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**"Interventionism and use of force: Case Study of the United States-
Afghanistan (2001-2015) and impact on the Afghan State"**

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studies, minor in foreign trade

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DEDICATION

I dedicate this work with all my love to God who has always been with me, my parents for their sacrifices, for believing in my ability and being the foundation that allowed me to start my professional life, and to anyone who has inspired me and pushed me to give the best of me.

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ABSTRACT

The objective of the development of this work is the study of interventionism through the use of military force, specifically the case of the United States of America in Afghanistan. First, the definition of military interventionism and its relation to the case under study will be addressed. Having a clear context of the concept, a presentation of the background and development of the significant points of the intervention and its consequences in Afghanistan will follow. Subsequently, international law and the Charter of the United Nations will be used as a tool to obtain conclusions in an analytic way. This will allow a scrutiny of the legitimacy of the intervention and if there is justification for the damages caused to the Afghan State.

INTRODUCTION

There are key and general concepts that govern and preside over the behavior of States, that is, of the international community. However, throughout history there have been certain deficiencies that compromise the exercise of the rights that each State has in comparison to other States. For centuries there have been actions that violate the sovereignty and independence of countries with less power in the international arena. In this investigation the said actions are summarized as: Interventionism through the use of force.

The military intervention performed by the United States of America in Afghanistan is only one of many examples of interventionism and use of force that have been recorded historically. This particular case has been taking place for over a decade in Afghan territory. Its prevalence is remarkable taking into account the intervention's side effects in both States, whether they are positive or negative is debatable, of course.

It is important to analyze an event like this to understand and question the position of the international community in the face of the actions carried out by the United States of America, and its foreign policy approach. This country has broken several of the principles established to ensure the peace and well-being of States, all in the name of a cause that sought to dismantle one of the largest terrorist cells residing in the Middle East which, even today, threatens global security. The United States repeatedly sent thousands of soldiers to fight against a faceless enemy. The aftermath of that intervention in Afghanistan, specifically, goes beyond material damages and million-dollar investments perpetrated by the American and Afghan governments.

The intent of this work is to make use of tools and key concepts provided by international law to determine if there is a legal justification to the U.S. intervention. It is also a priority to analyze the background, evolution and social impact of the intervention in the Afghan State, to acquire a clear image of the events from its beginnings to the present.

CHAPTER I

THEORETICAL FRAMEWORK

1.1 Interventionism: Concept

For centuries there have been signs of the presence of interventionism. This was related to the States' imperialist policies prior to the twentieth century when international law was less developed than in the present¹. The reason why interventionism and imperialism can no longer be mentioned in the same sentence is because of the growing importance of international law when it comes to protecting the sovereignty of States. For Edgar Varela Barrios (2007), the international community has seen the need to redirect the ends of interventionism in order to justify its existence, now the term is more related to conflict resolution (Varela Barrios, 2007).

Recently - referring to the last decades - the heads of pacifist movements around the world have pointed out that the generations of the new millennium are against armed movements for political ends or for conflict resolution, now more than ever. Although the aims and objectives of interventionism have "evolved", its imperialist connotation and essence remain.

Interventionism is a broad term, but here it will be used in relation to the actions carried out by the United States in Afghanistan since 2001. Alexander Moseley (2001) explains that interventionism is not only a word but also a theory which "examines the nature and justifications of intervening in another political organization or in decisions made by individuals." He states that "interventionism is characterized by the use of force to alter

¹ The effectiveness of international law was questioned already in 1930 when the League of Nations failed to enforce the Treaty of Versailles, see: Ratner Steven. *Is International Law Just?* Oxford: Oxford University Press, 2014. (Ratner, 2014)

the cultural or political situation outside the moral or political jurisdiction of whoever intervenes." (Moseley, 2001)

It is necessary for one to differentiate the terms advice or recommendation from the act itself of intervention. When a State makes use of a persuasive discourse to change the beliefs, opinions or ideologies of another one it would be a voluntary change of opinion, with external influence, but voluntary after all. In the context of international relations between States, the terms "recommendation" or "advice" are not quite adequate to describe the behavior of certain countries. That is because they do not refer to threats, blackmail or coercive actions that may be carried out in the privacy of official meetings amongst the highest levels of government. (Moseley, 2001)

In cases of interventionism, third parties generally are not directly involved in the conflict, the political objectives of either international organizations or States will be achieved through a kind of triangulation, that is, the third party - which can be both a part of the international community as social or non-profit organizations - is placed at an equidistant point between whoever intervenes and who is intervened to treat the matter at its convenience, and thus maintain a balance with one foot off the "conflict ship" and the other in. (Neira Fernández, 2008)

Deepa Khosla (2004) expresses that although there is no common agreement on the meaning intervention, there are some characteristics that can be associated with the word, for example: the provision or withdrawal of various forms of assistance, the attempt to alter the internal social relations of a State, and its conventions-destructive nature. Khosla relies on other writers such as Paul C. Stern and Daniel Druckman (2000) who use the term broadly to "include any action undertaken to change the course of a conflict process" (Khosla, 2004).

Richard Falk argues that "an intervention must have three elements: there must be a dependence on military power, it seeks a certain degree of political restructuring, and it only occurs when there is no consent either from the host government or the political forces operating in the country " (Falk, 1993).

This last element is questionable because, as Bogdan Ivanel (2015) points out in situations of conflict or war, central governments lack partial or total autonomy in decision-making and end up being puppets of more powerful States (Ivanel, 2015). Then would consent continue to be 'voluntary' in every sense of the word even if it had been given by force, or in consequence of the manipulation of a third party? The answer would be no, and thus the element of consent loses credit and validity.

Edgar Varela Barrios has condensed these elements to formulate a "typology of interventionism".

A) Uni or multilateral intervention: without the express consent of the sovereign State that is being affected, is achieved through acts of force and / or indirect coercion mechanisms.

B) Unified or multilateral intervention: also without the express consent of the sovereign State that is intervened, but with external consent of some type of "International Community", such as authorizations from the United Nations' Council, The Organization of American States' Council of Secretaries and Ministers of Foreign Affairs, the NATO authorities, etc.

C) Uni or multilateral intervention: by previous invitation of the State that governs a certain national society.

(D) Unified or multilateral intervention, at the invitation of non-State sectors, including in some cases belligerent forces, as opposed to the de facto power of a given State. Even this intervention comes from invitations from civil society organizations. This occurs

eventually in cases of natural disasters, mass exoduses, loss of political governance, etc.; which prevent a government from retaining before the international community the recognition as sovereign representative of a fragmented territoriality or in the process of dissolution (Varela Barrios, 2007).

As can be seen, definitions and various types of interventionism involve the use of force, threats and elements that undermine the ability of States to deal with issues or conflicts on their own and compromise the decision-making power of their governments. These characteristics may also undermine their sovereignty and independence as less powerful States have to submit to countries that possess either a military arsenal of considerable magnitude, or great power of influence within the international community.

The phenomenon of intervention has great relevance within international dynamics, especially taking into account the relations of interdependence and the expansion of political will in a globalized world, which awakens the possibility of one State or organization intervening in the affairs of another.

1.2 Non Intervention Principle

In order to deal with the existing anarchy at the heart of international politics, the principle of non-intervention has been used for the protection of the States and has become the main rule of the governments that participate in the international relations. This notion is backed by the International Court of Justice and the UN, whose resolutions and other documents emphasize the importance of non-interventionist behavior by States (Kinacioğlu, 2005).

This principle is part of international law, an *ius cogens* norm, and can be identified in several law sources like treaties². For example, Philip Kunig (2008) recounts that in the case of "Military and Paramilitary Activities in and against Nicaragua (Nicaragua vs. United States)", the International Court of Justice (ICJ) stated that the principle of non-intervention is an integral part of customary international law. This statement can be found in paragraph 202 of the case.

"Article 2, paragraph 4, of the Charter prohibits States to resort to threat or use of force and urges all members to respect the sovereignty, territorial integrity and political independence of any State" (United Nations, 1945).). Kinacioğlu explains that this paragraph represents "the most explicit provision that the charter provides against intervention through the use of armed force" (Kinacioğlu, 2005), and that for most jurists the rule contained in this paragraph is *ius cogens*. In addition, all States, both members and non-members of the organization, must obey this prohibition because the same article indicates that the UN will take action against threats or use of armed force by any State.

Even with law's advocacy, "the principles of non-intervention conceived by the United Nations have not prevented member countries from carrying out actions of force and intervention during the decades of the 1950s, 1960s and 1970s in order to resolve conflicts or arbitrate national or regional conflicts" (Varela Barrios, 2007).

Revelations made by the ICJ on the Nicaragua vs. United States case refer to the principle of nonintervention from another source of law: The custom. Since the principle is validated by an established and recurrent practice that consists in respecting

² Other treaties that include this principle: Arts 16, 18 and 19 Charter of the Organization of American States (OAS), art. 4 Constitutive Act of the African Union (AU), art. 8 Treaty of Friendship, Cooperation and Mutual Assistance (Pact of the Warsaw Treaty Organization), Art. 1 (2) Letter from the Council for Mutual Economic Assistance (COMECON) and Principle VI Final Act of the Conference on Security and Cooperation In Europe (Helsinki Final Act [1975]) See: Kunig, Philip. Intervention, Prohibition of. April 2008.

the States' sovereignty (Max Plank Institute, 2016). The ICJ came to the conclusion that the principle is part of customary law, although "examples of violations of this principle (non-intervention) are not infrequent" (paragraph 202), this does not affect the nature of the prohibition of non-intervention (Gunaratne, 2014).

Jurisprudence refers to this principle in the case *Yugoslavia vs. Spain* (1992) in which the ICJ stressed that "States must accept responsibility for their acts that violate international law and that disputes arising therefrom must be resolved by pacific means, parties must also endeavor not to intensify or expand the dispute". This observation calls for the principle because if it was breached, the court's decision would not be valid. As for the presence of this principle in the UN Charter, "Article 2, paragraph 4, of the Charter prohibits recourse to threats or use of force and urges all members to respect the sovereignty, territorial integrity and the political independence of all States "(United Nations, 1945). Kinacioğlu explains that this paragraph represents "the most explicit provision provided in the letter against intervention through the use of armed force" (Kinacioğlu, 2005), and that for most jurists the rule contained in this paragraph is of character *ius cogens*. In addition, all States, both members and non-members of the organization, must obey this prohibition because the same article indicates that the UN will take action against threats or use of armed force by any State.

Even with the support of the law, "the principle of non-intervention by the United Nations have not prevented Member States from carrying out actions of force and war intervention during the decades of the 1950s, 1960s and 1970s to resolve conflicts of interest or arbitrate national or regional conflicts" (Varela Barrios, 2007).

Article 2, paragraph 7 prohibits intervention, however, does not prohibit actions and decisions taken by the highest levels of the United Nations concerning internal affairs of the States. However, if it is considered that actions resulting from decisions taken by the

UN are not completely prohibited, defining any coercive action made by this organization as intervention would be wrong, depending on the context of the case. For example, as a basic principle it has been stipulated that the internal affairs of a State "would not be the object of a third party in discord" (Varela Barrios, 2007); however, exceptions that neglect the previous principle have been made for years such as those which seek to assist human groups. In short, the exception is "humanitarian interventionism", which can be defined as: "the threat or use of force beyond the borders of a State (or group of States) aimed to prevent or terminate extensive and serious violations of the fundamental human rights of individuals of a different nationality, without the permission of the States in which territory the force is applied" (Holzgrefe, 2003).

This raises questions, as it is not clear which issues are or not under the UN's legitimate legal system. This is convenient for the organization – or rather its members - because it could find the means to evade the prohibition stipulated in this article by making a call to humanitarian intervention, even if it is not the case. This shows the need for an in-depth analysis of the concept of interventionism, which should also include unilateral acts performed by the Member States of the Security Council; as a result the law would have superior effects. (Kinacioğlu, 2005)

1.3 Use of force

The use of force and wars were common practices prior to World War I, but after the war ended, attempts were made to curb the use of force for the settlement of disputes. The first step was in the Covenant of the League of Nations in 1919 in which States agreed to use peaceful means and not resort to the use of force or wars to settle their conflicts with other States.

