

FACULTY: POLITICAL SCIENCE

Chair: Comparative International Politics

THE ROLE OF THE U.S. WITHIN THE U.N. SINCE OBAMA:  
EXPLORING THE GAP BETWEEN RHETORIC AND SUBSTANCE

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ACADEMIC YEAR 2014/2015

*In memory of T.*

*To Paola and Fabrizio, with gratefulness*

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## INTRODUCTION

The United States seems to have constantly exerted a special influence on the work of the United Nations, as both an arena where to find solutions to global issues and a tool to implement those solutions. As a founding member of the U.N., the host of the U.N. Headquarters in New York, the single largest contributor to the U.N. budget, and a Permanent Member of the U.N. Security Council, the United States heavily affects the capacity for action of the United Nations. Such a remarkable influence of the U.S. on the U.N. and on the international relations more at large, coupled with a personal passion for the work of the United Nations, have triggered the interest in realizing a thesis on the role currently played by the U.S. within the U.N.

The present research work is an analytical and conceptual attempt to answer a very straightforward, yet challenging question: *what role does the United States of America currently play within the United Nations?* At a first glance, such a query may seem to require a simply descriptive analysis. The concept of ‘*role*,’ however, encompasses two mutually influencing aspects. On one side, the role played by a member state within an international organization is the result of the country’s *policy* toward the organization, which directly determines its behavior within the entity. On the other side, though, the role is to a considerable extent determined by the country’s *standing* within the organization. The first aspect is intentional and requires to discover and describe the main elements related to the conception, development, and implementation of the policy. Yet, the second aspect does not depend on the country’s will, but rather on other member states’ perception of its behavior, a perception that is irretrievably based on the match between expectations and facts. There follows a need to analyze which expectations were raised and how they have been addressed. These two aspects, *policy* and *standing*, are thus intertwined throughout the thesis.

Still, a second distinction within the analysis is also deemed fundamental, as it could reveal as the key factor in understanding the role currently played by the U.S.

within the U.N. It is the separation of a *rhetorical* level of analysis from a *substantive* one. While the former examines not only U.S. message to and within the U.N. and the way it is delivered, but also the intentions underlying it, or the policy guidance; the latter focuses on U.S. concrete actions toward and within the U.N. The dichotomy between *rhetoric* and *substance* thus overlaps the one between *policy* and *standing*, creating a four-dimensional analysis. The method adopted results being at the same time descriptive and comparative.

Such an analysis takes shape along three consecutive stages. First off, is an analysis of the main independent variables, namely the U.S. system of government, the United Nations system, and their institutional relationship. Thereinafter, when considering the U.S. government within and vis-à-vis the United Nations, reference is only made to the Obama administration, as the executive is considered as the preponderant institutional actor in the making and implementation of U.S. foreign policy. At the end of this initial stage of analysis, two conceptually opposed models of the U.S. role within the U.N. are elaborated as possible tools to be utilized in order to answer the research question. Since the models refer to the relationship between the United States and the United Nations at the macro-systemic level, the assumptions underlying such a conceptualization are drawn from the major theories of the international relations.

On the one hand, the *unilateralist model*, from a more realist perspective,<sup>1</sup> describes U.S. behavior (or policy) toward the U.N. as driven by both the *national interest* – encompassing primarily security concerns and secondarily economic ones – and the *hegemonic aim* to maintain a good reputation and credibility within the international system. Under this model, the United States does not assign any inherent value to the U.N., if not to the extent that it is exploitable for advancing its national interest. Accordingly, the country's standing within the Organization results being highly undermined and, in turn, negatively affects its behavior.

On the other hand, the *multilateralist model*, from a more liberal-institutionalist perspective, describes U.S. behavior (or policy) toward the U.N. as driven by the desire to promote an international order in the *common interest*, functional to the maintenance

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<sup>1</sup> The perspective cannot be considered entirely realist insofar as it attributes a significant importance to non-security concerns as well (e.g. economic, cultural).



of both a more secure world and a mutually-advantageous cooperation among all, state and non-state actors, on the international scene, in the security, economic, social, legal, as well as cultural fields. Under this model, the country values the Organization per se, not only as a global forum and useful means for cooperation, but also as a crucial global actor, able to solve global problems on behalf of its Member States. As a result, the country stands in a very good position within the Organization, fact that motivates and enables an even greater improvement of its behavior.

The second stage of analysis moves to the comparative method. A twofold comparative analysis of the Bush and Obama administrations' policies toward the United Nations at the rhetorical and substantive levels is developed, so as to come up with a reasonable assessment of the current policy and verify how the policies of the two administrations stand to each other. As it will be shown, such a broad comparative analysis seems to suggest the conclusion that, while the two administrations' policies toward the U.N. are marked by a dramatic discontinuity at the *rhetorical level*, at the *substantive level*, the two policies appear to be significantly consistent with each other. As a result of this second stage of analysis, a hypothesis about which model best applies to the current role of the U.S. within the U.N. is already raised, introducing the possibility of a *mixed model*.

Still, the ultimate assessment of the extent to which a mixed model may apply to the Obama administration's current role within the U.N. requires to take a deeper and more specific look. Two specific elements of the current role, those which arguably shape it the most, are thus documented and analyzed in two separate case-studies, which constitute the third stage of analysis. Each case study is supposed to exemplify one of the two models respectively. The first case-study focuses on the appointment of human rights advocate and international law supporter, Samantha Power, as the current U.S. Permanent Representative to the United Nations, assessing both the impact of her figure and the activities and achievements under her tenure, while maintaining the comparative perspective between rhetoric and substance. The second case-study documents and analyzes, instead, U.S. counterterrorism-related human rights record under the current administration. While paying attention, once more, to the comparison between the rhetorical and substantive levels of analysis, an assessment of the impact of the country's human rights record on its standing within the United Nations is made by

drawing on the most recent considerations and reports issued by U.N. Human Rights Bodies. In addition, thanks to the field research directly conducted at the United Nations Headquarters, the case-study is completed by an analysis of the role played by the United States during the informal consultations on the draft resolution entitled *Protection of human rights and fundamental freedoms while countering terrorism*.

Eventually, the analysis should lead to a demonstrated conclusion about which role the United States currently plays within the United Nations, which means it should enable an ultimate assessment of the model by which it is best described. As anticipated, a hypothetical answer may be formulated. It can be argued that there exists a significant gap between current U.S. rhetoric and substance within and vis-à-vis the United Nations, which not only entails a surprising continuity between the Bush and the Obama administrations' roles within the Organization in substantive terms, but also that the current role played by the U.S. within the U.N. is characterized by an internal contradiction. In this sense, the model that best describes such a role may result to be a *mixed* one.

For the present research work, therefore, the acknowledgement of the existence of a significant gap between rhetoric and substance and the consequent need to consider both levels of analysis throughout the various stages may result to be the key factor in reaching a conclusion on which role the U.S. currently plays within the U.N. If confirmed, however, the existence of such a gap between U.S. rhetorical commitments and substantive action would naturally raise additional questions about the reasons for its existence.

# I.

## THE U.S. AND THE U.N.

### 1.1. The American system of government

The system of government of the United States of America was designed by the Founders in 1787 within the Philadelphia Constitution.<sup>2</sup> Over two centuries of history have inevitably caused an evolution of such a system, mainly with regard to institutional equilibria (Fabbrini 2008), but have not altered its original constitutional design (Teodori 2005). Four main features of the American system of government deserve to be specifically considered here: the separation of powers system, the expansion and personalization of the presidency, the process of foreign policy making, and the influence of national security as a structural factor within the system.

#### 1.1.1. *Separation of powers system*

The Framers of the American Constitution were faced with two main dilemmas: how to politically unite thirteen newly-independent sovereignties and how to constitute a lasting democracy, able to permanently guarantee the liberties achieved with the Revolution (Fabbrini 2010a; Teodori 2005). The answer to both needs was found in the institutionalization of fragmented sovereignty within a *compound republic* (Fabbrini 2010a). According to Fabbrini (2010a: 143), a compound republic can be defined as:

‘a polity which structurally obstructs the formation of a factional majority through the institutional fragmentation of its sovereignty [...] first along territorial lines (i.e. between the federated states and the federal state) and subsequently between governmental lines (i.e. between the federal governmental institutions).’

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<sup>2</sup> The Founders were fifty-five delegates of the thirteen former British Colonies to the 1787 Constitutional Convention, among which Washington, Franklin, Hamilton, and Madison (Teodori 2005).

The American republic was thus based on a *multiple separation of powers system* that ensured, at the vertical level, the possibility for the federated states to retain the degree of sovereignty necessary to meet their asymmetrical needs and, at the horizontal level, the impossibility for any single federal institution to monopolize governmental power and threaten democracy (Fabbrini 2010a). Such horizontal separation of powers at the center is the feature that makes the U.S. different from common federal democratic systems and is the dimension of the American separation of powers system that needs to be further analyzed in order to understand U.S. governmental dynamics and outcomes (Fabbrini 2010a).<sup>3</sup>

At the federal center, legislative, executive, and judicial powers are vested by the Constitution in three different governmental institutions respectively: Congress, composed of the House of Representatives and the Senate; the president; and the courts, topped by the Supreme Court (U.S. Const. Art. I; II; III). The Constitution also enumerates the particular powers pertaining to each governmental institution. Specifically, Congress is entrusted with several powers such as, *inter alia*, the power to collect taxes and pay debts, the power to provide for the defense and welfare of the country, the power to declare war (U.S. Const. Art. I, § 8). The president also holds a number of powers, mainly the power to be Commander-in-Chief of the Army and Navy; to require the written opinion of his executive officers; to pardon offences against the U.S.; to make treaties with foreign powers; to appoint executive officers, ambassadors, and judges of the Supreme Court, as well as other officers of the United States; to advise Congress and propose legislation (U.S. Const. Art II, §§ 2–3). The Supreme Court is entrusted with the task of ‘guardian of the Constitution,’ to be carried out by means of the so-called ‘judicial review,’ which enables the Court to declare federal laws void if in contrast with the Constitution, actually turning it into a policy-making actor (Fabbrini 2008; Fabbrini 2010a).

The horizontal separation of powers thus delineated by the Constitution is further secured by the electoral system and the staggering of the institutional terms of office (Fabbrini 2010a). Indeed, members of the House of Representatives are elected every two years by district voters, senators every six years by state voters (two senators per

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<sup>3</sup> Except for Switzerland, all other federal democratic systems lack the horizontal separation of powers (Fabbrini 2010a).

state),<sup>4</sup> and the president every four years<sup>5</sup> by all citizens on a national basis, though indirectly through the Electoral College system<sup>6</sup> (Fabbrini 2010a). In this way, each institution is connected to a different electoral constituency and community of interests and reflects a political outlook associated to a different time frame (Fabbrini 2010a). Consequently, the formation of a stable and hegemonic majority across the branches of government is structurally hindered in favor of the formation of multiple and concurrent majorities, representing local, state, and national interests (Fabbrini 2010a).

Moreover, it should be remarked how, although they have different and separated powers, all three constitutional institutions (even the unelected judiciary) are invested with equal legitimacy, transferred from the people to the Constitution by means of the Preamble<sup>7</sup> (Fabbrini 2008). So, as Fabbrini (2008: 27) remarks:

‘in America, separated powers mean reciprocally independent powers, both on the electoral and the institutional level,’ ‘this is why the American system is anything but simply presidential’ (Fabbrini 2008: 28).

However, such a reciprocal independence between the institutions and separation in terms of powers, electoral bases, and terms of office could lead to a permanent deadlock of governmental activity if not complemented by the so-called ‘*system of checks and balances*,’ a constitutional device conceived to make the separation of powers workable on a practical level (Fabbrini 2010a). Basically, the system of checks and balances provides incentives for institutional cooperation, or better makes it necessary for the federal institutions to take into account each other’s point of view in order to fully exercise their powers and have a proper functioning (Fabbrini 2008). Indeed, Congress requires the president’s approval and signature in order to turn a bill into law, which implies that the president has a veto power over Congress’ legislative proposals (U.S. Const. Art. I, § 7). Congress, in turn, has the power to override the presidential veto by a two-thirds majority vote in both chambers (U.S. Const. Art. I, §

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<sup>4</sup> Such a condition of equal representation among the states, regardless of their respective population, is the result of the so-called ‘Great Compromise’ reached by large and small states during the Constitutional Convention (Fabbrini 2010a).

<sup>5</sup> Since the introduction of amendment XXII in 1951, the president may serve two terms at most (Fabbrini 2008).

<sup>6</sup> The Electoral College system provides that American citizens elect a number of Great Electors per state equal to the number of members of Congress pertaining to that state. Great Electors, who are usually pledged to a particular presidential candidate, then elect the president (Fabbrini 2010a).

<sup>7</sup> Indeed, the Preamble of the U.S. Constitution reads as follows: ‘We, *the people* of the United States, [...], do ordain and establish this Constitution for the United States of America’ (emphasis added).

7). The president needs the advice and consent of the Senate in order to sign international treaties (by a two-thirds majority vote), as well as for his appointments of executive officers, federal judges and ambassadors (U.S. Const. Art. II, § 2). Moreover, Congress has the power to impeach the president for treason, bribery, or other ‘high Crimes and Misdemeanors’ (U.S. Const. Art. II, § 4) and to remove him from office if found guilty (U.S. Const. Art. II, § 4).<sup>8</sup> Congress also passes the federal budget, with the possibility to financially constrain presidential action (Fabbrini 2010a). Finally, as mentioned, the judiciary has the power to exercise the judicial review of legislation. In this way, the governmental institutions end up by reciprocally controlling each other and establishing a virtuous effect of ‘competitive cooperation.’

In a nutshell, the American system of government, based on a set of separated institutions sharing decision-making power, implements the compound logic of the political system and ensures a lasting democracy (Fabbrini 2010a). Although it involves remarkable flaws such as a low decision-making capacity and an uncertain accountability, it is characterized by three major qualities, namely an anti-hegemonic political order, an antihierarchical institutional order, and an anti-unilateralist decision-making system (Fabbrini 2010a). As a matter of fact, for over two centuries, such a system of government has proven able to guard the U.S. from possible anti-democratic threats and especially from the ‘20th century monsters’ (Teodori 2005: 122), namely Nazism, communism, and fascism (Teodori 2005). Its effectiveness, however, leans on the achievement of a complex equilibrium between the governmental institutions, as well as on the non-occurrence of the so-called ‘divided government,’ when the same political party does not control both the presidency and the two chambers of Congress (Young 2006). In particular, the flexibility of the institutional equilibrium has enabled, over time, the consolidation of different and swinging pre-eminences between the legislative and executive branches, characterizing the government as either ‘congressional’ or ‘presidential’ (Fabbrini 2008).

Particularly remarkable in this sense is the extraordinary evolution of the presidency that, starting from the 1930s and especially since the 1970s, has challenged the antihierarchical institutional order and deeply affected U.S. governmental dynamics

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<sup>8</sup> The impeachment trial is initiated by the House (US Const. Art. 1, § 2) and decided by the Senate with a two-thirds majority vote (US Const. Art. 1, § 3).

and outcomes (Fabbrini 2010a). Such an evolution is mainly attributable to the phenomenon of the *'personalization of the presidency'* (Fabbrini 2008: 22) in organizational, electoral, as well as political terms.

### 1.1.2. *Expansion and personalization of the presidency: popular leadership and governmental drawbacks*

Since its inception, the American presidency has encountered a major evolution in terms of organizational growth, greater political representativeness, and expansion of institutional influence. It can only be fully understood by reference to a process of development (Foley 2008). As a matter of fact, when describing the Office of the president of the United States, the Constitution does not even explicitly refer to a 'presidency' or a 'cabinet,' but only establishes, in Article II, Section 2, the possibility for the president to consult the heads of each executive department (U.S. Const. Art. II, § 2). Indeed, as Lodici (2005: 262) points out, the presidential Cabinet 'is an unusual institution. It is not specifically mentioned in the Constitution and yet each president, from Washington onwards, has had one.'<sup>9</sup> Today's American presidency, however, encompasses much more than the traditional Cabinet, composed of the heads of each executive department<sup>10</sup> and the vice-president (whitehouse.gov). Similarly, current presidential institutional influence is not simply limited to the powers specifically mentioned in the Constitution. The way Young (2006: 165) puts it:

'these enumerated powers (of the President) are certainly non-trivial, but they hardly justify, in and of themselves, the frequent description of the American President as the most powerful individual in the world.'

Indeed, throughout the nineteenth century, a process of expansion and personalization of the presidency started, mainly driven and justified by three factors. First, the necessity to cope with domestic crises, most importantly the Great Depression (Fabbrini 2005). Second, the challenging international environment of the Second

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<sup>9</sup> Originally: *'Il cabinet è un'istituzione insolita. Non è specificatamente menzionato nella Costituzione eppure ogni presidente, da George Washington in poi, ne ha avuto uno.'*

<sup>10</sup> Currently, there exist fifteen executive departments: State, Treasury, Defense, Justice, Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Energy, Education, Veteran Affairs, Homeland Security (whitehouse.gov).

World War and especially the Cold War period, which demanded for a powerful and unitary national figure (Fabbrini 2005). Third, the beginning of the candidate-centered politics, with the introduction of direct primaries, the decline of political parties, and the ultimate establishment of the president as a popular leader (Fabbrini 2005).

Specifically, the severe domestic economic recession followed to the 1929 Wall Street Crash, coupled with the challenges of the Second World War, allowed President Franklin Delano Roosevelt (1933-45) to initiate a twofold expansion of the presidency in terms of organizational development and revolution of the relationship with the public. In 1939, he created the Executive Office of the President (EOP), a very personal body placed under the immediate authority of the president and composed of personal supporters, rather than party affiliates (Fix-Fierro and Salazar-Ugarte 2012; Fabbrini 2005). At the same time, F. D. Roosevelt established a uniquely intimate relationship with the public, based on direct appeals and exchange of opinions by means of the so-called ‘fireside chats’<sup>11</sup> and the thousands of personal letters he used to receive from the people every day (Milkis and Nelson 2012). Such a new popular leadership, which Miroff (2014) has significantly defined as the ‘presidential spectacle,’ i.e. the capacity of presidents to not only appeal to the public but also to actively shape the public opinion, is arguably the most important source of the new presidential power and independence, feared and condemned by Hamilton in *Federalist No. 68* in terms of the ‘little arts of popularity.’<sup>12</sup>

A major boost to such a new popular leadership of the president was brought by the introduction of direct primaries for the selection of presidential candidates in every state starting from the late-1960s (Fabbrini 2005). As a matter of fact, direct primaries represented an unprecedented source of popular legitimacy for the president, as well as a unique occasion for presidential candidates to actively engage in electoral campaigns and eventually sidestep the intercession of political parties. Nowadays, indeed, not only the electoral campaign but also presidential politics in itself is candidate-centered,

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<sup>11</sup> The ‘fireside chats’ were a series of radio addresses (two or three each year) delivered by President F. D. Roosevelt to the American public, in order to explain the reasons and outcomes of his actions (Milkis and Nelson 2012).

<sup>12</sup> ‘Talents for low intrigue, and the little arts of popularity, may alone suffice to elevate a man to the first honors in a single State; but it will require other talents, and a different kind of merit, to establish him in the esteem and confidence of the whole Union, or of so considerable a portion of it as would be necessary to make him a successful candidate for the distinguished office of the President of the United States.’ (Madison *et al.* 1987: 395).



allowing presidents to believe and convince that they are the true representatives of the nation (Fabbrini 2005; Fix-Fierro and Salazar-Ugarte 2012).

The extraordinary popular leadership, political representativeness, and legitimacy thus acquired resulted also in the president's greater institutional independence and empowerment vis-à-vis Congress. Indeed, since the late-1930s, a period of presidential pre-eminence started and lasted until the 1970s when, due to the Vietnam War, the Watergate scandal, and the institutionalization of the 'divided government' era (1969-2000), Congress was able to restore its primacy (Fabbrini 2010a). The terrorist attacks of September 11, 2001, though, brought new strength, legitimacy, and justification for the institutionalization of a new, stronger, presidential government (Fabbrini 2010a).

Thus, by means of the revolutionized relationship with the public, the leading role in international relations, and thanks to the indefiniteness of the Constitution on the matter, the American presidency has been expanded and personalized.<sup>13</sup> Nowadays, the presidency has become an extremely complex administrative apparatus of support to the president, involving thousands of people working at different organizational levels, which can be described as a '*stratified presidency*' (whitehouse.gov; Fabbrini 2005: 321). At the bottom lies the 'administrative presidency,' composed of government corporations and independent agencies, such as the Central Intelligence Agency (CIA) or the National Aeronautics and Space Administration (NASA), which link the president with both Congress and the various sectors of federal intervention (Fabbrini 2005; Lodici 2005; Teodori 2005). The 'departmental presidency,' then, includes the fifteen executive departments and several administrative agencies devoted to specific policy areas (Fabbrini 2005). The 'personal presidency,' lastly, is constituted by the offices that are closer to the president: the White House Office (WHO) and the above-mentioned Executive Office of the President (EOP), fitted out with very important bodies such as the National Security Council (NSC) and the Office of Management and Budget (OMB) (Fabbrini 2005; Lodici 2005). As Fix-Fierro and Salazar-Ugarte (2012: 633) remark, the EOP, placed under the direct authority of the president, 'has expanded

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<sup>13</sup> The indefiniteness of Article II of the U.S. Constitution, and in particular of the clause vesting the president with the power to 'take Care that the Laws be faithfully executed' (U.S. Const. Art. II, § 3), has triggered several constitutional debates and allowed the Supreme Court to apply the so-called 'theory of inherent powers,' thus favoring the empowerment of the presidency without the need for constitutional amendments (Fabbrini 2010a; Fix-Fierro and Salazar-Ugarte 2012).

and grown to the point of it becoming a type of government within the government, and even a fourth branch of government: the presidential branch.’

Notwithstanding the outlined extraordinary process of expansion and personalization of the presidency, the president’s governmental leadership has ended up being weakened. Indeed, as Fabbrini (2005) points out, the candidate-centered electoral process and the resulting degradation of political parties from sources of popular identification to support structures for candidates have undermined the president’s bonds with Congress and deprived him of a secure support for the accomplishment of his legislative agenda (Fabbrini 2005; 2008). For this reason, when analyzing presidential rhetorical and substantive action, both sides of the expansion and personalization of the presidency have to be taken into account: on the one hand, the importance of the rise in the president’s popular leadership, coupled with the greater institutional independence it has entailed; on the other hand, the negative impact that the latter has entailed in terms of loss of governmental leadership.

### 1.1.3. *Foreign policy making*

Understanding the process of foreign policy making in the United States, with a particular attention to the single contributions made and responsibilities assumed by the different actors participating in such a process, is a further necessary step to be taken for the purposes of the present analysis. U.S. foreign policy making has evolved to a great extent over time, similarly to what has been described for the presidency and in direct relation to it. Due to the progressive dismantling of the country’s political isolation and its ultimate affirmation as a global superpower, indeed, U.S. foreign policy making-structure has grown from a simple apparatus mainly preoccupied with domestic issues and legal formalities to what is now called the ‘foreign policy establishment,’ a complex ‘system of open-ended adaptation in response to international circumstances’ (Foley 2008: 108), capable of constantly supervising U.S. interests in the international sphere (Foley 2008).

The actors involved in such an expanded process of foreign policy making are several, with different and evolving roles. Initially, according to the constitutional design, foreign policy powers were equally distributed between the executive branch

and the legislative branch, so as to ensure a reciprocal check in such a delicate field of policy making. Specifically, as already mentioned, on one side the president is invested by the Constitution with the role of Commander-in-Chief of the armed forces, and with the power to both make treaties and appoint executive officers and ambassadors; on the other side, the Senate has the power to advise and consent on the latter presidential actions, the House of Representatives has the power to approve the budget, including military and foreign policy-related expenses, and both chambers reunited hold the power to declare war (U.S. Const. Art. II, § 2; Art. I, § 8).

Subsequently, though, since the Second World War and especially during the Cold War period, U.S. foreign policy has assumed an unprecedented importance and a separate decision-making regime has been institutionalized to deal with it (Fabbrini 2010b). Within such foreign policy regime, a ‘realism of executive prerogative’ (Foley 2008: 114) has been progressively established by necessity, as the executive represents a more centralized, responsive, prepared, and informed institution than Congress is, and gradually institutionalized by the rulings of the Supreme Court. Remarkable, in this sense, is the *United States v. Curtiss-Wright Export Corporation* (1936) decision, with which the Supreme Court recognized the need for executive authority in conducting foreign affairs, by virtue of several non-constitutional factors such as executive skills, threat levels, and force of circumstances (Foley 2008). The executive prerogative in foreign policy making has been largely accepted by Congress too, with a consolidation of the practice of congressional delegation of legislative authority in this field, particularly in moments of crisis (Foley 2008). Most notably, with the Gulf of Tonkin Resolution of 1964, Congress approved the capacity of the president to deploy the armed forces in the absence of a formal declaration of war by Congress, in order to both repeal and prevent an armed attack against the forces of the United States (Foley 2008; Milkis and Nelson 2012). In addition, there has been a remarkable expansion of the usage of the so-called ‘executive agreements’ with foreign states, in place of the formal international treaties, as the former only require a majority vote of both chambers of Congress on the general tactic underlying the agreement (Foley 2008; Fabbrini 2010b).

Notwithstanding such an evolution of the foreign policy-making process in favor of a pre-eminence of the executive, Congress never abandoned its role of ‘co-equal constitutional partner’ (Foley 2008: 115), which makes it capable of restraining foreign

policy decisions and actions of the executive, particularly during periods of divided government. Indeed, three periods of congressional resurgence in the sphere of foreign policy are particularly remarkable, as they show the extent to which congressional action can potentially limit the executive in foreign policy making. First, the 1930s, characterized by a continuous effort of the legislature to restrain President Roosevelt's attempt to involve the country in international disputes, by means of a series of enactments securing American neutrality (Foley 2008). Second, the 1970s, during which Congress actively challenged President Nixon's extraordinary discretion in foreign policy through several enactments, most notably the 1973 War Powers Resolution that prevented the possibility of any future occurrence of a presidential war without formal authorization from the legislature (Fabbrini 2010b; Milkis and Nelson 2012). Third, the 1990s, when, as part of an overall attempt to delegitimize and restrain Clinton's presidency, Congress successfully opposed the passage or ratification of a number of treaties, among which the Chemical Weapons Convention and the Convention on the Rights of the Child, as well as the payment of U.S. financial dues to the United Nations (Fabbrini 2010b).

Today's foreign policy, though, is the result of a complex interaction between not only the two 'constitutional' foreign policy makers, namely the president and the Congress, but also a number of other actors and bodies, different in nature and function. Specifically: the vice presidency, the State Department, the Defense Department, the Treasury Department, the Central Intelligence Agency (CIA), the Joint Chiefs of Staff, the numerous information agencies, as well as the powerful political, economic, and military lobbies (e.g. the American Israel Public Affairs Committee or AIPAC) (Läidi 2012). A special role is played by the National Security Council (NSC) – created in 1947 with the National Security Act to facilitate the integration of domestic, foreign, and military policies relating to the national security – which is currently 'at the heart of the organization, initiation, and coordination of American foreign policy' (Läidi 2012: 19). The NSC has been merged with the Homeland Security Council by President Obama and now comprises, among its members, the top political figures involved in foreign policy making, namely the president, the vice president, the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Director of National

Intelligence,<sup>14</sup> the Chairman of the Joint Chiefs of Staff, as well as the U.S. Permanent Representative to the United Nations (Laïdi 2012).

#### 1.1.4. *National security: a structural factor*

National security can be deemed a preponderant and structural factor affecting the American system of government and driving U.S. foreign policy, both its goals and decision-making process. As such, it deserves a special consideration, with a particular focus on the post-9/11 era, in which it has assumed a unique importance and triggered a new shift in the institutional equilibrium between the president and the Congress in the field of foreign policy.

National security was formally born with the above-mentioned National Security Act of 1947 that, in the Cold War context, met the need to create a ‘state’ of national security able to reorganize U.S. military and intelligence in such a way that would have allowed the country to be always ready to defend itself. The main pillars of such a new national security state were the National Security Council (NSC), the Central Intelligence Agency (CIA), the Department of Defense, and the National Security Agency (NSA), which have expanded and consolidated since then (Milkis and Nelson 2012). Remarkably, the need to build and expand such an articulated national security state finds its roots in the emergence of the nuclear weapon in the world, or what Wills (2010) calls the ‘bomb power,’ arguably the major change in the structures of the modern world. Nuclear power, indeed, has made any single state in the world, no matter how little, potentially lethal even for the world’s major economic and military power. As numbers and quality no longer count in the nuclear world, the U.S. results being always potentially in danger (Wills 2010).

However, what had to be a state of national security aimed at protecting the country and its citizens has arguably become a structure that profoundly affects the institutional dynamics and imprisons both U.S. foreign policy makers and the American public within a cage of lies, secrecy, and espionage. At the institutional level, indeed,

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<sup>14</sup> The Director of National Intelligence (DNI) was created in 2004 with the Intelligence Reform and Terrorism Prevention Act, in order to separate this figure from the one of the Director of the CIA, thus enabling the DNI to advise the president in a more objective and efficient way (Schwarz Jr. and Huq 2008).

the rise of national security has been the main motor of the president's governmental leadership expansion vis-à-vis Congress in the sphere of foreign policy and in some aspects of domestic policy as well, especially during the Cold War and post-9/11 periods. As a matter of fact, national security has not only represented a strong justification for the rise of espionage and secrecy, which have granted an unprecedented discretionary power to the executive, but has also triggered the collective view of the president as Commander-in-Chief of the entire civilian population, rather than of the armed forces only (Milkis and Nelson 2012). Coupled with the increase in the president's popular leadership, occurred to its greatest extent since the beginning of the candidate-centered politics in the 1970s, the emergence of the executive-led national security state has engendered what many have called the 'imperial presidency.' Lowi (1985: 180), for instance, defines the imperial presidency as 'the discretionary presidency grounded in *national security*, rather than domestic government' (emphasis added). Such a combination of the president's popular leadership and empowerment brought by national security will turn out to be a dangerous one, allowing the president to be unchecked on both foreign and domestic fronts.

Although the most notable example of imperial presidency is the one of Richard Nixon (1969-1974), broadly recognized as an 'unprecedented usurpation of power' (Milkis and Nelson 2012: 357), the presidency of George W. Bush (2001-2009) is also regarded by some (Rudalevige 2006) as a second imperial presidency, triggered by the new ascent of national security followed to the terrorist attacks of September 11, 2001 (or '9/11'). Indeed, an unprecedented shift in American foreign policy and institutional dynamics occurred after 9/11, which represents a clear exemplification of how national security can structurally affect the dynamics and outcomes of the American system of government. After the terrorist attacks, the institutional equilibrium between the executive and the legislature was in fact altered, once more, by a series of congressional resolutions granting an almost unlimited power to the presidency in the field of foreign policy. Firstly, with the Authorization for Use of Military Force (AUMF) of September 2001, Congress authorized the President to:

'use all necessary and appropriate force against those nations, organizations, or persons *he determines* planned, authorized, committed, or aided the terrorist attacks that occurred on Sept. 11, 2001, or harbored such organizations or persons' (emphasis added) (Authorization for Use of Military Force of 2001, 50 USC § 1541).

