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**VICTOR MEROLA**

**COUNTERTERRORISM INSTITUTIONALIZATION:  
The cases of American and French intelligence**

**Porto Alegre**

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Dissertação submetida ao Programa de Pós-Graduação em Ciência Política do Instituto de Filosofia e Ciências Humanas UFRGS, como requisito parcial para obtenção do título de Mestre em Ciência Política.

Orientador: Prof. Dr. Carlos Schmidt Arturi

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BANCA EXAMINADORA:

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Prof. Dr. Carlos Schmidt Arturi – Orientador  
PPGCPol - UFRGS

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Prof. Dr. Paulo Sérgio Peres  
PPGCPol - UFRGS

---

Prof. Dr. Marco Aurélio Chaves Cepik  
PPGEEI - UFRGS

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Prof. Dr. Érico Duarte Esteves  
PPGEEI – UFRGS

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## LISTA DE ABREVIATURAS E SIGLAS

AD	<i>Action Directe</i>
BCRP	<i>Bureau Central du Renseignement Pénitentiaire</i>
CDSN	<i>Conseil de Défense et de Sécurité Nationale</i>
CFR	<i>Communauté Française du Renseignement</i>
CIA	<i>Central Intelligence Agency</i>
CNCT	<i>Centre National du Contre-Terrorisme</i>
CNR	<i>Conseil National du Renseignement</i>
CNRLT	<i>Coordination Nationale du Renseignement et de la Lutte contre le Terrorisme</i>
CRI	<i>Conseil du Renseignement Intérieur</i>
CSI	<i>Conseil de la Sécurité Intérieure</i>
CSPPA	<i>Comité de Solidarité avec les Prisonniers Politiques Arabes et du Proche- Orient</i>
CTC	<i>Counterterrorism Center</i>
CTD	<i>Counterterrorism Division</i>
DCI	<i>Director of Central Intelligence</i>
DCRG	<i>Direction Centrale des Renseignements Généraux</i>
DCRI	<i>Direction Centrale du Renseignement Intérieur</i>
DGSE	<i>Direction Générale de la Sécurité Extérieure</i>
DGSI	<i>Direction Générale de la Sécurité Intérieure</i>
DHS	<i>Department of Homeland Security</i>
DI	<i>Directorate of Intelligence</i>
DNAT	<i>Division Nationale Anti-Terroriste</i>
DNI	<i>Director of National Intelligence</i>
DNRED	<i>Direction Nationale du Renseignement et des Enquêtes Douanières</i>
DO	<i>Directorate of Operations</i>
DoD	<i>Department of Defense</i>
DOM-TOMs	<i>Départements et Territoires d'Outre-Mer</i>
DPR	<i>Délégation Parlementaire au Renseignement</i>

DPSD	<i>Direction de la Protection et de la Sécurité de la Défense</i>
DRM	<i>Direction du Renseignement Militaire</i>
DST	<i>Direction de la Surveillance du Territoire</i>
EMOPT	<i>État-Major Opérationnel de Prévention de Terrorisme</i>
FBI	<i>Federal Bureau of Investigation</i>
FEMA	<i>Federal Emergency Management Agency</i>
FISA	<i>Foreign Intelligence Surveillance Act</i>
FLNC	<i>Front de Libération National de la Corse</i>
HPSCI	<i>House Permanent Select Committee on Intelligence</i>
IAIP	<i>Information Analysis and Infrastructure Protection</i>
IRTPA	<i>Intelligence Reform and Terrorism Prevention Act</i>
ISIS	<i>Estado Islâmico do Iraque e da Síria (Islamic State of Iraq and Syria)</i>
JTTF	<i>Joint Terrorism Task Force</i>
NCS	<i>National Clandestine Service</i>
NCTC	<i>National Counterterrorism Center</i>
NSA	<i>National Security Agency</i>
NSB	<i>National Security Branch</i>
NSC	<i>National Security Council</i>
NSDD-207	<i>National Security Decision Directive 207</i>
NSL	<i>National Security Letter</i>
ODNI	<i>Office of the Director of National Intelligence</i>
ONIM-CT	<i>Office of National Intelligence Management for Counterterrorism</i>
OTAN	<i>Organização do Tratado do Atlântico Norte</i>
PNR	<i>Plan National du Renseignement</i>
SCRT	<i>Service Central du Renseignement Territorial</i>
SGDSN	<i>Secrétariat Général de la Défense et de la Sécurité Nationale</i>
SSCI	<i>Senate Select Committee on Intelligence</i>
TIDE	<i>Terrorist Identity Datamart Environment</i>
TRACFIN	<i>Service de Traitement du Renseignement et d'Action contre les Circuits Financiers Clandestins</i>
TSA	<i>Transport Security Agency</i>



TSC	<i>Terrorist Screening Center</i>
TTIC	<i>Terrorism Threat Integration Center</i>
UCLAT	<i>Unité de la Coordination de la Lutte Anti-Terroriste</i>
USA FREEDOM	<i>Uniting and Strengthening America by Fulfilling Rights and Ending Eavesdropping, Dragnet-collection and Online Monitoring</i>
USA PATRIOT	<i>Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism</i>
USIC	<i>United States Intelligence Community</i>
WMD	<i>Weapons of Mass Destruction</i>

## RESUMO

Este trabalho tem como objetivo analisar o desenvolvimento de instituições criadas para o combate ao terrorismo por meio do desempenho de atividades de inteligência nacional nos Estados Unidos e na França, buscando elucidar as principais diferenças e similaridades entre os dois processos distintos. O artigo expõe as contribuições da teoria do neoinstitucionalismo histórico da ciência política, permitindo a compreensão do fenômeno da institucionalização. Uma abordagem comparativa dos casos, estudados de maneira detalhada, é apresentada, destacando as principais ocorrências que guiaram os atuais desenhos institucionais e estratégias de combate ao terrorismo estadunidense e francesa. Ao seu fim, conclusões são feitas a respeito de aparentes lógicas de centralização e normalização que permearam a reforma da Comunidade de Inteligência dos Estados Unidos (USIC) e da Comunidade Francesa de Inteligência (CFR) no contexto da Guerra Global ao Terror.

**Palavras-chave:** Instituições; Contraterrorismo; Inteligência; Estados Unidos; França.

## ABSTRACT

This paper has the objective of analyzing the development of institutions designed to combat terrorism by means of national intelligence activities in the United States and France, aiming at elucidating the main differences and similarities between these two distinctive processes. The article exposes the contributions of the historical neo-institutionalist theory of political science, allowing the comprehension of the institutionalization phenomenon. A comparative approach of the cases, studied in a detailed manner, is presented, highlighting the main occurrences that led to the formulation of the North-American and French current institutional designs and strategies for countering terrorism. By its end, conclusions are drawn in regards to the perceived rationales of centralization and normalization that permeated the reform of the United States Intelligence Community (USIC) and the creation of the *Communauté Française du Renseignement* (CFR) in the context of the Global War on Terror.

**Keywords:** Institutions; Counterterrorism; Intelligence; United States; France.

**ATENÇÃO:**

Este trabalho foi estruturado de acordo com as Resoluções nº 114/2014 e 115/2014 da Câmara de Pós-Graduação da Universidade Federal do Rio Grande do Sul. Conforme a resolução 115/2014: “a Tese, Dissertação ou Trabalho de Conclusão de Curso deverá conter, além do(s) artigo(s), os elementos identificatórios normatizados pelo Sistema de Bibliotecas da UFRGS, Introdução ao tema ou problema, contendo descrição geral dos objetivos e uma ampla revisão bibliográfica, bem como Considerações Finais, contendo síntese dos resultados gerais que serviram de base para as conclusões, e mais Referências Bibliográficas pertinentes à Introdução e ao capítulo final, além dos Anexos”.

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**PARTE I**  
**CONTEXTUALIZAÇÃO**

O terrorismo é considerado um dos principais desafios a ser enfrentado por muitos países ao redor do mundo e sua tipificação é necessária para a construção de mecanismos eficazes para combatê-lo. Entretanto, não existe um conceito único que melhor o descreva, sem a persistência de divergências significativas dentro da comunidade internacional (BRANT; LASMAR, 2004). Alguns elementos parecem claros e livres de controvérsias: a utilização da violência física ou psicológica, a instrumentalização do medo como arma de convencimento, os fins políticos de um ataque, entre outros (MOGHADAM, 2006; MARAS, 2014). Porém, dezenas de propostas recentes de definições universais providenciaram elementos que dão margens a interpretações ambíguas do fenômeno e, por conseguinte, manipulações políticas<sup>1</sup>. Segundo Maras (2014, p.4), se o conceito de terrorismo não for suficientemente limitado para diferenciá-lo de outras formas de violência, este pode ser construído de forma a significar virtualmente qualquer coisa.

Adiciona-se à dificuldade de definição de terrorismo o fato de este não ser um fenômeno verdadeiramente recente ou imutável – apesar de elencado como parte das “novas ameaças” do século XXI pelo Ocidente (CEPIK; ARTURI, 2011). O termo “terrorismo” tem suas origens no final do século XVIII, durante a Revolução Francesa. Neste período, os jacobinos, sob a liderança de Robespierre, decretaram na França o “Reino do Terror”, no qual o governo provisório abertamente perseguiu todos aqueles por ele considerados “inimigos da Revolução” e condenou-os a execuções públicas por guilhotina. Ao transformar as execuções de seus alvos em violentos espetáculos públicos, o Comitê de Segurança Pública de Robespierre utilizou o medo como uma arma de controle e disciplina frente à população; técnica esta que seria explorada por grupos não-estatais e desfavorecidos no futuro (GUPTA, 2006).

Segundo Rapoport (*apud* GUPTA, 2006), o que atualmente consideramos como “terrorismo moderno” tem sua evolução marcada por diferentes “ondas”. São consideradas ondas os conjuntos de incidentes terroristas nos últimos séculos, que podem ser agrupados tanto por suas ideologias e motivações, quanto por seus métodos de emprego da violência. A Primeira Onda se deu no final do século XIX. Grupos inspirados nos ideais anarquistas e niilistas de Bakunim e Nachayev conduziram uma série de ataques com armas de fogo ou explosivos na Rússia e na

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<sup>1</sup> Dentro de seu compreensivo estudo, Schmid (2011) compilou mais de cem diferentes definições do conceito de terrorismo ao redor do mundo, buscando denominadores comuns entre elas. Em sua conclusão, ao constatar a ausência de consenso sobre termo a nível global, o autor atesta a existência de um sério problema, na medida em que esta situação impediria a cooperação efetiva contra o terrorismo.

Europa Oriental, advogando por reformas políticas ou pela instauração do comunismo ou do anarquismo ao assassinar governantes ou membros de famílias reais.

A Segunda Onda ocorreu com o final da Segunda Guerra Mundial e o declínio dos grandes impérios coloniais. Com suas metrópoles enfraquecidas, territórios dependentes de elites políticas estrangeiras foram palco de movimentos contestatórios de cunho nacionalista. Entidades de controle colonial foram alvo de sucessivos ataques terroristas nesta época, demonstrando a insatisfação de grupos locais com a presença estrangeira em suas terras (MARAS, 2014). A Terceira Onda teve início na década de 1960 com a crescente revolta de grupos de esquerda em relação às injustiças do sistema capitalista e de sua opressão ao proletariado. Ela ganhou força com a divulgação midiática dos horrores cometidos na Guerra do Vietnã, compelindo grupos extremistas a buscarem a Revolução do povo trabalhador por meio da violência (GUPTA, 2006). Com a crescente interconectividade do mundo globalizado, esta foi a onda mais “internacionalizada” até o momento, com escalas globais de planejamento, treinamento e execução de ataques (BRANT; LASMAR, 2004).

A Quarta Onda, pela qual passamos hoje, tem em seu cerne o extremismo religioso. Dois foram os acontecimentos que impulsionaram esta onda: a Revolução Iraniana de 1979 e a expulsão dos soviéticos do Afeganistão pelos *mujahideens* na década de 1980. Em ambos os eventos, forças islâmicas de valores tradicionais e radicais foram capazes de derrotar forças seculares que ameaçavam seu modo de vida e, acima de tudo, sua religião. Mesmo com o apoio do Ocidente no caso dos *mujahideens*, os vitoriosos destes conflitos radicalizaram-se em grupos antagônicos a qualquer expressão do modo de vida ocidental, tornando este embate em um conflito espiritual e individual contra forças teoricamente contrárias ao Islã (WEINBERG; EUBANK, 2006).

Com o passar do tempo, o terrorismo passou a ser empregado como a arma dos fracos, dos oprimidos e dos explorados pelo sistema capitalista controlado pelo Ocidente e por seus aliados. Ele é uma estratégia intermediária no espectro de violência: não é tão letal – ou custosa – quanto uma campanha militar, mas é mais destrutiva que demonstrações pacíficas de insatisfação, como greves e protestos (MARAS, 2014, p. 13). Haberfeld (2009, p. 1-2) afirma que terroristas são minorias que não possuem ou afirmam não possuir o que a maioria possui ou afirma possuir. Ele resume o terrorismo como a busca da minoria por aquilo que a maioria possui e a minoria não<sup>2</sup>,

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<sup>2</sup> Aqui, o autor se refere à minoria não-detentora como os “*Have Nots*” e à maioria detentora como os “*Haves*”.



utilizando o medo como arma. Destarte, o terrorismo consolida-se pouco a pouco como meio de contestação dos “menos favorecidos” frente a presentes estruturas de poder ao redor do globo.

Os ataques de 11 de setembro de 2001 em solo estadunidense foram o principal marco da Quarta Onda. O sucesso de grupos extremistas como a al-Qaeda consolidou com sucesso a agenda de combate à “nova” ameaça constituída pelo terrorismo moderno. Este impasse demonstrou como governos não entendiam suficientemente a natureza deste fenômeno e, por conseguinte, não portavam mecanismos para conter seu avanço. Paradoxalmente, em paralelo à irrestrita condenação aos ataques, a comunidade internacional permanecia incapaz de atingir um consenso em relação à definição do ato de violência política constituído pelo terrorismo. Se por um lado a não compreensão de um fenômeno já representava um entrave para a resolução de um problema, as próprias indefinições conceituais sobre terrorismo impediam que qualquer medida contrária ao terrorismo fosse tomada de forma imediata por parte de entidades governamentais. De acordo com Brant e Lasmar (2004):

Tem-se aqui espelhada, por um lado, toda a amplitude das consequências geradas pela dificuldade de acordo convencional e universal na definição do fenômeno terrorista e por outro, o desejo da comunidade internacional em rever e reformular os instrumentos e institutos jurídicos de combate e repressão ao terrorismo frente ao sentimento geral de que os mecanismos até então vigentes são incapazes de fornecer uma resposta eficaz e segura contra este flagelo (p. 186).

Como centros do mundo ocidental, os Estados Unidos e a França foram palco de uma série de ataques – e tentativas de ataques – terroristas da Quarta Onda desde os acontecimentos de 2001. Os governos de George W. Bush (2001-2008) e Barack Obama (2009-2016) nos Estados Unidos e de Jacques Chirac (1995-2007), Nicolas Sarkozy (2007-2012) e François Hollande (2012-2017) na França foram responsáveis pela complexa tarefa de criar e reformular instituições que seriam designadas especificamente para a manutenção da segurança nacional frente às novas percepções de ameaça do mundo globalizado pós-2001 – função esta que foi herdada aos recentemente eleitos governos de Donald Trump e Emmanuel Macron.

