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Is there a dividing line between national security and human rights?

– the Obama Administration's standpoint given
to the Guantanamo prisoners in reference to
three different ethical views.

By: Mariola Stanio

Supervisor: Michael Karlsson

Abstract

The Guantanamo issue refers to the classic question concerning the role of ethics in international relations. That is why the purpose of this research was to, by relating to the dilemma between national security and human rights, study the current Obama Administration's standpoint given to the Guantanamo prisoners in reference to three different ethical views.

These three ethical views are Joseph Nye's innovative perspective on morality within international relations, which constitute the theoretical frameworks of this research and they are: sceptics, state moralists and cosmopolitans. With help of the descriptive and explanation approaches within ideology and argumentation method, I studied speeches of the representatives of the Obama Administration as well as executive orders and reports which focus on the Administration's statements and decisions given to the Guantanamo issue.

The analysis of the material in reference to the theoretical framework of this research, lead to a conclusion that the Obama Administration underlines the importance of both national security and human rights given to the Guantanamo prisoners. Analysis of this research displays also that the Obama Administration has not changed its line of argumentation since 2008 as well as the Administration's decisions are affected first and foremost by state moralist viewpoint.

Keywords: *Guantanamo, Prisoners of War, National Security, Human Rights, The Obama Administration.*

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1. Introduction

What should be more important: national security or human rights? What is the determining factor that we use to prioritise one before the other; can ideological beliefs and the context of the current situation decide our choice? Maybe we do not have to choose; maybe it is possible that these two issues run parallel?

With reference to the prisoners of war detained at Guantanamo Bay in Cuba as a consequence of the War on Terror, I am going to research within the framework of this essay the dilemma between national security and human rights using statements of current President of the United States of America, Barack Obama and his Administration.

1.1. Presentation of the Problem

The terrorist attacks on the World Trade Center and the Pentagon on 11 September 2001 have changed the perception of security. Former US Secretary of State Condoleezza Rice pointed out that: “*there is no longer any doubt that today America faced an existential threat to our security – a threat as great as any faced during the Civil War, World War II and the Cold War*”.¹ The most significant issue for the Bush Administration has become the protection of the American people against another possible terrorist attack. In order to meet those requirements the Bush Administration took determined steps by declaring the War on Terrorism.²

President George W. Bush decided that prisoners of war were going to be transported to Guantanamo Bay in Cuba and the former US Secretary of Defence Donald Rumsfeld described it as “*the last worst place*”.³ Because Guantanamo is not located on American soil and the foreign nationals held in this prison are not US citizens they are therefore devoid of rights to US courts.⁴ President Bush emphasized also that he was continuing the US longstanding policy of not negotiating with terrorists. According to the former President, tolerating one terrorist’s demands would lead to more kidnappings.

At Guantanamo, detainees only appeared before the military tribunal and there is also evidence that prisoners were tortured in order to obtain information about any plans for

¹ Fierke, K. M. (2008), “*Critical Approaches to International Security*” p. 173

² Bush, George W. (2011), “*Decision Points*” p. 154

³ Rumsfeld, Donald (2012), “*Known and Unknown*” p. 566

⁴ Rumsfeld, “*Known and Unknown*”, p. 567

future terrorist attacks.⁵ Even the President in his memorial “Decisions Points” confirmed the fact that America tortured detainees. He admitted that the interrogation program at Guantanamo included techniques like Waterboarding.⁶ Furthermore, it should be noted that Condoleezza Rice recognized many of the Guantanamo prisoners only had weak links to al-Qaeda.⁷ Some of them were just “*innocent people who happened to be in the wrong place at the wrong time*”.⁸ This shows that at Guantanamo even innocent people were kept in prison and subject of torture.