Secondly, the USA Patriot Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act) of October 2001 dramatically increased the federal government's powers of surveillance and detention and, in particular, the presidential authority relating to those powers (Foley 2008; USA PATRIOT Act of 2001). The latter was then further increased by President Bush's Military Order on 'Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism' issued in November 2001, under which the president could detain all noncitizens he suspected of terrorist involvement and bring these to trial in a military tribunal with no right of appeal (66 Fed. Reg. 222; Healy 2008). Moreover, Congress' approval of the presidential authority to unilaterally use military force was renewed with the Authorization for Use of Military Force Against Iraq Resolution of October 2002, in name of the need to:

'(1) defend the *national security* of the United States against the continuing threat posed by Iraq; and (2) enforce all relevant United Nations Security Council resolutions regarding Iraq' (emphasis added) (Authorization for Use of Military Force Against Iraq Resolution of 2002, 50 USC § 1541).

Thus, the structural influence that national security can exert on the American political system and, in particular, on presidential behavior and foreign policy seems to be evident. As such, national security needs to be considered as a special factor in the analysis of the role of the United States within the United Nations. Indeed, as it will be shown, President Obama is deeply affected by the structure of national security as well.

## **1.2. The United Nations**

Formally established at the United Nations Conference on International Organization held in San Francisco between April 25 and June 26, 1945, the United Nations (U.N.) is the world's largest international intergovernmental organization,<sup>15</sup> currently comprising 193 Member States (Conforti and Focarelli 2010). With its nearly universal membership and its global agenda, the U.N. actually represents the 'central site of multilateral diplomacy' (Karns and Mingst 2010: 95). Born from the legacies of

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<sup>15</sup> According to Karns and Mingst (2010: 5), international intergovernmental organizations (IGOs) are: 'organizations that include at least three states among their membership, that have activities in several states, and that are created through a formal intergovernmental agreement such as a treaty, charter, or statute.'

two world wars and the unsuccessful League of Nations, the United Nations was conceived years before its actual foundation, to meet the need for a structure for international cooperation able to ensure a lasting peace. Its main aims were indeed originally set forth in the Atlantic Charter of 1941: first, to discourage aggression and ensure international peace; second, to establish a strong economic and social cooperation among states (Conforti and Focarelli 2010). For the purposes of the present analysis, three are the most relevant aspects of the United Nations to be specifically considered: the structure and functioning of the Organization; the rights and obligations deriving from its membership; as well as the main factors affecting its capacity for action and fostering the debate on the need for its reform.

### 1.2.1. *Structure and functioning*

All aspects characterizing the United Nations are set forth in the U.N. Charter, the founding legal document of the Organization, signed on 26 June 1945 (United Nations 2014). The document was first drafted by the Great Powers (or better, by the United States, the Soviet Union, the United Kingdom, and China, without France) in the meetings held in 1944 at Dumbarton Oaks in Washington, D.C. and subsequently reviewed and unanimously approved by the fifty states participating in the San Francisco Conference, known as the ‘original members’ of the U.N. (Karns and Mingst 2010; Conforti and Focarelli 2010; U.N. Charter Art. 3).

According to Article 2, paragraph 1 of the U.N. Charter, ‘the Organization is based on the principle of the sovereign equality of all Members,’ with the eligibility for membership extended to all ‘peace-loving’ states willing to accept and fulfil the obligations of the Charter (U.N. Charter Art. 4, para. 1). However, the five above-mentioned Great Powers, winners of World War II, hold a special status within the Organization, as they are permanently represented in the Security Council, where each of them retain a veto power allowing for the rejection of any non-procedural decision of the Council. The existence of such a single-veto voting procedure – which is also referred to as the ‘Yalta formula’ based on the fact that it was first conceived during the 1944 Yalta summit – has a pivotal significance inasmuch as it allows the permanent



members (or ‘P-5’) to both protect their sovereignty and to exert an overwhelming influence on the Organization (Conforti and Focarelli 2010).

The main organs of the United Nations are: the General Assembly; the Security Council; the Secretariat, headed by the Secretary-General; the International Court of Justice; the Economic and Social Council (ECOSOC); and the no longer operating Trusteeship Council<sup>16</sup> (U.N. Charter Art. 7, para. 1; Conforti and Focarelli 2010).

The General Assembly, regulated by Chapter IV (Art. 9–22) of the U.N. Charter, is composed of all U.N. Member States, each represented by up to five delegates and each entitled to one vote (U.N. Charter Art. 9; 14). As Conforti and Focarelli (2010) remark, in theory, such an unusual number of representatives per Member State in the Assembly was conceived to allow ‘discordant voices’ from the countries’ government majorities to be heard as well, though in practice only the latter are usually represented. The General Assembly meets in regular annual sessions and, when occasion requires, in special sessions too (U.N. Charter Art. 20). The voting procedure varies according to the seriousness of the issue at stake: two-thirds majority in case of ‘important questions’ and simple majority for all ‘other questions, including the determination of additional categories of questions to be decided by a two-thirds majority’ (U.N. Charter Art. 18, para. 2–3). Article 18, para. 2 provides the following examples of ‘important questions’:

‘recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council [...], the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.’

Notwithstanding such a punctual list, Conforti and Focarelli (2010) remark, the consolidated practice is instead to determine the voting procedure on a case-by-case basis.

As for the powers and the functions of the General Assembly, they are rather limited, and range from simply discussing issues, to sponsoring international treaties, to making non-binding recommendations to U.N. Member States and to the Security Council, with regard to: any matter within the scope of the Charter; any question

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<sup>16</sup> The Trusteeship Council, regulated by Chapter XIII (Art. 86–91) of the U.N. Charter, was at the top of the international regime of administration and supervision of colonial-type territories under the oversight of the U.N. It exhausted its functions with the dissolution of the trust territories (Conforti and Focarelli 2010).

relating to the U.N. organs; the maintenance of international peace and security; disarmament; as well as any question brought before the Assembly by any state, either a U.N. Member or a non-member (U.N. Charter Art. 10; 11; Conforti and Focarelli 2010). Moreover, the General Assembly has the power to both refer questions to and call the attention of the Security Council on situations requiring action, as well as the function to receive and consider annual and special reports from the Security Council and the other U.N. organs (U.N. Charter Art. 11; 15). Finally, under Article 17 of the Charter, the General Assembly approves the budget of the United Nations.

The Security Council, regulated by Chapter V of the U.N. Charter (Art. 23–32), is the organ with the greatest powers (Conforti and Focarelli 2010). It consists of fifteen members: the five permanent members and ten non-permanent members elected by the General Assembly for a two-year term not immediately renewable (U.N. Charter Art. 23; Conforti and Focarelli 2010).<sup>17</sup> Each member of the Council is entitled to only one representative and can express only one vote (U.N. Charter Art. 23; 27). According to Article 27 of the Charter, the voting procedure differs in case of decisions on procedural matters and on ‘all other matters.’ While both kinds of decision require an affirmative vote of nine members to pass, the non-procedural ones need all five permanent members to be included among such majority, actually providing them with a veto power (U.N. Charter Art. 27, para. 3).

The powers of the Security Council are laid down in Chapters VI (Art. 33–38), VII (Art. 39–51), VIII (Art. 52–54), and XII (Art. 75–85) (U.N. Charter Art. 24, para. 2). Firstly, the Council exercises a conciliatory function in disputes representing a potential threat to peace and security; secondly, and most importantly, the Council is assigned with the ‘primary responsibility for the maintenance of international peace and security,’ to be fulfilled by acting on behalf of U.N. Member States (U.N. Charter Art. 33–38; 24, para. 1–2; Conforti and Focarelli 2010). Under Chapter VII of the Charter, the action taken by the Council in the execution of this second function, specifically after a threat to the peace, a breach of the peace, or an act of aggression have been perpetrated, can be enforced on U.N. Member States, either with or without the use of armed force (Conforti and Focarelli 2010). As a result, the Security Council is capable

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<sup>17</sup> The number of members composing the U.N. Security Council was amended in 1965 and increased from eleven to fifteen, in order to take into account the expansion of the overall membership of the Organization (Conforti and Focarelli 2010).

of taking both, non-binding recommendations and binding decisions and resolutions (U.N. Charter Art. 36–39; 41–42). While decisions require Member States to implement measures, resolutions enforce measures directly applied by the Security Council on states responsible for breaching or threatening international peace and security (Conforti and Focarelli 2010). The measures range from the imposition of sanctions (e.g. interruption or severance of economic and diplomatic relations), to military operations carried out by the armed forces provided by all U.N. Member States (U.N. Charter Art. 41–45). Under Article 2, para. 7 of the Charter, the application of enforcement measures under Chapter VII represents an exception to the limit of non-intervention in matters pertaining to the states' domestic jurisdiction (U.N. Charter Art. 2, para. 7; Conforti and Focarelli 2010). In organizational terms, under Articles 43–47 of the Charter, Security Council's measures involving the use of force should be carried out under an international command formed on the basis of single agreements stipulated between U.N. Member States and the Council and governed by a Military Staff Committee composed of military representatives of the P-5. Remarkably, though, such provisions have never been applied, but instead replaced by the customary practice of either creating a United Nations Force (the so-called 'blue helmets') to engage in *peacekeeping operations*, or by *delegating the use of force* to a single Member State or a group of them (Conforti and Focarelli 2010).

The other organs of the United Nations have a less fundamental role, in terms of both the powers exercised within the Organization and the role Member States can play within them. The Economic and Social Council (ECOSOC), regulated by Chapter X (Art. 61–72) of the U.N. Charter, is a subsidiary organ of the General Assembly with no decision-making power, tasked with promoting international cooperation in the social, economic, and cultural field, mainly by conducting studies, making non-binding recommendations, and calling for international conferences (U.N. Charter Art. 60; 62; Conforti and Focarelli 2010). It is composed of fifty-four Member States elected by the General Assembly for three-year staggered terms (Conforti and Focarelli 2010; U.N. Charter Art. 61). Each member of the ECOSOC has one vote and the majority of the members present and voting is required to take decisions (U.N. Charter Art. 67).

The Secretariat, regulated by Chapter XV (Art. 97–101) of the Charter, is entrusted with administrative functions (Conforti and Focarelli 2010). It consists of a

Secretary-General, the chief administrative officer of the U.N., appointed by the General Assembly upon recommendation of the Security Council, and such staff as the Organization may require, appointed by the Secretary-General under the rules provided by the General Assembly (U.N. Charter Art. 97; 101).

The International Court of Justice (ICJ), regulated by Chapter XIV (Art. 92–96) of the U.N. Charter and governed by its own Statute annexed to the Charter, is the ‘principal judicial organ of the United Nations’ (U.N. Charter Art. 92). It remains permanently in session and is composed of fifteen independent judges elected in a personal capacity for a nine-year renewable term (Statute of the ICJ Art. 1; 23; Conforti and Focarelli 2010).<sup>18</sup> Under Article 93, para. 1 of the U.N. Charter, ‘all Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.’ Indeed, the jurisdiction of the Court in all legal disputes brought before it is compulsory for all U.N. Members, based on single declarations of acceptance of the compulsory jurisdiction, which can be either unconditional, conditional to reciprocity from other states, or even temporary (Statute of the ICJ Art. 36). The Court’s decisions, though, have binding force only between the parties and in respect of the particular case (Statute of the ICJ Art. 59). Besides the power to judge legal disputes, the Court may, under request, issue advisory opinions to the General Assembly and the Security Council on any legal question and to other U.N. organs on legal questions pertaining to their activities (U.N. Charter Art. 96).

The outlined central structure of the United Nations is completed by a series of departments and offices and supplemented by the U.N. System, which consists of the United Nations funds and programmes; specialized agencies; and related organizations (United Nations 2014).

### 1.2.2. *Membership rights and obligations*

The U.N. Charter is an international treaty – besides being also considered as a kind of constitution – and, as such, ‘(i)t is subject to the principles that govern international agreements and a State is not bound by it if such State does not express a

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<sup>18</sup> More precisely, the ICJ remains permanently in session, except during judicial vacations (Statute of the ICJ Art. 23, para. 1).

willingness to adhere to it' (Conforti and Focarelli 2010: 11). Consequently, as Conforti and Focarelli (2010) underline, the United Nations is a 'voluntary community,' even if a worldwide-spread one. That being said, where U.N. membership occurs, a series of obligations and rights follow.

Several obligations relating to U.N. membership can be drawn from the Charter. First of all, under Article 2, all Member States need to act in accordance with the Principles of the United Nations, which require that they:

- (a) 'fulfil in good faith the obligations assumed' in accordance with the U.N. Charter;
- (b) 'settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered;'
- (c) 'refrain in their international relations from the threat or use of force;'
- (d) 'give the United Nations every assistance in any action it takes' in accordance with the U.N. Charter and 'refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action' (U.N. Charter Art. 2, para. 2–5).

If they persistently fail to comply with such Principles, Member States can incur expulsion from the Organization or, in case they threaten or breach international peace and security, the already mentioned preventive and enforcement measures of the Security Council, followed by suspension of the rights of membership (U.N. Charter Art. 5; 6; 39). Furthermore, under Article 17, paragraphs 1 and 2, Member States owe financial contributions to the Organization, as apportioned by a two-thirds majority decision of the General Assembly (Conforti and Focarelli 2010).<sup>19</sup> A suspension of the right to vote in the General Assembly incurs for Member States being in arrears in the payment of their financial contributions to the U.N. – the amount of arrears has to equal or exceed the contributions owed for the preceding two years (U.N. Charter Art. 19). Additional membership obligations are set forth in Article 25, under which U.N. Member States have to accept and carry out the decisions of the Security Council; as well as in Article 43, paragraph 1, under which Member States are required to make available to the Security Council 'armed forces, assistance and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.' Also the already mentioned Article 94 should be included among the obligations, as it provides that U.N. membership entails, *ipso facto*, the recognition of

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<sup>19</sup> As Conforti and Focarelli (2010) highlight, this represents one of the few cases in which the General Assembly has the power to take a binding decision, rather than a recommendation.

the jurisdiction of the International Court of Justice and the need for the parties involved to comply with its decisions (U.N. Charter Art. 94).

After having illustrated the main obligations related to U.N. membership, two remarks need to be made. First, the very significant fact that, under Article 103 of the Charter, obligations under the U.N. Charter prevail over obligations under any other international treaty. Second, the fact that, even though the U.N. is a voluntary community, no Charter provision exists on the possibility to unilaterally withdraw from it, which was instead provided for in the Covenant of the League of Nations, Article 1, paragraph 3 (Conforti and Focarelli 2010). Therefore, in the lack of an *ad hoc* provision, the right of withdrawal from the U.N. is subject to the 1969 Vienna Convention on the Law of Treaties that, under Article 62, makes the right conditional to the occurrence of the so-called *rebus sic stantibus* clause, when the decisive circumstances existing at the time of the adoption of the treaty have undergone a substantial change (Conforti and Focarelli 2010).

Three main membership rights can be pointed out within the U.N. Charter as well. Firstly, and clearly, the right to vote within the General Assembly and the other U.N. organs in which Member States are represented. Secondly, the right to have ‘matters which are essentially within the domestic jurisdiction’ (U.N. Charter Art. 2, para. 7) preserved from any intervention of the United Nations (except for the enforcement measures referred to in Chapter VII) (U.N. Charter Art. 2, para. 7). Such a provision, known as the ‘domestic jurisdiction clause,’ establishes a substantial limit to the functions and actions of the U.N. However, as Conforti and Focarelli (2010) point out, in the practice, the U.N. has frequently rejected exceptions based on Article 2, paragraph 7, especially in situations characterized by human rights violations. Thirdly, U.N. Member States are also recognized, under Article 51 of the Charter:

‘the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security.’

Remarkably, this provision represents the main limit to the obligation to refrain from the use of force in the international arena (Conforti and Focarelli 2010).

### 1.2.3. *Capacity for action and need for reform*

The most effective action that the United Nations as an organization can undertake is certainly by means of the Security Council, the only U.N. organ able to enforce measures on Member States and upon the legitimacy of their actions. In order to be considered as a credible global actor, and not only as an arena for global governance, the U.N. needs to be able to *act*, or better, the Security Council needs to be able to adopt its binding decisions and resolutions. Here's why the role played by the permanent members and their so-called 'veto power' assumes an incredible importance and deserves a more thorough consideration.

As mentioned, the voting procedure in the Security Council, under Article 27, paragraph 3, gives all five permanent members the power to individually impede the adoption of any non-procedural decision of the Council. What is more, as Conforti and Focarelli (2010) highlight, such a voting procedure can also give rise to the so-called 'problem of the double veto.' Indeed, since the decision on the procedural nature of a question can also be subject to veto, the permanent members have the opportunity to abuse of their veto power, by rejecting the procedural nature of the matter first, in order to be able to veto the main question afterwards (Conforti and Focarelli 2010). The 'institution of the veto power', thus, hinders to a great extent the U.N. capacity for action. In case of abstention of one of the permanent members, at least, the veto does not apply. That's what has been established by the practice, albeit Article 27, paragraph 3, requires an *affirmative* vote of all five permanent members, reason for which abstention would have had to be considered as a veto (Conforti and Focarelli 2010). This is one of the cases highlighted by Conforti and Focarelli (2010), in which the practice has developed an unwritten or customary rule that derogates from the Charter provision. Such a *customary rule on abstention* has a great importance in terms of the U.N. capacity for action, inasmuch as it has allowed for the adoption of several Security Council resolutions which, otherwise, would have never been adopted (Conforti and Focarelli 2010). Not the same can be affirmed in the case of absence of a permanent member. Although several members of the Security Council have repeatedly expressed the view that absence of a permanent member should be deemed the same as abstention, the practice on the issue is too limited to affirm that a similar customary rule has developed for absence too (Conforti and Focarelli 2010).

It is mainly with reference to such institution of the veto power and its ability to compromise the capacity for action of the United Nations that a large debate on the need for a reform of the U.N., particularly of the Security Council, as well as for a revision of the U.N. Charter more at large, has developed since a number of years. Specifically, the veto power within the Security Council is widely considered as an ‘anachronistic and undemocratic institution’ (Conforti and Focarelli 2010: 77). Anachronistic insofar as it reflects a balance of power belonging to six decades ago, at the end of World War II; undemocratic in consideration of the extraordinary enlargement of the membership of the Organization, which has almost quadrupled and spread all over the world since its inception in 1945 (Conforti and Focarelli 2010). Several proposals have been advanced to reform the Security Council. They range from the invitation to completely eliminate the institution of the veto power; to the proposal to extend it to other relevant members, enlarging the permanent membership; to the suggestion to make permanent members give up their veto power at least for decisions concerning gross human rights violation (in order to allow a smooth implementation of the so-called ‘responsibility to protect’<sup>20</sup>), as well as for those regarding the execution of judgements of the International Court of Justice condemning a permanent member (Conforti and Focarelli 2010; Karns and Mingst 2010).

A second broadly debated area of reform concerns the need for a revision of the U.N. Charter, or at least the application of a series of amendments to it, in order to take into account the accomplishment of the phenomenon of decolonization and the consequent enlargement of U.N. membership to a great number of less developed countries, which currently outnumber developed ones (Conforti and Focarelli 2010).<sup>21</sup> In this sense, not only the no longer operating Trusteeship Council would need to be abolished, but especially the General Assembly, as the most representative organ, would have to be empowered vis-à-vis the Security Council (Karns and Mingst 2010; Conforti

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<sup>20</sup> The responsibility to protect (R2P) is an emerging norm, endorsed at the 2005 U.N. World Summit, considered as the soft-law basis for an obligation of humanitarian intervention when states fail to protect populations from genocide, war crimes, crimes against humanity and ethnic cleansing (Karns and Mingst 2010).

<sup>21</sup> A revision of the U.N. Charter, whose procedure is described in Article 109 of the Charter, has never been implemented. Only minor amendments have been made, with reference to the number of members in the Security Council, enlarged from eleven to fifteen (amendment to Articles 23 and 27 of 1965, and to Article 109, para. 1 of 1968) and in the Economic and Social Council, expanded from eighteen to twenty-seven at first, and from 27 to fifty-four subsequently (amendment to Article 61 of 1965 and 1973) (Conforti and Focarelli 2010).



and Focarelli 2010). In particular, according to Conforti and Focarelli (2010) a democratization of the General Assembly, meaning ‘its transformation from an assembly of governments to an assembly of representatives of peoples’ (Conforti and Focarelli 2010: 27), followed by an effective control of the Assembly on the Council’s actions, would represent the real and decisive change towards a more functional and credible U.N.

Other aspects of debate regard the need for a structural reform of the U.N. bureaucracy and Secretariat, to avoid inefficiencies and political bias, and a possible reconsideration of the U.N. financing system (Karns and Mingst 2010). Indeed, the sole contributions of Member States (both assessed and voluntary), constantly in arrear, threaten the Organization’s capacity for action (Karns and Mingst 2010).

In order to address such reform issues, the General Assembly has created a ‘Special Committee for the United Nations Charter and for strengthening the role of the Organization’ since 1974, as well as an ‘Open-ended working group on the question of equitable representation and increase in the membership of the Security Council and other matters related to Security Council’ since 1993. Additionally, since 2003, the Secretary-General has established a High-level Panel tasked with recommending the necessary changes to ensure an effective U.N. action (Conforti and Focarelli 2010). Nonetheless, Karns and Mingst (2010) and Conforti and Focarelli (2010) agree on the fact that a radical change in the structure of the United Nations seems very unlikely, as the permanent members, which under Articles 108 and 109 of the U.N. Charter have the veto power also with regard to ratification of amendments and revision, are not keen to change existing rules.

### **1.3. U.S. – U.N. relationship**

Once the institutional aspects of the American governmental system and U.N. functioning have been illustrated – institutional aspects that represent the principal independent variables of the present research work – it is now possible to focus on the ‘relationship’ between the United States and the United Nations. Firstly, by drawing from the scholarly debate and the main theories of the international relations, it is necessary to conceptualize two alternative models of such a relationship, able to

describe and possibly explain the current U.S. *policy* toward the U.N. and its *standing* within the Organization. By means of such opposing conceptual models, it will then be possible to carry out the analysis of the current role the U.S. plays within the Organization and eventually assess which model best represents it. Secondly, once its conceptual framework is set, the U.S.-U.N. relationship needs to be described in institutional and concrete terms as well, by illustrating the characteristics of the United States Mission to the United Nations and the main ways in which the United States can potentially contribute to and influence the Organization.

### 1.3.1. *Conceptual models*

The analysis of the role currently played by the United States within the United Nations entails describing, understanding, and explaining the behavior (or policy) of the state-actor vis-à-vis the Organization, as well as its standing within it. As anticipated, such a task will be carried out by conceptualizing two opposing models and verifying which one, if none, applies. Above all, any conceptualization needs to be based on a number of assumptions. Since the conceptualization refers to the relationship between the U.S. and the U.N. at the macro-systemic level, it seems necessary to draw from the theories of the international relations. Starting from the fundamental idea that no theory can encapsulate the absolute truth, it is deemed appropriate to combine different assumptions belonging to the major theories of the international relations, assumptions which all seem to apply to today's international system. Specifically: the fact that the international system is anarchical (*realism*), but such anarchical character can be limited by international institutions and agreements (*liberal institutionalism*); that the states are not the only actors in the international arena (*liberalism*) and are not perfectly unitary or rational actors along the decision-making process (*liberal institutionalism*); that agents and structures in world politics are mutually constitutive (*constructivism*); as well as the recognition that high and low politics (i.e. security and economic concerns) are almost equally relevant in today's international relations (*theory of complex interdependence*) (Mazzei *et al.* 2010; Karns and Mingst 2010; Wendt 1987; Jackson and McDonald 2014). Moreover, it also seems appropriate to pursue only descriptive and explanatory goals with the present conceptualization, leaving the normative sphere aside.

At this point, it is possible to elaborate two opposing conceptual models of the U.S.-U.N. relationship, or better, of the U.S. role within the U.N. The *unilateralist model*, from a more realist perspective,<sup>22</sup> describes U.S. behavior (or policy) toward the U.N. as driven by both the *national interest* – encompassing primarily security concerns and secondarily economic ones – and the *hegemonic aim* to maintain a good reputation and credibility within the international system. Under this model, the United Nations does not own any inherent value to the U.S., if not to the extent that it is exploitable for advancing its national interest and preserving a position of power and hegemony in a post-American world.<sup>23</sup> Accordingly, the country's standing within the Organization results being highly undermined and, in turn, negatively affects its behavior. From an opposite perspective, the *multilateralist model*, from a more liberal-institutionalist point of view, describes U.S. behavior (or policy) toward the U.N. as driven by the desire to promote an international order in the *common interest*, functional to the maintenance of both a more secure world and a mutually-advantageous cooperation among all, state and non-state, actors on the international scene, in the security, economic, social, legal, as well as cultural fields. Under this model, the country values the Organization per se, not only as a global forum and useful means for cooperation, but also as a crucial global actor, able to solve global problems on behalf of its Member States. As a result, the country stands in a very good position within the Organization, which motivates and enables an even greater improvement of its behavior.

Several scholars of the international relations can be more or less explicitly associated with one of the two models outlined. An author who can be connected with a *unilateralist* model of U.S. international behavior is the liberal internationalist scholar G. John Ikenberry (2001). When questioning himself about the reason why the United States, as the post-World War II most powerful country, was pushed to surround itself with a dense web of international institutions – carrying out what he calls 'strategic restraint' – the author identifies mainly 'egoistic' motives. The U.S., Ikenberry (2001; 2007) holds, was driven by the will to crystalize its powerful position, ensure the

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<sup>22</sup> The perspective cannot be considered entirely realist insofar as it attributes a significant importance to non-security concerns as well (e.g. economic, cultural).

<sup>23</sup> The term 'post-American' has been introduced by Fabbri and Yossef (2013: 4) to describe the current 'unbalanced multipolar world.'

allegiance of other states, and create a world order compatible to its interests, in both the political and economic realms.

According to Craig N. Murphy (2014), instead, the policy of the United States toward the U.N. can be considered as fully represented by the *multilateralist* model only during the 1940s, when most Americans still believed in the need for and the achievability of a form of global government, and the U.S. was willing to exercise an ethical hegemony truly committed in advancing the common interest of ‘all’ countries. Afterwards, though, particularly since the 1970s and 1980s, an ‘academic and governmental turn away from the UN system’ (Murphy 2014: 262) occurred in the U.S. and the attitude of the government toward the U.N. is better represented by the *unilateralist* model. In particular, Murphy (2014) argues, the U.N. has since then become a mere instrument of foreign policy for the United States, no longer willing to accommodate other countries’ interests than its own.

Finally, it seems also appropriate to mention Joseph S. Nye Jr. (2002) among the ‘supporters’ of the *multilateralist* model, as he openly recommends the United States to adopt a multilateral foreign policy. Besides being the theoretician of ‘soft power,’ which he defines as ‘getting others want the outcomes that you want’ (Nye 2004: 5), Nye (2002) firmly believes in the importance of the international cooperation among states to the point of stating that, like it or not, the U.S. is ‘bound to cooperate’ and really needs to be sensitive about the concerns of its partners.

### 1.3.2. *United States Mission to the United Nations*

Since the very conception of the United Nations project, the United States has played a role of primary importance for the development and success of the Organization. As a matter of fact, President F. D. Roosevelt, in the wake of the ill-fated effort of Woodrow Wilson, promoted the creation of a successful structure for cooperation between the major powers as one of his top foreign policy objectives already in wartime period (Milkis and Nelson 2012). U.S. influence in the creation of the U.N. is so much rooted that Murphy (2014: 259) even refers to the Organization as ‘Roosevelt’s child.’ Additionally, with Senate approval of 28 July 1945, the United

States became the first country to ratify the Charter of the United Nations (Karns and Mingst 2010).

The United Nations Participation Act of 1945, approved by Congress on 20 December 1945 (and amended in 1949), regulates the appointment of U.S. representatives in U.N. organs and agencies; the application of U.N. Security Council enforcement measures; the provision of armed forces, facilities, and assistance to the Council; as well as the authorization of annual U.S. financial contributions to the Organization.

Currently, U.S. participation within the Organization is carried out by the United States Mission to the United Nations (USUN) created in 1947 by the Congress, which serves as the country's delegation to the U.N. (<http://usun.state.gov/>). More specifically, USUN is a branch of the Department of State tasked with assisting the President in conducting U.S. policy toward the U.N. and representing American interests within it (<http://usun.state.gov/>). The Mission is headed by the U.S. permanent representative to the United Nations (commonly referred to as U.S. ambassador to the U.N.), who has the status of ambassador plenipotentiary and normally sits in the Security Council (Fasulo 2015). Four additional ambassadors – the deputy permanent representative, the alternative representative for special political affairs, the representative on the UN Economic and Social Council (ECOSOC), and the representative for management and reform – compose a staff of over a hundred people (United Nations Participation Act of 1945; Fasulo 2015). All five ambassadors are appointed by the President and confirmed by the Senate (United Nations Participation Act of 1945). The Mission is then structured in a number of Sections covering the main fields in which the ambassadors need advice and support, namely: the Political Section; the Management and Reform Section; the Economic and Social Section; the Legal Section; the Host Country Section; and the Press and Public Diplomacy Section (<http://usun.state.gov/>). In addition, the Mission is provided with a Military Staff Committee entrusted with both representing the Chairman of the Joint Chiefs of Staff on the U.N. Military Staff Committee and advising the permanent representative on military and security issues related to peacekeeping operation (<http://usun.state.gov/>).<sup>24</sup>

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<sup>24</sup> As noted earlier, the U.N. Charter provision establishing the U.N. Military Staff Committee has never entered into force and can be considered as abrogated by the practice (Conforti and Focarelli 2010).

### 1.3.3. *U.S. contribution to and influence on the United Nations*

In order to be able to fully analyze the current role of the United States within the U.N. and assess whether the Obama administration has implemented any substantive change in its policy toward the Organization, it is necessary to first point out the concrete ways in which the U.S. can actually support the Organization and exert a special influence on it. Maintaining the largest delegation to the U.N. among all 193 Member States, the United States is said to be ‘always there’ and to never leave a chair vacant if not when making a political statement (Fasulo 2015). Moreover, as anticipated, the U.S. had a primary influence in the creation of the United Nations, to the point that some (Murphy 2014) even consider the Organization as ‘Roosevelt’s child.’ Besides such preliminary considerations, several other aspects of U.S. contribution to and influence on the U.N. need to be highlighted.

First and foremost, the United States has always been the single largest financial contributor to the U.N. budget, composed of the so-called ‘regular budget,’ which covers its administrative machinery, major organs, and auxiliary agencies and programmes; the separate budget for peacekeeping expenses; and a separate budget for each specialized agency (Karns and Mingst 2010). U.N. Member States’ financial contributions are divided in ‘assessed contributions,’ which are owed to the Organization, and ‘voluntary contributions,’ which fund many U.N. programmes, such as the UNDP, UNICEF, the WFP and the UNHCR (Karns and Mingst 2010).<sup>25</sup> Assessed contributions consist of the share of U.N. expenses attributed to Member States by evaluation of the General Assembly’s Committee on Contributions, and reevaluated every three years, based on Member States’ national income, per capita income, the existence of economic dislocations (such as from war), and the ability to obtain foreign currencies (U.N. Charter Article 17, para. 2; Karns and Mingst 2010; Bond 2003). Such assessment criteria, which can be summarized in Member States’ ‘ability to pay,’ apportion the highest share to the United States, the world’s most affluent country. Specifically, for the period 2013-2015, the highest share of the regular budget, assigned to the U.S., amounts to 22 percent of the total budget, followed by Japan’s 10.833 percent, while the lowest is set at 0.001 percent for countries with the most limited

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<sup>25</sup> The acronyms stand for: United Nations Development Programme, United Nations Children’s Fund, World Food Programme, and United Nations High Commissioner for Refugees.

