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A Critical Analysis of Governmental Discourses Surrounding the Attacks of September 11, 2001 and  
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# **Terror and Patriotism in the United States**

**A Critical Analysis of Governmental Discourses  
Surrounding the Attacks of September 11, 2001  
and the Introduction of the Patriot Act in the U.S.A.**

**By Aimée Karam**

A thesis submitted to the Department of Criminology  
in partial fulfillment of the requirements of the Masters program

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*To my mom,*

*For her unconditional love and  
tireless sacrifices every day of the year*

## **ABSTRACT**

The terrorist attacks of September 11, 2001 in the United States of America represented a pivotal historical moment that divided history into two distinct categories: a pre-9/11 period of relative security and a post-9/11 period of death and insecurity in which the threat of future terrorist attacks was presented as certain and ongoing.

In the aftermath of the attacks, the American government prioritized national security over all other aspects of everyday life, including individual civil rights and freedoms. This prioritization necessitated and later justified the introduction of a potentially invasive anti-terrorism legislation, passed through an abridged legislative process.

This thesis analyzes the official discourse in the six week period between the 9/11 attacks and the enactment of the Patriot Act. The research focuses on various discursive strands and narratives surrounding the attacks and on justifications and arguments related to the anti-terrorism measures proposed. The explored discursive themes include patriotism, national and international unity, populism versus prudentialism, war/crime models of terrorism and 'us versus them' rhetoric. The thesis shows the complex nature of the discourses involved and different roles played by various political actors and branches of government. The interpretation of findings is informed by current literature on discursive construction of risk, security, terrorism and ethical justifications of trade-offs between security and liberties.

## TABLE OF CONTENTS

|                                                                               |          |
|-------------------------------------------------------------------------------|----------|
| <b>ACKNOWLEDGMENTS</b>                                                        | <b>1</b> |
| <b>INTRODUCTION</b>                                                           | <b>2</b> |
| <b>CHAPTER 1 Risk, Security, Terrorism and Ethics: A Review of Literature</b> | <b>7</b> |
| Approaches to risk and security                                               | 8        |
| ‘Risk’ versus ‘Danger’                                                        | 8        |
| The concept of ‘risk’                                                         | 8        |
| Risk as constructed through discourse                                         | 10       |
| The problematization of issues                                                | 11       |
| The communication of risk                                                     | 12       |
| The responsabilization of individuals towards risk                            | 14       |
| The label of ‘risk’                                                           | 15       |
| The role of risk discourse in everyday life                                   | 16       |
| The concept of security                                                       | 17       |
| The concept of securitization                                                 | 18       |
| Governing through securitization                                              | 19       |
| Governing risk                                                                | 21       |
| The ‘Risk Society’                                                            | 21       |
| Risk management in the risk society                                           | 23       |
| Prudentialism and the technology of insurance                                 | 24       |
| Trust in the face of multiple expertise                                       | 25       |
| Fear in the face of the unknown                                               | 27       |
| Gothicism and moral panics in the ‘risk society’                              | 28       |
| Terrorism and counter-terrorism                                               | 30       |
| Defining terrorism                                                            | 30       |
| Terrorism as a crime, war, or disease                                         | 32       |
| Counter-terrorism                                                             | 33       |
| Models of counter-terrorism                                                   | 34       |
| The criminal justice model                                                    | 34       |
| The war model                                                                 | 36       |
| State terrorism                                                               | 37       |
| The ‘War on Terrorism’ – a convincing and popular metaphor                    | 38       |
| Reliance on politics of sensationalism                                        | 40       |
| The ‘acceptability’ versus the ‘effectiveness’ of counter-terrorist tactics   | 42       |
| Philosophical approaches to ethics and liberties                              | 43       |
| Freedoms and liberties in the social contract                                 | 44       |
| Normative ethics                                                              | 45       |
| The utilitarian approach                                                      | 45       |

|                                                                                 |           |
|---------------------------------------------------------------------------------|-----------|
| Bentham on the role of government                                               | 50        |
| The deontological approach                                                      | 52        |
| Contrasting deontological and utilitarian ethics                                | 54        |
| The conflict between rights and utility                                         | 55        |
| Implications for the decision-making process                                    | 56        |
| <b>CHAPTER 2   Conceptual Framework and the Methodology of Research</b>         | <b>58</b> |
| Conceptual framework                                                            | 59        |
| Discourse analysis                                                              | 64        |
| Official/political discourse                                                    | 67        |
| Research questions and methodological approach                                  | 69        |
| The topic                                                                       | 69        |
| Research data                                                                   | 70        |
| Coding                                                                          | 72        |
| <b>CHAPTER 3   The United States of America Patriot Act of 2001</b>             | <b>74</b> |
| An overview of the USA Patriot Act (USAPA)                                      | 75        |
| Highlights of the new law                                                       | 76        |
| Criticism of the USAPA                                                          | 80        |
| Concerns related to the passage of the bill                                     | 81        |
| Implications for constitutional rights                                          | 84        |
| Claims of misrepresentation of the USAPA to the public                          | 88        |
| The costs of the USAPA                                                          | 89        |
| Grassroots organizing                                                           | 91        |
| <b>CHAPTER 4   Governmental Discourses Surrounding 9/11 and the Patriot Act</b> | <b>93</b> |
| Introduction                                                                    | 94        |
| The 9/11 events                                                                 | 96        |
| 9/11 as a defining historical moment                                            | 96        |
| Talking about the events of 9/11                                                | 97        |
| Why America?                                                                    | 99        |
| The great American nation                                                       | 100       |
| Government in full control                                                      | 103       |
| Has anything good emerged from 9/11?                                            | 105       |
| Who are the terrorists?                                                         | 107       |
| The threat of terrorism                                                         | 109       |
| References and invocations made in relation to 9/11                             | 111       |
| Historical references                                                           | 111       |

|                                                                                          |            |
|------------------------------------------------------------------------------------------|------------|
| The war model or crime model?                                                            | 113        |
| Us vs. Them                                                                              | 116        |
| 9/11 and God                                                                             | 117        |
| America is united and it is not alone                                                    | 119        |
| America will triumph                                                                     | 121        |
| Governmental legal initiatives                                                           | 123        |
| Requests for support and co-operation                                                    | 123        |
| The need for anti-terrorism laws                                                         | 124        |
| The rationale behind the USAPA                                                           | 127        |
| The legislative discourse                                                                | 129        |
| Passing of the USAPA                                                                     | 132        |
| Striking a balance between rights and security                                           | 134        |
| <b>CHAPTER 5   Discussion of the Research Findings</b>                                   | <b>140</b> |
| Introduction                                                                             | 141        |
| Images of unity and consensus as an instrument of persuasion                             | 142        |
| Terrorists presented as being at war with America's values                               | 143        |
| Populist authoritarianism versus prudentialism                                           | 145        |
| The alternative to the USAPA is death                                                    | 146        |
| The mobilization of people around governmental priorities                                | 146        |
| More than a single discourse                                                             | 148        |
| Different players and the war/crime distinction                                          | 151        |
| Disparate discourses on balancing freedoms and security                                  | 152        |
| The ethical value of the USAPA                                                           | 154        |
| Conclusion                                                                               | 156        |
| <b>REFERENCES</b>                                                                        | <b>158</b> |
| <b>APPENDICES</b>                                                                        | <b>164</b> |
| Appendix A – List of the documents selected for analysis                                 | 165        |
| Appendix B – Questions used for the analysis of the selected documents                   | 175        |
| Appendix C – Excel spreadsheet used for the coding                                       | 180        |
| Appendix D – Legislative acts related to the attacks of September 11, 2001               | 181        |
| Appendix E – The organizations' missions as stated on their websites                     | 188        |
| Appendix F – List of actions taken for the passage of the USAPA                          | 191        |
| Appendix G – Communities with resolutions opposing federal policies, including the USAPA | 193        |

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## **Introduction**

## Introduction

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On September 11, 2001, two commercial planes struck the twin towers of the World Trade Centre in New York. In succession, a third plane hit the Pentagon and another crashed in Pennsylvania. Terrorism was ruled as the cause of those attacks which claimed the lives of approximately 3000 people. In the U.S.A., a wave of anti-terrorism measures followed the horrifying events in an attempt to deal with what had happened. A key piece of legislation was the USA Patriot Act (hereafter USAPA), a potentially highly intrusive legislation, which curtailed some established constitutional rights. Many countries around the world followed the American example and implemented their own intrusive laws under the banner of counter-terrorism.

The 'war on terrorism' that was declared by the U.S.A. following September 11 (hereafter 9/11) has had complex political, military, legal, financial and diplomatic implications. Yet, no significant opposition to governmental counter-terrorism measures such as the USAPA was voiced in the immediate aftermath of the attacks. It took some time for the voices of opposition to emerge and offer a critical evaluation of these measures. As I was following the events in the United States, and particularly the passage of the USAPA in particular, I became intrigued by the speed with which such a major and at the same time intrusive piece of legislation was passed without significant opposition. Wanting to learn more about the process involved and about the political rhetoric surrounding the attacks and their aftermath, I decided to write my M.A. thesis on this topic.

I chose to conduct an analysis of the official discourse that surrounded 9/11 and the enactment of the USAPA. In my research, I analyzed various arguments and rhetorical devices that were used to introduce and justify a potentially very intrusive piece of legislation. My research focused on the governmental speeches and statements from

September 11, 2001, the day of the attacks, to October 26, 2001, the day of the enactment of the USAPA. The main research questions addressed in my thesis are:

1. What are the main strands, characteristics and dynamics of the governmental discourse(s) following the attacks of 9/11?
2. How did the U.S.A. government justify a potentially very intrusive anti-terrorism legislation, which aimed at increasing significantly police powers and threatened to curtail some established guarantees of civil rights?

My thesis is divided into five chapters:

Chapter 1 presents a review of literature related to risk, security, terrorism, civil rights and ethics. Various theories and concepts are scrutinized, with a particular focus on the discursive construction of such notions as risk, security and terrorism. Various models and representations of counter-terrorism are also addressed. They are followed by an examination of key philosophical approaches related to freedoms and liberties, particularly the utilitarian and deontological approaches, which often underlie political justifications of major legal initiatives and policy shifts.

Chapter 2 describes my conceptual framework and methodology. It is divided into three sections. The first section gives a short synopsis of the potentially most useful concepts and ideas derived from the theoretical and philosophical approaches reviewed in Chapter 1. It is intended to serve as a background against which the rhetoric surrounding 9/11 and the justifications given by the White House concerning its response to the attacks will be analyzed. The second section is a general overview of selected approaches to discourse analysis, with a special focus on the analysis of the official/political discourse which tends to

provide justification for state practices. The last section outlines my research questions, sources of data and the methodological approach applied in my research.

Chapter 3 provides an overview of the process leading to the passage of the USAPA and its highlights. It also reviews the reactions of non-governmental and non-profit organizations to the proposed bill and their main concerns related to both content and the procedures followed in its adoption.

Chapter 4 presents my analysis of various discourse strands discerned in the governmental documents studied. The analysis is divided into three main parts. The first one deals with the main political narratives concerning the 9/11 attacks. It focuses on such themes as: the designation of 9/11 as a defining historical moment; explanations related to the terrorists' motivations in attacking the U.S.A.; discursive uses of patriotic symbols; and the claims of positive outcomes emerging from the attacks. In the second part, various references and invocations made in relation to 9/11 are explored. They include historical references; the use of war model and/or crime model of terrorism; the 'us versus them' rhetoric as well as references to God, to national and global unity and to the visions of the final outcome of the war against terrorism. Finally, the third part presents an analysis of the political and legislative discourses surrounding the governmental legal initiatives, in particular the USAPA. The discursive strands analyzed relate to the purported need for the USAPA, the bill's rationale, the nature of appeals for cooperation, the question of trade-offs between rights and security, and the ethical justifications offered.

Chapter 5 presents the findings of an overall analysis of the governmental discourse and its dynamics. It shows the complex and entangled nature of the discourses involved and different roles played by different political actors and branches of government. It also

## **Introduction**

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discusses the following themes: the identification of terrorism as the primary threat; images of unity and consensus; differences in discourses among different players; the declaration of war on terrorism; populist authoritarianism versus prudentialism; the mobilization of American people; balancing of freedoms and security and, finally, the ethical evaluation of the USAPA.

## **CHAPTER 1**

### **Risk, Security, Terrorism and Ethics: A Review of Literature**

In this chapter, I review selected theories and concepts related to risk, security and terrorism and their discursive construction and transformation in the contemporary Western society. My review also addresses the various models and representations of counter-terrorism measures. It ends with an examination of the key philosophical approaches to freedoms and liberties in conjunction with the two major traditions in normative ethics.

## **Approaches to risk and security**

### **‘Risk’ versus ‘Danger’**

Concepts of ‘risk’ and ‘danger’ are related but distinct (Garland, 2003). In modern societies, the development of one form of social solidarity rather than another depends on whether a situation is defined as a risk or as a danger. Dangers are external to people’s prior knowledge and control of them. The harm or injury that results from them is unrelated to decisions made by the injured parties; it is thrust upon them rather than caused by them or by others around them. This brings on sympathy, as opposed to rational assessment, because people see danger, unlike risks, as unpreventable. Risks are a result of decisions that have been made with the view of their potential to produce some sort of benefit or profit. Such decisions are then seen as a measure of exposure to further risks. Therefore, people are less sympathetic towards harms resulting from risks, especially if they deem that the risks in question could have been avoided (Luhmann, 1993).

### **The concept of ‘risk’**

Finding a single, agreed-upon definition of risk is unlikely due to the existence of numerous and diverse areas of expertise that are guided by different and at times conflicting theoretical frameworks. As a result, it is unpractical to search for one definition that could fulfill the requirements of all these areas (Luhmann, 1993). Risks may assume many

characteristics that are prioritized differently by different people or institutions, using different measurements at different times. This makes risks conditional on the assumed framework and methodology, because their description is only more or less accurate and scientific and would not necessarily be similar if it were undertaken by a different party, using a different tool, at a different time (Garland, 2003).

Risks do not exist apart from our perception. As Luhmann points out:

The outside world itself knows no risks, for it knows neither distinctions, nor expectations, nor evaluations, nor probabilities – unless self-produced by observer systems in the environment of other systems (1993: 6).

According to Garland (2003), risks are reactive. Their image is altered as soon as they are defined as risks, and in return, they respond to the actions and reactions adopted towards them. Once an issue is identified as a risk, it becomes subject to numerous calculations and compensations. As the risks get altered, the individuals' level of exposure and tolerance towards them also changes due to attempts to measure them or to promote a sense of security in relation to them. However, the tolerance of individuals and institutions and their level of acceptance of risks differ from one party to another. This is related to personal bias or past experiences, which influence reactions to risk. Some people are cautious, others take on more risks, but the risks that people are exposed to often depend on the actions of others around them and on the risks that these individuals undertake. This social dimension of risk makes it interactive, in addition to reactive. For example, if some people in a neighbourhood install home security alarms, others tend to follow the trend, and those who do not may be exposed to a greater risk.

As risks are processed in modern society, societal priorities change in order to seek solutions that can eliminate or reduce new threats that people may encounter in their lives.

According to Schneiderman (2002), attention should be paid to the manner through which decision-makers deal with these hazards, because it is through this process that political power gets redistributed. For example, through this process of hazard prevention, totalitarian measures can flourish at the political level. This shows that any actions adopted in response to perceived risks can generate further risky side-effects. As a result, individuals or governments may fail to respond appropriately to risks to avoid possible unintended side-effects or they choose to act and, through their reactions, they threaten democratic principles of freedom and liberty. Therefore, the response to threats such as terrorism can create situations where certain priorities (for example, freedom of association) are cast aside, while other priorities (for example, the pursuit of security) are prioritized. This process of prioritization represents a “danger zone to democratic practice”, because civil liberties tend to be sacrificed under a regime that aims at the reduction of this type of threat to security (Schneiderman, 2002: 69).

### **Risk as constructed through discourse**

Risks are always risks for someone, at a specific time and place (Garland, 2003). As Hunt (2003) argues, definitions of what is a risk and what is not are variable because there are numerous discourses about risk. They originate from sources with different social, economic, political, and/or moral agendas. Some discourses spring from expert sources, others do not, and even discourses originating from a single source tend to change over time, due to the constantly changing nature of modern societies. Moreover, the scientization of risk assessment is not feasible because definitions and explanations of risk are influenced by moral discourses that are, in turn, affected by various social stereotypes.

Certain discourses about risk are specific to some societies, while other societies may have diverging moral and political judgments on similar issues. The variability in evaluations of risk and the uncertainty related to knowledge make it impossible to separate factual claims from the perceptions of risk that are influenced by the political, social and / or economic spheres. Therefore, even when one is speaking of an 'objective' risk, this objectivity is limited by the deficiencies of the available scientific data and knowledge (Garland, 2003).

The way that people experience the risks they encounter is largely affected by the discourses surrounding the issue. Being social constructions, risk practices are influenced by all kinds of judgments and are deeply moralized by decision-makers and the public (Hunt, 2003). According to Ericson and Haggerty (1997: 84), "discourse constitutes practice and is, in the very same process, constituted by practice", which means that while it is socially conditioned, it also conditions social organization. A number of authors have noted an emerging discourse of a new type of prudentialism whereby the emphasis placed on being responsible has been gaining more ground. Individuals are increasingly required to develop a prudent relationship towards themselves and towards others (Hunt, 2003).

#### *The problematization of issues*

Foucault, throughout his writings, argues that the conditions under which individuals problematize certain situations are crucial to the definition of these situations: what they are, what their effects can be, and whether they should be nourished or eliminated. Problematization refers to the process through which issues become the focus of concern and may come to be perceived as risks or threats. It is through this process that social problems are created or amplified. This can be referred to as the social construction of risk where the

identification of risk provides the framework through which the issues that are problematized will be lived and reacted to (Hunt, 2003).

The perception of the future and the present is based on the problematization of risks. The perceptions of risk are related to feelings of anxiety in the present and to the fear of harm in the future. Discourses of risk gain power through this projection of potential harm, which not only induces feelings of anxiety and fear, but also stimulates action to deal with any potential threats. When current 'risks' are projected into the future, discourses about risk gain an extension through time. That way, they can be applied to new types of risk as they are 'discovered' or come to be defined as risks (Hunt, 2003).

Risk problematization generates anxiety, which significantly influences how risks are lived, because it gives rise to one form of action, rather than another. Anxiety tends to personalize the risks in question and concretize them so that they are no longer an abstract concept. Rather, they come to be seen as a situation that has to be dealt with because it is threatening to individuals' security and quality of life. At this point, any doubt about the 'reality' of the risk disappears as an observable social reaction starts to develop. The more a risk discourse implies that the risk it articulates is real and calculable, the higher the anxiety, which, in turn, is treated as an indication of a real risk, even though there may be no rational grounding to it. This widens the field in which practices of risk-avoidance and risk-management can be adopted, which ultimately creates more opportunities for state control and surveillance (Hunt, 2003).

#### *The communication of risk*

According to Ericson and Haggerty (1997), institutions that identify and manage risks also develop their own systems for the communication of risks. These systems depend

largely on the social meaning that is given to the term risk. Their role is not limited to the simple communication of an already existing event as a risk. They have the capacity to call a risk into being and then determine the response to it through the establishment of specific procedures and technologies within the communication system. Depending on the particular interests involved and the communication system used by an institution, the meaning of risk varies, which can result in a shifting or contradictory management of risk by different institutions, for example governmental or non-governmental. Each system has its proper and distinct logic, which governs both definitions of risk and actions and reactions towards it. For example, the criminal justice system and the insurance industry are two of many institutions that organize themselves through risk communication systems. These systems are “used within culturally specific interpretive frameworks and visions of social organization” and are influential within these frameworks and visions, because the possibilities created by the system are used in ways that are suitable for the goals desired (Ericson and Haggerty, 1997: 14).

Even if it is routinely done by some institutions, risk communication itself is a potentially risky activity that can produce unintended consequences and counter-productive effects (Garland, 2003). Governments are usually aware that they must proceed with caution and try to avoid any alarmism when informing the public about new threats, because risky situations can worsen if official advice is misjudged or misunderstood by the public. Due to this potential danger, there is often reluctance to share with the public information about newly identified risks. However, as Garland points out, in some circumstances, government officials are pressured into providing information under short notice. Although the facts might be uncertain, they still must be disclosed and officials will still be held accountable for

the information that they provide, even when they themselves are not satisfied with the accuracy of that information. However, critical decisions must constantly be made, even under conditions of uncertainty. The challenge intensifies when uncertain facts must be communicated to the public and the public is not sufficiently knowledgeable on the issue in question. This creates opportunities for false interpretations of the risk measures undertaken and for unrealistic expectations on the part of the public (Garland, 2003).

*The responsabilization of individuals towards risk*

According to Hunt (2003), the prudential ethics of risk management is becoming universalized in some western countries so that self-management can be imposed and morally expected from everyone. Individuals are being burdened by an expanding range of responsibilities and are encouraged to take care of themselves and, at times, to take care of others for whose safe conduct they become liable (for example, when they serve alcohol to them). It is becoming their responsibility to assess which behaviours can expose them or others to risks, and to try to avoid these behaviours. This expansion in responsabilization results in a parallel expansion of the moralization of individual conduct. Individuals that fail to incorporate risk-avoidance measures fail to take care of themselves. They are then considered unwise and morally irresponsible, especially if their conduct results in a material or moral harm. Therefore, risk-avoidance is perceived as a “moral enterprise” that is basic to personal improvement and well-being (Hunt, 2003: 182).

Allan Hunt thus distinguishes two facets of responsabilization. On the one hand, it establishes a principle against which individuals can evaluate their conduct. On the other hand, it creates an opportunity for the proliferation of moralization where the conduct of individuals is judged against the established norm, whether they have agreed to take on the

responsibility or not. The conduct is then evaluated in order to determine if it fits the standards established. Consequently, moralization is an inherent component of responsabilization (Hunt, 2003).

*The label of 'risk'*

In everyday life, discourses about risk are influenced by a negativity generated by the vision of risk as something bad that should be avoided (Luhmann, 1993). Therefore, when an event is labeled as risky, it creates opportunities for regulation and consequently for control (Hunt, 2003).

Pat O'Malley (1999) looks into new discourses in Australia that govern drug consumption through harm minimization programmes. He explains that traditionally, drug consumption had been governed by discourses about addiction and abuse. New governmental discourses have emerged, however, which use the label of 'drug use' rather than 'addiction and abuse'. Under the new label, the use of drugs is no longer perceived as a disease or pathology but as a normal activity that can be practiced responsibly or abusively, harmfully or appropriately. The activity in question is thus discursively transformed and subjected to new techniques of governance that promote various forms of self-governing. Therefore, healthy behaviour in relation to drug use becomes a thinkable activity that is distinct from abstention. According to O'Malley, the main implication of the new label is that drug use is understood as a normal activity that can be performed in a variety of ways and a preferred mode of behaviour of drug use can be attained if one seeks appropriate intervention or assistance. Therefore, the traditional image of the drug-user and drug-consumption is being "re-imagined", along with new ways of governing drug use (1999: 192). This shows that perceptions of drug consumption as use or abuse are directly related to

official discourses, which can demonize or normalize illicit drug users, thus amplifying or minimizing the harms associated with the labelling of drug use. This type of analysis can be applied to other aspects of neo-liberal conceptualization of risk by looking at the ways in which the assumed vision of the issue and related techniques and discourses of governance affect everyday practices of everyday management.

*The role of risk discourse in everyday life*

According to Hunt (2003), risk discourses play a role in the moralization of everyday life - a moralization that has gained ground with the increasing popularity of risk analysis. The process of moralization reinforces the regulatory grip on social life by contributing to the proliferation of bureaucratic regulation and the increase of responsibilities that are inflicted upon citizens. This process makes it evident that there is a gap between the dominant neo-liberal discourses that promote deregulation and the institutional practices that are actually pursued. This suggests that risk analysis, as it moralizes a range of social behaviours, becomes itself a source of moral regulation.

This is a contentious issue, however. Some theorists argue that there has been a decline in the role of morality in risk discourses and within risk institutions, because moral principles tend to run counter to the concept of risk and its dynamics of control. Others contend that morality is built into systems of risk management and risk technologies. Risk assessment, classification and calculation, which serve as a guide for action, are deeply normative. Consequently, as Ericson and Haggerty (1997) point out:

Institutional classification schemes infuse regimes of moral truth and legitimacy into the facts they routinely produce. The body of facts surrounding a risk is a moral construction (1997: 123-4).

According to Garland (2001), the need for intensified security, the containment of danger, and the identification and the management of risk are prioritized in the risk discourses of modern societies. These goals differ from the traditional goals of law enforcement and justice that were once a priority. Today, the protection of the public dominates the rhetoric of social control. The public, in turn, is intensely concerned with potential risks associated with uncontrolled individuals or activities. This results in increasing demands that the state intensify efforts to provide protection for citizens in their everyday environment.

The political system is expected to transform identified risks into ones that can be tolerated. Normally, a political decision is made to allocate them to other domains. Mostly, responsibility for risks falls on the legal system, then onto the economic system where "limiting values" are fixed in order to regulate and specify which procedures for action are acceptable and which ones are not (Luhmann, 1993: 166). These regulations can be changed if the state of knowledge regarding the issue in question changes or due to political pressure. Therefore, the political system gets rid of a troubling situation by removing it from the political realm, while at the same time, maintaining an option to re-politicize the issue if it is desired (Luhmann, 1993).

### **The concept of security**

Like risk, security is a socially constructed concept whose meaning can only be understood within a specific social context. In modern societies, and likely all over the world, security is an empowering concept. Its understanding by individuals or organizations affects the direction that political or personal lives take. It can set priorities and justify measures adopted to deal with insecurity, such as the use of force, the augmentation of

executive powers, and many other extreme policies. In the field of international security, some parties are placed in positions of power and are seen as accepted voices on the subject. While their power is never absolute, they tend to define what security is about and determine what actions should be adopted in dealing with situations that are said to threaten security (Buzan et al., 1998).

What is widely agreed upon is that the total security does not exist (Beck, 1992; Buzan et al., 1998). Even distinctions between security and insecurity are blurring and becoming more and more unconvincing. According to Lipschutz (1995), their capacity to create fear is also diminishing and 'actual' threats are no longer sufficient to maintain a high level of fear necessary to justify an intervention by the State. As a result, new threats are created in order to maintain a state of fear and suspicion, and to re-establish a distinction between security and insecurity. Since these threats are not always found within the perceived reality, there emerges a need to create a "hyperreal" world of imagined threats, facilitated by new communication technologies (Lipschutz, 1995: 9). At other times, however, heightened concerns about security may be triggered by real events, such as the September 11, 2001 attacks in the United States of America.

### **The concept of securitization**

In political life, discourses of security provide a conceptual framework of security that shapes the agenda for the establishment of policies and practices. These discourses are neither objective nor analytical in their construction of threats. They are largely influenced by previous historical events, by struggles for power and by conflicts between groups with differential interests. Therefore, these discourses are the terrains of struggle among "notions" of security (Lipschutz, 1995: 8). They determine who wins the right to define security,

establish boundaries of security discourses and, ultimately, control the allocation of resources for issues relating to security.

When an issue is presented as an existential threat, it becomes securitized, which means that its politicization reaches such an extreme level that it supersedes the normal rules of politics. Securitization implies the establishment of some sort of emergency measures to deal with the threats in question. According to Buzan et al. (1998), public issues are located on a continuum that ranges from non-politicized issues, which are not dealt with by the state, to politicized issues, which are subject to public policy and public debate, to securitized issues, which are presented as extraordinary threats requiring extraordinary state measures. Where specific issues are placed depends upon the circumstances. Placement also varies from state to state: some states might politicize religion (for example, Saudi Arabia and Iran), others might securitize culture (for example, North Korea), and so forth (Buzan et al., 1998).

Securitization is related to discussing, analyzing and acting upon the concept of 'security'. However, the state is not always coherent and effective in its decisions with respect to framing issues in terms of security or insecurity. This is due to the fact that securitizing actors are found in numerous sectors, such as the military and security sectors, but also the geographic, historical, and political arenas that participate in the shaping of the process of securitization. In democracies, especially, there are many voices to be heard, for example those of pressure groups or intellectuals who choose to engage in the discourse of securitization (Buzan et al., 1998).

#### *Governing through securitization*

Nikolas Rose (1996) notes that with the emphasis placed on the responsibility of individuals and the communities in securing their own well-being, a variety of techniques is

being developed to govern individuals through regulated choices, rather than through a direct governance of society, which would consequently promote state security. While this trend co-exists with high incarceration rates and zero tolerance policies, Rose (1999) points to the increased securitization of everyday life, which becomes an intrinsic part of new technologies of governing. In contrast to an extraordinary focus on national security, which calls for emergency measures and politics of securitization, explained in the previous section, several authors have addressed the routinized version of securitization, permeating modern societies (Rose, 1999; Ericson and Haggerty, 1997).

According to Rose, there are certain strategies of inclusion, such as the "securitization of identity" and "the securitization of habitat", that legitimate the use of control measures (1999: 240). For instance, the *securitization of identity* implies that one needs to provide proof of identity for many practices of freedom, such as driving or using credit cards. One's personal details are then stored in a database and can later be used for undisclosed purposes, such as police investigations. These measures of surveillance are often involuntary on the part of the individual, yet they allow for individuals to be analyzed, compared, normalized and then managed. Access to various benefits is dependent upon what an individual might do, rather than what one has already done. This type of securitization guides individuals into being prudent in order not to jeopardize their access to various practices that specify the criteria for inclusion (or exclusion) into daily social activities and economic transactions. The *securitization of habitat* is another strategy for inclusion whereby individuals are encouraged to take care of themselves, of their property, and of their families by adopting various security measures. That is encouraged by the constant reminder that crimes are a troubling activity that is intrusive and constantly intensifying. If individuals do not take the

appropriate measures for their protection, they will fail to avoid misfortunes, and will be held at least to some extent responsible for any harm or loss that occurs as a result of their irresponsible behaviour. Therefore, investment in measures of security for the protection against the risk of crime becomes a responsibility of each individual (Rose, 1999).

Pat O'Malley (1999: 193) explains that “risk managerial models” govern by calculating and distributing risks. They are mostly concerned with harm minimization and less preoccupied with the elimination of the causes of risk. Risk, for its part, tends to be normalized by some governments in order for them to govern certain aspects of life or certain populations that are led to conform to constructed norms and to align harm minimization techniques with the governmental will. In such models, all social elements can be aligned according to their relationship to risk.

## **Governing risk**

### **The ‘Risk Society’**

Ulrich Beck (1992: 17) claims that living in late modernity is like “living on the volcano of civilization”. It is a period characterized by numerous hazards and insecurities that have been inflicted by modernization and have a potentially global impact. In addition to environmental perils, these threats include various social, political and economic costs and side-effects of modernization, such as market collapses. Beck defines risk as a systematic way of handling those hazards that are perceived as consequences of our politics. David Garland (2003: 48) agrees that risk “has come to permeate our lives and our politics” but he argues against exaggerated claims about the level of risk in modern society.

According to Beck (1992), *Risk Society* emerged from rapid technological developments and ecological problems, which drastically increased the number of events

labeled as potential risks. This society has become preoccupied with risks of its own creation rather than the traditional hazards related to nature and underdevelopment (Beck, 1992). Yet, Garland (2003) argues that massive threats to life are neither a recent concern, nor an issue facing only modern societies; they have always existed. The perceived nature and scope of these threats have changed over time, but despite their versatility, many major threats are better understood now than ever before and controlled more successfully. Garland's guarded optimism emerges from the assumption that the scientific skills that manufactured these risks in the first place will be able to design technologies to control them, prevent their misuse, or reduce to tolerable levels the harms that they might cause (Garland, 2003).

Governance in the 'risk society' is concentrated on establishing security. It operates with a negative logic where the focus is on fear and what is labeled as 'bad', rather than on progress and what is labeled as 'good'. Society's resources are commanded on this basis (Beck, 1992; Ericson and Haggerty, 1997). This new form of governance places the responsibility of self-sufficiency and self-management on individuals and organizations that are expected to take care of themselves and try to fulfill their needs with the available resources, in order to improve their quality of life and consequently their well-being (Beck, 1992).

The handling of risks has become more and more dependent on decision-making related to prevention. Events that used to occur more or less on their own accord are now requiring the making of informed decisions. For instance, disease was thought of, at one point in time, as an unpreventable danger. Today it is linked to a person's way of life and choice of a healthy or unhealthy lifestyle (Luhmann, 1993). However, even though personal responsibility is encouraged at the individual level, it is in the end governed at the

institutional level, where risks are managed by the system in place, and not by the individual. In other words, the risky choices that individuals make are based on the knowledge and guidance that are provided to them by societal institutions. These knowledge and guidance are, however, at times biased, influenced by certain professional or economic interests, or lacking accuracy, which can expose individuals to further risks or enhance the impact of the initial risk (Beck, 1992).