According to the UN universal declaration of human rights and the Geneva Convention it is unacceptable to torture detainees. National security is not argument enough to justify torture because each person deserves respect and should be treated according to international laws, especially bearing in mind the aforementioned facts that lots of Guantanamo prisoners have not committed any crime. International law should be followed by all states without exception, because the undermining of such laws can lead to pain for many people. Furthermore the breach of international law by an influential country such as the United States, undermines the law itself and can lead to other countries proceeding in the same way, by going around the law in order to foster their own national interest.⁹

However, from the Bush Administration’s point of view, the United States in the post-9/11 era was forced to undertake a radical and ideologically realistic line within its foreign policy¹⁰ because the country faced a different kind of enemy: “*that had no capital to call home and no armies to track on the battlefield*”.¹¹ Moreover there was a risk that terrorists could not only organize other attacks, but also as underlined by the former US vice-president Dick Cheney they could use nuclear or biological weapons.¹² In order to avoid this eventuality, the Bush Administration declared the need to apply deterrence measures because the risk was too great and they could not wait for such an event to happen. In the eyes of the Bush Administration the rights of detainees are subordinate to other issues, even laws that usually apply during peacetime and they get the status of “*enemy combatants*”.¹³

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⁵ Bush, “*Decision Points*”, pp. 166-167 & Documentary (2006), “*The Road to Guantanamo*”

⁶ Bush, “*Decision Points*”, p. 169

⁷ Rice, Condoleezza (2011), “*No Higher Honor*”, pp. 274-275

⁸ Rumsfeld, Donald, “*Known and Unknown*”, p. 560

⁹ UN universal declaration of human rights: <http://www.un.org/en/documents/udhr/> & Forsythe, David P. (2011), “*The Politics of Prisoner Abuse*”, pp. 134 & 219 & 230 & 260-265

¹⁰ Forsythe, David P. “*The Politics of Prisoner Abuse*”, p. 37

¹¹ Bush, George W. “*Decision Points*”, p. 141

¹² Cheney, Dick & Cheney Liz (2011), “*In my time*”, p. 330

¹³ Renshon, Stanley A. & Suedfeld, Peter (2006) “*Understanding the Bush Doctrine*”, pp. 17 & 218-219

By analysing this dilemma between national security and human rights within international relations I found it interesting to research what kind of attitude the Obama Administration has towards the Guantanamo issue. It is worth stressing that President Barack Obama won the election in 2008 when the War on Terrorism had already been waged for seven years. The war has also been one of the main factors for plunging American's economy in to debt. Economic problems and general apposition to war among American people caused dissatisfaction and a depressing atmosphere in the country.¹⁴ Those factors probably had some influence on the Obama Administration's standpoint toward the Guantanamo issue. Moreover the new democrat government represented the opposite political pole, to the Bush Administration, which embodied the republican side, thus revealing different political bases for the two presidencies. Additionally, these factors may mean that the Obama Administration adopts a different political line in its international relations. Nevertheless, it is puzzling if the new Administration has a really dissimilar policy towards the Guantanamo issue or it shows some similarity to the predecessors.

1.2. Purpose and Research Questions

The debate about the Guantanamo prisoners refers to the classic question about the role of ethics in international relations. This is undoubtedly a difficult subject because it highlights two significant aspects: on the one hand the good of the individual (human rights) and on the other hand the good of the whole nation (national security). It is necessary to point out that it is specifically in the case of the Guantanamo issue these two aspects are connected. As is visible in the introduction to this essay, 9/11 and the Guantanamo prisoners are emotionally connected by the former Bush Administration, which compared the terror attacks with big historical events and described the prisoners as evil combatants. Moreover by putting national security as the most significant issue, the former Administration adopted a clear realistic line in their policy. But, what is happening then, when the Obama Administration takes over power in the United States? With reference to the current presidency of Barack Obama, I would like to highlights within the framework of this research the Administration's policies towards the prisoners of war at Guantanamo.