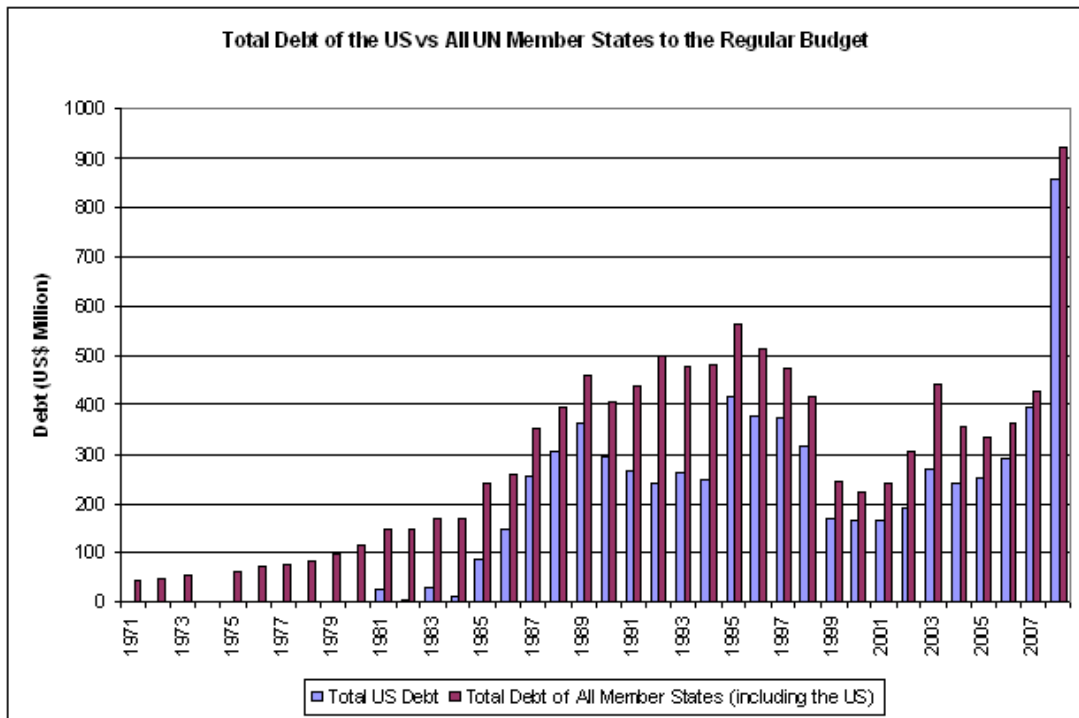
means (A/RES/67/238; ST/ADM/SER.B/910). This entails that the United States covers more than \$654 million, almost one-fourth of the over \$2.9 billion total U.N. budget, and clearly shows how American financial contribution is vital to the Organization. At the same time, as Bond (2003: 706) noted in 2003, '(t)otal U.S. payments to the entire U.N. system, including payments to agencies such as the World Bank and the IMF, amount to less than one-quarter of one percent of the federal budget of the United States.'

In financial terms, U.S. influence on the U.N. is thus overwhelming, placing the country in a leverage position from which it can use withholding of funds as a bargaining tool to induce the U.N. to act compatibly with American interests (Bond 2003). In the 1980s, for example, the United States withheld part of its dues to the U.N. to show its unhappiness with the disparity existing between how much the U.S. had to contribute financially and how little it got to control politically (Karns and Mingst 2010). In so doing, the country provoked a severe U.N. financial crisis, forcing the Organization to seek a compromise – which was gradually adopted by almost all U.N. agencies – granting major donors increased power to review U.N. programs and establish budget priorities by consensus voting through the Committee for Programme and Coordination (Karns and Mingst 2010). Still, starting from the 1980s and particularly since Congress' enactment of a 25-percent cap on peacekeeping contributions in 1994, the U.S. has accumulated a great amount of arrears, composed of both unpaid assessed contributions and debts (Karns and Mingst 2010; Bond 2003).<sup>26</sup>

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<sup>26</sup> Since the United States is responsible for 26.5 percent of the peacekeeping budget (31 percent until 1999), the 25-percent cap on peacekeeping dues imposed by Congress in 1994 has determined the accumulation of a constant amount of arrears thereafter (Bond 2003).

Figure 1.1



Source: Global Policy Forum, [globalpolicy.org/un-finance/tables-and-charts-on-un-finance/the-un-regular-budget/27479.html](http://globalpolicy.org/un-finance/tables-and-charts-on-un-finance/the-un-regular-budget/27479.html).

As Figure 1.1 shows, since 1961 the United States has been responsible for half to three quarters or more of total U.N. regular budget debt accumulated by *all* Member States until 2008. Particularly since the mid-2000s, U.S. debt has covered almost the entire amount of total U.N. debt (Global Forum n.d.a).

Also to be noted is the fact that the United States represents a major benefactor to the U.N. system in terms of *voluntary* contributions as well. In particular, as Murphy (2014) highlights, the U.S. can be identified as a designer and main donor of the U.N.'s development system (later become United Nations Development Program or UNDP), which 'was the direct descendant of the Marshall Plan [...] for the whole world' (Murphy 2014: 263). Even in the voluntary sphere, however, the United States has progressively withheld its finances, starting from a major cut in its financial support to the developing world within the U.N. at the beginning of the 1970s, following the adoption of an oppositional position to Third World proposals to reform the international economic system (Murphy 2014).



A second way in which the U.S. can affect the United Nations is by means of its contribution in terms of armed forces, facilities, and assistance made available to the Security Council. Remarkably, despite being the country with the world's best equipped and prepared army and intelligence in the world, the U.S. doesn't have good records of troop and personnel contribution to UN peacekeeping operations. Suffice it to mention that, from 1997 to 2008, U.S. ranking in terms of size of troop and other personnel contribution to U.N. peacekeeping operations has lowered from the 10th to the 43rd place, with the deployment, on average per month, of around 800 U.S. soldiers (or other personnel) against the 1,100 of the country contributing the most in 1997 and only around 272 against the 10,656 of the top-contributing country in 2008 (Global Policy Forum n.d.b; n.d.c). Much of such disengagement can be attributed to the troubles experienced during the U.N. peacekeeping mission in Somalia, where the 1992 Unified Task Force on Somalia (UNITAF) and the 1993 UN Operation in Somalia II (UNOSOM II) involved 26,000 and 5,000 U.S. troops respectively (Karns and Mingst 2010). On that occasion, eighteen American soldiers were killed and America's pride was dented with the dragging of the body of a soldier through the streets of Mogadishu (Karns and Mingst 2010). As Karns and Mingst (2010: 259) highlight, the Somalian experience 'had a devastating effect on (U.S.) willingness to commit its own military and personnel in UN peacekeeping operations.' Nevertheless, the decreasing trend in U.S. troop and other personnel contribution to U.N. peacekeeping operations has been constant in time, particularly since the mid-2000s when the 'Somalian trauma' had certainly weakened.

A few other aspects of U.S. influence on the United Nations deserve to be underlined, not least the fact that the United States is the host country of the U.N. Headquarters in New York, as set forth in the 1947 Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations (A/RES/169 (II)). Hosting the Headquarters entails an ability to potentially affect and control the activities of the Organization, in substantive terms. Throughout the history of the Organization, indeed, a number of issues have arisen, ranging from the selective emission of U.S. entry visas, to the unequal provision of administrative assistance to members of the United Nations community. The latest U.N. *Report of the Committee on Relations with the Host Country*, issued in October 2015, confirms that

such issues have not yet been overcome (A/70/26). The document reports the complaints of the observer State of Palestine and the Russian Federation relating to the difficulties faced in obtaining U.S. entry visas for their diplomats (A/70/26). The United States is thus accused of taking ‘a selective and discriminatory approach to the issuance of entry visas’ (A/70/26: 6), on more than one occasion. Moreover, the U.S. is reported to deny banking services to certain Permanent Missions, such as the Iranian one, in such a way that obstructs the smooth performance of their diplomatic duties (A/70/26).

Lastly, the overwhelming presence of U.S. nationals among the Top and Senior Officials of the United Nations can also be considered as further evidence of the special status Americans hold within the Organization. Counting twenty-three current American U.N. Senior Officials and a tradition of leadership within the most important U.N. agencies – most notably with the World Bank’s entirely American presidency – the United States definitely stands out among the 193 U.N. Member States (U.N. Protocol and Liaison Service 2015; Murphy 2014; worldbank.org).

The influence of the United States on the United Nations, from its inception to present days, thus appears utmost. Yet, starting from the 1980s, a progressive U.S. withdrawal from the Organization in terms of financial and troop contribution seems to be evident as well. As it will be shown, the George W. Bush administration’s unilateral turn in the policy toward the U.N. would further consolidate such a negative trend. What is yet to be seen is whether President Obama, along the course of his almost completed double mandate, has concretely intervened to reverse at least some aspects of such a trend or inaugurated new positive ones.

## II.

### OBAMA V. BUSH AT THE U.N.:

### COMPARING RHETORIC AND SUBSTANCE

#### 2.1. The Bush Administration (2001 – 2009)

The terrorist attacks occurred on September 11, 2001 in New York and Washington brought about a sharp increase and a unilateral turn in presidential power vis-à-vis the legislature, through the dynamics described earlier (Milkis and Nelson 2012). But that is not the only unilateral shift 9/11 provoked. In the name of national security, the newly elected president George W. Bush adopted an aggressively independent and assertive attitude and policy internationally as well.

##### 2.1.1. *Rhetorical commitments and policy directions*

The bulk of Bush's unilateralism toward the international community and, in particular, the U.N. is perfectly encapsulated in a statement he made during his news conference on Iraq in March 2003:

'I'm confident the American people understand that when it comes to our security, if we need to act, we will act. And *we really don't need United Nations approval* to do so. [...] (W)e really don't need anybody's permission' (emphasis added) (Bush 2003a: para. 141).

Such an assertive and openly unilateralist attitude toward the United Nations is certainly uncommon among U.S. presidents, perhaps unprecedented. Even more so if contextualized within the Bush administration's 2002 National Security Strategy (NSS), which recomposed U.S. unilateralist stands in a proper political doctrine (Fabbrini 2010a). The 2002 NSS, indeed, was centered around two new foreign-policy directions: the defense of *unilateralism* in advancing U.S. national security and the highly controversial '*preemptive doctrine*' – which, in the opinion of many (e.g. Fisher 2008),

would be more accurately termed ‘preventive doctrine’ – (Patrick 2010). According to the preemptive doctrine, the United States has the right to use military action to forestall *long-term* threats to its security, by ‘prevent(ing) potential adversaries from *developing the capability* to launch an attack on the USA’ (Fisher 2008: 140). In other words, it entails the possibility to use armed force outside the sphere of self-defense, which under Article 51 of the U.N. Charter applies only *after* an armed attack has occurred against a Member State, and is then directly contrary to the U.N. fundamental principle and purpose of the maintenance of international peace and security.<sup>27</sup> With such premises, set forth in the 2002 NSS and largely reiterated in the 2006 wartime NSS, the Bush administration’s relationship with the United Nations could hardly avoid being a troublesome one.

To focus more in detail on Bush’s policy directions toward the U.N., it should also be remarked how the 2002 National Security Strategy affirms that, in the pursuance of the war on terrorism, the U.S. recognizes the need for support from allies and international organizations such as the United Nations. In this sense, it is further stated, ‘(t)he United States is committed to lasting institutions like the United Nations’ (Bush 2002a: Introduction). Yet, committing to the U.N. to gain support for U.S. foreign-policy goals is not quite the same as declaring a real and genuine commitment to the Organization, which would require respect for its principles and openness to its recommendations. The lack of such an unequivocal respect is indeed evident from a subsequent statement in the document, which seem to better describe the Bush administration’s real intentions:

‘in exercising our leadership [...] we will be prepared to *act apart* when our interests and unique responsibilities require’ (emphasis added) (Bush 2002a: 31).

One could still claim, at this point, that the Bush administration’s foreign-policy goals were distinctly grounded in liberal ideals and values totally shared by the United Nations, namely the advancement of freedom, democracy, justice, and human dignity (Bush 2001; 2006a). However, as many have claimed (e.g. Patrick 2010), this represented more a justification for the war on terrorism or, even worse, a new form of

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<sup>27</sup> To be noted is the fact that while the language of Article 51 of the U.N. Charter requires that ‘an armed attack occurs’ for the right of self-defense to be triggered, international law widely supports the inclusion *imminent* attacks as well (Ohlin 2015). What is certainly excluded is the legality of preventive self-defense against *long-term* threats (Ohlin 2015).

imperialist democracy expansion, grounded in the so-called ‘exceptionalist’ political culture.

Undeniably rooted in the Bush administration’s policy toward the U.N. are, indeed, both American *exceptionalism* and American *exemptionalism*. To use the straightforward definition of Karns and Mingst (2010: 260):

the former is ‘the belief that US norms and values of freedom, human rights, rule of law, and democracy are universal norms and values,’ reason why ‘(t)he United States has an obligation and responsibility to promote those values, and using international institutions has been one way to do so;’ the latter instead ‘is a belief that the United States, given its special role, should be exempt from some of those rules governing others in order to protect its sovereignty.’

Although exceptionalism and exemptionalism are long-standing beliefs of the American political culture, they came to the fore with particular intensity during the Bush administration, when embraced by the then highly influential ‘neoconservatives’ (Singh 2014; Marshall 2003; Kennedy-Pipe 2008). Bush’s strikingly unilateral statement reported at the beginning of this paragraph is in fact better understandable through the lenses of such a political culture, as are other unilateral statements he made during his mandate. A few examples can be mentioned, such as the clear-cut sentence ‘either you are with us, or you are with the terrorists’ (Patrick 2010: 32), which left no discretion to the United Nations, or the openly accusatory statement Bush made once it was clear that no further Security Council resolution would have passed to authorize U.S. military intervention in Iraq: ‘The United Nations Security Council has not lived up to its responsibilities, so we will rise to ours’ (Bush 2003b: para. 12).

There is no lack of evidence of George W. Bush’s unilateralist rhetoric, attitude, and policy directions vis-à-vis the United Nations. But there is more. Even before the presidential mandate and 9/11, Bush shared a Republican antipathy towards the U.N. considered as a useless and limiting body for the United States (Patrick 2010). Such a view of the U.N. results strikingly evident from a television report entitled ‘Global Governance: the quiet war against American independence,’ distributed by Republicans as part of Bush’s 2000 electoral campaign (Murphy 2014). The hour-long videotape is entirely devoted to discredit the United Nations specifically and global governance more at large in the eyes of the American public and it undeniably shows the explicitly unilateralist message that Bush intended to give, even at the time of his electoral campaign, before 9/11. In the videotape, Phyllis Schlafly, President of the Eagle Forum,

with reference to the ongoing debate regarding a possible U.S. ratification of the U.N. Convention on the Rights of the Child (CRC) and the U.N. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), addresses the American public by saying:

‘global treaties and conferences are a direct threat to every American citizen, they are an assault on your right to raise and educate your children [...], they are an attack on your ownership, on your private property, and on American ownership of our national treasures [...], they are an attack on your pocketbook, because if the U.N. arrogates taxing power there is no limit to how much of our money it can grab, and they are an attack on the American standard of living, because their goal is to steal American wealth and redistribute it to the rest of the world’ (Eagle Forum 1997).

### 2.1.2. *Appointments*

Inasmuch as they are selected directly by the president, the administration’s appointees, and especially the Permanent Representatives to the United Nations, provide major clues on presidential intentions regarding the policy toward the U.N. In the case of the Bush administration, this couldn’t be truer.

Already by looking at George W. Bush’s most influential foreign-policy advisers it is possible to identify, with the exception of Secretary of State Colin Powell, representatives of the most skeptical wings of the Republican Party, highly sensitive to the constraints of standing international institutions (Patrick 2010). Some examples are Vice President Richard B. Cheney, renowned for his ruthlessness in foreign policy and vision of the U.N. as a trap; National Security Adviser Condoleezza Rice, an ‘assertive nationalist’ together with the Vice President; as well as Secretary of Defense Donald H. Rumsfeld, with his pragmatism and ‘toughness’ (Danner 2014; Patrick 2010; Kennedy-Pipe 2008).

The importance of Bush’s appointments for the future of the U.S.-U.N. relationship under his administration becomes even clearer when considering his Permanent Representatives to the United Nations. Among them, two are particularly worth mentioning, as they can be deemed the most significant for the understanding of Bush’s policy toward the U.N. and as they were full Ambassadors rather than acting ones. First, John Dimitri Negroponte, formerly U.S. Ambassador to Honduras under the Reagan administration, Ambassador to Mexico under George H. W. Bush, and Ambassador to the Philippines under Bill Clinton, who remained in office as U.S.

Ambassador to the United Nations from September 2001 until July 2004 (Kinzer 2001). The appointment of Negroponte was first contested by Congress, as he was suspected of falsely reporting about human rights conditions during his time in office as Ambassador to Honduras (Kinzer 2001; Zunes 2001; Bond 2003). According to Zunes (2001) and Kinzer (2001), news correspondent to Honduras during Negroponte's tenure, the Ambassador had been intentionally covering up large-scale human rights violations committed by both Honduran army units and government, as they represented important U.S. allies in the fight against Nicaraguan contras. Throughout his diplomatic career, he had developed a reputation as an imperialist, realpolitik champion, and hard-liner (Kinzer 2001). His nomination as U.S. Permanent Representative to the U.N. was highly contested and received Senate approval only after months, on September 14 (Kinzer 2001; Bond 2003). His appointment was even considered by Kinzer (2001) as a way of telling the U.N.: 'the Bush administration will not be bound by diplomatic niceties as it conducts its foreign policy' (Kinzer 2001: para. 6).

Nevertheless, the most controversial and meaningful appointment of George W. Bush in a U.S.-U.N. relationship perspective is certainly that of John Bolton as Permanent Representative in March 2005. Senior leader at the State Department already during the 1980s and the 1990s, Bolton held the office of Assistant Secretary of State for International Organization Affairs under George H. W. Bush (Bush 2005; Murphy 2014). During that time he became known for leading the campaign to withdraw U.S. funding to the UNDP, had it not allocated millions of dollars to various U.S. right-wing nongovernmental organizations, among which the Heritage Foundation (Murphy 2014). As Murphy (2014: 264) recalls, the Heritage Foundation was a conservative think tank whose main argument at the time was for 'American withdrawal from a UN system it could no longer dominate.' What is more, throughout his political career, Bolton had distinguished himself for being 'at the center of the Republican attack on the United Nations since its beginning' (Murphy 2014: 265). In his memoir of the over one year spent as Permanent Representative to the U.N., strikingly entitled *Surrender is Not an Option: Defending America at the United Nations and Abroad*, Bolton shares the vision of the United Nations as a hostile body for the U.S., composed of an anti-U.S. coalition envious of American wealth and power (Murphy 2014). The main function of the U.S. Permanent Representative at the U.N. was therefore to defend American interests by

standing firmly against the U.N. and its majority, except when it could serve the immediate goals of the United States (Murphy 2014). Notwithstanding Bolton's well-known unilateralist thinking and incapability to appreciate the U.N. in itself, Bush was willing to entrust him with representing the nation in the world body, so much that he bypassed Senate's filibustering on the question, and assigned Bolton to the office of U.S. Ambassador to the U.N. by means of a recess appointment, never officially approved by the Senate (Bush 2005). President Bush didn't even regret his choice, as he declared very displeased to accept Bolton's resignation one year after his appointment, and stated that 'all Americans owe John Bolton their gratitude for a job well done' (Bush 2006b: para. 5).

### 2.1.3. *Substantive engagement and policies*

The sharp unilateralism characterizing George W. Bush's rhetoric, attitude, and policy directions toward the U.N. was entirely matched, if not surmounted, by his concrete actions and policies. Indeed, a series of unilateral actions can be pointed out when analyzing the Bush administration's management of U.S.-U.N. relations.

#### *Use of armed force*

First and foremost, the decision to launch an armed attack against the Iraqi regime of Saddam Hussein despite the clear opposition of the United Nations as a whole and of the Security Council in particular, which for six entire months had denied the U.S. a resolution authorizing the use of force against the Iraqi regime (Ohlin 2015). As a matter of fact, Bush first revealed U.S. intention to enforce 'a decade of U.N. resolutions' against Iraq during a speech held at the U.N. Headquarters on September 12, 2002, adding the alleged accusation, later revealed as false, that the Iraqi regime was developing weapons of mass destruction (Bush 2002b). The Security Council took into consideration Bush's appeal, but immediately denied the possibility to authorize a military intervention not justifiable by the 'inherent right of individual or collective self-defense,' set forth in Article 51 of the U.N. Charter. Nevertheless, on March 19, 2003 Bush launched the Operation Iraqi Freedom, undertaking what can arguably be considered as one of the most unilateral actions in the history of U.S.-U.N. relationship



(Bush 2003c). As Patrick (2010) remarks, such a unilateral action was further consolidated with the establishment of the so-called ‘coalitions of the willing’ (Bush 2002a), meaning ad-hoc groupings of like-minded countries willing to follow American leadership. In this way, the Bush administration could offset the need for U.N. support and avoid taking actions within the U.N. framework (Patrick 2010; Ohlin 2015).

### *Funding*

A second aspect of the Bush administration’s unilateral behavior within the U.N. concerns the policy of under-funding the Organization. As already mentioned, this policy was inaugurated in the 1980s by the Reagan administration and later institutionalized by the 1994 congressional introduction of a 25-percent cap on the payment of peacekeeping contributions, which determined the accumulation of a great amount of arrears thereafter (Bond 2003). The Bush administration, as Bond (2003) notes, did not seem very committed to the reduction of U.S. overdue payments and was instead quite dismissive on the issue. Understanding that, though, requires to recall events preceding the election of George W. Bush. In 1999, the United States was less than a year away from losing its vote in the U.N. General Assembly under Article 19 of the U.N. Charter (Bond 2003). Consequently, Congress approved the Helms-Biden legislation which provided for the payment of \$926 million in arrears to the U.N. in three slots: \$100 million immediately, \$582 million and \$244 million at a later time, subject to conditions including a large reduction of U.S. assessed financial burden and the rationalization of U.N. budget and bureaucracy (Bond 2003). The United Nations worked intensively and several of its Member States had to make concessions to meet U.S. conditions, reaching the so-called ‘Holbrooke deal’ in late December 2000 (Bond 2003). Hence, only a few months after he assumed office, following congressional authorization, the Bush administration carried out the second and third payments of \$582 and \$244 million to the U.N. under the Helms-Biden legislation (Bond 2003; Patrick 2010).<sup>28</sup>

As illustrated, though, the new administration shared a very little, if not any, credit for the achievement of such an important step forward in the U.S.-U.N.

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<sup>28</sup> More precisely, Congress authorized the second payment under the Helms-Biden in February 2001 but, due to an eight-month delay caused by the House of Representatives, the payment was completed in September 2001, a few days after the terrorist attacks (Bond 2003; Patrick 2010).

relationship. Quite the opposite. Once the payments under the Helms-Biden legislation had been completed, the Bush administration set aside the issue concerning the payment of the still very large amount of arrears due by the U.S. to the U.N. and several of its specialized agencies (Bond 2003). By the end of Bush's second term, in 2008, U.S. total arrears were back to the amount of over \$2.7 billion, around 44 percent of the total amount of arrears due to the U.N. by all Member States and around three-quarters of it if considering the regular budget only (see Fig. 1.1) (Karns and Mingst 2010). Such a disregard of the arrears issue occurred notwithstanding the lowering of the U.S. share of the assessed contribution on the regular budget from 25 to 22 percent and from 31 to 26.5 percent on the peacekeeping operations' budget, as well as the meeting of other conditions under the Holbrooke deal (Bond 2003).

In December 2005, the Bush administration threatened to withhold U.S. payments to the U.N. budget for 2006/2007, if Member States did not agree to implement U.S.-inspired management reforms (Deen 2006). And, starting in 2002, the Bush administration cut off more than \$125 million from U.S. contributions to the United Nations Population Fund (UNFPA), under the accusation of supporting abortion in China (Deen 2006). Additionally, in December 2007 the United States was the only country to vote against the 2008/2009 U.N. regular budget, marking the first time when the regular budget was not adopted by consensus (Weisser 2009).

Unsurprisingly then, George W. Bush elicited a general frustration among U.N. Member States, which called the attention on his 'general dismissiveness of the U.N.' (Bond 2003: 709).

#### *Juridical commitments*

A third aspect of the Bush administration's substantively unilateralist policy toward the U.N. relates to U.S. lack of commitment to U.N.-sponsored treaties and international courts. U.S. tendency to resist international law constraints, grounded in its exceptionalism and exemptionalism, was already well established before President Bush took office, but it certainly accelerated and worsened during his tenure. According to Jens D. Ohlin (2015: 89), indeed, a real 'assault' on international law was perpetrated by the United States between 2000 and 2008, or better 'a coordinated attempt to undermine and undervalue American commitment to international law.' During its first

months in office, the Bush administration repudiated the Kyoto Protocol, blocked a verification protocol to the Biological Weapons Convention, opposed a draft U.N. convention to reduce illicit trafficking in small arms and light weapons, ignored the 2006 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and reaffirmed the Senate's 1999 rejection of the Comprehensive Test Ban Treaty (Patrick 2010; Whitehair and Brugger 2001; Human Rights Watch 2009; ohchr.org). Furthermore, the administration didn't take any step forward to the ratification of both the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), signed in 1980 and 1995 respectively (ohchr.org). In the case of the Optional Protocol to the CRC on the involvement of children in armed conflict and the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography, the Bush administration adopted a different but still unilateralist approach. By attaching a declaration to the 2002 ratification of both Protocols, the administration could take the distance from certain provisions, declare the incompatibility with the U.S. Constitution of others, as well as make unilateral statements regarding the interpretation of the document (Karns and Mingst 2010; ohchr.org). As the Human Rights Watch (2009) reports, any other international human rights treaty was ratified by the Bush administration since December 2002.

As if that were not enough, in May 2002 the Bush administration, in the person of Ambassador Bolton, issued a declaration reversing President Clinton signature of the Rome Statute of the International Criminal Court (ICC), effectively 'unsigned' the treaty (Ohlin 2015; Patrick 2010; Alvarez 2001). Such a unilateral action was carried out notwithstanding the fact that the sole signature does not imply any obligation for the signatory, except a minimal and general commitment to the object and purpose of the treaty (Ohlin 2015). Therefore, the Bush administration intended to send a strong message of opposition to the ICC, traditionally regarded by the U.S. as a possible threat to the security of U.S. military personnel abroad or even the president (Ohlin 2015; Alvarez 2001). And in 2005, the administration completed the U.S. estrangement from the International Court of Justice (ICJ) (Ohlin 2015). The 1981 withdrawal of U.S. consent from jurisdiction before the ICJ for matters of general international law was enlarged to all cases dealing with consular relations (Ohlin 2015).

### *Human rights record*

Much can be said also with regard to the Bush administration's human rights record, a factor highly affecting U.S.-U.N. relations and the role of the United States within the Organization. In May 2001, the United States was temporary (until March 2002) voted off the U.N. Human Rights Commission, due to a growing sentiment of frustration with American attitudes vis-à-vis international human rights norms (Bond 2003; Crossette 2001). Ironically, this event occurred a few months before an actual and protracted violation of human rights came to be perpetrated by the United States.

In conducting the post-9/11 'war on terror,' indeed, the Bush administration authorized and utilized a series of unlawful and immoral practices on suspected terrorists including torture, or what was called 'enhanced interrogation' techniques, secret detention, extraordinary rendition,<sup>29</sup> prosecution in military tribunals with no right of appeal (Saul and Flanagan 2014; Borelli 2014; Karns and Mingst 2010; Ohlin 2015; Healy 2008; Schwarz Jr. and Huq 2008). In particular, U.S. military and intelligence personnel was reported to use 'cruel, inhuman, or degrading treatment' on detainees held in secret detention facilities located at Guantánamo Bay (Cuba), in Afghanistan, in Iraq, and in other secret locations (Saul and Flanagan 2014; Karns and Mingst 2010). As a matter of fact, on 7 February 2002, President George W. Bush issued a memorandum entitled 'Humane Treatment of Taliban and al Qaeda Detainees,' in which he determined that members of al Qaeda, the Taliban, and associated forces were unlawful enemy combatants who were not entitled to the protections provided by the Third Geneva Convention to prisoners of war (Cohen 2012; Saul and Flanagan 2014). Subsequently, the Bush administration redefined international norms on torture by means of evasive legalism set forth in the so-called 'torture memos' – a number of memorandum prepared by the Office of Legal Counsel of the Department of Justice aimed at providing guidance to the CIA on the permissibility of certain interrogation techniques for use on key terrorist suspects (Karns and Mingst 2010; Saul and Flanagan 2014; Cohen 2012). Basically, the memos contained the argument that 'enhanced' interrogation techniques did not constitute torture (Saul and Flanagan 2014). As Saul and Flanagan (2014) note, in this way the administration not only violated the absolute

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<sup>29</sup> The term 'extraordinary rendition,' in light of practice since 9/11, refers to the 'removal of a suspected terrorist to another state, without judicial supervision, particularly for coercive interrogation and/or indefinite or extrajudicial detention' (Borelli 2014: 362).

international juridical prohibition on torture, but has also degraded anti-torture law's hold on other states, undermining long-standing efforts of the international community and the U.N. to outlaw this inhuman practice.

## **2.2. The Obama Administration (2009 – )**

When he assumed office in January 2009, Barack Obama was already labeled as the 'un-Bush' (Lynch 2014). Not only because he was a liberal Democrat, at odds with a Republican highly influenced by the most conservative elements of his party (Desch 2010). The biggest breaking element came from Obama's electoral campaign, in explicit terms. His central slogan and fundamental pledge was indeed to bring Americans the '*change we need*' and mark a sharp *discontinuity* with George W. Bush in both the international and domestic spheres (Obama 2008). During the 2008 presidential campaign, when referring to his Republican contender, Obama explained the main reason why Americans shouldn't vote for him in the following terms:

'John McCain has voted with George Bush 90 percent of the time. Sen. McCain likes to talk about judgment, but really, what does it say about your judgment when you think George Bush has been right more than 90 percent of the time? I don't know about you, but I'm not ready to take a 10 percent chance on change' (Obama 2008: para. 17).

Clearly, the future president intended to represent a concrete change vis-à-vis the Bush administration and his 'wrong' choices. As the Obama presidency approaches the end of its second and last term, it is now possible to assess whether and to what extent that change has occurred. This requires, however, to distinguish between rhetorical and substantive commitments and assess how far the practice has matched the theory. Several scholars have undertaken such a task with regard to Obama's foreign policy. Some (e.g. Lynch 2014; Dunn and Zala 2014) have highlighted the existence of an inconsistency between the liberal foreign policy effected by the President's style and the highly pragmatic, more typically realist approach carried out in practice. The present analysis will determine whether a similar inconsistency can be pointed out with reference to the Obama administration's policy toward the United Nations and the existence, if at all, of an actual discontinuity with the previous administration in this specific field.