### **Risk management in the risk society**

Modern societies offer many advantages, such as prosperity, relatively advanced social security and a certain degree of welfare, so that people enjoy a sense of well-being. Yet, risks and consequently costs, are involved in all of these advantages (Beck, 1993). According to Luhmann (1993), liberal ideology has a hidden agenda for adjusting society to risks. Garland (2003) points to a trend whereby governments tend to protect the citizens by managing risks through expanding institutional regulation, legal norms and inspection. He believes that in all modern societies, government plays a role in risk management that extends into most domains, including security, health, safety, the environment, economic policy, etc. Therefore, the allocation of risks, their distribution, and the costs involved depend to a large extent on the actions undertaken by governments.

Niklas Luhmann (1993: 28) stresses that there is no such thing as “risk-free behaviour”, no matter how much expert knowledge and advice we seek. Gaining more knowledge makes us, however, even more aware of risks. Therefore, the pressure to make informed decisions may lead to greater insecurity. The perceived possibility of the prevention of a risk tends to influence our readiness to take risks. Prevention here means that precautionary steps can be taken to avoid or to reduce costs associated with risk. It can be a

positive element because people want assurance that future events are controllable. If they deem that prevention is thinkable, they tend to demonstrate a greater willingness to take on risks. Yet, when people feel that future events are controllable, they may overestimate their capacity to control these events or underestimate the costs associated with them. This may involve a process, described by Luhmann as a “risk distribution strategy” where people are mostly preoccupied with the primary risk, even though a secondary risk, related to the preventive strategy chosen, may be considerable and can in some cases amplify the primary risk (1993: 29). Luhmann (1993: 30) refers to this practice as the “risk-elimination risk” because risk prevention efforts are themselves fraught with risks. Yet, although primary and secondary risks are inter-related, people tend to be more tolerant of secondary risks, because they perceive them as a security against primary ones. This promotes a voluntary reliance on the part of the general public on individuals and organizations responsible for dealing with primary risks, even if the decisions that they make result in secondary risks and in further costs to society. The overall sense of what risks are acceptable and permissible and what safety standards should be in place is shaped, however, in the political arena. This is also where scientific and social parameters of risk are mediated.

### **Prudentialism and the technology of insurance**

“The stakes involved in being responsible have been steadily rising” (Hunt, 2003: 169). This results in an industry of risk that allows for the continuous creation of markets for profitable products. Through the politics of risk, risks can be amplified and new risks can be constructed, engendering new marketing solutions to deal with anxieties and problems that arise from new risky decisions and activities. Technologies of consumption are employed to guide people into purchasing insurance and other risk-altering products to suit their needs

(Rose, 1999). Ewald (1991) notes that risk is crucial to the definition of insurance and other applications of the technology of risk. Yet, risk is not found in reality because it is not an event that exists in itself. An event becomes a risk after it is analyzed, represented and dealt with as such by individuals or organizations. It is therefore possible for all events to be defined as risks against which insurance provides a perceived protection.

Numerous types of insurance institutions exist as applications of the technology of risk, and each differs in its purposes and clientele. The “form” that the institution of insurance takes depends on the social conditions, which provide a market for security (Ewald, 1991: 198). These conditions can create opportunities for the establishment of new profitable enterprises that can prove to be useful for insurance technology. Other applications of the technology of risk include the development of private security services, such as detective / protection services, and home and business security systems, which profit from the promise of reduction of risks (Ewald, 1991).

### **Trust in the face of multiple expertise**

There is concern, according to Hunt, that public trust in expert systems is weakening. This is due in part to a growing pluralization of expertise where the number of experts and their institutional sites are increasing. More importantly, there is a fracturing of expert knowledge where experts tend to disagree on definitions of risk, degrees of risk, and how risks should be dealt with. Experts are thus located across rival sectors and at times provide incompatible or conflicting knowledge. These differences of opinion are often addressed and debated publicly, which can lead to confusion or distrust on the part of the consumer of knowledge. Moreover, modern societies are witnessing a growth in the production of non-expert knowledge. It is often found in single-issue movements that develop their own body

of knowledge and dispute other forms of expertise, such as traditional or institutional expertise (Hunt, 2003).

According to Hunt (2003), the proliferation of expert and non-expert knowledge confronts the consumer with the problem of having to assess and evaluate the information that is brought forward. In the case of conflicting knowledge, the task becomes all the more challenging because such conflict can shake an individual's trust in expert systems and lead to confusion. It is easier for individuals to accept risks and act upon them willingly and collectively if there is agreement among expert systems on the accuracy of the information that is put forward. When that is the case, trust makes it easier for individuals to live with risk because they tend to comply more willingly with the system in place, and thus make the functioning of the system more efficient. However, as Hunt points out, trust itself is a risky attitude, because a trusting individual will not seek confirmation of the credibility of the knowledge that is provided. At the same time, the lack of trust is also risky because it means that individuals have more decisions to make on their own. While making informed choices requires people to have the necessary knowledge on all aspects related to the issue in question, there is a gap between an individual's capacity for knowledge and the scope of knowledge needed, which makes a balance between the two impossible to attain. That is because the gap between the knowledge that one tries to acquire and that which one is able to acquire widens with the pluralization of expertise. Also, no one can be knowledgeable about all aspects of life. Therefore, the prudent choices that the "responsibilized" individuals are expected to make become more difficult (Hunt, 2003).

### **Fear in the face of the unknown**

In the relevant literature, there are many questions about the uses and sometimes abuses of such emotions as fear. A sense of collective fear has recently gained new prominence. It is promoted by governments and various organizations, and exacerbated by the media. One of today's greatest fears has its origins in the events of September 11, 2001, in the United States of America. These events horrified the American nation and many others around the world. The planes smashing into the World Trade Center and the Pentagon, and the scenes of the collapsing buildings were endlessly seen on television and in newspapers. The sense of fear that emerged gave an impetus to many actions undertaken by the American government in the name of protecting Americans and others.

Fear can be propagated through communication systems, which can render society unsafe in the eyes of the public and consequently lead to demands for increased knowledge about risks (Ericson and Haggerty, 1997). Yet, knowledge cannot fully appease fear, because, as has been previously explained, people cannot gain sufficient knowledge about the future, not even that which they generate by decisions of their own making (Dean, 1999). For that reason, fear has become an integral part of life. People are investing in an increasing number of safety measures, ranging from insurance policies to burglar alarms, in order to ensure their own security and that of their families (Bauman, 1999).

Often, public opinion and reactions are shaped by tactics adopted by the media that repetitively portray certain images or discourses, which can mobilize people according to specific themes or agendas for action. Emotions such as fear or anxiety are greatly influenced by the media that has become a primary source of knowledge for most people. The dramatized coverage of government officials calling for crackdowns on certain

populations, criticizing laws for their supposed leniency, or warning about a threat (for example, Islamic fundamentalism) can trigger fear and anxiety among the general public. The trend can intensify when, for example, perpetrators of an event come from an identifiable religion, country, or ethnic background. Also, insensitive coverage by the media, can promote - whether intentionally or unwittingly - a sense of insecurity, where people feel that a speedy and, at times, intrusive action has to be taken to maintain a contemplated state of security. Yet, the information provided by the media varies in its degree of reliability (Crelinsten, 2002). Fear can arouse from rumours, but may still mobilize people into taking action on a specific issue. Wrong information about the nature or the extent of a potential risk can, at times, trigger counter-productive or hysterical actions (Crelinsten, 2000).

*Gothicism and moral panics in the 'risk society'*

“The risk society presents fertile ground for moral panics” (Hier, 2003: 5). The panics are built around unpredictable, uncontrollable, and at times invisible risks. Anything can be a source of anxiety. Sometimes, the object of panic is a new issue; other times, it is something which has been in existence for a long time but suddenly becomes a reason for concern. When social actors are confronted with catastrophic conditions of the risk society, they tend to experience a collective sense of existential insecurity from which anxiety towards potential harms emanates. Considering that individuals are not always able to determine what can put them at risk, all aspects of life become a source of anxiety and fear (Hier, 2003).

Claire Valier (2002) believes that Gothicism symbolizes contemporary punitive populism more accurately than moral panics. She underlines that moral panics reflect a temporary over-reaction, where social fears and anxieties are projected onto a specific and

identifiable object. This type of panic is usually alarming but brief. It may escalate rapidly, but it also rapidly passes away, although it may leave behind a number of long-term consequences that have to be managed. However, in contemporary society, there are numerous sources of social anxiety. Crime, for instance, is represented as an ongoing and omnipresent threat. Moreover, increasingly, sources of anxiety are imperceptible and transnational in scope, such as those associated with nuclear or environmental hazards. This type of anxiety implies that the threat of danger can emerge anywhere and anytime, which is a gothic construction. Valier (2002) points that this is different from moral panics, which are sporadic and tend to manufacture and re-affirm a level of consensus, which is a form of social regulation. They also focus on a more authoritative, control-oriented government. She argues that the role of moral panics as a control mechanism is limited under the current conditions, where the horror is faceless and the management of consensus is no longer the way to abate fear.

Claire Valier (2002) explains that gothicism occupies a prominent place in contemporary punitive and emotional populism. It represents a salient feature of the discourses of public protection and vengeful actions, and it is typified by real and imaginary scenes of trauma and injury, and images of tears and rage. Today's institutional practices and political life reflect gothic characteristics that used to be found mainly in such institutions as crime control and punishment. Crime and punishment are thus dramatized and reproduced through images of horror that circulate in a media dominated by a gothic register - acts of mourning and bodily harm are constantly portrayed, promoting the development of obsessive public gatherings around horrific scenes of violence and sorrow. While in moral panics theory, "folk devilling" served to clarify moral boundaries and "supported

orchestration and mobilization of authoritarian rule”, this may not be applicable when moral boundaries are in a state of constant fluidity and when social regulation is unpredictable and fractious (Valier, 2002: 325).

### **Terrorism and counter-terrorism**

Violence, by state or non-state actors, is one of many forms of communication used in modern societies for the realization of particular goals through coercion and intimidation (Crelinsten, 2002).

#### **Defining terrorism**

Defining ‘terrorism’ is an ambiguous process because the assessment of this threat merges with that of such other phenomena as crime and protest (Crelinsten, 2002). Moreover, attempts at defining terrorism are often clouded by the tendency “to intermingle explanation, justification and condemnation” (Sederberg, 2003: 268). Ronald Crelinsten notes that it is generally useful, when looking at groups defined as terrorist, to pay attention to their tactics, motivations, targets, modes of operation, as well as interactions with other groups, communities or institutions of national, international or transnational nature. Terrorism can occur in the form of a crime (in the context of criminal activity) or revolution (within the political or war contexts). Its perpetrators are diverse, ranging from state actors, to insurgents, to political criminals. His working definition of terrorism is behaviourally based and reads as follows:

I define terrorism as the combined use and threat of violence, planned in secret and usually executed without warning, that is directed against one set of targets (the direct victims) in order to coerce compliance or to compel allegiance from a second set of targets (targets of demands) and to intimidate or to impress a wider audience (target of terror or target of attention) (Crelinsten, 2002: 83-4).

The demands of perpetrators do not always have to be explicitly stated, for example, when the goal is to gain attention or a momentum for a particular cause. Crelinsten (2002) points out that although there were no specific demands behind the attacks of 9/11 (some demands came later in videotaped statements by al-Qaeda leaders), the symbolism associated with the attacks and their targets conveyed powerful and clear messages.

Known as a low-probability but a high-impact activity, terrorism has become a main concern for governments and policy-makers around the world (Crelinsten, 2000). Most terrorist activities occur in peacetime (Crelinsten, 2002) and involve places that are normally considered safe, such as airplanes, offices and public spaces like embassies (Sederberg, 2003). As a result, even safe places come to be viewed with suspicion and hesitation. When a terrorist act takes place, the damage goes beyond the immediate harm done as it induces an excessive feeling of fear and alarm among people, and a sense of being a victim. At the same time, it also undermines people's confidence in their government and social institutions. Because it targets mainly civilians, it strikes terror in the entire population, out of proportion with the actual probability of being a victim (Sederberg, 2003).

Some attempts have been made to distinguish terrorism from other tactical uses of violence. For example, Sederberg (2003) observes that terrorist tactics violate rules of war by deliberately targeting non-combatants and using indiscriminate means. Yet, if this is part of terrorism's definition, some wars are also terrorist in nature, when they disregard international rules of warfare. In addition, there are many sub-species of terrorism, which include a variety of typically terrorist activities, such as hijackings or suicide bombing, but it is not very clear what makes them terrorist rather than criminal. Sederberg (2003) suggests that viewing terrorism as a tactic is helpful in clarifying these distinctions.

*Terrorism as a crime, war, or disease*

“Terrorism is both a label, or concept, and a phenomenon” (Crelinsten, 2000: 179). Terrorist campaigns sometimes resemble war. A war metaphor entails a repressive military response. The resulting war can be unlimited, whereby both sides seek the total destruction of each other. In such a case, there are no practical limits to the duration and the costs of the war. Extremist attitudes of one side feed extremism of the adversary. When both sides seek the total destruction of one another, Sederberg (2003: 277) would say that such a “rhetoric defies reality” as neither the total destruction nor the total victory is possible. Once the adversaries come to this realization, they will accept that some degree of accommodation is necessary for the conflict resolution. Even when one party is more victorious than the other, there will inevitably be some need for accommodation through negotiation. Only this recognition could lead to some process of war termination where the adversaries begin negotiations and are no longer seeking each other’s elimination.

In addition to terrorism being regarded as a war, it may be viewed as a criminal act that disrupts the established social order, and should therefore be dealt with through law enforcement measures because it is perceived as controllable. Terrorism also tends to be perceived as a disease to which no country is immune. Like disease, terrorism “respects neither age nor gender nor status” (Sederberg, 2003: 272). Viewing terrorism through the prism of disease metaphor does not, however, preclude coercive measures, because terrorist cells, just as cancerous ones, must be detected and destroyed. But the goal is restoration of health rather than total destruction of the enemy (Sederberg, 2003).

### **Counter-terrorism**

Terrorism and counter-terrorism are interdependent. On the one hand, the emergence of terrorism is influenced by the shape of and attitudes towards counter-terrorism in a particular society. On the other hand, the shape of counter-terrorist measures is conditioned by earlier and/or current forms of terrorist activity (Crelinsten, 2002).

It is not always clear which individuals or groups represent a threat to national security. Sometimes 'normal citizens' such as protesters have the same social and political goals as terrorists, but, unlike terrorists, they do not resort to the use of violent or coercive measures. However, these individuals may be more visible than terrorists, who are more reticent about their opinions and activities. This may make ordinary citizens more vulnerable to detection and repression than those who actually use terrorist tactics (Crelinsten, 2002).

The response to terrorism can be multi-faceted. For instance, it can be either national or international in scope. Operations abroad can include economic sanctions or political pressure on other states. Also, various departments and agencies tend to be involved in counter-terrorism (Crelinsten, 2002). There is, for example, an increasing involvement by the private sector and non-state actors in counter-terrorism and security issues. This is occurring because of the decreasing authority and capacity of the state to deal with social problems and to develop and implement policy initiatives. The new actors have begun to acquire and develop skills that used to be restricted to the governmental elite (Crelinsten, 2000). For example, the measures that were adopted in the U.S. to deal with the spread of anthrax following the events of 9/11 involved the postal system, the health system, local emergency preparedness networks, and environmental safety agencies as a part of counter-terrorism policy (Crelinsten, 2002).

Government response can be one of force and repression towards perpetrators of terrorist activity. However, Pires argues that a potential risk or threat is not a sufficient justification for an intervention, especially a repressive one, because risks never disappear. In response to repression, they tend to transform or convert into other risks (Pires, 2002). Attempts to eliminate the threat of terrorism are rarely effective and can cause unacceptable costs, such as the rise of extremism. Another approach is the management of terrorist threats. The latter method aims at the taming of terrorist tactics, the moderation of a terrorist group's agenda, and ultimately of the group itself. The problem with this measure is that it requires a certain level of 'bargaining' between states and terrorist groups. While this goes against the conventional wisdom and, at times, against the emotional impulse of those who have been victimized by a terrorist attack, it is nonetheless one of the options that may, under certain circumstances, contribute to minimizing societal costs (Sederberg, 2003).

### **Models of counter-terrorism**

According to Crelinsten (2002: 87), there are two main models of counter-terrorism: a "criminal justice model" and a "war model". Both models set limits as to who can be subjected to state violence.

#### *The criminal justice model*

The criminal justice model of counter-terrorism is dominated by the rule of law. It aims at the maintenance of public order so that peace can be preserved. The main actors are the police who exercise the state's monopoly over the means of coercion and are required to use the least amount of force in the performance of their duties. Extreme means may only be justified if they have been proven to be the last resort. When a person is found guilty and a punishment is contemplated, due process must be applied at all stages. In this model,

terrorism is treated as a crime and as a problem of crime control (Crelinsten, 2002).

Terrorist groups tend to be resistant to traditional models of policing, due to the high level of secrecy that surrounds them and their practices. Therefore, combating them might require a different set of techniques that include intrusive measures, such as various forms of surveillance, which infringe on the rights of suspected individuals (Crelinsten, 2002).

Within the field of security intelligence, two kinds of policing exist. On the one hand, there is the proactive policing that aims to detect crime before it occurs. On the other hand, there is the reactive policing - a more traditional model that aims to solve a crime that has already taken place. Within the latter model of counter-terrorism, control agents try to gather evidence and collect data that can be used in court. All is regulated by due process. This type of policing can also involve crowd control in cases of protests and riots. In proactive policing, the gathering of information is not meant to build a case against an individual after a criminal act has been committed, but rather to determine whether an individual or group is planning to commit a crime in the future. Therefore, there is no evidentiary purpose for the collection of information and data. What matters is the knowledge that can be accumulated regarding the identity and intentions of the targets. In this instance, security intelligence uses techniques of surveillance to attempt to expose conspiracy and subversion before they succeed. Thus, full secrecy (at times considered a barrier to civil liberties) is central to proactive policing (Crelinsten, 2002).

The organizational structures of terrorism are often portrayed as akin to those of organized crime and the experience of policing the latter is often referred to in the context of counter-terrorism. Like organized crime, terrorist networks need to be penetrated so that masterminds of terrorist attacks can be identified and arrested, and their terrorist activities

interrupted. Actions adopted against al-Qaeda, following the defeat of the Taliban regime are examples of such policing tactics. Policing instruments used included the tracking of money flows, the freezing of assets, increased surveillance, widespread use of interrogation, legal amendments and enhanced security measures. To implement such measures, a political and geographical community must be well defined; otherwise the policing approach is not feasible. What was possible in Afghanistan might be much more problematic in the attempts at global scale policing necessitated by the transnational nature of many terrorist organizations and groups. It can only be realized through intensive negotiation among states. Yet, different states have different laws and political agendas and reconciling them would require much effort and time. In contrast, military action may appear more appealing because the fact that states can act unilaterally may give an illusion of control (Sederberg, 2003).

#### *The war model*

War evokes, at least in the beginning, calls for unity and sacrifice with stories of heroism, and patriotism. Its rhetoric includes references to violent attacks, front lines and battle zones that must be defended. The threat is portrayed as coming from a specific enemy who is on the opposite side, but is perceived as defeatable (Sederberg, 2003). This view of terrorism calls for a war model of counter-terrorism, which is dominated by the rules of war (Crelinsten, 2002). When terrorism is treated as an act of war, rather than a crime, the military wages war against those perceived as terrorists. Measures such as search and destroy missions are done in secret and by surprise. The military rules involved require a maximal use of force, which is meant to overpower both the targeted party defined as combatants and those who provide them with support. These are the only groups that can be

pursued and prosecuted. In instances where the state wants to introduce special laws or make use of special forces, a state of emergency may be declared to facilitate the process. Moreover, in addition to authorizing the use of overwhelming force against the terrorists, the state can decide to invoke martial law, thereby setting the traditional legal system aside and charging military courts with trying those labelled as terrorist (Crelinsten, 2002). While the criminal justice model serves to de-politicize an event and treat it as “ordinary”, the war model considers it a national security threat and treats it as “extraordinary” (Crelinsten, 1989: 245). There is, however, a grey zone where two models merge and policing becomes militarized, while the army takes on many policing functions. These processes may be indicative of a transition to state terrorism (Crelinsten, 2002).

During wartime, destruction and defence are the leading tactics believed to promote deterrence and consequently greater security. Deterrence involves hardening potential targets and destroying presumed terrorists and their supporters to increase their costs and render future terrorist attacks less likely. The risks of this approach include the danger that extremism and the appeal of terrorist tactics may increase when people are subjected to violence and coercion. This, in turn, further intensifies insecurity (Sederberg, 2003).

### *State terrorism*

Both the criminal justice model and the war model of counter-terrorism have some in-built rules; these rules are put aside in the model that lies in between the two, that of “state terrorism” (Crelinsten, 2002: 87). In mimicking the terrorist tactics, it adopts methods that it is supposed to vanquish. In this model of counter-terrorism, the state ignores the rule of law and aims to spread a message of terror among citizens. At the most extreme form, a reign of terror dominates and every citizen is a suspect. At the less extreme form, measures used by

the state to combat terrorism can include torture, disappearances and political killings. State agents accomplish their work in secrecy, and often during night time. The state is likely to censor the media and control which information is conveyed to the public. It can also rally support for the governmental agenda by spreading rumours and creating fear and shock among the public. The least extreme form of state terrorism is referred to as the “militarization of the police” where ordinary police officers are given heavier weaponry and are permitted to use greater force with less judicial restraint placed on their actions, especially when targeting specific individuals or groups (Crelinsten, 2002: 87). This creates opportunities for abuse of police powers or the creation of a secret police. It is through this militarization of the police that the criminal justice model mutates into state terrorism, without yet becoming a war model (Crelinsten, 2002).

The “civilianization of the military” is another measure of state terrorism, where paramilitary forces are given broad powers and often work secretly to promote a sense of terror (Crelinsten, 2002: 90). An example of civilianization of the military is found in the U.S. in the wake of September 11, 2001. A blurring of distinctions between the functions of the police and of the military became obvious when elite counter-terrorist forces were authorized to use special weapons and tactics, in addition to the use of military courts. Unlike the war model of counter-terrorism, distinctions between combatants and non-combatants and between combat and civilian zones become blurred because some players assume mixed roles (Crelinsten, 2002).

### **The ‘War on Terrorism’ – a convincing and popular metaphor**

According to Steinert (2003), such official designations as the ‘war on drugs’ or the ‘war on terrorism’ blur the line between warfare and policing practices. Controlling the

consequences of criminal activity and confronting the enemy are no longer distinct events. The events of 9/11, which caused the death of an estimated 3000 people, can be considered a crime, yet they also reflect a terrorist act that occurred through large-scale suicide attacks. The attacks represent such a horrendous crime that they resemble an act of war. Under such circumstances, the state is confronted with the crucial decision of choosing the proper response, which can range from policing tactics to war measures. If the decision follows the war metaphor, hostilities can escalate, whereas policing tactics tend to aim at the maintenance of order. Much depends on the type of hegemonic knowledge that surrounds issues of crime and security. It conditions political decisions, while being also influenced by them. Steinert (2003: 266) explains that “such politics and knowledge form a complex of culture-industry dynamic that feeds on dramatizations and the creation of events that can be dramatized.” He is referring to the way both politics and the media may profit from the promotion of fear and high emotions that require a large number of participants, such as listeners or voters. In order to achieve high levels of participation and mobilization around a particular issue despite the audience’s diverse and often incompatible interests, “populist mechanisms” have to be employed (2003: 266).

When people become fearful and enraged, they usually tend to support an aggressive response, in the form of speedy or violent confrontation. War is looked at as the ideal populist mechanism, which unites a large number of people, often the whole nation, and causes them to rally around the leader. They are encouraged to work for a single goal, forgetting their differences and conflicts in the process. War against terrorism requires all to respond to any calls for action and contribute to the shared goal. As Steinert argues, the phenomenon of war is comparable to that of natural disaster, which brings people together

and strengthen their support of one another and of the leadership in place. Looking at the sources of enduring power of the war metaphor, Steinert points that the effects of wars are long-lasting and affect not only those who participated in combat, but also social institutions and practices that have been affected and at times shaped by practices of war. These effects may include mandatory military service or other security practices that invoke social values related to war. War experiences that are kept alive by these social institutions constantly validate the war metaphor in everyday life and build upon the media images and specific political agendas (Steinert, 2003).

The war metaphor is related to strong emotions and a particular structure of social values that is centred on war experiences. It is thus very useful to the populist politics of mass appeal because it creates pressures for unity, solidarity, and the mobilization of individuals and resources for what is perceived to be a threatened common good. It also has a great affinity with the contemporary media cultures (Steinert, 2003).

### **Reliance on politics of sensationalism**

There is an increasing reliance in the public sphere on entertainment and sensation as any broadcasts or announcements have to compete for attention with countless other messages. They need to constantly offer people new developments such as an intensification of the problem, a crisis, an urgent decision, etc. The political realm is no stranger to this reliance (Steinert, 2003). It tends to appeal to morality, hatred, or other such values and emotions to create public enthusiasm. This, in turn, integrates the audience into what is being conveyed, encourages participation and exhorts the public to form a common front against 'the enemy'. Governments are capable of triggering such a dramatization process by, for example, declaring a crisis and placing emphasis on the urgency to act to prevent loss of

control over the situation in question. Such attempts tend to spread fear among the population. Politicians are aware that a high level of anxiety caused by a disaster or an extraordinary threat can help advance their political agenda because of a strong sense of unity. As discussed in the previous section, the pivotal event that can bring such unity is war (Steinert, 2003). Some authors have also pointed out that consensus among the general public about the costs in general, and moral costs more specifically, of a threatening event is more easily attained with the presence of easily identifiable victims (Hunt, 2003).

The terrorist attacks of 9/11 demonstrated a great need for solidarity and a sense of community among all people, whether they are directly or indirectly affected. However, according to Steinert (2003), much effort was required to define the events as national in scope, because many people saw what was happening from a safe distance, for example on television screens.

An extraordinary event is a peak moment for both the politicians and the media, allowing them to emerge as true leaders and guides for their people. By joining forces, they can amplify the threat and foster national unity (Steinert, 2003). Moreover, if the events of 9/11 were to be labelled as acts of war, the option of crime needed to be ruled out. However, acts of war are usually inflicted by an external and malevolent power coming from a sovereign state, not a terrorist group. To portray the attacks as an act of war against America, it was necessary to manufacture populism by recourse to American “cultural values” (Steinert, 2003: 274). For this purpose, “the experience of *helplessness* seems to be the decisive factor in converting personal wishes into populist politics” (Steinert, 2003: 274). That is because people come to identify more with the events if they have a desire and an opportunity to help. Overcoming feelings of helplessness, for example, donations of blood

and money for New York, made people feel that they are doing something for their country in the time of crisis. The sense of solidarity and national grief was mediated by the media and reflected, for example, in televised emotional family reunions. It was also reinforced by media opportunities for people across the U.S. to talk and share personal experiences and opinions about the events. All this later turned into patriotic rituals, mainly the display of the American flag (Steinert, 2003).

### **The ‘acceptability’ versus the ‘effectiveness’ of counter-terrorist tactics**

According to Sederberg, the choice of response to terrorism is often guided by two considerations: a predicted degree of effectiveness of the contemplated measures in minimizing or moderating the intensity of terrorism and their acceptability in terms of democratic ideology and practices. What is deemed effective is not always acceptable, and vice versa. Sometimes, establishing a police state might be an effective counter-terrorism tool but one that is unacceptable by democratic standards. At other times, acceptable practices such as the granting of full legal rights to those accused of terrorism may be deemed ineffective as it imposes impractical restrictions on counter-terrorism efforts (Sederberg, 2003).

Finding an effective solution, which, at the same time, protects democratic values and institutions, can be challenging. Sederberg (2003) points out that some analysts tend to believe that an acceptable solution to terrorism can be found in a trade-off between fundamental values, such as rights and freedoms, and security. The contemplated solution would deal with terrorism as effectively as is compatible with causing minimal harm to any valued principles. The belief that a trade-off is necessary rests on an assumption that democratic institutions cannot provide effective responses to terrorism and such approaches

as negotiation, conciliation, and compromise are not only ineffective but also dangerous. The nature of the trade-off is rarely revealed, however. When coercive measures are believed necessary to tackle the problem of terrorism, the risks and costs associated with such measures are rarely made public. Sederberg (2003) suggests that effectiveness of coercive and repressive actions may be overestimated because, in the long run, such measures can inflame the problem of terrorism further.

The time dimension represents an additional complication in assessing effectiveness and acceptability of anti-terrorism measures. The requirements of effective or acceptable solutions to terrorism vary over time. Some measures work well in the short-run, others work well in the long-run. Some may be mobilized rapidly; others require prolonged preparations. Moreover, measures considered acceptable or effective in the present will not necessarily remain so in the future, or will come to be perceived as more or less suitable. Considering that rigorous counter-terrorism measures may take weeks, even months, to prepare and even longer to implement, the nature of the threat may change during this time and the type of response may need to be adjusted accordingly (Sederberg, 2003).

### **Philosophical approaches to ethics and liberties**

Defining what is good for humankind and how it can be attained has always been deemed important so that 'good' can be promoted and 'evil' avoided. Certain key principles of good and evil are believed to be applicable to everyone, but more specific determinations can vary according to time, and under different social, political and economic circumstances. For that reason, no ethical precept is certain. As such, ethics and politics are constantly dealing with changing states of affairs and, as a result, can never guarantee normative certainty. This is also reflected in continuous debates on the sources and nature of human

laws and rights (Blackstone, 1973).

### **Freedoms and liberties in the social contract**

Two important philosophers, who elaborated the concept of social contract, are Thomas Hobbes and John Locke. In my brief presentation of their ideas, I rely on Blackstone's (1973) interpretation of their works. Thomas Hobbes's theory describes the state of nature as characterized by constant violence, struggle for power, and premature death. He claims that rational people agree to be governed in order to escape the state of chaos and constant war. Out of selfishness, people will establish a government that is capable of enforcing rules aimed at increasing stability and security in life. Each individual is thus motivated to give up total freedom provided by the state of nature and accept restraints related to basic rules, such as prohibitions against stealing, lying and killing. As rational beings, humans realize that they are better off living with clear rules. Otherwise, they can be subject to the whims of other people, based on their selfish interests, consequently keeping everybody's lives at continual risk. The safety of people can only be ensured if these laws are enforced. While it is not rational to accept laws without weighing one's own advantages and disadvantages, according to Hobbes, if people are rational, they will recognize the need for an authority to enforce mutually beneficial rules. Thus, the creation of policing agencies, for example, becomes a desired tool for the enforcement of established rules (Blackstone, 1973).

John Locke's position on human nature and his notion of contract differ from those of Hobbes. He believes in self-evident natural rights that govern the state of nature. According to these laws, all are free and equal – restrictions apply only with respect to harming another's life, liberty, health or possessions. Based on reason, one has the responsibility to

preserve oneself and the rest of humankind, if possible. As such, all individuals are restricted from invading the rights of others. Each individual can then execute the laws of nature by punishing another for an evil done. Unlike Hobbes, Locke does not believe that the sole motivation of people is egoism. He sees them as rational beings that are capable of moral judgment. However, since all are equal in the state of nature and no one has jurisdiction over another, a state of chaos or war may result. There is then a need for a civil government that would be based on an agreement to preserve natural rights. Consequently, natural rights can become legal rights that are qualified for the common good (Blackstone, 1973).

### **Normative ethics**

The utilitarian and deontological approaches are two major philosophical theories in the field of normative ethics; a discipline that concerns itself with the concepts of ‘right’ and ‘wrong’. Each theory is built around a specific principle or rule. As such, the normative ethical theorist tries to find the “fundamental principles of right and wrong”, which can be used as the foundation for all moral judgments (Gold et al., 1991: 4).

The two major models of political justification, the utilitarian and the deontological approaches, seem still to hold sway over political debates and justifications of governmental actions and legislative initiatives. The key ethical ideas of central theorists, such as Jeremy Bentham, John Stuart Mill, and Immanuel Kant, will be examined to explain these models. Their ethical insights have had an important impact on the field of political philosophy and political discourse, which is directly relevant to the questions that are addressed in this thesis.