Based on three different ethical views: skeptics, state moralists and cosmopolitans, which I am going to present in a broader way in chapter 2, the purpose of this essay is to study the Obama Administration's position on the issue of national security and human rights related to Guantanamo. These three ethical perspectives also open up the

¹⁴ Brown University 'Cost of War' Project: <http://news.brown.edu/pressreleases/2011/06/warcosts>

opportunity to study which moral aspects affects the Administration's decisions regarding the Guantanamo prisoners. This in turn would be a significant complement to better understand the matter connected with Guantanamo and see if arguments uttered by the Obama Administration are reflected in reality by studying its decisions. Moreover it would be significant to see if there are same changes in the Administration's position over time. Within the framework of this research, emphasis is thus put on ideological perspectives because these standpoints have an important role in moulding people's perception of the world and they have even further consequences on people's decision making.

Taking into consideration the aforementioned aspects the research questions can be stated thus:

- *Drawing on three different ethical views, how does the Obama Administration consider the dilemma between national security and human rights, specifically in relation to the Guantanamo prisoners and has it changed its position since 2008?*
- *What kind of moral aspects affect the Obama Administration's decision concerning the Guantanamo prisoners?*

1.3. Limitations

The biggest limitations, I faced were those connected with time and the scope of the essay. When I started to study the Obama Administration's position toward the Guantanamo prisoners a lot of new facts and information came to the surface all of which I would have liked to present but it was impossible for the due to time and the scope of this research. That is why within the confines of this research I am going to study the Obama Administration focusing on the time between the years 2009 and 2012, which covers the first term of office. Nevertheless it should be pointed out that Barack Obama won the election in the fall of 2008 and already during this year the Obama Administration presented its electoral programme. Moreover during the year 2008 Barack Obama took the floor in various contexts during his electoral campaign. To take these facts into account, I decided to construct my research question by also taking into consideration the year 2008 because I would not want to miss some possibly important remarks by Barack Obama given on the Guantanamo issue from this period of time.

Furthermore, this essay is going to focus attention on the ideological perspective. However it would have been interesting and a good complement if I could also have brought up other aspects such as economic crisis and effects of the continuing engagement of the

United States and its allies in fighting the Taliban in Afghanistan;¹⁵ but I have to omit these facts.

1.4.Previous research

This chapter focuses on previous research connected with the subject of Obama Administration's decisions concerning to national security and human rights and the specifically relating to the Guantanamo issue. There is a broad range of previous studies related to the Obama Administration's policy, and some of them I would like to point out here, as they are similar to the issue studied in this essay. The previous research presented in this essay is based on scientific articles. I am going to return to those presented previous research in the conclusions of this essay in chapter 5 so that I can compare the result of this essay with those studies. Moreover I would like to conclude in which way this essay can contribute and perhaps even complete the previous research.

Michael C. Desch points out in his symposium "*The More Things Change, the More They Stay the Same*" the differences between the Bush and Obama Administrations by underlining that Bush represents the conservative and Republican side while Obama is a liberal Democrat. Further, Desch emphasizes that there is a big difference between these two Administrations concerning their rhetoric. Namely Obama, demonstrates more multilateral foreign policy by his Administrations declaration about to close the detention center at Guantanamo Bay, ending the practices of extraordinary rendition as well as improved interrogation and underlining respect for civil liberties domestically.¹⁶ Nevertheless the author points out that despite of these rhetorical differences the Obama Administration leads the same counterterrorism policy as the previous Administration. Desch emphasizes that there is a great resemblance in its willingness to defeat al-Qaeda and its anxiety that terrorists could use weapons of mass destruction.¹⁷

Abraham R. Wagner in his article "*Secret Government*" describes exhaustively the Bush Administration's standpoint towards terror attacks on the 11 September 2001 and the action taken toward combating the terrorists. The author points out also that Barack Obama won the election in 2008 because he promised changes within foreign policy. However, the Obama Administration continues the former Administration abuses in the area of surveillance. Wagner emphasizes also that the Obama Administration expanded other practises such as killing foreign nationals with drone aircraft. Wagner further underlines William O. Walker's