According to Ximena Torrijo (2014), the prohibition of the use of force was born in 1945 with the Charter of the United Nations - the relevant articles will be detailed below -; however, this prohibition has two exceptions: coercive action by the Security Council and the right to self-defense.

The effectiveness of the prohibition was compromised when these exceptions were made, since "the provisions of the United Nations Charter on the use of force have been the subject of a number of interpretations, as not everyone guarantees a strict understanding of the prohibition of force and its exceptions "(Torrijo, 2014).

Michael Wood (2013) believes that the rules created by international law on the use of force are relatively easy to state, but they may be difficult to apply in practice. Authors such as M. J. Glennon (2005) have come to suggest that the norms of international law on the use of force are dead, or that there is a fundamental abyss between the United States and other countries in this matter.

Wood explains that declaring that these norms on the use of force are dead was an exaggeration, but it certainly reflected a real concern at the time. If there is no effective way to contain the use of force, there is the possibility that States can "push the limits of the law, trying to build a unilateral right to use force preventively" (Wood, 2013)

It is rational to think that no government would voluntarily give another one the power to occupy its sovereign territory in order to initiate armed operations of its own interest. However, over time there have been situations in which the use of force has been considered "essential", and the army is the instrument through which this force is administered. Countless questions have been raised regarding the legitimacy that may exist on this subject.

Those who study international law will know how difficult it is to judge interventionism without analyzing -at the same time- the international norms and precepts that guide the

development of the international community. Therefore, finding the legitimacy of such actions requires a thorough study of the factors that urged the use of force by a State. Such a study will be presented later as the purpose of this section is to give the understanding of this topic and of what it implies.

Both the coercive force and the violence that it implies are subject to questioning under any circumstances, since it annuls the pacifist efforts of the international community and destroys the essence of one of its principles which seeks to maintain peace and security. It is necessary to mention that as time goes by, a gap that prevents the discernment of opposing poles such as war and peace has been opened, that is, one cannot say for sure that the use of force responds to the call of a conflict that seeks to be solved, or if military operations in countries in conflict hide behind themselves the political intents of a powerful minority. Cornelius Friesendorf indicates that the use of force can be valued as a distracting mechanism that inhibits the prevention of conflicts, and as attempts by western countries to spread - to the world - characteristics of liberal peace such as parliamentary democracy and capitalism, all this behind the mask of "militarized humanitarianism" (Friesendorf, 2012)

As it happened in 2001, some States may adopt certain ideologies or paradigms, according to Friesendorf (2012), to justify the intervention of an army. These paradigms have to do with law enforcement as it happened during George W. Bush's administration when he declared war on Taliban terrorism. The United States' army's participation was sheltered by such a paradigm which is why it went beyond limits. In any other case a State would have been "penalized" in the name of the norms that institute international relations.

It is also difficult to establish with neutrality the levels of force that can be considered acceptable during a conflict. For this reason to condemn or justify them depends on

what each individual considers just. Nonetheless, armed forces have at the same time the duty to provide a safe environment for civilians, so how much force is enough to not harm innocent people?

1.4 United Nations Charter's Framework Chapter 7

The analysis of chapter 7 of the Charter of the United Nations is necessary because it deals with the norms that must be fulfilled in cases of interventionism. Before that, however, it is also important to know what the principles and purposes of the United Nations are in order to understand the importance of existing standards in the seventh chapter of the Charter. These principles and purposes are described in articles 1 and 2.

Article 1 is summarized in the purposes that are the foundation of the United Nations. First, they seek peacekeeping, secondly cooperation and harmony between States, and lastly they state that the Organization serves as the focal point for the attainment of common objectives of the members.

Article 2 establishes that in order to fulfill the purposes of article 1, the Organization and its members shall bear in mind the principle of the sovereign equality of the members, their obligation to the norms established in the Charter, that disputes must be resolved in a peaceful and that they shall refrain from the use of force in order not to violate the integrity of States and the purposes of the Organization.

This article states that the United Nations shall not be authorized to intervene in the internal affairs of States, however, "this principle does not preclude the application of the coercive measures prescribed in Chapter VII" (United Nations, 1945).

The principles and purposes detailed in articles 1 and 2 have been constituted in a clear and conspicuous way but still, they are difficult to be fulfilled in reality. When an intervention is carried out, a war follows and peace is violated in a State, there is a

failure of the security system and the existence of a contradiction to the mentioned articles is exposed, along with a problem in the interpretation of the Charter. José Acosta Estébez (2004) explains that "failure in the security system is due to the fact that its correct functioning rests within the understanding of the permanent members of the Security Council."

While Chapter 1, Article 2 of the UN Charter states: "Nothing in this Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of States", Article 2 above does not exclude the application of coercive measures in case of a threat to peace, a breach of peace or acts of aggression by a State. For example, in 1948 the Genocide Convention ignored the principle of non-intervention to establish the commitment of the global community to prevent and punish³ (McMahon, 2013). Therefore it can be appreciated that sometimes international laws provide guidance on this topic under discussion, however, this guide is limited.

Regarding chapter 7 of the United Nations Charter, this chapter is about procedures in case of threats to peace, breaches of peace or acts of aggression.

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for

³ See the Convention on the Prevention and Punishment of the Crime of Genocide. Adopted by the General Assembly of the United Nations on December 9, 1948. (United Nations, 1951)

in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

In the eyes of international law, there are several processes which States need to go through before even considering the use of force. Before a State takes action, it will be the UN Security Council's duty to decide whether there is a threat to peace as indicated in article 39 and then exhaust all possibilities that can resolve the conflict in a peaceful manner, at no point it will authorize an immediate intervention. However, taking into account that the United States is a permanent member with great power of influence within the Council, due to its right to veto allows it to prevent the adoption of a transcendental resolution. Its declaration of war on terrorism was a fact that took place unquestioningly by other States, given the speed with which the intervention in Afghanistan took place. The need for intervention and use of force became a reality only days after the 9/11 event had taken place on the recommendation of the Security Council, whose primary objective is to take the measures that are considered necessary

to counteract a breach of peace. But here is the first contradiction because at the same time the Council has the duty to ensure that these measures do not involve the use of force.

The same legal framework that supports the U.S. intervention has as its first objective to remedy this "rupture of peace" by taking the necessary measures, but also aims at protecting the rights of States, and consequently the rights of civilians involved in the conflict, so a second contradiction is created here.

The United Nations must proceed in such a way that all these rights can be fully accomplished during a conflict. The degree of success of this figuration during the US-Afghanistan conflict can be decided by each individual who intends to analyze the facts, but is it correct to assume that the acquisition of the first objective can easily lead to the abandonment of the second objective? The second objective mentioned above was overlooked in view of the number of victims of the armed intervention in Afghanistan. Can it be considered acceptable, even ethical or moral, that the Security Council's measures to halt terrorism – intervention that is – had been applied at the expense of the lives of civilians? The few guarantees that exist to ensure the compliance of the law by States in not damaging civilians and innocents, questions the service of international law. Even more doubt is generated if States intend to ignore human rights laws with the excuse of "self-defense" and are victorious in their endeavor.

Pilar Pozo Serrano (2013) explains that the right of self-defense has been the subject of discrepancies, but "the 9/11 attacks along with the so-called global war against terrorism, added new problems regarding its scope and other dimensions of the prohibition of the use of force, and so they continue to fuel a heated debate".

Pozo Serrano (2013) also argues that one of the most serious problems that the Chapter VII faces is that today, threats that were not contemplated at the time of writing the

Charter have arisen, so the question is whether the Charter can address these new threats to international peace and security. Among the new threats she describes are: "poverty, the action of terrorist networks taking shelter in weak states with government that protect them, civil riots, proliferation of weapons of mass destruction and organized transnational crime "(Pozo Serrano, 2013). So, it is necessary to consider the possibility of States intending to devise new ways of interpreting the Charter to counter these new threats, but such interpretations could be outside the scope of its very principles.

1.5 U.S. Foreign Policy

The kidnapping of four U.S. aircrafts on September 11, 2001 was credited to the terrorist group Al Qaeda whose members had been trained in Afghanistan; hence, after the attacks the attention of the United States turned to Afghanistan.

George W. Bush expressed the following at a joint session of the U.S. congress and to the nation: "We will direct every resource at our command -- every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence, and every necessary weapon of war -- to the disruption and to the defeat of the global terror network "(United States Government Congress, 2001). In short, terrorism became the central axis of U.S. foreign policy.

According to Steve Jones (2014) one of the biggest changes in US foreign policy was that its focus shifted from a "predicted war to pre-emptive war". Predicted warfare is based on a response when an enemy attack is known to be eminent, while preemptive warfare is based on a response to a possible future attack. For Jones, preventive war came to represent the vision of the government of the United States, because what it intended to achieve with the intervention was to avoid a perceived but not obvious

event, an alleged terrorist attack on a global scale that would occur if its army did not turn to the Middle East.

With his statement, George W. Bush promised that he would dismantle the organization by ousting the Taliban from Afghanistan to end the very core of terrorism. Bush was determined to have Al-Qaeda leaders handed over to US authorities by their own Taliban leader Mullah Mohammed Omar. However, his plans were truncated because the leader refused Bush's request and it was then that the beginning of a war was certain. This war was unveiled as a legal, moral and necessary response to safeguard American lives after the aggression.

In addition to a foreign policy with a new focus on terrorism, there was another focal point with a new approach. This was public diplomacy, which is "the very instrument that allows the realization of a foreign policy" (Plavšak Krajnc, 2004).

"Public diplomacy in the United States has undergone intense reorganization and reconstruction as more prominent propaganda is required to win" the hearts and minds "of foreign audiences. This is not a new concept; emerging public diplomacy ideas and activities like the "soft power" wing of American foreign policy have notable historical prefigurations in U.S. international relations "(Kennedy & Lucas, 2005).

Liam Kennedy and Scott Lucas argue that after 9/11 the functions of public diplomacy in the United States have changed remarkably, they are no longer just tools for national security -if they ever were. They have also become mechanisms for the U.S. in its efforts to control the emerging formation of neoliberal empires as was happening in the Middle East.

The "renewal" of public diplomacy finally materialized through the appointment of Charlotte Beers in October, 2001 as Under Secretary of State for Public

Diplomacy and Public Affairs. Beers led America's "brand change" to counter what she called "myths, prejudices, absolute lies" that were published about the United States in the Muslim world. "(Kennedy & Lucas, 2005)

Both writers argued that the goal of foreign policy and public diplomacy during the Bush administration was to expose the world to "the true interests of America" by bringing them to the surface, and also through showing the beliefs and values of Americans reflected in their government. Charlotte Beers gave way to numerous initiatives aimed at sharing with the world the ravages caused by terrorism, this in order to appeal to the sensibility of people around the world. But it was essential to appeal to those who were part of the Muslim religion. This had as its hidden purpose to terminate anti-Americanism, anti-Occidentalism, etc.

The initiatives were simplified in a series of information campaigns with an international target.

"In the first campaign in which the United States bought international broadcasting time, \$ 15 million was spent on thirty- to sixty-second ads in which American Muslims talked about their positive life experiences in the United States. On the basis of this initiative, the State Department began working with the international media" (Kennedy & Lucas, 2005).

The U.S. public diplomacy was complemented by Operation Enduring Freedom: Foreign Pledges of Military & Intelligence Support. This was the denomination of the operations that took place in Afghanistan from 2001 to 2014, and was his greatest attempt to build alliances with other States and organizations to fight against Taliban terrorism.

