University, 'if targeted killing outside the law has been so attractive to a president who was a constitutional law professor, who opposed the war in Iraq from the very beginning, who ended the Central Intelligence Agency's torture program, and who announced his intention to close the Guantanamo Bay detention camp on assuming office, it is unlikely that any successor to his office will easily renounce the seductions of the drone' (Gusterson, 2016).

Equally firm support for lethal targeting of terrorist suspects can be found among the American public. Since the first public opinion polls were taken in 2011, support for such operations has constantly remained high (Kreps, 2014). Through systematic polling we know that the practice is validated by the public, with the approval rating oscillating between 65% - 85% (Washington Post- ABC News Poll, 2012, Fox News, 2013, Gallup, 2013, Pew Research Center, 2015, Associated Press, 2015). According to Zenko, most polls have demonstrated approval rate in the area of 65% (Zenko, 2013). It is not that the public before had never accepted killing of known

terrorists. Extensive research by Appleton (2000), who managed to accumulate data regarding public perceptions over many years (1980-2000), revealed that approval for targeted killings in the United States increased and went over 50% as a certain security crisis situation progressed, and subsequently fell back below 50% as it was resolved (Appleton, 2000). In comparison, support for targeted killings via drone strikes has stayed fixed towards approval for years, even without the US suffering a major act of terror. Such practices are unpopular only in other countries around the world. At home, the great majority approves the once controversial tactic without too many complaints.

Harold Koh, who served as the legal adviser at the Department of State from 2009 to 2013, has argued that because the Obama administration was not transparent about its legal standards and its decision-making process, this has damaged perceptions about the drone program (Koh, 2013). The presented research has showed otherwise. It is precisely because of application of quasi-secrecy that the administration has managed to 'sell' this policy domestically. Thus, a key finding of the presented analysis is that quasi-secrecy can play a major role in legitimizing new practices.

During both the Bush and Obama presidencies information about drone strikes were presented in a tightly controlled manner, in small bits and pieces, often out of sequence and with long delays. Favourable information that portrayed the government as being 'tough on terrorism' was intentionally leaked, while more negative aspects were not discussed. Through such an overt/covert approach, the public was not able to obtain full and honest account about the true scope and consequences of drone strike practices. Instead, for the most part it received government engineered accounts of targeted killings as being clean, precise and humane. In the long run, deployment of such quasi-secrecy turned out to be convenient and beneficial for the US government's side, serving as a useful function for introducing, shaping and normalizing what historically has been a highly controversial practice. This suggests that norms can be changed and legitimized not only through process where policy choices are being debated and contested in an open manner, but also through application of quasi-secrecy. These insights allow to further advance our understanding of how normative legitimization works, benefiting the theoretical literature on norms.

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