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American Policy of Pre-emptive War: Motives and Legal Legitimacy

**Dissertation Submitted in Partial Fulfillment of the Requirements for
Master's Degree in Literature and Civilization**

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Dedication

We dedicate this research work to our parents, families` members, teachers, and colleagues.

Acknowledgements

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Abstract

This study traces the history of the American defense policies and strategies. In United States foreign policy, in the light of examining different presidents` defense doctrines. The study focuses on George W. Bush defense policy. A significant element in Bush defense strategy is the utilization of the preemptive war to defend the national interests. This research work asserts that any country has the right to defend its territories with all legitimate and legal means. However, the study also questions the legitimacy and legality of using pre-emptive strikes to neutralize dangers and enemies threatening the security of America . this study aims to investigate the motives behind using preemptive wars as a defense strategy during Bush administration. It attempts to bridge the gap between what is purely military and what is legal in essence, to check the legitimacy of these military actions adopted by the political and military decision-makers, mainly in Afghanistan and Iraq. This study is qualitative where the descriptive- analytical approach to data gathering, analyzing, and interpreting are used as research methods. In the theoretical section of the study, various data relevant to the United states defense strategy and preemptive war were reviewed, analyzed, and interpreted. Then, the defense issue, preemptive war, was evaluated for its violation to the international and humanitarian law(s) and legislation(s). The findings revealed that the preemptive strikes conducted by the United States were a violation of the international laws and the simplest humanitarian rights for the victims of these military actions.

Keywords: Defense strategy, George W. Bush, Motives, Legitimacy, Preemptive war.

List of Acronyms and Abbreviations

C.E	Century
GWN	Goldwater-Nichols
NATO	The North Atlantic Treaty Organization
NS	National Security
NSS	National Security Strategy
UNA	United Nations Organization
US	The United States
USA	The United States of America
U.S.S.R	Union of Soviet Socialist Republics

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General Introduction

1. Background of the Study

The history of the United States of America is full of events that shaped, by the end, the orientation of the country and its choices in terms of foreign and defense policies. From isolationism policy after the independence from Great Britain to fully involvement in World War II, these are the remarkable events that motivated the US presidents to think about issuing defense policies that guide and frame the US military interventions. In this respect, each US president has his defense policy that responds to the US internal security and outer interventions requirements .

The Cold War with the USSR during Ronald Regan presidency led to the birth of a defense strategy that balanced between direct confrontations under the soviet union, and political and economic sanctions against the Soviet Union during Regan administration. Another remarkable event in the US history is the 9/11 attacks and its aftermath: The invasion of Afghanistan and Iraq, during George W. Bush presidency. These big events created a new defense strategy its backbone is using and adopting preemptive war or strikes against potential enemies as a self-defense strategy.

2. Statement of the Problem

The international community through the United Nations Organization (UNA) and different regional organizations together with the international treaties as Geneva Protocol of 1923 and 1977 guaranteed the basic humanitarian rights to both enemies as well as civilians in hot spots in the world. Theses solid law and legislations relevant to the issue in hand were agreed upon by the entire international community, including the United States of America. However, the US through George W Bush defense doctrine authorizes to itself to use preemptive strikes against potential enemies who might threaten the US national security. This study puts these military actions notably in Afghanistan and Iraq under investigation to assess and evaluate the extent of their legality and legitimacy.

3. Research Questions and Hypotheses

❖ **This study attempts to answer the following key questions:**

- 1) - What are the USA motives and justifications for using preemptive war as a defense strategy ?
- 2) – To what extent do these motives and justifications legitimize waging preemptive strikes against potential enemies ?
- 3) – Do the international and humanitarian law(s) and legislation(s) permit to the USA to use preemptive strikes as a self-defense right ?

❖ **Based on the above stated questions, the study tests the validity of the following hypotheses:**

- 1) – Preserving , protecting and defending the US interests and allies are the key motives and justification for the US political and military decision-makers during George. W Bush to use preemptive war as a defense strategy.
- 2) – These motives and justification are used to legitimize waging preemptive strikes against potential enemies.
- 3) – The use of preemptive strikes as a self-defense right can be considered a violation to the international and humanitarian law(s) and legislation(s) from the United States.

4. Aims of the Study

This study aims to investigate the motives and justifications of the United States in using preemptive war as a defense strategy to defend its territories, military, interests and allies. The study also questions the legitimacy of preemptive strikes in the light of the international and humanitarian law(s) and legislation(s).

5. Significance of the Study

The significance of this study stems from the following points:

- This study will give students, professors, and researchers in the field of history , political sciences, and literature and civilization in English Departments with knowledge and

information about the US foreign and defense policies, the process of decision-making in America, and the American hegemony.

- The study will also provide knowledge-seekers with an overview on the policy of preemptive war and the justifications for its utilization as a self-defense strategy.
- This research work is also significant as it attempts to interrelate, in a mosaic form, history, politics, defense strategies and legal issues to question and answer the legitimacy of preemptive strikes in the final research conclusion(s).

6. Research Methodology

This section outlines the procedures of the present study from the selection of the data gathering procedures to the analytical frameworks and methods used in data analysis and interpretation. The current study is qualitative where the findings are more descriptive and the inferences can be drawn quite easily from the data that is obtained. It is also exploratory in terms of attempting to explore the history of the US defense policies with a special focus on George. W Bush defense doctrine.

In this type of research design, the researchers make use of qualitative research method in an analytical framework attempting to bridge the gap between what is military and what is legal. The researchers, via adopting this research design, are interested in understanding the legality and legitimacy of adopting preemptive war as a self-defense strategy during George. W Bush administration and to Donald Trump presidency era.

7. Structure of the Study

This research work is divided into two chapters. The first chapter constitutes the theoretical part of the study while the second is practical. The first chapter has dealt with the American defense strategy in the light of the military history of the country and the events that have shaped the US defense policies over the recent history of the country. The first section of this study has presented different defense strategies initiated by different US presidents from Donald Reagan to George W. Bush. The events that led to the introduction of

preemptive strikes as a defense strategy during George W. Bush administration, mainly 9 / 11 attacks, were discussed in this chapter. As for the second chapter which is titled: "The United States Preemptive war: Motives and Legal legitimacy", which includes the Bush defense doctrine, the motives and justifications for using preemptive strikes in the US military interventions in Afghanistan and Iraq, and measuring the legitimacy of this defense policy in the light of the international and humanitarian law(s) and legislation(s) are the main sub-themes of this chapter .

CHAPTER ONE

The United States Defense Strategies

Chapter One : The United States` Defense Strategies

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1.1 Introduction

This chapter elucidate what is a defense strategy and how it can help in preserving the sovereignty of any country, focusing on the case of America. The current chapter provides a complete informative definition to the concept defense strategy prior to shifting to the motives that push each US president to create his own defense policy. Big and decisive international events where the US was fully or partly involved as the Cold War, World War II, and the 9/11 Attacks were the driving forces for formulating different US defense policies relevant to each event. This section also sheds light on the legislative and political processes that lead to the establishment of a defense strategy. Special focus is given to the defense strategies introduced by the following US presidents: Ronald Regan, George H. W. Bush, Bill Clinton, and George W. Bush . George W. Bush doctrine gave birth to a new defense strategy legitimatizing the use of preemptive war.

1.2 The Defense Strategy of the United States

"A strategy is defined as a detailed plan for achieving success in situations such as war, politics, business, industry, or sport, or the skill of planning for such situations" (*Cambridge Advanced Learner's Dictionary & Thesaurus* , 1995) . On the other hand, "A strategy is a broad plan to accomplish one or more long-term or overall goals in the face of uncertainty" Freedman states that the phrase was first used in the 6th century C.E. in terms of the "art of the general," which covered a number of subsets of talents such as military tactics, siege craft, logistics, etc. It was only in the 18th century that the term was translated into Western vernacular languages. Between that time and the turn of the 20th century, the term "strategy" developed to mean "a comprehensive means to try to advance political aims, including the threat or actual use of force, in a dialectic of wills" in a military battle, in which both opponents interact, and use heavy weapons to intent a war (Heuser,2012.p27b).