At the 107th meeting of the United States Congress, a joint resolution was reached to authorize the use of the United States Armed Forces against those responsible for the

recent attacks against the country. This was the authorization for the use of military force and, consequently, the execution of Operation Enduring Freedom.

The second section of the resolution states that:

"The President is authorized to use all necessary and appropriate force against any nations, organizations, or persons determined by him to have planned, authorized, committed or assisted the terrorist attacks that occurred on September 11, 2001, or have endorsed such organizations or persons in order to prevent any future acts of international terrorism against the United States by such nations, organizations or individuals "(Authorization for Use of Military Force, 2001)

Operation Enduring Freedom consisted of four phases: The first phase connected U.S. Special Forces with the CIA to clear the way for conventional troops. Then the United States then mounted a massive campaign of air strikes against selected military targets, and then expanded to political targets and infrastructure to weaken the Taliban riots. Humanitarian air drops were also carried out from the air to offer the Afghans some relief. The third phase called both U.S. and coalition ground troops to enter the country and work with Afghan forces to hunt down remaining Taliban and Al Qaeda fighters. Finally, U.S. troops would stabilize the country and help Afghans to build a free society. (Miller Center of Public Affairs, 2017)

Kenneth Katzman indicates that the operation had as its main objective to punish the Taliban for "collaborating" with the terrorists who carried out the attack. Subsequently, the objective was to overthrow the Taliban regime and establish a new regime in Afghanistan that was pro-U.S.A.

1.5.1 Security dilemma

Shiping Tang (2009) stated that the security dilemma is a fundamental concept within international relations. "It is undoubtedly the theoretical axis of defensive realism, since for the defensive realists it is the security dilemma that makes possible a true cooperation between States. For offensive realists, however, the security dilemma makes war inevitable "(Tang, 2009).

It is difficult to have a clear and forceful concept that defines such a proposal because of the various meanings and extensions that different authors have shared over time. It has been possible though, to arrive to a conclusion regarding the relation of this dilemma with war. Analysts, scholars and doctrinaires have made use of it to explain the most outstanding wars in contemporary history like the World Wars.

According to Shiping Tang, there are three main exponents of the "Security Dilemma": Herbert Butterfield, who points to fear as the source of it, John Herz to whom "no State can feel completely secure in a world of anarchy, competition for power is produced, and the vicious circle of security and power accumulation takes place "(Tang, 2009), and finally Robert Jervis who defined it as defensive mechanisms that seek to increase the security of one State while decreasing that of another. For Tang, this dilemma is intimately related to the foreign policy issue, since based on it, there are State policies that address a variety of international issues, such as the entry of one country into another to destroying one growing non-State force that infuses fear and terrifies the world.

It is closely related to the previous theme because its basis gives rise to State policies that address a variety of issues on an international scale, such as: intervention of one country on another with the goal of destroying a growing non-State force that infuses fear and terrifies the world.

The Security Dilemma has a very close relationship with the realist theory of international relations because States can act in a violent manner in the name of their security and thus justify their actions, whether legal or not in the eyes of other States. But behind that concern and moral discourses, they are simply watching over their interests.

The power of the United States is considerable within the international community, as well as its capacity of influence. Recognizing that it has for many years been one of the heads of the major international organizations guiding the course of relations between countries i.e. UN, IMF, WTO, to name a few. It has a vast military and economic displacement and its ideologies have great tolerance within international politics, at least outside of what is communism.

The position and power of this nation is undeniable, and it could be said that it is very convenient for its government to maintain this status quo against the birth of new powers and activist groups during the last decades. That would logically justify its desire to be part of the greatest wars in history and start other wars that have been much criticized like the one in Afghanistan.

Governments after governments have shown their concern over the maintenance of world peace, something they have fought for vehemently in wars that perhaps did not even correspond them at first, but in one way or another have they emerged victorious from many conflicts, victorious not only subjectively. This brings into question to what extent the way the US acts is a moral duty and to what extent it is using the necessary means to satisfy the interests of the State.

This would of course be a rather vicious thought of the malice and brutality that exists in the world today. What kind of human group would seek the destruction and death of innocents in exchange of not jeopardizing its power? The answer is not certain, but what

it is certain is that when the militant group Al Qaeda revealed the power that many underestimated, it was time to proceed to its destruction.

This dilemma could be taken as an unofficial justification for the US government's practice. Due to the circumstances that took place on September 11, the United States was "forced" to conduct itself as it did with the objective of protecting the State and its citizens in a moment of horror. Its fear was the motive of its actions and what led the country to start an abrupt war that would finally condemn those involved to more than a decade of suffering.

1.5.2 The role of international institutions

The security dilemma is one of the theories that would explain the violent or "self-defensive" approach taken by States, but is there a supreme body that can stop a State from acting under these instincts of self-defense? Institutionalists argue that this is precisely the role of international institutions which have been conceived after long periods of conflict, such as the Cold War.

John Gerard Ruggie (1992) explains that there is no doubt about the usefulness of multilateral institutions and norms that guide relations within the international community, as they have "contained" States to act violently in the name of their sovereignty. However, taking a look to reality is difficult to say that the institutions responsible for ensuring the harmonious coexistence of States have had a resounding 100% success rate. Hence the central thesis of this section is born: The reality of International Institutions and their benefits or as John J. Mearsheimer calls it "The False Promise of International Institutions".

After studying the articles of the UN Charter that were breached when the U.S. government was allowed to intervene in Afghanistan, a question was raised against

organizations such as the UN and its true authority. Authors such as Mearsheimer argue that these actually lack the power to influence the behavior of States, which would explain historical facts that have taken place as the US intervention in Afghanistan. Their lack of power lies not in their foundations per se, but rather in something that is spoken by the realist theory of international relations: "anarchy." The anarchy existing among the nations that make up the international community represents the absence of an international government that subordinates the governments of each State. Therefore, institutions like the UN, NATO, etc. cannot fully guarantee control over decisions that may have effects on global dynamics. These decisions have been based on the fear and distrust that a State has for another because it cannot anticipate the danger of its actions. This is the very fear of which the security dilemma speaks.

1.5.2.1 How important are International Institutions?

To answer this question, an analysis of the theories that assert that institutions "move States away from wars and help promote stability" (Mearsheimer, 1994/1995) can be made.

The theory of liberal Institutionalists explains that States find obstacles when cooperating with each other due to the difference of interests, but that cooperation is something that can be achieved, contrary to what the realists propose. This theory is widely applied in economic policy but not in security issues that include war and peace. So if one were to speak of world economic policy, it can be said that international institutions have the capacity to work with States, as much as their interests may differ, and in some ways they can make them "cooperate" with each other so that they obtain absolute gains.

In spite of this, the problem for institutions is that cooperation is difficult to achieve when States are suspicious of the intentions of others and it is more difficult to convince States that such intentions are good. Mearsheimer addresses this criticism in "The False Promise of International Institutions, 1994/1995".

Collective security theory considers that the success of collective institutions is that they can handle military power in order to achieve peace. The theory of security seems laudable until they take into account the rules that according to this theory must be followed by States. The first rule is summarized in Chapter 7 of the UN Charter. 1) States should not use military force, but should resolve their affairs in a peaceful manner. But in reality, how easy is it to make States renounce their military force, even if this is for the sake of collective security? If it were so easy, perhaps the intervention in Afghanistan could have been avoided.

The second rule proposed by this theory, which has the same problem of effectiveness as the first, is that States should not think or act on their interests, but on the national interests of all States. The work of the UN is based on this rule because it seeks the solidarity of States and not them acting on selfish interests that may affect the international community, but the problem of this being effective remains. The third rule concerns the issue of inter-State trust whose problem has already been addressed.

Finally, critical theory, "seeks to transform the international system into a world society where States are guided by rules of trust to achieve a system of peace,"(Mearsheimer, 1994/1995). This theory challenges realism by criticizing the hegemonic notions that realism entails. The problem with this theory is that the goal, the change it seeks, is only a promise and does not care about the means to reach that end or the factors that may hinder its achievement.

The expectation of critical theory is that, just as states without a physical form exist because they all believe so, a peaceful international system without wars can exist by the same notion (Cox, 1992).

It cannot be denied that international institutions, to some extent, operate in ways that contain the suspicion and distrust of States to avoid wars. However, this is not achieved by a common desire to maintain world peace, although it is a pessimistic reasoning, States have hidden agendas. These agendas generally have to do with the maintenance or extension of their power. In this way institutions become the stage where a battle of powers takes place daily, Mearsheimer (1994/1995) expresses that institutions are the place where the distribution of world power is reflected.

In an idealistic world as described by Carlos Miranda (1986), institutions are the means that would make possible the achievement of lasting peace in the world. But for that very reason it is called idealistic, because it is something desirable and perfect and indeed difficult to become a reality.

This analysis of international institutions can provide insight into why these, particularly the UN, failed to exercise supreme power to halt US intervention in 2001. It is not a wholly negative critique on their utility but rather describes their bigger insufficiency, authority over the international community.

CHAPTER 2

DEVELOPMENT OF THE INTERVENTION

INTRODUCTION

Having an idea of the main theoretical elements that surround the case of interventionism in Afghanistan like the very definition of intervention, use of force and what they imply, one can proceed to understand, to link and to establish an opinion on chapter VII of the Charter of the United Nations in relation with the case as this chapter covers these concepts.

Therefore, in the next section, the facts pertaining to the intervention in Afghanistan will be developed. Within the intervention's background there will be a revision of Afghanistan's history and how its problematic situation has derived as much from its history as from its geographical location. To understand why the United States selected this country as its military objective after the terrorist act in 2001 the past must be understood all the way back from the Soviet communist invasion in the late 1970s. Alexander Antonovich Lyakhovsky (2000) explains that this is the starting point for the country to become one of the most important war zones of recent times, since the situation of the country deteriorated notably after the Soviet occupation.

It is important to focus part of this work on the historical study and review of Afghanistan, as unlike the United States, the country is not usually under the media's spotlight and world attention for things other than conflict issues. In fact, many may lack minimal knowledge of what has happened in this country either by choice or

because of the inaccuracy with which the media⁴ has disseminated the information. With this consideration will proceed with the "rediscovery" of Afghanistan.

"History is always written by the winners. When two cultures clash, the loser is obliterated, and the winner writes the history books-books which glorify their own cause and disparage the conquered foe. As Napoleon once said, 'What is history, but a fable agreed upon?'" - Dan Brown

2.1 Afghanistan

William Maley (2010) states that Afghanistan emerged as a classic "intermediate State," that is, a "neutral" country among two larger and more hostile ones that serves to prevent a regional conflict. This concept was born in the seventeenth century when the European imperialists began to explore and conquer different continents. Nevertheless, the colonial empires of one country were too close to the ones of another in certain points, which is the reason why the Europeans decided to leave these "intermediate" territories without conquering, so they would diminish the possibilities of a conflict. Afghanistan was not only caught in the middle, but was partly defined by the nineteenth-century rivalry between the British and Russian empires. "With the British entrenched in India, the Russian expansion into Central Asia through the establishment of a number of protectorates made the Russians and the British potential competitors in what came to be called the 'Great Game'" (Maley, 2010). By the nineteenth century, the limits of Afghanistan had already been established; though it is questionable if it was in a way that would satisfy everyone. Today, the Islamic Republic of Afghanistan is

⁴ Kylie Tuosto refers to integrated journalism (see: The Grunt Truth of Embedded Journalism: The New Media / Military Relationship, Stanford Journal of International Relations, 2008), in which the media coexist with military units for some periods of time to cover the facts. She expresses that the uncertainty about the truthfulness and objectivity with which the facts are told is great because the stories come from fighters whose declarations can be biased. The problem of impartial and in-depth war correspondence is not solved. (Tuosto, 2008)

located in southwestern Asia. With an area covering 647,500 km²; it shares borders with Turkmenistan, Uzbekistan and Tajikistan to the north, Iran to the west, the People's Republic of China to the northeast and Pakistan to the east and south (Hashimzai, 2014).