A partir destas considerações, o objetivo do presente trabalho é o de analisar o processo de institucionalização das políticas públicas de combate ao terrorismo pelos sistemas nacionais de inteligência dos Estados Unidos e da França. Neste trabalho, são estudadas as medidas adotadas por estes dois países que se seguiram à declaração da Guerra Global ao Terror, feita pelo presidente George W. Bush em 2001, que se mantém até a data da publicação deste trabalho. À luz da abordagem histórica do neoinstitucionalismo, procura-se elucidar as características distintas dos

dois casos selecionados, que resultaram em diferentes estratégias de contraterrorismo para cada país. Por conseguinte, a consulta a documentos oficiais e a bibliografias especializadas foi essencial para o esforço descritivo aqui proposto.

Os objetos desta pesquisa são as instituições de segurança e defesa dos Estados Unidos e da França ou, mais especificamente, as agências e órgãos que compõem os sistemas nacionais de inteligência destes dois países. Mais especificamente, analisam-se ações governamentais – traduzidas em políticas públicas de segurança e defesa – que visam a integridade territorial e populacional de um Estado e, subsequentemente, sofrem um processo de institucionalização dentro de um sistema político.

No campo da Ciência Política, não há consenso a respeito de *instituições políticas*; nem quanto ao seu conceito, nem quanto à sua centralidade na política. Ciente disso, convencionou-se para os fins desta pesquisa que as *instituições são variáveis explicativas e fundamentais do fenômeno analisado*, qual seja o combate ao terrorismo nos Estados Unidos e na França. Tal escolha referencial vai ao encontro do pensamento neoinstitucionalista do campo. O neoinstitucionalismo, surgido como um movimento contestatório ao comportamentalismo nas Ciências Sociais, reafirma que o comportamento dos agentes políticos pode ser explicado mediante a compreensão do funcionamento de instituições políticas, sejam elas leis, procedimentos, convenções, regras processuais, estruturas organizacionais entre outros (PERES, 2008).

Longe de constituir um corpo de pensamento uniforme na Ciência Política, todavia, o neoinstitucionalismo possui diferentes abordagens a respeito da natureza destas mesmas instituições. Dentre elas está o *neoinstitucionalismo histórico*. De acordo com Sanders (2006), esta abordagem pressupõe que interações políticas são melhor compreendidas quando analisadas em contextos marcados por estruturas de regras, que são, elas mesmas, criações humanas. Ainda segundo a autora, há a relevância do aspecto temporal nestas análises. Instituições não são vistas por uma perspectiva estática, mas sim como parte de um processo histórico. A criação e as mudanças institucionais possuem uma “dependência de trajetória<sup>3</sup>”, ou seja, estão condicionadas a decisões e processos localizados no passado.

Da lógica da dependência de trajetória, conclui-se concomitantemente que nem todas as instituições são resultado de decisões plenamente racionais ou conscientes. O condicionamento a decisões passadas implica que há constrangimentos ao cálculo racional dos atores políticos

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<sup>3</sup> Da expressão em inglês, *path dependency*.

envolvidos em processos institucionais. Existe um contexto no qual estes atores estão inseridos, moldando percepções e interpretações da realidade que os cerca. Por conseguinte, são por vezes notados “resultados perversos” advindos da criação ou modificação de uma instituição. Assim, nota-se que instituições políticas podem produzir os resultados diferentes daqueles inicialmente almejados por seus criadores. Além disso, mas não menos importante, as instituições garantem sua própria existência a partir do momento que são criadas, uma vez que elas formatam percepções e interpretações de atores políticos a respeito delas mesmas.

Há ainda a noção que o Estado não é neutro. O neoinstitucionalismo histórico assume que as instituições distribuem o poder de forma desigual a diferentes grupos sociais, resultando em assimetrias marcantes. Com influência neomarxista e estrutural-funcionalista, o jogo político é visto como um processo no qual há ganhadores e perdedores, no qual grupos articulam-se em prol de ideias (SANDERS, 2006). Determinados grupos e seus respectivos interesses, por conseguinte, teriam diferentes níveis de acesso à esfera de tomada de decisão de um governo (HALL; TAYLOR, 1996; TRUE *et al.*, 2007). Assim, a depender da posição que um ator ocupa dentro de um sistema político desigual, este será constrangido ou incentivado por instituições, tornando-o incapaz ou capaz de gerar mudanças institucionais subsequentes. Instituições, portanto, são o reflexo da distribuição de poder de um sistema.

Por conseguinte, afirma-se que o processo de *institucionalização*<sup>4</sup> é pautado por todas estas nuances. Na institucionalização, uma ação governamental é, em determinado espaço de tempo, consolidada na forma de uma instituição formal ou informal. Trata-se de um processo inserido em um contexto histórico específico e, portanto, constrangido por uma trajetória. É um processo que, pelas limitações a ele impostas, pode ter consequências imprevistas. Ele ocorre dentro de sistemas desiguais, nos quais, de acordo com hierarquias vigentes, apenas alguns atores são capazes de influenciá-lo. Ele pode ainda acabar por reproduzir estes mesmos sistemas de desigualdade e, adicionalmente, garantir sua sobrevivência ou persistência de instituições em um sistema político ao moldar percepções e interpretações de atores políticos ao seu fim.

Dito isso, cabe ressaltar que, para além das questões de provimento de serviços básicos do Estado de bem-estar, como a saúde e a educação, por exemplo, *políticas públicas* são também

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<sup>4</sup> Entende-se que o conceito de institucionalização aqui utilizado extrapola a definição inicialmente formulada por Huntington (1975, p. 12) para a consolidação de partidos políticos, na qual a institucionalização seria um processo em que organizações adquirem valor e estabilidade.

direcionadas a aspectos não diretamente relacionados aos esforços de inclusão social da atividade governamental, como é o caso das políticas públicas de segurança e defesa. Neste sentido, mesmo que ocupe menos espaço na literatura especializada, a atividade de inteligência constitui também uma política pública, uma vez que, conforme a definição de Souza (2007), ela seria uma ação governamental que, através de sua institucionalização, busca uma mudança específica – nesse caso, a garantia de integridade física populacional e territorial frente a ameaças externas e internas. Mais especificamente, as políticas de prevenção e combate ao terrorismo a partir da atividade de inteligência são desempenhadas pela mobilização do aparato estatal para a neutralização de um risco securitário pré-definido, constituindo, assim, uma política pública de segurança e defesa.

Para os fins deste projeto, destaca-se que Johnson (2007, p. 1-4) elucida quatro diferentes perspectivas do conceito de *inteligência governamental* nos Estudos de Inteligência. A primeira delas, mais comumente empregada, vê inteligência como “informação”. Ela pode ser definida aqui como as capacidades e intenções de um adversário em particular, obtidas e analisadas através de meios clandestinos ou abertos. Na segunda definição, inteligência é vista como um “processo”. Nela, a inteligência seria um conceito mais amplo: um produto final, resultante do chamado “ciclo de inteligência”. No ciclo, a partir do planejamento inicial, informações acerca de um alvo específico são coletadas para serem então propriamente processadas e analisadas por uma equipe de profissionais. Após passar por esta transformação, a informação, em forma de produto final de inteligência, é disseminada aos consumidores de inteligência, dando espaço para o recomeço do ciclo a partir de um novo planejamento.

Em uma terceira perspectiva, o conceito de inteligência se aplica às “missões” desempenhadas por esta. Estas missões são primariamente as já descritas atividades de coleta e análise de informação, mas também incluem as missões relacionadas a áreas estratégicas: a contrainteligência, o contraterrorismo e a contraproliferação. O conceito de inteligência abrange também, portanto, os esforços da inteligência nacional para frustrar operações secretas de serviços de inteligência estrangeiros e organizações terroristas hostis à segurança nacional. É ainda abarcada nesta perspectiva as missões de operações encobertas – operações secretas de influência ou intervenção. Por fim, em uma quarta e última definição, a inteligência é vista como o “conjunto de pessoas e organizações” que desempenham as missões descritas acima.

Sobre a missão de *contraterrorismo* desempenhada a partir da atividade de inteligência, tais políticas estatais de combate ao terrorismo dizem respeito às tarefas incumbidas a estes

sistemas nacionais de inteligência para combater e dissuadir a ameaça constituída por grupos ou indivíduos associados a organizações terroristas. De acordo com Ganor (2005, p. 25-26), a missão de políticas nacionais de contraterrorismo é ampla, podendo agir sob diferentes níveis com três principais objetivos, em ordem decrescente de escopo e linhas gerais: eliminar o terrorismo, minimizar os danos causados por este e prevenir o seu agravamento. Para este autor, eliminar o terrorismo envolveria esforços para a erradicação do inimigo, a remoção de seus incentivos para a condução de ataques ou a resolução da questão pela qual os terroristas lutam. Por sua vez, a minimização de danos envolveria a prevenção de certos tipos de ataques (armas não-convencionais, ataques suicidas, etc.) ou a redução da ocorrência destes mesmos. Já a prevenção de agravamento propõe-se impedir que o escopo dos ataques aumente ou que o conflito se espalhe.

Tendo em vista a complexidade dos objetivos supracitados, os sistemas nacionais de inteligência, por sua vez, podem auxiliar esta missão ao:

Identificar aqueles engajados no terrorismo em todos os seus níveis de envolvimento e revelar seus esconderijos e fontes de recrutamento; rastrear seus armamentos, fontes de suprimento e métodos de financiamento de terrorismo; avisar sobre ataques futuros e, assim, preveni-los; administrar situações de crise ao transmitir informações que tomadores de decisão requerem; providenciar informações necessárias para desempenhar ações de contraterrorismo; perturbar redes de comunicação de organizações terroristas; e mais (ROBERTSON *apud* GANOR, 2005, p. 47)<sup>5</sup>.

Desta maneira, torna-se evidente que a atividade de inteligência pode fazer-se presente nas diferentes dimensões de esforços contrários ao terrorismo. Seja como grande facilitadora da formulação de políticas a nível estratégico ou como diminuidora de incertezas a níveis tático e operacional, a inteligência é capaz de desmistificar a percepção do terrorismo como ameaça imbatível, por seu caráter transnacional e mutável. Por conseguinte, uma “missão nacional de contraterrorismo” enquanto política pública pode abarcar uma amplitude considerável de iniciativas – estratégicas, táticas ou operacionais – que podem ser tomadas pelo sistema nacional de inteligência de modo a combater ameaças terroristas, requerendo um complexo arcabouço institucional para ser desempenhada<sup>6</sup>.

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<sup>5</sup> No original: *Identify those engaged in terrorism at all levels of involvement and reveal their safe havens and sources of recruitment; track down their weapons, channels of supply, and methods for funding terrorism; warn against future attacks and, thus, prevent them; manage crisis situations by transmitting the information decision makers require; provide information necessary to carry out counterterrorism actions; disrupt terrorist organizations' communications networks; and more.*

<sup>6</sup> É necessário ressaltar, todavia, que nada disto ocorre sem altos custos às liberdades individuais de determinadas populações, mesmo nas consolidadas “democracias liberais” do Ocidente. Conforme desenvolvido por Bigo e Walker (2008, p. 3): “[...] *pour être efficace, le contre-terrorisme devrait pouvoir extraire de l'information de n'importe où*

A Guerra ao Terror buscou tornar a luta contra o terrorismo um empreendimento global e único. Conforme declarado por George W. Bush para o Congresso estadunidense no dia 20 de setembro de 2001, os Estados Unidos utilizariam todos os recursos em seu comando – militares, diplomáticos, de inteligência, financeiros e legais – para derrotar a al-Qaeda e todas as formas de terrorismo dentro e fora de seu território. Afirmando que não somente a liberdade estadunidense estava em risco e que esta não era uma guerra somente dos Estados Unidos, mas sim da “civilização” que acredita no progresso, na pluralidade, na tolerância e na liberdade, Bush convidou todas as nações do planeta para juntarem-se a este empreendimento. O ex-presidente ainda reforçou o tom internacional e conjunto da Guerra ao Terror ao invocar a Carta da Organização do Tratado do Atlântico-Norte (OTAN) que considera um ataque a um de seus Estados-membro como um ataque a todos os membros da organização (BUSH, 2001).

Justifica-se a escolha do caso estadunidense baseado no protagonismo deste país em relação ao esforço global contra o terrorismo. Desde 2001, os Estados Unidos envolveram-se em uma série de conflitos internacionais com o objetivo declarado de destruir supostas fontes de apoio a redes transnacionais de terrorismo. Foram os casos das invasões ao Afeganistão e à Líbia e também dos ataques aéreos no Paquistão, no Iêmen, na Somália, no Iraque e na Síria. Neste ínterim, o governo estadunidense tratou de tentar reformular seu sistema nacional de inteligência frente às falhas que permitiram os ataques à Nova York e Washington – bem como a invasão ao Iraque sob falsas premissas (ZEGART, 2007; ALLEN, 2013). Como resultado, a aparato securitário do país passou por reformas significativas que visaram protegê-lo, principalmente, contra as ameaças impostas pela al-Qaeda, em um primeiro momento, e contra o autodeclarado Estado Islâmico do Iraque e da Síria (ISIS), posteriormente.

As reformas do sistema de inteligência estadunidense em relação à sua missão nacional de contraterrorismo deram-se mediante iniciativas de reorganização e centralização desta atividade, empreendidas após o 11 de setembro<sup>7</sup>, aliadas à aprovação de medidas de caráter emergencial

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*et sur n'importe qui. Il ne pourrait fonctionner s'il était bloqué par les souverainetés des États et par les mécanismes juridiques et judiciaires habituels de protection de liberté.* » Por mais que o Estado de exceção permitido pela luta global contra o terrorismo seja pertinente para o campo da Ciência Política, e que o delicado *tradeoff* entre segurança e eficácia de sistemas nacionais de inteligência seja um desafio constante à democracia moderna (MATEI; BRUNEAU, 2011, p. 601), estas não serão as temáticas principais deste trabalho.

<sup>7</sup> Sublinha-se aqui que nenhuma iniciativa significativa e abrangente relacionada ao combate ao terrorismo pela atividade de inteligência havia sido tomada pelo governo estadunidense antes dos atentados de 2001. Excetua-se, neste caso, o estabelecimento do *Counterterrorism Center* (CTC), no âmbito da *Central Intelligence Agency* (CIA), em 1986. Este centro, todavia, tinha suas atividades largamente circunscritas ao âmbito desta agência, não podendo ser

contra o terror, como o *Patriot Act*. Resultado de um longo processo de formulação e implementação de mudanças institucionais – conforme objetiva-se explicitar na presente pesquisa –, estas iniciativas compreendiam a necessidade de unificação do esforço de combate ao terrorismo dentro do aparelho securitário dos Estados Unidos. Compreendiam ademais que, até então, a ameaça terrorista era combatida de maneira pulverizada e pouco desenvolvida pela comunidade de inteligência, abrindo espaço para graves erros estratégicos de análise e ação subsequente (ZEGART, 2007; ESTADOS UNIDOS, 2011; ALLEN, 2013)

Assim, instituições nacionais foram criadas e moldadas com estes fins específicos, modificando, dentro dos diversos limites impostos ao processo de tomada de decisão, a estrutura institucional de parte do sistema nacional de inteligência voltado para esta missão. Destaca-se, nesse sentido a criação do cargo de *Director of National Intelligence* (DNI), uma posição dentro da comunidade de inteligência dos EUA atribuída para o exercício de funções de administração e coordenação das agências e componentes desta mesma. Para o fim específico do contraterrorismo, sublinha-se a criação da divisão de *Information Analysis and Infrastructure Protection* (IAIP) no âmbito do *Department of Homeland Security* (DHS) em 2002, do *Terrorist Threat Integration Center* (TTIC) também em 2002, sob a autoridade do *Director of Central Intelligence* (DCI)<sup>8</sup>, do *National Counterterrorism Center* (NCTC) em 2004, desta vez sob a supervisão do DNI.