On his part, Dupuy explains that" defense strategy is a doctrine military planning used to deter , resist and repel a strategic offense". Using a defense strategy is the greatest

way to control a situation that can go out of hands , as it often involves military deception , propaganda and psychological warfare, as well as pre-emptive strategies that pose a defense and an attack method to prepare for a war. It may include all the schemes to plan a great strategy in hopes of guaranteeing it works (Dupuy,1986,p.64).

To fully understand strategic defense activities , analysts need to unravel the relevant geopolitical and socioeconomic challenges that supports the situation the country is facing. A strategy must be built from the different factors for its success. Therefore strategic defense planners must consider elements that help in :

- security and confidence .
- building in interstate relationships .
- national defense policy .
- arms proliferation .
- strategic implications.

1.3 The History of the United States Defense Strategies

The United States military history dates back to the time of its establishment . The United States transitioned during the decades from a nation under the Great Britain rule to have its own authority, and as Whiteclay conveyed "the United States [...] developed into a major power all through the twentieth century" (Whiteclay,1999: 74). The United States turned into a vehicle that controls and spreads its influence to the rest of the world. It became the image of fear and in the same context a thirst for its greatness. This led to a new era for the U.S .

Hew (2015: 37) states that "The military history is the history of wars, and of armed forces in peace as well as in war". After years of endless civil wars and achieving self-rule, the congress of the United States established three powers , the Continental Army, Continental Navy, Continental Marines to protect the land, its people and the country' s and people' s rights. Therefore, the military history of the United States got shaped after serval

factors that changed with the time and through great precautions. Within the same vein, Farih (2009) asserts " military history is littered with examples of armies and planners mixing terrain and tactics to great or disastrous effect".

World War II resulted in the formulation and the issuing of the National Security Act of 1947 that entitles "mandated a major reorganization of the foreign policy and military establishments of the U.S Government", this act was beneficial in creating many institutions that many presidents found useful in military conduction (The US Government history, n.d)

"The National Security Act sought to promote the national security by providing for a Secretary of Defense; for a National Military Establishment; for a Department of the Army, a Department of the Navy, and a Department of the Air Force; and for the coordination of the activities of the National Military Establishment with other departments and agencies of the Government concerned with the national security"(Dilday, 2016)

The end of the Cold War was rather an enlightenment to the military tactics. The conflict between the Eastern and the Western block created innovated strategies that helped in shaping the military biases and creating defense strategies that later years became the backbone for terrorists or enemy attack . In this context, Corrin (2015: 19) says:

In the U.S., it ushered in a new era of how the entire military and defense and intelligence communities operated. The Cold War may not have been a direct war between powers in the same sense as the two World Wars, but its end brought a familiar retrenchment in defense spending and military structure"

1.4 Presidential National Security Strategies of the United States

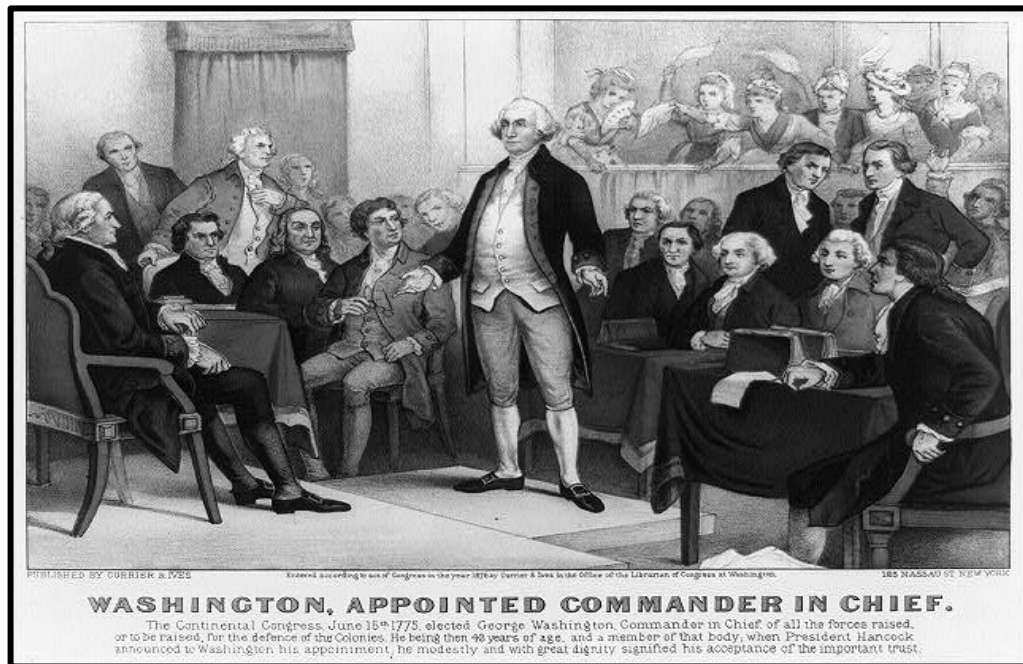
As stated in the US National Security Strategy, for the first time in American history the Congress required by law the president to outline the national strategy of the United States Furthermore, by tying national security policy to the budget process, the president and Congress now had to account for resource capabilities when developing the nation's strategic plan. (Dilday, 2016)

Throughout the years, presidents of the United States each had a different strategies and war plans to expand the American authority in politics, economics society, and geography. Black states that : "The new constitution passed in 1789 made the president a commander-in-chief of the armed forces, and gave Congress the power to levy taxes, draft legislation, and declare war" (Black,2002). The Constitution of the United States is the highest authority that has given the president the validity to command and lead the armed forces and establish a strategic plan that help in difficult situations . Anderson (2000) states "The President of the United States is the Chief of Staff, and he exercises his authority through the US Secretary of Defense and the Chairman of the US Joint Chiefs of Staff, who oversees combat operations act" (P.177)

The executive branch issues a national security plan each year, which articulates strategic doctrine. This latter is an important tool in foreign policy. The declaration educates American publics of the costs and sacrifices that they should be willing to accept more broadly. The doctrine establishes an administration's overarching rules or thinking as it desires to be seen by domestic and international publics. Strategic doctrine is not a law that governs all foreign policy actions, but rather a collection of norms that define discursive techniques of foresight, interpretation, and justification (Goodnight, 2006).

According to Goldwater (1986), "in order for presidential strategy to qualify as a strategic plan, specifically designated as National Security Strategy, the plan must meet the basic conditions set forth by Section 603 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986". (Goldwater ,1986)

Figure. 1.1: An image of : Appointment as Commander in Chief · George Washington's
Mount Vernon



Source : Retrieved from : <https://www.loc.gov/item/2002698163/>

After the Cold War, it was required to meet the evolving needs of the strategic defense the country was lacking. So, for it to meet the expectations of the Goldwater-Nichols Department of Defense Reorganization Act of 1986, each US president should pay attention to the legislative requirements for issuing any defense strategy or policy. The act requires the president to annually submit to the Congress a national security strategy report and it established guidelines for how to construct proper strategy .

Many notable strategies where made by the American presidents that can be analyzed to be a ground strategy for other nations or in case of emergency though some of the strategic plans might be unethical or illegal but it helps the country in a given critical situation. Although there were many strategies that was made by presidents, some ended up being successful and some were total failure. Some of them were ethical and some were unethical in terms of the United Nations agreements and laws.. Ronald Regan, George H. W. Bush, Bill

Clinton, and George W. Bush were considered as the significant holders of the most effective strategies in the US history.