¹⁵ Documentary: Dokument utifrån "*Afghanistan – det förlorade kriget*". Published 2012-11-11 on SVT2

¹⁶ Desch, Michael C. (July 2010), "*The More Things Change, the More They Stay the Same*", *PS*, p. 425

¹⁷ Desch, "*The More Things Change*", p. 426

work, which focuses on American values and national security from colonial times to the present.¹⁸

Nancy Murray also pays attention in her article to the fact that she hoped that Obama presidency will pursue a different policy toward the global war on terror and Guantanamo prisoners. Nevertheless, she points out that the hope has been disappointed because Obama started to continue with the predecessor politics' line. For example the Obama like before Bush Administration get appellation 'state secret' to block access to information about on-going interrogation practice and CIA "*black sides*".¹⁹ Moreover, Murray points out that President Obama signed into law a new Military Commissions Act. This act involved some differences but still left room for the justice of the Bush's military commissions. Furthermore the Obama Military Commissions Act "*allows children in some cases to be tried as war criminals and construes conspiracy and 'material support' for terrorism as war crimes*".²⁰ Additionally, Murray underlines instances of the CIA, authorized by the Obama Administration, using drone aircraft to kill 'terrorist suspects'.²¹

2. Theoretical Framework

This essay theoretical framework is going to be based on Professor Josephs S. Nye's innovative three views of morality, which are *skeptics*, *state moralists* and *cosmopolitans*. Nye moulds his concept in the form of tools, helping to interpret, evaluate and understand moral aspects. These three views show different perceptions of ethics in international relations and they not only highlight a transparent picture concerning the distinctive position but even the interactions between them.²² That is why I believe that with the help of these concepts it is going to be possible to study the attitudes of the Obama Administration towards the to prisoners in Guantanamo. Below, I am going to describe these three different moral points of view more extensively.

2.1. Skeptics

Skeptics argue that in international relations there is no place for moral issues. They justify this by pointing out that there is no institution which could provide order. Further it is important to underline that skeptics question the sense of community. In a world where the communities' role is diminishing, it is a natural consequence that moral rights or duties are not considered.

¹⁸ Wagner, Abraham R. (2011), "Secret Government", *Reviews in American History*, p. 554

¹⁹ Murray, Nancy (2011), "Obama and the global war on terror", *Race & Class*, p. 87

²⁰ Murray, "Obama", *Race & Class*, p. 87

²¹ Murray, "Obama", *Race & Class*, p. 88

²² Nye, Joseph S. Jr. & Welsh, David A. (2011), "*Understanding Global Conflict and Cooperation*", p. 24

Skeptic moral concepts are linked to the classical realists. The icons of this perspective are among others, Thucydides, Thomas Hobbes and Hans Morgenthau. Thucydides visibly determines the skeptics' rights of power that govern the world in Melians dialogue: "*The strong do what they can and the weak suffer what they must*".²³ This phrase displays that might makes right and reflects the quintessence of the skeptics. It is also significant that moral aspects demand choices and that is why, according to the skeptics, if something is not doable then we cannot be committed to do it.²⁴ This principle is connected to the Roman law: *ultra vires nemo obligatur*, which just means, "*Nobody is obligated beyond his capacity*".²⁵

By unravelling the aforementioned thread it could be interesting to note that since might is a determinant of rights, thus "*international politics, like all politics, is a struggle for power*".²⁶ Different protagonists can formulate varied kinds of goals, like freedom, security or prosperity but regardless of that, power is always going to be the underlying factor of all their interest and aim.²⁷ Furthermore, it should be pointed out that the sovereign state is the main protagonist, holding responsibility for domestic issues and should use all possible measures to ensure peace and security for the people. Moreover, Hobbes points out that without a common power in the form of a state, people would be at war and it would be "*a war of all against all*"²⁸ because the state is a the guardian of laws of nature, which are justice, equity, modesty and mercy. He believes therefore that a state is the only entity, which can ensure stability.²⁹ Furthermore, another crucial aspect for a state's role in the international system is the balance of power. According to Hobbes, just people as prone to come into conflict with each other, the states are also willing to wage war towards one another and the balance of power keeps a tight rein and holds some degree of order in the international arena.³⁰