Over time, Afghanistan became a State that relied heavily on a budget of which source was unstable income such as: foreign aid from the United States and the Soviet Union mainly, and income from the sale of non-renewable natural resources. The foreign aid provided by the United States and the Soviet Union had the objective of "courting and influencing" the country for the convenience of both powers, since the country had, until then, been quite neutral in terms of ideologies. "By 1964, 49% of State spending was covered by foreign aid" (Maley, 2010). The instability of the country has been largely due to this dependence because if the aid was to lessen then the total income would too; and the same is the case with the sale of resources.

The wealth of these natural resources is remarkable. Afghanistan has a wide variety of resources such as forestry, plantation crops and opium, but the fuel and non-fuel resources, in which the country is very rich, have been the most interest-bearing due to their prices.

Samuel Hall (2013) indicates that the estimated total value of mineral deposits in Afghanistan ranges from 1 trillion to 3 trillion U.S dollars. In addition, studies conducted over the years by the United States and the United Kingdom have shown that Afghanistan has iron and copper deposits, which are among the world's largest deposits, as well as cobalt, gold, lithium, niobium, uranium, chromite, granite, marble and other minerals (Hall, 2013). Not to mention that great volumes of precious stones, emeralds and rubies, of unique quality can also be found there.

It is also known that there are huge reserves of crude and natural gas in the north of the country, "444 billion cubic meters of natural gas and 562 million barrels of crude oil" (Hall, 2013).

William Maley further states that the weakness of Afghanistan as a State was notorious due to the disunity between the capital (Kabul) and the other provinces. "Kabul officials did not like to travel to the provinces and many rural dwellers found urban bureaucrats ignorant of their lifestyles[...]"(Maley, 2010).

To this landscape the economic crisis experienced in the late seventies is added. The Communist *coup d'état* in April, 1978 turned Afghanistan into a social and political abyss⁵ from which it has yet to emerge. According to Maley, this coup was not rooted in a common need of the Afghan people, but in the remarkable enmity with the political elite of Kabul. During this period, radical groups emerged with supposed influence of the Soviet model that acted with the objective to demolish the established order of that time. Although there is no evidence that the USSR was involved in the event, many of the participants in the coup had been trained in the Soviet Union.

After the blow to the government of the time, Maley asserts that the period from 1978 to 1979 was one of "almost ceaseless turbulence" for several reasons. The most important was that the policies of the new rulers resulted, as he puts it, "deeply offensive to the attitudes and values of a large number of Afghans", ranging from atheistic statements by the new rulers to the execution of thousands of Afghans who were not useful to the party (Maley, 2010). John K. Cooley (2002) supports Maley's view about Afghanistan experiencing a dark period in the late 1970s, adding that this period of time generated a chain of events that would later result in a conflict with the United States

⁵ An abyss symbolizes Afghanistan's reality, Kamran Bokhari says that the advancement of insurgencies has truncated the government's ability to function, and Afghan security forces have failed to strengthen themselves organizationally to stop them. (See "Afghan Government Staring at the Abyss", Geopolitical Futures, 2016)

2.2 Background to the Afghanistan Invasion

2.2.1 Soviet Invasion

On December 12, 1979, a meeting of the Soviet Politburo, chaired by Foreign Minister Andrei Gromyko, accepted the recommendation of the four key Soviet leaders and members of the Politburo - the Communist Party General Secretary, Brezhnev, the President of The State Security Commission, Iurii Andropov, the Defense Minister, Dimitri Ustinov and Gromyko-, that Afghanistan had to be invaded (Grau & Gress, 2002).

On December 27, the Afghan President, Hafizullah Amin, was assassinated by Soviet commandos at the Tajbeg Palace in southern Kabul. At 8.45 pm a Soviet radio station dominated the Kabul radio signal and broadcast a recording in which Babrak Karmal announced the overthrow of Amin. Afghanistan was about to enter not only a new decade, but a new era.

The immediate and visible result of the Soviet invasion was the conversion of Afghanistan; it went from an isolated and remote State to a key point in the geopolitical terrain of the time. Maley states that the US government's concern increased when it realized that the Soviets could intercede in the flow of oil from the Persian Gulf.

However, the United States' approach had to go beyond a concern and it did. Presidents Jimmy Carter (1977-1981) and Ronald Reagan (1981-1989), who succeeded him, considered imperative to lend their direct assistance. They did so by supplying weaponry to opposition groups that were against the realization of communist ideals in Afghanistan, and by attempting to show that the Soviet invasion was internationally unacceptable (Maley, 2010).

The effort to "assist" Afghanistan continued, and so, along with Pakistan and Saudi Arabia, using Pakistani intelligence, the Reagan administration was able to provide anti-

aircraft missiles to the opposition which served to destroy several Soviet aircrafts. US aid summed up in numbers reached 400 million dollars a year (Reuveny & Prakash, 1999). Even so, the Soviets tried to move forward and it was clear that it was not within their priorities to keep the numbers of human victims low or to respond for collateral damage caused in Afghan territory. Situations such as these increasingly enticed opposition not only within Afghanistan, but also within the international community.

Although the war in Afghanistan was initially visualized by Soviet leaders as a small-scale intervention, it eventually became a decade-long war involving about one million Soviet soldiers, a war that eventually killed and wounded several thousands of them (Reuveny & Prakash, 1999).

Since 1979, when it invaded Afghanistan, the Soviet Union constantly faced the fierce resistance of the US-backed Mujahedeen guerilla until Soviet troops finally withdrew in 1989. The invasion only served to increase the already existing tension between the superpowers of the time and gave rise to a war for power between them. (Home Office UK Border Agency, 2008)

2.3 United States in Afghanistan

On April 14, 1988, the Soviet leader Mikhail Gorbachev accepted a UN negotiated agreement (the Geneva Accords) which required the withdrawal of the Soviet Union. The withdrawal was completed on February 15, 1989, leaving a weak government in place.

Improved relations between the United States and the Soviet Union made it possible to reach a political agreement on the Afghan conflict. In addition, with the collapse of the Soviet Union in 1991, its ability to support communist regimes abroad was reduced. In

September 1991, both powers agreed to halt all military assistance to Afghan soldiers. This was seen as a "decisive victory" for the United States. (Katzman, 2016)

After the withdrawal, Afghanistan's political instability began to show even more and as soon as the government of the President Mohammad Najibulla stopped receiving Soviet funding his position was also weakened. Therefore at the beginning of the year 1992 he publicly announced his retirement from office as soon as an interim government was installed (Katzman, 2016). When Najibulla fell, the Mujahedin regime came to power. "It was founded in 1965 by three Muslim university graduates and sought to replace the Shah's dictatorship with a representative government that respected human rights" (Safavi, 2010).

However, the story tells that the Mujahidin government encountered a series of difficulties that weakened the regime. The distrust that existed between the leaders produced a notable instability in the presidential post and gave way to new groups that wanted to change those conditions. In this scenario the Taliban make their entrance.

This group of Afghans was formed in the early 1990's; they were mainly warriors who resisted the invasion of the Soviets. A number of Pashtun youths, a predominant ethnic group in the south and east of the country (Laub, 2014), joined the group and were secretly backed by the CIA of the United States and its Pakistani counterpart to be a resistance movement against the invasion.

"In 1993-1994, Afghan clergymen and students, mostly from rural backgrounds, formed the Taliban movement. Many were ex-Mujahidin who had been disillusioned by the conflict between Mujahidin parties "(Katzman, 2016).

Due to the instability of that time, popular support grew towards the Taliban who tagged the government of the last president of the Mujahidin regime as weak and corrupt. Therefore, with that support they aspired to restore stability to the Afghan government.

"The Taliban seized control of the southern city of Kandahar in November 1994 and thus advanced until they seized control of Kabul on September 27, 1996. Armed Taliban entered the UN facilities in Kabul harboring Najibullah, his brother, and helpers, and hung them up "(Katzman, 2016).

Then came a period dominated by the Taliban regime whose head was Mullah Muhammad Omar, he had the title of Head of State and, as Katzman narrates, he was known as the "Commander of the Believers" (Katzman, 2016). The Taliban established their assets in Kabul where they appointed their ministers, but the center of their unit remained in Kandahar with Mullah Omar.

As time passed, the popular and international support the Taliban had fell at various levels when they began to impose a strict adherence to Islamic customs in different areas under their control, in addition to using more and more extreme punishments such as executions. Moreover, "the Taliban authorized their Minister for the Propagation of Virtue and Prevention of Vice, to use physical punishment to enforce strict Islamic practices, including the prohibition of television, Western music, and dancing" (Katzman , 2016).

Among the various prohibitions and new extreme practices were also the following:

- Prohibition against female exposure [going outside without burka and a male relative]
- Prohibition against shaving
- Mandatory Prayer
- Prohibition against the rearing of pigeons and bird fighting
- Eradication of narcotics and the users thereof
- Prohibition against kite flying
- Prohibition against playing drums, etc.

These and more became known through their broadcast on Sharia Radio (Collins, 2011).

In 1994 the Clinton administration even initiated talks with the Taliban after they captured Kandahar in 1994, and continued to do so even after they seized power. However, the U.S. was unable to moderate Taliban extremist policies, and thus refused to recognize the Taliban regime as the legitimate government of Afghanistan (Katzman, 2016).

Joseph J. Collins states: "As appalling as its domestic policies were, the worst aspect of the Taliban government was the virtual adoption of the terrorist organization Al Qaeda" (Collins, 2011). However, a group would not have enough relevance unless it had an outstanding leader.

Osama bin Laden arrived in Afghanistan after the Taliban seized the capital in 1996. He had previously fought there with the Mujahidin for short periods during the Soviet war. His tasks had included small battles, fundraising in Pakistan, and supervision of construction efforts "(Laub, 2014).

To support the expulsion of the Soviets from Afghan soil, Bin Laden wielded weapons in Nangarhar (Afghan province) and created his first training camp to have a closer contact with his fighters. After the withdrawal of the Soviets he returned to his homeland, Saudi Arabia, as a celebrity for his involvement in the cause (Ortiz de Zárate, 2016).

However, after years of increasing his dislike of the "corrupt regimes" of the West, Bin Laden began to carry out activities that were intolerable to the Saudi regime. He freed by very little to end up behind bars so he had to leave the country. He found refuge in Sudan but in 1996 after being forced to leave the country as the Sudanese regime wished to shake off the stigma of promoter of terrorism (Ortiz de Zárate, 2016). Bin

Laden's revolutionary nature resulted in the exile of his person from Saudi Arabia and Sudan when he became a threat to the corresponding regimes. And so, he returned to Afghanistan, where the circumstances there made him see it as the first State within a "new Islamic Caliphate"⁶. His appreciation of Mullah Omar's government was at the highest of levels and this undoubtedly allowed the alliance between the Taliban and Al Qaeda.

In Afghanistan, Bin Laden took over by creating training camps for Al Qaeda and Taliban recruits. As many as 20,000 Afghan plus other foreign recruits may have passed through the camps. Many of those participants received combat experience by fighting against the Northern Alliance – Afghans who resisted the Taliban regime-, elevating like this the value of Al Qaeda in the eyes of Taliban leaders. Afghanistan then became the "main destination for international terrorists" (Collins, 2011).

"In February 1998, Bin Laden declared war to the United States from Afghanistan. He accused Americans of occupying Saudi Arabia, plundering their wealth, humiliating their leaders, attacking Iraq, and more"(Collins, 2011). To Bin Laden, the United States had declared war on his people long ago.

The American government did not cross arms, and intensified their operations against the terrorist group through its intelligence center. One of such operations was to join forces with the Northern Alliance and other groups opposed to the Taliban⁷.