Soma-se a este trabalho a descrição do caso francês. Também Estado-membro da OTAN, a França providenciou apoio significativo a todas as missões internacionais lideradas por Washington no Oriente Médio. Ainda esteve por conta própria envolvida em missões declaradas como antiterroristas nos territórios de suas ex-colônias do continente africano, como recentemente no Mali (LEQUESNE, 2016). Não obstante, o sistema de inteligência francês também passou por uma série de reformas buscando melhor adaptá-lo às novas percepções de ameaça e necessidades securitárias da República Francesa (FRANÇA, 2014), ao mesmo tempo que o país vem sendo alvo de uma série de atentados terroristas que resultaram em centenas de assassinatos, com destaque para os ataques em Paris à sede do jornal satírico *Charlie Hebdo* em janeiro de 2015, os ataques também em Paris à casa de shows *Bataclan* e ao arredores do *Stade de France* em novembro de 2015, e o incidente do Dia da Bastilha em Nice em 2016.

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considerado como parte de uma grande mudança de postura de Washington em relação à ameaça representado pelo terrorismo global.

<sup>8</sup> Cargo anterior à criação da posição de DNI. O DCI também era nominalmente o “chefe” da inteligência dos EUA, ao mesmo tempo que dirigia a CIA, porém possuía menos atribuições e competências que sua versão posterior.

No caso da França, as reformas empreendidas pela República assumiram um matiz diferente do caso estadunidense. Mesmo com o choque representado pelo início da Quarta Onda do terrorismo, o sistema nacional de inteligência francês permaneceu largamente intocado nos primeiros anos do século XXI, sendo herdeiro de um sistema já estabelecido anos antes (GREGORY, 2003). Baseado principalmente na lei nº 86-1020 de 9 de setembro de 1986 – e na expansão desta mesma em 1995 e 1996 – o combate ao terrorismo na França por meio da atividade de inteligência foi marcado por um fenômeno de *judicialização* desta mesma. Em outras palavras, desde a implementação desta lei ao final do século XX, a missão de contraterrorismo da inteligência francesa esteve fortemente aliada ao sistema judiciário do país (BONELLI, 2008), confundindo, por vezes, o exercício desta atividade tradicionalmente burocrática nos Estados Unidos, por exemplo, com a atividade jurídica e policial<sup>9</sup>.

Com efeito, desde os ataques de 2001 em solo estadunidense, tanto os presidentes quanto primeiros-ministros franceses levaram adiante reformas de caráter centralizador e normalizador da atividade de inteligência<sup>10</sup>, refletindo o que ocorria com a inteligência da esfera anglo-saxônica. Em 2008, com a publicação do Livro Branco de Defesa Nacional durante o governo Sarkozy, há a primeira menção oficial de uma “comunidade de inteligência” na França. Neste mesmo ano é criado o cargo de coordenador nacional de inteligência de posição análoga ao cargo ocupado pelo DNI nos Estados Unidos (HAYEZ, 2010), agindo no também estabelecido *Conseil National du Renseignement* (CNR), formação especializada do *Conseil de Défense et de Sécurité Nationale* (CDSN). O Livro Branco ainda consolidou a fusão entre duas agências de inteligência doméstica: a *Direction de la Surveillance du Territoire* (DST) e a *Direction Centrale des Renseignements Généraux* (DCRG) formaram a *Direction Centrale du Renseignement Intérieur* (DCRI), renomeada *Direction Générale de la Sécurité Intérieure* (DGSI) em 2012 (FRANÇA, 2014).

A pesquisa é realizada na forma de um estudo comparado entre dois casos detalhados, almejando a elaboração de variáveis operacionalizáveis para ambos para este fim. Assim, busca-se aqui, como o primeiro passo de um esforço científico mais abrangente, a exploração detalhada

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<sup>9</sup> Argumenta-se que tal singularidade se deva à capacitação de magistrados franceses para o desempenho de coleta e análise de informações que foi concedida pela lei de 1986 (SHAPIRO; SUZAN, 2003; HELMUTH, 2015), ao mesmo tempo que, complementarmente, os serviços já estabelecidos de inteligência doméstica e estrangeira continuaram a exercer suas atividades em estreita cooperação com forças policiais (BONELLI, 2008).

<sup>10</sup> Em relação à centralização da missão nacional de contraterrorismo, a França já possuía desde 1984 um “centro de fusão” responsável pela coordenação e integração analítica interagência para este propósito: a *Unité de Coordination de la Lutte Anti-Terroriste* (UCLAT).



a respeito do fenômeno elencado nestes dois países, a partir de análises qualitativas de documentos oficiais e bibliografias especializadas, para a tentativa subsequente de desempenhar a sua análise comparada nas porções conclusivas deste trabalho.

Com esta contextualização, foi almejada a exposição do objetivo, da temática, dos referenciais teóricos e conceituais, das delimitações espaciais e temporais, e da metodologia do artigo a seguir.

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**PARTE II**  
**ARTIGO**

## COUNTERTERRORISM INSTITUTIONALIZATION: The cases of American and French Intelligence

Victor Merola

This article has the objective of analyzing the development of institutions designed to combat terrorism by means of national intelligence activities in the United States and France, aiming at elucidating the main differences and similarities between these two distinctive processes. This goal is enabled by exposing the contributions of the historical neo-institutionalist theory of political science, allowing the comprehension of the institutionalization phenomenon. Case studies of both countries are presented, highlighting the main occurrences that led to the formulation of the North-American and French current institutional designs and strategies for countering terrorism. By its end, conclusions are drawn in regards to the perceived rationales of centralization and normalization that permeated the reform of the United States Intelligence Community (USIC) and the creation of the *Communauté Française du Renseignement* (CFR) in the context of the Global War on Terror.

**Keywords:** Institutions; Counterterrorism; Intelligence; United States; France.

### Introduction

By the beginning of the twentieth-first century, the threat posed by terrorism assumed the epicenter of national and international security debates. States struggle to understand the nature of terrorism, resulting from the intricate, changing dynamics of the international system following the end of the Cold War (ZEGART, 1999), or as a reflection of the complexity and transnationality inherent to this political violence phenomenon (MARAS, 2014). Consequently, they also struggle to find the most suited strategies to counter this menace. From the industrialized centers to the emergent areas of the globe, the aforementioned endeavor has mobilized national governments towards the common goal of eradicating terror.

Even though their objectives are essentially the same, however, there is no consolidated, standard procedure for fighting terrorism. This problematic is not restricted to the formulation of security strategies *per se*; it is present on the numerous attempts of defining what terrorism is in the first place (BRANT; LASMAR, 2004; MOGHADAM, 2006; HABERFELD, 2009; SCHMID, 2011; MARAS, 2014). Considering the many different ways to conceptualize terrorism in the political arena, it follows that just as many different approaches to counter this menace exist (CRENSHAW; LAFREE, 2017). Moreover – and, perhaps, even more importantly –, no decision-maker adopts or orders the preparation of these strategies in isolation of contextual elements (INGLEHART; WELZEL, 2005; SANDERS, 2006). As a result, it is necessary to expect even

further variations when it comes to analyzing these cases by taking into account singularities in history, culture, behavior, institutions, or international influences.

Nevertheless, can Political Science understand a States' response to terrorism? Echoing Neal's (2012) viewpoint, I presume that security issues, such as those that pertain to terrorist threats, can be understood from the perspective of politics. I adopt the assumption that this understanding can be further enabled by the selection of national defense and security institutions as the main objects of research in regards to this subject<sup>11</sup>. Finally, I attempt to refine this comprehension by looking specifically into agencies and other components that constitute national intelligence systems. Thus, governmental action, translated into security and defense public policies of intelligence, which envision the integrity of a State's territory and population, being thereafter institutionalized within a political system, is the focus of the following sections.

The objective of this article is to describe the institutionalization of counterterrorism intelligence in the United States and France. With this goal, it aims at understanding the main differences and similarities between the two cases and, with this, elucidate how these countries designed and reformed intelligence institutions in the context of the Global War on Terror according to the perspective of historical neo-institutionalism. This study largely bases itself on the opinions of experts in regards to this subject, as well as in primary documental evidences for its descriptive portions.

The article, therefore, contains three parts. A brief discussion on the possible contributions of the historical neo-institutionalist theory of Political Science for the comprehension of institutionalization succeeds this introduction. Next are the cases of the United States and France, each with its own section dedicated to it. Finally, I draw my concluding thoughts in regards to what this study highlights in its entirety.

### **Historical neo-institutionalism and institutionalization**

Political Science has struggled to structure itself as a disciplinary field over the last decades. As most areas of knowledge, it saw the rise and fall of different paradigms, each with its own maxims and general assumptions. At the epicenter of the successive discussions among

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<sup>11</sup> I list national security institutions as explanatory variables in contrast to the notion that "normal" politics (NEAL, 2012), macro-political structures (HELLMUTH, 2016) or the inherently complex nature of terrorism itself (CRENSHAW; LAFREE, 2017) ultimately define counterterrorist activities in national governments.

political scientists was the controversy around settling what theorists, scholars, and civil servants could consider as the actual explanatory variable for political phenomena. One of the principal conceptual elements considered for this position were *institutions*. From the contractualist era to the beginning of the nineteenth century, those who would later be called “ancient” institutionalist theorists affirmed that institutions, as laws formally coded as constitutional bodies, were the sole objects of study in Political Science. They saw that understanding politics meant understanding the State and its constituent parts (PERES, 2008).

The subsequent behaviorist school of thought did not agree with such propositions. It argued that, in simple terms, as much as institutions were important elements in politics, they were a product of human behavior, which would ultimately shape and define institutional elements. Hence, for these theorists it was counterproductive to focus on the institutional factors in politics when the most determinant forces came from the actions of political agents themselves. For them, the behavior of agents deserved special attention from political scientists, ensuing the comprehension of broader political phenomena (*ibidem*).

*Neo-institutionalism* surfaced as a movement that contested this notion. Bringing institutions once again to a central role, it reaffirms that institutional elements explain political behavior, and not the other way around. On this, Immergut (1998, p.6) states that “new institutionalists vehemently reject observed behavior as the basic datum of political analysis; they do not believe that behavior is a sufficient basis for explaining ‘all of the phenomena of government’. For behavior occurs in the context of institutions and can only be so understood”. As a result, laws, rules and procedures, conventions, organizational structures, among other objects of study regarded as political institutions, came to be the explanatory variables of Political Science once more. According to these scientists, in order to comprehend the individual actions of political actors, one must firstly comprehend how these institutions function and engender collective decisions (IMMERGUT, 1998; PERES, 2008).

It is worth highlighting, however, that neo-institutionalism is not a unified school of thought. Quite on the contrary, as demonstrated by Hall and Taylor (1996), there are different approaches to the nature of institutions within this body of theory. They diverge, essentially, in regards to the origin of institutions, or the manner in which institutions shape human interactions in politics. Among these distinctive approaches is *historical neo-institutionalism*. According to Sanders (2006), this branch of neo-institutionalism highlights the importance of contextual

elements. It assumes that rule structures – human creations themselves – provide specific contexts whose analysis is adequate for the comprehension of political interactions. Also according to the author, there is the relevance of time for these analytical purposes. Institutions are not seen by a static perspective, but rather as part of a historic process. Consequently, the creation or the reform of institutions are “path dependent” – i.e., decisions and processes located in the past condition decisions and processes located in the present.

From path dependency, it is logical to conclude that not all institutions are necessarily the result of decisions fully embedded with rationality or consciousness. Conditioning to past decisions implies that there are constraints to political actors’ rational calculations within institutional processes. The context on which these actors are inserted shapes interpretations and perceptions of the reality that surrounds them. As Steinmo (*apud* IMMERGUT, 1998, p.21) puts it, institutions “provide the context in which individuals interpret their self-interest and thereby define their policy preferences [...] and any rational actor will behave differently in different institutional contexts”. Stone Sweet, Sandholtz and Fligstein (2001, p.9) reaffirm this when they state that “institutions are human artifacts; people make them. At the same time, institutions constitute community, shaping how individuals see themselves in relation to others, and providing a foundation for purposive action”.

Thus, it is possible to notice that creating or modifying institutions can sometimes produce unintended consequences, or even “perverse results”. Accordingly, political institutions may not actually generate the results its creators aspired. Regarding historical contingency, Immergut (1998, p. 23) says, “rather than following a logical and efficient trajectory, history is marked by accidents of timing and circumstance. These may leave lasting legacies, but such legacies are equally vulnerable to unexpected change”. Moreover, but not less importantly, it is noteworthy that institutions can assure their own existence from the moment they are created, once they are able to shape political actors’ interpretations and perceptions about institutions themselves (ZEGART, 1999).

There is also the notion that the State is not neutral. Historical neo-institutionalism assumes that institutions distribute power unevenly to different social groups, resulting in substantial asymmetries. With influences from neo-Marxism and structural-functionalism, it views politics as a game of winners and losers, on which groups articulate themselves around determinate ideas (SANDERS, 2006). Considering the asymmetrical distribution of power, groups and the interests



they represent have different access levels to a government's decision-making stage (HALL; TAYLOR, 1996; TRUE *et. al.*, 2007). Hence, depending on the position an actor occupies within an unequal political system, he or she will be constrained or enabled by institutions, being able or unable to generate subsequent institutional changes. Institutions are therefore a reflex of a system's distribution of power.

It follows that all of these intricacies can have a direct influence over *institutionalization* itself. For the purposes of this article, I define institutionalization as a process on which governmental action is, within a timeframe, consolidated into a formal or informal institution. Hereby I refer to it not only as the process of creating institutions, but also changing them through reforms. As so, it is a process that is dutifully inserted in a specific historical context, thus being path dependent. By the limitations imposed over it, it may have unintended consequences. It occurs within uneven systems, on which, according to ongoing hierarchies, only a handful of actors are capable of influencing its course. It may even end up reproducing these same systematic inequalities and, additionally, assure its continuity over time by shaping political actors' interpretations and perceptions to its end.

In his study on the institutionalization of joint anti-terrorist policies in the European Union, Argomaniz (2010) too utilizes historical neo-institutionalism as a framework for his research endeavor. He affirms that this theory is appropriate to his ends to the extent that it "has the merit of delineating the origins and developments of institutional structures and its processes, as well as its implicit emphasis on 'developing sequences, the timing of events, and the phases of political change'" (*ibidem*, p.126). These, as evidenced by the aforementioned paragraphs, are essentially the identical motives that led to the selection of historical neo-institutionalism as this article's theoretical basis. For the objectives here presented, an historical perspective of institutionalization renders it possible to locate this process as part of an ongoing process and further understand it as part of a larger contextual environment<sup>12</sup>.