### 2.2.1. *Rhetorical commitments and policy directions*

Since the beginning of his first mandate, President Obama used an inflamed rhetoric, envisaging sharp changes in both domestic and foreign policy. The latter, specifically, was said to be refounded in the name of a strong *multilateralism* and a *more constant collaboration with the United Nations*, as opposed to Bush's unilateralism and ad hoc engagement with the U.N. (Obama 2010). The Obama administration's 2010 National Security Strategy (NSS), indeed, contains the explicit commitment to 'invest in strengthening the international system, working *from inside* international institutions and frameworks' (emphasis added) (Obama 2010: 13). And sets forth the Obama administration's policy direction toward the U.N. in the following terms:

'We are enhancing our coordination with the U.N. and its agencies. We need a U.N. capable of fulfilling its founding purpose—maintaining international peace and security, promoting global cooperation, and advancing human rights' (Obama 2010: 46).

Additionally, the 2010 NSS outlines a totally new approach of the Obama administration to confront with conflict and threats. An approach that is openly in contrast with the one adopted by the previous administration:

'We will draw on diplomacy, development, and *international norms and institutions* to help resolve disagreements, prevent conflict, and maintain peace, mitigating where possible the need for the use of force' (emphasis added) (Obama 2010: 22).

It is not only a matter of different style here. Evidently, the Obama administration is declaring a clear-cut willingness to re-engage the United Nations, under no conditions and with the commitment to comply with its norms and principles, whenever possible. The discontinuity with the statements found in the Bush administration's National Security Strategies thus appears evident. Specific reference to the U.N. as an international institution is made eighteen times in the 2010 NSS and eight times in the 2015 NSS, with an entire paragraph in the former entitled 'Enhance Cooperation with and Strengthen the United Nations' (Obama 2010: 46). Conversely, in both the 2002 and 2006 National Security Strategies of the Bush administration, the United Nations is mentioned only two times and as a mere example following the wording 'such as' when referring to lasting international institutions (Bush 2002a: 7; Bush 2006a: 6). The

different consideration given to the Organization by the two administration's respective National Security Strategies is striking.

But Obama's new multilateralist rhetoric doesn't stop at renewing U.S. commitments to the United Nations. It includes a new mindset – related to war, the use of violence in general, and even American exceptionalism – which could really set the stage for a new positive U.S.-U.N. relationship. For instance, in January 2007, with reference to the Iraq War, Barack Obama exclaimed: 'I don't want to just end the war, but I want to end the mind-set that got us into war in the first place' (Dunn and Zala 2014: 203). And in the address to the nation on military action in Libya he clarified:

'The task that I assigned our forces – to protect the Libyan people from immediate danger, and to establish a no-fly zone – carries with it a U.N. mandate and international support.' (Obama 2011: para. 29).

He showed, in this way, that he valued the backing of the Organization and underlined his way of acting *within* the U.N. framework, rather than outside of it. Additionally, in April 2009, he made a very strong statement on American exceptionalism, unusual for a U.S. President: 'I believe in American exceptionalism, just as I suspect that the Brits believe in British exceptionalism and the Greeks believe in Greek exceptionalism' (Obama 2009a).

Even during the second presidential term, Obama's rhetoric keeps its multilateral character. In a speech at West Point in May 2014, indeed, Obama defined U.S. foreign policy as an effort to reestablish America's global leadership, indispensable for both America and the world (Obama 2014). Such a renewed global leadership was effectively summarized by the President in four main points. First, military force would be used, even unilaterally if necessary, when U.S. core interests (security of U.S. people, livelihood, and allies) are threatened. However, Obama specified, even 'in these circumstances, we still need to ask tough questions about whether our action is proportional, effective and just. *International opinion matters*' (emphasis added) (Obama 2014: para. 20). Second, U.S. counter-terrorism strategy would be decentralized, by partnering with and empowering countries affected by terrorism, as the threat has become widespread and is no longer represented by a centralized al-Qaeda leadership (Obama 2014). Third, the U.S. would place efforts to strengthen and enforce international order. On this point he added: 'what makes us exceptional is not

our ability to flout international norms and the rule of law; it's our willingness to affirm them through our actions' (Obama 2014: para. 38). Fourth, American leadership would be based on the 'willingness to act on behalf of human dignity' (Obama 2014: para. 39).

President Obama's way of framing U.S. global leadership thus appears to be very different from that of Bush's 'crusade' to advance liberty and democracy. Although no specific statement was made in this speech regarding the U.S.-U.N. relationship, Obama's rhetorical commitment to a multilateralist, engaging and cooperative attitude of the United States within the international community remains unchanged during his second term.<sup>30</sup>

Due to its strength and its potential for change, Obama's message has had a major impact on the international community. In Europe, according to *Transatlantic Trends 2009*, he received a 77 percent approval against the only 17 percent of President Bush in 2008 and he caused an overall significant improvement in U.S. image worldwide (Fabbrini 2010b). Secretary-General Ban Ki-moon, with reference to the prospects of U.S.-U.N. relations under the newly-elected President, declared that he was 'very optimistic that we will have a very strong relationship' and a 'renewed partnership under his administration' (Kerler 2008: para. 4). What is more, as early as October 2009, Barack Obama was awarded the 2009 Nobel Peace Prize by the Norwegian Nobel Committee, on the simple grounds of his extraordinary attempt to strengthen international diplomacy and cooperation (Nobel Media 2009). As it can be noted from the Nobel Media press release on the event, Obama was awarded for what his rhetoric had accomplished, not his actions:

'Obama has as President created a new climate in international politics. Multilateral diplomacy has regained a central position, with emphasis on the role that the United Nations and other international institutions can play' (Nobel Media 2009: para. 2).

So, while representing a major evidence of how President Obama successfully delivered his message of change and his pledge to multilateralism, the Nobel Peace Prize was conferred at the very beginning of the Obama presidency and does not refer to the President's concrete actions.

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<sup>30</sup> It should be noted, however, how such a late emphasis on U.S. global leadership might have been highly influenced by the criticism to Obama's 'leadership from behind,' spread since mid-2011 (Lizza 2011).



In light of all the evidence illustrated, it is possible to affirm that, with regard to style, tone, rhetorical commitments and policy directions, President Obama stands in sharp discontinuity vis-à-vis former President George W. Bush. However, as Benjamin Franklin used to say, ‘well done is better than well said.’

### *2.2.2. Appointments*

When looking at President Obama’s team of foreign policy professionals, his messages already start to get mixed. On the one hand, Vice President Joseph Biden and Secretaries of State Hillary Clinton (first term) and John Kerry (second term) are liberally-oriented Democrats, not used to adopt extreme positions and certainly in discontinuity with the assertive nationalists and hard-liners who covered the same positions during the Bush administration. Meaningfully, Biden has been the co-author of the already mentioned 1999 Helms-Biden legislation which (temporarily) resolved the crisis of U.S.-U.N. relations related to the issue of arrears (see para. 2.1.3.). Hillary Clinton and Kerry, for their part, have been reported among the most liberal senators of the United States (Lynch 2014). Clinton had the sixteenth most liberal voting record in the Senate in 2007 and Kerry the first and the fifth in 2003 and 2012 respectively (Lynch 2014). To the extent that being ‘liberal’ entails embracing a more multilateralist and cooperative approach which assigns a significant value to international institutions, such appointments play favorably to Obama’s envisioned re-engagement with the U.N.

On the other hand, though, Obama also retained key figures from the Bush administration and its ‘war on terror establishment,’ most notably Robert Gates as Secretary of Defense, John Brennan as chief counterterrorism adviser and then CIA Director, David Petraeus as commander of U.S. forces in Afghanistan, as well as other leading militarists (Milkis and Nelson 2012; Ledwidge 2014; Laïdi 2012). In particular, Gates served as Defense Secretary already under Bush (marking the first time a member of the previous administration was retained in the same position), and Brennan was associated with the Bush administration’s ‘torture program’ (Milkis and Nelson 2012; Laïdi 2012; Ledwidge 2014). The latter group of appointees thus establishes a great extent of continuity between the two administrations in the field of defense and war on terrorism.

Such a mixed choice of the President on the most important foreign policy and defense figures of his administration can already cast some doubts on the sincerity of his intentions for great change. It is then crucial to see whether Obama's two Ambassadors to the U.N. provide some different clues, especially in comparison with their counterparts under Bush. Susan Rice, who covered the office of U.S. Ambassador to the U.N. from January 2009 to June 2013, was part of the Obama campaign staff and had previously served as Assistant Secretary of State for African Affairs under the Clinton administration (Morris 2012). In this role, she distinguished herself for her acute hostility toward the Sudanese government, which brought her to the point of supporting the use of force against the Sudanese regime in Darfur, even in the absence of an authorization of the U.N. Security Council (Laïdi 2012). She also received some criticism for not having pushed harder for a U.S. intervention in Rwanda when she was in the position to do so (Morris 2012). Besides these minor considerations, though, no big controversy had surrounded her nomination to the U.N. and she was appointed by a unanimous vote of Congress. As opposed to Bush's appointees to the U.N., her nomination doesn't reveal much about President Obama's intentions toward the United Nations, in either negative or positive terms.

Completely different is the case of Samantha Power's appointment. As a well-known human rights advocate and critic of the lack of U.S. intervention in humanitarian crises throughout the XX century, she seems to represent Obama's concrete implementation of his renewed and different policy toward the U.N. For this reason and because she is the current U.S. Ambassador to the United Nations, her case will be analyzed more in depth separately. Indeed, the analysis of her behavior, achievements, and failures can be significant for both, understanding the current role of the United States within the U.N. and assessing the extent to which the Obama administration has succeeded in putting its rhetorical commitments into practice.

### 2.2.3. *Substantive engagement and policies*

When it comes to analyzing President Obama's *substantive* engagement and concrete policies implemented toward the United Nations, particularly in light of the clearness of his rhetorical commitments and policy directions, things get shady.

International and U.S. press, as well as different scholars of Obama's foreign policy, have adopted some critical notions to describe the President's concrete behavior in foreign policy. The most notable are Obama's 'wavering' – meaning his uncertainty, hesitation, and even incoherence in determining U.S. positions vis-à-vis external challenges and particularly with respect to the crises of the Arab world – and Obama's 'leading from behind' – particularly with reference to the way he delegated the leadership in the Libyan crisis and then more generally assumed as his alleged foreign policy 'doctrine' (Fabbrini and Yossef 2013; Lizza 2011; Rothkopf 2014). Others, as noted earlier, have highlighted the existence of an incongruence between Obama's liberal ideals and realist practice (Lynch 2014; Dunn and Zala 2014; Fabbrini and Yossef 2013). Albeit very important, such considerations refer to areas of study of the Obama administration's foreign policy which go beyond the scope of the present paragraph. Here, it is necessary to analyze the concrete aspects of U.S. policy toward the U.N. under the Obama administration, in comparison with both its rhetorical premises and what has been illustrated in the case of the Bush administration.

#### *Use of force*

Proceeding in the same order of issues analyzed with reference to the Bush administration, the first policy area to be considered regards U.S. use of force and, in particular, the military operation in Iraq. As a non-authorized, direct violation of U.N. principles, purposes, and membership obligations, the Iraq War represented the decisive split point in the U.S.-U.N. relationship. It is therefore a very important area of intervention for the Obama administration in order to realize a rapprochement between the U.S. and the Organization. In this sense, the Obama administration was not disappointing. In a February 2009 address, President Obama announced that the U.S. combat mission in Iraq would end by August 31, 2010, planning (and then realizing) the withdrawal of all U.S. troops by the end of 2011 (Obama 2009c). At the same time, though, Obama carried out the so-called 'surge' in Afghanistan, increasing the total number of U.S. troops deployed from 18,000 in 2005, to 57,000 in 2009, to 95,000 in 2010 (Lynch 2014). Subsequently, he ordered the progressive withdrawal of U.S. armed forces in the country, ordering them to leave Afghanistan completely by the end of 2016 (Jaffe and Nakamura 2015). The United States' use of armed force abroad is then

ongoing. Yet, as the U.S. mission in Afghanistan was authorized by the U.N. Security Council in the first place, U.S. military presence in the country is not as detrimental to the U.S.-U.N. relationship as it was in the case of Iraq.

### *Funding*

When the Obama administration assumed office, funding was certainly one of the aspects of U.S. policy toward the U.N. most in need of revision for the purpose of an active re-engagement with the Organization. Indeed, as illustrated (see para. 1.3.3. and 2.1.3.), due to the Bush administration's dismissiveness on the issue of arrears, improvements accomplished with the 1999 Helms-Biden legislation didn't last long. By 2008, U.S. total arrears to the U.N. amounted to over \$2.7 billion, around 44 percent of the total due by all Member States (Karns and Mingst 2010).

At a first stage, Obama succeeded in reversing the Bush administration's policy of underfunding the U.N. In the summer of 2009, the Obama administration sent Congress a supplemental spending request to the budget for fiscal year 2009 (FY 2009) including the necessary funds to pay U.N. peacekeeping arrears accumulated between 2005 and 2008 and to meet 2009 peacekeeping dues in full (UNA-USA 2009). Congress approved the request, enabling the payment of \$836.9 million in contributions to the U.N. peacekeeping budget (UNA-USA 2009). This funding nearly equated the amount provided by the Helms-Biden and, unlike the 1999 legislation, it imposed no conditions (UNA-USA 2009). Additionally, following a request of the Obama administration, Congress allowed for a suspension of the 25-percent cap on the payment of peacekeeping contributions, though for 2010 only (UNA-USA 2009). With reference to such important achievements, Obama enthusiastically commented in front of the U.N. General Assembly: 'We've...re-engaged the United Nations. We have paid our bills' (UNA-USA 2009: para. 1).

Albeit recognizing the importance of such a major payment and how the credit for its achievement fully belongs to the Obama administration, it is necessary to underline how U.S. payments to the U.N. evolved afterwards. When considering both terms of the Obama administration and as of the time of writing, U.S. willingness to pay its part, together with the inefficiency of the mechanisms underlying the payments, don't seem to have changed much from the Bush era.

First of all, with the only exception of 2010, the 25-percent cap on peacekeeping contributions has remained in force, resulting in a continuous accumulation of arrears on the peacekeeping budget. As U.N. advocacy organizations Better World Campaign (BWC) and United Nations Association for the USA (UNA-USA) explain in their 2014 Briefing Book Update on U.S.-U.N. relations, the practice of constantly underfunding U.N. peacekeeping operations, all necessarily approved by the Security Council, places the U.S. in the incoherent and controversial position of undermining the mandate of missions it had previously voted for (BWC and UNA-USA 2014).

Moreover, U.S. tendency to accumulate a large amount of arrears relating to all parts of the U.N. budget has not been halted by the Obama administration. As a matter of fact, the status of U.S. debt in 2010 was still considerable and outstanding if compared to that of the other Member States, even among the top-fifteen debtor countries.

**Table 2.1 Payments Owed to the UN by the 15 Major Debtor Countries: 2010**  
(in US\$ Million)

Country	Regular Budget: Total Debt	International Tribunals: Total Debt	Peacekeeping Operations: Total Debt	Capital Master Plan: Total Debt	Total Debt
USA	278	12	431	15	736
Japan	0	0	674	0	674
Spain	0	0	298	0	298
Ukraine	0	0	139	0	139
Republic of Korea	0	0	131	0	131
United Kingdom	0	0	106	0	106
Italy	0	0	95	0	95
Greece	0	0	94	0	94
Mexico	50	4	29	0	83
Saudi Arabia	0	0	77	0	77
France	0	0	55	0	55
Russian Federation	0	0	45	0	45
Portugal	0	0	43	0	43
Belarus	0	1	40	0	41
Belgium	0	0	31	0	31
<b>Top 15 Debtors</b>	<b>328</b>	<b>17</b>	<b>2288</b>	<b>15</b>	<b>2648</b>

Source: Global Policy Forum ([globalpolicy.org/images/pdfs/2010.pdf](http://globalpolicy.org/images/pdfs/2010.pdf)).

As Table 1.1. shows, in 2010 the U.S. still figures as the Member State with the highest debt owed to the U.N. and, was it not for Japan, by far. With the exception of Japan, all other fifteen major U.N. debtor countries owe amounts representing from less than half to around one twenty-fourth of U.S. total debt – despite the major handover of U.S. dues in 2009. Remarkably, the U.S. also figures as the only country owing payments to all four entries of the U.N. budget.

The following years further confirm how such a negative trend was consolidated rather than hampered under the Obama administration. At the end of 2011, U.S. total debt amounted to \$855 million, accounting for 79 percent of the total debt to the U.N. regular budget and 27 percent of the total debt to the entire U.N. budget (Global Policy Forum n.d.d). And in 2014, the Obama administration reached the lowest point of its financial commitment to the U.N., by significantly underfunding U.S. peacekeeping contributions in FY 2014 (BWC and UNA-USA 2014). Such a move left a shortfall of more than \$350 million for 2014 and failed to contribute to the UN mission in Mali (MINUSMA) with any funding at all (BWC and UNA-USA 2014). Currently, for the year 2015, 113 U.N. Member States have paid their regular budget assessments in full. As of 21 August 2015, almost seven months past the deadline for payment, the United States does not figure in the list ([un.org/en/ga/contributions/honourroll](http://un.org/en/ga/contributions/honourroll)).

#### *The case of UNESCO*

Besides what has been described thus far, a major episode of defunding that occurred under the Obama administration deserves a special consideration. During the first week of November 2011, the general conference of the United Nations Educational Scientific and Cultural Organization (UNESCO) admitted ‘Palestine’ (the Palestine Liberation Organization, or PLO) as a Member State (Blanchfield and Browne 2014; Lynch 2011a). According to two laws<sup>31</sup> enacted in 1990 and 1994, U.S. funding to ‘the United Nations or any specialized agency thereof which accords the Palestine Liberation Organization the same standing as a member state’ is prohibited (Lynch 2011b: para. 15; Blanchfield and Browne 2014). The rationale behind such a legislative funding restriction was to ensure that Israel would be part of any process establishing a Palestinian state (Kraus 2011). Twenty years later, though, Israel and Palestine are far

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<sup>31</sup> Public Law 101-246 and 103-236 (Blanchfield and Browne 2014).

from reaching a peace agreement and U.S. views on the issue seem to be considered as obsolete by many (Kraus 2011). As Kraus (2011) reports, only 13 out of 190 sided with the United States in opposing Palestinian membership in UNESCO.

In order to prevent the United States from cutting off its financial contributions to UNESCO, the U.N. advocacy group, UN Foundation, and UNESCO's Director-General Irina Bokova in person appealed to the U.S. (Lynch 2011b). In particular, in a letter to the *Washington Post* entitled 'Don't Punish UNESCO,' Bokova pointed out the fact that UNESCO supported many causes in line with U.S. security interests, such as the preparation of the Iraqi and Afghan governments to face life after the withdrawal of U.S. military forces (Bokova 2011).

Nonetheless, in early November 2011 the Obama administration, under congressional mandate, cut off the entire amount of its funding to UNESCO, over \$80 million, depriving the agency of 22 percent of its budget (Blanchfield and Browne 2014; Associated Press in Paris 2013). At the same time, however, the Obama Administration declared its intention to avoid a complete withdrawal of the United States from UNESCO and seek waiver authority enabling the restoration of funding to the agency (Blanchfield and Browne 2014).

No other U.N. agency has admitted Palestine as a state, so far. However, the PLO has considered seeking membership in at least sixteen other U.N. agencies, above all the U.N. Industrial Development Organization (UNIDO), the World Intellectual Property Organization (WIPO), and the United Nations Conference on Trade and Development (UNCTAD), which have membership reciprocity agreements with UNESCO (Lynch 2011b). The prospect of a U.S. application of the 1991 and 1994 laws again in the future is alarming, as it could jeopardize the entire system of U.N. agencies. Indeed, UNESCO, still deprived of its U.S. funding, has since then struggled to accomplish its mandates, having to cut important programs and resort to emergency aid (Erlanger 2012).

#### *Juridical commitments*

As regards the evolution of U.S. commitments to U.N.-sponsored international treaties and courts under the Obama administration, the professed re-engagement does not seem to have occurred in this sphere as well. As of the time of writing, the United

States has still not ratified several major U.N.-sponsored international human rights treaties, most notably the 1976 International Covenant on Economic, Social and Cultural Rights; the 1981 Convention on the Elimination of All Forms of Discrimination against Women; the 2006 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the 1990 Convention on the Rights of the Child; the 2008 Convention on the Rights of Persons with Disabilities (U.N. OHCHR n.d.). In addition, the U.S. has not even signed the 1976 and 1991 Optional Protocols to the International Covenant on Civil and Political Rights; the 2003 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the 2010 International Convention for the Protection of all Persons from Enforced Disappearance; the 2008 Optional Protocol to the Convention on the Rights of Persons with Disabilities (U.N. OHCHR n.d.). Even the 1997 Kyoto Protocol to the United Nations Framework Convention on Climate Change and the draft verification protocol to the Biological Weapons Convention still lack U.S. support (UNFCCC n.d.; Kahn 2011).

Moreover, the Obama administration has not taken any step back on the 2002 ‘unsigned’ of the Rome Statute of the International Criminal Court, nor on the 1981 and 2005 withdrawal of U.S. consent from jurisdiction before the International Court of Justice (icc-cpi.int; Ohlin 2015).

### *Human rights record*

The lack of commitment to international human rights law, albeit representing a problematic factor for the U.S.-U.N. relationship, cannot be considered as the most problematic one on the issue of human rights. As noted earlier in this chapter, the Bush administration has produced a considerably poor and controversial human rights record in the conduct of the ‘war on terror.’ President Obama was well aware of the need to intervene to stop the perpetration of human rights violations on suspected terrorists and redeem the United States in the international and domestic public opinions. Indeed, he made a series of vows and rhetorical commitments on this matter as well. In the 2009 Nobel Peace Prize acceptance speech, the newly-elected President used very powerful words to affirm his disapproval of the way the ‘war on terror’ had been conducted until then:



‘Where force is necessary, we have a moral and strategic interest in binding ourselves to certain rules of conduct. And even as we confront a vicious adversary that abides by no rules, I believe the United States of America must remain a standard bearer in the conduct of war. That is what makes us different from those whom we fight. That is a source of our strength’ (Obama 2009c: para. 29).

Accordingly, on his second day in office Obama signed Executive Order 13491 on ‘Ensuring Lawful Interrogations,’ banning the use of torture and cruel treatment in the interrogation of terrorism suspects (The Editorial Board 2014). However, many (e.g. Lynch 2014; Savage 2010a; 2010b; 2014; Milkis and Nelson 2012;) report and argue that, despite abandoning the title ‘war on terror’ and publicly condemning the use of cruelty anywhere in the world, the Obama administration has pursued a strategy consistent with the one of the previous administration. Obama is reported to have continued the practice of indefinite detention of suspected terrorists without trial in military prisons and of trying some of them in military tribunals with no right of appeal (Savage 2010a; Milkis and Nelson 2014). Furthermore, the Obama administration has maintained an ambiguous position on the application of the United Nations Convention Against Torture to CIA and military prisons overseas; has expanded the use of unmanned aerial vehicles (the so-called ‘drones’) to assassinate terrorism suspects abroad, including American citizens; and has not ruled out the ‘extraordinary rendition programme’ (Savage 2014; Milkis and Nelson 2012; Desch 2010).

Such controversial issues related to the U.S. human rights record under the Obama administration play a major role in determining the standing of the United States within the international community. As various U.N. human rights bodies and several U.N. Members States have blamed and criticized the U.S. for its reprehensible human rights conduct, the issue specifically affects the U.S.-U.N. relationship as well (Saul and Flanagan 2014). For this reason, whether the Obama administration has concretely revised the means of its counterterrorism strategy, to improve its human rights record, is an issue that deserves to be considered in a deeper and separate analysis.

### **2.3. Conclusion**

Some conclusions can be drawn from the twofold comparative analysis of the Bush and Obama administrations’ policies toward the United Nations at the rhetorical and substantive levels conducted so far.

At the *rhetorical* level, it is possible to observe a sharp discontinuity between President Bush and President Obama. While the former adopts an assertive and openly ‘egoistic’ rhetoric, which doesn’t assign any significant inherent value to the U.N., the latter clearly affirms the need for a U.N. capable of fulfilling its mandate, and seems to accept the constraints deriving from the multi-level global decision making system. Accordingly, the Bush administration set policy directions grounded in the non-recognition of the authority of the United Nations and the violation of its fundamental principles, the Obama administration, instead, has established policy directions based on the respect for U.N. principles and the willingness to re-engage with the Organization.

At the *substantive level*, though, the specific policies and actions adopted by the two administrations regarding funding the Organization, the juridical commitment to international treaties and courts associated to it, and the respect for human rights appear to be significantly consistent with each other. As a result, President Obama seems not to have been able to put his rhetoric into practice and fulfil his oral commitments, regardless of the reasons underlying such a failure.

Drawing from such conclusions, it is possible to raise a hypothesis about which conceptual model of the U.S. role within the U.N. currently applies. It can be deemed that none of the two opposite models entirely describes such a role. Rather, a *mixed model* seems to best apply to the current role played by the United States within the U.N., one which encompasses both, the *multilateralist* and *unilateralist*, models of behavior vis-à-vis the Organization. Indeed, while the Bush administration’s policy toward the U.N. can be plainly described and explained by the *unilateralist* model, the policy of the Obama administration appears to be characterized by a significant incongruence. It certainly falls within the *multilateralist* model in rhetorical terms and with regard to its general policy directions. In substantive terms, however, it actually falls within the *unilateralist* model, so much that it is possible to claim the existence of a *substantive continuity* between the Bush and Obama administration’s policies toward the United Nations.

Still, the ultimate assessment of the extent to which such a *mixed model* applies to the Obama administration’s role within the U.N. requires to focus on two specific elements of the current role, those with the arguably largest impact, which cover both aspects of the policy and the country’s standing within the Organization. Such elements,

documented in two separate case-studies, will exemplify one of the two models respectively. The first case-study regards the appointment of human rights advocate and international law supporter, Samantha Power, as the current U.S. Permanent Representative to the United Nations, and the work she has so far undertaken in office. The second case-study focuses, instead, on U.S. counterterrorism strategy and the human rights violations it entails, which so highly undermines U.S. standing within the United Nations.

**III.**  
**FIRST CASE-STUDY:**  
**AMBASSADOR SAMANTHA POWER**

The case of the appointment of Samantha Power as the current U.S. Permanent Representative to the United Nations can be deemed a very significant factor in the analysis of the Obama administration's policy toward the U.N. In her capacity of U.S. Ambassador to the U.N., she is largely responsible for the role the United States plays within the Organization and can heavily impact on U.S. standing among the Member States. As such, her figure deserves to be analyzed thoroughly, starting from her background and reputation, to her style, speeches, and actions within the U.N. As it will be shown, she can be considered as a significant advancement brought by President Obama to the role the country plays within the Organization. Ambassador Samantha Power can in fact be deemed an exemplification of the *multilateralist* model of U.S. behavior toward the U.N. (see para. 1.3.1.). Nonetheless, the finalization of this case-study might reveal, once again, the existence of a significant gap between rhetoric, attitude, and intentions on one side and substance and concrete achievements on the other side.

**3.1. An unconventional but influential appointee**

It is certainly not common for a President of the United States of America to appoint one of the most resolute critics of the U.S. in the field of human rights to represent the nation at the U.N. Osnos (2014: para. 16) effectively pictures Samantha Power's standing within the administration:

'In the senior ranks of an Administration that is often disparaged as a shrinking corps of fawning courtiers, Power is known for pushing unpopular ideas' (Osnos 2014: para. 16).

Notwithstanding her controversial figure, Power is reported to be one of the main influencers of Obama's foreign policy. She is told to benefit from a very close relationship with the President and to 'have his ear' (Osnos 2014). Kenneth Roth, executive director of Human Rights Watch, defines her as 'the foremost voice for human rights within the White House' (Stolberg 2011: para. 4). To use Power's own words, she has been appointed by Obama to be his 'pain in the ass' (Osnos 2014: para. 13). Moreover, thanks to President Obama's decision to restore the *cabinet rank* to the ambassadorship to the U.N., Power's influence and independence within the administration is effectively consolidated (Bosco 2013; Fasulo 2015). Indeed, as Fasulo (2015: 48) points out:

'the ambassador's influence may depend on whether the president gives the post cabinet rank, as Clinton and Obama did, or places it under the direct authority of the secretary of state, as George W. Bush did.'

### 3.1.1. *Biography*

Samantha Power immigrated to the United States from Ireland at the age of nine (usun.state.gov). She graduated from Lakeside High School in Atlanta, Georgia and received a B.A. from Yale University and a J.D. from Harvard Law School (usun.state.gov). At age twenty-two, she went to Bosnia to work as a freelance journalist. Since then, she worked as a journalist and war correspondent in Bosnia, East Timor, Kosovo, Rwanda, Sudan, and Zimbabwe, among other places, while also contributing regularly to *The Atlantic Monthly*, *The New Republic*, *The New York Review of Books*, and *The New Yorker Magazine* (usun.state.gov). In July 1995, Power was in the U.N. 'safe area' of Srebrenica when the assault against the Muslims Bosniaks who sought refuge in the area was carried out by the Bosnian Serb forces (Goldstein 2008). She reported being deeply shocked and outraged by how the slaughtering of over seven thousand Muslims occurred right under the impassive NATO airplanes (Goldstein 2008). Subsequently, Power served as the founding executive director of the Carr Center for Human Rights Policy at Harvard University's John F. Kennedy School of Government, where she became the Anna Lindh Professor of the Practice of Global Leadership and Public Policy, teaching U.S. foreign policy, human rights, and UN reform (usun.state.gov).

In 2003 she won the Pulitzer Prize for her book “*A Problem From Hell*”: *America and the Age of Genocide* (2002), a controversial critique of U.S. *intentional* lack of action in the face of XX century genocides and humanitarian crises (Power 2002a). In 2004, she reached the pinnacle of her academic celebrity, touring American college campuses and being inserted among *Times*’ 100 Most Influential People (Osnos 2014).

In early 2005, then Senator of Illinois Barack Obama made her one of his senior foreign-policy advisers (Osnos 2014). She campaigned with Obama for the 2008 presidential election as his Special Assistant in foreign policy. Later, in January 2009, she was appointed Senior Director for Multilateral Affairs and Human Rights on the National Security Council at the White House (usun.state.gov; Osnos 2014). In the meantime, she authored a new book entitled *Chasing the Flame: Sergio Vieira de Mello and the Fight to Save the World* (2008) – a passionate chronicle of the life of U.N. diplomat Vieira de Mello and his assassination in Baghdad – and co-edited *The Unquiet American: Richard Holbrooke in the World* (2011) (usun.state.gov).

Finally, in June 2013, President Obama announced the nomination of Samantha Power as U.S. Permanent Representative to the United Nations. Her nomination was approved by the Senate on August 1st, by a vote of eighty-seven to ten (Osnos 2014). At age forty-two, she became the youngest-ever U.S. Ambassador to the United Nations (Osnos 2014).