That same year, the United States ambassador along with a small delegation traveled to Afghanistan in a first attempt to persuade Mullah Omar to hand Bin Laden over; the purpose was not fulfilled. Later the pressure exerted was increased due to bombings in

⁶ A caliphate is an Islamic State. It is headed by a caliph, a political and religious leader who is the successor (caliph) of the Islamic prophet Muhammad. Their power and authority is absolute (Chandler, 2014).

⁷ The Northern Alliance was established in 1992 by President Najibullah in opposition to the communist government led. Currently, the Alliance is composed of several groups, although affiliation is constantly fluid and changing. These groups include: the Islamic State; The Islamic National Movement; The Party of Islamic Unity; The Islamic Movement; The Islamic Party; And the Eastern Council (United States Bureau of Citizenship and Immigration Services, 1999).

the American embassies in Kenya and Tanzania whose authorship was attributed to Al Qaeda. The US government then requested his extradition and imposed sanctions on Afghan territory controlled by the Taliban, it also succeeded in the adoption of sanctions backed up by the United Nations.

When George W. Bush became president of the United States he decided to follow the same direction as his predecessor in terms of policies. As a result, political and economic pressure on the Taliban government continued to be applied, as well as the idea of militarily supporting the Northern Alliance.

At the beginning of 2001, according to the Security Council resolution #1333 (Katzman, 2016), the office of the Taliban representative in New York was ordered to be closed. Talks continued with Taliban envoys to discuss official matters and also talks were initiated with Pakistan in order to reduce the support that this state provided. During these talks, Al Qaeda had already become a well-established terrorist group and virtually had its own State. By September 2001, the Taliban controlled 75% of the country (Katzman, 2016).

After the events of September 11, when "3000 people from 90 countries" died (Collins, 2011) the American capital urgently requested Bin Laden's hand over, but Mullah Omar refused again.

Under such circumstances and with a country calling for justice for the fallen, the United States Congress agreed on a resolution that allowed the President to take necessary action against terrorism⁸.

⁸ Such resolution authorized him to: "Use all necessary and appropriate force against those nations, organizations or persons determined by him to have planned, authorized, committed or assisted in the terrorist attacks of September 11, 2001, or hosted such organizations or individuals, in order to prevent future acts of international terrorism against the United States by such nations, organizations or individuals "(US Government Publishing Office, 2001)

2.4 AL QAEDA

The Al Qaeda terrorist group was formed in 1988 at a meeting attended by 3 prominent figures Bin Laden, Ayman al-Zawahiri and Sayyed Imam Al-Sharif (Dr Fadl). As Andrew Wander (2008) says, the power of Saudi wealth, the expertise of an Egyptian militant, and the philosophical foundation of a Cairo intellectual came together.

Before being a recognized terrorist group, Al Qaeda was the name of a training base in which Bin Laden gathered thousands of men to form a mini-army. During his stay in Saudi Arabia and later in Sudan, Bin Laden strengthened Al Qaeda and prepared for operations shortly after fleeing Sudan.

The exposure to the conservative Islamist teachings that Bin Laden had received in Saudi Arabia and his work with the Arab militants in Afghanistan, were the theological and ideological basis for his belief in the need for armed resistance to any aggression he might perceive against the Taliban.

By 1992, Al Qaeda had launched its first bombs and was strong enough to attack the United States. At the beginning of the year 1993 an attack was carried out in the city of New York where both civilian and military were killed and wounded. Wander considers it a "pale imitation" of what would happen years later. However, although the alarms were turned on, the attack was considered unprecedented.

In the early 1990s, Bin Laden had made known to the world his desire to withdraw US and foreign troops from Saudi Arabia at all costs. But it was in 1998 that his true dislike of the West came to light when bin Laden declared that all American citizens were targets of Al Qaeda and that killing them was the duty of Muslims.

There are several reasons why Al Qaeda and its leader had opposed the United States. James O. Castagnera (2016) indicates that the first reason had to do with the fact that

this country was considered "infidel"⁹ or "someone who rejects the truth of Islam" (Ahmad, 2015), because it was not governed according to Bin Laden's extremist interpretation of this religion. The second reason is that the United States was a provider of support for other "infidel" governments and institutions. Thirdly, Al Qaeda was opposed to the involvement of US troops in various events such as the Gulf War, but in particular opposed to U.S. troop's indefinite stay in Saudi Arabia. Finally, there is the fact that the United States had been in charge of imprisoning people linked to Al Qaeda and its affiliated terrorist groups. "For these and other reasons, Bin Laden declared a war against the United States, a war he waged through Al Qaeda and its affiliated organizations. (Castagnera, 2016)

It was in the year 2001 that this hostility materialized notoriously since the attack of the 9/11, whose authorship was attributed to Al Qaeda, took place. The transcendentalism of this attack is that the objectives were significant buildings, after the attack against the Twin Towers and the Pentagon, places like the Capitol, the White House, the seat of the UN in New York were evacuated for fear of Possible attacks (Ortiz de Zárate, Counter Terrorism Issues: Case Studies in the Courtroom, 2016).

Roberto Ortiz de Zárate (2016) sums up the subsequent events and indicates that they resulted in an "international crisis" because that same day, September 11, a state of emergency in New York and Washington was declared, in addition to this land borders with Mexico and Canada were closed for security, and the national airspace was closed to all civilian flights. Also places with great flows of people such as tourist points and shopping centers were evacuated, and any type of sporting event was canceled. Navy ships were stationed on the Atlantic coast, and the units of the United States Armed

⁹ Ahmad, Ijaz. "INFIDELS: AN ISLAMIC TERM?" Calling Christians to the truth of Islam, January 26, 2015.

Forces were put on the highest alert worldwide (Ortiz de Zárate, Counter Terrorism Issues: Case Studies in the Courtroom, 2016).

2.5 Overthrow of the Taliban regime

When the Taliban refused to hand over Bin Laden for extradition, the Bush administration made the decision to overthrow this regime by using military means. The President articulated his policy that qualified as terrorists all those who protected terrorists, thus giving other governments the option of supporting the United States or being at war with the country. He also made clear how necessary it was to establish a friendly regime in Kabul which would help his army in its search and capture of Al Qaeda and its leader (Usa International Business Publications, 2013).

The United States was especially keen to get Pakistan's support to put pressure on the Taliban regime and provide the American government with the logistical and space facilities necessary to start a war.

Then, on October 7, 2001, Operation Enduring Freedom came into play which included large-scale combat. Through it, the primary objective of the United States was centered on air strikes towards Al Qaeda and Taliban forces. The success of this goal was intended to support the Northern Alliance and anti-Taliban Pashtun forces. Regardless of the number of marines deployed in Afghan territory, there was actually very little face-to-face fighting between US and Taliban forces.

The Taliban regime began to destabilize as soon as the opposing forces advanced and gained territory, which was previously in control of the Taliban. The biggest step was taken by the United States to take over the capital, Kabul, later on the Taliban lost the east and south of the country. Finally the regime officially fell on December 9, 2001

when Mullah Omar and the Taliban fled from Kandahar, the second largest city in Afghanistan.

U.S. and Afghan forces subsequently carried out Operation “Anaconda” in the province of Paktia in 2002. Then on March 2003, some 1,000 US troops allegedly attacked the Taliban or Al Qaeda fighters in surrounding villages Of Kandahar. On May, 2003, US officials declared an end to "large-scale combat" (Katzman, 2016).

Richard Kugler reports more on this operation in his 'Battle Adaptation' case-study:

"Operation Anaconda took place in the eastern Shahikot Valley of Afghanistan in early March 2002. The purpose of Operation Anaconda was to eradicate the Taliban and Al Qaeda forces that had gathered in this valley after their previous defeats in the three months into the war in Afghanistan. To achieve this goal, U.S. commanders devised a complex and sophisticated battle plan involving a "hammer and anvil" attack by the United States and Afghan forces in the valley. This battle plan was unraveled on the first day but the enemy resistance was fiercer than originally planned and Afghan forces failed to make their march to the valley, thus leaving the US infantry forces deployed to face the enemy alone. Success was achieved when US forces changed tactical gears by calling in airstrikes more than originally planned to work with ground forces to suppress and destroy the enemy "(Kugler, 2007).

2.6 Analyzing the legitimacy of the intervention

The Bush administration sought the support of the United Nations through resolution 1368 of September 12, 2001. This stated that the Security Council was ready to take the necessary actions to respond to the terrorist attacks of September, 11. Kenneth Katzman (2016) explains that such a resolution was interpreted as a UN authorization allowing

the use of military force in response to the attacks, but did not explicitly authorize Operation Enduring Freedom nor did it refer to Chapter VII of the Charter of the United Nations, a chapter in which "responses" against threats to international peace and security are "allowed".

As stated in the previous chapter, it is provided in the Charter of the United Nations that all members must resolve their disputes in a peaceful manner, and that no State shall be permitted to use military force without first complying with the instances established in chapter 7 of the UN Charter. Regarding the "exception" to self-defense, even in that case, "a State intending to make use of armed force is obliged to show that the facts which it knew before the use of force were such as to warrant, as a matter of international law, the application of force in these circumstances" (Wood, 2013).

This provision is part of the United States' law, as it is established by its Constitution when it comes to international conventions that the country has ratified. However, it is precisely the law that leaves open the possibility for the Congress to be able to repel such agreements through a law issued by it.

Consequently, although the Security Council did not authorize the development of military activities in Afghanistan under the name of Operation Enduring Freedom, proponents of the invasion argue that the authorization of the Security Council was not necessary because the invasion was an act in self-defense, which is supported by article 51 of the Charter. Bush argued that if Afghanistan was not contained, more terrorist attacks would occur in the United States and elsewhere in the world.

However, Marjorie Cohn (2002) argues that the bombing in Afghanistan was not legitimately in self-defense for two reasons: (a) Acts of 9/11 were criminal acts, but not armed attacks by a State; (b) there was no imminent threat of another armed attack

against the United States; otherwise, the Bush administration would not have had three weeks to prepare its bombing campaign.

Cohn points out that action in self-defense must be "instantaneous, overwhelming, leaving no choice of means and no time to deliberate" (Cohn, 2002). This is, Cohn says, a classic principle of self-defense in international law that has been affirmed by the Nuremberg Tribunal and the UN General Assembly.

Michael Mandel validates Cohn's statement by adding that "the right to unilateral self-defense does not include the right to respond after an attack has been stopped" (Sinclair, 2014).

In reviewing the possibility that military action in Afghanistan had been authorized under the article 51 of the Charter, such authorization was revoked the moment the Security Council reserved the right to reconsider the matter. This stayed a fact when the Council passed resolutions 1368 of September 12 and 1373 of September 28 in which it reaffirmed that it would remain in that state of reserve. Neither of the two resolutions allowed military action on Afghan soil, nor did they contain aggressive language that could be misinterpreted. Because of the above, the United States was committing an act of aggression against Afghanistan which is outright prohibited by the UN's Charter.

Rabia Khan argues that the war on Afghan soil could not be legal because to carry out a war "legally", one must have the authorization of the Security Council as previously stated, in this instance it failed to meet such criteria.

Furthermore, and this is perhaps one of the most important considerations in this case. The claim made by United States which referred to a right that allowed the use force against Afghanistan after the terrorist attacks would be, according to Khan, unfounded. This is because the notion of preventive self-defense, or "revengeful" self-defense, has no basis in international law.

Therefore, Khan indicates that the United States' justification for the invasion has a problem. This is that: "The United States is a sovereign state that attempted to fight against an organization that had never declared links with the Afghan state" (Khan, 2013), in fact Al Qaeda was not linked to the government of any state. In any case, says Khan, the country to which the weapons should have been aimed is Saudi Arabia because of strong suspicions that it was funding the terrorist group. Not to mention that according to the Central Intelligence Agency 15 of the 19 terrorists were Saudi Arabia nationals.