1.4.1 Ronald Regan “TIT FOR TAT” Containment Defense Strategy

Ronald Regan was the 40th President of the United States. His mandates extended from 1981 and 1989. Throughout his presidency, Regan has taken a strategic plan to solve the conflict between the Soviet Union and the United State as he was the first president to establish a National Security Strategy that follows the Goldwater-Nichols. In 1987, Regan made his first National Security Strategy (NSS) that met the challenges that Goldwater-Nichols (GWN) has put (Dilday,2012).

In one of his speeches relevant to his containment policy, Reagan says:

"The years ahead are great ones for this country, for the cause of freedom and the spread of civilization. The West won't contain communism, it will transcend communism. It won't bother to dismiss or denounce it, it will dismiss it as some bizarre chapter in human history whose last pages are even now being written."
(Reagan,1981)

Ronald Regan's policy that was applied through his presidency revolved around the question of how to approach the Cold War . "Ronald Reagan is largely credited with the demise of Soviet communism during the 1980s. As president, he worked to reduce the threat of war between the U.S. and the U.S.S.R., to convince Soviet leaders that cooperation with the U.S. would serve Soviet interests, and to encourage openness and democracy in the U.S.S.R" (Britannica,2021). With this, Reagan adopted a policy of aggressive containment (foreign policy) that is departed from President Jimmy Carter’s policies.

Carter's declared in his speech that the United States would employ military force against any country that attempted to gain control of the Persian Gulf region. That announcement marked a dramatic shift in U.S. foreign policy. After this announcement, the foreign policy promotes international human rights and on pursuing détente with the Soviet

Union during the Cold War (Samuels,2023). This aggressive containment was adopted and followed by Regan during his first years as a US president .

Reagan used the phrase "peace through strength" to justify his buildup to surpass Soviet military capabilities. He believed that deterrence was the best method for approaching the Soviets, as it ensured that any adversary would not attack . Regan has spent over \$2 trillion to the Department of Defense to meet the goal of surpassing the Soviet Union and any other potential threat that may think in attacking the U.S.A (Regan,1983).

Foreign affairs commentator Freed Zakaria contends that Reagan's version of containment followed a "tit for tat" pattern"(Freed,1990). The Reason for labeling Regan' s containment "tit for tat" stems from the American reactions for each action done by the opponent, the Soviet Union .

1.4.2 George H. W. Bush: The Three-Pronged Approach

George Herbert Walker Bush served as the 41st president of the United States from 1989 till 1993. Bush took office as president in 1989, just as relations with the Soviet Union were starting to warm up. He attended the meeting between Soviet Premier Mikhail Gorbachev and President Ronald Reagan in December 1988 while serving as vice president. In his inaugural address, Bush stated that "a new breeze is blowing," and that "great nations of the world are moving toward democracy through the door to freedom." (knot,2016)

President Bush writes in the cover letter accompanying the National Security Strategy: *"We shall keep the peace by fostering good ties among the world's leading powers. We shall expand peace by promoting free and open communities on all continents"* (Daalder,Lindsay& Steinberg, 2016: P.109) Surprisingly, the Strategy is not arranged around these themes, yet, these three-pronged approach captures the essence of its proposals.

Defending Peace, the government's principal job is to provide for the common defense. According to the Bush Strategy, this requires defeating America's adversaries, which it defines as a mix of terrorists, tyrants, and technology. September 11 clearly revealed that

shadowy networks of individuals can bring great chaos and suffering to the American shores (knot,2016).

The Strategy stresses prevention, preemption, defense, and consequence management in order to resist terrorists and tyrants. Greater measures must be made to deny countries and terrorists access to weapons of mass destruction, including:

- Increased diplomacy.
- Arms control.
- Multilateral export controls.
- Threat reduction assistance.

However, the Strategy is unclear on which and how arms control and export control would help in improving the system. Hence, such precautionary measures might be insufficient. Military preemption is also required. According to defense strategy makers, "given the objectives of rogue states and terrorists, the United States cannot rely solely on a reactive posture as we have in the past" (knot,2016). That is, the inability to discourage a possible assailant, the ubiquity of today's risks, and the enormity of potential harm that could result in a bad incomes.

Preserving the Peace is the second component of Bush the father defense approach. Despite the fact that the threat to America has grown more serious, the strategy sees a fresh opportunity to make the world a safer and better place (knot,2016).

Extending the Peace is the third dimension in Bush defense policy. According to this Strategy, spreading freedom, democracy, and free enterprise to every corner of the globe is both a strategic and moral necessity. It contends that weak nations, such as Afghanistan, may be just as dangerous to national interests as strong ones, and that poverty, poor institutions, and corruption render weak states vulnerable to terrorist networks and drug cartels (knot,2016).

The Bush administration's National Security Strategy puts forth admirable goals for the United States that are ambitious. Terrorist and rogue states must be eliminated as potential dangers to the American national security. America should work with other powerful nations to advance common interests. Inequality is both a moral and a strategic dilemma. A clear and detailed plan for accomplishing these goals is something that the Strategy does not offer .

1.4.3 Bill Clinton "Engagement and Enlargement" Defense Strategy

William bill Clinton is the 42 president of the United states who ruled the country from 1993 till 2001 . Clinton's "Engagement and Enlargement" strategy had three main pillars: opening up foreign markets, fostering global economic growth, and advancing democracy abroad (Posen,Ross.1996:P.3). The US security was enhanced by these efforts, as well as by maintaining strong defensive capabilities and using diplomatic skill to encourage shared security measures.

Professors of Political Sciences, Barry R. Posen and Andrew L. Ross, concisely defined the strategy:

The phrase 'engagement and enlargement' conveys both the mode and the purpose, or vision, of the strategy: the United States must be engaged in the world to enlarge the community of democratic free-market countries. (Posen,Ross.1996: P.5)

This approach places economic interests at the forefront of national strategy of the United states .

The fundamental strategic goal of the United States was to maintain American dominance in all sectors, with an emphasis on economic issues. This philosophy held that economic aptitude and the capacity to compete successfully in global markets will decide global leadership rather than military intervention. During Clinton's administration, the United States acknowledged the right to take unilateral action without regard for the views of the United Nations or its NATO partners (Foreign Policy Aspects and Priorities of the Strategy

of “Engagement and Enlargement” of Clinton Administration | American History and Politics, 2018) .

The use of the word "engagement" to signify acceptance of globalism and rejection of isolationism is admirable. However, in practice, it has tended to be a triumph of method over content. The administration defines "enlargement" as the expansion of the community of democratic states. However, the United States' role in supporting democracy is limited (The Clinton Doctrine, 1997).

The focus on Engagement and Enlargement reflects a worldview that the government brought in. It was repressed following the Somalia catastrophe. It is based on the conviction that the old practices of statecraft and geopolitics are out of date and that ideas like "balance of power" must give way to the notion of "cooperative security, but the Clinton viewpoint implicitly implies similar interests if issues are correctly understood (The Clinton Doctrine, 1997).

1.4.4 George W. Bush Defense Strategy: Reaction to 9/11 Attacks and Introduction of Preemptive Strike

George Walker Bush is the 43rd president of the United States served from 2001 to 2009 .George Bush the son faced many obstacles through his reigns ,thus it created The Bush Doctrine . The remarkable event during Bush the son administration is the 9/11 attacks. During this dramatic event in the US history, militants from Al Qaeda Organization hijacked four airplanes and carried out suicide attacks against targets in the United States: the twin towers of the World Trade Center in New York City, the Pentagon in Arlington, and a field in Shanks Ville, Pennsylvania. Almost 3,000 people were killed during the 9/11 terrorist attacks, which triggered major U.S. initiatives to combat terrorism and defined the presidency of George W. Bush (September 11 Attacks: Facts, Background & Impact, n.d)

Figure 1.2: *An image of the moment that George Bush was told that the USA is under an attack*



Source: Retrieved from : <https://www.wfla.com/news/sarasota-county/remembering-9-11-president-bush-learned-of-terror-attacks-during-visit-to-sarasota-school>

The Bush Doctrine is defined as "a collection of strategy principles, practical policy decisions, and a set of rationales and ideas for guiding United States foreign policy" (Kaufman,2007). The George W. Bush administration asserted that the US was embroiled in a world war, an ideological conflict in which the country's adversaries shared a dislike of democracy and a similar philosophy (Bush Doctrine , 2012). The National Security Strategy highlights four key elements that are important to the Bush Doctrine:

- 1.) Preemption,
- 2.) Military Primacy
- 3.) New Multilateralism
- 4.) Democratic Spread.