### 3.1.2. *Advocacy*

Ambassador Power is a well-known advocate of human rights and humanitarian intervention. She can be inserted among the liberal interventionists or the so-called ‘liberal hawks’ (Goldstein 2008). Her advocacy of humanitarian intervention lies on the very simple grounds of moral necessity and values:

‘Given the affront genocide represents to America’s most cherished values and to its interests, the United States must also be prepared to risk the lives of its soldiers in the service of stopping this monstrous crime’ (Power 2002: 514).

She promotes a broader definition of U.S. interests, one which does not merely include concrete gains for the U.S. but also encompasses the deeper interest of living in a world where mass atrocities do not occur and all peoples enjoy the basic rights and

fundamental freedoms they deserve (Power 2002a). Humanitarian intervention is thus not only a moral duty, it is also in the interest of the United States (Power 2003).

Accordingly, Power is a tireless critic of the lack of intervention, even a military one, to stop the perpetration of crimes against humanity and, above all, avoid the occurring of genocides (Power 2002a; 2002b). She criticizes the entire international community when it fails to act, but the country she blames the most is the United States, considered capable of making a significant difference in the protection of human rights around the world (Power 2002a).

Specifically, in *“A Problem From Hell,”* she analyzes the dynamics of the major genocides occurred during the XX century – namely, the Turkey’s killing of Armenians; the Holocaust; Pol Pot’s regime of terror in Cambodia; Iraq’s slaughter of Kurds; Bosnian Serbs’ mass murder of Muslims; and the Rwandan genocide – and highlights how the U.S. response to such atrocities was strikingly consistent across time (Power 2002a; Power 2002b). Irrespective of the political ideology and personality of decision-makers, as well as of the geopolitical standing of the country, American response to genocide has always been a very poor one (Power 2002a; 2002b). Despite all the earnest post-Holocaust rhetoric of ‘never again’ and the fact that the U.S. was bound to act under to the Genocide Convention ratified in 1948, Power emphasizes, the U.S. government did not effectively pressure Turkish authorities to halt the mass murder of over a million Armenians; it did not agree to bomb German railroads conducting to Auschwitz; it did not engage in any concrete action to stop the brutal killing of over one million people in Cambodia; it did not change its policy of engagement with Saddam Hussein’s regime when it was clear that he massacred thousands of Kurds with chemical weapons; and, most strikingly, it did absolutely nothing to stop Hutu militias from slaughtering over 7,000 Tutsis a day for a hundred days in Rwanda (Power 2002a; Chollet 2002). Only in the case of the Bosnian genocide did the U.S. ‘open the toolbox’ and use some of the tools at its disposal to halt genocide, which range from diplomatic, to economic, to military sanctions (Power 2002b).

Therefore, Power (2002a) argues, the United States has a tradition of inaction in the face of genocide. And it repeatedly failed to act because it did not want to (Power 2002a; 2002b). The reasons commonly raised to justify inaction – mainly related to knowledge, ‘we didn’t know,’ and influence, ‘we couldn’t have done much,’ – are fake

ones (Power 2002a). The real factor underlying American inaction is the *absence of will* (Power 2002a). Accordingly, Power (2002a) controversially claims that the U.S. record is not one of failure, but one of success. U.S. policymakers succeeded in achieving the double goal of avoiding both military engagement and the moral stigma of not intervening (Power 2002a). Indeed, Power (2002a; 2002b) argues, the U.S. government intentionally avoided using the word ‘genocide’ in public statements, overemphasized the ambiguity of the events, and succeeded in depicting genocide as an inevitable and unresolvable ‘problem from hell.’

Moreover, Power (2002b: 1096) blames the American civil society as much as its policymakers, because ‘(t)he toolbox will stay close when society fails to generate noise.’ As a result, since both the domestic and the international systems do not provide effective incentives for the United States to act and no U.S. president has ever paid a real price for not responding to genocide, Power's critique eventually becomes a call to arms for activists to raise the political costs of inaction (Chollet 2002).

To be noted, however, is the fact that Samantha Power disapproves both extremes of American international behavior: inaction and excess of action (Power 2003). ‘If Clinton acted as though the United States could do no right with power, Bush behaves as though the United States can do no wrong’ (Power 2003: para. 6). She is indeed highly critical of the Bush administration’s utterly illiberal way of pursuing its apparently liberal goals of protecting human rights and promoting freedom worldwide (Power 2003).

With regard to the United Nations, Samantha Power’s views do not seem to be less disenchanted. In 2003, she remarked how being multilateral doesn't necessarily mean being good, giving the examples of Libya’s chairing the U.N. Human Rights Commission and Iraq’s candidacy to run the U.N. Disarmament Conference (Power 2003). She also recognized the anachronistic and undemocratic characters of the U.N. Security Council as its major flaws and, pointed out how the Security Council ‘consists of countries that lack the standing to be considered good-faith arbiters of how to balance stability against democracy, peace against justice, and security against human rights.’ Clearly, she didn’t expect to be sitting in the Council ten years later.



### 3.1.3. *Reputation*

Samantha Power's advocacy of humanitarian intervention has been criticized for being tendentious and militaristic, for responding to a problem from hell with a 'solution from hell' (Wertheim 2010), and for representing a 'weaponization of human rights' (Chase 2009), aimed at advancing U.S. national interests. Before starting her governmental career, Power had a reputation as a fierce human rights activist, who doesn't get intimidated by powerful figures, and would never compromise her values (Osnos 2014). However, as Osnos (2014: para. 22) puts it:

'The contrast between Power's ardor as an activist and her duties as an adviser has exposed her to the criticism that her commitment to the Administration, and to her own advancement, comes at the expense of her principles and her reputation.'

Even David Rothkopf, editor of *Foreign Policy Magazine*, has highlighted the inconsistency of Power's advocacy of humanitarian intervention and her insertion within an administration that is doing little in current most serious humanitarian crises, namely in the Democratic Republic of Congo, Syria, and Burma (Osnos 2014). In short, since she joined the Obama administration, Samantha Power has been accused by many of not living up to her convictions (Osnos 2014).

In particular, the appointment as U.S. Permanent Representative to the U.N. represents the final step in the transformation of Samantha Power from an activist to a political figure. Due to her past critical writings about the United States, she was expected to have, at best, a twenty percent chance of being confirmed for the position (Osnos 2014). As Osnos (2014: para. 12) points out, in order to survive her confirmation hearing in front of the Senate, Power had to 'set aside the ferocity and independence that made her name.' Remarkably, when asked about her past controversial views on the U.S. genocide-prevention record, she answered: '(t)his country is the greatest country on earth. I would never apologize for America' (Osnos 2014: para. 7).

Overall, though, Samantha Power was undoubtedly expected to bring about a decisive and positive change in the role played by the United States within the U.N.

## **3.2. Power at the U.N.**

### *3.2.1. Remarks and speeches*

Since the beginning of her career at the U.N., despite the over five years spent at the White House, Samantha Power proved with her public speeches and remarks that her fervor for the promotion and protection of human rights all over the world had not faded away. Power in person underlined this recently, during the commencement speech at the University of Pennsylvania in May 2015, to contradict the criticism that she had made a ‘Faustian bargain’ with the governmental forces and lost her drive:

‘after 23 years in the “real world,” and especially, especially, after my time in government, I am more idealistic than I have ever been in my life, utterly convinced that individuals can make a tangible difference in promoting human dignity and in making the world and our communities in this country a little less broken’ (Power 2015a: para. 10).

Such a positive and energetic attitude in carrying out her new role as U.S. Ambassador to the U.N. was already evident since the time of her appointment in August 2013. Indeed, Ambassador Power decided to deliver her first public speech at the Invisible Children’s Fourth Estate Leadership Summit, expressing her willingness to ‘spend this time with the people who are determined to promote human rights and human dignity, the next generation, who are going to make a profound difference’ (Power 2013a: para. 2). Most recently, on occasion of the 2015 World Humanitarian Day, the U.S. Ambassador released a specific statement dedicated to humanitarian workers, whom she defined as ‘the ultimate upstanders’ (Power 2015b: para. 3), celebrating them and calling upon all governments to protect them and respect their work (Power 2015b).

Throughout the almost three years so far spent in office, Ambassador Power has consistently embraced with particular strength the causes most related to the violation of human rights and abuse of human dignity, staying true to her past as a human rights advocate. Three among such causes stand out in Power’s remarks and speeches: the Syrian civil war; the Ebola epidemic; and the humanitarian crisis in the Central African Republic (C.A.R.).

#### *Syria*

Above all, Ambassador Power spent most of her time, efforts, and words at the U.N. on the Syrian issue, bringing to the fore with particular strength the humanitarian

aspects of the crisis. She repeatedly described the Syrian civil war as ‘the most catastrophic *humanitarian* crisis any of us have seen in a generation’ (emphasis added) (Power 2014a: para. 3; 2014b: para. 1; 2014c: para. 2) and, as it kept worsening, ‘the worst humanitarian crisis in the world’ (Power 2014d: para. 2). In a speech at the Center for American Progress, ensuing the killing of more than 1,400 civilians with chemical weapons by the Syrian regime on 21 August 2013, Ambassador Power made the case for ‘a swift, limited, and proportionate strike so as to prevent and deter future use of chemical weapons’ (Power 2013b: para. 31). Her conviction on the need for a military intervention appeared clear and firm at the time, revealing the extent to which she cared about the cause of the Syrian people:

‘Some have asked, given our collective war-weariness, why we cannot use non-military tools to achieve the same end. My answer to this question is: we have exhausted the alternatives [...]. What would words – in the form of belated diplomatic condemnation – achieve? What could the International Criminal Court really do, even if Russia or China were to allow a referral? [...] (W)ould more asset freezes, travel bans, and banking restrictions convince Assad not to use chemical weapons again when he has a pipeline to the resources of Hezbollah and Iran? Does anybody really believe that deploying the same approaches we have tried for the last year will suddenly be effective?’ (Power 2013b: para. 18, 25).

She then urged the Syrian government and all other nations to protect the Syrian population under the norm of the Responsibility to Protect (R2P) and did not hesitate to openly blame those deemed responsible for the occurring of the abuses:

‘It should have compelled Assad to protect his people rather than attack them, and it should have compelled his partners in the international community to step in earlier, lend advice and assistance, and prevent the situation from reaching its current metastatic proportions. It should have’ (Power 2013c: para. 6).

Only a month later, though, Ambassador Power had already remarkably mitigated her words. From the need for the use of force to effectively halt the atrocities, Power started stressing the importance of the role that the credible *threat* of force from the U.S. had played in the achievement of diplomatic progress on the issue (Power 2013d; 2013e).

Moreover, starting from the first months of 2014, it is possible to perceive a growing frustration in Ambassador Power’s rhetoric, due to the progressive worsening of the humanitarian crisis and, particularly, the outrageous non-compliance of the Syrian authorities with the obligations imposed by the Security Council (Power 2014a; 2014e; 2014f; 2015c). In particular, Power repeatedly condemned the lack of any implementation of resolution 2139 on Humanitarian Access in Syria, adopted by the

Security Council on 22 February 2014 under her energetic leadership (Power 2014c). As Power emphasized, the resolution included a commitment to take further enforcement measures under Chapter VII of the U.N. Charter in case of non-compliance (Power 2014c).

In May 2014, when the Russian Federation vetoed the Security Council decision to refer the crimes committed by the Syrian government to the International Criminal Court (ICC), Ambassador Power openly blamed the Russian colleagues in remarkably strong terms:

‘Sadly, because of the decision by the Russian Federation to back the Syrian regime no matter what it does, the Syrian people will not see justice today. They will see crime, but not punishment’ (Power 2014g: para. 3).

The emphasis conferred by the Ambassador to the matter results being even more meaningful in consideration of the lack of a U.S. recognition of the jurisdiction of the ICC and especially the recent withdrawal of the U.S. signature from the Rome Statute, which symbolized a total disagreement with the principles and purposes underlying the creation of the Court (see para. 2.1.3.). Power seems, instead, to confer a great importance to the ICC and its jurisdiction with respect to the crimes committed by the Syrian government.

In a nutshell, since she took the U.S. seat at the United Nations, Ambassador Power has frequently and passionately called the attention of U.N. Member States on the criticalness of the humanitarian crisis in Syria. On this issue, her strong interventionist rhetoric, her willingness to prosecute Assad’s non-compliance, as well as her blaming of those deemed responsible for the lack of action are evident and remarkable factors of Ambassador Power’s outstanding demeanor within the U.N.

### *Ebola*

A different, but not less humanitarian, issue which stands out in Ambassador Power’s statements at the U.N. regards the outbreak of the Ebola epidemic in West Africa. During the September 2014 emergency Security Council meeting on the Ebola outbreak – which Power recognized as the first emergency meeting on a health crisis in the history of the United Nations – the U.S. Ambassador already assumed a critical

position toward the action taken by the international community in the early stages of the outbreak (Power 2014h). To use her own words:

‘(o)ne of the main reasons this outbreak has spread so dramatically is because – up to now – we haven’t come together sufficiently to confront it’ (Power 2014h: para. 4).

Indeed, Ambassador Power was very committed to ensure that an adequate response to the Ebola crisis be provided by the international community. As Osnos (2014) remarks, Power’s turn in the rotating position of the presidency of the Security Council in September 2014 coincided with a growing recognition and effort to bring awareness of the threat posed by the Ebola virus. At almost every meeting on the issue, Ambassador Power accurately reported the soaring numbers of infected individuals and casualties in the three most affected countries – Liberia, Guinea, and Sierra Leone – calling the attention on the progressive worsening of the crisis and urging a greater commitment to effectively ‘bend the curve of infections’ (Power 2014h; 2014i; 2014j; 2014k). Over time, Power’s commitment to act on the crisis increased as much as her denunciation of the horrific facts characterizing it:

‘I think we need to be very clear that our goal is not simply to bend the curve; it is to end the curve’ (Power 2014l: para. 7).

As time went by and the outbreak worsened, in fact, Ambassador Power kept raising criticism to the unsatisfactory response provided by the international community, displaying a similarly aggressive style to the one noted with reference to the Syrian issue. In late October 2014 she stressed that the international community:

‘isn’t just losing the race to Ebola. We are getting lapped, [...] (t)he international response to Ebola needs to be taken to a wholly different scale than it is right now’ (BBC News 2014: para. 6, 10).

And added that, notwithstanding the tremendous facts reported every day, ‘some in the international community have not yet shouldered their share of the response burden’ (Power 2014j: para. 9). On the same occasion, Ambassador Power praised those countries that, together with the United States, were instead doing their part. Among them, she particularly lauded Cuba for the great number of health workers provided notwithstanding the small size of its population (Power 2014j). As BBC News (2014) underlined, such a remark from a U.S. Ambassador was definitely noteworthy considering that Cuba is subject to a U.S. embargo since the second half of the XX century.

Another aspect of the Ebola crisis that has been emphasized by Ambassador Power and subject to her strong criticism relates to fear. To use Power's own words:

'Ebola has no greater friend than fear. The virus thrives on it. [...] Public campaigns can inform communities that Ebola survivors pose no risk to their neighbors – as President Obama has done with his hug of Nurse Pham. [...] We cannot let our fears stand in the way of these hopes' (Power 2014j: para. 33, 41, 59).

Even on this issue, Power condemned the attitude of many countries, including the U.S., for contributing to sow 'fear to help' and hampering the recruitment of volunteers by introducing excessively restrictive measures of prevention (Osnos 2014). The States of New York and New Jersey, for instance, introduced a mandatory 21-day quarantine period for anyone arriving from West Africa who had been in contact with Ebola patients, even if not presenting any symptoms (BBC News 2014; Osnos 2014). Referring to the issue, Ambassador Power affirmed:

'Governments also must knock down the obstacles that stand in the way of volunteers joining the effort. That means making it easier, and not harder, for volunteers to travel to the affected countries; and treating them like the heroes when they return home, rather than stigmatizing or isolating them' (Power 2014k: para. 20).

### *Central African Republic*

A third cause that the U.S. Permanent Representative embraced with particular strength during her official remarks at the U.N. relates, once again, to a humanitarian crisis, the one unfolding in the Central African Republic (C.A.R.). Power's notable attention for and engagement in this matter can be deemed particularly meaningful when considering that the Central African Region is usually positioned at the margins of U.S. foreign policy interests and at the bottom of the U.N. agenda. The way the Ambassador put it during a Security Council Stakeout in late December 2013 and then again at a Security Council Meeting in May 2014:

'even as we discuss the situation in South Sudan and, of course, discuss Syria, I want to just say that *the situation in C.A.R. begs the world's attention*' (emphasis added) (Power 2013f: para. 10). '(T)he Central African Region [...] is one we must prioritize' (Power 2014m: para. 2).

Since the rebel takeover of the government in 2013, indeed, the already troublesome political and social situation in the C.A.R. deteriorated (UNHCR n.d.; Power 2015e). Ethnic and religiously-based violence has torn the country since then, causing the displacement of hundreds of thousands of people and leaving more than half

of C.A.R.'s population in need of humanitarian assistance (UNHCR n.d.; Power 2015e). Based on her official remarks, Power appears to be genuinely committed to draw U.N. Member States' attention to the humanitarian crisis occurring in such a frequently forgotten region of the world. Starting from September 2013, for over a year, the U.S. Ambassador actively pushed the Security Council to authorize the deployment of ad hoc peacekeeping and peacebuilding missions to the country and to increase the resources channeled to them (Power 2013g; 2013h, 2014n). To quote the way she repeatedly addressed the U.N. colleagues on the issue: '(w)e must do more; we can do more; and we must do it now' (Power 2014o: para. 7; 2014p: para. 6).

What is more, among the issues covered so far, Power's attention to C.A.R.'s crisis shows the strongest connection to her past renowned criticism of the lack of effective humanitarian intervention by the international community in the Central African Region (Power 2002a). The Ambassador herself sets out a powerful comparison between Rwanda and C.A.R.:

'It has been 20 years since the Rwandan genocide taught us the price of delay in responding to mass violence. The world has not delayed in reacting to the outbreak of horrific violence here, but it is evident from the ongoing targeting of the other that what we are doing has not yet calmed the situation. [...] Most of the casualties here have resulted not from clashes between armed forces, but by each side assaulting unarmed civilians who are associated with the rival faith. [...] We must do more; and we must do it now' (Power 2014p: para. 2, 3, 6).

In her new role as U.S. Permanent Representative to the United Nations, Samantha Power has thus remained faithful to her advocacy of humanitarian intervention, even a military one, for the sake of its effectiveness. Throughout the over two years so far spent in office, Ambassador Power has dedicated the bulk of her speeches to the protection of human rights and human dignity all over the world and, as it has been showed, to the issues involving the most serious humanitarian concerns. It is especially on those issues that she has displayed and continues to display a passionate and energetic style that echoes her past writings and defends her reputation. From the point of view of rhetoric, therefore, Samantha Power has arguably met the expectations that she would have distinguished herself as a U.S. Ambassador and possibly affected the role of the United States within the U.N. towards a more proactive and empathetic one. It is yet necessary to verify whether such a change has occurred in concrete terms as well.

### 3.2.2. Concrete contribution

Analyzing the extent to which Samantha Power has been able to practice what she preached requires to first acknowledge that her actions as U.S. Ambassador to the U.N. depend upon the directions of the Department of State, the administration and its head, the President. It is certainly not up to her to delineate the concrete policies and voting behavior of the United States within the U.N., in her capacity of Ambassador she has to implement the decisions and strategies coming from Washington. Nevertheless, as the head of the U.S. Mission to the U.N., she does have internal decision-making power. Moreover, as already mentioned, ‘by virtue of her seat at the cabinet table, the U.N. ambassador can help “write her own instructions”’ (Bosco 2013: para. 4) and is not directly placed under the authority of the secretary of state (Fasulo 2015). It is then particularly meaningful for the present analysis to review Ambassador Power’s actions and substantive commitments within the three selected areas of U.N. debate and intervention she has proven to care about the most.

#### *Syria*

As the overview of Ambassador Power’s remarks and speeches on the Syrian humanitarian issue has shown, the U.S. Permanent Representative has made a significant number of calls for a concrete intervention in the crisis, capable of effectively stopping the abuses against the civilian population.

Under her influence, the Security Council adopted six resolutions<sup>32</sup> on the Syrian civil conflict and three<sup>33</sup> on the threat posed by terrorist groups – Islamic State in Iraq and the Levant (ISIL)<sup>34</sup> and Al Nusrah Front (ANF) – in the area. Overall considered, such resolutions required the verification and destruction of Syria’s chemical weapons stockpiles (S/RES/2118); called for the immediate provision of cross-border humanitarian access (S/RES/2139); authorized the U.N. and its partners to implement such a cross-line humanitarian access (S/RES/2165); extended the authorization for aid access across Syrian borders (S/RES/2191); prohibited the use of any toxic chemical as a weapon (S/RES/2209); and recommended the establishment of a UN-OPCW Joint

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<sup>32</sup> U.N. Security Council resolutions: 2118; 2139; 2165; 2191; 2209; 2235.

<sup>33</sup> U.N. Security Council resolutions: 2170; 2178; 2199.

<sup>34</sup> Also known as the Islamic State of Iraq and Syria (ISIS).



Investigative Mechanism to determine responsibility for the use of chemical weapons in Syria (S/RES/2235). Resolutions 2118, 2139, and 2191 also expressed the intent to take further measures under Chapter VII in the event of non-compliance. The United States figures as co-sponsor of all such resolutions but one, namely Resolution 2118 (unbisnet.un.org).

In addition to fostering such an engaging role of the U.S. as co-sponsor of U.N. Security Council resolutions tackling the Syrian humanitarian crisis, in June 2014 Ambassador Power visited the ever-expanding refugee camps along the Syrian-Turkish border. In doing so, she gathered international attention Syria's refugee crisis and effectively urged concrete action by the international community (Power 2014d; Adana U.S. Consulate 2014).

However, despite massive non-compliance by the Syrian regime, no enforcement mechanism was eventually activated by the Security Council under Chapter VII of the U.N. Charter. According to Power, this meant leaving the Syrian authorities ridiculously unaccountable, losing the Security Council's credibility, and, most of all, sacrificing the lives of thousands of innocent Syrians (Power 2015d). As recently as in April 2015, Power stressed once again that the lives of thousands and the credibility of the Council depended on concrete *action* (United Nations 2015). Her position on the issue was very straightforward:

'Our resolutions are currently being ridiculed by the Syrian regime,' 'ISIL could disappear tomorrow and the regime would still block UN convoys, ignore UN appeals and UN Security Council resolutions, torture detainees in its prisons, and use barrel bombs and chlorine chemical weapons to attack civilians [...] The only viable political solution to this crisis is one without Assad in power' (Power 2015d: para. 7, 15).

The lack of implementation of any concrete measure or enforcement mechanism by the U.N. Security Council to effectively halt the perpetration of atrocities in Syria can thus be deemed a significant failure for Ambassador Power and her work within the U.N. Even on the domestic front did Power fail to trigger the humanitarian intervention she had been advocating. Remarkably, the U.S. government deployed troops in Syria only after terrorist groups started being active in the region and involved in the civil conflict, thus representing a real national security threat for both the homeland and American citizens abroad (Osno 2014). Despite such failures in terms of results, it is

still important to recognize how Power's substantive engagement in the Syrian humanitarian crisis was consistent with the one demonstrated in rhetorical terms.

### *Ebola*

As for the cause of Ebola-affected people, Power's commitment in terms of action also seems to be as intense as the one she manifested in words. Thanks to Ambassador Power's leadership on the Ebola issue, on 18 September 2014 the Security Council adopted the most co-sponsored ever Security Council Resolution (Power 2014h). With 130 co-sponsors, Resolution 2177 represented a powerful call to action and established the U.N. Mission for Ebola Emergency Response (UNMEER), the first-ever U.N. emergency health mission (S/RES/2177; Power 2014h; ebolaresponse.un.org).

To combat fear, which she defined as Ebola's 'greatest friend' (Power 2014j: para. 33), and to draw the world's attention to the insufficient amount of supplies provided, the U.S. Ambassador took the incredibly powerful and symbolic action of spending one week visiting the countries worst hit by the Ebola outbreak – namely, Guinea, Sierra Leone, Liberia, and Ghana (USUN 2014a; Osnos 2014). As Osnos (2014: para. 64) reports, 'she visited five countries in four days, determined to generate as many headlines as possible.' While there, in October 2014, she not only visited local health centers, but also met Ebola survivors in person (Power 2014j). She spread a message of hope by sharing pictures depicting her demonstration of the 'Ebola handshake,' the new and safe way to greet people in affected countries, by touching each other's elbows (Reuters and Thornhill 2014). Once back, to strengthen her message against the fear and the stigma, Power made public that her five-year old son had begged her not to leave for such a dangerous region and stressed how 'we can educate ourselves and our communities about when fears are legitimate, and when they are unfounded or counterproductive' (Power 2014j: para. 41).

At the same time, Ambassador Power could count on the increasing financial and substantive contribution of the United States to the fight against Ebola, amounting to over 2 billion dollars and more than 3,000 civilian and military personnel, as of July 2015 (Power 2015f). She proudly underlined, at almost every Security Council meeting on the Ebola crisis, the rising share of the burden of the fight against the outbreak born

by Washington, taking it as an occasion to reiterate the need for every Member State to do its part (Power 2014j).

International and local efforts eventually succeeded in turning the tide on the Ebola epidemic, with an almost 90 percent weekly case reduction on average among the three affected countries (Power 2015g). The way Ambassador Power (2015g: para. 7) put it, such a result was achieved ‘above all because we did not let our fear drown out our understanding and appreciation of “our common security and our common humanity.”’ Besides the positive outcome of this particular humanitarian crisis, a coherence between the words and actions of the U.S. Ambassador can be noticed one more time.

#### *Central African Republic*

As already noted, Ambassador Power’s concern with C.A.R.’s crisis is particularly meaningful due to the fact that the Central African Region was usually not included among U.S. and U.N. greatest concerns. Indeed, in April 2015, the U.N. Refugee Agency warned that C.A.R. was ‘quickly becoming the largest forgotten humanitarian crisis of our time’ (UN News Centre 2015: para. 1). In December 2013, Ambassador Power visited the Central African Republic, marking the first time a U.S. Cabinet official had done so since the country was founded, in 1960 (USUN 2013; Osnos 2014). Remarkably, this also represented the U.S. Ambassador’s first solo international trip, during which she announced a renewed financial support from the United States to the African-led International Support Mission to the Central African Republic (MISCA) (USUN 2013; Power 2013i).

Additionally, on occasion of the 20th anniversary of the atrocities committed in Rwanda and the Central African Region, Ambassador Power carried out a second visit to the C.A.R., from 6 to 10 April 2014 (USUN 2014b). Her visit was aimed at supporting the new transitional government and, most of all, laying the groundwork for an official United Nations Peacekeeping Operation. Not by chance, indeed, the UN Multidimensional Integrated Stabilisation Mission in the Central African Republic (MINUSCA) was established on 10 April 2014, while Ambassador Power was still visiting the country. In a way, this fact shows evidence of Power’s influential role within the U.N., as well as of her ability to shed light on the leading and participating

attitude of the United States toward international humanitarian issues (S/RES/2149; Power 2014o). For the third time, then, it is possible to notice how Ambassador Power matches her words with action, displaying a committed and engaging behavior at both levels of rhetoric and substance.

### 3.2.3. *Role in the U.S.-U.N. relationship*

With specific reference to the U.S.-U.N. relationship, the role of Samantha Power becomes more shady, as improved attitude and rhetoric don't seem to be followed by concrete achievements. In 2013, Ambassador Power was awarded with the UNA-USA Global Leadership Award, conferred every year since 1998 to honor individuals and corporations for their global leadership in advancing U.N. causes, marking the *first time* a U.S. Ambassador to the U.N. won such a prize (unausa.org). In her acceptance speech, she emphasized that:

'The relationship between the UN and the United States is among the globe's most important, [...] we need to nurture and grow the constituency in this country that believes in that relationship' (Power 2013j: para. 3).

The unconventional and genuine style of the new U.S. Permanent Representative was evident since the beginning of her mandate. Indeed, as Osnos (2014) reports, the newly-appointed U.S. Ambassador distinguished herself with the very humble gesture to try to meet each of the U.N.'s hundred and ninety-two permanent representatives at their offices, rather than inviting them at hers. By Samantha Power's count, she had visited a hundred by December 2014 (Osnos 2014). She was thus able to immediately offer to her U.N. colleagues an image of herself as a caring and passionate Ambassador.

Subsequently, as it has been shown, she was able to foster such a reputation by assuming a leadership role within the U.N. Security Council, especially for matters related to human rights violations and to the most marginal and vulnerable populations (see para. 3.2.1. and 3.2.2.). In particular, as the Ambassador herself pointed out during a recent interview at the U.S. Mission, she has initiated the unusual practice of bringing the real voices of people involved in humanitarian crises into the Security Council, so as to '*humanize*' the discussion within the Council, which can otherwise get 'very abstract and very bureaucratic and arcane' (Power 2015h: para. 52, 51). On that, she added:

‘having been a storyteller as a journalist, I love having that privilege of being able to put America’s weight behind these individuals who feel often very invisible and like their voices are not being taken into account’ (Power 2015h: para. 52, 51).

In this sense, she has been able to distinguish herself within the U.N. Security Council and to improve the role the U.S. plays within it by means of her passionate and caring style.

Despite the promising premises – built upon her reputation as a journalist and human rights advocate; the modesty and enthusiasm with which she assumed office; the outstanding rhetorical and substantive commitment invested to tackle international humanitarian crises; and the recognition of the importance of the U.S.-U.N. relationship – Ambassador Power has *not* been able to change the most negative features of U.S. policy toward the U.N. Indeed, the United States keeps on accumulating arrears on the part of the U.N. budget Samantha Power seems to be caring about the most, namely the U.N. peacekeeping budget, due to the 25-percent cap on U.S. peacekeeping contributions (see para. 2.2.3.). Moreover, the adherence of the United States to U.N.-sponsored international treaties, as well as U.S. ratification status of the major international human rights treaties are still as poor as they were before Ambassador Power was appointed (see para. 2.2.3.). In particular, despite Power’s frequent mentioning of the International Criminal Court as a crucial international mechanism of accountability and punishment, no step back has been taken by the Obama administration on the 2002 ‘unsigned’ of the Rome Statute (see para. 2.2.3., 3.2.1.).

Besides the lack of progress regarding the most detrimental features of U.S. policy toward the U.N., Ambassador Power’s most striking failure to intervene positively in the U.S.-U.N. relationship concerns the United Nations Educational, Scientific and Cultural Organization (UNESCO). As previously illustrated, the United States withheld funding to the U.N. agency in November 2011, when the Palestine Liberation Organization (PLO) was admitted as a Member State, in compliance with two federal acts of 1990 and 1994<sup>35</sup> (see para. 2.2.3.). Deprived of 22 percent of its budget, UNESCO was forced to cut important programs and resort to emergency aid from then on (Erlanger 2012). What is more, in case the U.S. protracted the defunding for more than two years, the country would have lost its voting rights within the U.N. agency, thus withdrawing even its political contribution and symbolic support. In line with

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<sup>35</sup> Public Law 101-246 and 103-236.