#### *The utilitarian approach*

Most forms of political regimes and policies of action have been justified, at one time or another, based on the principle that utility is the fundamental norm which should guide all

moral and political decisions (Blackstone, 1973). Utilitarianism is a future-oriented approach that relies on the prediction of consequences in order to determine whether a present decision is correct or not. Utilitarians recommend that we judge the morality of an action in terms of its consequences – its capacity to increase or decrease happiness (Gold et al., 1991). This is based on the key utilitarian principle, formulated by Jeremy Bentham, which measures morality in terms of the greatest happiness for the largest number of parties affected by a given action. Utilitarians deny that there could be any moral or political obligations that are binding independently of their consequences (Blackstone, 1973). This type of approach has been labeled ethical consequentialism, as it is motivated by the assumption that a moral action produces something good, while an immoral one produces something harmful (Gold et al., 1991).

How does utilitarianism define good or bad consequences? The answer to this question lies in Jeremy Bentham's original contributions and in their further development and modification by several philosophers, such as John Stuart Mill. According to Bentham, the fundamental good that all human beings seek is happiness, often associated with pleasure and the absence of pain (Gold et al., 1991). Therefore, for the utilitarian, the morally right action is the one that produces more happiness, in the form of more pleasure or less pain. The morally wrong action would produce unhappiness, pain, and the absence or reduction of pleasure. This is the essence of Bentham's famous formula, which posits that an action should be approved or disapproved according to its tendency to increase or diminish the overall amount of happiness for the greatest number of people (Gold et al., 1991; Satris, 1992). To Mill, happiness is all that is desired and all that humans want to achieve through their decisions and actions (Gold et al., 1991)

Whose happiness should one consider when determining whether an action is morally right or morally wrong? According to utilitarianism, the amount of pleasure or pain of all individuals that are somehow affected by a specific action should be considered. Each person is equally important, but what matters is the overall calculus of pain and happiness (Gold et al., 1991). For example, one should not simply consider the amount of pleasure that a thief gets out of a successful burglary, but also the pain and pleasure of all those somehow touched by the theft. If the pain of those victimized by the theft outweighs the pleasure that the thief gets out of committing burglary, then the morally right action would be to pursue and promote the happiness of the former, rather than the latter party (Pires, 2002). If in a given situation “all alternatives involve more pain than pleasure, the morally right action would be the one that produces the least amount of pain” (Gold et al., 1991: 7).

Classical utilitarian theorists, such as Jeremy Bentham and John Stuart Mill, agree that the norm of utility is fundamental for all moral and political decisions. Both theorists reject the theory of natural law and that of the social contract as basic to the understanding of moral and political obligations. For instance, Mill rejects the idea that liberty is an absolute right, which is found in nature or provided by God. He developed a theory of human rights that does not embrace a doctrine of natural rights (Blackstone, 1973).

Jeremy Bentham believed in an “objective moral standard”, which the concept of utility provided (Blackstone, 1973: 81). According to Blackstone, Bentham assumed that humans are, by nature, governed by pain and pleasure. For that reason, when making decisions, it is important to “sum up the values of the pleasures on the one hand and the pains on the other” and “when enacting laws, the state should try to be as exact and as scientific as possible” by making objective calculations, in order to assess future consequences of

alternative legal solutions (1973: 78). For that, he created a hedonistic calculus in which he lists some factors to be looked at when calculating the amount of pleasure and pain involved in a specific action. According to Bentham, there is first of all the *intensity* of the pleasure or pain that must be considered so that one can choose the most rewarding and least inconvenient action, when and if a choice is conceivable. The *duration* of the pleasure or pain must also be considered. There are instances where scars, such as psychological scars, can last a lifetime. Additionally, the *long-term consequences* of an action must be taken into consideration because certain actions can produce short-term pleasures but can prove to be harmful in the long run. Finally, Bentham explains that one must look at the *probability* that the actions in question will produce the consequences intended, in order for these actions to be promoted. These four elements, the intensity, the duration, the long-term consequences, and the probability, are essential for the calculation of the pains and pleasures that result from an action, in order to determine the morality of that action (Gold et al., 1991: 7). A precise application of the calculus is difficult, however, because happiness and pain are not easily quantified and different individuals react differently to similar situations. Bentham, who was aware of this, stressed that it was not just the overall amount of happiness that should be accounted for as the main principle, but also happiness for the greatest number of people. He firmly believed that in spite of the measurement problems, the utilitarian calculus was a useful tool for the legislators to keep in mind (Blackstone, 1973).

John Stuart Mill, a follower and friend of Jeremy Bentham, shared with him the belief that traditional moralities should not be used in the making of decisions because of their unreliability. He complained that the determination of what is right and what is wrong often depended on subjective considerations, such as feelings and prejudices, which tend to be

biased, and at times based in irrationality. He, like Bentham, emphasized the importance of a scientific and impartial assessment of the consequences of actions that are undertaken. The purpose of the assessment was to verify whether or not certain actions and policies would bring the greatest happiness to the greatest number of people (Satris, 1992).

While John Stuart Mill embraced Bentham's utilitarianism, he added some innovations. Mill believed that maximizing happiness is not sufficient. There is a need for some degree of political obligation – a moral and not clearly utilitarian dimension. For Mill, a fundamental moral and political concern is that no one should wrongfully interfere with another's freedom, because any principles involving restrictions on freedom have consequences for the well-being of people. Individuals should be free from unnecessary intervention. This is of key importance to freedom and consequently to happiness. While, Mill admits that some social restrictions are needed for society to be viable, they must be limited. Power should only be exercised against an individual for the purpose of preventing harm to others or for self-protection. Here, the emphasis is not on the individual utility related to one's moral or physical good, but rather on a broader utility founded on the "permanent interests of a man as a progressive being" (Blackstone, 1973: 101). These interests do not pertain solely to the maximization of happiness. They also consist of a doctrine of moral rights where the mere existence of a person is justification for the possession of a right to freedom (Blackstone, 1973).

John Stuart Mill looked into the moral rights of individuals and what they should be. That is because, according to him, justice is only attainable if people are granted moral rights. Yet, for utilitarians like Mill, these rights are not a result of a social contract or of natural laws, and they are not the same for all people. They should vary from one person to another

and this variability is dependent upon such aspects as an individual's life circumstances, personal needs and capacities. Happiness should be properly distributed among all people affected by an act. This entails a principle of justice where everyone's happiness is equally accounted for. However, according to Mill, a just law does not need to emphasize equality and impartiality. Justice can also be found in inequalities and partialities when these two concepts provide equal protection for the rights of all people. This is a moral right. Therefore, a truly *equal* treatment of persons, that which is consistent with the principle of the equality of rights, does not necessarily imply the *identical* treatment. Liberty for one person requires the equal right to freedom for all people so that the best society can be established. For that purpose, the best form of government is one that is guided by both liberty and equality. However, power is rightfully exercised only when it aims to prevent harm to others and, therefore, in cases where one's behaviour affects only oneself and no one else, the person should have complete freedom (Blackstone, 1973).

*Bentham on the role of government*

According to Jeremy Bentham, the government's responsibility is to "promote the happiness of the society by punishing and rewarding" (Blackstone, 1973: 83). He sees the role of government as having two facets: a positive facet, where government tries to promote happiness for the largest number of people by developing initiatives such as public education and public housing, and a negative facet which includes punishment, when and if that is deemed necessary. Bentham believes that each issue should be assessed based on whether the potential policy would increase or diminish the happiness of the citizens. For that reason, legislative interference should not be absolute and limits must be imposed both to the punitive intervention and to the positive interference that needlessly limits citizens' freedom.

Bentham explains that people's happiness decreases when their liberties are restricted, and this narrowing of their liberties occurs when legislative interference intensifies. His defense of liberties and freedoms is therefore based on the utilitarian principle and not the idea of natural rights or the supreme value of liberty (Blackstone, 1973).

Jeremy Bentham recognizes the importance of avoiding despotism. He views the difference between a free government and a despotic one in terms of the government's approach to law-making and the way power is distributed within the state, because both aspects are influential in the shaping of state policies. Consistent with his theory, Bentham claims that the pain and injustice resulting from policies can be avoided or diminished, if the legislator is guided by the principle of utility and applies it scientifically. According to him, knowledge of the issues surrounding every matter is also crucial because it will promote rationality when one is making judgments. A knowledgeable and rational legislator will exercise power in a manner that does not restrict freedom unnecessarily. All this is to say that the process of policy-making requires that officials be scientific in their approach and avoid undue influence of tradition, special interests and biased opinions (Blackstone, 1973).

While Bentham recognizes that disagreements can emerge among different policy-makers, he believes that they can be solved if the facts are assessed objectively and the utility principle is respected. Consequently, such an approach is bound to benefit the public because it contributes to the establishment of policies that promote happiness and pleasure for the largest number of people. This, in turn, will encourage people to abide by the laws because their selfish nature will incline them to recognize what is in their best interest (Blackstone, 1973).

Utilitarianism is a highly controversial theory. For example, it is criticized for its tendency to authorize 'unjust' or 'intrusive' measures if it is believed that on balance these measures could bring more happiness than pain. At times, the achievement of an increased degree of happiness requires the adoption of actions that violate certain conventional social or moral principles, such as the principles of justice (Smart, 1992). For instance, utilitarianism is prepared to sacrifice the rights of an individual or a minority group for the good of a larger group. This is unacceptable to proponents of the deontological ethics, such as Kant, who postulate that an individual may never be used as a means to other people's ends. More pragmatic critics of utilitarianism warn that predictions tend to be uncertain and it is dangerous to sacrifice rights for the sake of uncertain ends (Spader, 1991). In more general terms, Gold et al. (1991) argue that consequentialism is not sufficient as the sole basis of an ethical system because in focusing only on consequences of actions, it disregards the concept of duty. Some of these deficiencies are addressed by the deontological approach to ethics.

#### *The deontological approach*

Deontology focuses on the concept of duty, and deontologists argue that in certain situations humans have a moral duty to act in a particular way regardless of the consequences that may result from their actions – happiness or unhappiness, pleasure or pain, good or harm. Immanuel Kant, the best known deontologist, believed that consequentialist ethics, such as utilitarianism, were deficient because they ignored the crucial concept of duty. Moreover, by focusing only on consequences, they missed such concepts that are basic to morality as the good will and the intention to do the right thing (Gold et al., 1991).

Immanuel Kant explains that a moral difference can be found even in acts that have identical consequences. While some actions are done because it is one's moral duty to do so, others, even if they conform to duty, may be done for other reasons, such as self-interest. Although they may have similar results, these actions are morally different because of disparate motivations behind them. When people commit a rightful deed for selfish reasons, their act should not be considered wrongful, but it is not moral either. That act, even if it is the right thing to do, has no moral worth, because that worth is only found in actions done for the sake of duty, and not in those done merely in accordance with duty (Gold et al., 1991).

Treating duty as the key to his ethical system, Kant differs from utilitarianism, and introduces a distinct principle of morality, which he calls "the categorical imperative" (Gold et al., 1991: 9). While an imperative is a command that tells humans what they should do, Kant contrasts the categorical imperative with "hypothetical imperatives", which usually begin with the word *if* (1991: 9). For instance, some individuals might be hesitant to break the law *if* they want to stay out of jail. However, Kant explains that one should behave morally, without any consideration for *ifs*, simply because it is one's moral duty to do so. The categorical imperative should command unconditionally.

An action is only morally justifiable if one truly wishes that others act in a similar manner when they find themselves in a similar situation. In order for this moral rule to develop into a universal law that is applicable to all and by all, all individuals should treat others the way that they themselves would like to be treated. It is then through this fair and equal treatment of everyone that morality is found. When this is applied, humans should no longer be subjected to arbitrary use by others (Gold et al., 1991). They should not be used as an instrument to achieve the happiness (or security) of others. Within this ethical system,

certain rights (for example, dignity) and principles (for example, justice) must never be sacrificed, even if the benefits of doing so outweigh the costs (Luhmann, 1993). For Kant, human beings have intrinsic value and, therefore, he postulated that we should treat others “as ends in themselves” (Gold et al., 1991: 11).

### **Contrasting deontological and utilitarian ethics**

Utilitarianism is a consequentialist moral theory that weighs the positive results of an action against the negative ones. For example, when looking at the issue of bugging phones and undercover operations, a utilitarian would decide whether to employ such tactics by weighing the good and bad consequences of using them as compared to not using them. There is a potential positive aspect to using such secret measures if, for example, they can deter crime, but there is also a negative aspect where certain individuals’ rights to privacy and dignity are violated. The utilitarian would weigh the benefits of reducing crime against the negative consequences of sacrificing some rights. In contrast, a deontologist, would approach the same issue by looking at the act and its motive to see if it conforms to the categorical imperative, rather than by focusing on its consequences. A deontologist would ask whether it can be willed that the principle behind this act become a universal law. Another question asked would probe the danger that individuals may be reduced to being simply tools in a policy designed to benefit the majority. The issue of rights is an important point on which utilitarians (Bentham in particular) and deontologists differ significantly (Gold et al., 1991). While Kant views the basic rights of human beings as something sacred, Bentham argues that rights should not stand in the way of utilitarian policies. He feels that “the word *right* is the greatest enemy of reason and the most terrible destroyer of governments” (Bentham as quoted in Spader, 1991: 30).

Defenders of utilitarianism often argue that the deontological approach to ethics is too rigid and its application will result, in some instances, in the increase of misery and decrease in the level of happiness among people, while such an outcome could be avoided if utilitarian principles were used. They feel that following fixed moral rules, simply for the sake of following them, may lead to avoidable suffering. Yet, proponents of Kant's ethics reply that the duty to follow moral rules not only protects the dignity of the individual, but also "safeguard[s] mankind from the most awful atrocities" (Smart, 1992: 78).

*The conflict between rights and utility*

The conflict between rights and utility, whereby rights have the potential to threaten the fundamental value that utilitarians aim to promote, is not new. This conflict of values represents the tendencies of different government regimes "to shift back and forth on the rights/utility scale in search of a proper balance" (Spader, 1991: 29).

The rights/utility conflict is a value conflict between what individuals' rights are and what is believed to be good for the majority. It has also been perceived as a conflict between the present means and the future ends or, more generally, between deontological and utilitarian ethics. As explained earlier, utilitarian thinking focuses on the ends and consequences that might result from a particular decision, rather than on the means adopted. According to this approach, the ends could justify the means if numerous measures are explored in order to choose one that would maximize the expected utility. If a measure fails this test, the utilitarian would consider the action to be wrong. However, deontologists argue that utility is not an adequate test of rightness and that individuals should be seeking other considerations such as the proper moral rule or principle to abide by. They emphasize the importance of drawing a line between what should be done on the grounds of utility and what

one has the duty to do, pointing that one does not always have the moral right to do what he or she deems to be in a common interest. Based on this reasoning, deontologists criticize utilitarians for not placing sufficient emphasis on the important notion of the individual as a person with inalienable rights (Spader, 1991).

The utilitarians are future-oriented and focus on the results of the decisions made; deontologists are present-oriented and focus on the moral worth of the process through which decisions are made. Utilitarians are often criticized that in determining whether actions are right or wrong, they rely on predictions and probabilities, a process fraught with intractable problems. In contrast, deontologists are accused of not caring enough about the future and over-concentrating on the present means. According to this approach, future social good is important but should not be the ultimate determinant of the decision-making process (Spader, 1991).

#### *Implications for the decision-making process*

According to Spader (1991), the process of decision-making is one of balancing and reconciling conflicting or diverging values. He places emphasis on the importance of mixing different perspectives, because the conflict between rights and utility is always “one of degrees (priorities), not dichotomy” (1991: 43). Some theorists give priority to utility over rights and others to rights over utility. The degree to which a decision-maker gives priority to fair means or to a potential future good can determine whether that person leans towards utilitarian or deontological ethics.

The conflict between rights and utility often takes the shape of a conflict between the good of the community as a whole and the rights of each individual. Spader explains that a resolution to the conflict between rights and utility can be found “in the form of a delicate

synthesis that allows degrees of both sets of values” (1991: 40). However, the changing nature of society constantly calls for new balances and reconciliations between values. Moreover, most people in their daily lives are moral pluralists and therefore it is unlikely that a single ethical theory could provide them with a sufficient guidance in solving the value conflicts they experience (Spader, 1991). In the next chapter, I propose a theoretical framework for my research, which is based on many concepts and insights discussed in this chapter.

## **CHAPTER 2**

# **Conceptual Framework and the Methodology of Research**

### **Conceptual framework**

In the previous chapter, various theoretical and philosophical approaches to such issues as risk, security, rights and liberties, ethics, terrorism, and counter-terrorism were discussed. They will serve as a background against which the political rhetoric about 9/11 and the justifications given by the American government regarding its response to the attacks, more specifically the Patriot Act, will be analyzed and interpreted.

Risk is an important concept in the context of my research, because the 9/11 attacks were bound to re-focus the political discourse on certain types of risk rather than others, for example, on risks related to terrorism rather than those related to ordinary crime. My research focus on the governmental discourse surrounding the attacks and their aftermath reflects claims by various reviewed authors who underlined the crucial role of discourse in the construction and communication of risks.

The literature review shows risks as social constructs. Accordingly, there are many ways in which the 9/11 events could have been interpreted and translated into risks. As Garland (2003) contends, risks are both reactive and interactive – as soon as they are focused on, they change, reacting to definitions, investigations and policies, while simultaneously influencing them. Hunt (2003) points to the complexity of the process through which issues or events become the focus of concern. The conditions under which individuals and institutions problematize certain events are crucial to the definition of these events as risks or threats, which ultimately affects the way that they are experienced.

While efforts are constantly made to assess risks, leading to the proliferation of related knowledges, Hunt (2003) argues that a strict scientization of risk assessment is not feasible. The reason is that moral discourses are constantly at play in the definition and the

explanation of risk, and they tend to be influenced by social stereotypes and non-scientific evaluations. These discourses affect the way through which people experience events that are labelled as risks because they induce certain behaviours rather than others, and they thereby affect the lived reality.

As has been discussed in the previous chapter, risk discourses are not universal. Certain discourses are specific to certain societies at certain times. What emerged as the dominant discourse in the U.S. in September 2001 might not be relevant or even understood elsewhere in the world, because it was constituted by both the particular historical circumstances and the American values and principles. Moreover, as Ericson and Haggerty (1997) point out, the meaning of risk also varies depending on the institutions that are defining it, along with institutions that identify and manage risks. They not only communicate an existing risk, but they can call a risk into being and determine the response to it as well. Various authors stress that different types of institutions, for example, governmental and non-governmental ones, are characterized by distinct ideologies and organizational logic, which influences their definitions of risk, and their actions and reactions towards it. They are also in constant interaction and the outcomes are constantly shaped by the evolving power relations that link them.

According to Garland (2003), risk discourses in late modern societies prioritize the need for intensified security, the containment of danger, and the avoidance or management of risk. This rhetoric of social control is dominated by concerns for the protection of the public, who, in turn, is intensely concerned with potential risks. This results in increased demands that the state intensify efforts to protect citizens. Yet, while focusing on risks, governments are also usually aware that they must be cautious in their actions and reactions in order to

avoid alarmism and panic (Garland, 2003). Various authors, including Luhmann (1993), point out that risk-elimination or risk-prevention measures are themselves fraught with risk. The primary risk (for example, threat of terrorism) can bring about secondary risks (for example, restricted freedoms). However, people tend to be more tolerant towards these secondary risks because they perceive them as a protection against the primary ones.

Several authors have remarked that an event perceived as a terrorist attack can be defined and therefore dealt with as a crime, a disease, or an act of war, depending on the general discursive context and the institution that is defining and shaping the response to it. Differential perceptions of a similar event are also directly related to feelings of anxiety, which can be instigated or shaped by the political discourse. Such feelings can give rise to a particular set of actions designed to deal with any potential threats - actions that may sometimes be accepted regardless of any likely negative side-effects that they might have, such as the curtailing of rights and freedoms. Emotions such as fear and anxiety facilitate the adoption of far-reaching risk-avoidance and risk-management techniques. When people are fearful or anxious, they direct their pleas for action to the state, which is expected to protect its citizens from the source of their fears and anxieties by developing and implementing the necessary measures. It is through this extension of regulation in response to public anxiety that state control and surveillance are legitimized and tolerated to a greater degree than they would normally be (Hunt, 2003). According to Schneiderman (2002), it is in the context of attempted prevention of such threats as terrorism that risky side effects, which threaten democratic values and practices, are likely to emerge and may evolve into adoption of totalitarian measures.

Fears related to security have become an integral part of life. They are influenced to a large extent by the mass media – a primary source of knowledge for most people (Crelinsten, 2002). A dramatized coverage of government officials warning of specific threats, such as Islamic fundamentalism, can trigger fear and anxiety among the public who, in turn, experiences a collective sense of existential insecurity (Hier, 2003). The public becomes more tolerant and, at times, supportive of intrusive or aggressive state policies if they are perceived as a protection against particular threats. A high level of anxiety and a strong sense of unity can help governments advance their political agendas. A typical event that can promote anxiety and unity at the same time is war. It is related to strong emotions and a structure of social awareness that is centered on war experiences. War, or a definition of an event as an act of war, can unite and mobilize people and provide an effective vehicle for manufacturing populism needed to make them rally behind the leader (Steinert, 2003). This observation may be potentially relevant to the post-9/11 political discourse.

As previously noted, in recent years, terrorism has become a main concern for governments, even though it is known as a low-probability activity (Crelinsten, 2000). Elaborating on state approaches to this threat, Crelinsten (2002) points to two models of counter-terrorism: a criminal justice model, which is dominated by the rule of law in order to preserve public order, and a war model, which is dominated by rules of war and evokes calls for unity and sacrifice. Yet, according to Steinert (2003), designations such as the ‘war on terrorism’ blur the line between warfare and policing practices. It may then be possible for the White House to look at the events of 9/11 as *both* a crime and an act of war. The choice of definitions or their combinations may both guide the governmental response and/or be tailored to the preferred type of response.

According to Sederberg (2003), Western responses to terrorism are often guided by two considerations: a predicted degree of effectiveness of the measures contemplated and their acceptability in terms of democratic values and practices. What is perceived as effective is not necessarily seen as acceptable, and vice versa. It is often believed that a solution can be found in a trade-off between the two. This issue tends to be framed in terms approximating the philosophical approaches of utilitarian and deontological ethics, which were discussed in the previous chapter. These ethical conflicts and possible trade-offs were elaborated in the literature review because I found them to be potentially relevant to the discourse surrounding the passing of the Patriot Act.

Utilitarian and deontological ethics have disparate implications for the enactment of new laws, including laws that involve trade-offs between security and human rights. These two ethical approaches, along with the theories that have been discussed, will be used as a framework for the analysis of justifications given by the government of the U.S. for passing a specific anti-terrorist legislation in the aftermath of the attacks of September 11, 2001. In my research, questions will be asked about the official rhetoric surrounding the events of 9/11. Do attempts seeking to legitimate anti-terrorist legislation focus more on the overall long-term benefits of the larger society (the greatest happiness for the greatest number of people) regardless of any specific injustice that they might cause? Or do they emphasize the moral duty to preserve individual rights and freedoms regardless of possible consequences for the society? Is one approach prioritized over the other, or is some sort of balance advocated? In my research, I trace discursive practices related to such potential concerns as the rights/utility conflict, the translation of events into risks, fostering of unity, manufacturing of consensus, and the representations of the USAPA in the context of the post-9/11 political climate.

### **Discourse analysis**

Each time period and each social group has its characteristic forms of social communication, and its own sets of themes. Discourse, whether economic, literary, political, scientific, or any other, has been viewed as a form of communication. It is a social practice as well as “a site of struggle”, a site where social meanings are constantly produced, analysed, or challenged (Seidel, 1985: 44). Discourse is also directly related to action and, consequently, to the exercise of power. This power lies in the fact that discourse may induce certain behaviours or spur other discourse (Jäger, 2002). According to Jäger (2002: 34), discourse may be viewed as “an institutionally consolidated concept of speech” and a flow of knowledge, which “creates the conditions for the formation of subjects and the structuring and shaping of societies”. Discourses as such neither reflect reality nor determine it; they shape social reality through “intervening active subjects in their societal contexts as (co-)producers and (co-)agents of discourses and changes to reality” (Jäger, 2002: 36). The discourse is above any individual or group of individuals and cannot be understood apart from its historical roots and dynamics. Any given discourse is always a part of a complex tangle of living discourses that grow and change all the time. Yet, since discourses give meaning to objects, “if the discourse changes, the object not only changes its meaning, but it becomes a different object; it loses its previous identity” (Jäger, 2002: 43). Therefore, discourses have concrete, material consequences and affect also non-discursive practices.

As Jäger (2002) points out, discourse analysis is not only about what is said, but also about what can be said in a given society, at a given time. It should also include the strategies that are used to extend or restrict what can be said, such as denial, prohibition, relativization, creation or removal of taboos or change of conventions. Jäger makes several

useful suggestions as to the main categories to be used in analyzing the overall structure of a discourse. First, we should identify the major discourse strands, or “thematically uniform discourse processes” (2002:47) as well as their fragments and their entanglements. Another step involves identification of discursive events and their discursive contexts. An event becomes a discursive event when it proves to have a major impact on the way the further discourse develops. Applying this to my research topic, the attacks of 9/11 may undoubtedly be treated as a discursive event. It is important to keep in mind, however, that even unanticipated events have discursive roots and, therefore, their discursive consequences are not totally arbitrary. Jäger (2002) also recommends that we analyze discourses with respect to their “planes” (such as science, politics, media or business) and “position” (ideological orientation, hegemonic or subversive status, etc.). Discourse analysis should also attempt to place the studied discourse in both the context of a global discourse and in a historical context, with all their complex entanglements and strands. A qualitative approach is much more suitable for this type of study than a quantitative approach, because of the focus on meanings and interpretation. Nevertheless, the qualitative analysis may be assisted by, for example, establishing the frequency of the occurrence of particular themes or arguments.

Van Dijk (1983) suggests several criteria to be used in discourse analysis. They include functionality (what underlying meanings and social contexts are expressed by the surface structure of the text?), meaningfulness (in what way the discourse appears to be coherent or has a “topic”?) and goal-directedness (what communicative goals are sought and how?). These principles of functionality, meaningfulness and goal-directedness are manifested differently in every type of discourse because each one has its own social context, functions, communicative goals, style, surface structure, meanings, methods of establishing

coherence, rhetorical devices and narrative schema.

According to Van Dijk (1983), discourse analysis is composed of four distinctive elements that distinguish it from content analysis. First, it looks at a specific message as a discourse in itself. Second, discourse analysis is predominantly qualitative in nature. Third, it includes not only readily visible data, such as words, sentences and stylistic features, but also more hidden semantic structures and meanings. An attempt is made to reveal presuppositions, strategies and connections that are implicit in the discourse and to locate possible principles behind the structure, production and comprehension of the message. Finally, discourse analysis is concerned with a larger theoretical understanding of the rules and strategies, which influence the production and reception of a discourse. It attempts to explain how different discourse structures emerge and how discourses are represented and understood.

Jan Renkema (1993: 57) builds on Van Dijk's concepts of discourse macrostructure and superstructure. The macrostructure is a meaning structure – “the global meaning of discourse” that can be presented in a short summary. In my study, this may be achieved by summarizing the evolving narratives about the 9/11 events and about the responses to these events. Another aspect of discourse structure is the form structure, also called “superstructure”, which is a “conventionalized” schema that frames and structures the content. With respect to my research on governmental discourse surrounding the 9/11 attacks, the super-structural forms may include press briefings, the President's Address to the Nation, public letters of the President, major speeches by politicians and testimonies before House or Senate committees. All these forms impose specific conventional requirements. To Renkema (1993: 199), “the central issue within the field of discourse studies is the

relationship between form and function”. Therefore, by limiting the diversity of form in the selection of studied documents, it is also possible to assure a certain cohesion of function.

### **Official/political discourse**

Official discourse, also known as political or state discourse, is an ideological practice motivated by the belief that it could provide a justification for state practices and shape public responses. Such discourses can be viewed as a technique, which can legitimize or strengthen the government in place (Jäger, 2002: 34). Based on their research on reports of official inquiries in the U.K., Burton and Carlen (1979: 46) observe:

State discourse uses the language of administrative rationality, normative redeemability and consensual values to indicate itself as functioning within a democratic mode of argument. The state’s image as the embodiment of popular sovereignty appears because state discourse reproduces notions of the free choosing discriminating subjects and claims itself as their agency. Within this imaginary form the state becomes the predicate of the collective subject.

Official discourse is crucial to political and ideological hegemony, and contributes to the systemization of arguments that promote the state’s version of rationality. It is through hegemony promoted by official discourse that various classes can be incorporated in the political process, and their confidence in their state sustained. According to Burton and Carlen (1979), functions of official discourse include incorporation, legitimacy, and confidence. Incorporation refers to the application of knowledge in a way that promotes strategies of state control. The function of legitimation comes into play when the state tries to repair its fractured image by attempting, for example, to distance itself from any arbitrary actions that were committed. Finally discourses of confidence re-affirm the state’s legitimacy during or following problematic periods by displaying and asserting “hegemonic coherence” (Burton and Carlen, 1979). Through these functions, the state can demonstrate that a failure or a crisis is temporary or irrational, and try to re-establish an image of stability

and security. This helps maintain public confidence and create a sense of unity and cohesion, a source of support for the state's sovereignty (Burton and Carlen, 1979).

According to Burton and Carlen (1979: 77), official discourse is didactic in the sense that it:

... sets up its own credentials in such a way that it can both hammer home the point of its own story *and* adjudicate between the other versions of the story, incorporating some versions, over-ruling others.

Based on their own research, Burton and Carlen (1979) make a number of potentially useful methodological observations. For example, it may be illuminating to look for "paradigmaticity" of some of the discursive themes whereby either explicit or implicit references are made to an assumed model, such as democracy or justice. It is also interesting to ask: What appears to be officially unspeakable? Finally, it may be interesting to examine how the particular discourse reveals or constructs the speaker as "the knowing subject". In this context, they mention the use of tautological discourse, which "assures that particular problems are assuaged through the manner of their posing" (1979: 104), the use of such expressions as "Undoubtedly" or "We are satisfied that...", references to the truth, to the authority of the office, and so forth (1979: 105).

Writing about ideological discourse, Van Dijk (2002) stresses the importance of studying its representations of 'us' versus 'them'. He elaborates:

Thus, speakers or writers may emphasize our good things by topicalizing positive meanings, by using positive lexical items in self-descriptions, by providing many details about bad actions, by hyperbole and positive metaphors, by leaving implicit our negative properties, or by de-emphasizing our agency of negative acts through passive sentences or nominalizations. [...] such formal and meaning aspects of dominant discourse not only express and enact power, but are also geared to the construction of desired mental model and social representations, that is, to influence, manipulation or control of the mind (2002: 107-8).

Finally, Jäger (2002: 35) suggests that it is critically important to study the uses of “collective symbols” and their role in linking up various discourses and “bridging contradictions, generating plausibilities and acceptance”. Through these collective symbols, shared by the members of a society, a repertoire of images can be activated, with which they can visualize and interpret certain social or political reality.

All the authors discussed above raised questions and made methodological suggestions that are pertinent to research on the governmental discourse, which is the subject of my thesis.

## **Research questions and methodological approach**

### **The topic**

The USA Patriot Act (USAPA), a potentially very intrusive post 9/11 anti-terrorism legislation, represents a dramatic step taken by the White House in its fight against terrorism. It appears to have significantly increased police powers by curtailing established constitutional rights. Moreover, it was rushed through, based on an abridged legislative process. It can be expected that various arguments and rhetorical devices are used by the governments when they attempt to introduce extraordinary legal measures. In this particular case, the governmental strategy proved successful insofar as the proposed bill was indeed enacted, with only minor amendments, just weeks after the events of 9/11. The overall governmental discourse that surrounded the 9/11 attacks and the passage of the USAPA will be analysed in this thesis. The two main research questions addressed are:

- (1) What are the main strands, characteristics and dynamics of the governmental discourse(s) following the attacks of 9/11?
- (2) How did the U.S.A. government justify a potentially very intrusive anti-

terrorism legislation, which aimed at increasing significantly police powers and threatened to curtail the established guarantees of civil rights?

### **Research data**

Governmental documents are the primary sources of data that will be used for the official discourse analysis. A total of 74 documents (the word 'document' refers to transcripts of governmental speeches or statements) culled from governmental sources constitute the basis for analysis. The documents cover the period from September 11 to October 26, 2001, which is the period between the attacks and the passage of the USAPA. The documents were collected mainly from the Library of Congress and the Department of Justice websites. They consisted of prepared speeches and statements made by various officials, including President Bush and Attorney General Ashcroft. Prepared statements or speeches made by governmental officials at the beginning or during congressional debates were also included, along with letters sent by the President to be read on his behalf on particular occasions (See Appendix A for a list of the documents selected for analysis).