The defense strategy stressed preemption, declaring, the United States of America is now threatened by failing states rather than conquering states. "We are threatened less by fleets and armies than by catastrophic technology in the hands of the disgruntled few," (Keira. Lieber and Robert J. Lieber ,2002).

1.4.4.1 The September 11th Attacks

The Central Intelligence Agency established that al-Qaeda was responsible for the assaults within hours. The US formally responded by declaring war on terror and invading Afghanistan to topple the Taliban, who had refused to comply with US requests to evict al-Qaeda from Afghanistan and deport its leader, Osama bin Laden.

Figure 1.3: A map that shows Flight paths of the hijacked Planes



Source : Retrieved from : <https://millercenter.org/remembering-september-11/september-11-terrorist-attacks>

It was a terrible, surprising, experience for the country. The 9/11 assaults were the bloodiest on American soil since the surprise attack on Pearl Harbor 60 years previously, and the fury was palpable. The New York assaults occurred on a busy weekday in the country's busiest city. Because the assaults were staggered, broadcast video recorded practically everything as it happened, ensuring that millions of Americans witnessed the events exactly as they transpired (The September 11 Terrorist Attacks | Miller Center, 2020).

Although 9/11 appeared to many Americans to be a spontaneous act of terror, the event's roots had been building for years. The tragic catastrophe was caused by a confluence of variables that came together in the late 1990s. These variables included regional Middle Eastern conditions that encouraged the perpetrators, as well as intelligence breaches and blunders that left the US exposed "(History.com editors,2022).

Osama Bin Laden was relatively unknown in the US before 9/11, but he was one of the founders of al Qaeda, a militant Islamic terrorist organization that organized and carried out the 9/11 attacks. He called for indiscriminate killing of all Americans, which was the perfect moment for his rallying cry (The September 11 Terrorist Attacks | Miller Center, 2020). In 1988, bin Laden created a new group, called al Qaeda ("the base") that would focus on symbolic acts of terrorism instead of military campaigns(History.com editors,2022). His vision on Islam is turned into enforcing terror throughout the world .

Islam was more than a religion for bin Laden; it formed his political convictions and affected every choice he made. He became a devotee of the extremist pan-Islamist philosopher Abdullah Azzam while in college in the late 1970s, who thought that all Muslims should rise up in jihad, or holy war, to form a single Islamic state. This approach appealed to the youthful bin Laden, who despised the rising Western influence in Middle Eastern society (History.com editors,2022).

There was also a relationship between terrorism and the pursuit of weapons of mass destruction, as well as the risk that this posed to any American interests and, by extension, the globe as a whole. In this perspective, the United States of America thinks that its historical role is to respond to aggressions and cleanse the globe of evil. The fight began at a moment when the world was in need of help like America's war on terrorism (مداني، 2014) .

The US has taken the required actions unilaterally by enforcing the concept of preemptive war. The US administration went to considerable pains to frame the pre-emptive war as a preventative action. The concept of pre-emptive war can be defined as "the initiative to use military force before the initiative or attacking the enemy" (Taking the Initiative in Battle | the Cove, 2020), that is, it is based on the American understanding of the other side's intentions and is considered war.

The preemptive war is considered as a reaction to respond to potential enemies represented by different terrorist organizations according to the US diction. These enemies might threaten the American territories, people, interests and allies at any time anywhere.

1.4.4.2 The Pre-Emptive Strike

When a state begins a military battle in order to prevent another state or other international entity from becoming a danger, this is known as preventive war. This form of conflict contrasts from the more common circumstance in which governments go to war during a time of crisis or in response to a specific incident. Preventive wars are launched in reaction to a perceived shift in the future balance of power between a state and its anticipated rivals, rather than a current crisis or immediate danger to security (Preventive War | Encyclopedia.com, n.d).

Following the September 11th attacks, the executive branch expanded the policy. The assaults posed a foreign policy issue because they were not started by Afghanistan and there was no proof that they had any foreknowledge of them. On the evening of September 11, Bush announced his answer to the problem in a speech to the nation.

We will pursue nations that provide aid or safe haven to terrorism. Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists. From this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.

On June 1, 2002, Bush addressed the cadets at the United States Military Academy (West Point), emphasizing the role pre-emptive war will play in the future of American foreign policy and national defense. (George W. Bush: Foreign Affairs | Miller Center, 2016). Following the Iraq war, the Bush administration defended its pre-emptive military assault on Iraq by citing national security concerns. The strike, carried out under the administration's National Security Strategy, maintains the United governments' authority to take unilateral military action against rogue governments and terrorist organizations in order to avert or

minimize an anticipated assault by such nations or organizations on the United States (George W. Bush: Foreign Affairs | Miller Center, 2016).

However, the administration's actions have been extensively condemned as being in violation of international law, customary law, and UN Security Council resolutions. The doctrine's consequences are grave, as it may inspire other countries, such as India, to take unilateral action against their opponents (Gupta,2008).

Because this strategy does not offer a particular standard for determining the threat that warrants a preemptive strike, it encourages the use of force and sets a hazardous precedent for others to follow. This strategy gives the United States the authority to implement a preventive war, not a preemptive war, and whatever justifications it tries to call it a preemptive war, it does not apply to preventive war in particular, as the idea is being interpreted by those who are enthusiastic about it now. So, the use of military force to reduce an invented or imagined threat or possibility, and even the expression of the word (preventive) is a very broad expression, as then threaten other countries with the fate of Iraq itself (Administrator,2023)

During the Bush administration, preemptive war arguments were presented to justify the use of the preemptive war strategy. It asserts that the US must act to prevent dangers from both state and non-state actors (such as terrorists) (Preventive War | Encyclopedia.com, n.d.) , particularly given the possibility of such organizations using weapons of mass destruction.

Although many countries supported the United States' involvement in Iraq as a reasonable reaction to a danger, other countries opposed the notion of preventative war in general. The motives for war and peace are more open to dispute in the aftermath of 9/11, the Iraq war, and increased acts of worldwide terrorism. regardless of the alleged threat. This discussion is likely to rage on for many years.

The idea of preemption reveals policy paradoxes surrounding asymmetrical threats, such as the ease with which first-strike operations may be accomplished the further away

from unconventional weapons deployment. Overstating the enemy danger can be used to justify intervention, but this can lead to a lack of pre-war agreement and escalating post-war expenses. Exaggeration of the threat can be used to justify involvement, but the cost is the absence of pre-war agreement and the expenses of post-war reconstruction ..

1.5 Conclusion

Overall, the chapter demonstrated the impact of World War II, the cold war, and the 9/11 attacks on the United States foreign affairs. It also demonstrated how it has changed and implied the preemptive strategy to accomplish protecting the land and the people of the United States. The chapter provided a theoretical framework related to the different US presidents' defense strategies focusing on the Preemptive Defense Strategy of Bush the Son. The next chapter will give details about the motives of implementing preemptive war and its legal legitimacy.

CHAPTER TWO

Preemptive War: Motives and Legal Legitimacy

Chapter Two: Preemptive War: Motives and Legal Legitimacy

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2.1 Introduction

This chapter introduces the president Bush's defence doctrine in terms of its foundations, pillars, and components. This research part asserts that the defence policy derived from this doctrine is consistent with the American liberal tradition (Hartz 1955). This section analyses the Bush Defense Doctrine with its radical neoconservative foundation—the unilateral pre-emptive war—and its connections to the American liberal tradition to constitute together the foundation of the US defence policy. Then, an attempt is made to identify the motives and justifications for the military interventions in Afghanistan and Iraq through the analysis of the president Bush and his Secretaries of State and Defense speeches. The last section in the chapter is dedicated to assessing the legal legitimacy of using pre-emptive strikes in the light of the international and humanitarian law(s) and legislation(s).