Further, a crucial aspect within the framework of the skeptics' point of view is self-interest and it is visible in security matters. Security is one of the first considerations for all nations but collective security as stated in Article 16 of the Covenant of the League of Nations,³¹ according to the above-mentioned Morgenthau, does not have any reflection in reality. Because the state first and foremost prioritise its own interest therefore security on the global level where different countries are obligated to help each other, do not have meaning,

²³ Nye & Welsh, "*Global Conflict*", p. 24

²⁴ Nye & Welsh, "*Global Conflict*", p. 24

²⁵ Morgenthau, Hans J. (2005), "*Politics Among Nations*", p. 268

²⁶ Morgenthau, "*Politics*", p. 29

²⁷ Morgenthau, "*Politics*", pp. 29

²⁸ Hobbes, Thomas (2004), "*Leviathan*", pp. 128 & 160; quote on page 128

²⁹ Hobbes "*Leviathan*", pp. 157 & 159

³⁰ Nye, "*Global Conflict*", pp. 24-25

³¹ League of Nations – organisation for international cooperation, active between 1920 and 1946, which was created by the victors in the First World War. Source: NE: www.ne.se/lang/nationernas-förbund

according to sceptics. Morgenthau states also that given historical events and the previously described nature of the international system as well as conflicts of interest are going to be a continuing issue in the international politics arena, where domestic interests tower over collective ones.³² Nations self-interests are going to be evident also within the following issue about human rights.

Morgenthau, when analysing moral aspects, touches on human rights issues and refers to the Wilsonian conception. This conception is based on President Woodrow Wilson's ambition to ensure the stability of democracy in the world, by transferring the example of the United States to other nations. Morgenthau questions the Wilsonian conception by pointing out that the democratic system does not suit domestic interest in lots of states and there is very little interest in the democratic nations to change this. Further, he underlines that even a great power, such as the United States cannot consistently let their foreign politics be guided by human rights aspects because it would collide with other more important interests.³³ From this reasoning, Morgenthau presents two significant hindrances to the defence of human rights:

On the one hand, consistency in such defense is impossible, since it is not the prime business of a state, interacting, as it must with other states, to defend human rights. On the other hand, it is not feasible to pursue human rights without taking into consideration other aspects of relations with other nations, which may be more important than those connected with human rights.³⁴

Morgenthau stresses that human rights and moral aspects are an illusion and they cannot have any impact on national interests. Therefore he is sceptical about the Geneva Convention because any states, which are going to follow the convention's principles, needs to ignore their own interests.³⁵

Skeptics see international politics through the prism of the importance of the state and its self-interests. That is why, the question about order versus justice is not crucial, but rather points out choices in a particular situation.³⁶

2.2. State moralists

State moralist point out that the core of international politics is based on states, which are in turn the main protagonist. States follow given rules but they follow them inconsistently, that is they find they can depart from established procedures, I will return to this point. The sovereignty of a state is of great importance and this is at the same time the most crucial rule in the international arena because it forbids the intervention across borders, into other state's

³² Morgenthau, *"Politics"*, pp. 435-436

³³ Morgenthau, *"Politics"*, pp.266-267

³⁴ Morgenthau, *"Politics"*, p. 267

³⁵ Morgenthau, *"Politics"*, p. 242 & 246-247

³⁶ Nye & Welsh, *"Global Conflict"*, p. 27

domestic issues and jurisdiction.³⁷ Michael Walzer is a state moralist, who states that people: men and women, also possess an important role within a state. Walzer constructed a theory of aggression. He advocated, within his theory apart from international and sovereign law the notion of people's autonomy, which means that individuals' interests are represented by their own governments. Furthermore, Walzer stresses that even if two of the most significant laws: territorial integrity and political sovereignty belong to states, they ultimately apply to the rights of individuals. State laws are a driving force for people because they create bonds and membership of one's own nation. Walzer highlights also that when a state is attacked it first and foremost affects the people. Under attack, people do not merely risk their lives and health but also their values that are connected to the political association they have made.³⁸