Aside from the workings of institutionalization itself, it is just as relevant to point out what can be the causes of institutional change in the views of neo-institutionalists. Also according to Argomaniz (2010), this school of thought postulates that two types of factors can bring forth these

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<sup>12</sup> This is essentially the same motive for not selecting alternative neo-institutionalist approaches, such as rational choice neo-institutionalism, as this study's theoretical basis. The rationalist approach attempts to understand institutions in isolation of historical contexts, being a result of fully rational and strategic decisions, which is precisely incompatible with the findings presented along this research.

changes. The first, exogenous factors, partake to destabilizing occurrences from outside the political space. As a response, political actors attempt to formulate and adapt institutions to deal with a new reality that presents itself before them. The second, endogenous factors, are changes that surface from within the political space. Political actors perceive institutional limitations for the attainment of their individual or coalition goals. In just about the same logic, they subsequently employ political manipulation tactics in order to generate institutional changes for their benefit.

In this article's view, however, these distinctions are blurred. As one can attest, both of these approaches essentially involve the mobilization of actors and resources around an idea of creating or adapting institutions for a particular objective. On the one hand, political systems essentially internalize exogenous factors. There, political agents will endogenously act to generate change. On the other hand, endogenous change does not originate spontaneously from political elites – especially when it comes to matters of security. They are a reflection from external factors – e.g., threat perceptions, societal demands, corporate and bureaucratic lobbying, and so on. With this in mind, they will not constitute rigid classifications for sources of institutional change in this study.

On this matter, Hall (2010) affirms that historical neo-institutionalism has a number of contributions to institutional change studies, rendering realistic and analytically manageable models. Among them, he cites the role of “instrumental beliefs<sup>13</sup>” for understanding one of the main reasons for the absence of change. Although uncertainty plays an important role in this matter, these beliefs are a crucial element for coalition mobilizations involved in institutional reforms. Moreover, “common sources for such beliefs include communities of relevant experts and prior experience, whether domestic or foreign. Experience (as compared to theory) is especially important to the level of confidence actors place in such beliefs” (*ibidem*, p.208). He also emphasizes how existing organizational structures themselves condition the pace and direction of change, interplaying with other factors such as distributive issues, identities and existing institutional practices.

Lastly, the author brings up how historical neo-institutionalism's alternative approach to institutions, on a sociological leaning, can enhance the comprehension on change. He asserts that

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<sup>13</sup> These are described as “means-end schemas that describe in this instance how the adoption of new institutions will affect the likelihood of achieving various types of goals, as well as on the level of confidence with which such beliefs can be held” (HALL, 2010, p.208).

this perspective does not view institutions as rigid set of rules. Instead, they are ambiguous: sets of norms whose substructures are subjected to interpretation and reinterpretation. This implies that “institutional change can occur through disaggregated processes of ‘reinterpretation’ whereby the meanings actors associate with a particular institution change over time, generating correspondent shifts in patterns of action” (*ibidem*, p.216-217). In this sense, “historical institutionalists are more inclined to view institutions as objects of active reinterpretation, and often of overt contention, as actors seeking power or resources take advantage of their contradictory potential” (*ibidem*, p.217).

On this matter, Zegart’s (1999) theoretical framework on security institutions’ resistance to change in the United States has its valid contributions, but also a few shortcomings. She argues that three factors influence the direction and pace of institutional change, each in a stronger way than the other does. The first pertains to an institution’s constitutional moments – i.e., its initial design, as the result of conflicts and compromises among political actors. The second are the preferences of actors that subsequently pressure for institutional change. The last are external shocks, as in significant domestic or foreign occurrences, that push for institutions to adapt themselves to new scenarios.

While Zegart rightly emphasizes the importance of institutions’ constitutional moments as a strong indicative for the direction and pace of future change – or the absence of it –, her most problematic assumption is ultimately the hierarchy she establishes for the factors that influence change. To determine whether external shocks are more often less influential than initial design, for example, it would be necessary to employ some type of comparative research effort, something that the author does not do in her writings. Considering the absence of corroboration for this hypothetical hierarchy, this article does not apply her general formulations for the cases it presents, and neither does it universalize her propositions.

## **The case of American intelligence**

### *Background*

Even though transnational terror – most notably, Islamic extremist terror – has been the core subject of present counterterrorism endeavors in the United States ever since the September 11, 2001, attacks, it is necessary to highlight that, before and after this occurrence, the country has struggled against varied forms of terror. With more intensity from the 1950s up until the 1990s, US security forces dealt with terrorist acts with political or ideological motivations that ranged

from ideas of white supremacy to left-wing extremism, as elaborated by Maras (2014). The most notable of these took place in Oklahoma City, in 1995, when right-wing extremists detonated a truck bomb in front of a federal building, resulting in 168 casualties – by far the deadliest terrorist attack in the country up until that point. From the 1980s onwards, Islamic extremist terror *per se* started to target US citizens, albeit on foreign territories. In 1983, two attacks in Lebanon, one against the US Embassy in Beirut and another against US Marines barracks in the Lebanese capital, killed more than 250 Americans. Also notably, in 1988 the bombing of the Pan Am 103 flight over Lockerbie, Scotland, victimized all passengers on board of the aircraft, including almost two hundred US citizens.

Two were the government's most notable institutional responses to the rising threat of terrorism then. The first came in 1986, with the establishment of the Central Intelligence Agency's<sup>14</sup> (CIA) Counterterrorism Center (CTC). The CTC was designed to centralize efforts of intelligence collection and analysis from all agencies that participated in the struggle against terrorism, such as the Federal Bureau of Investigation<sup>15</sup> (FBI). In practice, however, the center did not end up consolidating interagency cooperation. Instead, it facilitated intra-agency cooperation within the CIA itself, bringing the traditionally separated Directorate of Operations<sup>16</sup> (DO) and Directorate of Intelligence (DI) staff – operations officers and analysts, respectively – closer together. The second response was more than a decade later, in 1999, when the FBI moved to create its stand-alone Counterterrorism Division (CTD) and put into practice a more pro-active stance against terrorism, as laid out in the same year's MAXCAP 05 strategic plan.

According to Coll (2004), this signaled a different posture from the US government in relation to terror under Ronald Reagan's tenure. If, beforehand, government action was based on a more defensive mentality, subsequent American counterterrorism intelligence would be more proactive in its exercise, as laid out in the 1986 National Security Decision Directive 207 (NSD-207). Largely from the confines of the CIA's DO, the US took increasingly more aggressive measures to destabilize terrorist organizations, whether by means of infiltration, sedition, or other forms of covert action. At the same time, perhaps paradoxically, US involvement with violent non-

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<sup>14</sup> Responding to the executive, the CIA is mainly tasked with producing intelligence analysis on overseas developments.

<sup>15</sup> Under the Department of Justice, the FBI is a judicial police force tasked with the conduction of both intelligence and law enforcement activities.

<sup>16</sup> Now renamed National Clandestine Service (NCS).

state actors became more frequent as well. Not uncommonly would the CIA provide logistical, monetary, and military support to groups that employed terrorist tactics against common enemies. This was the case of the US support to the *mujahideens* in Afghanistan – among those Osama bin Laden, who would later become al-Qaeda’s leader – against communist occupation in the 1980s.

Nonetheless, the 1990s brought transnational terrorism to American soil. In 1993, a terrorist with ties to al-Qaeda devised a plan to detonate a truck bomb in the World Trade Center. Even though the plan was thwarted by technical failures – which still managed to victimize six people –, Schmitt (2010) elucidates that this was the first time on which an international terrorist organization orchestrated a massive attack against civilians within the United States. Following these events, al-Qaeda resumed the targeting of US individuals abroad. In 1998, there were the coordinated attacks to US embassies in Africa – one against the embassy in Dar es Salaam, in Tanzania, and the other against the embassy in Nairobi, in Kenya. The almost simultaneous truck bomb explosions resulted in the deaths of more than two hundred people, most of them Tanzanian or Kenyan. A few years later, in 2000, the American Navy destroyer USS *Cole*, anchored in the port of Aden, in Yemen, for refuel, was hit by a blast coming from a fiberglass boat ridden with explosives. Upon its detonation against the hull of the vessel by the terrorists that planted them, seventeen US sailors were killed.

As a reaction to these occurrences, in 1994 the National Congress approved a legislation that enlarged the legal definitions of terror by making the provision of material support to terrorism equally as punishable as an act of terrorism itself. The law, reinforced in 1996, also broadened the FBI’s authority to conduct electronic surveillance. Regardless, the conduction of counterterrorism intelligence activities in the United States was still largely constrained by previous legislation developed from the 1960s onwards in response to several episodes of abuse of power by the government. The specific issue of unrestricted domestic surveillance against US nationals by intelligence services, most importantly, resulted in the 1978 Foreign Intelligence Surveillance Act (FISA). From that moment, FISA established that, in order to monitor domestic security threats, it was necessary for intelligence and law enforcement services to present, before an independent court, a compilation of convincing evidences that indicated that a certain target was indeed an agent associated to a foreign power or a terrorist group.

FISA, along with the 1975 Senate Select Committee on Intelligence (SSCI) and the 1977 House Permanent Select Committee on Intelligence (HPSCI), guaranteed that a robust

congressional oversight was at place when it came to the conduction of intelligence activities in US soil. It is the interpretation of determinate authors, such as Schmitt (2010), that legislative supervision, particularly after FISA, deepened the separation between intelligence and law enforcement activities in the US. The author illustrates this argument by mentioning how, on one hand, law enforcement investigations would normally take place in regular instead of FISA courts, especially because of procedural affinities, while, on the other hand, intelligence services would be reluctant to take their investigations to court for fear of disclosing sensitive information to defense lawyers.

The author continued by stating how the division was reflected on the relation between the CIA and the FBI, “with the agency’s habit of sharing intelligence on a strict need-to-know basis reinforcing its [...] view that the FBI was a law enforcement agency, whose principal goal was successful criminal prosecutions” (*ibidem*, p. 86). He finalizes by arguing that this finally resonates on the increasing division between foreign affairs, for the CIA to handle, and domestic affairs, for the FBI. Other authors, such as Zegart (1999), recognize the law enforcement and intelligence divide, but do not necessarily attribute its existence to congressional oversight. Either way, the consensual lamentation in regards to this division when it comes to the minimal standards of unification against the threat posed by terrorism almost unanimously pointed to the same solution, which was that of institutional centralization.

In this interim, attempts at centralizing national intelligence were not recent in the country. Ever since the end of World War II, key political figures in the US government have tried to institutionalize the coordination of intelligence activities in the country. This was evidenced as far back as in 1947, with the creation of the CIA under the National Security Act – the same piece of legislation that established the National Security Council (NSC) and the Department of Defense (DoD). Even before the CIA, there was the creation of the Director of Central Intelligence (DCI) role, in 1946. After the National Security Act, the DCI would have the double incumbency of simultaneously heading both the CIA and the broader United States Intelligence Community (USIC).

What came to be known and consolidated during the Cold War as the USIC is a “group of Executive branch agencies and organizations that work separately and together to engage in intelligence activities that are necessary for the conduct of foreign relations and the protection of

the national security of the United States<sup>17</sup>” (UNITED STATES, 2011, p. 7). The community, as a formal concept, does not have an exact moment of creation, but ever since the appointment of the first DCI and the aforementioned act, the coordination among all US intelligence components – from the CIA, the FBI, and other civil intelligence services to military intelligence services – had fallen under the responsibility of this directive role.

Competition instead of cooperation, however, remained the general rule in the counterterrorism field. Regarding counterterrorism endeavors within the US government up until 2001, Crenshaw (2001, p. 329) explained that American policy is not a straightforward response to terror, “but instead a reflection of the domestic political process. Perceptions of the threat of terrorism and determination and implementation of policy [occurred] in the context of a policy debate involving government institutions, the media, interest groups, and the elite and mass publics”. She elaborated that American political institutions were organized in a manner that rendered conflict inevitable for the process of agenda setting, which took place in the form of public debates. As such, “decision makers with different identities and preferences define and represent problems, or frame issues, in order to gain public support for their positions” (*ibidem*, p. 330).

Within the executive branch, there was a wide distribution of incumbencies related to the national counterterrorism effort, wherein no clear lines of jurisdiction were set. Blurred limitations and overlapping functions resulted in confusion among agencies as to which institution would assume which determinate portions of the counterterrorist enterprise. Parochialism and competition issued, all within an arena where agencies would only want to tackle problems that head clear and efficient solutions associated to them<sup>18</sup>. Adding more layers of complexity, congressional politics also influenced counterterrorism policy processes by being an extension of

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<sup>17</sup> Today, the USIC, plus the Office of the Director of National Intelligence and its intelligence centers, is composed of sixteen agencies and organizations: the Central Intelligence Agency; the Federal Bureau of Investigation’s National Security Branch; the Defense Intelligence Agency; the National Geospatial Intelligence Agency; the National Reconnaissance Office; the National Security Agency; the Drug Enforcement Administration’s Office of National Security Intelligence; the Department of Energy’s Office of Intelligence and Counterintelligence; the Department of Homeland Security’s Office of Intelligence and Analysis; the Department of State’s Bureau of Intelligence and Research; the Department of the Treasury’s Office of Intelligence and Analysis; the Army’s Army Military Intelligence; the Navy’s Office of Naval Intelligence; the Air Force’s Air Force Intelligence, Surveillance, and Reconnaissance; the Marine Corps’ Marine Corps Intelligence Activity; and the Coast Guard’s Coast Guard Intelligence and Criminal Investigations Enterprise.

<sup>18</sup> Crenshaw’s (2010) viewpoint in this matter is in accordance with the “garbage can” model of public policy, on which a set of given solutions, through the action of policy-makers, would attempt to find problems correspondent to them (COHEN *et al*, 1972).

the battles that happened within the executive, but principally by considering how Congress was able to halt executive decisions or choose its own priorities within this realm. Finally, aside from actors within the government, it was moreover necessary to consider the influence exerted by the media itself, as a channel of communications between and among the public and the elites, and by interest groups and community of experts located outside the government.

Crenshaw (2001, p. 335) summarized all of the aforementioned – quite prophetically – at the time:

“Terrorist attacks, especially spectacular incidents causing large numbers of casualties or targeting important national symbols, will contribute to putting the issue on the national policy agenda. [...] Policy will be developed within a general framework of diffusion of power. Multiple actors, inside and outside government, will compete to set the agenda and to determine policy through public debate, conducted largely in the news media. Each actor, whether an executive branch agency, Congress, or an interest group, wants to forge a national consensus behind its particular preference. Due to pressures from Congress, the president will not be able to set the agenda for counterterrorism policy with as much freedom as he can in other policy areas [...]. Implementation of policy decisions will also be affected by controversy, due to rivalries among agencies with operational responsibilities. Thus it will be difficult for any administration to develop a consistent policy based on an objective appraisal of the threat of terrorism to American national interests”.