"There was an 'almost unanimous political opposition to the Taliban regime'. However, despite strong opposition to the Taliban by various international organizations and states, the need for regime change is not in itself a substantial enough reason to allow an invasion of one country by another. Therefore, this justification for the intervention by the armed forces would not be seen as credible or permissible under international law" (Khan, 2013).

2.7 Afghanistan after 9/11

When the United States declared war on the Taliban and the Al Qaeda terrorist group, a series of air strikes began under the name "Operation Enduring Freedom". During the war, the NATO-backed United States killed as many as 5,000 Afghan civilians, nearly twice as many civilians killed in the 9/11 attacks.

Joseph Collins notes that after 9/11, U.S. operations in Afghanistan were successful but not decisive in the sense that such operations did not completely destroy the enemy, or its will to resist. Although the Taliban armed forces were defeated and the regime ended, Osama bin Laden and his terrorist group Al Qaeda plus 1000 of its supporters,

Mullah Omar and other Taliban leaders fled to safe places in neighboring countries like Pakistan.

After that, the United States had the freedom to establish an interim government as it had done on other occasions. Together with the United Nations and the rest of the International Community, this task was completed. At the end of 2001, a group of prominent Afghans and world leaders met in Bonn, Germany under the auspice of the United Nations to design an ambitious agenda that would guide Afghanistan towards "national reconciliation, lasting peace, stability and respect for human rights; culminating in the establishment of a fully representative government" (Embassy of the Islamic Republic of Afghanistan). A conference was held between all these actors and the Bonn Agreement "on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions" was signed (Naciones Unidas, 2001).

The agreement provided the establishment of an interim administration with a President, an Independent Special Commission to convene an emergency Loya Jirga (or Grand Council), "Loya Jirga is a national mass meeting bringing together representatives of various ethnic, religious and tribal communities in Afghanistan"(Bezhan, 2013); and a Supreme Court of Afghanistan, as well as any other tribunals established by the interim administration. The composition, functions and procedures governing the interim administration and the Special Independent Commission were also established (Naciones Unidas, 2001).

The composition and functions of the provisional authority were outlined. The agreement also established the legal framework until the adoption of a new constitution, required the integration of all armed groups into the new Afghan armed forces under the command of the provisional authority. It called for UN assistance in the construction of

a national army and requested the UN representative to provide offices to enable the subsequent implementation of the agreement (United Nations, 2001).

"As a result of the conference, Afghan leaders formed an interim government without the participation of the Taliban and Hamid Karzai, a Pashto Durrani, was appointed president "(Collins, 2011). However, Imtiyaz Gul Khan (2012) states that the legitimacy of Karzai's nomination was questionable as he was portrayed as a "pawn of the United States" and was being controlled by the Northern Alliance. In any case, the Security Council gave the government legitimacy after the Bonn Agreement.

However, years later, with Karzai at the head of the government, Afghanistan could not get out of its situation of instability. The country was confined to receiving international economic aid, but it was not enough. Moreover, there was no capacity for growth since it had scarce human capital. In addition, as a result of the Taliban's departure, the renaissance of the narcotics industry took place, which was not only a mark of poverty but also an indicator of a new atmosphere of illegality.

Collins explains that by the year 2002, the United States had created the new Afghan National Army and had assisted in the provision of troops to form peacekeeping forces. It was clear that the aim of the Bush administration was not so much to assist or rebuild the Afghan state, but rather to increase its presence in the field of counter-terrorism.

It is so that about 8000 American and allied troops circulated the country conducting anti-terrorism operations. Aid from the United States to the Afghan National Army, from the British for the counternarcotic fight, from the Italians to the Justice sector, from the Germans to police training, and from the Japanese for disarmament, demobilization and the reintegration of combatants took place in different points of the Afghan state, but not with sufficient urgency (Collins, 2011).

Subsequently, insurgency alarms came back to life as militant Taliban activities took place again, their goal being: to return the coup more forcefully than before and to cause immense human losses and infrastructural damage. In 2006 alone, more than 4000 deaths were recorded in Afghanistan including those of foreign civilians and soldiers (Gul Khan, 2012).

In that year also the number of suicide attacks increased in spite of the American and Pakistani efforts. The Taliban carried out about 140 suicide attacks, five times more than in 2005 and 35 times more than in 2007 (Gul Khan, 2012). Added to this were other social realities such as robbery, kidnapping, extortion and drug trafficking¹⁰.

After the terrorist attack of 9/11, it was not only the Americans who suffered from the aftermath that was left behind. Afghanistan also traveled on a path of terror and constant volatility due to the increase in suicide attacks. The overall picture was as follows: "security was out of control, governance was limited and development was slow" (Gul Khan, 2012). Afghans lived in an emergency situation and thousands of innocent civilians continued to lose their lives because of the conflict.

During 2008, the situation in Afghanistan worsened, violence increased by 40% when the Taliban released 1,200 prisoners, including 350 Taliban, from Kandhar Prison (Gul Khan, 2012). In addition, Khan explains, the Taliban began to take government functions in the southern provinces of Afghanistan, at several points were responsible for collecting taxes, provide basic services and maintain order.

The agony and discomfort of the Afghan population in the south and north of the country has lasted for several years and there are no signs of recovery on the horizon. The reconstruction process, which entails enormous costs, has not shown the expected

¹⁰ A Human Rights Watch report, based on research conducted between January and June 2003, documents human rights abuses in southeastern Afghanistan, the most densely populated part of Afghanistan. The main types of documented abuse are violent crimes - armed robbery, extortion and kidnapping[...]. (Human Rights Watch, 2003)

results because according to John F. Sopko¹¹ (2017), Afghans cannot sustain investment-financially or functionally- without massive and ongoing support from donors

Imtiyaz Khan (2012) concludes that brute force-based solutions will not work in Afghanistan. The effort should therefore focus on earning "hearts and minds" of Afghans by addressing their problems and meeting their development needs rather than using force and approaching only through the exploitation of their regional resources.

2.8 The Obama Administration

Barack Obama, who was elected President in 2008, announced in a speech at the end of 2009 that his presidential strategy would maintain the goal set at the beginning of his presidency: "to disrupt, dismantle and defeat Al Qaeda and prevent its ability to threaten the United States and its allies in the future "(Obama, 2009).

The U.S's position on the situation in Afghanistan was centered on preventing Al Qaeda from having a sheltered place where it could be established as no state would be allowed to become a refuge for terrorists. It was also a priority to help strengthen Afghan armed forces so that they could have control of the country in the future.

That last statement has been shattered year after year with the excuse that the Afghan armed forces are still not in the capacity to take responsibility of the country. Thus, Obama's plans to deploy his troops by the year 2014 did not materialize and it is difficult to say if the next White House president will succeed in doing so in the following years. Many have dared to call this an endless war because even with the

¹¹ John F. Sopko, Special Inspector General for the Reconstruction of Afghanistan. His report talks about the reconstruction effort of more than 15 years financed by the United States in Afghanistan. See: Sopko, John F. "High-Risk List". January, 2017

"probable" future withdrawal of the United States and its allies, an atmosphere of conflict will remain on Afghan soil for many years to come.

CHAPTER 3

SOCIAL IMPACT OF THE INTERVENTION

INTRODUCTION

Military intervention in Afghanistan has had great effects that are commonly associated with wars such as: the number of human losses, capital and weapons, debts and the persistent tension between nations, etc. However these are not the only effects, nor the most significant, that come to appear. One must consider the weight that a conflict like this has in a society as fragilely structured as the Afghan.

Social problems in Afghanistan are nothing new; they go back several generations as the country has not been free of conflict for decades. The difference between the past and today is that social issues have come to light, it is important to point out that with the advances that have been made in regards to the global media, people have been able to have a more personal approach with social problems that states at war like Afghanistan are facing. Hence, more complex and urgent issues such as mass migration and what it entailed following the terrorist attacks of 2001, i.e. discrimination against Muslims, have become more prominent and important.

The growing interest in defending rights has also been observed in recent years, but given the situation in Afghanistan, the emphasis has been on addressing the situation of Afghan women. They have lived in a constant struggle even after several state restructurings that promised to favor them, have not been able to benefit from basic rights because of their gender (Amnistía Internacional, 2013).

Therefore, this section will be dedicated to the description of those problems derived from the U.S. military intervention, aiming to bring them to attention through their corresponding description.

3.1 Displaced people and refugees

Internally displaced people are those who through war, conflicts or natural disasters were forced to leave their homes but did not go beyond their borders. They could be considered refugees in their own country, but they are known more colloquially as internally displaced people. On the other hand, those who move outside the borders are called displaced. No international agency has a formal mandate to assist them, but they are increasingly at the forefront of the humanitarian agenda (UNHCR, 2006).

Afghans have been in a constant escape from warfare since 1979 and as conflicts intensified many civilians have been forced to move all around their country without the slightest hope of ever returning to the place they once called home. Since 2002, however, more than 5.8 million Afghans have been able to return to Afghanistan and their homes within the affected areas in hopes of saving and conserving their agricultural incomes (Crawford, 2015).

The UN High Commissioner for Refugees (UNHCR) indicated that there were more than 701,900 displaced by the end of 2014, compared with 683,300 displaced people in mid-2014 (Crawford, 2015). The Internal Displacement Monitoring Center (IDMC) estimates that at least 948,000 people were internally displaced by conflict and violence by July 2015 (IDMC, 2015). "Even after fleeing their homes in search of security, increasing numbers of Afghans languish in appalling conditions in their own country and struggle for their endless survival in sight" (Amnesty International, 2016). "Amnesty International's investigations revealed that despite pledges made by

successive Afghan governments, internally displaced people (IDPs) in Afghanistan continue to lack shelter, food, water, health care and adequate opportunities for education and employment" (Amnesty International, 2016). Amnesty International¹² also points out that most IDPs do not have access to basic health services. The only ways they can get these services is through NGO-operated mobile clinics or the government, which more often than not may not be available. This results in the IDPs having to resort to private medical care that they cannot even afford.

These challenges are more obvious in areas that are impenetrable or remote to humanitarian aid workers. Sometimes circumstances make it impossible for humanitarian aid to reach them at all. As a result, the displaced are not profiled in the organizations' databases and remain without assistance. Because of this they have been forced to rely on host communities or local authorities who do not know how to help them or do not have the capacity to do so (Jepsen, 2013).

All of these drawbacks make it difficult to determine the exact number of displaced people in Afghanistan, and the fact that many of them do not reside in official camps complicates things even further. Therefore, it is possible that official statistics underestimate the number of internally displaced people that actually exist.

Also, despite significant returns, the number of refugees registered outside Afghanistan remains about 2.7 million (Edwards, 2016), the vast majority is in Iran and Pakistan. This has become a major drawback for host countries, for example, not only do civilians live in Pakistan, but also the Taliban who found refuge there near the borders after the U.S. invasion. This has resulted in the Taliban and its "extremist" ideologies operating in both Afghanistan and Pakistan, thus expanding the religious fundamentalism that the

¹² Amnesty International is an international human rights organization that works impartially for the respect of human rights throughout the world. It conducts research and works through campaigns to help combat human rights abuses around the world. It leads torturers to justice, changes oppressive laws, and frees people incarcerated for expressing their opinion (Amnesty International, 2016).

West disapproves of so much because of the frequency with which the media has referred to the alleged danger of Islam, explain Shadid, W. and P. Svan Koningsveld (2002).

Joanne Van Selm (2003) considers that another important point in this subject is the perception of Afghan refugees. She indicates that after 9/11 those who suffered the greatest traumas were the ones carefully selected for relocation. This refers to Afghan families who were stalled in neighboring countries in search of a safer environment, also who were selected in the country of asylum to be relocated in a state that will guarantee their asylum and protection. There were not many countries with relocation programs in the world, so large numbers of IDPs and refugees probably would not even have the opportunity to settle in a safe place.

These people do not seek asylum, rather they are "refugees upon arrival." Refugee status is granted after processing the relocation status and is processed by the respective national authorities or through the selection or recommendations of the UN High Commissioner for Refugees (Van Selm, 2003).