Walzer recognizes moreover the essence of organizations within international society as the UN Charter of Human Rights. However, he underlines that decisions of international organization cannot question principles and values of society, which are "*the survival and independence of the separate political communities*".³⁹ Further, Walzer points out that in the event when the state's political sovereignty or territorial integrity is in imminent threat, then the nation has the legitimate right to use of force. Additionally, it should be stressed that in self-defence and the law of war the use of aggression can be justified. This is covered within the framework of moral aspects.⁴⁰ This principle undermines to some degree the right of neutrality and obligates the international community to participate in the defence of international law.

Walzer points out that the most significant aspect within his theory of aggression is that only aggression can justify the war. He believes also that aggressor states should be militarily repulsed and punished because destroying order and breaking the peace cannot be allowed with impunity. The dividing line between international and state levels is not clear within Walzer's reasoning. Understanding of aggression has the same meaning regardless if we are speaking about international or domestic aggression. However, Walzer highlights a significant difference between enforcing the law and the punishment of a culprit within state borders and an aggressor state within international society. We do not have any world police, to control aggressor states. The only possibility is for states to have international laws and agreements leading to mutual cooperation to resist and place sanctions on a guilty state.⁴¹

³⁷ Nye & Welsh, "*Global Conflict*", p. 27

³⁸ Walzer, Michael (2006), "*Just and Unjust Wars*", pp. 53 & 61

³⁹ Walzer, "*Just and Unjust*", p. 61

⁴⁰ Walzer, "*Just and Unjust*", p. 62

⁴¹ Walzer, "*Just and Unjust*", pp. 58-59 & 62-63

A Punishment directed against a state cannot have an impact on an innocent group of men and women, according to Walzer. For Walzer it is obvious that civilians should be protected, he does not understand why it should be possible that it is more acceptable to kill some innocent people but not others. He refers also to the Geneva Convention, which covers among other aspects including protection of prisoner of war.⁴² Nevertheless, when Walzer problematizes this issue further he points out that Locke's state of nature do not have to be so obvious in wartime. Locke argues that illegal activities should be punished and the main purpose of this punishment is to prevent or at least try to prevent future criminal activities by deterrent: "*this is at least commonly accepted doctrine*" and it is current both on an international and domestic level.⁴³ However, Walzer stress that in some extreme situation during wartime, radical utilitarian calculations include "punishment" of innocent civilian. Walzer calls it: *deterrence without retribution*.⁴⁴ The moral argument, which justified the utilitarian's calculations are simply that: "*They did it first*". It should be underlined again that Walzer does not share the utilitarian opinion. He emphasizes also that prisoners-of-war should be tried in a court of law because without the opinion of a trial, nobody can be certain if these people are really guilty and deserve punishment: "*only the trial can signal our own commitment to the rule of war*".⁴⁵

The main premise of state moralist scholarship points out that national borders have moral meaning because states represent people's rights, bearing united and forming a common life. That way respect for state sovereignty simultaneously gives respect to individuals and this is the best way to retain order.⁴⁶

2.3. Cosmopolitans

Cosmopolitans stress that individuals as well as states have the same crucial role in international politics and meaning justice issues are also geared toward individuals. Cosmopolitans advocate further that state boundaries should be abolished and the main argument for this is that boundaries do not have any moral status. Furthermore boundaries according to the cosmopolitans point of view, cause inequality between different regions in the world and this clashes with the concept of distributive justice.⁴⁷ Moreover, Charles R. Beitz, who is a follower of the cosmopolitans' worldview, points out that there is no state apart from