#### *9/11 and the efforts towards centralization*

On September 11, 2001, the United States was victim to the deadliest terrorist attack in history, when terrorists affiliated with al-Qaeda hijacked four civilian aircrafts and crashed them against the two towers of the World Trade Center, in New York, and the Pentagon federal building, in Virginia. The fourth aircraft never hit its intended target – the White House or the Capitol –, crashing onto an open field in Pennsylvania instead. In total, near three thousand people died as a direct result of the attacks, injuring more than six thousand others. Eight days later, President George W. Bush, summoning all US resources and allies, declared the Global War on Terror against al-Qaeda and all forms of terrorism at home and abroad.

Later in October of the same year, the US government enacted the 2001 Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act, or simply, Patriot Act. Aside from aggravating penalties against individuals charged with the crime of terrorism, and enlarging the definitions of what constitutes the latter, in the spirit of an emergency regime, the Patriot Act provoked important changes in relation to government surveillance activities, modifying provisions previously established by FISA. If, by one hand, the Patriot Act wanted to bring FISA into the twenty-first century by



clarifying necessary provisions for the conduction of electronic surveillance in the Digital Age, the legislation also made sure to loosen many of FISA's stringent clauses for data collection of hostile targets, facilitating intelligence and law-enforcement counterterrorist activities, albeit at the expense of proper oversight.

The Patriot Act, moreover, consolidated the FBI's National Security Letters (NSL). As explained by Schmitt (2010), through the largely controversial NSLs, the FBI could formally request business and transactional information from entities in the private and public sectors. Thus, the FBI had the legal authority to demand, for example, that organizations – such as telecommunications companies, banks, and credit card operators – voluntarily hand over data regarding individuals that were not necessarily under consolidated investigations. The government at the time justified the necessity of the exceptional NSLs as an important tool to generate leads, build up on existing cases, and produce valuable intelligence products.

Regarded as a colossal intelligence failure, the events of 9/11 prompted a series of investigations into to what could have possibly gone awry in regards to the USIC's inability in anticipating and preventing the attacks. In 2002, Congress proposed the creation of the National Commission on Terrorist Attacks upon the United States, or simply the 9/11 Commission. The investigative commission, once approved, would conduct a series of hearings with key members of government, including heads of the USIC components, the DCI, and other officials, drafting its conclusions subsequently. According to Allen's (2013) extensive records on the process, the executive stalwartly opposed such initiative. It argued that this endeavor would be redundant, as it would overlap with the work of other investigations already underway, such as the Congress-led Joint Inquiry and the executive-ordered Snowcraft Report<sup>19</sup>. Nonetheless, by the end of 2002, with strong lobbyist support<sup>20</sup>, Congress approved the creation of the 9/11 Commission, which would publish its findings two years later.

Still enjoying the momentum after the catastrophe of 9/11 and spearheading the motto of national counterterrorism as a priority, the government enacted, in 2002, the Homeland Security Act. Constituting the largest organizational shuffle in US national security apparatus ever since

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<sup>19</sup> Both investigative efforts would essentially point out to the same conclusions of the 9/11 Commission, principally in regards to the perceived need of USIC's centralization under an empowered directorate – as the DCI was unable to effectively exert its leadership position – and the creation of intelligence fusion centers for integration and analysis of key USIC missions, such as counterterrorism.

<sup>20</sup> Namely the pressure applied by the 9/11 Families, an adamant lobbyist group formed mostly by widows of 9/11 victims.

the 1947 National Security Act, the legislation consolidated twenty-two national security agencies – including the Federal Emergency Management Agency (FEMA), the Transport Security Agency (TSA), the Border Patrol, Customs, and the Coast Guard – into one agency: the Department of Homeland Security (DHS). According to the legislation, the DHS would count with its own intelligence analysis unit, called Information Analysis and Infrastructure Protection (IAIP). Helmuth (2016, p. 46) stresses that the IAIP – aside from its role of protecting critical infrastructure, developing plans to securing them, disseminating information, and issuing warnings on terrorist attacks – would act as a fusion center. The unit would receive and analyze information from law enforcement and intelligence components, and the private sector, and then integrate such data, identifying possible threats to the homeland.

Merely one month later, in 2003, the government issued the creation of the Terrorism Threat Integration Center (TTIC) under DCI's authority. Assembling members of the CIA, the FBI, the DHS, and the DoD, the TTIC was responsible for merging and analyzing all terrorist threat information into a single facility. As a result, the center would produce daily all-source terrorist threat assessments for the presidency. While these assessments differentiated the TTIC from the IAIP, according to Helmuth (2016), critics saw that the new intelligence center's overall functions would essentially double or overlap those tasked to the DHS' intelligence unit. Meant to be the President's core fusion center regarding terrorist threats, the IAIP was now sidetracked by the existence of the newly created TTIC, which, by Zegart's (2007) regard, further hampered the inclusion of the DHS into the USIC. Government responses to these perceptions emphasized that "the DHS is solely responsible for information related to domestic counterterrorism, while the TTIC's terrorism analytic mission is global in nature" (HELMUTH, 2016, p. 49).

Later in 2003, came the creation of the FBI's Terrorist Screening Center (TSC). This new center, complimentary to the TTIC, would compile a single, all-encompassing database of terrorist suspects. Similar to the TTIC, it would unite members of different agencies of the USIC. The creation of the TSC was meant to solve the dilemma of the multitude of terrorist watchlists that existed across intelligence and law enforcement agencies. Most of these watchlists – twelve, in total, ran by nine different agencies – were inaccessible among members of the USIC, hampering information sharing between them. By Helmuth's (2016, p. 50) account, the TSC "would consolidate data from these twelve separate 'watch lists' and for the first time make the data available across agency lines, allowing more efficient and comprehensive background checks". At

the same time, the FBI amplified its presence across the United States with the establishment of Joint Terrorism Task Forces (JTTFs) on all fifty states. All the same, this, along with states' own initiatives to create their local and regional counterterrorism fusion centers – more than sixty by 2007 –, further contributed to put into question IAIP's declared mission of vertical information integration.

By July 2004, the 9/11 Commission published its findings on an extensive, intricate report, available for public consumption. While the report spoke of national intelligence as a whole, a substantial portion of it was dedicated to the matter of counterterrorism intelligence and the developments of al-Qaeda's activities. Titled as the 9/11 Commission Report, it contained a profound recounting of the events that led to the 2001 attacks. A solid descriptive and analytical work brought together occurrences and decisions related to the tragedy, pointing out to government successes and, most poignantly, failures at home and abroad. On its final portion, the report issued a series of recommendations aimed at improving the overall effectiveness of US national intelligence, namely through initiatives of deep institutional reform.

Chapter 11 of the report (2004, p. 339-360) enumerated four types of failure: in imagination, policy, capabilities, and management. By failures of imagination, the 9/11 Commission pointed out to the fact that no agency was able to appreciate the nature of the threat posed by al-Qaeda. It understood that the explanation for this lied on the fact that a full assessment of the terrorist scheme was impossible at the time. This was inherently paradoxical due to the finding that all information regarding to the 9/11 plot was indeed at the hands of USIC components. The problem was its diffusion across several different agencies, those of which did not share whatever data they had in their possession with each other. Hence, the lack of a complete picture of what was underway made analytical work insufficient at detecting grave terrorist threats to the homeland, something that, in its turn, did not result in proper anticipatory action. According to the Commission, the solution lied in institutionalizing imagination by making bureaucracy work as a whole.

Failures in policy referred not to the inappropriateness of government action towards al-Qaeda, but to the absence of it. Strongly related to the aforementioned failure in imagination, the Commission argued that the US government, unaware of what actually constituted the peril posed by the terrorist group, failed at implementing any sort of political action that resulted into the group's deterrence or elimination. In part, this is attributed to the role played by the country at the

end of the Cold War in the international system. With the fall of the communist superpower, the United States, with its newly acquired role of prevailing power, directed its attention to a series of destabilizing developments around the globe at the time, such as the conflicts in Serbia and Iraq. As a result, little of its efforts were aimed at combating a threat that was barely understood by its information services.

The Commission elaborated that the failures in capabilities were the result of security institutions' functional inadequacy to face contemporary terror. Echoing Zegart's (1999) comprehensive explanation, at the turn of the century, US intelligence agencies were not directed at tackling a diffuse, transnational threat such as terrorism. Instead, they were stuck at the context of the Cold War, when they were first conceived. Institutional resistance to change made it so that American intelligence, previously directed at the Soviet bloc, was inherently deployed to acquire and act upon information regarding state targets, even when the context on which in it was inserted had dramatically changed. Accommodation made it so that the government did not replace the strategy existent prior to the fall of the Berlin Wall by a different doctrine, which addressed a more complex reality<sup>21</sup>.

Lastly, management failures included both operational and strategic aspects. Considering the scope of the threat, it was imperative that cooperation existed between agencies tasked with different portions of the complete counterterrorist endeavor. The rigid institutional barriers betweenUSIC components, however, made it unpractical to plan and launch domestic and international joint operations between the services. Strategically, the role of the DCI did not possess sufficient authority to direct the agencies subordinated to it into cooperative efforts of collection, analysis, dissemination, and prevention. Neither did it compel the directive position itself to attain and formulate a comprehensive plan of action for a national counterterrorism effort by means of joint, cooperative action ofUSIC members. In order to be effective against terror, the community needed a leader that could cross and eliminate bureaucratic divides, a task that the DCI was simply not capacitated to perform.

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<sup>21</sup> Furthermore, the Commission made sure to enumerate the insufficiencies of homeland security agencies' resources for prevention against terror, such as in the DHS and the FBI. Finally, the report called upon the apparent lack of enthusiasm by the CIA and the DoD for the exercise of counterterrorist covert action – secret government action conducted by intelligence services, beyond collection and analysis –, which, for the most part, resulted in mere data collection instead of neutralization.

In all, the report could largely summarize its critics to US intelligence in its failure to “connect the dots”, *i.e.*, the absence of information sharing due to conscious or unconscious barriers between national security institutions. Regarding this, the Commission (2004, p. 353) declared, in short, that:

“Information was not shared, sometimes inadvertently or because of legal misunderstandings. Analysis was not pooled. Effective operations were not launched. Often the handoffs of information were lost across the divide separating foreign and domestic agencies of the government [...]. However the specific problems are labeled, we believe they are symptoms of the government’s inability to adapt how it manages problems to the new challenges of the twenty-first century”.

Among the report’s several recommendations for US intelligence, detailed on chapter 13, two proposals related to centralization are particularly relevant to the coordination of future counterterrorism efforts: the establishment of a Director of National Intelligence (DNI) role and the creation of national intelligence centers subordinated to this authority – most notably the creation of a National Counterterrorism Center (NCTC). The national intelligence centers would have the incumbency of carrying out missions related to a specific subject, such as counterterrorism, counterintelligence, and counterproliferation. They would be designated as “fusion centers” in the sense that, assembling a staff composed by officials from different agencies in theUSIC, they would then centralize intelligence analytical efforts into a single institutional framework, acting upon their assessments accordingly.

Regarding the DNI proposal, the commission reiterated foremost that the DCI’s former responsibilities were inadequate to the position’s managerial reach and to the expectations vested on it:

“The DCI now has at least three jobs. He is expected to run a particular agency, the CIA. He is expected to manage the loose confederation of agencies that is the intelligence community. He is expected to be the analyst in chief for the government, sifting evidence and directly briefing the President as his principal intelligence adviser. No recent DCI has been able to do all three effectively. Usually what loses out is management of the intelligence community, a difficult task even in the best case because the DCI’s current authorities are weak. With so much to do, the DCI often has not used even the authority he has” (*ibidem*, p. 409).

Hence, this new directive position would firstly separate these three “jobs”. The head of the CIA would only be tasked with leading his or her agency, while the DNI, responding to the presidency, would have two main areas of responsibility: overseeing national intelligence centers on specific subjects of interest across the U.S. government, and managing the national intelligence program and overseeing the agencies that contribute to it. Regarding the first area, in the

Commission's viewpoint, the management of intelligence centers on major issues served the purpose of allowing joint operational planning across the USIC based on the centers' assessments. This implied the authority to direct operations, no matter to whom USIC components were subordinated. As for the second area, the Commission believed that it was necessary for the USIC's overseer to be able to allocate funds and prioritize missions within his or her community, following the NSC's guidelines. Accordingly, the commission assumed enlarged budgetary authority for the DNI<sup>22</sup>.

The publication of the 9/11 Commission Report was immediately followed by an intense political process, on which the guidelines for an intelligence institutional reform were discussed and negotiated with Congress, the presidency, bureaucracies, interest groups, and with the mass media's participation. The result, after a series of concessions, was the eventual promulgation of the Intelligence Reform and Terrorism Prevention Act (IRTPA) in December 2004, an act whose substance was significantly downplayed in relation to the Commission's recommendations, as extensively described by Zegart (2007) and Allen (2013). It is worth noting that the most adamant opposition to the act's objectives of centralization came from the DoD, which saw the act as threat against its firm control over the agencies formally subordinated to it, such as the National Security Agency (NSA). Still, IRTPA's results were far from unremarkable in terms of institutional reorganization of the USIC.

The act made official the role of the DNI, acting as head of the Office of the Director of National Intelligence (ODNI). As the statutory leader of the USIC from that moment, the DNI is the main responsible for ensuring the effectiveness of American intelligence by promoting information sharing, transparency, and cooperation. Nevertheless, the authority it was given did not correspond to the Commission's expectations. For once, IRTPA did not attribute to the DNI the capability to appoint or dismiss officials in the community. Neither did it confer significant powers over the budget for national intelligence, meaning no effective control over resource allocation was in effect. Consequently, as much as the consolidation of the DNI was a step further

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<sup>22</sup> It is also appropriate to highlight the report's recommendations partaking to the issue of the divide between law enforcement and intelligence in the country. The 9/11 Commission believed this could be at least partially remedied by means of reforming the FBI. According to it, "a specialized and integrated national security workforce should be established at the FBI [that is] recruited, trained, rewarded, and retained to ensure the development of an institutional culture imbued with a deep expertise in intelligence and national security" (NATIONAL COMMISSION ON THE TERRORIST ATTACKS UPON THE UNITED STATES, 2004, p. 425-426). This later contributed to the consolidation of the FBI's National Security Branch (NSB).

from the former competence of the DCI in managing the USIC, it still lacked important traits in order to exercise its expected role of centralizing intelligence and its missions.

Subordinated to the ODNI are the national intelligence centers, namely the aforementioned NCTC, which replaced the TTIC. As a fusion center, the NCTC was institutionalized as a centralizing organism for counterterrorism matters within the USIC. Its functions include unified threat analysis, management of the Threat Identity Datamart Environment (TIDE) – the government’s “central classified repository for all known or suspected international terrorists and their networks” (NCTC, 2017, p. 6) –, and coordination of counterterrorism efforts across the USIC. Additionally, according to IRTPA, the NCTC is responsible for strategic operational planning for counterterrorism. According to Best Jr. (2011) and Allen (2013), however, the loosely defined role of strategic operational planner, in contrast to the Commission’s envisioned role of an effective operational planner for the national centers, stripped the NCTC of any actual authority over the national counterterrorism enterprise and its operational missions, giving it a vague directive role instead.