Article 19 of the U.N. Charter, indeed, if the amount of arrears owed by a Member State equals or exceeds the contributions owed for the preceding two years, the state will incur in a suspension of the right to vote (U.N. Charter Art. 19). Accordingly, as the deadline for losing the UNESCO vote was approaching, Ambassador Power actively advocated a waiver for the federal legislation at stake (Weiss 2014; Goodenough 2014). On the one hand, Power recognized the importance of criticizing the unilateral search for an upgrade of status by the Palestinians, to be contested as an attempted shortcut in the legitimate path leading to statehood (Weiss 2014). On the other hand, however, the U.S. Ambassador made it clear that the administration was going to spare no effort in seeking a restoration of funding to UNESCO and avoiding the loss of the U.S. vote in the agency (Weiss 2014; Goodenough 2014). When, on 8 November 2013, the United States lost its voting rights in the UNESCO General Conference, Ambassador Power released a statement expressing her profound disappointment and concern:

‘the loss of the United States’ vote in UNESCO diminishes our influence within an organization that is looked to around the world for leadership on issues of importance to our country, including the rights of women and girls, Internet governance, freedom of the press, and the recognition and protection of cultural heritage. [...] U.S. leadership in UNESCO matters. As such, the United States will remain engaged with the organization in every possible capacity, including attending meetings, participating in debates, and maintaining our seat as an elected member of the Executive Board until 2015’ (Power 2013k: para. 1, 2).

Although she put a lot of effort in it, Ambassador Power thus failed to prevent the U.S. from losing its vote within UNESCO and permanently deprive the U.N. Agency of 22% of its budget. This fact offers a significant insight on how Samantha Power faces institutional challenges which have proven to be overwhelming to her action and to impede the accomplishment of her personal will.

### **3.3. Conclusion**

Assessing Samantha Power’s role as U.S. Permanent Representative to the United Nations and the extent to which she was able to advance the role of the United States within the Organization is not an easy task. Overall, Ambassador Power’s records appear to be mixed. From the analysis of Samantha Power’s main speeches and actions within and for the United Nations, the Ambassador seems to be genuinely committed to multilateralism and to confer a crucial value to the Organization and its mandate to

maintain international peace and security. She appears to be significantly committed to ensure the United States is at the forefront in tackling humanitarian crises, settling international conflicts, and making sure the U.N. is able to operate in its fullest capacity. The sharpness of the criticism she raised as a journalist against the lack of U.S. activism in fighting crimes against humanity and preventing the occurrence of genocides during the XX century reconnects with the passionate style and sharp tone she adopted as an Ambassador. She ends up being coherent in matching rhetorical commitment with personal substantive action, as well as in spending most of her efforts in issues concerning humanitarian crises. She has proven to be an effective motivator, triggering U.N. dynamism and a fruitful cooperation between the Member States. She has brought about a more effective way of considering humanitarian crises, by hearing the real voices of the victims, thus ‘humanizing’ U.N. Security Council’s debates (Power 2015h). For all such reasons, and for the way she echoed President Obama in stressing the great inherent value the United Nations represents for the U.S. and the entire world, Ambassador Power seems to greatly exemplify the *multilateralist* model of U.S. behavior toward the U.N.

At the same time, however, no concrete progress with regard to the most negative features of the U.S.-U.N. relationship has been achieved under Ambassador Power’s lead. When reviewing its substantive aspects, indeed, the policy of the country toward the Organization rather seems to reflect the *unilateralist* model and to be driven almost exclusively by its national interest. Before arguing that, however, it is necessary to focus on a second specific aspect of the current policy, one which could counterbalance the *multilateralist* one analyzed in the present chapter and exemplify the *unilateralist* model of U.S. behavior toward the United Nations.

**IV.**  
**SECOND CASE-STUDY:**  
**U.S. COUNTERTERRORISM-RELATED HUMAN RIGHTS RECORD**

The human rights record of the United States, within the national territory and overseas, has been highly affected by the counterterrorism strategy implemented in response to the terrorist attacks of 9/11. In the aftermath of the attacks, domestic as well as international checks on the governmental action disappeared, leaving the Bush administration unaccountable in carrying out unlawful and immoral practices on suspected terrorists (see para. 2.1.3.). As time went by and the global grieving started to fade away, however, the human rights abuses reported to be committed by U.S. officers and agents came to the fore in large sectors of the domestic and international public opinions. Various U.N. Member States and U.N. human rights bodies assumed positions of disapproval and condemnation of U.S. human rights conduct associated to counterterrorism practices (Saul and Flanagan 2014). As a result, the standing and the role of the United States within the United Nations, and especially within U.N. human rights treaty bodies, started being highly undermined.

As anticipated, Obama pledged to redeem the country from such a disgraceful status, starting from banning inhuman detention and interrogation practices, until turning U.S. counterterrorism into an entirely lawful and legitimate activity (see para. 2.2.3.). As it will be shown, however, a change in counterterrorism rhetoric and directives might not necessarily be reflected in the practice. The latter, indeed, can still be considered as one of the most *unilateralist* aspects of U.S. international behavior, as well as one of the factors bringing the most negative impact on the role currently played by the country within the United Nations.



#### 4.1. Obama’s new human rights-compliant counterterrorism policy guidance

In the already mentioned Nobel Peace Prize acceptance address, pronounced on December 10, 2009, the President-elect delivered very powerful and idealistic statements. With particular reference to the fight against terrorism he affirmed:

‘even as we confront a vicious adversary that abides by no rules, I believe the United States of America must remain a standard bearer in the conduct of war. That is what makes us different from those whom we fight. That is a source of our strength. [...] We lose ourselves when we compromise the very ideals that we fight to defend. And we honor -- we honor those ideals by upholding them not when it’s easy, but when it is hard’ (Obama 2009c: para. 29).

As a first step to renew U.S. counterterrorism approach, President Obama abandoned any reference to the concept of a ‘war on terror,’ which encapsulated not only the title, but the entire ideology of the Bush administration’s counterterrorism strategy (Laïdi 2012; Lynch 2010). Laïdi (2012) effectively reports this fact graphically:

**Table 4.1**                      **Discourse on Terrorism**

	<i>Bush</i>	<i>Obama</i>
“war on terror”	72	0
“Al Qaeda”	104	155

*Source:* Laïdi (2012: 67).

By comparing the speeches pronounced by George W. Bush during his second term and by Barack Obama during his first 18 months in office, Laïdi (2012) is able to point out the new President’s total abandonment of the term ‘war on terror,’ in favor of a decisive increase in references to ‘Al Qaeda.’ In this way, the newly-elected President manifested his desire to replace the ideological character of the counterterrorism fight with a political one, targeting specific terrorist actors rather than the religion of Islam and the Muslim world at large (Laïdi 2012). Noteworthy is also the fact that, within the political sphere, the possibility to resort to unlawful, inhuman practices is less imaginable than within the ideological one.

What is more, President Obama immediately actualized his intentions to break with the Bush administration’s counterterrorism measures. Already on his second day in office, 22 January 2009, he signed Executive Order 13491 on ‘Ensuring Lawful Interrogations,’ with which he set the basis for an absolute overcoming of post-9/11

unlawful and immoral counterterrorism practices (74 Fed. Reg. 4893). First, he ordered that George W. Bush's Executive Order 13440 of July 20, 2007, as well as all orders issued to or by the Central Intelligence Agency (CIA) from September 11, 2001, to January 20, 2009 concerning detention or interrogation of detained individuals, be revoked (74 Fed. Reg. 4893). As a matter of fact, Bush's EO 13440, entitled 'Interpretation of the Geneva Conventions Common Article 3 as Applied to a Program of Detention and Interrogation Operated by the Central Intelligence Agency,' determined the full compliance of a program of detention and interrogation approved by the Director of the CIA with the obligations under Article 3 of each of the Geneva Conventions (or 'Common Article 3') (72 Fed. Reg. 40707).<sup>36</sup> In this regard, President Obama also established that, in conducting interrogations, officers and other U.S. Government agents may not rely upon any interpretation of the law governing interrogation issued by the Department of Justice between September 11, 2001, and January 20, 2009 (74 Fed. Reg. 4893).

Second, the President set new 'Standards and Practices for Interrogation of Individuals in the Custody or Control of the United States in Armed Conflicts' (74 Fed. Reg. 4893: 4894), establishing Common Article 3 of the Geneva Conventions as a minimum baseline (74 Fed. Reg. 4893). According to such standards, individuals detained in any armed conflict:

'shall in all circumstances be treated humanely and shall not be subjected to violence to life and person (including murder of all kinds, mutilation, cruel treatment, and torture), nor to outrages upon personal dignity (including humiliating and degrading treatment)' and 'shall not be subjected to any interrogation technique or approach, or any treatment related to interrogation, that is not authorized by and listed in Army Field Manual 2-22.3 (Manual)' (74 Fed. Reg. 4893: 4894).

President Obama thus 'reaffirmed America's commitment to abide by the Geneva Conventions' (Obama 2009c: para. 29), moving on from what is considered 'one of the darker moments in American legal history' (Cohen 2012: para. 2), started with Bush's 2002 'February 7 memo' (see para. 2.1.3.).

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<sup>36</sup> The term "Geneva Conventions" includes: (1) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114); (2) the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217); (3) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and (4) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516) (72 Fed. Reg. 40707).

Third, the President ordered that any detention facilities operated by the CIA be closed ‘as expeditiously as possible’ and prohibited any future CIA detention facilities (74 Fed. Reg. 4893). At the same time, he established that the International Committee of the Red Cross be given timely access to any individual detained in any armed conflict in U.S. custody (74 Fed. Reg. 4893). In particular, with EO 13492 entitled ‘Review and Disposition of Individuals Detained At the Guantánamo Bay Naval Base and Closure of Detention Facilities,’ President Obama established the closure of detention facilities located at Guantánamo Bay ‘as soon as practicable, and no later than 1 year from the date of this order’ (74 Fed. Reg. 4897: 4898).

Lastly, the EO 13491 set out the establishment of a Special Interagency Task Force tasked with reviewing interrogation and transfer policies (74 Fed. Reg. 4893).

## **4.2. Violating human rights while countering terrorism – in practice**

The shift in counterterrorism rhetoric and policy guidance brought by President Obama from the beginning of his mandate has thus been dramatic. In terms of results and operational implementation of the new directives, however, no such a change seems to have occurred. The argument of essential continuity between the two administrations’ counterterrorism practices – despite the doubtless difference in rhetorical and formal terms – is supported by several scholars and journalists. In addition, a number of reports of Human Rights Watch and other international organizations can be considered to further validate such a claim, as they collect evidence of the existence of human rights violations associated with the counterterrorism practices occurring under the Obama administration.

### *4.2.1. Scholarly support*

Among the various scholars who have highlighted the existence of an actual continuity between the Bush and the Obama administrations’ counterterrorism strategies, Laïdi (2012) is particularly direct. Not only does the author stress that any significant change in practice has followed the change in discourse, but he also

underlines how many substantive revisions of the counterterrorism measures already occurred during Bush’s second term (Laïdi 2012; Lynch 2010).

**Table 4.2 The antiterrorist system from Bush to Obama**

	<i>Bush</i> 2001–2006	<i>Bush</i> 2007–2008	<i>Obama</i>
Guantánamo	open	Limited efforts to close	Limited efforts to close / political and judiciary obstacles to closure *
Military commissions	no	Attempts to set up failed	Beginning
“Black Sites”	yes	Detainees transferred	Most, but not all, closed
<i>Habeas Corpus</i> rights	yes	Limited, as per Supreme Court**	Limited, as per Supreme Court**
Indefinite detention	yes	yes	yes, but limited
Enhanced interrogation	yes	no	no
State secrets	yes	yes	yes
Patriot Act provisions	yes	yes	yes
Warrantless Wiretapping	yes	yes	yes
Targeted Assassination	yes	yes	yes
Drones	yes	yes	yes, expanded***
Extraordinary renditions	yes	yes	yes
National Security Letters (FISA)	yes	yes	yes, restricted

\* Congressional refusal to vote for closing the prison in 2009; problems transferring detainees to their country of origin or a host country.

\*\* Habeas corpus applies to Guantánamo detainees (see supra note 31).

\*\*\* Drone strikes increased from 35 strikes in 2008 to 118 strikes in 2010.

Source: Laïdi (2012: 71).

The detailed comparison of the actual features of the two administrations’ antiterrorist systems illustrated in Table 4.2. shows the absence of any absolute change. In concrete terms, only slight improvements have occurred with regard to use of military commissions, the closure of the so-called ‘black sites,’<sup>37</sup> and the limitation of indefinite detention. All the remaining counterterrorism practices are either unchanged, or had already been revised during Bush’s second term. It is also remarkable that the use of unmanned aerial vehicles (UAVs), commonly referred to as ‘drones,’ is reported to have increased in number by 83 strikes from 2008 to 2010. Additionally, Laïdi (2012) points out the existence of a significant degree of continuity also with regard to the administrative structures of counterterrorism. Almost all counterterrorism leading

<sup>37</sup> The term ‘black sites’ is commonly used to refer to secret prisons operated by the CIA, located outside of U.S. territory.

officials of the Bush administration have indeed remained in place during Obama's first term in office.<sup>38</sup>

Various other scholars argue about the existence of an actual continuity between the Bush and the Obama administrations' counterterrorism measures, despite the evident change in discourse. As already mentioned, the most controversial of such measures are the use of enhanced interrogation techniques, including torture; secret detention; the extraordinary rendition program; and the prosecution of detainees in military tribunals with no right of appeal (see para. 2.1.3.).

Pious (2011), in particular, highlights how President Obama continued the use of presidential prerogative powers inaugurated by Bush. Moreover, although formally blamed, he failed to end – both in practice and in principle – the measures of indefinite detention of terrorist suspects, extraordinary rendition of detainees to other countries for interrogation, as well as the use of military commissions and reliance on state secrets defenses in court proceedings. At the same time, Pious (2011) notes, under the Obama presidency, no concrete progress was made towards the closure of detention facilities located at Guantánamo Bay.

Milkis and Nelson (2012), as well as Savage (2010a) and Desch (2010), in turn, underline how the Obama administration essentially continued the practice of detaining terrorist suspects without trial in military prisons, as well as its policy of trying at least some of them in military courts. In particular, Desch (2010) reports how President Obama has only modified, rather than abolished, the Bush-era military commissions and has retreated from the position that the principle of habeas corpus<sup>39</sup> also applies to alleged terrorists. He gives the examples of the Obama administration's refusal to allow a trial for detainees at the U.S. prison at Bagram Air Force Base in Afghanistan (Desch 2010). Furthermore, the Obama administration seems to have maintained an ambiguous position on the application of the United Nations Convention Against Torture to CIA and military prisons overseas (Savage 2014).

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<sup>38</sup> Laïdi (2012: 197) lists: 'Michael Vickers, in charge of special operations at the Department of Defense and involved, in the 1980s, in CIA operations in Afghanistan; Steve Kappes, in charge of CIA operations; Stuart Levy, in charge of combating the financing of terrorism; Nick Rasmussen, in charge of counterterrorism at the National Security Council; and Michael Leiter, director of the National Counterterrorism Center.'

<sup>39</sup> The principle of habeas corpus entitles individuals incarcerated by U.S. officials with the right to petition U.S. courts for release (Desch 2010).

An additional aspect adding strength to the thesis of a substantive continuity between the Bush and the Obama administrations' counterterrorism policies is pointed out by Saul and Flanagan (2014), as well as Laïdi (2012). The authors report how President Obama has failed to ensure accountability for the reprehensible actions of the past administration, by avoiding pressing charges over past abuses under the CIA program of detention and interrogation of terrorist suspects. For instance, no prosecutions or disciplinary proceedings were initiated against those who drafted and approved the 'torture memos' (Saul and Flanagan 2014) (see para. 2.1.3.). 'A culture of impunity prevails,' Saul and Flanagan (2014: 400) note, which, according to Laïdi (2012:70), is 'the most disturbing element from the standpoint of resurrecting the rule of law.'

#### *4.2.2. Reported evidence of human rights violations*

Recent reports add evidence to the claim that the Obama administration is still countering terrorism in a dubious way from an international human rights law perspective. In particular, Human Rights Watch (HRW) – an international non-governmental organization conducting research and advocacy on human rights all over the world – has conducted many years of research, reporting, and analysis on U.S. post-9/11 counterterrorism abuses (HRW 2015). Other key reports have been issued by the London-based nonprofit news organization, the Bureau of Investigative Journalism ('the Bureau'), the international network, Open Society Foundations (OSF), and the New York-based nonprofit organization, American Civil Liberties Union (ACLU), among many others.

##### *The expanded use of Unmanned Aerial Vehicles (UAVs or drones)*

A significant part of U.S. post-9/11 counterterrorism efforts consists in the 'targeted killing program.' Under the program, the U.S. has conducted aerial strikes beyond the traditional battlefields of Iraq and Afghanistan – mainly in Yemen, Somalia, and Pakistan – by means of armed unmanned aerial vehicles (UAVs), commonly referred to as 'drones' (OSF 2015). According to the Bureau of Investigative Journalism, as of the end of 2014, the total number of drone strikes carried out under the

Obama administration amounted to 350 (Serle and Fielding-Smith 2015). This figure is around *seven times bigger* than the one belonging to the Bush administration (Serle and Fielding-Smith 2015). Moreover, as of the end of 2014, the reported number of deaths under Obama amounted to at least 2,000 people, almost five times as many as the 410 reported killings under Bush (Serle and Fielding-Smith 2015). The rate of strikes has thus dramatically increased since 2009, causing a growing number of civilian casualties and gathering the attention of the international public opinion.

In response to a growing resentment of the international community about the U.S. targeted killing program and the lack of transparency surrounding it, in a speech delivered on May 23, 2013, President Obama made public a number of standards according to which the program would be conducted thereafter (HRW 2014a).<sup>40</sup> The set of standards is part of a classified Presidential Policy Guidance on targeted killings, which was signed by the President the day before he gave the speech (OSF 2015). The entire policy guidance thus remains not publicly available, except from the following standards. First, targeted strikes can be carried out only when there is ‘near-certainty that no civilians will be killed or injured’ (HRW 2014a: 26). Second, there must be a ‘near-certainty’ that the terrorist target is present (HRW 2014A: 26). Third, it must be assessed that capture of the target is not feasible at the time of the operation, nor is it any other reasonable alternative to killing (HRW 2014a; OSF 2015). Fourth, the target must pose a ‘continuing and imminent threat to the American people’ (HRW 2014A: 26).

In its 2015 report, *Death by Drone*, the Open Society Foundations (OSF) highlights how none of the law-abiding standards set by President Obama seem to apply to the targeted killing program the United States has been implementing in the last years.<sup>41</sup> Quite the opposite, as the OSF (2015) reports, the program raises serious human rights concerns, with reference to both the civilian harm it causes and the violations of international law it commits. Even though the employment of drones to conduct targeted killings is not per se illegal, it must meet strict international law criteria (OSF 2015). Above all, its legality depends on whether the targeted killings occur inside or

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<sup>40</sup> No information was given about whether the standards applied to past strikes as well (OSF 2015).

<sup>41</sup> This 2015 OSF report has been presented at the conference ‘Discussing drones: engaging the international communities on unmanned systems,’ co-organized by the Permanent Mission of Costa Rica to the U.N. and PAX, held at the United Nations Headquarters in New York, NY, on 23 October 2015.

outside the context of an armed conflict (OSF 2015). *Inside* the context of an armed conflict, which is governed by international humanitarian law,<sup>42</sup> targeted killings are permitted only if they comply with the principles of *distinction*, *proportionality*, *precautionary measures*, and *humanity* (OSF 2015). Altogether, such principles entail that a distinction is always made between the targetable and non-targetable individuals and that, in case of doubt, no target is stricken; that the civilian harm caused cannot exceed in proportion the concrete advantage gained with the killing; that all precautionary measures are taken to avoid or minimize civilian harm; and that no unnecessary suffering or destruction is inflicted by the strike (OSF 2015). *Outside* an armed conflict, instead, the infliction of civilian harm can hardly be lawful, as the context is governed by international human rights law, which fundamentally protects the right to life (OSF 2015). The use of targeted killings in this context must meet the criteria of *necessity* and *proportionality*. This means that targeted killings can be carried out only when it is strictly unavoidable in order to protect life, since all less extreme means are insufficient to the same end; and only if their use is proportionate to the seriousness of the offence that the target would otherwise cause (OSF 2015).

When considering that the U.S. targeted killing program is carried out mainly outside the traditional context of an armed conflict – since, first, the opposite parties are non-state armed groups which may not reach the legal minimum level of organization<sup>43</sup> to be considered parties in an armed conflict, and second, hostilities may not reach the minimum level of intensity, nor be protracted enough to be considered armed hostilities<sup>44</sup> – the OSF (2015) concludes that the program can hardly be deemed lawful. Indeed, the 2015 OSF report proves that U.S. strikes have killed and injured civilians by documenting specific cases occurred in Yemen. Evidence is provided of 26 civilian deaths and 13 civilians injured by U.S. drones. Accordingly, the Open Society Foundations (2015) claims that the U.S. government is adopting an overly broad definition of both, the type of targets it may lawfully strike and the type of threat it may lawfully address.

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<sup>42</sup> Among the sources of international humanitarian law are the 1949 Geneva Conventions, their two Additional Protocols, the 1907 Hague Regulations, as well as customary international law (OSF 2015).

<sup>43</sup> To reach the minimal level of organization, under international law, non-state armed groups must have an adequate command structure and must possess the capacity to sustain military operations (OSF 2015).

<sup>44</sup> Both are fact-based standard under international law, not determined by subjective views (OSF 2015).



Similar conclusions are drawn by Human Rights Watch in its 2014 report, *A Wedding That Became a Funeral: US Drone Attack on Marriage Procession in Yemen*. The report documents the strike by a U.S. drone of a convoy of several cars in rural Yemen, occurred on December 12, 2013 (HRW 2014a). HRW investigations and interviews have revealed that the convoy was actually a wedding procession, composed of many, if not only, civilians (HRW 2014a). Although the United States has never officially acknowledged the fact, HRW (2014a) claims that the attack may have violated international law, by failing to distinguish civilian from military targets, as well as by causing a disproportionate civilian loss, when compared to the military advantage.

Other aspects of the U.S. targeted killing program raise serious human rights concerns among international nongovernmental and civil society organizations. One among many is the practice of the so-called ‘signature strikes,’ which target individuals merely based on their patterns of behavior and other targeting criteria that do not comply with international law (OSF 2015). The civilian harm reported to be caused by U.S. drone strikes remains, however, the human rights concern of utmost importance and wider reach, especially when occurring outside the legal context of a traditional armed conflict. Despite the numerous reports of civilian harm and related human rights concerns, the U.S. government has yet to publicly declassify any information relating to the number and identities of civilians killed in targeted killing operations, as well as the full policy guidance governing such operations (OSF 2015; HRW 2014). Attempts to declassify such records by means of a Freedom of Information Act (FOIA) lawsuit have also proved unsuccessful, as the American Civil Liberties Union (ACLU: 2015) reports. This fact raises yet other big concerns about the lack of transparency, prosecution of abuses, and victims redress, associated to what is by this time broadly referred to as the ‘U.S. Covert Drone War’ (The Bureau of Investigative Journalism).

#### *Discriminatory informant-based investigations (FBI sting operations)*

Although the U.S. targeted killing program plays a major part in determining the country’s controversial counterterrorism-related human rights record, a lot more is reported on the matter. The consideration of the entire investigation-trial-detention system for terrorist suspects and detainees greatly worsens U.S. human rights-related reputation. A 2014 Human Rights Watch report entitled *Illusion of Justice: Human*

*Rights Abuses in US Terrorism Prosecutions* documents how serious human rights concerns are raised by the examination of 27 specific cases of federal investigation, prosecution, sentencing, and post-conviction confinement of terrorist suspects. Eight of such cases involved indictments since 2010, which means they occurred under the Obama administration (HRW 2014b).

The first human rights concern highlighted in the report is raised by the so-called ‘informant-based investigations,’ characterized by sting operations, or plots, conducted with the direct involvement of law enforcement informants or agents – mainly the FBI. In these kind of investigations, in fact, government officials identify someone as a potential target, help him plan a terrorist attack and subsequently arrest him for involvement in that plan (HRW 2014b). As it is underlined in the report, FBI sting operations give their target an opportunity to commit a crime he or she might not have been willing or able to commit otherwise. A recent quote from Michael German, reported in the document, effectively summarizes the main concerns related to such investigations:

‘Today’s terrorism sting operations reflect a significant departure from past practice. When the FBI undercover agent or informant is the only purported link to a real terrorist group, supplies the motive, designs the plot and provides all the weapons, one has to question whether they are combatting terrorism or creating it’ (HRW 2014b: 22).<sup>45</sup>

This aspect becomes even more problematic as it appears that targets are often chosen based on religious or political belief, as well as on their particular vulnerability, attributable to mental disabilities or condition of indigence (HRW 2014b). Specifically, the report draws attention to the case of Rezwan Ferdaus, a 26 year-old guy with ‘severe mental health problems that even the FBI had acknowledged’ (HRW 2014b: 32), who also developed depression and physical problems in the course of the FBI sting operation. Ferdaus was involved in a plot to attack the Pentagon and the Capitol building since late 2010, arrested on 28 September 2011 and subsequently sentenced to 17 years in prison, with 10 years of supervised release (HRW 2014b).

As the 2014 HRW report specifies, the case of Rezwan Ferdaus, together with several additional cases of discriminated informant-based investigations reported, represent an unlawful restriction on freedom of association, expression, and privacy.

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<sup>45</sup> Email from Michael German, fellow at the Brennan Center for Justice, to Columbia Law School’s Human Rights Institute, April 8, 2014.

Indeed, even though international law permits a government to restrict such freedoms for national security purposes, ‘a government may never do so in a discriminatory manner’ (HRW 2014b: 56).<sup>46</sup>

### *Unfair trials*

A second measure utilized by the Obama administration to counter terrorism which, according to the aforementioned 2014 Human Rights Watch report, raises serious human rights concerns regards the occurring of unfair trials in terrorism cases. Under international law, a fair trial requires the absence of any influence on the judge or jury, regardless of motivation (HRW 2014b).<sup>47</sup> Such a requirement entails a prohibition to introduce prejudicial evidence, such as such as evidence obtained through coercion; classified evidence that cannot be reviewed and fairly contested by the defense; and inflammatory evidence, such as references to terrorism unrelated to the charges, which unfairly play on jurors’ fears (HRW 2014b). The 2014 HRW report documents the unfair introduction of all these types of evidence in many among the terrorism cases examined from September 11, 2001 to December 31, 2011. In addition, the report highlights the occurring of other practices which raise serious fair trial concerns, mainly solitary confinement and other ill-treatment during pretrial detention and the impact they have on pleas and trial preparation (HRW 2014b).

### *Imprisonment and treatment*

The 2014 HRW report goes on to express serious human rights concerns with respect to post-9/11 conditions of imprisonment and treatment of detainees in terrorism cases. Firstly, it highlights the harsh conditions under which ‘terrorist’ prisoners are held. Two types of prisons are designated for them: the Administrative Maximum Penitentiary (ADX) in Florence, Colorado, and the two Communication Management Units (CMUs) at Terre Haute and Marion (HRW 2014b). While the ADX is described as composed by extremely small cell units where communication with other prisoners is almost never directly face-to-face, CMUs are buildings with bricked-in windows on either side, poorly ventilated and subject to extreme cold or heat (HRW 2014b).

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<sup>46</sup> International Covenant on Civil and Political Rights (ICCPR), 16 December 1966, *United Nations Treaty Series*, vol. 999, p. 171, Arts. 19, 2.

<sup>47</sup> U.N. Human Rights Committee, General Comment 32, Art. 14, para. 25.

Secondly, the report questions the legitimacy of the Special Administrative Measures (SAMs), imposing restrictions on the prisoners' detention to protect national security or prevent disclosure of classified material (HRW 2014b). In particular, under SAMs, many prisoners are held in in prolonged solitary confinement of 22 to 24 hours a day, for days, weeks, or even years in a few cases (HRW 2014b). At the ADX Florence, nearly all prisoners are reported to be held in such a prolonged solitary confinement and, as of October 2013, it counted 41 prisoners (HRW 2014b). Moreover, SAMs problems heavily restrict communication with the outside world and family members as well, even through letters or phone calls, and often threaten the normal access of detainees to medical treatment (HRW 2014b).

**Figure 4.3** Prisoners under SAMs



Source: Human Rights Watch (2014b: 143).

As figure 4.3 illustrates, despite the above-mentioned human rights concerns, the number of detainees under SAMs has grown steadily from November 2011 to December 2012.

*Lack of accountability for past abuses and absence of victims redress*

In the 2015 report entitled *No More Excuses: A Roadmap to Justice for CIA Torture*, Human Rights Watch highlights yet another negative aspect of U.S. counterterrorism-related human rights record. Even though the CIA program of

detention and interrogation officially ended in 2009, the cover-up of the crimes and human rights violations occurred under the program is still ongoing (HRW 2015). As it is stressed in the report, such a cover-up is occurring at two levels: first, through the absence of any prosecution of CIA abuses; second, through the lack of provision of any redress to the victims of the abuses (HRW 2015).

As a matter of fact, no one from the previous administration has been held to account by the Obama administration (HRW 2015). Such an impunity, however, cannot be attributed to a lack of evidence or information. Accounts of ‘the CIA subjecting detainees to stress positions, unlawful renditions, and other forms of abuse’ (HRW 2015: 19) already emerged in December 2002 (HRW 2015). As early as 2003, Human Rights Watch reported on the enforced disappearance of dozen of detainees into U.S. custody (HRW 2015). Finally, in 2004, both a photographic reportage on detainee abuse committed in the U.S. military prison of Abu Ghraib, Iraq, and the text of the first ‘torture memo’<sup>48</sup> circulated in the media, causing a domestic and international scandal (HRW 2015). As a result of these and new facts, after President Obama took office, his Attorney General Eric Holder opened a preliminary investigation into the possibility that federal laws be violated by the CIA interrogation program (HRW 2015). In November 2010, Holder announced that the Department of Justice would not press any charges against anyone, while opening a new investigation into the cases of two detainees who had died under U.S. custody. Even this investigation, however, was eventually closed with no charges on 30 August 2012 (HRW 2015). Human Rights Watch (2015: 27) highlights how the investigation appears ‘wholly inadequate,’ especially due to the lack of any interview of the detainees in the CIA program. The HRW (2015: 28) also reports that:

‘(w)hen the Committee against Torture, charged with reviewing state compliance with the Convention against Torture, asked the US delegation whether any former detainees had been interviewed, the delegation was unwilling to provide an answer.’

So, the Department of Justice of the Obama administration, decided not to prosecute CIA abuses (HRW 2015). Such a decision, has become even more problematic after the declassification and release, in December 2014, of the report of the Senate Select Committee on Intelligence entitled Committee Study of the Central

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<sup>48</sup> The so-called ‘Bybee I Memo,’ redacted by the head of the Office of Legal Counsel, Jay Bybee, and addressed to White House Counsel Alberto Gonzales on August 1, 2002 (HRW 2015).