Initially, I intended to analyze all types of official government documents produced from the day of the attacks until the enactment of the USAPA as law. In addition to the prepared speeches and statements, these documents included transcripts of press conferences, question-and-answer periods, and radio and television interviews. The inclusion of these latter documents would have necessitated, however, the application of different tools of analysis due to the diverse structure and format of these documents. This is beyond the scope of the current project and would be too demanding for the purpose of a Masters' thesis. Consequently, the choice of documents was narrowed down to prepared governmental speeches and statements, which resulted in a much more cohesive and manageable body of

documents. This is consistent with Renkema's (1993) remarks as to the relationship between the form and function of discourse. The final sample includes all documents, found on the searched websites, which met the above mentioned criterion. The websites searched are those of the White House ([www.whitehouse.gov](http://www.whitehouse.gov)) and the Department of Justice ([www.lifeandliberty.gov](http://www.lifeandliberty.gov)). The total of 74 documents was found and analysed. The documents ranged in length from 1 to 144 pages (See Appendix A). Some also included debates or question-and-answer periods, which were not included in the analysis. The 74 documents that were kept for analysis contain a total of 86 prepared statements and speeches (approximately 242 pages in total). The number of these items is larger than the number of documents, because in some cases, statements by two or more officials are included jointly in one document. Presidential statements and speeches represent 38% of the total number of statements and speeches analyzed; those by Senators who were involved in the development of the USAPA represent 21%; those by the Attorney General - 16%; those by other White House officials - 15%, while the statements and speeches by Senators and Congressmen not involved in the development of the legislation account for the remaining 10% of the total.

While discourse analysis is often limited to an in-depth exploration of a single document, I decided to include in my study all the documents that met my narrowed down criteria in order to assess the dynamics and variation of discourse during the specified period of time. Consequently, tracing internal relationships within the individual documents and in depth analysis of specific rhetorical, linguistic and other discursive devices were not the primary goal of this research. I was aiming to reconstruct the major discursive narratives as they evolved during the studied period. In doing so, I was looking for meaningful discursive strands, patterns, repetition and shifts in arguments across the 74 documents studied. I was

also interested in roles played by various officials in the structuring and shaping of the discourses studied. The approach I adopted was entirely qualitative.

Non-governmental sources were also searched to be used as a secondary source of information. They consist of reports or commentaries published by non-profit organizations such as the American Civil Liberties Union and the Lawyers Association for Human Rights prior and following the passage of the bill. The reports and commentaries were found on the web site of each organization. They are discussed in the next chapter and serve as background information on the criticisms relating to the passage of the USAPA.

### **Coding**

For the purpose of my discourse analysis, a list of questions was elaborated based on the literature reviewed and a preliminary reading of the documents. These questions are divided into three groups (See Appendix B). The first group is entitled 'Document organization'. It is used for the identification and classification of the documents. Questions center on technical issues such as the identity of the speaker, the date, location and occasion on which the speech or statement was given, the audience targeted and the length of the document. Answers to these questions were not intended to be a part of the coding process as such but were to be entered for each document for the purposes of data organization. The second group of questions pertains to the 'Coding of individual documents' and it addresses all the key areas under consideration. This group has five categories, which deal with such issues as the use of language in the documents, the way the events of 9/11 are discussed, references and invocations made in the documents, reactions to the attacks, government counteractions, and implications of the USAPA. The third and final group is comprised of 'Questions for the overall analysis of governmental discourse'. The questions contained in

this section serve as a guide for the analysis of the overall discourse – how it changed over time and across the documents used. These questions were not used as a part of coding of individual documents. They were kept in mind while coding and notes were taken to facilitate the final discourse analysis and the communication of the research findings, based on all documents.

With regard to the technical aspects of the coding, each group of questions was assigned a specific colour, which was used to underline the relevant arguments or statements. The coding symbols were entered on the margins of the documents and an Excel spreadsheet was used in order to indicate which questions and sub-questions were addressed in which documents (See Appendix C). The analysis of the data collected is presented in Chapter 4, which is followed by further discussion and analysis of the findings in Chapter 5. In that final chapter, the findings are discussed against the ‘Conceptual Framework’ presented at the beginning of this chapter, which pulled together some of the themes from the literature review presented in Chapter 1 of this thesis.

## **CHAPTER 3**

### **The United States of America Patriot Act of 2001**

### **An overview of the USA Patriot Act (USAPA)**

On September 11, 2001, two commercial planes struck the twin towers of the World Trade Centre and the Pentagon, while another plane crashed in Pennsylvania. Terrorism was ruled to be the cause of these deadly attacks. In order to deal with these horrifying events, a number of anti-terrorism legislations were passed by the American Congress (See Appendix D for a list of U.S. legislative acts related to the attacks of September 11, 2001). By far the most comprehensive among them was the USA Patriot Act (USAPA), which was enacted only six weeks after the attacks.

The 342-page bill was drafted by the Department of Justice (hereafter DOJ – See Appendix E) under Attorney General John Ashcroft, in part from proposals rejected by Congress prior to 9/11. It was later modified and added upon by Congress. Senators Daschle, Leahy, Sarbanes, Hatch and Levin worked on refining and supplementing the DOJ's original proposal through bicameral and bipartisan negotiations. Some of the modifications that were initiated by Congress were accepted by the Administration, others were not. The Administration insisted on a number of provisions that some prominent members of Congress, including Senator Leahy, disagreed with. An agreement on the proposed bill was reached with the Administration on September 30, 2001, but it was reneged by the White House later on. Following this breach of understanding, Congress was not successful in reconstituting the bill due to time restraints, but several members of both houses of Congress expressed a belief that the initial agreement would have led to a more balanced bill.

The Bill originated as HR 2975 in the House and as S 1510 in the Senate, and finally passed as HR 3162. It incorporated many provisions on money laundering from an earlier

bill, HR 3004. The new bill's full title reads: *An Act to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes*. A shorter title, *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001*, was also introduced and passed in the House, and the bill was enacted under this title. Additional titles were given to particular portions of the bill. These titles are: *Crimes Against Charitable Americans Act of 2001*, *Critical Infrastructures Protection Act of 2001*, *First Responders Assistance Act*, *International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001* ([www.lifeandliberty.gov](http://www.lifeandliberty.gov)).

The bill was introduced in the House on October 23, 2001. The next day, it was passed in the House by a 357-66 vote (with 96% of Republicans and 69% of Democrats voting yes). On October 25, 2001, the bill was passed nearly unanimously in the Senate, by a 98-1 vote (with 100% of Republicans and 96% of Democrats voting yes). Members across the political spectrum supported the bill, which was signed into law by President George W. Bush on October 26, 2001 ([www.lifeandliberty.gov](http://www.lifeandliberty.gov)). (See Appendix F for a list of actions taken for the passage of the Bill).

### **Highlights of the new law**

The main purpose of the Patriot Act is to enable law enforcement officials to detect and sanction individuals involved in terrorist activities and to protect people against the potential occurrence of terrorist attacks. A report by the Congressional Research Service gives a following brief description of the Act:

The Act gives federal officials greater authority to track and intercept communications, both for law enforcement and foreign intelligence gathering purposes. It vests the Secretary of the Treasury with regulatory powers to combat corruption of U.S. financial institutions for foreign money laundering

purposes. It seeks to further close our borders to foreign terrorists and to detain and remove those within our borders. It creates new crimes, new penalties, and new procedural efficiencies for use against domestic and international terrorists (CRS, 2002: 1).

According to the DOJ, many tools covered in the Act have been used for a long time in fighting organized crime and drug trafficking and, as such, they have already been reviewed and approved by the courts. The DOJ's overview of the Act stresses that it facilitates information sharing and cooperation among government agencies by removing some legal barriers that once limited or prevented law enforcement, intelligence and national defense communities from communicating and coordinating national security. It also attempts to bring the current laws up to date to reflect the new technologies and new threats facing today's world. Finally, it increases sanctions for those who commit terrorist acts or support terrorism, both at home and abroad (DOJ, 2001).

The bill expanded provisions of many already existing laws, such as the Foreign Intelligence Surveillance Act (hereafter FISA) and legal statutes related to CIA, border security, immigration, privacy, cyber crime, conspiracy, and other aspects of crime and criminal justice. The new law authorized expansion of electronic surveillance and sharing of information with respect to criminal records, student records, finances, and medical and mental health records. Specific provisions aimed to intensify northern border security, authorize counter-terrorism funds to reimburse terrorism-related costs incurred by the DOJ, sharpen cyber crime laws covering computer fraud and abuse in the U.S and abroad, expand and reform funds to compensate victims of terrorism and public safety officers, create a new criminal statute to punish terrorist attacks against mass transportation, increase penalties for some existing crimes, introduce new terrorism-related crimes (e.g. related to biological

weapons) and ease restrictions on electronic surveillance, subpoenas, and search and seizures (SJC, 2001).

The USAPA increases the law enforcement's authority to track and intercept communications. It permits certain measures previously allowed in monitoring telephone communications to be extended to electronic communications. These measures include pen register (a secret i.d. which allows to identify the source and destination of messages but not their content), as well as trap and trace orders. The law gives access to stored electronic communication records, e-mail and voicemail. Authorities may intercept communications to and from a trespasser within a computer system, with permission from the system's owner. On this level, cooperation between law enforcement and foreign intelligence investigators is encouraged. Many of the provisions regarding the tracking and gathering of communication are covered by a sunset clause that will cause them to expire on December 31, 2005 and will make their possible renewal conditional on a proper review and assessment (CRS, 2002).

With regard to foreign intelligence investigations, previous restrictions on the process of gathering foreign intelligence in the U.S. are eased and the intelligence community is given greater access to information uncovered during criminal investigations. 'Roving' surveillance - where the court omits to specify the instrument, facility, or location where the surveillance will take place - is permitted. FISA, amended under the USAPA, increases the initial electronic surveillance period from 90 to 120 days, extensions from 90 days to one year, and orders and searches from 45 to 90 days. The use of pen register and trap and trace measures is permitted to gather information about Internet users and not just telephone users. The seizure of voice mail messages following a probable cause warrant is authorized, as well.

Electronic communication services are authorized, under the Act, to disclose contents and subscriber information in cases of emergencies involving immediate danger (CRS, 2002).

The Secretary of the Treasury is vested with regulatory powers to combat financial offenses related to the commission of other crimes, such as money laundering. The USAPA bolsters federal efforts of combating money laundering on the following levels: regulation, introduction of new offences, and forfeiture. The Act expands the government's authority to regulate activities of U.S. financial institutions and their relations with foreign parties. Included in the bill are new money laundering crimes, increased penalties for existing crimes as well as new types of forfeitures and modified procedures relating to confiscation. The property of those who participate in terrorism, whether domestic or international, can be entirely confiscated, in addition to any property derived from or used to commit terrorist activities (CRS, 2002).

New provisions related to immigration laws attempt to prevent "alien terrorists" from entering the U.S., particularly from Canada, and enable authorities to detain and deport "alien terrorists" living on American soil, along with those who support them. The Act also contains a list of new crimes, penalties and procedures that are created to be used against domestic and foreign terrorism. In addition to already mentioned new crimes, there is a range of new offenses that pertain to harboring or supporting terrorists, interfering with comers and fraudulent charitable solicitation. While some of the new crimes already exist in some form as federal crimes, they are reformulated or supplemented by the USAPA to fit terrorism-related concerns and are given increased penalties. However, the increase of penalties is not limited to acts of terrorism – it applies also to other related crimes, such as conspiracy to commit terrorist offences. Penalties for actions such as counterfeiting, cyber

crime, and charity fraud are also increased. Procedural adjustments introduced by the new law are designed to facilitate criminal investigations, for example by increasing rewards for information in suspected terrorism cases, authorizing ‘sneak and peek’ searches and facilitating governmental access to restricted information (CRS, 2002). The DOJ has justified intrusive provisions as necessary for the maintenance of national security. Yet, even though many provisions, for example those dealing with detention powers, have been highly controversial, Congress has failed to monitor the application of the new law following its passage (LCHR, 2002).

### **Criticism of the USAPA**

The American government, like all other governments around the world, has the right and duty to protect citizens from harm and to promote their well-being. Groups and organizations, such as the Lawyers Committee for Human Rights (Hereafter LCHR - See Appendix E), recognize the danger posed by terrorist groups and therefore admit that the government should take appropriate measures to deal with new security issues and try to prevent any potential future harm. Yet, at the same time, they remind the government that it needs to practice care when proposing a legislation that can erode constitutional rights and freedoms. New legislation should not be subject to procedural shortcuts, as was the case with the passage of the USAPA, where rules were suspended and debate limited (LCHR, 2002). Although not all provisions of the USAPA are controversial, the new Act is nonetheless often seen as a “radical” piece of legislation that tries to promote, to an extraordinary degree, national security at the expense of constitutional rights (CCR, 2001: 2). The Center for Constitutional Rights (Hereafter CCR - See Appendix E) claims that the USAPA has granted unprecedented and often unchecked powers to the executive branch of

government. Law enforcement agencies are no longer required to provide a specific probable cause for a search order. Under the new Act, any significant purpose tends to be accepted as a valuable cause. Also, the sharing of information between criminal and intelligence investigations, allowed under the new Act, clears the way for the resurgence of domestic spying by such bodies as the Central Intelligence Agency (hereafter CIA) (CCR, 2001; CPI, 2003).

Civil liberties groups, human rights organizations and other parties have been highly critical of the USAPA and were quick to point out numerous grounds for the unconstitutionality of the Act. According to the American Civil Liberties Union (ACLU – See Appendix E) - the most influential critic and the one with the largest pool of information in regard to the USAPA - the Act violates freedoms that are guaranteed by the following constitutional amendments: the First Amendment (freedom of religion, assembly, and the press), the Fourth Amendment (freedom from unreasonable searches), the Fifth Amendment (freedom from the deprivation of life or liberty without due process), the Sixth Amendment (right to a public trial, impartial jury, and to be kept informed about the process), the Eighth Amendment (freedom from excessive bail or extreme punishment), and the Fourteenth Amendment (right to a due process and equal treatment under the law for all people) (ACLU, 2001i).

### **Concerns related to the passage of the bill**

When the 9/11 attacks occurred, Americans did not know what hit them due to the magnitude of the events. In this frantic and confusing environment, no one could be sure about the nature of the threat or the measures required to deal with what happened. This sense of confusion extended to governmental actions where, in the beginning, no one was

able to confidently say whether the powers requested for the fight against terrorism were justified or excessive. The situation only became clearer as time passed. In a report by the ACLU entitled *Insatiable Appetite – The Government’s Demand for New and Unnecessary Powers After September 11*, much concern is expressed regarding federal policies adopted after 9/11, especially the USAPA. Concerns are numerous, including the acronym of the official title, the USA PATRIOT (Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) Act, which supposedly reflects a calculated effort to intimidate people by potentially labeling critics as unpatriotic. It is interpreted as a device to divert attention from the content of the Act, which poses a threat to constitutional rights and from its speedy passage that lacked required debate and revision. According to the ACLU report, both the rhetoric and the procedures that characterized the legislative process involved in the Act’s passage contributed to the stifling of voices of opposition that should have been given an opportunity to be heard prior to the passage of the law. Those individuals who openly opposed federal policies were branded as unpatriotic; a reaction that goes counter to the First Amendment to the Constitution, which guarantees a right for all people to express their views about government actions (ACLU, 2002b).

The proposal for the bill was submitted to Congress by Attorney General Ashcroft soon after the attacks. The bill contained a list of dramatic new powers in the field of police work. Ashcroft demanded that the proposal be enacted within three days; a deadline that was not met by Congress, which argued that such speed is unheard of in congressional legislating. He then resorted to publicly suggesting that the new powers were needed immediately and that Congress would be held responsible if more attacks occurred while the bill was still pending (ACLU, 2002b; CDT, 2003).

When lawmakers demurred, hoping to draft and pass more reasonable legislation than the wish-list bill the White House was trying to force into law, Ashcroft upped the pressure, using public speeches, phone calls, personal meetings and intensive lobbying on Capitol Hill. According to congressional aides, the Attorney General encouraged an atmosphere of hysteria, insisting that without this bill, new catastrophic attacks were a virtual certainty (ACLU, 2003a: 5).

When the Judiciary Committees in the House and in the Senate set up a joint hearing on the proposal, Ashcroft limited his availability to only one hour. In the Senate Judicial Committee, there was no vote held and the bill moved directly to the Senate floor. In the House Judicial Committee, the proposal was debated and amended, and some civil liberties protections were added. However, the White House convinced the committee to re-write the bill during the night before the floor debate, in order for the bill to conform more closely to Ashcroft's formulation of the provisions. Following these changes, there was no conference committee meeting between Senators and Representatives to negotiate the new version of the bill. It came down to limited negotiations between some Administration officials and selected members who met behind closed doors. After a shortened debate, the bill was passed in the House and in the Senate with rare unanimity. The final passage of the bill coincided with the Anthrax scare in the Congress, which restricted most members from gaining access to their offices. Most did not even have the opportunity to read the final version of the bill which was made available to them mere hours before they had to vote on it. Under these rushed proceedings, there was no chance to consider any implications for civil liberties (ACLU, 2002b; CDT, 2003).

The final bill included almost all the investigative tools that were sought by the government. Furthermore, some other provisions were added by Congress to enhance the fight against terrorism. Some skeptical members of Congress successfully demanded the

introduction of a four-year sunset clause that would affect some sections in one of the ten parts of the Act. The sunset clause provides for the expiration or reconsideration of the provisions within four years. The ACLU claims that some of the provisions that were passed as part of the USAPA had been sought by the DOJ prior to 9/11, but were rejected by Congress (ACLU, 2002b). It can then be said that Congress rushed to pass the anti-terrorism bill while failing to take into consideration the intrusive nature of the new powers or to provide sufficient safeguards against any abuses of power. Congress granted the DOJ its 'wish list' of new powers and an opportunity to use them with minimal judicial and congressional oversight. Many have argued that through this granting of powers, civil liberties were sacrificed for the promise of increased security (CCR, 2001).

### **Implications for constitutional rights**

The ACLU, the leading critic of the USAPA, openly criticized some provisions found in the Act as they were perceived to threaten rights and freedoms. The concerns of the organization were made public on October 23, 2001, days before the bill was signed into law. Concerns were and remain concentrated on, but not limited to, the following provisions:

The USAPA expands 'sneak and peak' warrants by allowing law enforcement to delay giving notice of a search till after it has been conducted. With a warrant, the government can enter and search a property in the absence of the occupant, seize physical property or communications, and reveal that at a later time only. This is a clear change from the way that search warrants were executed before the USAPA. This new provision goes against the fourth amendment which provides individuals with protection against unreasonable searches and seizures. The amendment requires that the government is supposed to obtain a warrant and give notice to the person whose property will be searched.

This notice enables the people concerned to assert their rights by, for example, pointing out irregularities in the warrant, such as a wrong address or unclear scope of the search. The ACLU notes, however, that in some instances, even prior to the USAPA, the government had a strictly limited authority to delay notification for particular searches related to electronic communications (ACLU, 2001c).

The USAPA limits judicial control over the telephone and Internet surveillance. Under the Act, these practices are subjected to minimal reviews. Section 216 of the bill allows law enforcement to obtain the equivalent of a 'blank warrant'. This means that wiretap orders need not specify the place to be searched or limit eavesdropping to the target's conversations only. Once a search order has been issued, law enforcement officials decide on the details. This process marginalizes the role of the judge and augments that of law enforcement agents. The provision in question goes counter to the fourth amendment which requires that search warrants specify the place to be searched, or the phone to be tapped - a measure of privacy protection and prevention of abuse of innocent parties. Similarly, extending the pen register and trap and trace orders from telephone communications to Internet communications, without any additional protections, ignores the fact that the addresses of e-mail messages cannot be automatically separated from their content (ACLU, 2001d).

Domestic law enforcement and intelligence collection were previously separate, based on differing legal regimes that are associated with each activity. However, the events of 9/11, in which individuals that had been living in the U.S. for many years were involved, made it clear that some sort of cooperation between the two was necessary (ABA, 2002). The USAPA allows for a vast array of sensitive information gathered by law enforcement

officials to be shared with intelligence agencies. Through this provision, the CIA is given authority to 'spy' on Americans in order to accumulate intelligence. Information can be gathered from school records, financial transactions, Internet activity, medical and mental health records, and telephone conversations. The sharing of such information does not require a court order and no safeguards are provided as to sharing information that cannot be defined as foreign intelligence or disclosing information to foreign governments. Section 901 of the Act gives the Director of the CIA authority to manage intelligence information gathered within the U.S. According to the ACLU, this violates the CIA charter by expanding dangerously the CIA role in domestic intelligence gathering (ACLU, 2001h).

The ACLU also criticizes the fact that the USAPA permits that immigrants and other non-citizens be detained indefinitely, whether there are clear grounds to believe that they are terrorists or not. Section 412 of the Act requires that persons held under the Attorney General's certificate be charged with a criminal offence or some type of violation within seven days. The charges need not relate to terrorism and may pertain to immigration violations. Indefinite detention is an option, however, if there are reasonable grounds to believe that an individual is involved in terrorism or other related activities that are deemed threatening to national security. No clear proof requirement is stipulated. Moreover, those who cannot be deported, especially if their country of origin refuses to take them, could still face indefinite detention, due simply to an immigration status violation (ACLU, 2001e).

The USAPA also permits the detention or deportation of people who engage in associational activities normally deemed innocent, for example people who provide support for lawful activities of a group deemed terrorist by the government, even if it is not officially listed as terrorist. In addition, under the new law, any group engaging in violent activity can

be considered terrorist, including such groups as Greenpeace. The 'terrorist' designation of a group renders any non-citizen members inadmissible in the U.S. Those who are already in the U.S. can be subject to deportation, regardless of whether they are aware that the organization to which they belong is designated as terrorist, or whether their assistance to the organization contributed to terrorist activity (ACLU, 2001a).

The ACLU points out that the USAPA's section 215 authorizes the Federal Bureau of Investigation (hereafter FBI) to obtain an order from the FISA court obliging any person or organization to produce any documents, records or items required by the FBI. If the request is for the purpose of a foreign intelligence investigation, the judge has no discretion and must issue the order upon receipt of the application seeking access to specified records. Yet, the fourth amendment requires proof that a probable cause exists before an invasive search can be conducted. This is designed to ensure that search or surveillance measures target only those individuals, who are likely to be associated with criminal activity (ACLU, 2001b). According to the ACLU, the Act represents a threat to the privacy of the public at large, in addition to threatening privacy of special groups such as students, as it gives access to all student records. While law enforcement agents already have the necessary tools to access these records, the new bill creates a broader net for student information, which is not contingent on suspicion of criminal activity. As a result, confidential student information, including academic, financial and other personal information, is transmitted to many federal agencies, which can lead to consequences far beyond the anti-terrorism goal of the bill (ACLU, 2001g).

The USAPA also presents a risk to financial privacy by expanding government access to personal financial information. While the ACLU recognizes the need to block the

financial resources that support terrorism, it condemns the Act for going beyond its stated anti-terrorism goal. It accuses the new law of compromising the privacy of financial transactions of innocent clients. As a result of this law, financial institutions are monitoring all transactions more closely and are sharing information with federal agencies. In some, based on these “anti-privacy” provisions and other information-sharing clauses of the Act, large amounts of highly personal information are being transmitted, deeply eroding the established personal privacy standards (ACLU, 2001f).

### **Claims of misrepresentation of the USAPA to the public**

In a report published by the ACLU in July 2003 under the title *Seeking Truth from Justice – Patriot Propaganda: The Justice Department’s Campaign to Mislead the Public About the USA PATRIOT Act*, the organization accuses the DOJ of misleading Americans about the Act’s provisions. It claims that statements made by the Department’s spokespersons to the media and local officials often contain distorted or false information (ACLU, 2003b).

The ACLU contends that the DOJ gives false information when it states, for example, that the USAPA does not apply to all Americans and that it is limited to foreign intelligence. The truth is that any United States resident can be investigated under this Act. This includes both citizens and permanent residents in the U.S. Another false statement implies that the seizure of a person’s records by the FBI can only be done if there is a probable cause. Yet, section 215 of the Act allows the FBI to obtain most records without a probable cause. The DOJ also claims that the provisions of section 215 apply only to terrorists and spies, and not to the average American. The truth is that the measure can be applied to anyone because no provisions of the Act require evidence of the status of a target (ACLU, 2003b).

Further, the ACLU alleges that in addition to false statements given by the DOJ, some statements give only a partial representation of the truth. For instance, DOJ officials explain that to obtain records under section 215, government agents must *convince* the judge to issue an order. Yet, in reality, there is no need for evidence. A judge must issue an order as soon as an application is submitted, and does not even seem to have the authority to reject an application unless it does not meet the requirements of section 215. Therefore, the judicial oversight is very limited. The ACLU also cites many official statements, which claim that Americans should trust that authorities care about their privacy and will not abuse any powers that are given to them under the new Act. Yet, as the ACLU points out, government *assurances* of good intentions are not sufficient - a democratic society should be based on a system of checks and balances, not blind trust in government officials. Based on its analysis of truth and falsehood in White House statements, the ACLU demands that the government stops misleading Americans and starts being truthful about the nature and effects of the newly legislated powers. The ACLU argues that misleading or partial information prevents the public from making informed judgments and decisions about the laws that affect their rights and well-being (ACLU, 2003b).

### **The costs of the USAPA**

Rights groups stress that the USAPA expands government powers at the expense of liberty and this undermines constitutional rights, both presently and for years to come. When faced with concerns about the issue of rights, government officials defend the passage of the bill by stating that their actions represent a “natural reordering of the balance between liberty and security” (ACLU, 2002b: 1). Yet, evidence that the measures undertaken will increase security is not easily found. What is evident, the ACLU claims, is the loss of liberty, not the

gain of security. The loss of liberty is found in an increase in government secrecy rather than transparency, a weakening of the Judiciary coupled with strengthening of the Executive branch of government, and an unequal treatment of individuals under the law based on their race, country of origin, and religion. The ACLU argues that the dichotomy between security and liberty is false, and that liberties do not necessarily have to be curtailed in order for a greater degree of security to be achieved. This is based on the belief that safety and freedom can co-exist (ACLU, 2002b). In another report, the ACLU (2002a) claims that most Americans recognize that the USAPA gave the Administration powers to invade their privacy, subvert due process, and ignore some of the previously existing safeguards. The report is very critical of the government's argument that a trade-off between freedom and safety is necessary, "as if by giving up the blessings of liberty we could save lives" (2002a: 3).

The ACLU claims that the USAPA and the White House's campaign to expand police powers were not necessary, and that any accomplishments made in the war on terrorism, at home or abroad, were achieved through the use of tools and assets that were already in place before 9/11. The organization contends that public concern about the anti-terrorist tactics used by the Administration is rising not fading but this has not stopped the White House from pushing for more laws and regulations. The ACLU has demanded that the government demonstrates that the new powers are necessary for preventing future attacks and that the benefits of those powers would outweigh the costs incurred. Since these conditions were not fulfilled with the USAPA, there is a belief that the campaign for further expansion of powers is simply meant to show an anxious public that the government is responding to its fears, and not necessarily to address 'actual' security concerns (ACLU, 2002b).

It is also claimed that the enactment of the USAPA demonstrates an obvious disregard for the role of Congress. The legislative process through which the law was enacted is described as “flawed” due to the lack of discussions, negotiations and analysis (ACLU, 2002b: 13). In addition to disregard for the role of Congress, the role of the Judiciary in overseeing executive practices and authority is undermined. Under many provisions, judges are stripped of any review authority that they would normally have. They are expected to issue orders for searches or surveillance as soon as a request for such orders comes through. According to the ACLU, the USAPA reflects the administration’s distrust of the Judiciary as an entity that is capable of safeguarding against abuses of executive authority. Yet, judicial oversight is crucial because the USAPA’s sunset provision is not sufficient and many regulations have an indefinite duration, necessitating close and long-term monitoring of the implementation of the provisions provided by the Act. The ACLU warns that if this is not done, the laws that are enacted to deal with terrorism can have serious consequences that run counter to American values (ACLU, 2002b).

### **Grassroots organizing**

In a 2003 report, the ACLU claims that a grassroots movement against federal policies is growing. When the attacks first occurred, people were cautious in their support of the USAPA and were not inclined to openly criticize governmental actions due to the great impact of the 9/11 attacks. As time went by, questions and concerns started to emerge about the many rights and freedoms that were being sacrificed by Congress and the White House through their policies. Eventually, over 130 communities (including some states) have adopted policies rejecting laws that they believe to threaten constitutional rights (See Appendix G). According to the ACLU, the interest in passing similar resolutions is growing

in many other communities. Yet, communities and states are not the only entities that are opposed to the USAPA. Such professional groups as librarians have joined the movement and are refusing to cooperate with the provision that affects the intellectual privacy of their clients, such as the revealing of library records.

There have been many attempts by the DOJ to diminish or discredit such grassroots campaigns. For example, just a few days after 9/11, Attorney General Ashcroft, speaking before Congress, warned others from speaking up to protect their rights because such tactics only aid terrorists. However, the ACLU believes that given the increasing number of communities that are expressing concern with the USAPA and other federal policies, the federal government cannot ignore public opinion much longer. Since ignoring this movement is difficult, the government is trying to discredit and combat it instead. This includes the deployment, by the DOJ, of “U.S. Attorneys and FBI agents in various localities to counter the resolution drives”. According to the ACLU, this campaign involves measures that aim to mislead the media about the USAPA and spread false or incomplete information in local communities (ACLU, 2003a: 3). The organization points out that “the war on terror is also a war of ideas” and therefore accurate information is crucial in order to permit the practice of valuable public debates (ACLU, 2002a: 28).

## **CHAPTER 4**

### **Governmental Discourses Surrounding 9/11 and the Patriot Act**

## **Introduction**

According to Siegfried Jäger (2002), discourse analysis draws on various disciplines - linguistics being one of them – and their combinations vary according to the object that is being analyzed. He notes that the structure of a discourse can be identified through the application of certain “operationalization aids” including discourse strands and their entanglements; fragments; discursive events and contexts; discursive planes and the overall societal discourse (2002: 47).

“Discourse strands” are thematically uniform streams that emerge in societal discourse. Each strand contains various texts, or what Jäger refers to as “discourse fragments” that deal with different themes (2002: 47). A single text can make references to numerous discourse strands, which may at times appear in constantly entangled forms and at other times in occasional knots. Events are rooted in discourses and also produce discursive consequences. Only those events, however, which have significant impact on discourse strands can be called “discursive events”. If they have a particularly powerful and wide-ranging influence on the prevailing discourses, they can be called “discursive mega events” (Jäger, 2002: 48). Usually, it is political emphasis, amplified by the media, that makes an event discursive and influences the discourse strand(s) that it is a part of. Discourse analysis can help identify a discursive event and determine its effect on the discourse. Jäger (2002: 49) also points out that discourse strands operate in various locations, or “discursive planes” through which speech occurs, such as “science(s), politics, media, education, everyday life, business life, administration, and so on” (2002: 49). Each plane may influence another or relate to another, which can be revealed through discourse analysis.

As Jäger (2002) points out, the overall societal discourse, composed of multiple discourse strands, is also part of a worldwide discourse. Discourse analysis aims to untangle the complexity of societal discourse, starting with specific discourses in their societal locations, or planes. For example, if one wants to look at the immigration discourse strand, one should study how it operates on such discursive locations as the media, politics, everyday life and so forth. Timeframes of discursive processes are also important and can help reveal the length and intensity of the entanglements of discourse strands.

For the purpose of this thesis, the governmental discourses surrounding the 9/11 events and the Patriot Act are analyzed based on a list of questions (See appendix B) developed in an attempt to reveal discourse strands and untangle discursive processes through an analysis of governmental documents covering the period from September 11, 2001 to October 26, 2001. The major discursive plane I am concerned with is the political plane as all the texts are presented by important political figures and I have not included their interpretations by the media. Although the political discursive processes are bound to be influenced by and entangled with other discourses, my focus is on the governmental documents as a vehicle for political discourse. I treat 9/11 as a discursive mega event that reverberated in many discourse strands both locally and globally. I also see it as rooted in some pre-existing discourses that provide reference points for development of new discourse dynamics.