In 2005, a new investigative commission was assembled in Congress. The National Commission on Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (WMD), or WMD Commission, was tasked with elucidating the intelligence failures that were responsible – at least partially, if politicization is taken into account – for the wrongful assessment of Saddam Hussein’s possession of weapons of mass destruction, which resulted in the invasion of Iraq in 2003. Similarly to the 9/11 Commission, it produced a report containing *post-mortem* analyses and recommendations. As the WMD Report took place after the events of IRTPA, it also assessed the progress of the ongoing intelligence reform.

Unsurprisingly, its contents echoed many of the 9/11 Commission’s conclusions. It added, nonetheless, that the DNI’s new competences were unsatisfactory for the ambitious objective of coordinating intelligence, as were the national centers’ competences for directing national missions, such as counterterrorism, in an effective fashion. To remedy such shortcomings, the Commission suggested the establishment of Mission Managers. According to the Report (2005, p. 316) these managers, serving under the ODNI, would “be responsible for designing and implementing a coordinated effort”. Enjoying the existing institutional framework post-IRTPA, the Mission Managers would be the heads of the national intelligence centers on their respective missions. As such, following this recommendation, the NCTC’s director became dual-hatted as

head of the center and the Office of National Intelligence Management for Counterterrorism (ONIM-CT) as well.

*Preparedness for an ongoing threat*

Ever since the enactment of the Patriot Act in 2001 and the modifications to FISA procedures that came along with it, the American government has stood at a crossroad. At one hand, liberal leaderships in Congress and vocal activists have urged that the United States re-normalize itself, returning to its pre-9/11 conditions and straying away from a police state. At the other hand, cautious actors in the Executive, conservative legislative actors, and resented citizens have demanded that security stay a priority, even if certain liberties must be sacrificed for the greater good of the country. This tug-of-war was present on the several Patriot Reauthorization Acts and FISA Amendments Acts that followed the first emergency legislations.

For the most part, as Helmuth (2016) describes, exceptional measures remained either authorized by revalidation of the acts or formally codified into normal law. Concurrently, however, legislators guaranteed that at least some supervision was attributed to government surveillance activities. With the Patriot Act's expiration in mid-2015, came the Uniting and Strengthening America by Fulfilling Rights and Ending Eavesdropping, Dragnet-collection and Online Monitoring (USA FREEDOM) Act, or simply, Freedom Act. While limiting much of the data-collection provisions allowed by the previous act, the Freedom Act extended some of the Patriot Act's sections up until 2019, such as the one partaking to the surveillance of lone-wolf terrorists in the country.

Even though the United States has not been victim of any major attacks perpetrated by actors directly linked to terrorist organizations since the events of 2001, lone-wolf terrorism has remained a persistent threat to the country on the years that followed 9/11, posing a complex challenge to the American security apparatus. In recent times, terrorists inspired by Al-Qaeda extremist ideology, and later on by the Islamic State of Iraq and Syria's (ISIS) propaganda, have acted alone to conduct violent attacks across US territory. Such was the case of the 2002 LAX shooting, the 2009 Little Rock shooting, the 2009 Fort Hood shooting, the 2013 Boston Marathon bombing, the 2015 San Bernardino attack, the 2016 Orlando LGBT nightclub attack, and the 2017 New York City truck attack, all of which have caused more than a hundred casualties. In most, if not all, of these events, the online presence of terrorist groups represented a major factor on



propelling individuals to act on their behalf, adding yet another layer of intricacy for the consideration of intelligence services.

Seemingly, as noted by Schmitt (2010), there has been an improvement in counterterrorism information sharing across theUSIC after IRTPA's promulgation, especially on vertical information sharing from federal to local entities by means of the fusion centers and JTTFs. However, connecting the dots requires effective data collection, and the author points out hurdles related to this task in both the CIA and the FBI. Namely, he mentions that the CIA's recent strategies on countering Islamic extremist terror suggest that the agency is employing Cold War-era strategies of infiltration, which would represent a problem since "terrorists who exist outside the traditional state-centric system are not readily targetable by traditional CIA recruitment methods and practices" (*ibidem*, p. 100). At the same time, he notes that the FBI has resisted significant transformations in its priorities and operational techniques, conserving its federal investigative case-oriented approach to terrorism prevention instead.

In terms of intelligence analysis post-IRTPA, Best Jr. (2011) points out shortcomings within the cadre of the NCTC. In regards to the NCTC's diversified staff, he explains how there remains the issue of clashing bureaucratic cultures among intelligence officials coming from different agencies, particularly in relation to the traditional friction between law-enforcement and intelligence officials working together. He also elucidates how many of these officials retain significant loyalty to their parent agencies, choosing to bring the most valuable information on terrorist threats to entities outside the center instead of analyzing them within the NCTC's facilitates – a phenomenon particularly common with CIA officials that remain loyal to the agency's CTC. This contributes to implications that the NCTC does not possess sufficient institutional authority to exert dominance overUSIC components that were supposed to coordinate their counterterrorism efforts by means of the center's leadership in the first place – an assumption that brings the NCTC's role of terrorism prevention into question.

## **The case of French intelligence**

### *Background*

The French struggle against terrorism is not recent – a fact that is illustrated by the very coinage of the term "terrorism", commonly attributed to Robespierre's Reign of Terror on the late eighteenth century France. During recent decades, France's government and population dealt with

what Gregory (2003) nominates “*trois cercles de terrorisme*”: intrastate violence motivated by regional identity or ideology, anti-colonial violence against French rule, and transnational terrorism. Shapiro and Suzan (2003) similarly corroborate a threefold categorization of terrorism in France. These authors, notwithstanding, offer different categories, or circles: radical left-wing terrorism, regional separatist terrorism, and international terrorism. Here, they offer a perspective on which they incorporate anti-colonial struggles into the logic of international terrorism while separating identity-oriented acts of terror from ideology-motivated political violence.

For either classification, there is a chronological observation regarding the last category of international or transnational terrorism. The type of terrorism that France has dealt with in its past and present has essentially shifted throughout the decades from political violence that surfaced from groups within its own borders to attacks perpetrated by transnationally organized terrorist cells. Mainly during the course of the 1970s and onwards, separatist groups from the regions of Brittany, Basque Country, and Corsica conducted several attacks against French authorities, resulting in hundreds of casualties, especially by the hands of the *Front de Libération National de la Corse* (FLNC). This was roughly the same period when *Action Directe* (AD) started its activities, an anti-capitalist group closely linked to other far-left groups across Europe, which targeted members of industry, banking, and government. Gregory (2003) also brings up liberation struggles within the French DOM-TOMs<sup>23</sup>, resulting from a second wave of anti-colonialist movements, following those that took place right after the Second World War. He mentions the violent occurrences in Guadeloupe, Martinique, Guyana, and New Caledonia as terrorist activities against French rule<sup>24</sup>.

Concurrently to the developments of these incidences of terrorism, starting notably from the 1980s, French security forces witnessed a significant internationalization of terror. From this moment, no longer were the aims of terrorist groups confined to the immediate cessation of French domination over part of its legal territory. France turned into a stage for acts of violence that did not necessarily target the French government or its closest affiliates, nor that envisioned the end of a specific institutional ruling. Instead, it became involved in violent developments related to

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<sup>23</sup> *Départements et territoires d'outre-mer*, French territories located outside the European continent, with varying levels of autonomy.

<sup>24</sup> At this point, it is not clear why the author classifies these uprisings as acts of terror – building upon the existing debate surrounding the differentiation between legitimate liberation movements and illegitimate doings of terrorism (MARAS, 2014) – while leaving out other decolonization events against French domination that likewise took place in the twentieth century.

either larger, considerably more complex inter-regional issues, such as liberation pan-Arabic struggles in the Middle East, or with conflicts that had no direct relation to France at all, such as Armenian separatism.

According to Gregory (2003, p. 129), “in part this reflects colonial history which has brought diaspora communities to French cities and made France a haven for exiled leaderships ousted, often temporarily, by events in their own countries”. Shapiro and Suzan (2003, p. 69) add that this was permitted due to France’s “sanctuary doctrine”, on which the French government deliberately “attempted to isolate the country from international terrorism by creating within France a sanctuary both for and from international terrorists”. With this, “international terrorist groups would have nothing to fear and nothing to achieve in France” (*ibidem*). Thus, as much as this posture initially benefited France for its pragmatic stance away from controversial international issues and for its refusal to invest heavily in repressive measures against non-state actors scheming within its territory, the sanctuary doctrine eventually turned against those who idealized it.

With freedom to act inside French borders, terrorist organizations established solid networks within the country, which, in their turn, could rapidly mobilize and engage whenever authorities contradicted their interests. This became especially problematic during the mid-1980s, as French foreign interests evolved to directly clash with regional players’ ambitions in the Middle East. Responses came in the form of proxy political violence: state-sponsors of terrorism, such as Libya, Syria, and Iran, issued orders for terrorist cells within France to act with the purpose of discouraging French interventionism in the region. This situation eventually culminated into the waves of attacks perpetrated in the streets of Paris by the Palestinian-Lebanese *Comité de Solidarité avec les Prisonniers Politiques Arabes et du Proche-Orient* (CSPPA) in 1986, on which the group detonated twelve explosive devices across the city in less than eight months, generating a public outcry for more security.

One of the earliest and most remarkable forms of recognition by the French government regarding the absence of institutional coordination and centralization on the struggle against terrorism within intelligence services came with the establishment of the *Unité de Coordination de la Lutte Anti-Terroriste* (UCLAT) within the Ministry of the Interior in 1984. It sought to remedy two perceived flaws in counterterrorism. The first shortcoming was that no single entity in France was responsible combating the specific threat of terrorism, as no government agency

was specialized on this subject. Each attempted to conduct counterterrorist activities according to their respective directives, with almost no information-share between them. The second shortcoming, directly related to the first, was that these entities came to have overlapping responsibilities, causing further friction among them. As a result, analytical, preventive, and coercive efforts were spread out across different government bodies, with none of them actively possessing a full perspective on the issue at hand.

In this context, the French government did not decide to create the UCLAT aiming to delegate all counterterrorist activities to this organization, but rather to establish a coordinating body that would assure the unified cooperation of existing security services for a national counterterrorism mission. According to Poinas (*apud* GREGORY, 2003, p. 135), UCLAT's mission has been threefold: intelligence gathering and analysis, prevention of terrorist acts, and suppression of terrorist activity. As Shapiro and Suzan (2003, p. 76-77) put it, “the purpose of [this organization has been] to make connections between all the various intelligence and police services with the French government bearing on the question of terrorism”. Thus, on the realm of intelligence, the UCLAT had the task of dealing with friction between the *Direction Générale de la Sécurité Extérieure* (DGSE)<sup>25</sup>, the *Direction de la Surveillance du Territoire* (DST)<sup>26</sup>, and the *Direction Centrale des Renseignements Généraux* (DCRG)<sup>27</sup> – and, additionally, the *Direction du Renseignement Militaire* (DRM) and the *Direction de la Protection et de la Sécurité de la Défense* (DPSD)<sup>28</sup>, to a lesser extent.

Regarding this, and corroborating Chopin's (2017, p. 12) vision that French intelligence “has long resembled a divided house – or a field of full unorganized battling tribes”, Bonelli (2008, our translation) illustrates part of the challenge associated with UCLAT's incumbency when speaking of convergences and divergences within French antiterrorist services:

“Antiterrorism is [...] a stake of struggles, on which contradictory representative systems and different ambitions clash. Intelligence services are, exceptionally, nothing short of a state within a state, nonetheless never a simple tool at service of political decision. They

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<sup>25</sup> Part of the Ministry of Defense, the DGSE is mainly tasked with conducting foreign intelligence, acting near exclusively outside of French borders against external threats.

<sup>26</sup> Formerly part of the Ministry of the Interior, the DST was mainly tasked with conducting domestic intelligence, acting within French borders. Its *Division Nationale Anti-Terroriste* (DNAT) was primarily responsible for detecting threats on a domestic level that originated from foreign state or non-state actors.

<sup>27</sup> Formerly part of the Ministry of the Interior, the DCRG was also tasked with conducting domestic intelligence, but, distinctively from the DST, it focused its activities on threats that originated from French territory itself. Hence, not uncommonly were the activities of the DCRG under public scrutiny for their frequent surveillance of French nationals.

<sup>28</sup> Both branches of military intelligence services.

value their own interests and analyses, all in an effort of consolidating their credit along political elites, by means of pertinent information production for the latter.<sup>29</sup>”

Equally important as the UCLAT was the legislation passed in September 9, 1986 by the French government, notable in response to waves of terrorist attacks in the previous years. The *loi relative à la lutte contre le terrorisme et aux atteintes à la sûreté de l'État* defined the notion of terrorism and its procedural consequences. It centralized judicial processes partaking to acts of terror in the fourteenth section of the Paris prosecution service (*Parquet*), with the establishment of a professionalized cabinet composed of investigating magistrates (*juges d'instruction*) (BONELLI, 2008; FRANCE, 2016). Deviating from the traditional Anglo-Saxon system of justice, these judges were charged with conducting impartial investigations of crimes related to terror themselves, evaluating whether prosecution should be taken forward or not. Their enlarged investigative powers allowed their activities to become similar to those undertaken by intelligence services, while also ensuring their unique specialization on cases of terror within the judicial sphere (SHAPIRO; SUZAN, 2003).

Faced with the continuity and aggravation of transnational terror, French authorities made sure to adapt consistently the 1986 law in order to enlarge its repressive powers, constituting what Bonelli (2008) considers the vertebral column of French antiterrorist legislation. The 1995 and 1996 laws, for instance, broadened the minimum standards for terrorism investigation by categorizing the conspiracy to commit acts of terror as terrorism itself (SHAPIRO; SUZAN, 2003). Subsequent laws further authorized police forces to aggressively conduct investigations and preemptive actions against suspects of terrorism, as in the 1991, 1992, 1995, 1996 and 1997 laws (FRANCE, 2016). Therefore, by conferring due legitimacy to increasingly anticipatory police work against terror at the expense of civil liberties, the French government consolidated a doctrine of “preventive judiciary neutralization”, as characterized by Bonelli (2008).

Garapon (2005) affirms that this distinctive setting, as opposed to the American logic of a military response to terror, constituted France’s judicial option against terrorism. He continued (*ibidem*, p. 3) by stating that France had to have an adequate interface between intelligence agencies and the judiciary:

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<sup>29</sup> In the original: « *L'antiterrorisme est [...] un enjeu de luttes, dans lesquelles s'affrontent des systèmes de représentation et des ambitions différents, voire contradictoires. Les services de renseignement ne sont qu'exceptionnellement un État dans l'État, mais jamais un simple outil au service de la décision politique. Ils font valoir des intérêts et des analyses propres, tout en s'efforçant de consolider leur crédit auprès des élites politiques, par la production d'informations pertinentes pour ces dernières.* »

“The principal condition for the success of the judicial option is to ensure that the interface between intelligence and justice, which requires adequate communication in both directions, provides a solid judicial relay for intelligence work and, in the opposite direction, ensures the appropriate analysis of information gleaned from judicial proceedings.”

In this sense, the exchange of information between the judicial and the intelligence spheres were mostly conducted by the aforementioned institutionalized structures of the UCLAT and the *Parquet*. Nonetheless, the DST occupied a rather central role in this endeavor. For its cumulative functions attained ever since its creation in 1944, the DST was the only agency that accumulated the double mandate of an intelligence and a judiciary police service, which conferred an ideal configuration of continuous linkage between these two types of work within the French security apparatus (GARAPON, 2005; BONELLI, 2008).