The negative side of this process is the non-positive reactions from the citizens of the refugee granting States, many people have long thought that anyone from the East is likely to be linked to terrorism.

This thought has brought with it endless distress for refugees in different countries and is one of the main reasons why States refrained from carrying out relocation programs. In fact, one of the concerns was that the terrorists might try to enter countries like the United States under the title of refugees and would then attack again. After 9/11, the United States made the request to Afghanistan to close its borders to prevent the displacement of more Afghan refugees who could be terrorists or even the displacement of Al Qaeda members themselves. (Van Selm, 2003).

This can be logical and rational in a military and security based thought, but for human rights organizations this made no sense. Van Selm (2003) states that, denying refugee status to thousands of Afghans who fled their country because of terror was unacceptable and absurd to anyone defending these rights. Absurd because if terrorists wanted to move from Afghanistan to another country they could do it without having to join refugee groups, they had "sophisticated and secret" means to achieve their goals. Human rights advocates wondered whether, with this consideration in mind, it was possible that the regulations on granting asylum could be softened in some way.

After 9/11, the UNHCR dealt with incessant negotiations for the establishment of camps in Pakistan, as the government was reluctant to receive more refugees, or proposed locations that were not suitable for the camps as they were near the border with Afghanistan, or were places where water lacked. It was clear that, with or without negotiations, Afghans still needed to leave their country. That is why even though Pakistan kept its borders closed, at least 2000 Afghans crossed the border every day during the first week of the U.S. intervention, making use of traffickers in hopes of reaching safe territory, says Van Selm (2003). Meanwhile, no government officially expressed its feelings about the fact that thousands of Afghan civilians were being held on the borders of Afghanistan during the beginnings of the war in late 2001.

When the Taliban were expelled from power, together with the signing of the Bonn Agreement came the establishment of a new government in Kabul and the doors were opened to Afghans for the return to their country. But the role of groups and organizations concerned about the state of migrants was very important in the years following the intervention; not only for their actions aimed at establishing shelters and camps, but also for their involvement which made the return of many migrants to Afghanistan possible. According to a report submitted by the UN refugee agency in

2005, even after the events of 2001 and the significant changes they brought, more than 3 million refugees in Iran and Pakistan returned to their country with UNHCR's assistance (UNHCR, 2005). The number of asylum seekers also fell sharply for that year, more than 80%. It was noted that the numbers went from 54,000 in 2001 to 9,000 in 2004. However, the same agency noted that despite the number of people who returned, 2 million Afghans still remained outside Afghanistan (UNHCR, 2005). In fact, Afghans remained the largest group of refugees after the Palestinians.

In 2006, Pakistani President Pervez Musharraf and his government closed more than 30 camps near the Afghan border that housed at least 400,000 refugees, Musharraf called on the United Nations to repatriate them all because their presence on the border represented a threat to Afghanistan's national security. Many refugees were practically forced to leave Pakistan, but others were able to remain in the country thanks to a campaign initiated by the Pakistani government that allowed one million Afghans to register and have access to official identification, this allowed them to remain in Pakistan for three more years (Poppelwell, 2007).

The closure of such camps and shelters meant that thousands of people would be repatriated but at the same time would find that their homes had been put into military possession after the intervention. Even with what this represents, the governments of Afghanistan, Pakistan and the UN refugee agency confirmed that the camps would have to be closed by the year 2007 (Poppelwell, 2007).

In Iran, the second destination of the Afghans, the government insisted for a long time that Afghans were repatriated because the circumstances that forced them to leave their country no longer existed, as the Taliban were finally removed from power. Repatriation in Iran was more difficult since, unlike what happened in Pakistan, only 5% of Afghans lived in the camps, the rest of the displaced were concentrated in urban

areas and this made it more difficult to bring them back to their home country. Yet in 2007, Iran sent 44,000 Afghans to Pakistan, an action that was criticized by the Afghan government and the UN agency for migration (Poppelwell, 2007).

The following two years witnessed the Afghan government's efforts to implement new strategies and policies that favored refugees and displaced people. According to statements made by Ambassador Zahir Tanin, Ambassador and Permanent Representative of Afghanistan to the United Nations, the main objective of managing new policies was "to increase the absorptive capacity in order to manage and assist the sustainable reintegration" of the Afghan people. He stated that the management would be successfully carried out only with the support of the governments of Pakistan and Iran that were the main destinations for refugees. However, Tanin indicated that the reintegration of the Afghans and their repatriation was not in itself a solution if the country did not have the necessary resources to receive them.

In addition, repatriation was often hampered by the threats of terrorism and the insecurity it represented, especially along the Afghanistan-Pakistan border. Also, widespread poverty and the difficult humanitarian situation had been further worsened by rising food prices and because of attacks on international and non-governmental organizations assisting Afghans (Tanin, 2009).

Over the past five years the situation has not improved, Laiq Zirack says that if the Afghan government and international society do not take immediate steps to improve the lives of both potential and displaced migrants, the situation will worsen and the effects will continue spreading to other sectors of society (Zirack, 2016).

"Afghanistan has been the main source of refugees for the past three decades, with up to 6.4 million of its citizens seeking international protection during the

peak years. At the end of 2009, about 2.9 million Afghans remained refugees.

One in four refugees in the world comes from Afghanistan "(UNHCR, 2010).

In the face of this all, the role of the United States has been to present its support to the Afghan government in the management of the displaced and immigrants, but it has not provided any guarantee that all of them in their totality can return to a safe place to call home. All this without counting the increasing number of attacks by the American troops against Afghan militants, since the continuation of the war only suggests the continuous displacement and daily migration of thousands of civilians.

3.2 Islamophobia in the United States

The repercussions of the 9/11 events were not only reflected in Afghanistan and its neighbors, due to the immigration issue, but also the world's perception of Islam took a course towards the more negative side of the scale. The Federal Bureau of Investigation (FBI) reported that in the United States after the attacks, there was a 1700% increase in hate crimes against American Muslims (Khan & Ecklund, 2012).

Muslims who had migrated to different parts of the world faced, more than any other immigrant group, negative stereotypes and attitudes as well as an animosity towards, not only their religion, but also their Arab or Middle Eastern physical appearance.

This point is touched on, for although reliable data on religious demography is not available in Afghanistan because an official national census has not been conducted in decades, the United States Department of State (2010) estimated that 80 per cent of the population Afghan is a Sunni Muslim, 19 percent Shiite Muslim and other religious groups comprise less than 1 percent of the population. Therefore, the majority of Afghans is Muslim and so they are within the minority subject to discrimination by Islamophobia and racism. (U.S. Department of State, 2010).

Christopher Allen and Jorgen Nielsen stated that although the word Muslim is associated with religion and not race, for some people the line between those two tends to be blurry (Khan & Ecklund, 2012). Lorraine Sheridan further indicated that in the aftermath of 9/11, discrimination against Muslims increased and, more importantly, towards those perceived as Muslims.

It is true that before 2001, Muslims were seen negatively by the way the media described them: as violent and intolerant¹³. However, Khan and Ecklund believed it was important to study attitudes towards Muslims after 9/11 as the attacks appeared to worsen preexisting perceptions. The authors emphasize the analysis of the situation faced by Muslim-Americans, as did Lawyer Hilal Elver.

For Kambiz GhaneaBassiri (2013) it seems clear that attitudes towards Islam have less to do with religion and its practitioners than with current events and media reports, which have indelibly associated Islam with violence in the United States.

Elver (2012) in her study called "Racializing Islam before and after September 11" talks about her personal experience on the attitudes of Americans and Europeans towards her person and her Turkish nationality. She recounts her experiences ranging from being detained at each airport she visited, to being interrogated for hours for having a passport issued in a Muslim-majority country¹⁴.

This type of discrimination made clear that the law serves as a political instrument to protect the interests of the ruling classes, achieving the subordination and control of the other classes. "This background prepared the post 9/11 political environment by using

¹³ The American-Islamic Relations Council (2016) reported that national television viewers of American television view more images of Muslims as domestic terrorists than is actually the case in statistics. Among those described as domestic terrorists in press reports, 81% were identified as Muslims; however, in the FBI reports of those years, only 6% of domestic terrorism suspects were Muslims (Council of American- Islamic, 2016)

¹⁴ One of the bases of prejudice against Islam and the Muslim world is the persistent inclination to assume that Western norms and values are the sole reference points in any analysis, and incompatible with Islam. See: "The Negative Image of Islam and Muslims in the West: Causes and Solutions". (Shadid & Van Koningsveld, 2002)

the state's responsibility to protect American citizens from "terrorism" (Elver, 2012). She also expresses that a public opinion that gives way to many immoralities has been constructed producing discrimination on a large scale. Elver concluded that "war, terrorism and fear are used as a blanket of national security to cover pure racial politics, making discrimination against Muslim citizens of the United States acceptable even in the dominant society".

In her thesis titled "Racialization of Islam" Elver indicates that, because of their similar physical characteristics, the "middle-eastern" were for many years categorized as a race different from the white race and close to the black race. Thus, they have not been a dominant race in the United States, but rather a minority.

After the year 2001, discrimination around the world towards millions of people with Middle Eastern features was based heavily on the perception that their religious identity was Muslim. It was common - and still is today - to link Islam to people with physical features that appear Middle Eastern or with Middle Eastern names; there are those who even came to ensure the existence of a "Muslim race"¹⁵ (Beydoun, 2014).

According to Elver, a series of studies described that the groups affected by Islamophobia are the Arabs, Middle Eastern and Muslim, even if a significant number of Arabs and Middle Easterners are not even Muslims. "This complexity is one of the hallmarks of the racialization of Islam in the United States, since those who resemble Muslims are subject to hate crimes and social discrimination" (Elver, 2012).

Islamophobia has been studied in more depth since the last decade when several intellectuals or renowned scholars like Edward Said publicly expressed their ideas on the subject. Vinay Lal in his article "Enigmas of Exile", recounts Said's words who continually expressed that "Arabs and Muslims were the only cultural or ethnic group

¹⁵ Beydoun, Khaled States that Muslims have been defined by racial and ethnic terms throughout American history in their article "Antebellum Islam" (2014).

against whom vile and racist nonsense could be uttered with nearly utter impunity in the west" (Lal, 2003).

When opinion polls were conducted a few weeks after September 11, disturbing thoughts of American society were reflected. They believed it was necessary for Arabs and American Muslims to be the first to be profiled and the first targets of registration and interrogation in the name of national security (Elver, 2012). Then came what Elver called a "matter of group identity, and individualism disappeared", that is, people were no longer distinguished as individuals when they were perceived as Muslims (Elver, 2012).

Much political, social and legal pressure was placed on Muslim communities in the name of national security. Civil and legal rights were an issue that brought attention because American-Muslims believed that these rights were being truncated, and their lives were unfairly monitored. In other words, zero-tolerance policies were implemented towards Muslims, which clearly included Arabs and such. To illustrate this, Elver refers to the fact that the "United States Department of Justice detained more than 1,200 people without any rational indictment. In addition, the FBI interrogated thousands of people individually only based on racial, ethnic or religious criteria" (Elver, 2012). For many this was unjustified as it was suggested that possibly thousands of Muslims could be suspects of unforgiveable crimes in the eyes of society.

The established policies in the United States only became worse for Muslims, Arabs and Middle Easterners when the US government declared war on terrorism. Notably, this spread anti-Muslim sentiments to the rest of the world during the years after 9/11.

It must be borne in mind that mutual animosity, which may have already existed between Americans and Muslims, was further manifested after 2001. Americans "disapproved" of Muslims as much as they "disapproved" of Americans and both

groups were aware of the fact. Statements such as the one made by Edward Said validate this point.