In this chapter, I discuss various discourse strands and their important features and entanglements, based on my analysis of the 74 governmental documents. The presentation of my findings is divided into three parts. First, I present discursive narratives on the 9/11 attacks. In the second part, I focus on references and invocations made in relation to these

attacks. The third part is devoted to the analysis of the governmental discourse surrounding legal anti-terrorist measures, especially the Patriot Act. In Chapter 5, I conclude with an overall analysis of major trends revealed in the documents and across time, which is based on a list of questions developed specifically for that purpose (See the last section of the list of questions in Appendix B). The references to the specific documents made in these two chapters include the month and day, followed by the document number and the relevant page. For example, the reference (9/11, 1:1) designates the first page of the document no. 1 of September 11. The full list of documents is presented in Appendix A.

## **The 9/11 events**

### **9/11 as a defining historical moment**

The events of September 11, 2001, were presented by the Department of Homeland Security Secretary, Tom Ridge, as pivotal historical events that “changed our nation in so many ways” (10/8, 47:2). The National Security Advisor Condoleezza Rice claimed that the attacks would forever divide “history into distinct categories of before and after” (10/9, 49:1). On that day, “everything changed” and what had seemed impossible became a “horrific reality” for America and the rest of the world (10/9, 49:1). According to Rice, everyone will remember what they were doing on that day. Among the things that have changed as a result of 9/11 “is how we are going to organize the United States government to defend against, and ultimately defeat, the threat of terrorism, how we are going to organize to win the war on terrorism” (10/9, 49:1). According to Senator Hatch, due to the 9/11 attacks, people came to acknowledge that they lived in a dangerous world in which thousands of innocent people died, while others were fearful and hesitant to get on airplanes or engage in

routine activities and felt a serious and ongoing threat to their way of life, health and well-being (10/11, 51:135).

The events of 9/11 also represented an opportunity, as evidenced by the theme of reclaiming leadership and control frequently recurring in the President's speeches. For example, already on September 14, the President pointed out that even though the "conflict was begun on the timing and terms of others, it will end in a way, and at an hour, of our own choosing" (9/14, 13:1). He reiterates on September 20: "our country will define our times, not be defined by them", in order to maintain an age of liberty, not one of terrorism (9/20, 20:5).

Throughout the period studied, there is a clear line drawn between the pre-9/11 and the post-9/11 periods with respect to the perceptions of terrorism. According to the documents studied, prior to 9/11, terrorist attacks on American soil were perceived as impossible, yet, this changed completely as a result of the attacks. References to this radical shift in the perception of the threat of terrorism were employed to justify the re-organization of government to reflect a greater emphasis on intensification of security through multifaceted offensive measures. In the next sub-section, I discuss briefly the changes in the tone of the political rhetoric on the 9/11 attacks.

### **Talking about the events of 9/11**

Immediately following the attacks of 9/11, the President said that two planes had hit the World Trade Center in what appeared to be a terrorist attack. He spoke of "a national tragedy" and "a difficult moment" for the country, while remaining generally neutral and composed in his speech (9/11, 1:1). In a statement made by Attorney General John Ashcroft later on the same day, the rhetoric intensified remarkably. The attacks were described as

“one of the greatest tragedies ever witnessed on our soil” (9/12, 2:1). The acts were “heinous” assaults on both the freedom and the security of the nation and, consequently, of every American citizen as well (9/11, 2:1). On that day, as a result of the attacks, New York City was declared “a disaster” area (9/11, 2:3) and the events came to be portrayed by the President as a test to the American resolve – a test that shall be successfully passed (9/11, 4:1). By the evening, the tone became more specific about the nature of the attacks and the motives behind them. The President referred to them as “a series of deliberate and deadly terrorist acts” and as “acts of mass murder [that] were intended to frighten our nation into chaos and retreat” (9/11, 5:1).

The following day, the rhetoric surrounding the acts grew angrier and more revengeful. The President said that the acts were “more than acts of terror. They were acts of war”, which required determination, unity and resolve (9/12, 6:1). Over and over, Americans were told that they were now facing a new enemy, different from any enemy faced in the past; one that knows no value of human life and “preys on innocent and unsuspecting people, then runs for cover” (9/12, 6:1). That enemy not only attacked America, but every freedom-loving nation in the world. The attack was against civilization (9/12, 6:1; also 9/15, 14:1; 9/21, 23:3; 10/12, 53:1). And this – stated the President – called for “a monumental struggle of good versus evil” (9/12, 6:1). In the subsequent days, the attacks are repeatedly portrayed as an assault on freedom and democracy (9/12, 6:1; 10/1, 37:1, 10/3, 41:2) and on the American way of life, which is based in these principles (9/11, 5:1; 9/13, 10:1; 9/20, 22:2; 9/25, 33:1). They are also depicted as a challenge (9/20, 20:5), which should teach Americans that “there are evil people in this world” who wish them harm (9/16, 16:1) and are prepared to visit upon them an “unspeakable horror” (9/21, 24:2). The

9/11 attacks continue to be described as “unprovoked” and “unexpected” (10/11, 51:28) “evil actions” (10/4, 42:2) and “crimes against humanity” that brought a “senseless loss of life and destruction” (9/25, 31:1). But they were also an “act of war [that was] declared on America” (9/25, 33:1) and thrust upon “a relatively tranquil nation” (10/11, 51:28). They were “an attack on the heart and soul of the civilized world” (10/10, 53:1).

### **Why America?**

The White House claimed that America was chosen as the target of the attacks because it is the “brightest beacon for freedom and opportunity in the world” (9/11, 5:1). It was portrayed as the home of freedom and its greatest defender. The President spoke of the commitment made by the fathers of the United States of America and the responsibility of current generations to maintain it (9/14, 13:2). If citizens ask why the terrorists hate America, the answer, according to the President, is that:

... they hate what we see right here in this chamber -- a democratically elected government. Their leaders are self-appointed. They hate our freedoms -- our freedom of religion, our freedom of speech, our freedom to vote and assemble and disagree with each other (9/20, 20:3).

They not only want to kill, but to disrupt the American way of life and American role in the world. “With every atrocity, they hope that America grows fearful, retreating from the world and forsaking our friends. They stand against us because we stand in their way” (9/20, 20:3).

The terrorists did not only target American people, freedoms, democracy and way of life, but also the prosperous American economy (9/22, 25:1). However, even though such acts sent a “shock wave” throughout the economy (10/4, 42:2; also 9/22, 25:1), Americans should rest assured that the source of their strong economy remains intact because “it is found in [their] skill and hard work and entrepreneurship” and not in the glass and steel of the World Trade Center (9/22, 25:1; 9/20, 20:4). The terrorists targeted the symbol of

American prosperity because they understood that “trade brings freedom and hope” and this scares them (10/20, 64:1). While “America is a nation full of good fortune, with so much to be grateful for”, it has to be prepared to face the enemies of freedom (9/14, 13:2). But, Americans are constantly re-assured that their government, their economy and their way of life are safe. Terrorism will not prevail due to the strength of the American nation.

### **The great American nation**

Patriotism is a great resource, used repeatedly in the 9/11 discourse. The President, in his first address to the nation on the day of the attacks, tried to boost the morale of the American people and show his trust in them by emphasizing his reliance on their support in the fight to defend the values and principles that the American nation stands for. He explained that while the intent of terrorists was to shake the foundations of this “great nation”, they failed because “our country is strong” and “a great people” has been moved to defend it (9/11, 5:1). Speaking, a few days later, of his faith in the American people’s desire and capacity to do what is right for their country, the President confesses: “On this day of faith, I’ve never had more faith in America than I have right now” (9/16, 16:1). His language becomes more figurative, when, three weeks later, he refers to the American Nation as a “mighty giant” roused by the September attacks (10/8, 47:2).

The acts committed against the U.S. are said to have made the nation see the worst kind of evil, but Americans responded “with the best of America” (9/11, 5:1). The government emphasized that the loss caused by the attacks was reparable because terrorists “shattered steel, but they cannot dent the steel of American resolve” (9/11, 5:1). The image of the American Nation as made of both goodness and steel is well exemplified by the

following statement made by Senator Leahy: “We will remain a just, good nation, but we are a nation capable of a terrible fury” (9/12, 9:2).

Frequent references are made to the American way of life and the need to defend it (e.g., 9/11, 5:1; 9/12, 10:1; 9/20, 22:2; 9/25, 33:1), which brings an image of a special and unique nation, unlike any other. Moreover, American values are contrasted with the death and destruction-oriented values of the enemies of America. The President often repeats in his speeches that: “This is a great country. It’s a great country because we share the same values of respect and dignity and human worth” (9/17, 18:1).

The use of collective symbols is evident in the frequent references to the American flag. It is used as a symbol of a nation at war and is linked with the loss of American lives that must be avenged. Its display is also portrayed as a sign of unity, solidarity, freedom and patriotism among Americans. For example, the President says in his address to the Nation: “Citizens have come together to pray, to give blood, to fly our country’s flag. Americans are coming together to share their grief and gain strength from one another” (9/15, 15:1). In his address to Congress and the American People, he says: “We have seen the unfurling of flags, the lighting of candles, the giving of blood, the saying of prayers... We have seen the decency of a loving and giving people who have made the grief of strangers their own” (9/20, 20:1). The President insists that, even though the U.S. has been struck, the perpetrators of the attacks:

... are going to find out that we’ve reached a pivotal moment in history, where we will plant our flag on the ground -- a flag that stands for freedom -- and say to anybody who wants to harm us or our friends or allies, you will pay a serious price, because we’re a nation that is strong and resolved and united (10/17, 62:3).

Throughout the period studied, the American Nation is portrayed as the guarantor of inevitable victory over terrorism. However, in addition to serving as a reminder of the value of patriotism, the images of American people are also invoked in the government's attempts to establish a new relationship with the nation. This involves, on the one hand, the use of more intimate and moving language of sorrow and pity and, on the other hand, a pragmatic articulation of expectations of mutual trust and a clear division of tasks between the government and its subjects.

The President uses a very emotional language when he describes the impact the 9/11 attacks had on the American people. He speaks of American hearts that ache and are overwhelmed with grief for those who died or got injured (9/12, 9:1). He brings images of Americans weeping as they learned the names and stories of the victims, and speaks of their wounds as new and unhealed. The President also describes Americans as finding solace in prayers – “prayers that help us last through the day, or endure the night” (9/14, 13:1). Yet, the shared grief of Americans is increasingly portrayed as being inseparable from their great resolve and ardent support for the government's actions. Under their tears, there is determination that the war against terrorism must be won (9/15, 14:1), along with a spirit of patriotism, compassion, sacrifice and defiance (9/15, 15:1). As people share their grief and gain strength from one another, they also are cheering for the cause that their government is pursuing (9/15, 15:1).

Finally, Americans are also presented as strong and resilient people who will not be terrorized. They may mourn today, but tomorrow “the good people of America [will] go back to their shops, their fields [and] American factories” and they will not “be cowed by evil doers” (9/16, 16:1). This conveys an expectation that Americans resume their

interrupted lives and contribute to recovery through daily work and other normal routines. While the government takes care of security and the war on terrorism, the ordinary Americans should fulfill their duty by maintaining normality, productivity and calm. As expressed by the newly nominated director of Homeland Security, Tom Ridge: “Everyone in the homeland must play a part” (10/8, 47:3).

According to White House officials, Americans are asking what is expected of them. In response, the President entreats them to uphold America’s values of progress, freedom, pluralism and tolerance, and live by the principles of America. This is vital because the whole fight that they are undertaking as a nation aims to uphold their principles and values in the face of those who wish to destroy them (9/20, 20:4).

#### **Government in full control**

The White House made it clear from the beginning that anything possible will be done to deal with the intolerable acts. Immediately after the attacks, it was announced that thousands of FBI agents were working at the newly established crime scenes, a website was opened for people to report information they might have about the attacks and a toll-free 800 number was made available to the families of the victims (9/11, 2:1). Throughout the studied period, reassuring statements were constantly being made by White House officials, mainly President Bush and Attorney General John Ashcroft. With respect to the political and bureaucratic dimensions, the White House emphasized the government’s unshaken status and attempted to assure Americans that “your federal government continues to function effectively” (9/11, 3:1) and without interruption (9/11, 5:1; 9/12, 10:1). The country will not cease functioning as a result of the terrorist acts (9/12, 7:1). Americans should not be alarmed by the temporary closure of some federal buildings, which was done for security

reasons (9/11, 3:1). Also, on the day of the attacks, the President stated that American military “at home and around the world [was put] on high alert status” (9/11, 4:1) and contacts were established with leaders of Congress and many of the world leaders (9/11, 4:1).

With respect to the military dimension, the president made it clear on the day of the attacks that “our military is powerful, and it’s prepared”, implying that a military response was feasible (9/11, 5:1). In regard to the economic situation, the White House insisted that the financial system remained strong and continued to operate, even though the market had closed that day. It was indicated that banks remained open, and that the Federal Reserve continued to operate as normal (9/11, 3:2). In a defiant tone, the President pointed out that “no country, and no terrorist, no matter how evil, no matter how twisted, no matter how diabolic can close the symbols of U.S. democracy or what we do” (9/12, 9:1). A few weeks later, the President admitted, however, that 9/11 represented a blow to the American economy - many companies were struggling and many jobs were lost. Nevertheless, he maintained that the economy remained fundamentally strong because America has the best-educated labour force, is the biggest producer of goods in the world and is the world leader in technology and science. As a result of these strengths, the country remains a major attraction for investors. These remarks exemplified the frequent reminders to Americans that their country was “still the greatest nation on the face of the earth” (9/22, 25:2).

It was indicated, from the beginning, that the government is “on high alert” (9/12, 7:1; 9/16, 16:1) and that its efforts are highly coordinated across all federal government departments (9/12, 8:1). Americans were assured that the government was both actively dealing with the immediate aftermath of the attacks and establishing a long-term plan for the apprehension of all those involved and the prevention of any further terrorist attacks (9/12,

10:1). In regard to the immediate impact of the attacks, the full federal resources of the government had been dedicated to assist local authorities in saving lives and helping the victims (9/11, 4:1). The initial focus was on the devastation caused by the attacks and its impact on the individual lives, mainly those of victims and their families (9/13, 11:3). In terms of a long term strategy, it was pointed out that the necessary resources had been directed to the law enforcement and intelligence communities, in order to assist them in finding those responsible and bringing them to justice (9/12, 10:1). The President informed Americans immediately after the attacks that an emergency response plan was being put in place by the government and he pledged that “the United States will hunt down and punish those responsible for these cowardly acts” (9/11, 4:1). The White House constantly assured Americans that measures which provide greater security were put in place, which was fundamental for a return to freedom and business as usual (9/15, 14:2). The image of extraordinary but confident government efforts is thus coupled with the emphasis on normality and messages of reassurance to Americans that they are well protected.

### **Has anything good emerged from 9/11?**

“It is said that adversity introduces us to ourselves. This is true of a nation as well”, reflected the President a few days after the attacks (9/14, 13:2). Throughout the studied period, he emphasized the goodness of the American people (e.g. 9/14, 13:1), and the strength of American values (10/24, 69:3), which were reinforced by the attacks despite the attackers’ expectations to the contrary. According to the President, the terrorists intended to tear the nation apart and make people fearful. Instead, they brought the nation closer together and further united Americans in their determination to prevail over terrorist causes (9/15, 15:1). As the President describes in his radio address four days after the attacks:

“Great tragedy has come to us, and we are meeting it with the best that is in our country, with courage and concern for others” (9/15, 15:1). “Out of our tears and sadness, we saw the best of America” (9/18, 19:1). Not only were Americans reminded of their kindness, generosity, resourcefulness, bravery, love and commitment to their nation, but the whole world as well saw those qualities (9/14, 13:2; 9/20, 20:1).

The world watches the great country called America, and they say: ... What will Americans do? And what they’ve seen is the best of America. They’ve seen leadership, they’ve seen courage, and as importantly, they’ve seen compassion (9/18, 19:2).

This is reiterated by the President more than a month after the attacks: “The evildoers have struck our nation, but out of evil comes good. We are good, kind-hearted, decent people and we are showing the world just that” (10/17, 62:2). While the U.S. was changed by the attacks of 9/11, this provided an opportunity for the true nature of Americans to shine through. Parents are spending more time with their children, people are re-examining their culture and priorities, they understand better the definition and value of sacrifice, and are becoming more repulsed by violence and more attracted to peace. Therefore, it is said that through grief and sadness, Americans are creating a better world for their children and their grandchildren (10/4, 43:3; 10/24, 69:3).

The President talked about “eloquent acts of sacrifice” that showed the national character of Americans. The examples included “rescuers working past exhaustion”, “long lines of blood donors”, “thousands of citizens who have asked to work and serve in any way possible” (9/14, 13:2), airplane passengers, policemen and firefighters showing remarkable courage (9/15, 15:1), many donations of money and necessities such as food and clothing (9/18, 19:1) and heroic efforts to “rebuild shattered lives” (9/18, 19:1). As the President emphasized, “these acts of generosity and kindness are spreading all across America” (9/18,

19:2). They testify to remarkable national unity that includes people of every faith and background – a national unity that is persistently emphasized and built upon by the government. Moreover, this unity, expressed through “a kinship of grief and a steadfast resolve to prevail against our enemies”, is now extending all over the world and, with it, the goodwill towards the U.S. is spreading (9/14, 13:2). To emphasize this process, the President employs vivid images of global solidarity with America:

America will never forget the sounds of our National Anthem playing at Buckingham Palace, on the streets of Paris, and at Berlin’s Brandenburg Gate. We will not forget the South Korean children gathering to pray outside our embassy in Seoul, or the prayers of sympathy offered at a mosque in Cairo. We will not forget the moments of silence and days of mourning in Australia and Africa and Latin America (9/20, 20:1).

Finally, the attacks provided an opportunity to clarify and highlight value differences between those who support freedom and democracy and those who are against them. To quote the Attorney General: “the brightest line of demarcation between the civil and the savage has been drawn” (9/21, 23:3). This provided a new sense of mission for the United States and the leadership role in the fight against the savage forces. Thus, the President declared, in his televised address to a Joint Session of Congress, “We have suffered great loss. And in our grief and anger we have found our mission and our moment” (9/20, 20:5).

### **Who are the terrorists?**

In the aftermath of 9/11, President Bush pointed out that Americans and the rest of the world are facing a new type of threat. This threat does not come from a particular nation or religious group, but rather from “people motivated by evil” and known as terrorists (10/4, 42:1). They do not share the same values as everyone else and wish to destroy those who embrace freedom (9/12, 7:1). They are described as “insidious” because of their tactics, which include the use of “nice-sounding, non-governmental organizations as fronts for their

activities” (9/24, **26:1**). These people “have abandoned any regard for humanity, decency, morality, or honor” (9/24, **29:1**). They are enemies of “all law, all liberty, all morality, all religion” (10/11, **52:1**). They “have no country, no ideology; they’re motivated by hate” (10/17, **62:2**). Their attacks were described in Congress as “unprovoked” and perpetrated by people who claim that they represent a religious point of view, when, in fact, all that they represent is a “complete distortion of the religion of Islam” (10/11, **51:28**). Their portrayal of the religion is perverted, because the Koran teaches neither murder, nor suicide, nor disregard for human life (10/11, **51:28**). According to the President, “the evil ones have tried to hijack a religion to justify their murder” (10/17, **62:2**), but terror and war are not an adequate representation of Islam because “Islam is peace” (9/17, **18:1**). Muslims that are true to their religion do not believe in murdering innocent civilians (10/11, **51:28**), nor do they believe in the remaking of the world and the imposition of any extremist beliefs by radical means. This is, however, what the terrorists believe and are trying to achieve (9/20, **20:2**).

According to Senator Hatch, the existence of the terrorists who have little regard for human life and peaceful teachings makes the world a “difficult” and “dangerous” place (10/11, **51:28**). What is even more disturbing is the fact that terror cells exist not only abroad, but also in America and “there are people who are dedicated to terrorism right here within our Nation” (10/11, **51:28**). It is repeatedly pointed out by the White House that terrorists need to be eliminated in order to re-establish security, implying that prior to 9/11, America had no enemies and enjoyed full security. Throughout, a cautious effort was made by the government to distinguish between the terrorists involved in the attacks, who were of Muslim faith, and Muslims in general. This reflects the efforts by the White House to focus

the war on terrorism upon what has been defined as the forces of evil, while mobilizing Muslim allies for that war.

### **The threat of terrorism**

A state of national emergency was declared by the President who warned, on September 14, of a “continuing and immediate threat of further attacks on the United States”, which immediately needed to be dealt with (9/14, 12:1). In his address to a joint session of Congress and the American People, on September 20, the President stated:

Americans are asking: Who attacked our country? The evidence we have gathered all points to a collection of loosely affiliated terrorist organizations known as al Qaeda. They are the same murderers indicted for bombing American embassies in Tanzania and Kenya, and responsible for bombing USS Cole.

Al Qaeda is to terror what the mafia is to crime. But its goal is not making money; its goal is remaking the world – and imposing its radical beliefs everywhere .

... The leadership of al Qaeda has great influence in Afghanistan and supports the Taliban regime in controlling most of that country. In Afghanistan, we see al Qaeda’s vision for the world (9/20, 20:2).

Attorney General John Ashcroft, in his testimony before the House Committee on the Judiciary, on September 24, described terrorism as “a clear and present danger to Americans today” – a conclusion drawn from FBI reports that pointed to the possibility of additional terrorist attacks (9/24, 30:1). According to Ashcroft, the highly organized and powerful nature of the attacks of 9/11 shows that:

terrorism is the activity of expertly organized, highly coordinated, and well financed organizations and networks. These organizations operate across borders to advance their ideological agendas. They benefit from the shelter and protection of like-minded regimes. They are undeterred by the threat of criminal sanctions, and they are willing to sacrifice the lives of their members in order to take the lives of innocent citizens of free nations (9/24, 30:2).

This is a shared perception of terrorism across the studied documents. Yet, in addition to being an immediate threat, for some speakers, terrorism is also a long-term menace that will

haunt the generations to come. This perspective is exemplified by Senator Wellstone's speech in the Senate on October 25:

... terrorism is going to be part of our lives. I think it is going to be a part of our children's lives. I think it is going to be a part of our grandchildren's lives. I think this is going to be the struggle for several generations to come. No one action and no one step is going to end it. I think that is now the world, unfortunately, in which we live. That is now the world in which all of God's children live (10/25, 71:S11026).

While the President maintains throughout that the war against terrorism will be won, he repeatedly warns that "the threat is ongoing" and the war may be protracted (10/11, 53:2). It is, however, John Ashcroft, in his role as the Attorney General, who regularly warns Americans about the continuous threat of terrorism. For instance, in his news briefing of October 8, he asks Americans to be cautious and alert to the increased risk of terrorism and says: "I encourage all Americans to continue to have a heightened sense of awareness of their surroundings. I ask them to report suspicious activity... Every American should be vigilant" (10/8, 48:2). It is usually Ashcroft's role to bring to the attention of Americans any new signs of risk. On these occasions, he tries to reassure them that "all possible measures are taken to detect and prevent future attacks", while making them "mindful that the threat of additional terrorist attack is real" (10/12, 58:2). He both stresses "a heightened need for vigilance" and explains that "the alert issued ... by the FBI should promote caution, not incite alarm" (10/12, 58:2). Therefore, parallel to the attempts to re-assure Americans that all is normal, there are constant reminders that Americans should be alert to a possibility of a further harm. This may help maintain a state of apprehension that becomes a source of legitimization for governmental actions.

## **References and invocations made in relation to 9/11**

### **Historical references**

Even though the 9/11 attacks are seen as unprecedented events that have no obvious parallel in American history, some historical references are nonetheless evoked by the speakers. These historical references are characterized by an obvious negativity.

The most prominent comparison is that with the Pearl Harbour attacks. The first reference occurs on September 12, when Senator Leahy recalls that the day Pearl Harbour was attacked was referred to by Franklin Roosevelt as “a date which will live in infamy” and he adds that now “Americans face such another day and challenge to democracy” (9/12, 9:2). President Roosevelt spoke, at the time, of the “arsenal of democracy” consisting of particular ideals, values, freedom, and humanity, in addition to military weaponry; this was what propelled Americans to proceed forward. Leahy refers to Roosevelt’s comments as he emphasizes that “as much as our military weaponry, these ideals are the arsenal of democracy” (9/12, 9:2). Sixty years after the Pearl Harbour, the events of 9/11 bring back to life the experience of that horrifying day in history – a cowardly evil and devastating challenge to democracy (9/12, 9:2; 10/24, 69:2). Just as the World War II challenges had united people from every faith and background and gave them “the warm courage of national unity” that Roosevelt spoke of (9/14, 13:2), Americans now stand united against terrorism (9/12, 9:2; 9/14, 13:2). Furthermore, like Pearl Harbour, the 9/11 attacks united Americans with other nations all over the world (9/25, 31:2). Nevertheless, President Bush cautions, on September 20, against direct comparisons. He states that even the events of that “Sunday in 1941” are not fully comparable to those of 9/11, because they did not kill thousands of civilians on a peaceful day, in the middle of a city. Also, even though Americans had

experienced wars before, they were for the past 136 years carried on foreign soil, except for the Pearl Harbour attacks (9/20, 20:2).

The President clearly preferred to see 9/11 attacks as a unique event, which changed the world in a single day and turned it into a world where freedom is under the constant threat; an event much more serious and dangerous than any other that the United States have previously witnessed. Such reasoning might help highlight the necessity to use extreme anti-terrorism measures to match the extreme and extraordinary nature of the 9/11 events.

The need to try and prevent terrorism is also compared and contrasted with that of combating such types of menace as espionage, drug trafficking and organized crime. The Attorney General recalls on September 24 that American law enforcement have always met such challenges in ways that respected fundamental rights and liberties, and it intends to do so in the war on terrorism as well (9/24, 30:2). A month later, during a Senate debate, Senator Graham looks back at the time when America was plagued by “the scourge of organized crime” and observes that as a result of actions undertaken then, the country is safer and more secure today (10/25, 71:S11016). He hopes that the measures taken against terrorism will bring security not just to the United States but to the whole world (10/25, 71:S11016).

Another historical event is referred to by Senator Leahy, when he argues that a time of crisis is not an excuse for disregard of fundamental principles. He warns against repeating the mistake of that “shameful chapter” of American history - the internment of Japanese Americans during World War II. This mistake should “serve as an important reminder of the dangers of overreaction” (10/3, 41:2; also 10/25, 73:3). Senator Feingold, the only Senator who voted against the USAPA, expands on this issue by bringing more historical examples.

There have been periods in our nation's history when civil liberties have taken a back seat to what appeared at the time to be the legitimate exigencies of war. Our national consciousness still bears the stain and the scars of those events; The Alien and Sedition Acts, the suspension of habeas corpus during the Civil War, the internment of Japanese-Americans, German-Americans, and Italian-Americans during World War II, the blacklisting of supposed communist sympathizers during the McCarthy era, and the surveillance and harassment of antiwar protesters, including Mr. Martin Luther King Jr., during the Vietnam War. We must not allow these pieces of our past to become prologue (10/25, 72:2-3).

The Senator insists that Americans should not allow these mistakes to be repeated, and stresses that times of war are the greatest test to a nation's dedication to the rights and freedoms of its people (10/25, 72:3). These concerns become more frequent from mid-October and on, as debates and votes on anti-terrorist legislation in both houses of Congress are underway.

#### **The war model or crime model?**

President Bush, in his first remarks after the attacks, talked about "an apparent terrorist attack on our country" (9/11, 1:1). Later on that day, during the first press briefing, the acts were repeatedly referred to as crimes and as "an assault on the security of our nation". In his remarks, the Attorney General spoke about crime scenes, crime victims and criminal investigations (9/11, 2:1). In the next briefing, Americans were advised that U.S. forces and embassies were placed on high alert throughout the world (9/11, 3:1), and this was reiterated in a brief statement by the President (9/11, 4:1). By the end of that day, the President spoke, for the first time, of the enemies of America and a "war against terrorism" (9/11, 5:1). The next morning he stressed that the attacks "were more than acts of terror, [t]hey were acts of war" and described what lay ahead as a "battle" that would take time and resolve (9/12, 6:1). In Congress, Senator Kyl pointed out that "we have an event that is so horrendous and deplorable that all of America is asking for us to declare war on terrorism"

(9/13, 11:4). On September 15, the President used the metaphor of war vividly when he stated that he saw “the signs of the first battle of war” in the wreckage of New York City (9/15, 14:1). He added: “We’re at war. There has been an act of war declared upon America by terrorists, and we will respond accordingly” (9/15, 14:2). Moreover, the President indicated that “a broad and sustained campaign to secure our country and eradicate the evil of terrorism” was being planned with absolute determination to “see this conflict through” (9/15, 15:1).

The President warned that victory would not emerge from a single battle, but rather from “a series of decisive actions against terrorist organizations and those who harbor and support them” (9/15, 15:1). In his subsequent statements, the President stressed that every resource available would be directed to the attainment of this purpose, including diplomacy, intelligence, law enforcement, finances, military actions and weapons of war. The goals are to disrupt and defeat the network of terror (9/20, 20:3; 9/24, 26:2; 10/7, 46:1; 10/20, 65:2) by, among other measures, following the money to locate the terrorists and freeze their funds to disrupt their activities (9/24, 26:2). He spoke of eradicating international terrorism, not simply reducing its risk (9/24, 29:2), by “aggressively and methodically” waging a war that would “disrupt and destroy terrorist activities” (9/29, 36:1).

The President reinforced the war terminology in a dramatic statement, made on September 26, when he described these efforts as “the first war of the 21<sup>st</sup> century” (9/26, 34:2). He stressed that this war differed from other wars the world had known, as it required a series of battles where some victories would be visible and others would not (9/26, 34:1). The President also alluded to state-sponsored terrorism when he spoke about extending the war to those who support terrorists. He stated: “it’s also a war that declares a new

declaration that says that if you harbor a terrorist you're just as guilty as the terrorist; if you provide safe haven to a terrorist, you're just as guilty as the terrorist; if you fund a terrorist, you're just as guilty as a terrorist" (9/26, 34:1). For this, cooperation among nations is crucial and, therefore, a coalition has been put together and all members agree on the principle that "terrorism won't stand" (10/2, 39:2).

While the President embraced the war terminology, the crime model was not entirely abandoned. It remained especially prominent in the speeches and briefings by Attorney General John Ashcroft. He usually makes at least one war reference in his statements (9/12, 8:2; 9/20, 22:2; 9/21, 24:1; 9/24, 30:1; 10/10, 50:1), but the language he generally uses is that of law enforcement and it is not as confident or as assuring as the language used by the President. On September 15, he refers to the 9/11 attacks as a "terrible crime" (9/15, 4:2). On September 20, he mentions "those who perpetrated the crime" (9/20, 22:2) – terminology not found in the President's speeches. In keeping with his official position, Ashcroft focuses on measures to improve the capabilities of law enforcement and justice system and speaks about such functions typical of the crime model as detection, deterrence, prevention, incapacitation and punishment (9/20, 22:2; 9/24, 30:1; 9/25, 32:1; 10/12, 58:2; 10/18, 63:2).

Nevertheless, terrorism is not an ordinary crime, which makes the post 9/11 situation "a new challenge for law enforcement" (9/24, 30:1). On several occasions, Ashcroft repeats the following comment, which emphasizes the changed mandate of law enforcement: "Our fight against terrorism is not merely or primarily a criminal justice endeavour. It is defence of our nation and its citizens" (9/24, 30:1; 9/25, 32:1; 10/25, 73:1). It is therefore a true crime/war model or, as Ashcroft put it: "a war against terrorism within our borders" (10/10, 50:1). This is consistent with the way the President saw the war effort, when he informed

Americans that any measure undertaken in the fight against terrorism would be part of a broader campaign: “It’s a campaign waged by soldiers and sailors, Marines and airmen; and also by FBI agents and law enforcement officials and diplomats and intelligence officers” (10/17, 61:2). In the end, however, for the President, a way of defeating the terrorists is above all through prosperity and the increase of opportunity in society and through the promotion of trade and democracy, which are the conditions of good life (10/20, 64:1).

### **Us vs. Them**

The White House constantly contrasted the violent and evil nature of the perpetrators with the vulnerable, unsuspecting and innocent status of the victims (9/12, 6:1). The perpetrators were referred to as the “enemy” who has attacked Americans and other “freedom-loving people everywhere in the world” (9/12, 6:1). Two days after the attacks, the President laid out his agenda and stated: “our responsibility to history is already clear: to answer these attacks and rid the world of evil” (9/14, 13:1). He said: “every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists” (9/20, 20:3), implying that there is no middle or neutral ground (9/20, 20:3; 10/7, 46:1) and that those who continue to harbour terrorists and do not side with the cause of the U.S. will be regarded as “hostile” (9/20, 20:3). Therefore, “the bright line of demarcation between the civil and the savage has been drawn” and used, from the beginning, as the basis for judging the actions of others (9/21, 23:2). Even in the economic realm, the message was made clear. The goal of the development of a “Most Wanted” list, put in place as a law enforcement measure, was to “put the financial world on notice. If you do business with terrorists, if you support or sponsor them, you will not do business with the United States of America” (9/24, 26:1).