Accordingly, there has been a sense of complementarity of intelligence and judicial activities in France. By one side, the investigating magistrates obtained with intelligence services the advantage of continuous surveillance and panoramic, long-term analysis of terrorist threats, as opposed to the rigid case-by-case approach of law enforcement investigations. Remarkably, intelligence activities function by a logic of anticipation that traditional judiciary work lacks, something that is especially useful when investigating cases of terror (SHAPIRO; SUZAN, 2003; GARAPON, 2005). Simultaneously, at the other hand, intelligence services benefited from the *Parquet*'s authoritative powers of granting legitimacy for increasingly allowing intelligence officers “to move relative seamlessly from collecting intelligence to taking part in judicially authorized investigation”, as stated by Schmitt (2010, p. 36).

All this constitutes what Garapon (2005, p. 2) calls not a “French model”, but a “French advantage” against terrorism, a result – by a historical perspective – of France’s relatively early experiences with transnational terror. Shapiro and Suzan (2003, p. 88) agree by saying that “France’s experience with the threat of internal subversion has long allowed and even demanded the existence of powerful domestic intelligence agencies”. This culminated in a “formidable state apparatus against terrorism both within French territory and outside it”, as Gregory (2003, p. 134) puts it. In his turn, he continues by attributing this perceived success to aspects of French society. He highlights that the key to this positive outcome “is a citizenship which often readily accepts the compromise of individual liberty for the collective good and a political context in which a degree of vigor by the forces of the state is widely, though of course not universally, seen as a necessary price for continued security and order” (*ibidem*).

*Towards centralization and normalization*

Contrary to the experiences of most Western liberal democracies, the 9/11 terrorist attacks on US soil did not engender major structural changes to the French security apparatus on the immediate years that followed it. Considering all adaptations made to French intelligence and overall security capabilities ever since the 1980s, France's national intelligence service was at the beginning of the twenty-first century, as Hayez (2010, p. 475) describes it, "in a rather good shape". All the same, the attacks most surely provided contextual elements for some institutional modifications, especially in conjunction with the Madrid and London bombings in 2004 and 2005, respectively (SCHMITT, 2010). But it was not until the year of 2008, when President Nicolas Sarkozy announced the directives for institutional change in French intelligence with the publication of the same year's *Livre Blanc sur la Défense et la Sécurité Nationale* (White Paper on Defense and National Security), that France would actively modify certain aspects of its approach to countering terrorism.

Notwithstanding, some changes after 9/11 and before that occurrence were noteworthy, namely the establishment of 22 regional permanent task forces for combating terrorism, in 2004, and the creation of advisory posts tasked with interagency coordination among security services, whether under presidential or parliamentary authority, as enumerated by Hellmuth (2015). In 2002, the Executive installed the *Conseil de Sécurité Intérieure* (CSI), for coordinating all ministerial leaderships associated with national security activities related to combating crime and terrorism at the domestic level. Critics saw this act as a move for presidential centralization of security efforts, moving away from congressional oversight. A demonstration of this stance was the referral of the head of the CSI at the time as an *Elysée czar*, *Monsieur Sécurité*, or a *super-préfet*.

Shortly afterwards, in 2004, a permanent counterterrorism cell was installed within the ranks of the DGSE for the interagency coordinated work of agents from the DGSE, the DST, and the DCRG. Its resemblance to UCLAT was quickly noticed and denounced, to which the cell's activities were justified as being operational in their nature, versus UCLAT's administrative functions of information sharing assurance and threat analysis integration. Even so, this apparent duplication of the UCLAT was viewed with suspicion, as the presidency would retain more control over activities that traditionally fell under the Ministry of the Interior's authority, *i.e.* the Parliament's responsibility.

On the same year, the Legislative moved towards its own efforts of centralization with the creation of the *Conseil du Renseignement Intérieur* (CRI). Responding to the prime minister, this advisory post counted with the participation of members of the DST, the DCRG, the judicial police and the gendarmerie. Once again, critics pointed out its resemblance with UCLAT. The government responded that this was not a case of institutional duplication for the reason that the UCLAT was foremost a permanent forum, to which the CRI would formulate strategic guidelines for information sharing and cooperation.

Subsequently, nonetheless, the presidency reorganized both the CSI and the CRI in 2007. A fusion of the CSI with its defense counterpart, the *Conseil de Défense*, resulted in the *Conseil de la Défense et de Sécurité Nationale* (CDSN). Under presidential authority, the CDSN was essentially created to break the foreign-domestic divide in security<sup>30</sup> by emulating the United States' National Security Council. On a cross-institutional impetus, it attained the responsibility for France's homeland security, public safety, and international and defense issues. The CRI, in its turn, was renamed as the *Conseil National du Renseignement* (CNR), now acting as a specialized formation of the CDSN and, accordingly, responding to the president as well. With the CNR, came the creation of the role of *Coordonateur National du Renseignement*, resonating the American DNI.

The CNR and its coordinator were tasked with “coordinating intelligence services, in particular with regard to developing intelligence strategies and collection and analysis priorities, implementation, and sharing; allocating resources; and overseeing the legal framework for intelligence operation” (*ibidem*, p. 984). In other words, and more specifically, it also came to be responsible for deciding annual investment plans for intelligence (HAYEZ, 2010). Once again, these rearrangements came to be considered as political maneuvers for presidential concentration of power, straying even farther away from parliamentary scrutiny of intelligence activities. Forcade (2013) does not share this viewpoint, bringing up the congressional delegation for intelligence activities formed in 2007, the *Délégation Parlementaire au Renseignement* (DPR), to corroborate his position that the Executive's actions were not without proper oversight under the rule of law. He calls for the fact that France has indeed lagged behind other European country on

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<sup>30</sup> The divide between foreign and domestic intelligence is commonly debated in Intelligence Studies as one of the most notable barriers for the establishment of an optimal information-sharing environment, as seen on the American case and explored by 9/11 Commission (2004).



matters of congressional oversight of intelligence, but mentions how 2007 would soon represent a historical turn for the consolidation of accountability principles in French intelligence.

Finally, in 2008, the publication of the White Paper happened within the context of a constitutional reform in France. This reform, as constitutionalists viewed, had been implemented by the government with the intent of providing more power and autonomy to the presidency of France, especially concerning security affairs. Chopin (2017), in disagreement, affirms that the reform accentuated the powers of both the Parliament and the presidency, while trying to frame the conduction of overt and covert state activities under the standard rule of law. As such, the constitutional reform greatly influenced the direction of the intelligence reform in France. Simultaneously, the reshaping of French intelligence came to be an ideal illustration of the constitutional reform's general sense of normalization.

This remounts to what the author calls the specificity of the French state, i.e. the conduction of any state action under the doctrine of *Raison d'État*. Historically, as he explains, this principle, on the one hand, could be interpreted as “the state transcending every other kind of political reality and moreover any other kind of authority, and as such being able to declare when necessity makes law” (*ibidem*, p. 4). On the other, it could mean “the idea of legitimate but temporary exceptional measures, which may have to be regulated” (*ibidem*, p. 4). He continues by affirming that France, in opposition to most liberal regimes, traditionally relied on the first understanding, while rejecting the second. According to the author:

“This doctrine is intertwined with the original birth of the modern state in France, and with the notion of absolute sovereignty, at the time of the emergence of the so-called ‘Westphalian system’ [...]. At the heart of the original idea of the reason of state in France is the unification of the social body under a unified power capable, against all social division, and especially against the divisions arising from religious factions, of imposing civil peace” (*ibidem*, p. 3).

Hence, throughout the centuries intelligence activities in France came to be regarded as a “regalian” power, an inherent part of the state and its development, which is not subjected to oversight due to its uttermost important role of maintaining social cohesion. This goes in direct opposition to the liberal “Anglo-Saxon” tradition of regarding the intelligence constant dilemma associated with the trade-off between the effectivity of intelligence and the respect to individual liberties. While in France these moral predicaments were set aside by the doctrine of the *Raison d'État*, largely unmodified ever since Richelieu's ministry in the seventeenth century, other liberal states passed through numerous transformations on which intelligence activities were put under

scrutiny, aiming to guarantee its legitimacy when faced with existential threats. As such, he points out that the intelligence reform signaled in 2008 – and in 2013 with the publication of yet another White Paper – precisely indicates that France is on the verge of abandoning this specificity towards the “liberal model”<sup>31</sup> of state, on which there is a functional separation of intelligence from the general bureaucracy.

In this sense, the White Paper confirmed the merge of the DST and the DCRG into the *Direction Centrale du Renseignement Intérieur* (DCRI), later renamed as the *Direction Générale de la Sécurité Intérieure* (DGSI), in 2012. For one aspect, this directive came as significant for its clearer delimitation between the incumbencies of general domestic intelligence services – the DGSI – and incumbencies of general foreign intelligence services – the DGSE –, subsequently allowing their coordination by the aforementioned councils with further ease. Furthermore, it resulted in a marked decrease of the controversial surveillance activities formerly conducted in national soil by the DCRG, which were then relegated to the Ministry of the Interior’s *Service Central du Renseignement Territorial* (SCRT).

Nevertheless, one of the main points of this intelligence reform was the consolidation of the notion of a *Communauté Française du Renseignement* (CFR), first officially introduced in the 2008 White Paper. The community, defined by decree in May 12<sup>th</sup>, 2014, and made official in June 24<sup>th</sup>, 2015, was composed by the six specialized intelligence services – the DGSE, the DGSI, the DRM, the DPSD, the DNRED<sup>32</sup>, and the TRACFIN<sup>33</sup> –, the aforementioned *coordonateur national du renseignement* – now in charge of managing the community –, and the *Académie du Renseignement*<sup>34</sup>.

As in the United States, one of the main notions of the CFR is centralization. Chopin (2017) mentions that this implies two different evolutions. The first is that it “refers to the possibility of centralizing decision-making processes in the area of intelligence activities once the services have been regrouped within a single community” (*ibidem*, p. 13). This would also encompass

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<sup>31</sup> Here I choose to paraphrase Chopin’s (2017, p. 1) footnote on this choice of words, which clarifies that “we use here the notion of ‘liberal state’ with care, and not in a normative or theological sense that there would be an ‘Anglo-American’ way of defining politics and the polity that would be objectively ‘normal’ and a ‘model’”.

<sup>32</sup> The *Direction Nationale du Renseignement et des Enquêtes Douanières* is the French intelligence service that acts against any customs fraud.

<sup>33</sup> The *Service de Traitement du Renseignement et d’Action contre les Circuits Financiers Clandestins* is the French intelligence service that acts against financial crimes, from money laundering to terrorism financing.

<sup>34</sup> The *Académie* was created in 2010, with the mission of conceiving, organizing, and implementing initial and continuous formation of intelligence personnel, favoring the cooperation between services in matters of formation, and participating in initiatives of public awareness towards intelligence (FRANCE, 2014).

parliamentary institutions. Under the authority of the prime minister, the *Secrétariat Général de la Défense et de la Sécurité Nationale* (SGDSN) was formerly tasked with the establishment of the *Plan National du Renseignement* (PNR), a national directive plan for intelligence collection and analysis. With the creation of the CFR, the government attributed to the community the responsibility of establishing a national strategy for intelligence, formalized as the PNR. In this configuration, it was decided that the CFR would impulse the PNR, while the SGDSN would implement it. The second evolution would be that all decisions partaking to domestic and foreign security would only be taken forward if they went through this new institutional formation located at the center of the French government.

Aside from centralization, there is also the important notion of normalization that came with the reform. The 2008 White Paper made sure to officially state, unprecedentedly, the provision of a legal basis for the conduction of intelligence activities, under parliamentary approval. Accordingly, it indicated that “a statutory definition of the missions of the intelligence services will be given by the law” (*apud* HAYEZ, 2010, p. 481), which later came to be consolidated by a bill approved by the government, in July 2015. The White Paper confirmed mechanisms of oversight, namely the aforementioned DPR and two other parliamentary regulating authorities: the 1991 *Commission Nationale de Contrôle des Interceptions de Sécurité*, for the monitoring of domestic communications interceptions, and the 2001 *Commission de Vérification des Fonds Spéciaux*, for the appraisal of extraordinary funds allocated to intelligence services. By Chopin’s (2017) viewpoint, normalization further signified that the public and the media are increasingly regarding intelligence services as regular government components, demystifying the notion of exceptional activities that are out of reach from ordinary citizens.

Regarding the directions of the intelligence reform up to the establishment of the CFR and the challenges ahead, Hayez (2010, p. 484) concludes:

“Having shed its proverbial complex about these matters, France has newly acquired the elementary political framework, already developed and implemented for at least a decade in most democracies, for so doing: a statement of intention by the Executive, a coordinating machinery, a comprehensively designed architecture for the services, and a parliamentary oversight mechanism. It now owns almost all the structures needed for a legitimate and efficient intelligence apparatus”.

#### *The 2010s attacks and their aftermath*

For many observers that regarded the French antiterrorist apparatus as an example to be followed by fellow Western democracies, the terrorist attacks of the 2010s came as a surprise.

Even with the continuity of minor terrorist attacks by radical separatist groups, up until that moment, according to Schmitt (2010, p. 47), “the French government [believed] that it [had] devised an effective counterterrorist system and that it [was] on top of the problem. If we [compared] France with other European states, we [would’ve had] little reasons to doubt that claim”. As a result, these attacks prompted a series of new pieces of legislation by the French government, which, similarly to the 1990s, sought to update the antiterrorist legislative basis established in 1986. The 2012, 2014, and 2016 laws, for example, once again enhanced police and intelligence investigative powers and enlarged the definitions of terrorism.

The first of the attacks came in March 2012. On the occasion, Mohammed Merah, a French national of Algerian descent, went on a shooting spree on the cities of Toulouse and Montauban, in Southwestern France, targeting Armed Forces soldiers and Jewish citizens. The attacks resulted in eight casualties, including that of the shooter, and five non-fatal injuries. As evidence suggests, the Merah affair, as it came to be known, was a case of lone-wolf terrorism, considering that investigative authorities could not find strong connections between the perpetrator and terrorist organizations. Merah’s extremist motivations included his opposition to French involvement in the war in Afghanistan, his anti-Semitic stance in reaction to Israeli actions towards Palestinian people, and his resentment for the 2010 French ban on face covering.

In January 2015, two gunmen stormed the headquarters of Parisian satirical newspaper Charlie Hebdo. The shootings that followed resulted on the death of twelve people, among the newspaper’s staff and others who were present at the time of the attack. The perpetrators, also French nationals of Algerian descent, were affiliated with al-Qaeda in the Arabian Peninsula, which took responsibility for the the attack, and most likely conducted it in response to Charlie Hebdo’s satirical depiction of the prophet Muhammed and Islam as a whole on its previous editions. Within the same timeframe of the two-day manhunt after the two gunmen – which resulted on their deaths – another terrorist incident took place in Paris. On this occasion, a gunman who had pledged allegiance to ISIS, closely related to the Charlie Hebdo attackers, invaded a kosher supermarket and held its customers hostages. In the hours that followed, four of the hostages were killed, all of them Jewish.