2.2. Definition(s) of Pre-Emptive War

Preemption has been and still is one of the most significant concepts of this decade. However, despite its pervasiveness in public discourse and its importance to policy, it is a major cause of uncertainty. The word is misused, possibly on purpose in certain instances, but it must be acknowledged that strategic theorists have provided very little on the issue that is worth reading. This research sub-theme defines preemption and makes the distinction between preemption, prevention and precaution. It critically examines the main criticisms of preventative warfare and draws on that analysis to offer at least a basic understanding of strategic theory—more precisely, an alternative to theory pertinent to such warfare. Strategically, morally, or legally, preemption is not debatable. Preemption is the act of attacking first (or attempting to attack first) in response to an attack that is either already in progress or clearly on the horizon. The opponent has made the decision to go to war. The assault victim or target state has two options: try to stop it from happening, or choose to be attacked without responding. The reality is that military preemption will not always be possible (Colin S. Gray, 2007).

A preemptive war is a war that is started in an effort to thwart or defeat a perceived imminent offensive or invasion, or to gain a tactical advantage in an impending (and ostensibly inevitable) battle, before the attack ever occurs. This war 'breaks the peace' in advance (Wragg, David W, 1973). Franklin gives the following definition of a pre-emptive attack: " a pre-emptive attack is a tactical activity designed for strategic effect" (Franklin, 2007).

2.3 Preemptive War Motives and Justification for the Military Action

Everyone knows that the Bush Doctrine included democracy. Not everyone is aware that this role was important to the implementation of the doctrine that served as the foundation for the planning and execution of the Iraq invasion. The rocket was preemptive war, the fuel was democracy, and the target was terrorism. .

In fact , George W. Bush was the post-Cold War president who most overtly employed the most extreme strategy for promoting democracy: the use of force. After September 11, he accomplished this by making the export of democracy a central component of his National Defense Policy and a cornerstone of his foreign policy. The Bush Administration identified democracy as the most effective tool to defeat terrorism.

We will more thoroughly substantiate the aforementioned claims through a quantitative and qualitative content analysis of 391 speeches from President George W. Bush, Secretaries of State Condoleezza Rice and Colin Powell, and Secretary of Defense Donald Rumsfeld and Robert Gates. Among the motivations and justifications for the invasions of Afghanistan and Iraq, the decision-makers' goal of introducing democracy to those countries, which has been outlined in communications since the early hours after September 11, would prevail over security reasons only in the second Bush presidency(Castro Santos 2010).

2.3.1The Bush Doctrine

The Bush Doctrine is a proposed modification to international law that would permit governments to take preemptive military action in order to thwart terrorist acts or hostile uses

of Weapons of Mass Destruction. At present, The Bush Doctrine, however, is not a fully formed set of recommended legal standards, but rather little more than a prescriptive idea. After a dramatic review of his grand strategy, Bush decided to adopt the neoconservative vision embracing a far-reaching and proactive foreign policy based on American military power. The American military interventions in Afghanistan (2001) and Iraq (2003) are the principal manifestations of this new strategy which became known as the Bush Doctrine. George w. Bush said:

The terrorists are seeking chemical, biological, and nuclear weapons. Given the means, our enemies would be a threat to every nation and eventually to civilization itself (the Central European Counterterrorism conference, November 3, 2002)

As containment and deterrence would not work against this new threat, an element of preemption was to be added to the defense strategy:

Given the goals of rogue states and terrorists, the United States can no longer solely rely on a reactive posture as we have in the past. The inability to deter a potential attacker, the immediacy of today's threats, and the magnitude of potential harm that could be caused by our adversaries' choice of weapons, do not permit that option. We cannot let our enemies strike first[...] As was demonstrated by the losses on September 11, 2001, mass civilian casualties is the specific objective of terrorists and these losses would be exponentially more severe if terrorists acquired and used weapons of mass destruction[...] To forestall or prevent such hostile acts by our adversaries, the United States will 'if necessary, act preemptively' (NSS 2002: 15).

The exportation of democracy by the use of force to the rogue regimes completed the Bush Doctrine by providing the ultimate weapon to defeat the new threat, if unilateral preemptive war was the aggressive reaction to terrorism. The so-called third principle was

then essential to Bush's defense and foreign policies. In actuality, the close ties between American values and interests resulted in a merger of the two policies.(The State of the Union, January 29,2002).

Bush expanded preventive actions to include Iraq's weapons of mass destruction. The U.S will act prior to any attack by stating:

"we will not hesitate to act alone, if necessary, to exercise our right of self-defense by acting preemptively against such terrorists, to prevent them from doing harm against our people and our country" (Address to the Nation on Iraq, March17, 2003) .

The purpose of Bush Doctrine actions is to ban an attack, and, thus , cancel the need for self-defensive actions later on.

2.3.2 Motives and Justifications for the Military Interventions in Afghanistan and Iraq

The building of a democratic system of values and principles in the target countries was the normative element that completed the Bush Doctrine, growing significantly in the President's second term in office, despite the fact that other short-term motives and justifications for the invasions in Afghanistan and Iraq existed and even outweighed democracy during Bush's first term in office.

The quantitative analysis of 391 speeches by Bush and his secretaries of state and defense 13 found 381 justifications and indications for the interventions in Afghanistan and Iraq. These justifications and indications were categorized into the following groups: terrorism, rogue state behaviour, existence of WMDs, humanitarian aid, promotion of regional stability, unilateral enforcement of international treaties, democracy, and security. They are divided in two broad clusters: the broad security cluster and the broad democracy cluster.

In the security cluster, the invasion of Afghanistan and Iraq had the aim of combating terrorism in these nations because their autocratic regimes were thought to harbour terrorists, specifically Al Qaeda, as well as produce and supply WMD to them. The security of the

United States is at jeopardy because of this terrible combination. The three components of this cluster—terrorism, WMDs, and rogue states—appear in the studied speeches individually, jointly, or in various combinations two after the other. A so-called broad security cluster is made up of combinations of the previously described narrower security cluster and two or all three of the following motivations and justifications: international law enforcement, humanitarian assistance, and regional stability.

The democracy group, refers to the liberal belief that only democracy can definitely defeat terrorism over the long term. Indeed, it is claimed that democracies do not harbour terrorists or supply them with WMDs due to their inherent qualities of accountability and transparency. The democratic motivation is then brought by this cluster, either independently or in combination with the security cluster. Similar to how the broad security cluster was defined above, it can interact in various ways with regional stability, humanitarian aid, and international law enforcement to build a broad democracy cluster.

In the Bush government, from a total of 381 motives and justifications identified for the invasions of Afghanistan and Iraq in 391 speeches, 65% referred to the broad security cluster, while the broad democracy cluster reached 30% (see Table 2.1).