The demarcation line between ‘us’ and ‘them’ was continuously emphasized and referred to by government officials, including Attorney General Ashcroft who urged Congress to: “strengthen our ability to fight this evil wherever it may exist, and to ensure that the line between the civil and the savage, so brightly drawn on September 11<sup>th</sup>, is never crossed again” (9/24, 30:5). The perpetrators are constantly portrayed as “evil” and America is represented as “a nation of good folks” that will triumph in the end, because its cause is just (9/25, 33:1). The President re-affirms this vision by stating repeatedly: “Either you’re for us, or you’re against us” (10/4, 42:2). All nations should understand that what happened in the U.S. can also happen to them.

Since the war announced by the President is “a war to save the world” and a “war between good and evil”, joining it signifies much more than loyalty to the United States (10/4, 43:2). Nations around the world are presented with a stark choice: “Stand with the civilized world, or stand with the terrorists”. For those who choose the latter option, “there will be a heavy price” to pay (10/6, 45:1) and “they will take that lonely path at their own peril”. That path is referred to as lonely because the nations of the world are, according to the White House, united in the war on terrorism and those who choose not to unite with them will be treated as enemies (10/7, 46:1). The often repeated message is that there is no middle ground between good and evil and there is no such thing as neutrality in the war on terror.

### **9/11 and God**

On September 11 and throughout the studied period, Americans were continuously asked to pray – for the victims, for fellow citizens, for rescue workers and for America (9/11, 3:2; 4:1; 9/12, 9:1). On the first day of the attacks, the President said, in his address to the nation, that he prayed that suffering Americans be comforted by a greater power. He recited

a passage from Psalm 23 which says: “Even though I walk through the valley of the shadow of death, I fear no evil, for You are with me” (9/11, 5:1). On the National Day of Prayer and Remembrance that was held three days after the attacks, the President pointed out that the wounds from which Americans are suffering lead them to pray. In their prayers, “there is a searching, and an honesty” (9/14, 13:1). The President assures Americans that while the tragedy has taught them that God’s purposes and signs are not always their own, their prayers and suffering will be heard. Their prayers will also make them stronger and help them endure the hardships that they face and that they should not forget that other people as well, including strangers, are praying for them and their safety (9/14, 13:1).

God is often invoked and asked to protect Americans and to give them patience and resolve. He is asked to bless the souls of all those who departed and to guide the nation. The President proclaims: “As we have been assured, neither death nor life, nor angels nor principalities, nor power, nor things present nor things to come, nor height nor depth, can separate us from God’s love” (9/14, 13:2). He reminds Americans that the world created by God is one “of moral design” (9/14, 13:2) and consoles them that: “Grief and tragedy and hatred are only for a time. Goodness, remembrance, and love have no end. And the Lord of life holds all who die, and all who mourn” (9/14, 13:2). God is asked to watch over the nation, guide the country and arm Americans with “patience and resolve in all that is to come” and is thanked for “each life we must now mourn, and the promise of a life to come”. American people are told to rest assured that nothing can ever separate them from God’s love (9/14, 13:2). It is emphasized that God will not desert those who are good. There is also an assertion that God distinguishes between “freedom and fear, justice and cruelty” and will not remain neutral seeing that the cause of Americans is right, while the actions of the attackers

are violent (9/20, 20:5). Based on this reasoning, the President expressed his confidence in “the victories to come” (9/20, 20:5).

**America is united and it is not alone**

Immediately after the attacks, remarks about unity started to be made. The President pointed out that members of Congress strongly condemned the attacks and that many world leaders were offering their condolences, as well as their assistance, to America. He emphasized that America, its friends, and its allies and everyone who cherished peace and security in the world, were now standing together against terrorism (9/11, 5:1). As to the world, not only is it united against terrorism, but all “freedom-loving nations” are standing with the U.S. (9/12, 6:1). A united resolve for justice and peace was said to have emerged in America, as well as the rest of the world (9/12, 9:2). “We stand here not as Republicans or Democrats, we stand together”, said Senator Leahy (9/12, 9:2). “All the free world, all civilized nations, all caring people will join together at this difficult time. It has meant so much to hear the calls from around the world” (9/12, 9:2). The image is consistently projected of America being embraced by other nations, who offer support that is not just rhetorical, but a real support for whatever may lay ahead in the war on terrorism (9/15, 14:1). Also, the President thanked the political parties and both Houses of Congress for their “remarkable unity” (9/15, 15:1).

The unity of America and Americans, and that of the whole world, was constantly promoted and solicited in the governmental discourse. This unity in the commitment to defeat terrorism was described as inclusive of all Americans regardless of faith and background (9/15, 15:1). It was said that the state of the union was seen in the endurance of rescuers, the display of American flags, the lighting of candles, the prayers, the giving of

blood, etc. (9/20, 20:1). It was claimed that the nation is united in its defence of freedoms and of the American way of life (9/25, 33:1), and in its will to bring the perpetrators of 9/11 to justice (9/27, 35:2). As a result of this unity, a firm determination to win the war on terrorism emerged (9/27, 35:2).

The White House attempted to show the world that 9/11 was not just an attack on the U.S., but also on the rest of the world. It was frequently pointed out that people of many nationalities lost their lives in the attacks (a body count was given), and that “this was an attack against them as well” (9/15, 14:1). Some 80 nations, it is said, suffered human losses and they were portrayed as having been touched by these attacks too (9/20, 20:2; 9/24, 26:3). It is often stated that the fight against terrorism is not “just America’s fight. [...] This is the world’s fight. This is civilization’s fight. This is the fight of all those who believe in progress and pluralism, tolerance and freedom” (9/20, 20:4). It is claimed that an “outpouring of support” from all over the world was motivated by solidarity with the United States of America. The American national anthem was played in Paris, Berlin and Buckingham Palace; South Korean children in Seoul prayed for the victims; prayers for the victims were held at a mosque in Cairo, and there were moments of silence in Australia, Africa and Latin America (9/20, 20:1). Emphasis was repeatedly placed on the satisfaction of the White House with the response that it was getting from the international community. “I am very, very pleased at the level of cooperation that we are receiving from around the world”, said the Secretary of State Colin Powell two weeks after the attacks (9/24, 26:3).

Attempts to form a coalition of countries for the war on terrorism started shortly after the attacks. Only nine days from the attacks, the President speaks about the great response from nations all over the world, “from Latin America, to Asia, to Africa, to Europe, to the

Islamic World” (9/20, 20:4). This is reinforced by Powell who asserts that “the whole world is joining with us” (9/24, 26:3). In early October, the President speaks of a “vast coalition” (10/4, 42:2), which is strong “because we’re right” (10/4, 43:2). It is often reiterated that because of their rightness and justice, the anti-terrorism initiatives developed by the White House are met with international approval and are “supported by the conscience of the world” (10/17, 61:2). Many nations around the world have joined the U.S. in a cause described as noble. And this also includes Islamic nations, which are united in their will to do what is right for America (10/17, 61:2) because: “we’ve made it clear that this is not a war between Christianity or Judaism and Islam” (10/4, 43:2).

The discourse about international unity is emphatic but lacks any specific content. No details are given as to who in particular is supportive of which aspects in the fight against terrorism. Throughout the documents, there are no indications, other than the general assurances uttered by White House officials, as to the strength of the supposed alliance and the extent of the alliance’s dedication to the fight that the United States government has embarked on. There is no distinction made between the support of others for the cause that is promoted (the unity against terrorism) and for the specific tactics employed by the American government to deal with the adopted cause (e.g., the war on terrorism).

### **America will triumph**

According to the White House, the events of 9/11 represent a test to America. Yet, this challenge will be successfully met by the strength and unity of the American people. In statements made by White House officials, there are repeated assurances that the U.S. will inevitably triumph. Statements, such as “no one should doubt America’s resolve” (9/11, 3:2) are presented in a variety of ways and at different occasions. For example, it is asserted that

the day of the attacks will not be forgotten and America will defeat this new enemy, just as it has defeated many enemies before (9/11, 5:2), “[M]ake no mistake about it: we will win”, “this will be a monumental struggle of good versus evil. But good will prevail” (9/12, 6:1), “[W]e will win. We will maintain our democracy” (9/12, 9:2), “Make no mistake about it: underneath our tears is the strong determination of America to win this war. And we will win it” (9/15, 14:1), “Nobody can threaten this country” (9/18, 19:2), “Whether we bring our enemies to justice, or bring justice to our enemies, justice will be done” (9/20, 20:1), “The course of this conflict is not known, yet its outcome is certain” (9/20, 20:5), “You [the terrorists] can’t win” (10/2, 39:2), “Failure is not part of our vocabulary” (10/4, 42:4), and “Peace and freedom will prevail” (10/7, 46:2).

According to the President, the violence instigated by the perpetrators will be met with justice and eventually with victory, because the cause for which the White House is fighting is just (9/20, 20:6). For him, “fear and freedom are at war”, but the outcome of the conflict is known: freedom will inevitably triumph over fear (9/20, 20:5). That is why he persistently points out that Americans are not afraid. Rather, they are aware that they are fighting for a worthy cause which might require them to make some sacrifices (10/11, 52:2). The rhetoric employed by the White House emphasizes the inevitable triumph of the United States over terrorists and seems to target a large and varied audience. It includes Americans, who are told that they should be confident because victory is within their reach and will eventually be theirs. The official rhetoric is also addressed to nations around the world, who are encouraged to rally around America, the future winner of the war on terrorism. If they want to be on the winning side, they have no other choice but to join America. Finally, the White House rhetoric also targets terrorists and others who wish harm upon America. The

often used phrase “make no mistake” seems to be directed to them and serves to underline the menacing aspect of the rhetoric, which asserts that the United States will win and, consequently, those opposed to the American nation will fail in their cause and harm will be inflicted only upon them.

### **Governmental legal initiatives**

#### **Requests for support and co-operation**

On the day of the attacks, Americans were advised that their support for the government was needed and that the present time was ideal for them to show it (9/11, 2:1). Many emotional statements were made by the administration and were usually accompanied by requests for continued support and trust in government (9/12, 7:1). This was often repeated, especially in the first weeks after the attacks. For example, on September 15, the President stated that there was “much to do, and much to ask of the American people” (9/15, 15:1). Mainly, he asked Americans “to uphold the values of America, and remember why so many have come here. We are in a fight for our principles, and our first responsibility is to live by them” (9/20, 20:4). The Attorney General elaborates further on this issue:

... the federal government cannot fight this reign of terror alone. Every American must help us defend our nation against this enemy. Every state, every county, every municipality must join together to form a common defense against terrorism (10/25, 73:4).

Initially, requests for support were made from a compassionate and comforting perspective - Americans were, for example, asked to pray for the victims of the attacks and their families, for law enforcement officials, and for all those somehow involved in the tragedy (9/11, 2:1; 3:2). They were also asked to donate blood for the victims (9/11, 2:2). The nature of the requests started to change a few days following the attacks, when they gradually became centered on the future rather than the present. Americans were asked for

their patience, resolve and strength in regard to the conflict that was bound to be long and difficult before the final victory was attained (9/15, 15:1). Men and women of the Reserve were also asked for their sacrifice as the process of calling up troops began and their families and employers were thanked for their understanding (9/17, 17:1). While these were the costs of terrorism, the “dedication and courage of everyday citizens” would demonstrate to the world the true strength of the American nation (9/17, 17:1).

### **The need for anti-terrorism laws**

Requests for legal amendments to several existing legal provisions started to be made almost immediately after the attacks. Two days after 9/11, the first legal amendment was introduced in the Senate by Senator Hatch who underlined the need for the government to have the right tools to hunt down terrorists. He stressed that the law enforcement needed new legal instruments to investigate effectively terrorism-related matters (9/13, 11:1). He emphasized that “now”, “at this juncture of our history”, was the time to start fixing the existing laws and try to fill the gaps. The amendment, expanding the availability of wiretapping and intercepting of communications, is presented by Hatch as “critical” and demanding immediate action (9/13, 11:2). And he uses an ironic tone to point out: “We can play around with commissions. We can play around with task forces. We can do a lot of other things, but I would like to fix it now” (9/13, 11:2). Senator Hatch notes that:

[The members of Congress] have put up with an awful lot of mistaken arguments around here throughout all these years, which made it difficult to put human intelligence to work in the interests of the protection of the public, and it is inexcusable, under these circumstances, to allow that to continue (9/13, 11:3).

In his speech, Hatch describes the existing restrictions on law enforcement as “pathetic” and as something that needs to be removed immediately, because any delay would

be a “big, big mistake” (9/13, 11:3). He reinforces this argument with an image of American people who are aware of the threat of terrorism and are afraid (9/13, 11:3). Senator Kyl elaborates on this issue by pointing out that senators are representatives of the public and they are being asked questions by constituents wanting to know why the government is not doing enough to protect them from such crimes (9/13, 11:3).

So we are now faced with a challenge from our constituents, and they are absolutely right. (...) We can start tonight with a few substantive changes in the law that will make an impact on our ability to fight these crimes of terrorism (9/13, 11:4-5).

Attorney General John Ashcroft, in his testimony before the House Committee on the judiciary, points out that the Department of Justice has been asked to wage a war on terrorism within America’s borders. For this purpose, the assistance of Americans is sought in the shape of “new laws against America’s enemies”. Current laws are described as deficient because they do not treat terrorism as a national priority and many law enforcement tools were created decades earlier and have not kept pace with technological advances (9/24, 30:2).

In regard to the anti-terrorism package (later known as the USAPA), White House officials frequently expressed their satisfaction and gratification with the “progress that is being made” toward the finalization of the bill to grant law enforcement the tools they need in the war on terrorism (10/4, 44:3). “America is going to be prepared”, the President said, in the case more terrorist attacks are planned (10/8, 47:2). The Attorney General encouraged the passage of the anti-terrorism bill, which, according to him as well as the President, would provide law enforcement with the tools required in its fight against terror (10/8, 48:2). In a similar tone, Senator Daschle explains in the Senate that “this is a new kind of battle. Winning it will require a new set of tools... And winning is the only acceptable outcome”

(10/11, 51:139). He stresses that Afghanistan is not the only front where this battle is being fought, and the law enforcement at home is an important part of this effort.

Just as we are committed to giving our men and women in uniform the tools and training they need to do what is asked of them, we must now make the same commitment to our justice and law enforcement officials. After all, we are now asking them nothing less than to protect the American people... (10/11, 51:139).

In a similar vein, Congressman Sensenbrenner speaks of the vast difference between the rules of the current war and the past wars. One of the differences is that it is much more difficult to know who and where the enemy is.

Because of this uncertainty, we have had to change the way that we think about the safety and security of our country and its people, (...). This bipartisan legislation will give law enforcement new weapons to fight this new kind of war (10/12, 54:1).

This shows how the legislators conceptualized the new law as a tool of policing the war, whereby the war model and crime model of counter-terrorism become merged and indivisible. On October 23, when the House was voting on the USAPA, Congressman Sensenbrenner appealed to the members to pass this law and he described doing so as both their “duty and privilege” (10/23, 67:H7196). Even though he admitted that neither the bill nor the process of its passage was perfect, he insisted on its passage because difficult times required a fast response. He argued that the legislation was “desperately needed” and the President urged both Houses to “pass it now” (10/23, 67:H7196). Even though White House officials maintained throughout the period that the government was fully in control of the situation and that Americans should proceed normally with their daily life, they were simultaneously emphasizing the inadequacy of the law and the need to change it if America’s safety were to be ensured. There is therefore some ambiguity in the language used, whereby

the enactment of anti-terrorism laws is presented as a measure that is necessary to restore, maintain and/or strengthen the homeland security.

### **The rationale behind the USAPA**

The proposed bill had as its main goal giving the Department of Justice the tools it needed in dealing with terrorist activity within the country. Many of the provisions included in the bill had been previously requested by both Democrat and Republican members of Congress, but were not enacted (10/11, 51:29). Throughout the studied period, the legislation was constantly portrayed as an unideological and pragmatic tool in the war on terrorism, which would simply allow the use of appropriate technology to address the new threats. This is evident in the Attorney General's insistence that: "We are not asking the law to expand; just to grow as technology grows" (9/24, 30:3).

During the process of the passage of the USAPA, Senator Leahy points out that "this bill is not the bill I would have written if I were the only one writing it" (10/11, 51:2). He suggested that the bill is not what any member would have written when writing it individually. The content of the proposed legislation was eclectic and included provisions and requests made by numerous federal government departments. However, due to "the current environment" (i.e. pressure of time), Congress is unable to "pass 100 bills" (10/11, 51:2). Leahy indicates that Republicans and Democrats had to come together to write the best bill possible – a bill that would include as many of the requests and ideas that were provided by the various governmental departments as possible. Yet, the members admitted that putting forward this bill had been difficult, due to its eclectic nature, and at times disparity of ideas, thoughts and philosophies that needed to be included under all kinds of pressures (10/11, 51:2).

The Attorney General indicates early on that the laws that are in place are insufficient for combating terrorism. These deficiencies reflect two facts. First of all, terrorism is not dealt with as a national priority under the current laws, which are tougher against organized crime and drug trafficking than against terrorism. Secondly, the law does not keep up with the technological advancements. Without updated statutes, terrorists will have a “competitive advantage” over the government and battle against them would not lead to victory (9/24, 30:2-3). While the President never mentions the possibility of a defeat in the war on terror, the Attorney General uses it to put pressure on the legislators and mobilize public opinion.

In his testimony before the House Committee on the Judiciary, Ashcroft pleads for updated laws. The following excerpt sums up well his appeal: “I regret to inform you that we are today sending our troops into the modern field of battle with antique weapons. It is not a prescription for victory” (9/24, 30:3). As he explains, a solution to the problem is found in the proposed anti-terrorism proposals, which have been submitted by the administration and which represent “carefully balanced, long overdue improvements to our capacity to combat terrorism. It is not a wish-list; it is a modest set of essentials” (9/25, 32:2). It is noteworthy how he applies military terminology – “troops”, “field of battle” and “weapons” – to plead for new legal tools for the law enforcers at home. He also speaks of “enemies” and waging a “war against terrorism within our own borders” (9/24, 30:2).

Following the declaration of war against terrorism by President Bush, Ashcroft pointed out that the declaration left him and the DOJ with the responsibility for “ensuring the capacity of United States law enforcement to perform two related critical tasks: First, prevent more terrorism, and second, to bring terrorists to justice” (9/25, 32:1). However, the

lack of time was a challenge. On the one hand, time is required for the establishment of proper anti-terrorist measures for the prevention of future terrorist acts. On the other hand, waiting to take action increases the risk of further attacks on Americans and other people around the world. As Ashcroft notes, “we cannot wait for terrorists to strike to begin investigations and to take action. The death tolls are too high, the consequences too great. We must prevent first-- we must prosecute second” (9/24, 30:2). He thus gives priority to a proactive approach to counter-terrorism, followed by a reactive approach, which is equally necessary but less urgent. This is the underlying rationale for the passage of the USAPA and other anti-terrorist legislation developed in the aftermath of 9/11, and for adopting a speedy process to do so.

### **The legislative discourse**

New anti-terrorism legislation is spoken of as a crucial tool in winning the war on terrorism. In Congress, Senator Hatch states that “it is time to do it”, referring to the newly proposed legislation (later known as the USAPA) (10/11, 51:29). And he elaborates: “It is time to hit them where it hurts. It is time to let them know we are not going to put up with this type of activity” (10/11, 51:29). Senator Hatch, a proponent of the USAPA, describes anti-terrorism legislation as “important” and “appropriate” (10/11, 51:32). He insists that the DOJ does not have the necessary tools to fight the war on terrorism that has been declared by the President and that this was the reason why the bill was rushed by the administration (10/11, 51:135). The main intention behind the proposed law was to allow the Attorney General “to be proactive, rather than reactive” (10/25, 71:S11016).

Following the submission of the initial legislative proposal by the administration, Senators Leahy, Daschle, Sarbanes, Hatch and Levin held a few meetings over a period of

less than a week, in order to construct a consensus package based on the numerous pieces elaborated by different departments (9/25, 31:1). During this time, the Attorney General made various speeches that emphasize the pressure of time. For example, while appearing at the Senate Committee on the Judiciary, he insists that: “Americans do not have the luxury of unlimited time” because – as shown by the FBI intelligence - terrorism is a constant, clear and present danger to them (9/25, 32:1). He explains that time “is of the essence”, and the ability of law enforcement to track and arrest terrorists could make a difference between the life and death of Americans (9/25, 32:3). During the same period, Ashcroft constantly alerts Americans to investigations that uncover suspicious activity or identify individuals somehow linked to the events of 9/11. He emphasizes the importance of remaining vigilant in the “current threat environment” (9/25, 32:1).

When members of Congress propose adjustments to the original version of the bill, the White House expresses dissatisfaction and Ashcroft points out that the White House will work further with both houses of Congress to “ensure that our law enforcement tools are as effective as they can be” (10/4, 44:3). Ashcroft was particularly displeased with the sunset provisions that were added to some parts of the proposed legislation. He argued that while the sunset clauses would make the law to expire within a couple of years, terrorism would not likely “sunset” in a similar time frame. The expected protracted duration of the struggle was continuously emphasized. “Our laws need to reflect the new war”, noted Ashcroft, and the tools provided must be updated on a continuous basis (10/4, 44:3). Another example of his criticism of the proposed amendments was his dissatisfaction with the House’s proposal to exclude certain types of evidence from being presented at trials related to terrorism (10/4, 44:3). He used emotional language to plead against the adoption of the amendment: “It

would be a tragedy indeed to retreat from a capacity of law enforcement to use evidence in the process of seeking to strengthen the arm of law enforcement in the effort against terrorism” (10/4, 44:3).

In a meeting with journalists, Ashcroft recognizes that the measures requested to fight terrorism are strong and at times difficult, but Americans were cautioned not to forget that they were living in extraordinary times and thus must implement measures that would prevent further attacks (10/2, 40:1). He saw America’s actions in the fight against terrorism as justified, especially when one hears the evil and chilling words in broadcast messages by such individuals as Osama bin Laden (10/8, 48:2). During a press conference, Ashcroft says: “I am gratified that I can say unequivocally that this legislation, once passed and signed into law, will immediately increase our capacity to detect, to disrupt and to prevent acts of terrorism” (10/18, 63:2). It will also make it difficult for terrorist groups to develop and carry on terrorist activities (10/25, 71:S11027) and will help to avoid any failures in the investigative network (10/25, 71:S11029). In a statement made by the DOJ, Americans are told that the passage of the bill will “send a message to terrorists that they will find no safe haven in America” (10/12, 58:2).

The discourse of the President, like that of the Attorney General, emphasized the importance of the new bill and the urgency of its implementation. His appeals were exemplified by the following statement: “We’re at war, a war we’re going to win. And in order to win the war, we must make sure that the law enforcement men and women have got the tools necessary, within the Constitution, to defeat the enemy” (9/25, 33:2). However, the legislators show some scepticism in regard to the zeal of the government’s discourse surrounding the USAPA. For example, according to Senator Leahy, no one and nothing can

guarantee that Americans are free of terrorism, neither the USAPA nor any other piece of legislation. Stating otherwise would be “a false promise”, which would ultimately represent a disservice to the American people (10/11, **51:1**; 10/25, **70:2**).

### **Passing of the USAPA**

Following the exchange of legislative proposals on September 19, 2001, between the White House and both houses of Congress, Senator Leahy states that “negotiations on this bill have not been easy” (10/11, **51:1**). He shows displeasure with the claims implying that 9/11 might have been prevented if some of the powers found in the proposal had been previously passed by Congress (10/11, **51:1**, 29). He also directs some criticism at the White House for complaining that Congress was not making a sufficiently rapid progress. According to Senator Leahy, the process was impeded by the administration itself when it reneged on the legislative deals made with Congress on September 30, 2001. He insists that it is not Congress that should be blamed but rather the administration, for it withdrew after two days the agreements that had been previously made (10/11, **51:2**). Senator Leahy also adds that the reasons offered by the administration for reneging on the deal are “unfounded” (10/11, **51:19**) and that the DOJ did not even defend the constitutionality of numerous sections found in the proposed bill (10/11, **51:24**).

His critical remarks notwithstanding, Senator Leahy concurs with the administration on the need to proceed swiftly. He makes it clear in the following statement, in which he referred to the then binding regulations: “we can no longer tolerate the drag on Federal investigations and prosecutions caused by this ill-considered legislation” because law enforcement authorities need to move quickly (10/11, **51:8**). In the end, Senator Leahy concedes that not all his efforts were successful, but even though he disagrees with a number

of provisions that the administration insisted on, he claims that the efforts made have led to a more balanced bill than the one initially proposed (10/11, 51:26).

Senator Leahy defends the integrity of the process and the contribution made by Congress when he says:

This is not the bill the administration, through Attorney General, delivered to us and asked for immediate passage. We actually did the administration a favor because rather than take the bill they dropped in our laps and said pass immediately, we did something that apparently they had not done. We read it and were able to refine and supplement their proposal in a number of ways. We were able to remove a number of unconstitutional parts (10/11, 51:2).

Senator Leahy, along with the other senators who contributed to the development of the legislation, repeated often that they shared the administration's goal in elaborating promptly the tools needed for the war on terrorism. Therefore, to speed up the process, it was agreed to abridge the usual procedures (10/11, 51:2). Senator Hatch commented: "this bill, hopefully, will help to at least rectify and redeem some of the problems, problems that have existed ever since September 11" (10/11, 51:28). Other Senators also claimed that the bill received sufficient consideration and the time restraints did not compromise the quality of the legislation because many of the provisions had previously been requested by the DOJ and languished in Congress for years. They were not previously adopted due to a lack of political will to enact them into law. The consensus was that if these provisions could in any way contribute to the current fight on terrorism, they should be adopted without hesitation, especially in view of their consistency with the Constitution (10/11, 51:136).

On October 25, 2001, the day of the Senate vote on the bill, Senator Wellstone, in his last attempt to convince the members to vote for the passage of the bill, argues that the USAPA provides a chance that terrorist attacks will never occur again and it will make an immediate difference in the lives of the victims and their families. He states that some

senators believe that the legislation goes too far and beyond just terrorist cases. Nevertheless, according to him, the bill should be supported because of all the positive provisions, which are directly related to the protection of lives of Americans. If the bill is not adopted, more people will die, and death is irreversible. However, if the bill is adopted, it will be possible to save lives while, at the same time, monitoring the application of the provisions and spotting the abuses that will inevitably occur. While, abuses can be reversed, the loss of life cannot. For that reason, the bill should be enacted as law (10/25, 71:S11025-6). To these concluding statements, Senator Levin adds that even though the bill is not perfect, the enactment of the bill:

... reflects the sentiments the American people have expressed since the events of September 11 – that we must act swiftly and strongly to defend our country without sacrificing our most cherished values. The Senate antiterrorism legislation meets that test. It responds to these dangerous times by giving law enforcement agencies new tools to use in combating terrorism without denigrating the principles of due process and fairness embedded in our Constitution (10/25, 71:S11033).

The generally positive attitude towards the goal and gist of the bill did not prevent the senators from complaining about its eclectic and imperfect nature. They did not hide that the process surrounding the bill was difficult and that under the pressure of time standards suffer.

### **Striking a balance between rights and security**

The issue of a balance between rights and security was evoked in the first press briefing that followed 9/11, in which officials responsible for order and security stressed their concerns for rights and freedoms in the implementation of security measures necessitated by the attacks (9/11, 2:3). A couple of days later, Senator Hatch points out that the government's most essential task is to protect the nation and the citizens from further attacks and to take every step possible for the attainment of that goal. Yet, he also indicates that

governmental activities need to be carefully weighed, in order to protect the constitutional rights and freedoms of Americans (9/13, 11:2). Two weeks after the attacks, when the first legislative proposals for anti-terrorism amendments are submitted by the administration to both houses of Congress, the President states that the proposals were carefully reviewed, and that they represent measured, responsible and constitutional requests that respect the rights of Americans (9/25, 33:2).

From the beginning, Americans are assured by the White House that the government will operate in an open manner, as it always has, in order to reflect the values of American society (9/11, 2:3). They are told that all will be done to maintain a commitment to the rule of law, which had created the American democracy and protected the nation throughout history, regardless of any provocation that occurred or might occur (9/12, 9:2). Referring to the powers contained in the proposed anti-terrorism laws, the President states on many occasions that he wants “to assure the world that we will exercise this power responsibly”. He also assures Americans that any actions taken by the government will be based on clear evidence, not on suspicions (9/24, 26:1). Americans are reminded that their rights and freedoms were successfully maintained under previous law enforcement campaigns, and will be, once again, in the war on terrorism (9/24, 30:2; 9/25, 32:2). According to the Attorney General, the DOJ “will never waver in its defense of the Constitution, or relent in our defense of civil liberties” (9/24, 30:2), and any effort undertaken will most certainly be in accordance with Constitutional practices (9/25, 32:1) and in continuous consultation with both the Senate and the House (10/2, 38:1).

On October 11, 2001, Senator Feingold, the Chair of the Constitution Subcommittee of the Judiciary Committee of the Senate and the only senator who voted against the USAPA,

was one of many who agreed, in principle, to the implementation of anti-terrorism measures in the war on terrorism. In his speech, he notes, however, that guarantees should be provided against the potential abuse of these measures. He also points out that Congress members should remember that the Constitution was written following a revolutionary war, not during comfortable and peaceful times and was meant to protect liberties both in times of war and peace. He reminds members that the goal of their engagement in the current war is to preserve the freedoms of the American people, and that they would lose the war if they failed at this task. He also indicates that the maximization of security and the minimization of the infringement of civil liberties is the responsibility of Congress, not just of the Supreme Court, because members of Congress took an oath to defend the Constitution (10/11, 51: 54).

On that same day, Senator Leahy expresses some concern regarding the balance between rights and security. He says:

The USA Act provides enhanced surveillance procedures for the investigation of terrorism and other crimes. The challenge before us has been to strike a balance to protect both security and the liberties of our people. In some respects, the changes made are appropriate and important ones to update surveillance and investigative procedures in light of new technology and experience with current law. Yet, in other respects, I have deep concerns that we may be increasing surveillance powers and the sharing of criminal justice information without adequate checks on how information may be handled and without adequate accountability in the form of judicial review (10/11, 51:11).

According to Senator Leahy, there is consensus among Americans regarding the necessity to fight terrorism, but not regarding the sacrifice of rights and freedoms for the attainment of that purpose. Such values and principles as rights and freedoms have united Americans for centuries and should not be compromised in the war on terrorism. The protection of security should not be dependent upon the sacrifice of any freedoms. It is only through such a commitment that America can remain strong (10/3, 41: 1).

When the balance between rights and security is evoked in relation to the USAPA, the senators who re-worked the administration's original proposal say that they attempted to strike such a balance prior to the passage of the bill in both houses of Congress. Some claim that the balance was attained; others disagree. Senator Leahy remains somewhat uneasy when he concludes:

... in negotiations with the administration, I have done my best to strike a reasonable balance between the need to address the threat of terrorism, which we all keenly feel at the present time, and the need to protect our constitutional freedoms. Despite my misgivings, I have acquiesced in some of the administration's proposals because it is important to preserve national unity in this time of national crisis and to move the legislative process forward (10/11, 51:2).

Yet, he indicates that there remains much room for improvement and Americans should be watchful and never forget the words of Benjamin Franklin who said: "A people who would trade their liberty for security deserve neither" (10/11, 51:2). Senator Hatch is much more enthusiastic and confident when he says that members of Congress were successful in upholding all constitutional freedoms and liberties, while providing law enforcement with the right tools for the fight against terrorism (10/11, 51:29). Hatch denies claims that the anti-terrorist legislation would abridge the rights of Americans and describes the idea as a "myth" (10/11, 51:30). He mentions that some people describe the bill as a choice between constitutional rights and security, but explains that this is "a false dichotomy" and that "in no case do [the provisions of the bill] curtail the precious civil liberties protected by our Constitution" (10/11, 51:30).