Intelligence Agency's Detention and Interrogation Program, commonly referred to as the 'Senate Summary' (HRW 2015). The Summary explains how the Bush administration adopted and approved a program of torture and enforced disappearance throughout the globe (HRW 2015). Specifically, the Summary's main findings are:

#1: The CIA's use of its enhanced interrogation techniques was not an effective means of acquiring intelligence or gaining cooperation from detainees.

#2: The CIA's justification for the use of its enhanced interrogation techniques rested on inaccurate claims of their effectiveness.

#3: The interrogations of CIA detainees were brutal and far worse than the CIA represented to policymakers and others.

#4: The conditions of confinement for CIA detainees were harsher than the CIA had represented to policymakers and others' (Senate Summary: 2-4).

The Senate Summary thus cleared any doubt about the existence of a real culpability of CIA personnel for post-9/11 unlawful and immoral counterterrorism detention and interrogation measures.

As if that were not enough, under the Convention against Torture, the U.S. government is required to provide redress to the victims of torture and other serious abuses, such as enforced disappearance and arbitrary detention (HRW 2015). Nevertheless, Human Rights Watch (2015) reports that the Obama administration has not only failed to provide compensation or any other form of redress to detainees in the CIA program, it has also prevented former detainees from bringing civil suits in U.S. courts, raising state secrecy, state immunity, and national security justifications (HRW 2015).

#### **4.3. Impact of U.S. counterterrorism-related poor human rights record on the country's standing within the U.N.**

Having confirmed the existence of serious allegations of human rights violations by the current U.S. government – raised from numerous scholars as well as international organizations – it is now possible to analyze how U.S. counterterrorism-related poor human rights record has actually affected the country's relationship with U.N. human rights bodies and its standing within the Organization more at large.

#### 4.3.1. *The U.S. and U.N. human rights treaty bodies*

In the U.N. system, Member States' compliance with and implementation of international human rights law is monitored by the so-called 'treaty bodies,' namely the bodies created under international human rights treaties (ohchr.org). Currently, the number of U.N. human rights treaty bodies amounts to ten, each composed of several independent experts in human rights (ohchr.org). Among all, four are the U.N. treaty bodies most significant for the present analysis, as they deal with those human rights the United States is allegedly abusing with its counterterrorism practices. The Human Rights Committee (CCPR), monitoring the implementation of the International Covenant on Civil and Political Rights (ICCPR) (1966); the Committee against Torture (CAT) for the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984); the Committee on Enforced Disappearances (CED) for the International Convention for the Protection of all Persons from Enforced Disappearance (2006); the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) for the Optional Protocol to the Convention against Torture (OPCAT) (2002). The latter two bodies, however, will not be considered based on the fact that the United States is not a State party to both the Convention against Enforced Disappearance and the OPCAT (ohchr.org). The treaty bodies can indeed monitor State parties only, as they have an obligation to further the enjoyment of the rights set out in the treaty they have accessed (ohchr.org). In addition, State parties are under an obligation to submit periodic reports to the relevant treaty body on how the rights are being implemented. The relevant treaty body, in turn, examines the report and publishes the so-called 'concluding observations,' where it addresses its concerns and recommendations (ohchr.org).

##### *Human Rights Committee*

As mentioned, the Human Rights Committee (CCPR) monitors the implementation of the ICCPR, which the United States signed in 1977 and ratified in 1992 (ohchr.org). The Covenant protects the right to life (Art. 6); prohibits torture or cruel, inhuman or degrading treatment or punishment (Art. 7); arbitrary arrest and detention (Art. 9); establishes that everyone is entitled to a fair trial (Art. 14); among many other rights and obligations.

In April 2014, the Human Rights Committee issued its latest *Concluding Observations* relating to the United States, the first since the beginning of the Obama presidency (CCPR/C/USA/CO/4). In the document, despite noting with appreciation the issuance of Presidential Executive Orders 13491, 13492, 13493, and 13567 (see para. 4.1.),<sup>49</sup> the CCPR highlights several matters of concern, most of which related to the country's counterterrorism measures.

Above all, the Committee notes with regret that the State party fails to acknowledge the extraterritorial application of the ICCPR and continues to maintain that the Covenant does not apply to individuals under its jurisdiction, but outside its territory (CCPR/C/USA/CO/4). The Committee then expresses its concern at the lack of accountability for past human rights violations committed under the CIA secret rendition, interrogation and detention programmes (CCPR/C/USA/CO/4). It 'notes with concern' the closure in 2012 of all reported investigations into torture and 'enhanced interrogation techniques,' as well as unlawful detention and killings and enforced disappearances; and it points at the limited number of investigations, prosecutions and convictions of members of U.S. officers and agents for such practices (CCPR/C/USA/CO/4). Accordingly, the Committee recommends that the United States ensure: effective and impartial investigations into all such cases; prosecution of perpetrators, including of 'those who provided legal pretexts for manifestly illegal behavior' (CCPR/C/USA/CO/4: para. 5); as well as provision of effective remedies for victims (CCPR/C/USA/CO/4). In addition, the Committee affirms that the State party should enact a comprehensive legislation explicitly criminalizing all forms of torture, including mental torture, wherever committed (CCPR/C/USA/CO/4).

The CCPR then goes on to address the practice of targeted killings in extraterritorial counter-terrorism operations by means of unmanned aerial vehicles. The Committee's main concerns on the matter relate to the 'lack of transparency regarding the criteria for drone strikes, including the legal justification for specific attacks' and the 'lack of accountability for the loss of life resulting from such attacks' (CCPR/C/USA/CO/4: para. 9). When considering U.S. position on the legal justification

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<sup>49</sup> Executive Orders 13491, Ensuring Lawful Interrogations of 22 January 2009; 13492, Review and Disposition of Individuals Detained at the Guantánamo Bay Naval Base and Closure of Detention Facilities of 22 January 2009; 13493, Review of Detention Policy Options of 22 January 2009; and 13567, Periodic Review of Individuals Detained at Guantánamo Bay Naval Station Pursuant to the Authorization for Use of Military Force of 7 March 2011.



for the use of drone strikes, the Committee raises specific concerns regarding the country's definition of 'armed conflict,' its ambiguous interpretation of both, the difference between a 'combatant' and a 'civilian taking direct part in hostilities' and the characterization of an 'imminent threat' (CCPR/C/USA/CO/4). Therefore, the Committee recommends that the U.S. disclose criteria and information of drone strikes, acts in compliance with the principles set forth in the ICCPR, and ensures the protection of civilians in the context of an armed conflict. At the same time, the Committee adds, the United States should conduct investigations on alleged violations of the right to life, prosecute those responsible, and provide victims redress (CCPR/C/USA/CO/4).

Next, the Human Rights Committee addresses the issue of poor detention conditions in federal prisons and death-row facilities especially, which do not appear to comply with the requirements of the ICCPR (CCPR/C/USA/CO/4). In particular, the Committee expresses its concern with regard to the practice of holding persons in prolonged solitary confinement during both pretrial and post-conviction detentions (CCPR/C/USA/CO/4). It recommends imposing strict limits on the use of such a practice and its abolition when prisoners under the age of 18 and with serious mental illness are involved (CCPR/C/USA/CO/4).

The last among CCPR's most meaningful considerations for the present analysis focuses on the conditions of detainees at Guantánamo Bay. While recognizing President Obama's commitment to close the facility and pursue the transfer designated detainees, the Committee remarks with regret the absence of a timeline for closure (CCPR/C/USA/CO/4). The Committee also expresses the concern that detainees at Guantánamo Bay and in military facilities in Afghanistan are not dealt with through the ordinary criminal justice system, sometimes for over a decade (CCPR/C/USA/CO/4). In this regard, the CCPR recommends expediting the process of periodic review for Guantánamo detainees and the consequent transfer, trial, or immediate release of designated detainees, so as to ensure the closure of the Guantánamo Bay facility (CCPR/C/USA/CO/4). Meanwhile, the State party should end the system of administrative detention without charge or trial and make sure that detainees involved in any criminal case are dealt with through the ordinary criminal justice system rather than military commissions, and are provided with fair trials guarantees enshrined in the ICCPR.

The Human Rights Committee thus seems to further most of the allegations of human rights violations raised against the United States, proving how U.S. human rights record negatively affects the country's relationship with the body. This places the United States in an adverse position vis-à-vis one of the most important U.N. human rights treaty bodies, sealing the country's negative behavior in one of the fundamental fields of action of the United Nations, that of human rights.

### *Committee Against Torture*

As if that were not enough, the Committee against Torture (CAT) also enumerated a large number of 'subjects of concern' in its latest *Concluding Observations* regarding the United States of America, issued in December 2014 (CAT/C/USA/CO/3-5). As anticipated, the CAT is tasked with the monitoring of the implementation of the Convention against Torture, which the United States signed in 1988 and ratified in 1994 (ohchr.org). To start with the positive aspects, the CAT notes with appreciation the issuance of the aforementioned four Presidential Executive Orders (13491, 13492, 13493, and 13567); additional changes of U.S. jurisprudence in areas of relevance to the Convention (mainly brought by rulings of the Supreme Court); as well as President Obama's public acknowledgement of some of the so-called 'enhanced interrogation techniques' as acts of torture, during a statement pronounced on August 1, 2014 (CAT/C/USA/CO/3-5).<sup>50</sup> The matters of concern, however, significantly outnumber the positive aspects. Some of them overlap those already pointed out with reference to the Human Rights Committee's *Concluding Observations*, yet they are worth mentioning.

The first aspect of concern expressed by the CAT regards the lack of the specific offence of torture in federal legislation, which needs to be introduced by the State party in order to criminalize torture at the federal level and ensure adequate penalties (CAT/C/USA/CO/3-5). Next, the Committee expresses its concern at the ongoing failure to fully investigate allegations of acts of torture and ill-treatment of suspects, committed in any territory under U.S. jurisdiction. Accordingly, the CAT urges the State party to conduct prompt, impartial and effective investigations; ensure prosecution

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<sup>50</sup> The inclusion, by the Committee against Torture, of such a statement among the positive aspects underlined in its *Concluding Observations*, confirms the importance of the rhetorical aspects of U.S. commitment.

of alleged perpetrators; and provide effective remedies and redress to victims (CAT/C/USA/CO/3-5).

Subsequently, the Committee goes on to focus on the issues raised by the CIA interrogation and detention program implementation at Guantánamo Bay and elsewhere. Immediately, the CAT expresses a deep concern over the continued practice of holding a number of individuals in indefinite detention without charge or trial in the Guantánamo Bay detention facilities (CAT/C/USA/CO/3-5). Such a practice constitutes, per se, a violation of the Convention against Torture (CAT/C/USA/CO/3-5). Therefore, the Committee recommends ending this practice, charging and trying designated detainees, releasing those free of charges, and closing the detention facilities in Guantánamo Bay (CAT/C/USA/CO/3-5). At the same time, considering the significant number of reported deaths and suicides, the United States should cease the use of force-feeding of detainees on hunger strike and improve, instead, their detention conditions (CAT/C/USA/CO/3-5). In addition, the Committee affirms to be disturbed by reports indicating the occurring of post-release abuses of former Guantánamo Bay detainees transferred to other countries, despite the practice of obtaining diplomatic assurances against torture (CAT/C/USA/CO/3-5). No individual being transferred, including terrorist suspects, should be exposed to the danger of torture or other ill-treatment, the Committee stresses (CAT/C/USA/CO/3-5).

There are yet other U.S. counterterrorism practices which raise the CAT's explicit concern. The already discussed use of prolonged solitary confinement in U.S. prisons, particularly when it becomes a real regime in supermaximum security detention facilities. 'Full isolation of 22 to 23 hours a day in supermaximum security prisons is unacceptable,' according to the Convention against Torture (CAT/C/USA/CO/3-5: para. 20). The authorized interrogation techniques of 'physical separation' and 'field expedient separation,' outlined in the U.S. Army Field Manual, raise similar concerns of the Committee in relation to the human rights abuses they may entail (CAT/C/USA/CO/3-5).

Finally, the Committee against Torture expresses a serious concern over the abuse of state secrecy provisions and immunities to escape liability on torture allegations (CAT/C/USA/CO/3-5). As the CAT remarks, not only does this abuse prevent the

provision of effective remedies and redress to the victims of torture, it also hinders other States attempts to investigate into human rights violations (CAT/C/USA/CO/3-5).

#### 4.3.2. *The U.S. and the Special Procedures of the Human Rights Council*

In addition to the treaty bodies, the human rights monitoring mechanism of the U.N. system is composed of the so-called ‘Special Procedures of the Human Rights Council’ – the U.N. inter-governmental body responsible for promoting and protecting human rights around the globe (ohchr.org). The Special Procedures are centered around independent experts, the so-called ‘Special Rapporteurs,’ tasked with reporting and advising on human rights from a thematic or country-specific perspective. Currently, there exist 41 thematic and 14 country mandates (ohchr.org).

Particularly relevant for the present analysis can be deemed the Special Rapporteur on the promotion and protection of human rights while countering terrorism. In his latest *Follow-up Report to country missions*, issued in June 2012, the Special Rapporteur addresses a number of meaningful issues regarding the legal and institutional counterterrorism framework and practice in the United States of America, as well as some recent developments reported (A/HRC/20/14/Add.2). In the first place, he notes with regret a continuation of the practice of indefinite detention without charge or trial of suspected terrorists (A/HRC/20/14/Add.2). Then he focuses on CIA interrogation and rendition practices, expressing serious concerns at the lack of effective measures of accountability in relation to the implementation of interrogation techniques allegedly involving torture and the practice of ‘extraordinary rendition.’ The Special Rapporteur stresses how measures of accountability are indeed required in order to achieve a full discontinuation and prevention of such practices and how non-judicial measures (e.g. internal administrative procedures) are insufficient in that sense (A/HRC/20/14/Add.2). Furthermore, he highlights the continued existence of interrogation practices, such as the ‘separation interrogation technique,’ authorized by the U.S. Army Field Manual, which raise serious concerns of human rights violations (A/HRC/20/14/Add.2). Another aspect of concern, underlined by the Special Rapporteur, regards lack of changes in the overly broad definitions of ‘international terrorism,’ ‘domestic terrorism,’ and ‘material support to terrorist organizations.’ A

restriction of such definition is required to comply with international law and the standards of the fight against terrorism set by the Security Council (A/HRC/20/14/Add.2).

#### **4.4. The U.S. in action: negotiating Third Committee's draft resolution *Protection of human rights and fundamental freedoms while countering terrorism* – field research**

Taking a direct look at the behavior of the United States within the United Nations is the ultimate step towards the achievement of a coherent understanding of the role the country currently plays within the Organization. The participation in the informal consultations of the Third Committee of the General Assembly<sup>51</sup> on the draft resolution entitled *Protection of human rights and fundamental freedoms while countering terrorism*, convened by the delegation of Mexico under agenda item 72 (b),<sup>52</sup> has thus been very meaningful. Open to co-sponsors, the consultations have taken place along seven different meetings, held from 19 October to 13 November 2015 at the United Nations Headquarters, in New York (NY). Eventually, the consultations have brought to the adoption, with no objections during the 52nd plenary meeting of the Third Committee, of draft resolution A/C.3/70/L.23/Rev.1, *Protection of human rights and fundamental freedoms while countering terrorism*. The draft resolution was adopted with 59 co-sponsors, among which the United States of America. Not only is the direct observation of the role played by the U.S. in the consultations on a U.N. draft resolution very significant per se, it is even more so in this case, considering that the topic at stake is a very troublesome and presumably uncomfortable one for the United States.

As the delegate of Mexico clarified during the first meeting, the text of the draft resolution had been re-submitted continuously since 2002, due to the high importance of the topic addressed. After the draft resolution was adopted, the delegate of Mexico reaffirmed that it presented the same text as in the previous years, but with important integrations in terms of new issues addressed. Most importantly, he stressed, the new

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<sup>51</sup> The Third Committee of the General Assembly deals with agenda items relating to a range of social, humanitarian affairs, human rights, and cultural issues that affect people around the globe (un.org).

<sup>52</sup> Agenda item 72 (b) of the Third Committee of the General Assembly at its seventieth session concerns the 'Promotion and protection of human rights and fundamental freedoms while countering terrorism.'

text highlighted the significance of protecting the work of civil society; it contained an explicit appeal to take into account gender equality and non-discrimination; and emphasized the need to respect the work of humanitarian organizations.

The United States attended every meeting. Since the beginning, it was already possible to notice a positive and committed attitude of the country. At the first meeting, the delegate of the United States was the first one to take the floor, just to thank all colleagues for their participation and stress the importance of the matter addressed. Throughout the consultation process, the United States did not challenge the inclusion of any of the counterterrorism measures denounced in the document, despite the fact that most of them seem rather controversial for the country, as it has been illustrated in the present chapter. Indeed, such measures include: torture and other ill-treatment; indefinite detention without charge, trial, or fundamental judicial guarantees; unfair trials; restrictions on the freedom of expression, peaceful assembly and association; arbitrary and unlawful interferences or restrictions on the right to privacy; rendition or transfer of persons to countries where their life or freedom would be threatened; unlawful interrogation methods (A/C.3/70/L.23/Rev.1). In addition, the draft resolution urges all states:

‘to ensure that any person who alleges that his or her human rights or fundamental freedoms have been violated has access to a fair procedure for seeking full, effective and enforceable remedy within a reasonable time and that where such violations have been established, victims receive adequate, effective and prompt reparation,’ [...] ‘including where the violation constitutes a crime under international or national law, to ensure accountability for those responsible for such violations (A/C.3/70/L.23/Rev.1: OP6(r)).

Moreover, among the international treaties cited in the draft resolution are included the International Convention for the Protection of All Persons from Enforced Disappearance, whose importance is recognized in terms of supporting the rule of law in countering terrorism, ‘including by prohibiting places of secret detention’ (A/C.3/70/L.23/Rev.1: OP9), and the Optional Protocol to the Convention against Torture. A call to sign or ratify both treaties is made in the draft resolution to all States that have not yet done so, which notably include the United States.

It can thus be deemed that the draft resolution includes several troublesome and controversial elements for the United States, starting from the denunciation of unlawful counterterrorism measures the U.S. has allegedly adopted, to the call to ensure

accountability for counterterrorism-related violations of international law and provide adequate reparation to their victims, to the call to ratify fundamental human rights treaties to which the U.S. is not a party. Notwithstanding all that, the United States kept a positive and committed attitude throughout the process of negotiation of the text. It did not oppose in principle any of the points covered in the draft resolution, nor did it display a reluctant, less accommodating attitude at any moment.

At the same time, however, throughout the consultation process, the United States appeared highly inflexible with regard to the wording and specific contents of the draft resolution. A few examples can be made. When discussing operative paragraph number 18, which originally read:

*‘Also takes note of the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, which refers, inter alia, to the negative impact of counter-terrorism legislation and other measures on civil society’* (emphasis added),

the U.S. immediately requested that the word ‘negative’ be replaced with the word ‘potentially adverse,’ so as to make clear that not all counterterrorism legislations necessarily have a negative impact on civil society, but sometimes even benefit it. After a few oppositions from other Member States, especially from the representative of the European Union, a compromise was reached by replacing the sentence at stake with the wording: ‘the negative impact that counter-terrorism legislation and other measures *can* have on civil society’ (A/C.3/70/L.23/Rev.1: OP18). Thus modified, the paragraph was eventually agreed upon and adopted. The strength of the message conveyed, however, was inevitably reduced.

A similar fate occurred to the paragraph dealing with the issue of children. Introduced as a new proposal by the European Union, the paragraph read:

*‘When dealing with children, taking into account their primary status as victims and that deprivation of liberty of children should be used only as a measure of last resort and for the shortest appropriate period of time, to consider non-judicial measures, rehabilitation and reintegration as alternatives to prosecution and detention’*

The U.S. claimed the necessity to refer, in this case, to children ‘*formerly* associated with terrorist groups.’ The European Union replied, however, that often children are exploited by terrorist groups and, even if affiliated with them, do not share their ideas. Therefore, the U.S. proposal shifted to a description of the primary status of children as ‘*victims of terrorism,*’ rather than victims per se. Eventually, the delegation of the

European Union withdrew the entire paragraph. There is, indeed, no mention of children in the text of the adopted draft resolution (A/C.3/70/L.23/Rev.1).

Overall, although only referring to a very specific case, the direct observation of the behavior of the United States during the informal consultations on a U.N. draft resolution has highlighted the existence of a twofold behavior of the United States within the United Nations. On the one hand, the U.S. assumed and declared a very positive and committed attitude. Rhetorically and in principle, the U.S. did not challenge the inclusion of any of the issues addressed in the draft resolution, most of which are arguably troublesome for the country. On the other hand, however, the country seemed rather rigid with respect to the modification of such aspects that could impair the national interest, even at the expenses of the important message they intended to convey. Once more, then, the dichotomy between rhetoric and substance seems to apply and the United States appears to be multilateralist rhetorically, but unilateralist when it comes to the substance.



**V.**  
**CONCLUSION:**  
**A TWO-FACED ROLE**

**5.1. A *mixed* model**

The analysis developed seems to point out at one clear answer to the research question: the current role played by the United States of America within the United Nations is two-faced. On the rhetorical side, the role is *multilateralist*, meaning that the country appears to be committed to advance the common interest of all Member States, as well as to ensure that the U.N. has the capacity to act as a global actor, thanks to both a smooth cooperation between its Member States and the possibility to count on adequate resources. On the substantive side, however, the role played by the U.S. is *unilateralist*, which means that the country appears to be furthering its national interest, by acting often contrary to what benefits the Organization and failing to respect its fundamental norms and values.

The hypothesis that the current role played by the U.S. within the U.N. cannot be entirely described by either the multilateralist or the unilateralist model, but rather by a *mixed model* that combines a *multilateralist rhetoric* with a *unilateralist substance* seems to be confirmed. Such a conclusion has been reached through different stages of analysis, thanks to the employment of the two opposing conceptual models as tools upon which checking the character of the various aspects analyzed.

The first chapter has illustrated the features and institutional dynamics characterizing the American system of government, the United Nations system, and the institutional relationship between the two. Particularly relevant has been the examination of the phenomenon of the expansion and personalization of the American presidency within the separation of powers system, which has underlined important considerations on the rise in the president's institutional independence and the decrease in his governmental leadership (para. 1.1.2.). At the same time, a review of the

development of U.S. foreign policy making-structure has highlighted how there currently exists a 'realism of executive prerogative' (Foley 2008: 114) and a practice of congressional delegation of legislative authority in the field of foreign policy (para. 1.1.3.). Once established the existence of an actual preeminence of the executive in foreign policy, particularly since 9/11 and the rise of the national security structure, the analysis of the role of the U.S. within the U.N. has been centered in the figure of the President and its administration, rather than the entire government. With regard to the United Nations system, the chapter has brought to the understanding of its mandate, the rights and obligations associated with its membership, as well as the key dynamics and factors which make it possible for the United States to hold a preeminent position within its membership (para. 1.2.). Last, the chapter has provided the fundamental basis for the analysis of the U.S.-U.N. relationship, by illustrating the structure and functioning of the U.S. Mission to the U.N. and indicating the crucial aspects of such a relationship, as well as the most relevant ways in which the country can concretely affect the Organization (para. 1.3.2., 1.3.3.).

The second chapter has developed a broad comparative analysis of the Bush and Obama administrations' policies toward the United Nations, at both the rhetorical and substantive levels. While the rhetorical analysis has focused on the comparison of speeches, attitudes, and policy directions set forth in the National Security Strategies, the substantive one has compared concrete actions in the most relevant policy areas. Such an analysis has revealed the existence of a surprising *substantive continuity* between the two policies, despite the dramatic shift in rhetorical terms brought by President Obama.

Indeed, the downfall towards unilateralism, inaugurated with George W. Bush's 2002 National Security Strategy and the resurgence of American exceptionalism and exemptionalism, initially seemed to have been reversed by the Nobel Peace Prize-awarded President (para. 2.1.1.). Not only did President Obama pledge to rebuild U.S. foreign policy in the name of a strong *multilateralism*, he especially committed to establish a renewed and constant partnership with the United Nations (para. 2.2.1.). Even when considering Bush and Obama's appointed Permanent Representatives to the U.N. it has been possible to note fundamental differences, which have provided

meaningful insights on the two Presidents' respective intentions toward the Organization (2.1.2, 2.2.2.).

At the same time, however, the analysis has shed light on the striking similarities regarding the two administrations' concrete actions vis-à-vis the United Nations. Indeed, a serious lack of substantive engagement toward the U.N. has been observed under the Obama administration, as much as it was noticeable under the previous one. Specifically, no progress has been found with regard to the lack of financial contributions to the U.N. budget, of juridical commitment to U.N.-sponsored treaties (especially human rights treaties), and of respect for its fundamental norms regarding the protection of human rights and the ban on the use of armed force (2.2.3.). Particularly relevant has been the consideration of recent developments concerning the relationship with UNESCO, which have highlighted a major lack of interest in the mandate of the agency against national interests. Since November 2011, the U.N. agency has been deprived of the entire amount of U.S. funding, equal to 22% of its budget, due to the admission of the Palestine Liberation Organization (PLO) as a Member State (para. 2.2.3.).

Overall, then, a specific claim about President Obama's lack of substantive engagement with the United Nations can be reasonably made, adding to the well-established opinions of some scholars who, with reference to the broader field of foreign policy, have highlighted Obama's 'wavering' and incongruence between liberal ideals and realist practice (para. 2.2.3.). The analysis developed in the second chapter has thus led to two significant conclusions about the Obama administration's policy toward the U.N. First, the acknowledgement that it stands in substantive continuity with the one of the Bush administration. Second, the consideration that it is characterized by a consistent incongruence between rhetoric and general policy directions, on one side, and concrete actions on the other side. Accordingly, it has been possible to formulate the hypothesis that the role played by the U.S. within the U.N. under the Obama administration is best described by a mixed model.

The analysis of two case studies regarding important aspects of the current role of the U.S. within the U.N. has confirmed such a hypothesis. The first case study, examined in the third chapter, has focused on the figure, activities, and achievements of the current U.S. Permanent Representative to the United Nations, Samantha Power. A

review of Power's biography, advocacy, and reputation has immediately explained why her appointment by President Obama is so noteworthy. Not only is Power a well-known international law supporter and human rights advocate, she is also especially renowned for being a resolute critic of the U.S. *intentional* lack of action in the face of XX century genocides and humanitarian crises (para. 3.1.). Accordingly, her taking the lead of the U.S. Mission to the U.N. has been interpreted as the ultimate evidence of President Obama's intentions to positively renew the U.S. role within the United Nations. The fact that Ambassador Power has embodied and worked for achieving such a positive renewal has been proven by the analysis of nearly forty speeches she pronounced at the U.N., as well as the most relevant concrete actions she undertook since she assumed office (para. 3.2.1., 3.2.2.). Despite the outstanding rhetorical and substantive commitments invested to improve the role played by the U.S. within the Organization, which have brought Power to take the lead in tackling international humanitarian crises, the Ambassador has *not* been able to change the most negative features of such a role (para. 3.2.3.). Therefore, even in this case, which represents a clear exemplification of the *multilateralist* model of the U.S. role within the U.N., the analysis has highlighted the existence of a dramatic incongruence between the current U.S. multilateralist rhetoric and attitude and its unchanged unilateralism with respect to crucial substantive policy aspects.

Finalizing such a conclusion has required, however, to examine another specific aspect of the current U.S. role within the U.N., one which could exemplify the *unilateralist* side of the model. The aspect that has been deemed one of the most disturbing elements in the U.S.-U.N. relationship, which highly undermines the country's standing within the Organization, regards U.S. counterterrorism-related human rights record under the current administration. Although it has been possible to note, once more, a dramatic change in counterterrorism rhetoric and directives brought by President Obama, the practice of violating human rights while countering terrorism does not appear to be overcome (para. 4.1.). That's what a review of the scholarly opinion and of a number of reports of international organizations has revealed (para. 4.2).

Once the alleged continuation of Bush-era counterterrorism practices – such as 'enhanced interrogation techniques,' indefinite detention, prosecution of detainees in

military tribunals with no right of appeal, and the targeted killing program – had been demonstrated, the focus of the analysis has shifted on the way this has impacted on U.S. relationship with U.N. human rights bodies and its standing within the Organization more at large. By examining the most recent documents issued on the United States, it has been possible to verify that important U.N. treaty bodies and Special Procedures of the U.N. Human Rights Council have expressed several concerns regarding the country's poor counterterrorism-related human rights record (para. 4.3.). In particular, the Obama administration has been criticized for failing to ensure accountability for past CIA abuses, by avoiding pressing charges and providing adequate victims redress (para. 4.3.).

For all these reasons, in the context of the field research conducted between October and December 2015 at the United Nations Headquarters, it has been deemed particularly relevant to analyze the behavior of the United States during the informal consultations on Third Committee's draft resolution entitled *Protection of human rights and fundamental freedoms while countering terrorism*. Even this analysis by direct observation has highlighted an inconsistency between U.S. positive attitude and rhetoric, according to which the U.S. did not challenge in principle the inclusion of any of the troublesome issues for the country, and a rigidity with respect to the wording and specific contents of the text. Some of the modifications the U.S. has requested have seemed to soften or dismiss the message the draft resolution intended to convey. Although with reference to a very specific case and in a less remarkable way, the United States has thus appeared, once more, to play a multilateralist role rhetorically, but a unilateralist one when it comes to the substance.

It is then a *mixed model*, one which encompasses both the *multilateralist* and *unilateralist* models of behavior vis-à-vis the Organization, which seems to best apply to the current role the United States plays within the United Nations. Indeed, in terms of rhetoric and policy guidance, the U.S. has appeared to be committed to advance the common interest of all Member States and act in such a way that enables the U.N. to fulfil its mandate, as the country and the entire world need the Organization to be able to effectively act as a global actor. When looking at concrete actions and substantive engagement, instead, the U.S. has appeared to act mainly in accordance with its national

interest, often at the expenses of the capacity for action of the United Nations and its agencies, the fundamental values they represent and the purposes they pursue.

## **5.2. Understanding the gap between rhetoric and substance**

The fact that the current role of the U.S. within the U.N. is at the same time multilateralist and unilateralist may seem self-contradictory. The factor underlying such a contradiction has resulted being the existence of a significant gap between the rhetoric and the substance of the Obama administration vis-à-vis and within the U.N. As initially supposed, structuring the research work along the two levels of analysis – rhetorical and substantive – has proven to be the key to understand the object of the analysis. At this point, however, an additional question about the reasons for the existence of such a gap comes naturally to mind. Those reasons which could possibly explain why President Obama failed to match his rhetoric with action and implement his policy directions. The attempt to find those reasons cannot be fully developed here. Nevertheless, on the basis of the research so far conducted, it is already possible to identify a number of factors affecting the concrete actions of the administration and the capability to achieve its stated objectives. Such factors can be categorized into domestic, external, and structural ones.

### *Domestic constraints*

Among the domestic factors affecting the substantive behavior of the President and its administration, the legislative branch is preponderant. As it has been illustrated, the Congress never abandoned its role of ‘co-equal constitutional partner’ (Foley 2008: 115) of the executive in the field of foreign policy, notwithstanding the great evolution that the foreign policy-making process has undergone since the time the Constitution was written. Accordingly, the legislature is capable of restraining foreign policy actions of the executive, particularly during periods of divided government and, remarkably, the Obama administration has been acting in the context of a divided government since 2011 (see para. 1.1.3.).