Table 2.1: *Motives and justifications for the military interventions in Afghanistan and Iraq during the Bush Administrations.*

Year	Broad Security Cluster			Broad Democracy Cluster			Regional Stability	Hum.Assist.
	Narrow Security Cluster	Narrow Security Cluster + Reg.Stab. Hum.Assist., Int.Law Enforce	Total	Narrow Democ. Cluster	Narrow Democ Cluster + Reg.Stab.Hum.Assist., Int. Law Enforce	Total		
2001	11	7	18	1	1	2	0	0
2002	57	10	67	3	1	4	2	1
2003	39	50	89	11	8	19	0	7
2004	21	13	34	35	11	46	2	1
2005	9	2	11	10	6	16	0	0
2006	12	4	16	8	6	14	0	0
2007	7	4	11	4	4	8	2	1
2008	3	0	3	3	4	7	0	0
Bush 1 st term	128	80	208	50	21	71	4	9
Bush 2 nd term	31	10	41	25	20	45	2	1
Total	159	90	249	75	41	116	6	10

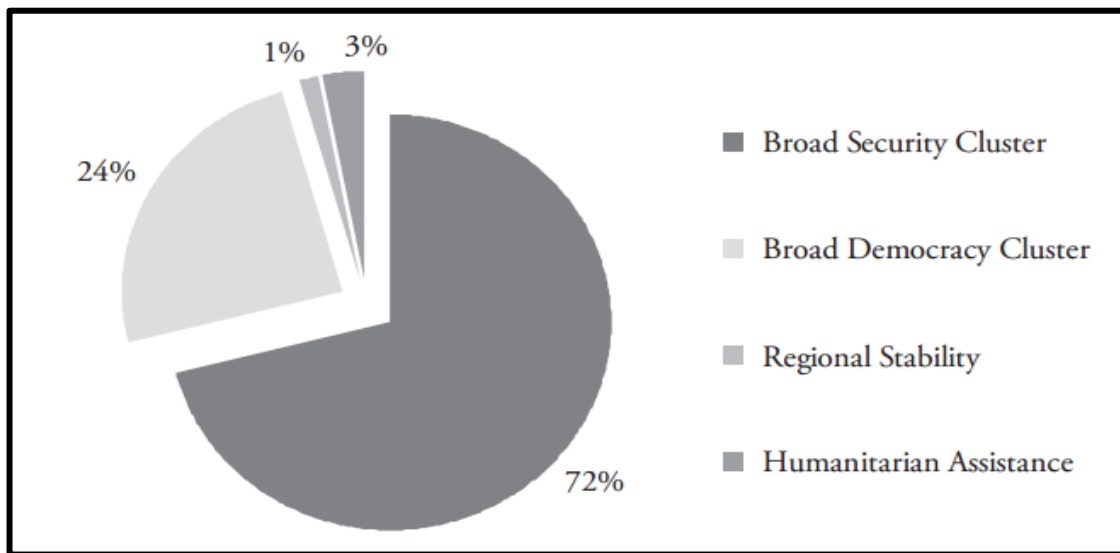
Source: analysis of 381 motivations and justifications for the Afghanistan and the Iraq invasions identified in 391 selected speeches of President Bush and his Secretaries of State,

The first Bush Administration faced the Afghanistan invasion, the preparation for the invasion of Iraq, then the occupation of both countries. The results show that 72% for the broad security cluster and 24% for the broad democracy cluster(table 2.1)

This result is because a huge share of justifications for Iraq invasion based on the of Saddam Hussein's noncompliance with international law. As seen in figure 2.4 ; especially In a substantial number of speeches, Colin Powell stressed how dangerous Saddam Hussein was

to the United States and the rest of the world since he ignored countless UN resolutions. In fact, this fact was mentioned in roughly 16% of the 292 motives that were identified in the speeches of the decision-makers during the first Bush Administration. If we include the 208 justifications for security during Bush's first term, this percentage increases to about 23%.

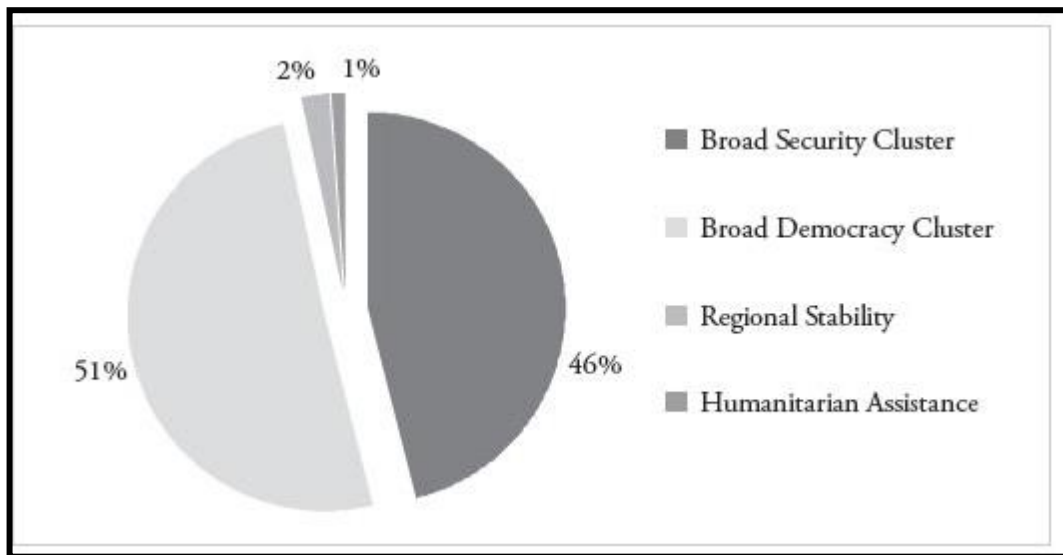
Figure 2.4. *Motives and justifications for the military interventions in Afghanistan and Iraq during Bush's first term.*



Source: Analysis of 292 motivations and justifications for the Afghanistan and the Iraq invasions identified in 253 selected speeches of President Bush and his Secretary of State, Powell, and Secretary of Defense, Rumsfeld, during the first Bush Administration, 2001–2004.

The idea that Iraq had WMDs had already been proved before Bush began his second term in 2005. In 138 speeches given by Bush and his secretaries of state and defense, which we investigated, we found 79 references to the justifications and reasons for the invasions of Afghanistan and Iraq. From 17% in the first Bush term to 32% in his second, the share of the narrow democracy cluster among the entire set of factors revealed in the analysis nearly doubled during this time. From 44% to 39%, the narrow security cluster decreased (cf. Table 2.1 and Figure 2.5).

Figure 2.5: *Motives and justifications for the military interventions in Afghanistan and Iraq during Bush's second term.*



Source: Analysis of 79 motivations and justifications for the Afghanistan and the Iraq invasions identified in 138 selected speeches of President Bush and his Secretary of State, Rice, and Secretaries of Defense, Rumsfeld and Gate, during the second Bush Administration, 2005–2008.

The explanation is in the large share of justifications to invade Iraq based on international law enforcement to make Saddam accountable to the world community, which went down almost to zero in the second term of Bush in office. When we examined the broad security cluster, the decrease of reasons to invade the two rogue states related to security was significant: it went down from a proportion of 72% in the first Bush term to 46% in the second. In contrast, the proportion of reasons in the broad democracy cluster increased dramatically from 24% in the first Bush term to 51% in the second. The share of democracy causes versus security justifications for Iraq and Afghanistan invasions. However, there was little difference between the conflicts in Iraq and Afghanistan under the second Bush administration (51% and 46%, respectively).

It is obvious that during the second Bush administration, security-related justifications for invading Afghanistan and Iraq decreased, whereas those that connected democracy to

the other motives increased. In conclusion, the absolute number of motives and justifications for using force in the two rogue nations, as named by the American administrations, have changed significantly from one term of the Bush administration to the other. The total number for the attacks went down 73%, from 292 in the first term to 79 in the second one.

In the early months after the terrorist attacks, security was everyone's top priority. Afghanistan was the intended target because it was thought to be a "safe haven" for Al Qaeda:

"On my orders, the United States military has begun strikes against Al Qaeda terrorist training camps and military installations of the Taliban regime in Afghanistan. These carefully targeted actions are designed to disrupt the use of Afghanistan as a terrorist base of operations and to attack the military capability of the Taliban regime" (George W. Bush, Address to the Nation, October 7, 2001).