On October 25, 2001, the day before the bill is enacted as law, Senator Feingold speaks again, this time to express his dissatisfaction with the bill which does not strike the proper balance between security and freedoms. He stresses that he does not dislike the bill in

its entirety as he sees some of its provisions as reasonable and useful in the war on terrorism. Nevertheless, due to the inclusion of some other provisions that he describes as “inappropriate”, “objectionable” and “dangerous” (10/25, 72:5-6), he feels obliged to oppose the passage of the bill. He expresses concern that, through the enactment of this bill, Congress would not be fulfilling its duties, which consist of the protection of Americans and their freedoms (10/25, 72:10). Other Congress members, such as Senator Daschle, also recognize the inadequacy of the proposed legislation. However, even though the “flaws are not insubstantial, (...) ultimately the need for this bill outweighs them. When it comes to an issue as central to our democracy as the protection of our people, we must act” (10/11, 51:140). Senator Daschle adds later that:

We have done our utmost to protect Americans against abuse of these new law enforcement tools. In granting these new powers, the American people and we, their representatives in Congress, also grant the Administration our trust that they will not be misused. Congressional oversight will be crucial in enforcing this compact (10/25, 70:11).

This echoes in remarks of other senators, such as Senator Wellstone who says: “the challenge is to balance our security with our liberties. While it is not perfect, I believe we are doing that in this bill” (10/25, 71:S11026). Senator Schumer points that the bill successfully overcomes political differences, which threaten to tip the balance in one direction. He notes that Congress cannot simply look at its members on the right, who believe that almost anything should be passed to deal with 9/11, or at its members on the left, who are concentrating their attention on the civil liberties implications. And he concludes that, fortunately, neither side has gained the upper hand and “balance and reason have prevailed” in updating the laws to face up to the new challenge while maintaining the basic rights and

freedoms. This is what matters to Americans and what “distinguish us from our enemies” (10/25, 71:S11032).

In this chapter, I have presented my analysis of various discourse strands in the selected governmental documents by looking into the main political narratives surrounding 9/11, various references and invocations made in relation to the events, and the political and legislative discourses surrounding the legal initiatives proposed, particularly the USAPA. In the next chapter, I will discuss the research findings based on an overall analysis of the post-9/11 governmental discourse and its dynamics in the documents selected.

## **CHAPTER 5**

### **Discussion of the research findings**

## **Introduction**

Several authors, whose ideas on risk and security were discussed in the Review of Literature, pointed to the significant role of definition and management of risks in shaping power relations. The way risks to security are discursively constructed is both conditioned by, and influences the way, society is governed, types of expertise that are prioritized or discredited and kinds of changes to the normative grid that are affected and legitimated (Burton and Carlen, 1979; Luhmann, 1993; Buzan et al., 1998; Schneiderman, 2002; Hunt, 2003). These connections were clearly present in the official discourses surrounding the risk/security dynamics in the aftermath of the attacks of September 11, 2001.

The attacks and the subsequent declaration of war on terrorism were extraordinary events that represented unique moments for politicians to emerge as true leaders and guides for the people. The declaration of a war on terrorism by President Bush and the constant public promotion of that war provided the ideal populist mechanism for rallying Americans behind the President and his administration's anti-terrorism measures. This is consistent with the theses elaborated by Steinert (2003) and discussed in Chapter 1. Through the use of war rhetoric, a high level of anxiety could be aroused, especially since terrorism and the potential for future attacks were presented as an extraordinary and ongoing threat. The strong sense of unity that emerged permitted the advancement of the political agenda, which prioritized national security to an unprecedented degree.

The attacks of 9/11 were treated by the American government as a source of acknowledgement and evidence that Americans and people around the world were living in dangerous times. On the one hand, the government's discourse emphasized fear, which was regarded as justified, due to the large number of innocent deaths that were caused by the

attacks. Fear was also justified and maintained by the representation of terrorism as an ongoing menace that threatened the freedom, well-being and way of life of Americans. On the other hand, the discourse of fear (Beck, 1992; Ericson and Haggerty, 1997; Crelinsten, 2002; Garland, 2003) was counterbalanced by the discourse of ‘the government being in full control’ and ‘business as usual’. Americans were constantly being re-assured that the President and his administration were in full control and should be trusted to protect the country and its people, and to make the appropriate decisions on their behalf.

The 9/11 was a discursive mega event (Jäger, 2002), which redefined the political discourse in a profound way and prompted an extraordinary prioritization of security. Government officials constantly emphasized that the events of 9/11 changed everything and gave rise to a historical division between the time before and after the attacks – the former being a period of relative security and the latter a state of death and insecurity, but also exceptional solidarity. Through the discourse of the White House, Americans were led to believe that the re-organization and expansion of government was essential for the defence of the nation against terrorism and for the organization of the war on terrorism. This discourse seems instrumental in the American government’s efforts to extend its power and authority over many aspects of everyday life through promises to protect people and to reconfigure its relationship with the American people.

### **Images of unity and consensus as an instrument of persuasion**

Throughout the period studied, the government made claims about the unity among all Americans and the solidarity of other people around the world with America. While the level of confidence and enthusiasm reflected in the White House’s discourse about the extent of unity and solidarity made it seem as if they were unqualified and absolute, government

officials did not give a definition of unity or any evidence of its existence. Yet, unity in that context could have various meanings, such as unity of Americans and other people around the world against terrorism or their unity and solidarity with America in its stand against terrorism. There is a significant difference between these two meanings. The first represents a vague and mainly defensive stand that may or may not lead to support of concrete American counter-terrorist actions, such as the USAPA or a military action. The second is a more defined and specific type of unity, which is characterized by support for the U.S.A. and for the actions that it chooses to undertake in its fight against terrorism. It is therefore more likely to lead to support for the specific counter-terrorist measures undertaken by the U.S. administration, including the enactment of the USAPA.

A projected image of unity among Americans and the rest of the world played a prominent role in the post-9/11 governmental discourse, which consistently promoted and solicited such unity and linked it with feelings of patriotism, confidence and national pride. Unity was described as crucial for the defence of freedom, the American way of life and the well-being of the whole world, which was continuously drawn into the picture. Yet, despite this nice image of global unity, inclusiveness and solidarity, the United States was invariably presented as the paragon of freedom and democracy, a shiny example and a leader for other nations.

### **Terrorists presented as being at war with America's values**

The White House, especially the President, presented the attacks of 9/11 as a war of values or, more specifically, a war against America's values, which by the same token signified a war against values of the entire civilized world. Through this representation, the government was building consensus about the need to protect the threatened values of

progress, freedom, pluralism and tolerance, which were said to be at the core of American society. The President urged people to live by the principles of America and to uphold these values in the face of those who wish to destroy them. He pointed out that this was the whole purpose of the fight against terrorism. Therefore, the war against terrorism was presented as a measure of protection against the terrorists, whose values were antithetical to everything America stood for.

The risks that terrorism represented were thus moralized and, consequently, any disagreement with counter-measures proposed or adopted would amount to a stand against the American moral ethos. Unlike the everyday moralization of risk, which Hunt (2003) described as being concealed under a “utilitarian guise” of routine administrative discourses, in the post 9/11 period, government officials openly placed moral references at the centre of their discourse.

Populism, in relation to the shared goal of dealing with terrorism, was continuously manufactured by recourse to American values of freedom and democracy. Support for these values and ultimately the unity against the terrorist threat to them was rallied by the discursive use of the ‘American people’ as a resource for the advancement of a political agenda. The governmental discourse constantly reinforced the idea that America was involved in a war of ‘good versus evil’. Through this metaphor, which served as a powerful reminder for Americans that they live in a world of deception, evil and fear, the government was cajoling people to follow and trust their leaders. Through the imagery that showed America, with its noble values, as the prime target of evil-doers, the government was sending a message that further attacks were a possibility and that speedy action, backed by a united society, was necessary because victory was the only acceptable outcome.

### **Populist authoritarianism versus prudentialism**

There are two major undercurrents in the official discourse with respect to what was expected of the American people. On the one hand, they were told to trust that the government would do what was necessary to defeat terrorism, on the other hand, they were asked to take precautions and be vigilant about their safety. The former was expressed in the war rhetoric, whereby the government is justified not to share its knowledge with the people and to use extraordinary procedures to ensure security. The President mentioned several times that “in the war on terror, knowledge is power” (10/8, 47:2) and, as such, he could not share with American people all the information he had (e.g., 9/24, 26:1; 9/26, 34:1,2). The counter-terrorist emergency measures, including the speedy passage of the USAPA, were also presented as a prerogative of the government at war and a fulfillment of its moral duty towards the present and future generations of Americans and the entire world.

Yet Americans were also expected to take their safety into their own hands and assume responsibility for their local, everyday environment. There was, therefore, a certain degree of bifurcation, whereby Americans were told to leave the conduct of the war on terrorism to the government, while focusing on the management of their personal safety. The official discourse thus combined features of a populist authoritarianism with the simultaneous promotion of prudentialism (O'Malley, 1992; Hunt, 2003). This type of discourse seems to encourage people to overcome their feelings of hopelessness and look after themselves and their neighbours, while simultaneously releasing them from the responsibility for scrutinizing the government's macro-policies. Accordingly, being responsible means not only making one's own safety arrangements but also showing full trust in the government and an unconditional support for its policies. Given the level of

moralization in the construction of risks related to terrorism, failing to assume these responsibilities is tantamount to a moral failure.

### **The alternative to the USAPA is death**

In an attempt to build consensus for the means that the government wanted to employ in the war on terrorism, the President emphasized that decisive action was crucial to prevent further acts of terrorism, which were conveyed as a certainty. This certainty was presented authoritatively and people were told that a failure to adopt the counter-terrorist measures, especially the USAPA, would be blamed for the losses caused by the next terrorist attack on America. It is through such rationalization that the government presented the USAPA as the best tool for averting failure in the war on terrorism and, most importantly, for avoiding the unspeakable suffering caused by irreversible losses, such as the death of innocent people. Given that the government did not present the legislators or Americans at large with any alternatives to the USAPA, they were left with no real choice. They could either support the USAPA and its expedited passage or accept responsibility for any future terrorist attacks. While unverifiable, this kind of discourse has a great persuasive power by shifting the burden of responsibility to the audience.

### **The mobilization of people around governmental priorities**

Terrorism was spoken of as an existential and extraordinary threat, which is, according to Buzan et al. (1998), a usual justification for the securitization of a particular issue. This discourse of securitization - constituted by politicization, analysis and reaction to the perceived problems framed as security issues - is noticeable in the post-9/11 governmental documents, where the need to establish emergency measures was continuously accentuated. The prominence of such priorities as the protection of the public and the

management/prevention of future terrorist threats is evident in the documents studied. This was demonstrated through the skilful use of both a negative logic, which emphasized such phenomena as evil and insecurity, and a positive logic, which emphasized progress, security and the triumph of good over evil. The use of such bi-polar rhetorical devices as 'life versus death' or 'good versus evil' dramatized the need for gathering all Americans and their allies on the right side of the divide and mobilizing them against the shared enemy.

On the one hand, White House officials highlighted the fear and vulnerability triggered by the events of 9/11, on the other hand, they stressed the normality, calm and effective prevention ensured by the capable government. Americans seemed to be led to long for security and protection, while at the same time remain confident that they lived in a secure Nation due to the efforts and strengths of their government. This would make them increasingly dependent on their government for securing their safety and well-being, despite the undercurrent of the prudentialist rhetoric that emphasised personal responsabilization. As Beck (1992) indicated in his examination of risk society, personal responsibility usually ends up being governed at the institutional level.

Terrorism was presented as a risk which can be fought, minimized and possibly eliminated. This relates to Luhmann's (1993) theory, which posited that the perceived possibility of the prevention of a threat influences the readiness of people to take on risks or to make sacrifices in order to address the threat in question. In showing people that terrorism can be fought, the government increases people's readiness to support the proposed initiatives. This was evident in the President's discourse, when he repeatedly guaranteed victory against terrorism, perhaps assuming that support can be more easily attained by the presentation of terrorism as something that is manageable and controllable, thus rendering its

prevention thinkable. Moreover - in accordance with Luhmann's (1993) description of risk distribution strategy, where people tend to be mainly preoccupied with the primary risk and more tolerant of any secondary risks, which are usually perceived as a protection against the primary one - the government's discourse concentrated on the primary risk, which was defined as terrorism. Any secondary risks (Luhmann, 1993; Schneiderman, 2002), which could result from the measures undertaken to deal with the primary risk, for instance, the restriction of freedoms through the enactment of certain counter-terrorist measures, were not considered or even noted in the White House discourse. The politicians' attention and efforts were fully concentrated on terrorism and security, and all other aspects of the discourse were linked to the establishment of security against terrorism. This was a framework within which all issues were problematized with respect to the potential of harm related to the primary risk and the necessity to combating it (see Hunt, 2003).

According to Hunt (2003), problematization of an issue in terms of risk is associated with anxiety, which helps to personalize and concretize perceptions of risks in question. While, however, discourses of anxiety are subjective, discourses of risk translate anxiety into objective terms of real risks and validate the possibility of adopting rational strategies to deal with them. This removes personal doubts about the reality of the threat and justifies the need for implementation of risk avoidance and risk management strategies. The White House politicians seem to have employed this type of mechanism in their discourse, which objectified the risks and thus rationalized the proposed measures for countering them.

### **More than a single discourse**

Definitions of risk differ from one institution to another. This was emphasized by Ericson and Haggerty (1997) who pointed out that institutions have the capacity to call a risk

into being and that they develop their own systems for the identification and the management of risks. The events of 9/11 and the associated responses to them were perceived differently by governmental and non-governmental institutions, which created some opportunities for voicing a guarded criticism and concern. The American government identified terrorism as a primary threat, which needed to be dealt with as a national priority, and required a full mobilization of all governmental agencies and resources. In contrast, some non-governmental organizations, even though they defined terrorism as a serious threat, were not solely concerned with terrorism and voiced their opposition to an uncritical adoption of counter-terrorism measures regardless of the secondary risks that they might engender. Moreover, while the White House placed great emphasis on security and the protection of the public, some non-governmental institutions, such as the American Civil Liberties Union, looked at constitutional rights that they believed were being sacrificed on account of an unverifiable future threat. Such differences in ideology and in practice are due to the fact that different institutions possess their proper and distinct logic, which, in turn, influences both their definitions of risk and their management of it. In the case of a perceived threat to the national security, however, the ensuing securitization has a great potential for silencing the voices of opposition. As a rule, only carefully selected institutions are authorized to define and address the risks concerned, while others are discouraged from doing so.

Nevertheless, it is worth noting that the post-9/11 official discourse is not fully monolithic and there are some differences in tone among different governmental players. Initially, in his first reaction to the attacks, the President adopted a relatively neutral and passive tone. Yet, there was a clear escalation of aggressiveness and militancy in his tone throughout that first day, as the White House developed its response to the attacks. By the

evening of the day of the attacks, the President's tone stabilized and remained more or less constant in the level of aggressiveness and belligerence throughout the studied period. Of all government officials who spoke during that period, the President's tone was the most aggressive, and by far the most confident, enthusiastic and optimistic. The tone of other White House officials was also aggressive but less enthusiastic and confident. However, compared to the President and other White House officials, members from both houses of Congress adopted a softer, more tentative tone and showed less enthusiasm and optimism.

The two main players in the period between the attacks and the enactment of the USAPA were the President and the Attorney General. They made the largest number of speeches and statements. Both represented and promoted the perspective of the White House, not that of the Congress. Yet, the rhetoric employed by Attorney General Ashcroft, who spoke from a law enforcement perspective, differed from the one employed by President Bush, whose discourse evolved around the national security, patriotism and America's leadership in the world. The President used war rhetoric throughout the studied period. He referred to terrorism as an act of war and emphasized that the country was at war, and that major battles lay ahead. He never wavered in his insistence that one side (America) will inevitably triumph over the other (the terrorists). The President did not account in his discourse for the possibility of failing to win the war or accepting a trade-off between some valued principles and security.

The Attorney General addressed the issue of terrorism differently from the President in so far as he referred to it as a criminal rather than a war-like activity. Yet he saw it as a special type of crime, which required a combined strategy that would merge the law enforcement with a military response. Nevertheless, he spoke from a law enforcement point

of view and made references to criminal justice goals and measures. Moreover, in his use of crime rhetoric, he demonstrated a greater sense of caution and did not guarantee an unconditional victory. Rather, he insisted that the outcome hinged on the adoption of appropriate counter-terrorism tools. This, once again, demonstrates that even such a highly politicized risk as terrorism can be defined and dealt with in a variety of ways, depending on the institution or the branch of government that is handling the threat (Ericson and Haggerty, 1997). Given, however, the official problematization of terrorism as a threat to national security, the range of governmental rhetoric seemed both narrow and highly orchestrated within very confined parameters.

### **Different players and the war/crime distinction**

The war/crime distinction with regard to terrorism was evident in the governmental discourse triggered by 9/11. At times, government officials referred to the attacks as a crime and at other times as an act of war. A possibility of differential interpretations of terrorism was noted by Crelinsten (2002), who stated that terrorism can be interpreted as a crime (in the context of criminal activity) or revolution (within a political or war context) and consequently dealt with in accordance to that interpretation. The attacks of 9/11 were presented by the Attorney General as a crime that caused the death of thousands of people, and by the President as a terrorist act and an act of war that occurred through large-scale suicide attacks. Governmental counteractions to these events were carried out following governmental calls for unity, patriotism and sacrifice, which characterize the war model of counter-terrorism. There was also a declaration of a state of emergency, which emphasized the importance of the support of Americans for the establishment of special laws to deal with an enemy (the terrorists) that was portrayed as defeatable.

In contrast, in campaigning for the passage of the USAPA, Ashcroft used predominantly the language of law enforcement and crime prevention, based on the 'crime model', which is usually associated with due process and well established legal safeguards (Crelinsten, 2002). Nevertheless, as mentioned in the previous section, it was also evident, that there was a degree of merger between the discourses based on the rhetoric associated with the criminal justice model of counter-terrorism and that of the war model. This illustrates Steinert's (2003) thesis that such designations as 'war on terrorism' tend to blur the line between the warfare and policing and erase the distinction between controlling crime and confronting the enemy.

Finally, there was some evidence of a mutation of the official rhetoric into a model of state terrorism which, according to Crelinsten (2002), is characterized by a tendency to adopt methods that are closer to the enemy tactics, which the state aims to vanquish. The American government, through its discourse, seemed to foster fear in order to advance its political agenda. This agenda included the enactment of the USAPA, an intrusive piece of legislation, which was introduced as an apolitical and bipartisan law that was supposedly backed by overwhelming consent and unity. This type of measure is characteristic of wartime politics, when partisanship is shunned and dissent stifled.

### **Disparate discourses on balancing freedoms and security**

When the discourse of White House officials is compared with that of members from both houses of Congress, it is noticeable that the former does not show any concern about the possibility that the contemplated counter-terrorism measures could fail in preventing further terrorist attacks. There are, however, some differences among the White House officials in their approach to the issue of possible implications that these measures could have for rights

and freedoms. In the President's discourse there was no mention of any danger that rights and freedoms could be jeopardized. To him, they were at the core of American ethos threatened by the terrorists, and therefore it was not even thinkable that they would be compromised by any measures undertaken by the American government. Other White House officials did mention this issue at times but denied that the proposed measures could have any negative effects.

The Congress members shared the administration's goal in promptly elaborating the tools needed for the war on terrorism but their discourse pointed out that the laws under consideration, in particular the USAPA, would not necessarily guarantee protection against potential future terrorist attacks. They insisted that the laws merely represented a hopeful attempt to prevent future terrorism and were thus less enthusiastic in their discourse. They also pointed out that the USAPA did not protect civil rights and liberties of Americans. However, many of those who did not believe that the protection of rights and liberties was guaranteed under the new bill were talked into voting for the passage of the USAPA and, consequently, agreeing to a trade-off between rights and security. The trade-off was presented by some members of both houses of Congress as justified under the extraordinary circumstances that were inflicted upon America.

Persuasion to support the USAPA was facilitated by the fact that no other significant counter-terrorism measures were presented to Americans and to legislators as possible alternatives to this flawed law. Moreover, due to the political pressure, the USAPA, which was an omnibus bill consisting of many diverse, often incompatible parts, was not divided into a series of more manageable bills that could be considered separately on their merits. In the end, only 66 out of 435 members of the House and 1 out of 100 members of the Senate

voted against the passage of the USAPA. Senator Feingold, the only Senator who voted against the passage of the USAPA, pointed out that for him rights and security were equally important and, consequently, he could not vote for the passage of a law that prioritized security over rights.

### **The ethical value of the USAPA**

With the passage of the USAPA, a trade-off between security and freedoms prevailed. Despite the recognition by some influential members of Congress that the bill restricted valued principles, they nonetheless accepted the supreme value of security by voting for the passage of the bill. This value of security was continuously represented as being threatened by the real and ongoing risk of terrorism, which was, in turn, described as preventable. In the end, the official discourses on terrorism subtly legitimized the extended intervention of the federal government in the daily lives of Americans with the passage of the USAPA. This was accomplished mainly on utilitarian grounds where the safety of the largest number of people was prioritized over the rights and freedoms of individuals. A different approach emerged from some civil rights organizations, which emphasised the intrinsic value of rights and freedoms, thus expressing views closer to the deontological ethical tradition. Nonetheless, they too acknowledged that some re-balancing of freedoms and security was probably necessary and justified.

The post-9/11 governmental discourse highlighted the ethical nature of the USAPA by constantly emphasizing its anticipated propitious consequences – the reduction of the threat of terrorism, the defeat of evil and, consequently, the enhancement of feelings of security among Americans and others around the world. The discourse was future-oriented and guided fundamentally by the norm of utility. As such, it justified the legislative

decisions as morally right based on the expected results for the largest number of people – rather than on possible losses to individuals. Yet, even though utilitarianism stipulates weighing the positive results of an action against the negative ones (Gold et al., 1991), the discourse of White House officials concentrated only on the positive aspects of the enactment of the USAPA and denied any negative results that might be associated with the bill. Finally, given that liberties were not referred to as an inalienable right, which the government has the moral and political duty to protect above all else (Blackstone, 1973), the official discourse cannot be considered to be reflective of deontological ethics.

As previously mentioned, the President's discourse differed from that of Congress members. While the President took for granted that rights and freedoms would be protected, most members from both houses of Congress who spoke about the USAPA weighed the political and moral obligation to preserve the rights and freedoms of Americans against the supposed demands of security. They recognized that the sacrifice of freedoms for uncertain ends could be dangerous, which echoes Spader's (1991) warning to this effect. Their certainty as to the feasibility and the means of defeating terrorism was not absolute. Both utilitarian and deontological arguments were generally present in their discourses, although the mix was different for each speaker. Unlike White House officials, most members of Congress did not simply concentrate on the potential positive consequences of the proposed bill on terrorism. They looked at its potential negative effects as well. However, in the end, they attempted to demonstrate that the passage of the USAPA represented the morally right action, which, on balance, would bring more happiness in the shape of security than pain in the shape of a loss of freedoms and liberties among Americans. Contrary to Bentham's recommendation, however, this was not based on any scientific evaluation of the probability

of anticipated desired outcomes, possible side-effects and long-term repercussions. There was no evidence that any expert opinions were solicited or considered.

According to Spader (1991), the ends could sometimes justify the means if many measures for the maximization of happiness are explored and the best one adopted. Yet, this was not the case in the post-9/11 discourse where the government, succumbing to the self-imposed time limit, did not review possible alternatives to the USAPA. There were thus no serious attempts to reconcile the conflicting values of civil rights and security in the adoption of the USAPA, even though some members of Congress claimed to have struck a balance between the two values.

### **Conclusion**

The passage of the USAPA was justified through the portrayal of a strong sense of consensus and unity among all people against terrorism, which created an illusion that the government's counter-terrorist practices were consistent with democratic principles. The USAPA was also justified through the constant and confident proclamation of its benefits, which were said to include the prevention of further terrorist attacks, the guaranteed victory of good over evil, and consequently a greater sense of security and happiness for all people. The alternative to passing the USAPA was another attack and another great loss of life. Legislators and Americans were led to believe that if they did not support the proposed bill, they would be blamed for future attacks. Each individual had a choice to make and there was no neutral ground; they could either support the proposed initiatives or find themselves on the side of terrorists. However, if people wanted to stand against evil, the only choice they were provided with was the enactment of an intrusive bill, which curtailed established rights and freedoms of Americans and facilitated the government's interference in their daily lives.

Through a combination of persuasive and threatening rhetoric, the approval of the USAPA by legislators was successfully obtained only six weeks after the 9/11 attacks, in the shape of the passage of the USAPA.

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## **Appendices**

## **List of the documents selected for analysis**

### **September 11, 2001**

- Document 1**   **Remarks by the President After Two Planes Crash Into World Trade Center**  
Emma Booker Elementary School  
Sarasota, Florida  
9:30am
- Document 2**   **Press Briefing by Attorney General, Secretary HHS, Secretary of Transportation, and FEMA Director Joseph Allbaugh**  
Press Briefing – FBI Headquarters  
7:15pm
- Document 3**   **Press Briefing by Karen Hughes, Counselor to the President**  
National FBI Headquarters  
Washington, D.C.
- Document 4**   **Remarks by the President Upon Arrival at Barksdale Air Force Base**  
Barksdale Air Force Base, Louisiana
- Document 5**   **Statement by the President in His Address to the Nation**  
8:30pm

### **September 12, 2001**

- Document 6**   **Remarks by the President in Photo Opportunity with the National Security Team**  
The Cabinet Room  
10:53am
- Document 7**   **Remarks by the President While Touring Damage at the Pentagon**  
The Pentagon  
5:53pm
- Document 8**   **Remarks of Attorney General John Ashcroft**  
Media Briefing
- Document 9**   **Senator Leahy’s Floor Statement on the Attacks on the World Trade Center and the Pentagon**  
Floor Statement

**Document 10 Text of a Letter from the President to the Speaker of the House of R  
Representatives**

**September 13, 2001**

**Document 11 Debates on Amendments Offered Relating to the September 11 Terrorist  
Attack**

Congressional Record - Senate  
Pages S9362-S9387

**September 14, 2001**

**Document 12 Declaration of National Emergency by Reason of Certain Terrorist Attacks  
By the President of the United States of America  
A Proclamation**

**Document 13 President's Remarks at National Day of Prayer and Remembrance**

The National Cathedral  
Washington, D.C.  
1:00pm

**September 15, 2001**

**Document 14 President Urges Readiness and Patience**

Remarks by the President, Secretary of State Colin Powell and Attorney General  
John Ashcroft  
Camp David  
Thurmont, Maryland  
9:19am

**Document 15 Radio Address of the President to the Nation**

**September 16, 2001**

**Document 16 President: Today We Mourned, Today We Work**

Remarks by the President Upon Arrival  
The South Lawn  
3:23pm

**September 17, 2001**

**Document 17 Guard and Reserves "Define Spirit of America"**

Remarks by the President to Employees at the Pentagon  
The Pentagon  
11:45am

**Document 18 “Islam is Peace” Says President**

Remarks by the President at Islamic Center of Washington, D.C.  
Washington, D.C.  
3:12pm

**September 18, 2001**

**Document 19 President Launches Online American Relief and Response Effort**

Remarks by the President Supporting Charities  
The Rose Garden  
11:46am

**September 20, 2001**

**Document 20 Address to a Joint Session of Congress and the American People**

United States Capitol  
Washington, D.C.  
9:00pm

**Document 21 Senator Leahy’s Reaction to the President’s Message to a Joint Session of Congress**

**Document 22 Attorney General Remarks**

Pennsylvania Crash Site

**September 21, 2001**

**Document 23 Remarks from Press Conference at WTC**

Attorney General Ashcroft, FBI Director Mueller, Mayor Giuliani, Governor Pataki  
New York City, New York

**Document 24 Attorney General Ashcroft and FBI Director Mueller Remarks**

Tour of the World Trade Center

**September 22, 2001**

**Document 25 Radio Address: Despite Challenges, Economy Fundamentally Strong**

Radio Address of the President to the Nation

**September 24, 2001**

**Document 26 President Freezes Terrorists' Assets**

Remarks by the President, Secretary of the Treasury O'Neill and Secretary of State Powell on Executive Order  
The Rose Garden  
9:35am

**Document 27 Executive Order on Terrorist Financing**

Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism

**Document 28 Letter to Congress on American Campaign Against Terrorism**

Text of a Letter from the President to the Speaker of the House of Representatives and the President Pro Tempore of the Senate

**Document 29 President Declares National Emergency**

To the Congress of the United States

**Document 30 Attorney General John Ashcroft**

Testimony Before the House Committee on the Judiciary

**September 25, 2001**

**Document 31 Senator Leahy's Hearing Statement on Homeland Defense**

**Document 32 Attorney General John Ashcroft**

Testimony Before the Senate Committee on the Judiciary

**Document 33 President: FBI Needs Tools to Back Down Terrorists**

Remarks by the President to Employees at the Federal Bureau of Investigation  
FBI Headquarters  
2:37pm

**September 26, 2001**

**Document 34 President Thanks CIA**

Remarks by the President to Employees of the Central Intelligence Agency  
CIA Headquarters  
Langley, Virginia  
1:23pm

**September 27, 2001**

**Document 35 At O'Hare, President Says "Get On Board"**

Remarks by the President to Airline Employees  
O'Hare International Airport  
Chicago, Illinois  
10:40pm

**September 29, 2001**

**Document 36 Radio Address of the President to the Nation**

**October 1, 2001**

**Document 37 President: "We're Making Progress"**

Remarks by the President to the Employees of FEMA  
FEMA Headquarters  
Washington, D.C.  
1:39pm

**October 2, 2001**

**Document 38 President Meets with Congressional Leaders**

Remarks by the President in Photo Opportunity with Speaker Hastert, Leader  
Daschle, Minority Leader Lott and Minority Leader Gephardt  
The Oval Office  
8:13am

**Document 39 President Opens Reagan National Airport**

Reagan National Airport  
Arlington, Virginia  
10:52am

**Document 40 John Ashcroft Holds Media Availability with Canadian Solicitor General**

**Lawrence MacAulay**  
With Canadian Solicitor General Lawrence MacAulay

**October 3, 2001**

**Document 41 Statement of Senator Patrick Leahy**

Subcommittee on Constitution, Federalism and Prosperity Rights  
"Protecting Constitutional Freedoms in the Face of Terrorism"

**October 4, 2001**

**Document 42 President Unveils Back to Work Plan**

Remarks by the President to the Employees of the Department of Labor  
Washington, D.C.  
1:40pm

**Document 43 President Directs Humanitarian Aid to Afghanistan**

Remarks by the President to State Department Employees  
U.S. Department of State  
Washington, D.C.  
10:25am

**Document 44 Attorney General Ashcroft and FBI Director Mueller Transcript**

Media Availability with State and Local Law Enforcement Officials  
DOJ Conference Room

**October 6, 2001**

**Document 45 Radio Address of the President to the Nation**

**October 7, 2001**

**Document 46 Presidential Address to the Nation**

The Treaty Room  
1:00pm

**October 8, 2001**

**Document 47 Governor Ridge Sworn-In to Lead Homeland Security**

The East Room  
10:53am

**Document 48 Attorney General Ashcroft News Briefing**

**October 9, 2001**

**Document 49 New Counter-Terrorism and CyberSpace Security Positions Announced**

Personnel Announcement by National Security Advisor Condoleezza Rice and  
Director of Homeland Security Thomas Ridge  
Eisenhower Executive Office Building, room 450  
1:36pm

**October 10, 2001**

**Document 50 Attorney General Announcement with President Bush, Secretary of State Powell and FBI Director Mueller**

FBI Headquarters  
Washington, D.C.  
11:00am

**October 11, 2001**

**Document 51 Senate Debate on the Uniting and Strengthening of America Act of 2001**

Statements by Leahy, Sarbanes, Feingold, Hatch and Daschle  
Congressional Record - Senate  
Pages S10547-S10630

**Document 52 President Pays Tribute at Pentagon Memorial**

Remarks by the President at the Department of Defense Service of Remembrance  
The Pentagon, Arlington, Virginia  
11:55am

**Document 53 President Holds Prime Time News Conference**

The East Room  
8:00pm

**October 12, 2001**

**Document 54 Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001**

House Debate on the Patriot Act of 2001  
Congressional Record - House of Representatives  
Pages H6758-6776

**Document 55 President Commends House for Passing Anti-Terrorism Bill**

Statement by the President

**Document 56 President Commends Senate Action**

Statement by the President

**Document 57 Comments of Senator Patrick Leahy on House Passage of the Anti-Terrorism Bill**

**Document 58 Man Indicted for False Statements to FBI Regarding Attacks**

Statement about Murdered AUSA in Seattle

**October 13, 2001**

**Document 59 Radio Address of the President to the Nation**

**October 16, 2001**

**Document 60 Attorney General Transcript of News Conference with FBI Director Mueller**  
DOJ Conference Room

**October 17, 2001**

**Document 61 President Outlines War Effort**  
Remarks by the President at the California Business Association Breakfast  
Sacramento Memorial Auditorium  
Sacramento, California  
11:38am

**Document 62 President Rallies Troops at Travis Air Force Base**  
Remarks by the President to Military Personnel at Travis Air Force Base  
California  
1:30pm

**October 18, 2001**

**Document 63 Attorney General John Ashcroft**  
Press Conference

**October 20, 2001**

**Document 64 President's Radio Address from Shanghai, China**  
Radio Address by the President to the Nation  
Shanghai, People's Republic of China

**Document 65 President Says Terrorists Tried to Disrupt World Economy**  
Remarks by the President to the CEO Summit  
Pudong Shangri-La Hotel  
Shanghai, People's Republic of China  
2:20pm (Local)

**October 22, 2001**

**Document 66 Director Ridge Discusses Anthrax Situation**

Press Briefing by the Director of the Office of Homeland Security Tom Ridge,  
Postmaster General John e. Potter, President of the National Association of  
Letters Carriers Vince Sombratto, Mayor of Washington, D.C. Anthony Williams,  
Centers for Disease Control Representative Mitch Cohen, and Deputy Surgeon  
General Ken Moritsugu  
The James S. Brady Press Briefing Room  
4:30pm

**October 23, 2001**

**Document 67 Uniting and Strengthening America by Providing Appropriate Tools  
Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001**  
Congressional Record B House of Representatives

**October 24, 2001**

**Document 68 Comments of Senator Patrick Leahy on House Passage of Anti-Terrorism  
Bill**  
Anti-Terrorism Bill Cleared For Final House, Senate Passage  
(different language from the House's original bill)

**Document 69 Economy an Important Part of Homeland Defense**  
Remarks by the President to Employees of the Dixie Printing Company  
Dixie Printing Company  
Glen Burnie, Maryland  
1:42pm

**October 25, 2001**

**Document 70 Statement of Senator Patrick Leahy, Democratic Manager of the Senate  
Debate, on the Anti-Terrorism Bill**  
From the Senate Floor

**Document 71 Congress Explains the USA PATRIOT Act**  
Statements by Hatch, Graham, Wellstone, Kerry, Schumer and Levin  
Congressional Record B Senate  
Pages S11015 – S11049

**Document 72 Statement of U.S. Senator Russ Feingold On The Anti-Terrorism Bill**  
From the Senate Floor

**Document 73 Attorney General John Ashcroft**  
Prepared Remarks for the US Mayors Conference

**October 26, 2001**

**Document 74 President Signs Anti-Terrorism Bill**  
Remarks by the President at Signing of the Patriot Act, Anti-Terrorism  
Legislation  
The East Room  
9:49am

## **Questions used for the analysis of the selected documents**

### **Document identification**

1. Size of the document:
  - a. Short (1-3 single-spaced pages)
  - b. Medium (4-10 single-spaced pages)
  - c. Long (11 single-spaced pages or more)
2. Who is speaking? Does the speaker represent any organizations?
3. Who is the document addressed to?
4. When and for what occasion has it been issued?
5. What is its subject?
6. Is it presented in reaction to another document?