On November 13 of the same year, another attack took place in the streets of Paris. Coordinated suicide bombings and mass shootings perpetrated by nine attackers killed 130 civilians, while injuring more than four hundred. The attacks happened at the vicinity of the *Stade*

*de France*, at restaurants and cafés, and at the *Bataclan* nightclub, where most of the casualties took place. Claimed by ISIS, the attacks were a retaliation against the French airstrikes in Syria, and were the deadliest terrorist incident in Europe ever since the 2004 Madrid train bombings and the single deadliest in French history. On the following months, several other attacks were conducted across France, all of them on a significantly smaller scale when compared to the 2015 incidents, except for the 2016 attack in Nice. On this occurrence, also claimed by ISIS, a terrorist from Tunisia rammed a truck against bystanders who were watching a firework display in the city's promenade in commemoration of the Bastille Day. In total, 86 casualties were reported, with the injuries of 458 others.

On the night of the November 13 attacks, President François Hollande declared a three-month *État d'urgence* in France. The state of emergency, as explained by Ragazzi (2017), is a temporary state on which the Executive is given extraordinary powers to conduct anticipatory measures in French territory. On this condition, the presidency confers police forces more freedom to act coercively, which, in their turn, can utilize administrative measures, such as house arrests, with further ease. Once the president, in consultancy with the Legislative power, installs the state of emergency, it must have an expiration date set. The last state of emergency was extended five times following the November 2015, attacks: on February 2016, for three months; on May 2016, for two months; on July 2016, for six months; on December 2016, for six months; and finally on July 2017, for three months. Concerning this prolonged state of exception in France, which effectively ended on November 2017<sup>35</sup>, Ragazzi (2017, our translation) points out that:

The state of emergency, and by extension the fight against terrorism and radicalization, [was] severely criticized by human rights and anti-discrimination organizations and by a number of important institutional actors. These policies [brought] forward central questions regarding the separation of powers, the respect to civil liberties, and the nefarious effects of the diffusion of a logic of suspicion among society<sup>36</sup>.

It is notable that, according to this author, mainly after the Merah affair, there was a doctrinal change concerning the definitions of terrorism in France. From that moment, the notion

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<sup>35</sup> It is necessary to highlight that, with the end of the state of emergency, the French government, under President Emmanuel Macron, passed new legislation that effectively incorporated many of the state's exceptional administrative measures into regular state practice.

<sup>36</sup> In the original: « *L'état d'urgence, et par extension la lutte contre le terrorisme et la radicalisation, est sévèrement critiqué par les organisations de défense des droits de l'homme, de lutte contre les discriminations, et par un nombre important d'acteurs institutionnels. Ces politiques posent en effet des questions centrales sur la séparation des pouvoirs, le respect des libertés civiles, et sur les effets néfastes de la diffusion dans l'ensemble du corps social d'une logique de suspicion.* »

of radicalization of individuals was not treated as an issue separate from acts of terror, but as an important part of it, which had to be tackled. Concurrently to the enlargement of this definition was the enlargement of the French counterterrorism mission and, hence, the legitimate actors associated with it, which now included members of civil society. Within the Ministry of the Interior came the creation, in 2015, of the *État-Major Opérationnel de Prévention du Terrorisme* (EMOPT), which, similarly to the UCLAT, has the mission of coordinating services associated with the fight against terror, but with the specific duty of developing an offensive radicalization prevention policy (FRANCE, 2017).

Further institutional developments followed suite. Inaugurated in 2017, the *Bureau Central du Renseignement Pénitentiaire* (BCRP) is an intelligence activities office dedicated to the reinforcement of penitentiary security and, with that, the fight against terrorism and organized crime. The BCRP is under the authority of the Ministry of the Interior and has become an integral part of the CFR. Also in 2017 came the creation of the *Centre National du Contre-Terrorisme* (CNCT), much similar to the American National Counterterrorism Center. Part of the former CNR, now renamed *Coordination Nationale du Renseignement et de la Lutte contre le Terrorisme* (CNRLT), the CNCT reinforces the coordination among services, incentives information-sharing, reassures compliance to the rule of law, and develops European and international intelligence liaison on matters of counterterrorism (CF2R, 2017). Its strong resemblance to the NCTC further reflects on the CNCT's essentially strategic, instead of operational, mission statement, merely guiding services on their respective roles.

### **Concluding thoughts**

It is difficult to establish a rationale for the institutionalization of counterterrorism intelligence for both previous cases. However, it seems possible to adopt Chopin's (2017) nomenclature when analyzing the French case to characterize these processes. As such, centralization can refer to an agency or entity's concentration of administrative power over the conduction of intelligence activities aimed at countering terrorism. Normalization, in contrast, can signify the adequacy of counterterrorism intelligence activities to the rule of law, ensuring the respect of individual civil rights.

On general lines, it is possible to say the United States have moved towards the centralization of intelligence after the perceived failures that led to 9/11, following a great deal of

what was recommended by the 9/11 Commission and other investigative commissions. The American government saw that reinventing the way that the USIC collects, analyzes, and disseminates intelligence could solve the issues of national security vulnerabilities to terrorism, so it embarked on an ambitious mission of intelligence reform in search of enhancing the community's ability to "connect the dots". It is also safe to say that the country has drifted away from the process of intelligence normalization that was in progress ever since the Cold War. The enactment of the Patriot Act, and the persistence of its provisions for more than fifteen years – easily characterized as measures of exception on the context of a liberal democracy –, have put into question whether American authorities consider civil liberties to have such a greater importance in its trade-off against national security anymore.

At the same time, centralization efforts have had innumerable hurdles on their way. Political actors in Congress have done everything in their power to downplay or halt legislation that could possibly alter traditional configurations of power in the American national security apparatus, as in the case of the 2004 IRTPA negotiations. Bureaucracies and its staff have resisted change, even with general recognition on the necessity of transformation or with the enactment of acts that order them to do so. Additionally, attempts at denouncing and reverting exceptional acts have not been negligible in the country. Namely after the 2013 government classified information leaks by Edward Snowden, actors in Congress and social society have exerted considerable pressure to revert the post-9/11 regime of surveillance back to acceptable levels in terms of civil liberties respect. In this sense, the enactment of the USA Freedom Act represented an important step towards re-normalization in the country, a process whose next developments remain to be seen.

Also on general lines, France has made its own compromises towards centralization. Perhaps more importantly, the French government has taken significant measures on the normalization process of counterterrorism intelligence activities. Whereas it remains true that some centralization was already present in regards to the French counterterrorist endeavor, namely with the role played by the UCLAT ever since the 1980s, the publication of the 2008 White Paper, within the context of the same year's constitutional reform, signaled an even further centralization of the country's intelligence apparatus as a whole. As such, the formalization of the CFR came as a significant indicator of this renewed strategic mindset. Additionally, the same White Paper was symptomatic of the country's historical turn away from the *Raison d'État* doctrine in domestic security matters and towards the path of normalization. Hence, the unprecedented codification of

intelligence activities into normal law and the confirmation of oversight mechanisms demonstrated the French willingness to abandon gradually the long-standing state of exception allowed in the country by its counterterrorism regime.

As in the United States, these advancements did not take place without drawbacks and signs of regression. While in the American case the moves for centralization happened for the accepted perception that institutionally integrating counterterrorism activities would result in effectiveness, it is prudent to question what exactly is the French motivation behind its own centralization process. At this point, although it seems reasonable to assume that unifying a counterterrorism mission under a single leadership is in fact a good idea for increasing effectiveness, it is also necessary to take into consideration what critics point out as the French presidency's recent attempts at concentrating coercive and monitoring powers in its hands in detriment of Congress. Also of notice are the successive extensions of the *État d'urgence* in France, and the successive codifications of controversial surveillance and detainment measures into normal law.

Still, it would be challenging – if not unpractical – to compare both country's experiences with counterterrorism. The contextual elements that render each of them unique are impossible to ignore and, therefore, not take into consideration when attempting to operationalize each case in search of comparable variables. To illustrate only a few of them, the United States' engagement with counterterrorism is fairly recent. A single catastrophic event was almost the sole compelling factor that allowed a comprehensive institutional reform in the country's intelligence apparatus. The French history with transnational terrorism dates to the end of the last century. Its counterterrorism mechanisms and practices have matured – and solidified – for decades and are only recently undergoing a remarkable transformation, allegedly for the benefit of a newly acquired compromise for fostering civil liberties. Whereas the United States struggles to bridge the divide between intelligence and law enforcement, a rather functional coordination of both takes place in France, notably since its 1986 antiterrorist law, which still constitutes the country's backbone for terrorism prevention.

Even under a full presidential system, versus France's semi-presidential system, it seems that American legislative forces are keener on engaging with reformist acts in the realm of intelligence, a task largely relegated to the presidency in France. This indicates that the intricacies of each countries' political processes for institutionalization are dramatically different.



Internationally, at the same time, both countries have almost equally demonstrated their willingness to engage in interventionist missions abroad, namely in the Middle East and Africa – resulting in dramatic effects, whether negative or positive, in yet unquantifiable amounts, for both. Moreover, French society has been historically permissive of government exceptional security measures, while in the United States societal reactions to exceptionality seem more fluctuant in relation to momentary perceptions of threat.

The absence of objective comparison for these cases of counterterrorism at this point, on dimensions such as effectiveness or legitimacy, nonetheless, is not fruitless. Even with such conclusions, it is prudent to affirm that Political Science can understand a State's response to terrorism – at least to some extent. As observed in the intricacies of American and French processes of counterterrorism institutionalization, it is possible to infer that the lenses provided by historical neo-institutionalism are more than adequate to comprehend each case in further depth. Asymmetrical distributions of power within states determine much of the conflicts existent between components of the American and French counterterrorism apparatuses, as the inherent competition for prestige and control among intelligence community members has demonstrated. Consolidated security frameworks in theUSIC and the pre-CFR have shaped actors' perceptions regarding the role and execution patterns of intelligence activities prior to the Global War on Terror, just as the developments of the latter have strongly affected these same perceptions.

Historical contingency was undeniably at work when decision-making processes took place, evidencing just how their trajectories are not necessarily logical or efficient. Just as the Cold War, even after its end in the previous century, ended up determining the functionality of many US agencies up until 9/11, the French early experience with terrorism has contributed to the country's decisive approach on countering this issue in the recent decades. Similarly, the American responses to abuse of power scandals in the 1960s and the following decades have given the country a more mature approach to congressional oversight on intelligence activities than in France. All of this has influenced the direction and intensity of institutional change on both cases – or, just as importantly, their resistance to change. On the United States, it was clear how institutional rigidity became an issue when it came to the necessity of reform. This was quite similar to France's difficulties on its efforts towards normalization versus the well-established rationale of the *Raison d'État*. On both cases, it became evident how external shocks were important in order to generate change within their respective political systems.

In a final regard, I argue that the extensive description of the counterterrorism intelligence's institutionalization process in the previous cases can be accepted as the first portion of a broader comparative effort between the analyzed countries when it comes to evaluating the dimension of counterterrorism effectiveness. For this affirmation, I rely on Crenshaw and LaFree's (2017) yet unexplored proposition that counterterrorism effectiveness can be determined by setting a distinction – as conceived by Easton (1965) – between output effectiveness, outcome effectiveness, and impact effectiveness in a subsequent application to counterterrorism evaluation. As such, the contents of this research fit into what they consider input effectiveness, *i.e.*, “the implementation of regulations, policies, and legislation”, measured by “whether a particular instrument of policy was actually drafted and passed” (*ibidem*, p. 193). The following steps of this endeavor would thus imply an assessment of outcome effectiveness and impact effectiveness for the posterior evaluation of counterterrorism effectiveness as a whole regarding these two specific cases.

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**PARTE III**  
AGENDA DE PESQUISA

O contraterrorismo, enquanto política pública de importância central para Estados industrializados ou em desenvolvimento, carece de instrumentos avaliativos objetivos na academia e nos setores público e privado. Segundo a *9/11 Commission* (2004, p. 381), as estratégias de contraterrorismo nos Estados Unidos, por exemplo, possuem metas descritivas, porém elas não possuem objetivos, ou seja, indicadores mensuráveis de sucesso ou falha. Conforme descrito na última porção do artigo aqui apresentado, a partir da proposição realizada por Crenshaw e LaFree em “*Countering Terrorism: No Simple Solutions*” (2017), o esforço realizado nesta dissertação pode justamente enquadrar-se em um empreendimento sequencial e mais amplo de avaliação de estratégias de contraterrorismo. Segundo os autores, baseando-se nos trabalhos de Easton em “*System Analysis on Political Life*” (1965), tal tarefa avaliativa dar-se-ia pela determinação de uma dimensão de *efetividade* do contraterrorismo a partir de uma distinção de três partes deste conceito: efetividade de *output* (*output effectiveness*), efetividade de resultado (*outcome effectiveness*) e efetividade de impacto (*impact effectiveness*).

A efetividade de *output* “refere-se à implementação de regulações, políticas e legislação”, a efetividade de resultado “concerne ao impacto que essas leis e regulações têm sobre o comportamento proibido” e a efetividade de impacto “refere-se a quão bem os objetivos de longo-prazo do [contraterrorismo] são atingidos, especialmente ao reduzir ou parar o comportamento<sup>37</sup>” (CRENSHAW; LAFREE, 2017 p. 193, tradução nossa). Quanto à primeira dimensão, ainda de acordo com os autores, a efetividade de *output* poderia ser mensurada com respeito a se uma política foi elaborada e subsequentemente aprovada. Argumenta-se aqui, desta maneira, que a análise contida no artigo acima, acerca dos processos de institucionalização do contraterrorismo pela atividade de inteligência nos Estados Unidos e na França, contempla justamente a primeira dimensão do empreendimento avaliativo proposto por Crenshaw e LaFree (2017). Assim, ao descrever como estratégias de combate ao terrorismo foram traduzidas em instituições e políticas em ambos países, acabei por realizar a determinação de efetividade de *output* para ambos os casos, permitindo a realização dos passos subsequentes desta proposta de pesquisa.

É verídico que tentativas prévias de mensuração de efetividade do contraterrorismo foram realizadas no passado, como em Byman (2003), LaFree *et al.* (2009), Schmid e Singh (2009) e

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<sup>37</sup> No original: *output effectiveness refers to the implementation of regulations policies, and legislation. Outcome effectiveness concerns the impact that these laws and regulations have on prohibited behavior. Impact effectiveness refers to how well the long-term goals of [counterterrorism] are met, especially reducing or stopping behavior.*

Dugan e Chenoweth (2012). Todavia, conforme Crenshaw e Lafree (2017), estas análises produziram resultados insatisfatórios por estabelecerem indicadores demasiadamente amplos, gerais ou difíceis de medir. De tal modo, com a realização do primeiro dos três passos propostos pelos autores para o estabelecimento de medidas claras e sistêmicas para efetividade, sugere-se então o desempenho de esforços de pesquisa direcionados à determinação das duas dimensões seguintes: de efetividade de resultado – medida ao verificar se políticas de contraterrorismo fizeram o que elas foram designadas a fazer – e de efetividade de impacto – medida em mudanças comportamentais a longo-prazo de atores em relação ao terrorismo. Aponta-se ainda que, para a delimitação dos objetos deste estudo, o neoinstitucionalismo histórico continuará sendo adequado enquanto referencial teórico – ao menos no que concerne à tarefa de determinar-se a efetividade de resultado do contraterrorismo.

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