A strategy to be created, and soon after the invasion of Afghanistan, the Bush administration's attention shifted to Iraq. Bush said in his Address to the Nation on Iraq on October 7, 2002, "The threat comes from Iraq." Bush committed himself to sort of prepare the American people for the next invasion in a hazardous rogue state between the years 2002 and the beginning of 2003. He insisted that Saddam Hussein not only supported and harbored terrorists but also had processed or produced WMDs. He added that Saddam's dictatorship has broken every agreement it had made with the international community, since the Gulf War, disregarded resolutions of the UN Security Council calling for complete disarmament, and threatened UN nuclear inspectors. remained a threat to both the United States and the rest of the world. (cf. Addresses to the Nation on Iraq in October 7, 2002; February 1, 2003; March 17, 2003; May 1, 2003).

The United States pushed the UN and its Security Council hard to react against the Saddam Hussein's niggling actions, calling for a preemptive collective action.

"Iraq has now placed itself in danger of the serious consequences called for in

UN Resolution 1441 [...] We wrote 1441 not in order to go to war. We wrote 1441 to try to preserve the peace. We wrote 1441 to give Iraq one last chance. Iraq is not, so far, taking that one last chance." (Colin Powell, Remarks at the UN after Liberian Donors Conference, February 5, 2003).

The United States reserves the right and believes that there is sufficient authority under international law, based on many acts of noncompliance, many material breaches in the past, and continuing material breaches into the present. This would give us a basis for undertaking whatever might be required to disarm Iraq. If the United States feels strongly that Iraq still has weapons of mass destruction and is attempting to develop new ones (Colin Powell, Released by the Office of the Spokesman, January 16, 2003).

Preemptive war was the target of the Bush Doctrine when it came to Iraq's invasion. The United States reserves The existence of WMDs and the worry that terrorists might obtain them were very strong arguments for military action. The connection between terrorist networks and terrorist nations that possess WMDs is currently the real concern. And no doubt that nexus must make people realize that what we are dealing with is completely different from what existed in earlier times and that it poses risks of not thousands but hundreds of thousands of lives when one considers the strength and lethality of those weapons. (Donald Rumsfeld, 21st Century Transformation of US Armed Forces, January 31, 2002).

It was obvious that there was no existence of Weapons of Mass Distractions. Bush , Powell, and Rumsfeld insisted for international inspection which Saddam Hussein refused to open the country to it , the invasion of Iraq is right . Bush said:

" From this office, nearly 3 years ago, I announced the start of military operations in Iraq. Our coalition confronted a regime that defied United Nations Security Council resolutions, violated a ceasefire agreement, sponsored terrorism, and possessed, we believed, weapons of mass destruction. After the swift fall of

Baghdad, we found mass graves filled by a dictator. We found some capacity to restart programs to produce weapons of mass destruction, but we did not find those weapons. It is true that Saddam Hussein had a history of pursuing and using weapons of mass destruction." (George W. Bush, Address to the Nation on Iraq and the War on Terror, December 18, 2005).

In the second term of the Bush administration when Condoleezza Rice and Robert Gates became, respectively, the Secretary of State (January 2005) and the Secretary of Defense (December 2006) .The American fear over WMDs in Iraq had subsided, and they were no longer compelled to defend the preemptive war strategy. They were focused on winning the War on Terror, which meant more than just a decisive triumph on the battlefield but, more importantly, the establishment of democracy in the target states. As said previously, at this point, justifications for the invasions based on democracy extraordinarily .

Finally , Even while the establishment of democracy in both nations has been heavily mentioned since the early hours following the terrorist attacks, we can argue that security concerns in themselves were the main motivations of the invasions in Iraq and Afghanistan. It is crucial to note that after the existence of WMDs in Iraq was shown to be a myth, the justifications for invasions based on security alone—even when combined with other motives—strongly decreased, while those based on democracy as the ultimate tool against terrorism increased remarkably.

2.4 Preemptive War and Legal Legitimacy

The Bush administration faces an important challenge to articulate its own policies, decide how much it is willing to contribute to the establishment of international norms, and explain whether and how an international framework for decision-making will be respected. Allies' concerns about how preemption is being shaped do not necessarily show a resistance to adapting shared legal and security understandings to new circumstances. Instead, they demonstrate a basic appreciation for the prospect of a strong, efficient, and long-lasting global

security system, where the lone superpower would ideally give leadership that is well-articulated, predictable, rational, and encourages adherence to the law. Whether or not the world is safer with strengthened international law and carefully crafted international institutions restricting the use of force, as well as whether or not the United States is willing to exercise the leadership it has previously shown in these areas, are important questions that ought to be answered.

2.4.1. The International Law and the Right to Self-Defense

International customary law has a lengthy history of using the right to self-defense as legitimating factor for going to war, going at least as far back as Hugo Grotius in 1625. In the past, it was legal to use force to prevent harm as part of the self-defense defense. But this right wasn't unqualified. In the Caroline case with England in 1842, Daniel Webster, U.S. secretary of state contributed to elucidating the circumstances under which, at least from the perspective of the United States, a state may exercise the right to preemptive assault against another state in self-defense. Preemptive attack is justified only in cases in which "the necessity of that self-defense is instant, overwhelming, and leaving no choice of means and no moment for deliberation"

The U.N charter, preserves for member states the right of individual or collective self-defense, if and only if, "an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security."(The U.N charter, Article 51). The exact definition and parameters of what constitutes lawful self-defense are up for debate, just like any other legal concept. However, it appears that self-defense should only be used when an attack is actually taking place or is imminent.

2.4.2 Preemptive War and the International Law

As the Bush Administration disregarded the United Nations and the international legal norms on which it is based and launched a preventive-termed by Bush as "preemptive war" on

Iraq on March 19, 2003, the 2002–2003 crisis over Iraq represented a turning point in the U.S.–United Nations relations. The Bush Administration tried to convince other members of the UN Security Council to accept its action on the unfounded pretext of combating an Iraqi buildup of WMD and countering Iraqi backing for Al Qaida and other terrorist networks. Instead of doing so, U.S. officials claimed that because Iraq was in flagrant violation of several prior Security Council resolutions, the United States and its "coalition of the willing" had the implicit right to declare war and even launch a cruise-missile attack in an effort to assassinate the Iraqi president, even though this action was illegal under international law in and of itself. U.S. officials proceeded throughout the majority of the year to demonize France and other opponents of their "preemptive" war and lament the UN's inefficiency despite their inability to provide a strong and convincing case in the Security Council for their invasion.

More importantly, to what extent have the tenets of global peace and security been fundamentally altered by the Bush Doctrine of preemptive and preventive war? What are the consequences for the rule of law's future and the capacity of international institutions to restrain aggressive behavior—by both rogue and bully states? According to recent commentary by Sheppard Forman, "the UN is caught between the Scylla of American power, without which it cannot be relevant, and the Charybdis of international legitimacy, without which it has no function." Contrarily, at least in relation to U.S.

The Bases of International Peace and Security The development of a common set of international standards concerning the general proscription of using force as a tool of foreign policy and the circumstances under which governments may lawfully employ force in conflict during the 20th century was remarkable. The United Nations Charter explicitly gave these norms legal substance. Members of the UN agree to "settle their international disputes by peaceful means" and refrain from using force in their international relations against the territorial integrity or political independence of any state, or in any other way that is inconsistent with the goals of the UN, by signing and ratifying the UN Charter and joining the

global organization. The Kellogg-Briand Pact, initiated by the United States and France in 1928, which forbade the use of war as a tool of foreign policy and steadily reduced the legality of using force only in self-defense, served as the foundation for these norms. Contrary to the League of Nations, the UN Charter forbade certain actions unless they fell within the strictly defined categories of individual and collective self-defense or were permitted by the Charter's provisions governing collective security.