### **Coding of individual documents**

#### **I. The use of language in the document**

##### **A. Use of a particular mode of speech:**

1. What mode of speech is used (e.g. hate speech, catastrophic, patriotic, 'upbeat'...)?
2. Can the language used be described as offensive / defensive, active / passive?
3. Are there any oppositions (e.g. we - they, enemy - friend...)?

##### **B. Determination of the perspective:**

1. What ideological vision is promoted?
2. What and whose viewpoints are being communicated and commented on?
3. What and whose viewpoints are being promoted?

##### **C. Choice of arguments:**

1. Are the pros and cons discussed, or just pros, just cons?
2. Are any arguments being refuted? If yes,
  - a. Whose arguments?
  - b. What issues do they concern?
  - c. What language devices are used?
3. What emotional arguments are brought forward to rally support or collaboration for American initiatives and policies (e.g. "Who is not with us is against us")?

## **II. Talking about the events of 9/11**

### **A. The events of 9/11:**

1. How are the events of 9/11 referred to (e.g. terrorist attacks, tragic events...)?
2. What political / historical background is provided for 9/11?
  - a. Why was the U.S.A. the target of the attacks?
  - b. Who is blamed for 9/11?
  - c. What is said to have caused the attacks?
  - d. Are any alleged causes refuted?
  - e. Are any techniques of negation used to explain the failure to prevent the 9/11 attacks (e.g. lack of resources, failures of the previous administration...)?
3. How has the U.S.A. been changed by the attacks?
  - a. What is said to have been disturbed by the attacks?
  - b. What are the principles / values / norms said to be challenged by the events of 9/11 (e.g. truth, freedom, rationality, individualism, the integrity of history, the American way of life, Western values...)?
  - c. Have anything positive emerged from 9/11?
  - d. What has been learned from the attacks?

### **B. Issues relating to terrorism:**

1. How threatening is terrorism?
  - a. Is it presented as a permanent and unpreventable risk?
  - b. Is it presented as a risk that can be reduced?
  - c. Is it presented as a risk that can be eliminated?
2. Who are the likely perpetrators? What should they be dealt with?
3. What are their likely methods?
4. What is the cost inflicted by terrorism on:
  - a. U.S.A.
  - b. Security
  - c. Civil liberties and freedoms
  - d. Islam
5. What is the likelihood of further attacks? On the U.S.A.?

## **III. References and invocations made in the documents**

### **A. Connotations, allusions and references evoked in the document:**

1. What / who is labelled as dysfunctional or disruptive?
2. Are there references to certain ideals or superior values (e.g. the truth, national pride)?
3. Are any accusations made? If yes, what are they and what is their target?
4. Does the document refute certain accusations?

B. Links to pre-9/11 events:

1. Are there references made to previous events?
2. What is the nature of these events?
3. How are the outcomes of these events described?
4. How does the speaker relate these events to those of 9/11?

C. The war model, criminal justice model, or model of state terrorism:

1. Does discourse reinforce a criminal justice model (e.g. terminology metaphors)?
2. Does discourse reinforce a war model (e.g. terminology metaphors)?
3. Does discourse reinforce a state terrorism model (e.g. terminology metaphors)?

**IV. Reactions to the attacks and governmental counteractions**

A. Description of the reactions to the attacks:

(e.g. shock, anger, feeling of having been victimized, feelings of being united, outrage, sympathy for Americans, a sense that Americans got their due...)

1. How are Americans' reactions to the attacks described?
2. How are the reactions of the Islamic world to the attacks described?
3. How are the reactions of the rest of the world described?

B. How to deal with 9/11:

1. What actions are deemed necessary to deal with the aftermath of 9/11 (e.g. new laws, border controls, military action ...)?
2. How are the actions talked about or referred to (e.g. 'war on terror,' 'crusade'...)?
3. Has the suitability of these actions been assessed? How?
4. Has the potential outcome of these actions been evaluated? How?
  - a. How will the actions taken affect the risk of terrorism (e.g. minimize / eliminate)?
  - b. How will they affect the quality of life of Americans (e.g. increased security, stronger democracy, less freedom...)?
5. Will the developments brought upon by governmental actions be communicated to the public? When? How?
6. Will they be reviewed? By whom? When? How?

C. Protection against terrorism:

1. Are the risks related to terrorism calculable? Predictable?
2. Can they be dealt with rationally?
3. Can we be safe from terrorism? How?
4. Does the government have a duty to act?

- a. What kind of duty (e.g. moral, political...)?
    - b. Is fighting terrorism a moral imperative?
  5. What are the costs of protection against terrorism (e.g. economic, social, political...)?
    - a. Can they be avoided? Minimized? Limited to certain groups or areas?
  6. What are the benefits?
    - a. Do they outweigh the costs?
  7. Is the question of balancing costs and benefits mentioned?
- D. Are there any assurances or guarantees put forth that what is being said is true or what is being refuted is false? If yes, what types of assurances?
- E. What are the values that Americans should treasure above all?
- F. What attitudes does the government urge Americans, potential allies and any undecided parties to adopt (e.g. aggressive, uncompromising, loyal to the U.S.A....)?
- G. Are Americans urged to show support for and collaborate with the government? If yes,
1. How, when and why is support required?
  2. How, when and why is active collaboration required?
  3. How are the supporters of governmental initiatives referred to (e.g. true Americans, patriotic...)?
  4. How are those questioning governmental initiatives referred to?

## **V. The United States of America Patriot Act of 2001 (USAPA)**

### **A. The USAPA:**

1. What philosophy does the USAPA embody?
2. What justifications are given to encourage / promote the adoption of the bill?
3. Is the urgency of a special and speedy legislation emphasised?
4. Which concerns about the bill are dismissed?
5. Which concerns are validated?
6. How long will this law be in place?

### **B. Implications of the USAPA:**

1. What are Americans gaining with the implementation of this law?
2. What are Americans losing with the implementation of this law?
3. How will the new anti-terrorism law affect the rights (e.g. rights to privacy) and freedoms (e.g. freedom of expression) of citizens?
4. Are there any certainties / guarantees that the new bill would protect Americans from further terrorist acts?

D. Finding the balance between rights and security:

1. Has the anti-terrorism bill been assessed in terms of its possible impact on rights and freedoms?
2. Can the new laws be implemented in a manner consistent with human rights?
3. Is it said to be acceptable to abridge civil liberties? If yes, under what conditions?
4. How is the importance of liberties and freedoms viewed in comparison with concerns for security (e.g. more important or less important)?
  - a. How is this ranking justified?
5. Is the issue of balance (or trade-off) addressed? If so,
  - a. How will the government balance protecting Americans against potential future attacks with its commitment to protect their civil rights?
  - b. Is such a balance possible?

E. Are Americans urged to show support for and collaborate with the government with respect to the USAPA? If yes,

1. Are there any specific demands or appeals made in regards to the anti-terrorist policy (e.g. support the USAPA)?
2. Are there any risks mentioned?
3. What are the advantages to the government and to the population in general if people decide to support or collaborate with the government?

**Questions for the overall analysis of governmental discourse**

1. Are any differences of perspectives among major players revealed in the documents?
2. Are there any repetitions or recurrent terms or slogans? What are they (e.g. war on terror, evil, God, the enemy, democracy...)?
3. Does individual players' tone change over time (e.g. become more lenient or aggressive)?
4. Does the tone of overall discourse change over time (e.g. become more lenient or aggressive)?
5. Are there any other specific dynamics in the government discourse? Are there any patterns of discourse variation and / or consistency across documents?
6. How is the legitimacy of the government's discourse promoted (e.g. showing that the U.S. is supported by others, talking about alliances, leadership, historical mission...)?
7. How did the arguments for the adoption of the USAPA evolve over time?
8. Do different discourse participants seem to play different roles in the promotion of the new law?

## Appendix C

Documents 1 to 23  
Question I.A.1 to IV.B.4.b

## **Legislative acts related to the attacks of September 11, 2001**

### **Bills and joint resolutions signed into law**

HR2882: Public Safety Officer Benefits bill.

HR2883: Intelligence Authorization Act for Fiscal Year 2002.

HR2884: Victims of Terrorism Relief Act of 2001.

HR2888: 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States.

HR2926: Air Transportation Safety and System Stabilization Act.

HR3162: Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001.

HR3275: Terrorist Bombings Convention Implementation Act of 2001.

HR3448: Bioterrorism Response Act of 2001.

HR3525: Enhanced Border Security and Visa Entry Reform Act of 2002.

HR3986: To extend the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001.

H.J.Res. 71: Designating September 11 as Patriot Day.

S1372: Export-Import Bank Reauthorization Act of 2002.

S1424: A bill to amend the Immigration and Nationality Act to provide permanent authority for the admission of "S" visa non-immigrants.

S1438: National Defense Authorization Act for Fiscal Year 2002.

S1447: Aviation and Transportation Security Act.

S1465: A bill to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes.

S1573: Afghan Women and Children Relief Act of 2001.

S1793: Higher Education Relief Opportunities for Students Act of 2001.

S2431: Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002.

S.J.Res. 22: Joint resolution expressing the sense of the Senate and House of Representatives regarding the terrorist attacks launched against the United States on September 11, 2001.

S.J.Res. 23: Authorization for Use of Military Force.

### **Legislation with floor action**

HR2899: Freedom Bonds Act of 2001.

HR2975: Provide Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001.

HR2976: Healing Opportunities in Parks and the Environment Pass Act.

HR2982: To authorize the establishment of a memorial within the area in the District of Columbia referred to in the Commemorative Works Act as "Area I" or "Area II" to the victims of terrorist attacks on the United States, to provide for the design and construction of such a memorial, and for other purposes.

HR3004: Financial Anti-Terrorism Act of 2001.

HR3008: To reauthorize the trade adjustment assistance program under the Trade Act of 1974, and for other purposes.

HR3054: True American Heroes Act.

HR3086: Higher Education Relief Opportunities for Students Act of 2001.

HR3090: Temporary Extended Unemployment Compensation Act of 2002.

HR3150: Airport Security Federalization Act of 2001.

HR3160: To amend the Antiterrorism and Effective Death Penalty Act of 1996 with respect to the responsibilities of the Secretary of Health and Human Services regarding biological agents and toxins, and to amend title 18, United States Code, with respect to such agents and toxins.

HR3210: Terrorism Risk Protection Act.

HR3240: Reservists Education Protection Act of 2001.

HR3253: Department of Veterans Affairs Emergency Preparedness Research, Education, and Bio-Terrorism Prevention Act of 2002.

HR3375: Embassy Employee Compensation Act.

HR3423: Arlington National Cemetery bill.

HR3479: National Aviation Capacity Expansion Act.

HR3529: Economic Security and Worker Assistance Act of 2001.

HR3609: Pipeline Infrastructure Protection To Enhance Security and Safety Act.

HR3880: To provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism, and for other purposes.

HR3917: Flight 93 National Memorial Act.

HR3994: Afghanistan Freedom Support Act of 2002.

HR4598: Homeland Security Information Sharing Act.

HR4635: Arming Pilots Against Terrorism Act.

HR4687: National Construction Safety Team Act.

HR4940: Arlington National Cemetery Burial Eligibility Act.

HR5005: To establish the Department of Homeland Security, and for other purposes.

HR5018: Capitol Police Retention, Recruitment, and Authorization Act of 2002.

HR5091: Canceling Loans to Allow School Systems to Attract Classroom Teachers Act.

HR5138: True American Heroes Act of 2002.

H.Con.Res. 228: Put Our Children First Resolution of 2001.

H.Con.Res. 232: Expressing the sense of the Congress in honoring the crew and passengers of United Airlines Flight 93.

H.Con.Res. 233: Expressing the profound sorrow of the Congress for the death and injuries suffered by first responders as they endeavored to save innocent people in the aftermath of the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001.

H.Con.Res. 259: Expressing the sense of Congress regarding the relief efforts undertaken by charitable organizations and the people of the United States in the aftermath of the terrorist attacks against the United States that occurred on September 11, 2001.

H.Con.Res. 273: Reaffirming the special relationship between the United States and the Republic of the Philippines.

H.J.Res. 61: Expressing the sense of the Senate and House of Representatives regarding the terrorist attacks launched against the United States on September 11, 2001.

H.J.Res. 64: Authorization for Use of Military Force.

S1214: Port and Maritime Security Act of 2001.

S1426: 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States.

S1450: Air Transportation Safety and System Stabilization Act.

S1499: American Small Business Emergency Relief and Recovery Act of 2001.

S1510: Uniting and Strengthening America Act (USA Act of 2001).

S1519: A bill to amend the Consolidated Farm and Rural Development Act to provide farm credit assistance for activated reservists.

S1622: Extended Unemployment Compensation bill.

S1637: A bill to waive certain limitations in the case of use of the emergency fund authorized by section 125 of title 23, United States Code, to pay the costs of projects in response to the attack on the World Trade Center in New York City that occurred on September 11, 2001.

S1729: Post Terrorism Mental Health Improvement Act.

S1770: Terrorist Bombings Convention Implementation Act of 2001.

S1858: Terrorist Victims' Courtroom Access Act.

S1880: Afghanistan Freedom and Reconstruction Act of 2001.

S1981: Enhanced Penalties for Enabling Terrorists Act of 2002.

S2037: Science and Technology Emergency Mobilization Act.

S2136: Flight 93 National Memorial Act.

S2487: Global Pathogen Surveillance Act of 2002.

S2600: Terrorism Risk Insurance Act of 2002.

S2621: A bill to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems.

S2629: Federal Privacy and Data Protection Policy Act of 2002.

S2915: A bill to provide for cancellation of student loan indebtedness for spouses, surviving joint debtors, and parents of individuals who died or became permanently and totally disabled due to injuries suffered in the terrorist attack on September 11, 2001.

S3009: Andean Trade Preference Expansion Act.

S.Con.Res. 66: A concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001.

S.Con.Res. 73: A concurrent resolution expressing the profound sorrow of Congress for the deaths and injuries suffered by first responders as they endeavored to save innocent people in the aftermath of the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001.

S.Con.Res. 74: A concurrent resolution condemning bigotry and violence against Sikh-Americans in the wake of terrorist attacks in New York City and Washington, D.C. on September 11, 2001.

S.Con.Res. 75: A concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to public safety officers killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to those who participated in the search, rescue and recovery efforts in the aftermath of those attacks.

S.Con.Res. 76: A concurrent resolution honoring the law enforcement officers, firefighters, emergency rescue personnel, and health care professionals who have worked tirelessly to search for and rescue the victims of the horrific attacks on the United States on September 11, 2001.

S.Con.Res. 87: A concurrent resolution expressing the sense of Congress regarding the crash of American Airlines Flight 587.

S.Con.Res. 91: A concurrent resolution expressing deep gratitude to the government and the people of the Philippines for their sympathy and support since September 11, 2001, and for other purposes.

S.Con.Res. 93: A concurrent resolution recognizing and honoring the National Guard on the occasion of the 365th anniversary of its historic beginning with the founding of the militia of the Massachusetts Bay Colony.

S.Con.Res. 112: A concurrent resolution expressing the sense of Congress regarding the designation of the week beginning May 19, 2002, as "National Medical Services Week".

S.J.Res. 25: National Day of Remembrance Act of 2001.

H.AMDT. 361 to HR2883: Amendment revises Sec. 306 and establishes a "Commission on National Security Readiness" to identify structural readiness of the United States to identify structural impediments to the effective collection, analysis, and sharing of information on national security threats, particularly terrorism.

H.AMDT. 362 to HR2883: Amendment sought to reduce the Presidential appointments to 2; to remove the Commission's ability to hold hearings and to administer oaths or affirmations to witnesses appearing before it; to remove subpoena power; and to strike the requirement for termination of the Commission.

H.AMDT. 383 TO HR3150: Amendment that makes various technical changes, authorizes airlines to use technologies to create a secure and expedited passenger screening process, and extends \$1.5 billion authorized for airport security to 2003.

S.AMDT. 1560 to HR2500: To express the sense of the Senate regarding discrimination against Arab Americans.

S.AMDT. 1562 to HR2500: Combating Terrorism Act of 2001.

S.AMDT.1573 to HR2590: To authorize the Secretary of the Treasury to issue War Bonds in support of recovery and response efforts relating to the September 11, 2001, hijackings and attacks on the Pentagon and the World Trade Center.

S.AMDT.1574 to HR2590: To authorize the issuance of Unity Bonds in response to the acts of terrorism perpetrated against the United States on September 11, 2001.

S.AMDT.1583 to HR2590: To provide that the Postal Service may issue a special commemorative postage stamp in order to provide financial assistance to the families of emergency relief personnel killed or permanently disabled in the line of duty in connection with the terrorist attacks against the United States on September 11, 2001.

S.AMDT.1661 to S1438: To authorize emergency supplemental appropriations for fiscal year 2001 for recovery from and response to terrorist attacks on the United States.

S.AMDT.1807 to S1438: To authorize the acceptance of contributions for the repair of the damage to the Pentagon Reservation caused by the terrorist attack on September 11, 2001 or establishment of a memorial of the attack at the Pentagon.

S.AMDT.1815 to S1438: To express the sense of the Senate that the Secretary of the Treasury should immediately issue savings bonds, to be designated as "Unity Bonds", in response to the terrorist attacks against the United States on September 11, 2001.

S.AMDT.2067 to HR3061: To express the sense of the Senate concerning the provision of assistance for airport career centers to enable such centers to serve workers in the airline and related industries who have been dislocated as a result of the September 11, 2001 attack on the World Trade Center.

S.AMDT.2068 to HR3061: To express the sense of the Senate concerning assistance for individuals with disabilities who require vocational rehabilitation services as a result of the September 11, 2001 attack on the World Trade Center.

S.AMDT.2082 to HR3061: To make funding available under title V of the Public Health Service Act for mental health providers serving public safety workers affected by the terrorist attacks of September 11, 2001.

S.AMDT.2163 to HR2884: To amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States, and for other purposes.

S.AMDT. 2376 to HR3338: To authorize the burial in Arlington National Cemetery of any former Reservist who died in the September 11, 2001, terrorist attacks and would have been eligible for burial in Arlington National Cemetery but for age at time of death.

S.AMDT. 2439 to HR3338: To establish a program to name national and community service projects in honor of victims killed as a result of the terrorist attacks on September 11, 2001.

S.AMDT. 2452 to HR3338: To direct the Secretary of the Smithsonian Institution to collect and preserve in the National Museum of American History artifacts relating to the September 11th attacks of the World Trade Center and the Pentagon.

(Source: Internet, Library of Congress Website, <http://thomas.loc.gov/home/terrorleg.htm>).

## **The organizations' missions as stated on their websites**

### **ABA - American Bar Association – Section of Individual Rights and Responsibilities**

[www.abanet.org](http://www.abanet.org)

The American Bar Association is the largest voluntary professional association in the world. With more than 400,000 members, it provides law school accreditation, continuing legal education, information about the law, programs to assist lawyers and judges in their work, and initiatives to improve the legal system for the public. It strives to provide people with the knowledge and tools needed to expand their career. From ABA-sponsored workshops, meetings, seminars and CLE sessions to the widest variety of respected and up-to-date publications, the ABA is an association that is dedicated to help people advance their career and the legal profession. The Association, its sections, divisions, commissions and so forth, recruit from a variety of backgrounds-people who seek opportunities for challenging and substantive work.

### **ACLU - American Civil Liberties Union**

[www.aclu.org](http://www.aclu.org)

The ACLU was founded in 1920. It is non-profit and non-partisan and has grown from a roomful of civil liberties activists to an organization of more than 400,000 members and supporters. It handles nearly 6,000 court cases annually from offices in almost every state. It is supported by annual dues and contributions from its members, plus grants from private foundations and individuals. It does not receive any government funding.

The ACLU is the nation's guardian of liberty. It works daily in courts, legislatures and communities to defend and preserve the individual rights and freedoms guaranteed to every person in the United States by the Constitution and the laws of the country. Its job is to conserve America's original civic values – the Constitution and the Bill of Rights. It also works to extend rights to segments of the population that have traditionally been denied their rights, including Native Americans and other people of color; lesbians, gay men, bisexuals and transgendered people; women, mental-health patients; prisoners; people with disabilities; and the poor. The ACLU maintains the position that civil liberties must be respected, even in times of national emergency.

### **CCR - Center for Constitutional Rights**

[www.ccr-ny.org](http://www.ccr-ny.org)

CCR was founded in 1966. It is a non-profit legal and educational organization dedicated to protecting and advancing the rights guaranteed by the U.S. Constitution and the Universal Declaration of Human Rights.

CCR uses litigation proactively to advance the law in a positive direction, to empower poor communities and communities of color, to guarantee the rights of those with the fewest protections and least access to legal resources, to train the next generation of constitutional and human rights attorneys, and to strengthen the broader movement for constitutional and human rights. CCR will work to complete the unfinished civil rights movement, targeting racial profiling and other modern-day manifestations of racial intolerance.

### **CDT - Center for Democracy & Technology**

[www.cdt.org](http://www.cdt.org)

CDT is a non-profit public policy organization dedicated to promoting the democratic potential of today's open, decentralized global Internet. It receives support from a diverse and balanced range of funding from foundations, corporations, international institutions, and trade associations. It accepts no government funding.

CDT's mission is to conceptualize, develop, and implement public policies to preserve and enhance free expression, privacy, open access, and other democratic values in the new and increasingly integrated communications medium. CDT works to promote democratic values and constitutional liberties in the digital age. With expertise in law, technology, and policy, CDT seeks practical solutions to enhance free expression and privacy in global communications technologies. CDT is dedicated to building consensus among all parties interested in the future of the Internet and other new communications media.

### **CPI - Center for Public Integrity – Investigative Journalism in the Public Interest**

[www.publicintegrity.org](http://www.publicintegrity.org)

The Center for Public Integrity was founded in 1989. It is a non-profit, non-partisan, tax-exempt organization that conducts investigative research and reporting on public policy issues in the United States and around the world.

The Center hopes to serve as an honest broker of information – and to inspire a better-informed citizenry to demand a higher level of accountability from its government and elected leaders. The exponential increase in usage of the Center's reports by the media, academics, non-governmental organizations and the public at large shows the growing impact of its mission. By building upon and perpetuating its hard-earned reputation for "public service journalism," the Center aims to steadily increase the organization's impact on public policy debates.

### **DOJ - United States Department of Justice**

[www.usdoj.gov](http://www.usdoj.gov)

To enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide Federal leadership in

preventing and controlling crime; to seek just punishment for those guilty of unlawful behaviour; to administer and enforce the Nation's immigrations laws fairly and effectively; and to ensure fair and impartial administration of justice for all Americans.

**LCHR - Lawyers Committee for Human Rights (now known as Human Rights First)**  
[www.humanrightsfirst.org](http://www.humanrightsfirst.org)

Human Rights Works in the United States and abroad to create a secure and humane world by advancing justice, human dignity and respect for the rule of law. It supports human rights activists who fight for basic freedoms and peaceful change at the local level; protect refugees in flight from persecution and repression; help build a strong international system of justice and accountability; and make sure human rights laws and principles are enforced in the United States and abroad.

**List of actions taken for the passage of the USAPA  
(October 11 to October 26, 2001)**

**10/11/2001:**

S. 1510 (The USA Act) passed the Senate.

An amended version was reported the same day as H.R. 2975 by the House Judiciary Committee.

**10/12/2001:**

The House passed H.R. 2975 (The PATRIOT Act). The House Bill incorporated most of the money measures that were found in a previous Bill, H.R. 3004, many of which had counterparts in S. 1510 as approved by the Senate.

**10/23/2001:**

Referred to the Committee on the Judiciary.

Also referred to the Committees on Intelligence (Permanent Select), Financial Services, International Relations, Energy and Commerce, Subcommittee on Telecommunications and the Internet, Education and the Workforce, Transportation and Infrastructure, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

**10/23/2001 7:15pm:**

Rules suspended by Mr. Sensenbrenner and the bill passed.

**10/23/2001 7:15pm:**

Considered under suspension of the rules.

**10/23/2001 8:27pm:**

At the conclusion of debate, the Yeas and Nays were demanded and ordered.

The Chair announced that further proceedings on the motion would be postponed.

**10/24/2001 10:37am:**

Considered as unfinished business.

The House passes a clean bill, H.R. 3162, which resolved the differences between H.R. 2975 and S. 1510. The Senate agreed to the changes.

**10/24/2001 11:03am:**

On motion to suspend the rules and pass the bill agreed to by the Yeas and Nays: 357 – 66 (2/3 required) (Roll Call Vote No. 398).

**10/24/2001 11:03am:**

Motion to reconsider laid on the table agreed to without objection.

**10/24/2001:**

Received and read twice in the Senate.

**10/25/2001:**

Passed Senate without amendment by Yea-Nay Vote: 98 - 1.  
(Record Vote No. 313).

**10/25/2001:**

Message on Senate action sent to the House.

**10/25/2001:**

H.R. 3162 was cleared for White House approval.

**10/25/2001:**

The Bill was presented to the President.

**10/26/2001:**

The Bill was signed by the President.

**10/26/2001:**

The Bill became Public Law No: 107-56.

Source: Internet, <http://thomas.loc.gov/>, last accessed February 2005.

**Communities with resolutions opposing federal policies,  
including the USAPA**

- |                               |                           |
|-------------------------------|---------------------------|
| 135. Lane County, OR          | 91. Albany, CA            |
| 134. Durango, CO              | 90. Corvallis, OR         |
| 133. Bloomington, IN          | 89. Dublin, CA            |
| 132. Tehama County, CA        | 88. Dillon, MT            |
| 131. Taos, NM                 | 87. Rio Arriba County, NM |
| 130. Aztec, NM                | 86. Provincetown, MA      |
| 129. Port Townsend, WA        | 85. Gaston, OR            |
| 128. San Juan County, WA      | 84. Mill Valley, CA       |
| 127. Arlington, MA            | 83. Lincoln, MA           |
| 126. Palo Alto, CA            | 82. Minneapolis, MN       |
| 125. Jefferson County, WA     | 81. Ukiah, CA             |
| 124. Skagway, AK              | 80. Talent, OR            |
| 123. Contra Costa Coutnry, WA | 79. Pinole, CA            |
| 122. Brookline, MA            | 78. Fort Collins, CO      |
| 121. Philadelphia, PA         | 77. Watsonville, CA       |
| 120. Wendell, MA              | 76. Bellingham, WA        |
| 119. State of Vermont         | 75. Woodstock, NY         |
| 118. Bainbridge Island, WA    | 74. Benton County, OR     |
| 117. Shutesbery, MA           | 73. Los Gatos, CA         |
| 116. State of Alaska          | 72. El Cerrito, CA        |
| 115. Lansdowne, PA            | 71. Socorro, NM           |
| 114. Kenai, AK                | 70. Petersborough, NH     |
| 113. Greensboro, NC           | 69. Rosendale, NY         |
| 112. Orange County, NC        | 68. Marlborough, NH       |
| 111. Evanston, IL             | 67. Union City, CA        |
| 110. Albany, NY               | 66. Sonoma, CA            |
| 109. Baltimore, MD            | 65. Telluride, CO         |
| 108. Hartford, CT             | 64. Waitsfield, VT        |
| 107. Salinas, CA              | 63. Westminster, VT       |
| 106. Orleans, MA              | 62. Windham, VT           |
| 105. Sausalito, CA            | 61. Putney, VT            |
| 104. Marin County, CA         | 60. Newfane, VT           |
| 103. San Mateo County, CA     | 59. Marlboro, VT          |
| 102. Broward County, FL       | 58. Jamaica, VT           |
| 101. Eastham, MA              | 57. Guilford, VT          |
| 100. Tucson, AZ               | 56. Dummerston, VT        |
| 99. Santa Cruz County, CA     | 55. Athens, VT            |
| 98. Wellfleet, MA             | 54. Warren, VT            |
| 97. Beaverhead County, MT     | 53. Blount County, TN     |
| 96. Reading, PA               | 52. Town of New Paltz, NY |
| 95. Juneau, AK                | 51. Cotati, CA            |
| 94. State of Hawaii           | 50. Richmond, CA          |
| 93. Mendocino County, CA      | 49. Crestone, CO          |
| 92. North Pole, AK            | 48. Missoula, MT          |

47. York, PA
46. Castle Valley, UT
45. Rockingham, VT
44. Seattle, WA
43. Ashland, OR
42. Vashon-Maury Island, WA
41. Gustavus, AK
40. Ridgway, CO
39. Davis, CA
38. San Anselmo, CA
37. Village of New Paltz, NY
36. Claremont, CA
35. Santa Monica, CA
34. University City, MO
33. Ithaca, NY
32. Brattleboro, VT
31. Point Arena, CA
30. Yolo County, CA
29. West Hollywood, CA
28. San Francisco, CA
27. Arcata, CA
26. Mansfield, CT
25. Montpelier, VT
24. Fairfax, CA
23. Fairbanks, AK
22. Flagstaff, AZ
21. Oakland, CA
20. Detroit, MI
19. Sebastapol, CA
18. Burlington, VT
17. New Haven, CT
16. Eugene, OR
15. Santa Cruz, CA
14. Santa Fe, NM
13. Takoma Park, MD
12. Alachua County, FL
11. Berkeley, CA
10. Madison, WI
9. Boulder, CO
8. Carrboro, NC
7. Cambridge, MA
6. Sam Miguel County, CO
5. Northampton, MA
4. Leverett, MA
3. Amherst, MA
2. Denver, CO
1. Ann Arbor, MI