With specific reference to the policy of the Obama administration toward the U.N., it is possible to point out a number of instances in which Congress proved to be

crucial in determining the substantive continuity with the practices of the previous administration. First, the 25-percent cap imposed by Congress on peacekeeping contributions since 1994 has been identified as the main cause of the accumulation of U.S. arrears on the peacekeeping budget (see para. 1.3.3., 2.1.3., 2.2.3.). And it has been noted that President Obama sought a suspension of the cap, which was granted for the year 2010 only (see para. 2.2.3.). Second, Congress proved decisive in the troublesome episode of UNESCO defunding. Indeed, it has been highlighted how Congress rejected the Obama administration's request to obtain waiver authority enabling the restoration of funding to UNESCO, in order not to lose U.S. voting rights within the agency (see para. 2.2.3., 3.2.3.). Third, it is a fact reported by many that the Obama administration has faced Congressional limitations in its attempt to close the detention facilities located at Guantánamo Bay, which have caused a reiterated postponement of the President's order (Ohlin 2015). Pretty relevant can also be deemed the reintroduction in Congress, since 2009, of a bill entitled 'A Bill to end membership of the United States in the United Nations (or American Sovereignty Restoration Act of 2009),' which highlights the existence of strong sovereignist tendencies within Congress.

In addition to Congressional constrains, the presidential performance in foreign policy depends upon several other actors and bodies involved in its making, such as the National Security Council (NSC), the Central Intelligence Agency (CIA), the Joint Chiefs of Staff, the numerous information agencies, as well as the powerful political, economic, and military lobbies (e.g. the American Israel Public Affairs Committee or AIPAC) (see para. 1.1.3.).

#### *External factors*

Often, highly relevant factors affecting the performance of policy makers come from the exterior. In the case analyzed, one particular external factor stands out: the terrorist attacks occurred on September 11, 2001. As mentioned, this event has had a dramatic impact on American foreign policy and actually marked the beginning of a new period: the post-9/11 era (see para. 1.1.4.). In particular, it has been observed how 9/11 provoked a unilateral turn in U.S. foreign policy and conferred an ideological character to the 'war on terror' (see para. 2.1.). Such an ideological character represented the main motor and justification for the CIA program of detention and

interrogation, and the human rights violations it has entailed. Therefore, even though President Obama attempted to replace the ideological character of the counterterrorism fight with a political one and to turn U.S. counterterrorism into an entirely lawful and legitimate activity, he encountered major constraints in the national security structure created by 9/11.

### *Structural factors*

Among the structural factors which may have affected the capacity for action of the Obama administration, it is possible to include the economic and financial crisis that has hit the country since 2008. The crisis has placed the Obama administration in a constrained budgetary context, which might have restrained the channeling of resources to the United Nations.

Even the fact that the international system has entered what has been defined as the 'post-American era' (Fabbrini and Yossef 2013) may be deemed a significant structural factor affecting foreign policy making. Indeed, the U.S. is no longer the only superpower in the international system, which is currently characterized by a marked multipolarity. This may have led the United States to see the United Nations as a possible means for reestablishing its hegemonic position, thus overshadowing the importance of the mandate of the Organization. Also, as Fabbrini and Yossef (2013) argue, the post-American character of the current international system can be considered as one of the main sources of Obama's wavering and incoherence in foreign policy.

In the case analyzed, however, the most important structural factor affecting the Obama administration seems to be *national security*. As it has been highlighted, the national security structure preponderantly affects the American system of government and U.S. foreign policy making (see para. 1.1.4.). It was formally born in the Cold War context, with the National Security Act of 1947, and structured around the four pillars of the National Security Council (NSC), the Central Intelligence Agency (CIA), the Department of Defense, and the National Security Agency (NSA). As it has been shown, since 9/11, the national security structure expanded, consolidated and assumed a unique importance, to the point that it can be considered as one of the main causes of the substantive continuity observed between the Bush and the Obama administrations.



Indeed, it can be deemed that the unilateralist side of the U.S. role within the U.N. is mainly grounded in national security.

It may result, therefore, that the main source of President Obama's failure to implement his rhetorical commitments is a *lack of agency* more than a lack of will. Still, there is a need for further research to understand the causes of such a failure, which goes beyond the scope of the present research work.

### **5.3. Implications for the U.N.**

The two-faced role currently played by the United States within the United Nations, together with all related aspects observed in the present research work, can be deemed to have a considerable impact on the Organization. The rhetorical multilateralist side of such a role certainly affects positively the standing of the Organization on the international scene, especially if compared with the Bush-era denigration of its work and its usefulness. It has been remarked how President Obama (2010: para. 46) publicly acknowledged that his country '*need(s) a U.N. capable of fulfilling its founding purpose.*' Therefore, one could say, if the U.S. needs it, which country wouldn't? Furthermore, it has been shown how U.S. commitment and lead on U.N. causes – particularly the lead of the current Ambassador, Samantha Power, on humanitarian issues – helps gathering international attention and triggering cooperation among Member States. Conversely, the substantive unilateralist side of the U.S. role, particularly its way of boycotting international legal constraints and breaching U.N. principles and human rights law, undermines long-standing efforts of the Organization to establish an international order grounded in mutual cooperation and respect for human rights. More concretely, the U.S. is also responsible for considerably limiting the capacity for action of the U.N. and its agencies, due to its highest share in the U.N. budget and the great amount of debt it has accumulated.

Overall, the current impact of the U.S. role on the Organization certainly appears to have improved from Bush-era absolute unilateralism, thanks to President Obama and Ambassador Power's committed rhetoric and attitude. At the same time, however, such a role is still negatively affecting U.N. activities and purposes to a significant extent.

#### **5.4. Prospects**

Different scenarios can be imagined for the future of the U.S. role within the United Nations. In the short term, considering that President Obama is at the end of its second and last term and therefore no longer bound to the Congress or the electorate for reelection, a greater openness to multilateralism could be foreseen. In particular, President Obama could attempt to force the implementation of some of his unfulfilled rhetorical commitments by resorting to presidential power. Yet, this phenomenon is clearly linked to the ‘political timing,’ and is likely to be reversed with the beginning of the first mandate of a new president.

In the long term, instead, three different scenarios can be foreseen. First, the U.S. role within the U.N. could keep its current two-faced character with the internal inconsistency between a multilateralist rhetoric and a unilateralist substance, leaving the present situation almost unchanged. Second, a new president could step back on Obama’s multilateralist rhetoric and intentions, inaugurating a new era of U.S. absolute unilateralism as it was during George W. Bush’s presidency. Such an option would represent the worst scenario for the U.N., as the country would adopt a hostile attitude vis-à-vis and within the U.N. that would clearly weaken the Organization. Even the United States would face significant drawbacks on its standing within the international community and the international public opinion. Third, in the best option, the multilateralist rhetoric would be matched by a multilateralist substance, resulting in a complete openness of the United States to access U.N.-sponsored treaties, abide by international norms, and substantively engage in a constant partnership with the Organization.

The latter option, however, can hardly be foreseen in consideration of the aforementioned constraining factors, particularly the national security structure, which proved so crucial in the case of Barack Obama’s presidency. Indeed, if President Obama, apparently so highly personally committed to multilateralism and a renewed U.S.-U.N. partnership, failed to substantively improve the role played by the country within the Organization, who will?

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- 1- Conference Room C (19 October 2015, 10:00-11:00)
- 2- Conference Room C (23 October 2015, 18:00-19:00)
- 3- Conference Room B (27 October 2015, 11:00-12:30)
- 4- Conference Room B (30 October 2015, 10:00-11:30)
- 5- Conference Room F (4 November 2015, 10:00-11:30)
- 6- Conference Room B (9 November 2015, 18:00-19:30)
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FACULTY: POLITICAL SCIENCE

Chair: Comparative International Politics

THE ROLE OF THE U.S. WITHIN THE U.N. SINCE OBAMA:  
EXPLORING THE GAP BETWEEN RHETORIC AND SUBSTANCE

Abstract

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The United States seems to have constantly exerted a special influence on the work of the United Nations, as both an arena where to find solutions to global issues and a tool to implement those solutions. As a founding member of the U.N., the host of the U.N. Headquarters in New York, the single largest contributor to the U.N. budget, and a Permanent Member of the U.N. Security Council, the United States heavily affects the capacity for action of the United Nations. Such a remarkable influence of the U.S. on the U.N. and on the international relations more at large, coupled with a personal passion for the work of the United Nations, have triggered the interest in realizing a thesis on the role currently played by the U.S. within the U.N.

### **About the thesis**

The present research work is an analytical and conceptual attempt to answer a very straightforward, yet challenging question: *what role does the United States of America currently play within the United Nations?* At a first glance, such a query may seem to require a simply descriptive analysis. The concept of ‘*role*,’ however, encompasses two mutually influencing aspects. On one side, the role played by a member state within an international organization is the result of the country’s *policy* toward the organization, which directly determines its behavior within the entity. On the other side, though, the role is to a considerable extent determined by the country’s *standing* within the organization. The first aspect is intentional and requires to discover and describe the main elements related to the conception, development, and implementation of the policy. Yet, the second aspect does not depend on the country’s will, but rather on other member states’ perception of its behavior, a perception that is irretrievably based on the match between expectations and facts. There follows a need to analyze which expectations were raised and how they have been addressed. These two aspects, *policy* and *standing*, are thus intertwined throughout the thesis.

Still, a second distinction within the analysis is also deemed fundamental, as it could reveal as the key factor in understanding the role currently played by the U.S. within the U.N. It is the separation of a *rhetorical* level of analysis from a *substantive* one. While the former examines not only U.S. message to and within the U.N. and the way it is delivered, but also the intentions underlying it, or the policy guidance; the latter focuses on U.S. concrete actions toward and within the U.N. The dichotomy



between *rhetoric* and *substance* thus overlaps the one between *policy* and *standing*, creating a four-dimensional analysis. The method adopted results being at the same time descriptive and comparative.

### **Analytical outline**

Such an analysis takes shape along three consecutive stages. First off, is an analysis of the main independent variables, namely the U.S. system of government, the United Nations system, and their institutional relationship. Thereinafter, when considering the U.S. government within and vis-à-vis the United Nations, reference is only made to the Obama administration, as the executive is considered as the preponderant institutional actor in the making and implementation of U.S. foreign policy. At the end of this initial stage of analysis, two conceptually opposed models of the U.S. role within the U.N. are elaborated as possible tools to be utilized in order to answer the research question. Since the models refer to the relationship between the United States and the United Nations at the macro-systemic level, the assumptions underlying such a conceptualization are drawn from the major theories of the international relations.

On the one hand, the *unilateralist model*, from a more realist perspective,<sup>1</sup> describes U.S. behavior (or policy) toward the U.N. as driven by both the *national interest* – encompassing primarily security concerns and secondarily economic ones – and the *hegemonic aim* to maintain a good reputation and credibility within the international system. Under this model, the United States does not assign any inherent value to the U.N., if not to the extent that it is exploitable for advancing its national interest. Accordingly, the country's standing within the Organization results being highly undermined and, in turn, negatively affects its behavior.

On the other hand, the *multilateralist model*, from a more liberal-institutionalist perspective, describes U.S. behavior (or policy) toward the U.N. as driven by the desire to promote an international order in the *common interest*, functional to the maintenance of both a more secure world and a mutually-advantageous cooperation among all, state and non-state actors, on the international scene, in the security, economic, social, legal,

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<sup>1</sup> The perspective cannot be considered entirely realist insofar as it attributes a significant importance to non-security concerns as well (e.g. economic, cultural).

as well as cultural fields. Under this model, the country values the Organization per se, not only as a global forum and useful means for cooperation, but also as a crucial global actor, able to solve global problems on behalf of its Member States. As a result, the country stands in a very good position within the Organization, fact that motivates and enables an even greater improvement of its behavior.

The second stage of analysis moves to the comparative method. A twofold comparative analysis of the Bush and Obama administrations' policies toward the United Nations at the rhetorical and substantive levels is developed, so as to come up with a reasonable assessment of the current policy and verify how the policies of the two administrations stand to each other. As it will be shown, such a broad comparative analysis seems to suggest the conclusion that, while the two administrations' policies toward the U.N. are marked by a dramatic discontinuity at the *rhetorical level*, at the *substantive level*, the two policies appear to be significantly consistent with each other. As a result of this second stage of analysis, a hypothesis about which model best applies to the current role of the U.S. within the U.N. is already raised, introducing the possibility of a *mixed model*.

Still, the ultimate assessment of the extent to which a mixed model may apply to the Obama administration's current role within the U.N. requires to take a deeper and more specific look. Two specific elements of the current role, those which arguably shape it the most, are thus documented and analyzed in two separate case-studies, which constitute the third stage of analysis. Each case study is supposed to exemplify one of the two models respectively. The first case-study focuses on the appointment of human rights advocate and international law supporter, Samantha Power, as the current U.S. Permanent Representative to the United Nations, assessing both the impact of her figure and the activities and achievements under her tenure, while maintaining the comparative perspective between rhetoric and substance. The second case-study documents and analyzes, instead, U.S. counterterrorism-related human rights record under the current administration. While paying attention, once more, to the comparison between the rhetorical and substantive levels of analysis, an assessment of the impact of the country's human rights record on its standing within the United Nations is made by drawing on the most recent considerations and reports issued by U.N. Human Rights Bodies. In addition, thanks to the field research directly conducted at the United Nations

Headquarters, the case-study is completed by an analysis of the role played by the United States during the informal consultations on the draft resolution entitled *Protection of human rights and fundamental freedoms while countering terrorism*.

Eventually, the analysis should lead to a demonstrated conclusion about which role the United States currently plays within the United Nations, which means it should enable an ultimate assessment of the model by which it is best described. As anticipated, a hypothetical answer may be formulated. It can be argued that there exists a significant gap between current U.S. rhetoric and substance within and vis-à-vis the United Nations, which not only entails a surprising continuity between the Bush and the Obama administrations' roles within the Organization in substantive terms, but also that the current role played by the U.S. within the U.N. is characterized by an internal contradiction. In this sense, the model that best describes such a role may result to be a *mixed* one.

For the present research work, therefore, the acknowledgement of the existence of a significant gap between rhetoric and substance and the consequent need to consider both levels of analysis throughout the various stages may result to be the key factor in reaching a conclusion on which role the U.S. currently plays within the U.N. If confirmed, however, the existence of such a gap between U.S. rhetorical commitments and substantive action would naturally raise additional questions about the reasons for its existence.

### **Conclusion: A two-faced role**

The analysis developed seems to point out at one clear answer to the research question: the current role played by the United States of America within the United Nations is two-faced. On the rhetorical side, the role is *multilateralist*, meaning that the country appears to be committed to advance the common interest of all Member States, as well as to ensure that the U.N. has the capacity to act as a global actor, thanks to both a smooth cooperation between its Member States and the possibility to count on adequate resources. On the substantive side, however, the role played by the U.S. is *unilateralist*, which means that the country appears to be furthering its national interest, by acting often contrary to what benefits the Organization and failing to respect its fundamental norms and values.

The hypothesis that the current role played by the U.S. within the U.N. cannot be entirely described by either the multilateralist or the unilateralist model, but rather by a *mixed model* that combines a *multilateralist rhetoric* with a *unilateralist substance* seems to be confirmed. Such a conclusion has been reached through different stages of analysis, thanks to the employment of the two opposing conceptual models as tools upon which checking the character of the various aspects analyzed.

The first chapter has illustrated the features and institutional dynamics characterizing the American system of government, the United Nations system, and the institutional relationship between the two. Particularly relevant has been the examination of the phenomenon of the expansion and personalization of the American presidency within the separation of powers system, which has underlined important considerations on the rise in the president's institutional independence and the decrease in his governmental leadership (para. 1.1.2.). At the same time, a review of the development of U.S. foreign policy making-structure has highlighted how there currently exists a 'realism of executive prerogative' (Foley 2008: 114) and a practice of congressional delegation of legislative authority in the field of foreign policy (para. 1.1.3.). Once established the existence of an actual preeminence of the executive in foreign policy, particularly since 9/11 and the rise of the national security structure, the analysis of the role of the U.S. within the U.N. has been centered in the figure of the President and its administration, rather than the entire government. With regard to the United Nations system, the chapter has brought to the understanding of its mandate, the rights and obligations associated with its membership, as well as the key dynamics and factors which make it possible for the United States to hold a preeminent position within its membership (para. 1.2.). Last, the chapter has provided the fundamental basis for the analysis of the U.S.-U.N. relationship, by illustrating the structure and functioning of the U.S. Mission to the U.N. and indicating the crucial aspects of such a relationship, as well as the most relevant ways in which the country can concretely affect the Organization (para. 1.3.2., 1.3.3.).

The second chapter has developed a broad comparative analysis of the Bush and Obama administrations' policies toward the United Nations, at both the rhetorical and substantive levels. While the rhetorical analysis has focused on the comparison of speeches, attitudes, and policy directions set forth in the National Security Strategies,

the substantive one has compared concrete actions in the most relevant policy areas. Such an analysis has revealed the existence of a surprising *substantive continuity* between the two policies, despite the dramatic shift in rhetorical terms brought by President Obama.

Indeed, the downfall towards unilateralism, inaugurated with George W. Bush's 2002 National Security Strategy and the resurgence of American exceptionalism and exemptionalism, initially seemed to have been reversed by the Nobel Peace Prize-awarded President (para. 2.1.1.). Not only did President Obama pledge to rebuild U.S. foreign policy in the name of a strong *multilateralism*, he especially committed to establish a renewed and constant partnership with the United Nations (para. 2.2.1.). Even when considering Bush and Obama's appointed Permanent Representatives to the U.N. it has been possible to note fundamental differences, which have provided meaningful insights on the two Presidents' respective intentions toward the Organization (2.1.2, 2.2.2.).

At the same time, however, the analysis has shed light on the striking similarities regarding the two administrations' concrete actions vis-à-vis the United Nations. Indeed, a serious lack of substantive engagement toward the U.N. has been observed under the Obama administration, as much as it was noticeable under the previous one. Specifically, no progress has been found with regard to the lack of financial contributions to the U.N. budget, of juridical commitment to U.N.-sponsored treaties (especially human rights treaties), and of respect for its fundamental norms regarding the protection of human rights and the ban on the use of armed force (2.2.3.). Particularly relevant has been the consideration of recent developments concerning the relationship with UNESCO, which have highlighted a major lack of interest in the mandate of the agency against national interests. Since November 2011, the U.N. agency has been deprived of the entire amount of U.S. funding, equal to 22% of its budget, due to the admission of the Palestine Liberation Organization (PLO) as a Member State (para. 2.2.3.).

Overall, then, a specific claim about President Obama's lack of substantive engagement with the United Nations can be reasonably made, adding to the well-established opinions of some scholars who, with reference to the broader field of foreign policy, have highlighted Obama's 'wavering' and incongruence between liberal

ideals and realist practice (para. 2.2.3.). The analysis developed in the second chapter has thus led to two significant conclusions about the Obama administration's policy toward the U.N. First, the acknowledgement that it stands in substantive continuity with the one of the Bush administration. Second, the consideration that it is characterized by a consistent incongruence between rhetoric and general policy directions, on one side, and concrete actions on the other side. Accordingly, it has been possible to formulate the hypothesis that the role played by the U.S. within the U.N. under the Obama administration is best described by a mixed model.

The analysis of two case studies regarding important aspects of the current role of the U.S. within the U.N. has confirmed such a hypothesis. The first case study, examined in the third chapter, has focused on the figure, activities, and achievements of the current U.S. Permanent Representative to the United Nations, Samantha Power. A review of Power's biography, advocacy, and reputation has immediately explained why her appointment by President Obama is so noteworthy. Not only is Power a well-known international law supporter and human rights advocate, she is also especially renowned for being a resolute critic of the U.S. *intentional* lack of action in the face of XX century genocides and humanitarian crises (para. 3.1.). Accordingly, her taking the lead of the U.S. Mission to the U.N. has been interpreted as the ultimate evidence of President Obama's intentions to positively renew the U.S. role within the United Nations. The fact that Ambassador Power has embodied and worked for achieving such a positive renewal has been proven by the analysis of nearly forty speeches she pronounced at the U.N., as well as the most relevant concrete actions she undertook since she assumed office (para. 3.2.1., 3.2.2.). Despite the outstanding rhetorical and substantive commitments invested to improve the role played by the U.S. within the Organization, which have brought Power to take the lead in tackling international humanitarian crises, the Ambassador has *not* been able to change the most negative features of such a role (para. 3.2.3.). Therefore, even in this case, which represents a clear exemplification of the *multilateralist* model of the U.S. role within the U.N., the analysis has highlighted the existence of a dramatic incongruence between the current U.S. multilateralist rhetoric and attitude and its unchanged unilateralism with respect to crucial substantive policy aspects.

Finalizing such a conclusion has required, however, to examine another specific aspect of the current U.S. role within the U.N., one which could exemplify the *unilateralist* side of the model. The aspect that has been deemed one of the most disturbing elements in the U.S.-U.N. relationship, which highly undermines the country's standing within the Organization, regards U.S. counterterrorism-related human rights record under the current administration. Although it has been possible to note, once more, a dramatic change in counterterrorism rhetoric and directives brought by President Obama, the practice of violating human rights while countering terrorism does not appear to be overcome (para. 4.1.). That's what a review of the scholarly opinion and of a number of reports of international organizations has revealed (para. 4.2).

Once the alleged continuation of Bush-era counterterrorism practices – such as ‘enhanced interrogation techniques,’ indefinite detention, prosecution of detainees in military tribunals with no right of appeal, and the targeted killing program – had been demonstrated, the focus of the analysis has shifted on the way this has impacted on U.S. relationship with U.N. human rights bodies and its standing within the Organization more at large. By examining the most recent documents issued on the United States, it has been possible to verify that important U.N. treaty bodies and Special Procedures of the U.N. Human Rights Council have expressed several concerns regarding the country's poor counterterrorism-related human rights record (para. 4.3.). In particular, the Obama administration has been criticized for failing to ensure accountability for past CIA abuses, by avoiding pressing charges and providing adequate victims redress (para. 4.3.).

For all these reasons, in the context of the field research conducted between October and December 2015 at the United Nations Headquarters, it has been deemed particularly relevant to analyze the behavior of the United States during the informal consultations on Third Committee's draft resolution entitled *Protection of human rights and fundamental freedoms while countering terrorism*. Even this analysis by direct observation has highlighted an inconsistency between U.S. positive attitude and rhetoric, according to which the U.S. did not challenge in principle the inclusion of any of the troublesome issues for the country, and a rigidity with respect to the wording and specific contents of the text. Some of the modifications the U.S. has requested have

seemed to soften or dismiss the message the draft resolution intended to convey. Although with reference to a very specific case and in a less remarkable way, the United States has thus appeared, once more, to play a multilateralist role rhetorically, but a unilateralist one when it comes to the substance.

It is then a *mixed model*, one which encompasses both the *multilateralist* and *unilateralist* models of behavior vis-à-vis the Organization, which seems to best apply to the current role the United States plays within the United Nations. Indeed, in terms of rhetoric and policy guidance, the U.S. has appeared to be committed to advance the common interest of all Member States and act in such a way that enables the U.N. to fulfil its mandate, as the country and the entire world need the Organization to be able to effectively act as a global actor. When looking at concrete actions and substantive engagement, instead, the U.S. has appeared to act mainly in accordance with its national interest, often at the expenses of the capacity for action of the United Nations and its agencies, the fundamental values they represent and the purposes they pursue.

### **Understanding the gap between rhetoric and substance**

The fact that the current role of the U.S. within the U.N. is at the same time multilateralist and unilateralist may seem self-contradictory. The factor underlying such a contradiction has resulted being the existence of a significant gap between the rhetoric and the substance of the Obama administration vis-à-vis and within the U.N. As initially supposed, structuring the research work along the two levels of analysis – rhetorical and substantive – has proven to be the key to understand the object of the analysis. At this point, however, an additional question about the reasons for the existence of such a gap comes naturally to mind. Those reasons which could possibly explain why President Obama failed to match his rhetoric with action and implement his policy directions. The attempt to find those reasons cannot be fully developed here. Nevertheless, on the basis of the research so far conducted, it is already possible to identify a number of factors affecting the concrete actions of the administration and the capability to achieve its stated objectives. Such factors can be categorized into domestic, external, and structural ones.

#### *Domestic constraints*



Several domestic factors affect the substantive behavior of the President and its administration in foreign policy, including the numerous institutional actors and information agencies involved in its making, as well as powerful political, economic, and military lobbies. Among them, the legislative branch can be considered as the preponderant factor. Indeed, as it has been illustrated, the Congress never abandoned its role of ‘co-equal constitutional partner’ (Foley 2008: 115) of the executive in the field of foreign policy, notwithstanding the great evolution that the foreign policy-making process has undergone since the time the Constitution was written. Accordingly, the legislature is capable of restraining foreign policy actions of the executive, particularly during periods of divided government and, remarkably, the Obama administration has been acting in the context of a divided government since 2011 (see para. 1.1.3.).

With specific reference to the policy of the Obama administration toward the U.N., it is possible to point out a number of instances in which Congress proved to be crucial in determining the substantive continuity with the practices of the previous administration. First, the 25-percent cap imposed by Congress on peacekeeping contributions since 1994 has been identified as the main cause of the accumulation of U.S. arrears on the peacekeeping budget (see para. 1.3.3., 2.1.3., 2.2.3.). Second, Congress proved decisive in the troublesome episode of UNESCO defunding, by rejecting the Obama administration’s request to obtain waiver authority enabling the restoration of funding to the agency (see para. 2.2.3., 3.2.3.). Third, it is a fact reported by many that the Obama administration has faced Congressional limitations in its attempt to close the detention facilities located at Guantánamo Bay, which have caused a reiterated postponement of the President’s order (Ohlin 2015). Pretty relevant can also be deemed the reintroduction in Congress, since 2009, of a bill entitled ‘A Bill to end membership of the United States in the United Nations (or American Sovereignty Restoration Act of 2009),’ which highlights the existence of strong sovereignist tendencies within Congress.

### *External factors*

Often, highly relevant factors affecting the performance of policy makers come from the exterior. In the case analyzed, one particular external factor stands out: the terrorist attacks occurred on September 11, 2001. As mentioned, this event has had a

dramatic impact on American foreign policy and actually marked the beginning of a new period: the post-9/11 era (see para. 1.1.4.). In particular, it has been observed how 9/11 provoked a unilateral turn in U.S. foreign policy and conferred an ideological character to the ‘war on terror’ (see para. 2.1.). Such an ideological character represented the main motor and justification for the CIA program of detention and interrogation, and the human rights violations it has entailed. Therefore, even though President Obama attempted to replace the ideological character of the counterterrorism fight with a political one and to turn U.S. counterterrorism into an entirely lawful and legitimate activity, he encountered major constraints in the national security structure created by 9/11.

### *Structural factors*

A number of structural factors may have affected the capacity for action of the Obama administration. The economic and financial crisis that hit the country in 2008 has placed the Obama administration in a constrained budgetary context, which might have restrained the channeling of resources to the United Nations. Even the fact that the international system has entered what has been defined as the ‘post-American era’ (Fabbrini and Yossef 2013) may have led the United States to see the United Nations as a possible means for reestablishing its hegemonic position, thus overshadowing the importance of the mandate of the Organization.

In the case analyzed, however, the most important structural factor affecting the Obama administration seems to be *national security*. As it has been highlighted, the national security structure preponderantly affects the American system of government and U.S. foreign policy making (see para. 1.1.4.). It was formally born in the Cold War context, with the National Security Act of 1947, and structured around the four pillars of the National Security Council (NSC), the Central Intelligence Agency (CIA), the Department of Defense, and the National Security Agency (NSA). As it has been shown, since 9/11, the national security structure expanded, consolidated and assumed a unique importance, to the point that it can be considered as one of the main causes of the substantive continuity observed between the Bush and the Obama administrations. Indeed, it can be deemed that the unilateralist side of the U.S. role within the U.N. is mainly grounded in national security.

It may result, therefore, that the main source of President Obama's failure to implement his rhetorical commitments is a *lack of agency* more than a lack of will. Still, there is a need for further research to understand the causes of such a failure, which goes beyond the scope of the present research work.

### **Implications for the U.N.**

The two-faced role currently played by the United States within the United Nations, together with all related aspects observed in the present research work, can be deemed to have a considerable impact on the Organization. The rhetorical multilateralist side of such a role certainly affects positively the standing of the Organization on the international scene, especially if compared with the Bush-era denigration of its work and its usefulness. It has been remarked how President Obama (2010: para. 46) publicly acknowledged that his country '*need(s) a U.N. capable of fulfilling its founding purpose.*' Therefore, one could say, if the U.S. needs it, which country wouldn't? Furthermore, it has been shown how U.S. commitment and lead on U.N. causes – particularly the lead of the current Ambassador, Samantha Power, on humanitarian issues – helps gathering international attention and triggering cooperation among Member States. Conversely, the substantive unilateralist side of the U.S. role, particularly its way of boycotting international legal constraints and breaching U.N. principles and human rights law, undermines long-standing efforts of the Organization to establish an international order grounded in mutual cooperation and respect for human rights. More concretely, the U.S. is also responsible for considerably limiting the capacity for action of the U.N. and its agencies, due to its highest share in the U.N. budget and the great amount of debt it has accumulated.

Overall, the current impact of the U.S. role on the Organization certainly appears to have improved from Bush-era absolute unilateralism, thanks to President Obama and Ambassador Power's committed rhetoric and attitude. At the same time, however, such a role is still negatively affecting U.N. activities and purposes to a significant extent.

### **Prospects**

Different scenarios can be imagined for the future of the U.S. role within the United Nations. In the short term, considering that President Obama is at the end of its

second and last term and therefore no longer bound to the Congress or the electorate for reelection, a greater openness to multilateralism could be foreseen. In particular, President Obama could attempt to force the implementation of some of his unfulfilled rhetorical commitments by resorting to presidential power. Yet, this phenomenon is clearly linked to the ‘political timing,’ and is likely to be reversed with the beginning of the first mandate of a new president.

In the long term, instead, three different scenarios can be foreseen. First, the U.S. role within the U.N. could keep its current two-faced character with the internal inconsistency between a multilateralist rhetoric and a unilateralist substance, leaving the present situation almost unchanged. Second, a new president could step back on Obama’s multilateralist rhetoric and intentions, inaugurating a new era of U.S. absolute unilateralism as it was during George W. Bush’s presidency. Such an option would represent the worst scenario for the U.N., as the country would adopt a hostile attitude vis-à-vis and within the U.N. that would clearly weaken the Organization. Even the United States would face significant drawbacks on its standing within the international community and the international public opinion. Third, in the best option, the multilateralist rhetoric would be matched by a multilateralist substance, resulting in a complete openness of the United States to access U.N.-sponsored treaties, abide by international norms, and substantively engage in a constant partnership with the Organization.

The latter option, however, can hardly be foreseen in consideration of the aforementioned constraining factors, particularly the national security structure, which proved so crucial in the case of Barack Obama’s presidency. Indeed, if President Obama, apparently so highly personally committed to multilateralism and a renewed U.S.-U.N. partnership, failed to substantively improve the role played by the country within the Organization, who will?