The UN Charter formally forbids the use of force unless it has been approved by the UN Security Council or is used in self-defense. The saving of civilians and humanitarian intervention are two methods that can be employed to ensure pre-emptive self-defense, according to an interpretation of Article 2(4) and Article 51 of the UN Charter. These measurements will be regarded as legal in terms of international law. In other words, any action not authorized by the UN Security Council or going beyond the bounds of humanitarian assistance constitutes an act of aggression. (Stein. M.S, 2004)

Article 51 of the UN Charter refers to an inherent right of self-defense against armed attack for unilateral actions and the multilateral use of force outside of the UN framework, allowing defensive actions until the Security Council addresses the issue and requiring that such a defensive use of force be reported to the Security Council. The literal interpretation of Article 51 appears to curtail the conventional right to self-defense by stating that an armed attack must have taken place before one can use force in self-defense and that unilateral self-defense is only a temporary solution until the Security Council takes action. However, other observers contend that the UN Charter only upholds pre-existing international law on self-defense, including anticipatory self-defense, by making reference to a "inherent" right of self-defense. It appears that Secretary General Koffi Annan might have the latter opinion, referring to states "retain[ing]" the inherent right of self-defense under the Charter. However, it is not always obvious what role he plays in the situation (Steven C. Welsh, 2003).

The main objective is to uphold the norms of necessity and proportionality, and there is also a need for a more clear description of the self-defense criterion that should be taken into account while examining the validity of a unilateral pre-emptive attack. In instances like "Nicaragua v. United States of America" (1986) and "Islamic Republic of Iran v. United States of America" (2003), the UN International Court of Justice specifically referred to them. In the case of "Nicaragua," the Court set the limit for the intensity of the use of military force at the level of a "simple border incident," beyond which falls under the definition of a "armed attack" under Article 51 of the UN Charter. The Court made the important observation twice in the same order that the arguing parties "did not raise the issue of the legality of the response to the immediate threat of an armed attack. As a result, the Court doesn't offer any opinions on the subject. It is likely that the International Court of Justice might use its own legal resources to give forth contemporary standards in relation to the legitimacy of unilateral military force preemption, and the Court need not wait for an interstate conflict to occur before stating its legal position. It also has access to an advisory opinion on a legal matter that is not related to a dispute at hand.(Б. Тузмухамедов, 2006)

According to R. J. Delahunty, maintaining international peace and stability as a means of advancing human welfare should be the primary objective of the international legal introduction of a pre-emptive war. This approach contends that the goal of the global legal system should be to safeguard global "public goods." These public goods include safeguarding safety and defending populations from both internal and foreign dangers, eliminating human rights abuses including genocide and ethnic cleansing, and fostering the non-proliferation of weapons of mass destruction. The restructured international legal system of a pre-emptive war based on global welfare will seek to engage and encourage states to ensure the optimal level of force, in contrast to the UN Charter system, which seeks to reduce the use of force by states to almost zero. This will allow armed interventions in appropriate cases to prevent harm (Delahunty, 2005).

Finally, it is absolutely essential to take immediate measures in order to incorporate the idea of preemptive war into international law and include pertinent standards in international legal actions. In order to develop precise and shared knowledge and understanding of a preemptive war, it is important to look into potential mechanisms for getting the International Court of Justice, the UN Security Council, or other UN entities to adequately clarify the nature and structure of pre-emptive war measures.

2.5. Conclusion

The current chapter discussed in details the Bush defense doctrine and its political and security foundations. It also analyzed parts of the speeches of the President Bush and his secretaries of state for defense and foreign affairs to detect the different justifications and motives for using preemptive wars in Afghanistan and Iraq. This research section reviewed the international and humanitarian law(s) and legislation(s) vision to the issue of self-defense right for the states to determine whether the use of preemptive strikes could be put under this frame. On the ground of the international law, the study concluded that waging preemptive strikes against potential enemies are purely a clear violation to the international legislations by excellence.

General conclusion

The United States military interventions in several parts of the world were a remarkable indicator of its position as a leading country through military power diplomacy. These military interventions were usually framed by defense strategies that provided the American decision-makers with an operational road-map that guided any military or defense decision.

This study findings revealed that the history of the US defense policies witnessed a serial defense strategies. Each was relevant and a response to a big event that affected the American national security. World War II, the Cold War, and the 9/Attacks were the remarkable big events that motivated the US foreign and defense policy advisors to the US presidents to formulate a defense doctrine that responded to the immediate and long-term challenges and threats that might face the country.

The study gave a special focus to George W. Bush defense doctrine that stressed the utilization of preemptive war to defend the US national security through preemptive strikes to eliminate potential enemies before endangering the US territories, army, allies, and interests. The study presented the motives and justifications for using this defense strategy. The research results gave any country, including the United States the right to protect its territories and citizens, and to defend its interests through all legal and legitimate means, including the use of the military power.

However, the findings of the current study confirmed the study` s research hypotheses. The results showed that protecting the US national security, saving the US military personals and allies, and defending the US interests are the key motives and justification for adopting the preemptive war as a self-defense strategy. Through reviewing the international and humanitarian legislation(s) relevant to protecting civilians and guaranteeing the rights of enemies in international conflicts, the study results demonstrated that the US motives and justifications must not legitimatize waging preemptive strikes against potential enemies.

Finally, the results also indicated that the use of preemptive strikes as a self-defense right can be considered a violation to the international and humanitarian law(s) and legislation(s) from the United States.

This research work may not provide knowledge-seekers with a through information about the US defense strategies in general as it focused only on one of these defense policies. Thus, it is recommended that further studies should be done about each defense strategy in order to give a broad vision about the US defense policies in general. This study can be a valuable primary source that can aid researchers to tackle this issue from several angles.

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ملخص

تتبع هذه الدراسة تاريخ السياسات والاستراتيجيات الدفاعية الأمريكية ، كجزء من السياسة الخارجية الأمريكية ، في ضوء فحص العقائد الدفاعية المختلفة لرؤساء الولايات المتحدة .تركز هذه الدراسة على سياسة جورج بوش الابن الدفاعية .أحد العناصر المهمة في استراتيجية بوش الدفاعية هو استخدام الحرب الوقائية للدفاع عن المصالح القومية للولايات المتحدة ، ودعم حلفاء الولايات المتحدة ، ومعاينة أعداء الولايات المتحدة الحقيقيين والمحتملين .يؤكد هذا البحث أن أي دولة لها الحق في الدفاع عن أراضيها ومصالحها بكل الوسائل المشروعة والقانونية .لكن الدراسة تشكك أيضاً في شرعية وقانونية استخدام الضربات الاستباقية لتحديد الأخطار والأعداء الذين يهددون أمن أمريكا والأمريكيين .من أجل الرد على الإشكالية المذكورة سابقاً ، تهدف هذه الدراسة إلى التحقق من الدوافع وراء استخدام الحروب الوقائية كاستراتيجية دفاعية بشكل رئيسي خلال فترة الرئيس جورج بوش الابن .كما تحاول ردم الهوة بين ما هو عسكري بحت وما هو قانوني في جوهره ، للتحقق من شرعية هذه الأعمال العسكرية التي يتبناها صناع القرار السياسي والعسكري الأمريكيين في مناطق الحرب المختلفة ، وخاصة في أفغانستان والعراق .هذه الدراسة نوعية حيث يتم استخدام المنهج الوصفي التحليلي لجمع البيانات وتحليلها وتفسيرها كمناهج بحث في القسم النظري من الدراسة ، كما تمت مراجعة وتحليل وتفسير البيانات المختلفة ذات الصلة باستراتيجية الدفاع الأمريكية والحرب الاستباقية .بعد ذلك ، تم تقييم استراتيجية الدفاع ، الحرب الوقائية ، من حيث توافقها أو انتهاكها للقانون الدولي والإنسان . كشفت نتائج الدراسة أن الضربات الاستباقية تعد انتهاكاً للقوانين الدولية وأبسط الحقوق الإنسانية لضحايا هذه الأعمال العسكرية .

الكلمات المفتاحية: استراتيجية الدفاع ، جورج بوش ، الدوافع ، الشرعية ، الحرب الوقائية.