Jill Norgren and Serena Nanda said that social pressure has become enormous for Muslims, Arabs and Middle Easterners, as these people were not only physically and emotionally abused in the United States but also in the rest of the world. Rises in the number of discrimination cases in schools, workplaces and airports as was the case with Hilal Elver were reported. According to Human Rights Watch (2002) the reaction to 9/11 was distinguished by its ferocity and extension. Violent acts included: arson, vandalism, public harassment, death threats, physical assault, and murder.

In addition, many incidents were recorded, especially against Muslim women who used hijab because this garment was -still is- associated with terrorism (Elver, 2012).

Likewise, thousands of American citizens or migrants had many of their rights violated because their privacy was invaded to ensure that their intentions towards the United States were not linked to terrorism.

Although the main objectives for scrutiny were Muslims living or visiting the United States, the rest of the citizens were also not spared by the authorities and the federal government. Through the "USA Patriot Act" they made susceptible private information of the citizens without there even being precedents of any kind of crime.

The opinion of legal experts and many citizens was that the USA Patriot Act reduced, erased, or eroded elements of several of the rights declarations guaranteed by the United States Constitution (Department of Government and Justice Studies, s.f.). The USA Patriot Act is of special relevance to Elver as Arab, Middle Easterners and Muslim people were extensively the targets of this act.

3.3 Afghan Women after 9/11

When it comes to analyzing the situation of women in Afghanistan after US troops occupy Afghanistan, there are two points of view. According to Nahid Afrose Kabir (2012), the situation improved since the beginning of the occupation in October 2001, girls attended schools and women participated in politics, entertainment and sports.

On the other hand, some argue that although an important justification for the war was that it would improve the position of women, years later there were very few improvements for women and girls.

It was true that girls could attend school but school buildings were unsafe and there was a great shortage of teachers, facilities and equipment. Added to this is the fact that a UNICEF survey in 2003 showed that while the literacy rate for men was 49 per cent, literacy for women was only 19.6 per cent as women continued to be forced to marry when they were still girls (Irin, 2004).. Nahid Afrose Kabir said that in some cases, women set themselves on fire to escape these -often abusive- marriages.

After the occupation, forced marriages should have ended since a law provided that girls under the age of 16 should not be married. But Kabir points out that police did not always investigate such crimes and male judges often reduced the penalties of men guilty of abusing their wives (Kabir, 2012).

Also, the new Constitution guaranteed women equal rights but continued religious, cultural conservatism and an environment of insecurity were obstacles to women's participation in the economy, politics and society.

As an example, Kabir talks about the difficult scenario that the teachers experienced in southern Afghanistan where the Taliban were in control; they received threatening letters ordering them to give up their jobs and if they did not then they would pay the consequences with their lives and those of their children. For the girls, the situation did

not have any advantages either, because many times their schools were burned and even were victims of violent acts, such as having acid thrown on their faces.

Sonali Kolhatkar, author of “The Impact of U.S. Intervention on Afghan Women's Rights” also spoke in her study of the discrepancy between the US government's goals and the actual results of the intervention months after it.

Kolhatkar recounts one of the statements made by George W. Bush in January 2002 when he addressed his nation and stated: "Our nation...destroyed the terrorist training camps of Afghanistan, saved people from famine and liberated a country from brutal oppression "(Bush, 2002).

Although these were the words of the then President, Kolhatkar emphasizes "that during the bombing campaign only the United States hampered efforts to transport aid to Afghans" (Kolhatkar, 2013). Humanitarian aid institutions had to implore the United States to halt the bombing and thus be able to come to the aid of Afghans, including women and girls of all ages whose life quality worsened every day.

However, the United States did not accept the disrupting of its operations in Afghanistan nor the fact that thousands of people living in urban areas and remote places were killed. To date, the exact number of men, women, boys and girls who died because of hunger only, is unknown (Kolhatkar, 2013).

The situation of hunger had widespread effects on the population, but something that affected women, more specifically, were the dangers to which they were exposed by the very fact of being women.

Kolhatkar in her study talks about how just 10 weeks after the Taliban were driven out of Kabul by US forces, Afghans began to say they felt more secure under the oppression of the defeated militia than under the interim administration that had replaced it

(Kolhatkar, 2013). That is, women were more likely to be raped or abused after the arrival of U.S. troops and the establishment of the interim government.

As for Bush's statements, he asserted that the role and participation of women within the new government was remarkable; however, Kolhatkar shares the testimony of Medea Benjamin, former worker of a group that provided humanitarian aid in areas of conflict, stated that:

"While it is good that several women were asked to participate in the Bonn talks about the transitional government, women were selected by the male delegates in a completely undemocratic manner."

The women elected for the talks had the advantage of having family connections while groups such as The Revolutionary Association of the Women of Afghanistan, or RAWA, which had long struggled to defend their gender were not even considered for the talks. Kolhatkar states that those were experienced and capable women who could have been selected to help run the country but were simply ignored.

"The hope of women in Afghanistan lies not in symbolic women elected undemocratically to represent their Afghan counterparts in government, but in popular women's movements that attempt to overcome social prejudices in women's own terms" (Kolhatkar, 2013).

It was important that capable women were considered for the "building of a new Afghan State", all the more since they had long been subdued, dominated, and repressed by the strict Islamic Sharia law.

Unfortunately the interim government established after the intervention, like the previous Taliban regime showed its intention to exercise in Afghanistan according to the Sharia law, although according to it, the new version of the law would be softer.

The United States strangely showed no genuine interest in empowering women. During the "reconstruction" it did not qualify empowering as essential for the creation of the new order, as Al-Gharbi said: "despite having gone to war with promises of female empowerment, the United States was finally leaving a country essentially unchanged" (Al-Gharbi, 2015).

It could be said that the interests of the American government during the beginning of the intervention were not focused on improving the social or human environment of Afghanistan permanently, but rather sought to manipulate the political sphere at its convenience, otherwise it would not have "mistakenly" bombed and killed a large number of civilians for years. Kolhatkar adds that "the United States continued to reject responsibility for the fate of Afghans, especially Afghan women, who suffered the grave consequences of the United States'" War on Terror "(Kolhatkar, 2013)

As the bombs fell on Afghanistan, U.S's government advisor Richard Perle (2014) said this about responsibility: "I do not think any outside power has a responsibility in Afghanistan, people have to take responsibility for their own destiny".

The fact that an authority had been allowed to state those words publicly demonstrates the American government's poor compassion for the Afghans, as it finally insinuated that the fault rested on the victims.

But even without outside support, the work of women and girls in Afghanistan did not subside. In recent years an organization has refused to be silenced and became Afghanistan's oldest active political women's organization whose work focuses on fighting against fundamentalism and oppression of women. This organization is the aforementioned Revolutionary Association of Women of Afghanistan (RAWA). Kolhatkar believes that RAWA's work and the message of peace and democracy should be an integral part of any discussion on Afghanistan.

For the author, it is a "mockery" that countries like the United States and international organizations of great renown, such as the United Nations only favor and support those who combat with violent means throughout the country (Kolhatkar, 2013). It is a little ironic that only groups that bring war are called to bring peace when it would be appropriate to promote organizations like RAWA and their ideals of not continuing to arm terrorists. "This should be the center of any agenda to help bring peace to Afghanistan" (Kolhatkar, 2013).

The impact of the United States on Afghanistan it is opportune to say, that in terms of women's status, their emancipation, power and will, meant significant changes as a result of the presence and influence of the American government and troops, since many women and girls were able to access education or healthcare for the first time; but the work of women who have fought for years against their own government to exercise their basic rights cannot be ruled out either.

However, it must be considered that every war comes to an end and while in 2014 the government of Barack Obama decided to withdraw its troops, women remained nameless. After more than a decade of containment of the Taliban rebels what would happen when the main force that kept them on the sidelines was no longer there? The worst possible scenario for women materialized when only a year after the withdrawal of most troops, the Taliban returned to take the northern part of the country.

"A few invaders walked unopposed to the center of the city to raise the white flag of the Taliban, others went door-to-door looking for Afghan women who worked for women's organizations or the government. They robbed homes, offices and schools, stole cars and trashed computers. They destroyed three women-run radio stations, attacked the offices of the US-led organization "Women for Afghan Women," and burned down the women's shelter. They

rejected reports on Kabul television stations about them having raped women in the university dormitory and women's prison and threatened to kill reporters spreading the stories" (Jones, 2015).

Events like these came quickly after the "end" of the war because the work of the United States was not to end the terrorist networks but to contain them. When this restraint no longer existed they returned to their pre-9/11 activities, activities that included emphasizing the inferiority of women and discarding all traces of the influence of the West due to Islamic fundamentalism. This simply "reflects the desperate search by the oppressed masses for a way out of poverty, hunger, unemployment and disease[...]. In the absence of any worldly salvation, many seek solace in religion" (Militant International Review, 1993).

CONCLUSIONS

The U.S intervention in Afghanistan may have started as an offensive against terrorism, relying on instruments of international law that were shaped and interpreted to justify its legitimacy. Even so, more than a decade later the procedures that were carried out for the authorization of the military operations that took place in Afghanistan after the terrorist attack in 2001 are questionable.

The United States government's purposes after those fateful events were based on self-defense. However, these motives have long since ceased to be valid because after the Taliban terrorists had been expelled from Afghan territory American troops continued – and continue- to wreak havoc in the country. Likewise, the objectives of the war changed, with the exile of the Taliban responsible for the 9/11 attack and even more so with the death of Taliban leader Osama Bin Laden in 2011, and so the presence of Americans troops became unnecessary assuming that they were attending to the motives that brought them to Afghanistan in the first place.

Considering that there is no Security Council resolution authorizing the use of indefinite force in Afghanistan, the United States would have been acting illegally for years; of course its fault is diminished by factors of power both within the Security Council and within the international community.

Even after a decade since the start of the intervention in Afghanistan, U.S. heads of State have not admitted that their conduct, after the attack on the Twin Towers had been precipitous, nor have they pleaded guilty to having based on legal arguments that did not give validity to an intervention and the use of force.

Despite criticism poured onto this intervention, there have been no indications that the United States will be sanctioned for its violent conduct in Afghanistan. It is not clear then what is the point of an organization as significant as the United Nations

Organization whose principle is to avoid this type of violent behavior by Member States and punish the U.S.

With this panorama, it is disturbing to think about the future of Afghanistan, whose citizens will pay for several generations for the lives of about 3000 people who died on September 11, 2001. The importance of lost lives in the United States cannot be diminished versus lives lost in Afghanistan, because they are all human lives, but can the situation in which millions of Afghans have lived due to an attack for which they cannot be held personally accountable? The answer has a morality tone to it and for that reason it lies in the conscience of each individual.

The biggest problem arising from the United States' behavior is that precedents have been set for other States, i.e. the fact that the effects of a country's wrongdoing have not been sanctioned suggests the future possibility that other States at any given moment could follow the footsteps of the United States without expecting any consequence. This type of aggressive conduct against other states would guarantee future wars, especially if there is no agency with the authority to stop it.

For this reason, it is of the utmost importance that the international community devises guarantees that reflect its position against these illegitimate and illegal interventions that only perpetuate enmity and resentment amongst nations. In addition, there must be changes within the global organizations that were inefficient when there was a breach of international law, because the actions of the countries that make up the UN in this long conflict has left much to be desired. This organization witnessed the wrongdoing of the United States that ignored the foundations of the Charter of the United Nations for years, and failed to curb years and years of violence and destruction. These foundations were created for the purpose of pleading for peace between nations but have been underestimated due to the United States' economic, political and military supremacy.

In the future, more destruction, greater numbers of displaced people and stagnation in state development will be seen, and it is not clear that the United States can conclude the intervention in Afghanistan with a definitive victory. If this is the case, the intervention in Afghanistan will have been in vain and will only leave in its wake even more destruction and decay. The effects of the intervention on society are already very profound because it has condemned not only future generations in Afghanistan but refugees and displaced persons who are trying to build a life in neighboring countries and even on different continents.

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