⁴² Walzer, "*Just and Unjust*", p. 209

⁴³ Walzer, "*Just and Unjust*", p. 209; quote on the same page

⁴⁴ Walzer, "*Just and Unjust*", pp. 209-210

⁴⁵ Walzer, "*Just and Unjust*", pp. 210-213

⁴⁶ Nye & Welsh "*Global Conflict*", p. 27

⁴⁷ Nye & Welsh "*Global Conflict*", pp. 28-29

the people's interest that has crucial significance for moral ground. Beitz underlines also that the principle of the people's key role should be considered in reference to the justification of this issue on the international agenda⁴⁸ and he emphasizes by quoting Thomas Pogge stating: "every human being has a global stature as the ultimate unit of moral concern".⁴⁹ Within the framework of the Beitz moral cosmopolitanism concept it is stressed that some practical choices can in turn have individualistic and inclusive dimensions. Beitz clarifies his standpoint by pointing out that moral cosmopolitanism negates any opinion which limits the scope of justification for members of groups, regardless of what kind of political values, communal histories or ethnic characteristics they represent. Therefore, this is another reason why, the already mentioned state boundaries, which limit scope of justification are not acceptable according to the cosmopolitan's view.⁵⁰

Further, Beitz underlines importance of international organisations, which undermine the states power by putting pressure on the government's decisions and this fact shows that the state cannot be the only or ultimate protagonist in the international arena.⁵¹ Additionally, he points out that cooperation between lots of different players gives a transformed shape to the meaning of power in international relations. Beitz stress further that use or the threat of violence is the means by which power is manifested. He emphasizes that use of these instruments by one party; seldom avoids the reaction of others. However, Beitz also clarifies, that threats do not always have to be violent in character but can also be a positive inducement to determine a form of power in some appropriate situations:

Power might be defined, very roughly, as an actor's capacity to cause other actors to act (or not to act) in ways in which they would not have acted (or would have acted) otherwise.⁵²

An example of power expanding without violence would be the members of United Nations, which by using their votes can bargain favourable actions for specific states in the international arena. Beitz emphasizes also that use of military power can be self-defeating which is why uses of other customary measures of such as international law or conventions of diplomacy can be more rational and profitable.⁵³ However, Beitz do not deny that in both international system and on a domestic level, conflicts appear, which are based on differences in point of views between diverse entities. These disagreements can in turn lead to competition and armed conflict. With reference to armed conflict Beitz stress importance of principles as *pacta sunt servanda* (i.e. agreement shall be held) which

⁴⁸ Beitz, Charles R. (1999), "Political Theory and International Relations", p. 55

⁴⁹ Beitz, Charles R. (2005), "Cosmopolitanism and Global Justice", *The Journal of Ethics*, p. 17

⁵⁰ Beitz, "Cosmopolitanism", *The Journal of Ethics*, p. 17

⁵¹ Beitz, "Political Theory", pp. 38-40

⁵² Beitz, "Political Theory", p. 44

⁵³ Beitz, "Political Theory", pp. 44 & 46-47

justifies self-defense or *just in bello*⁵⁴ because these rules protect human life.⁵⁵

Nevertheless influences of international organisations and the development of international law create a significant barrier to development of such conflicts.⁵⁶

A significant aspect within the framework of the cosmopolitans' point of view is also the doctrine about human rights. Beitz points out that regardless of people's spatial location, political subdivision or what kind of social group they represent, each person has human rights. Everyone also has the responsibility to protect their rights, which go beyond political and social boundaries. Further he also quotes Richard Rorty, who says that human rights is "*a fact of the world*"⁵⁷ and Beitz underlines by himself that: "*Today, if the public discourse of peacetime global society can be said to have a common moral language, it is that of human rights*".⁵⁸

Cosmopolitans stress that principal of morality has the same importance in peacetime as well as wartime. Moreover, cosmopolitans emphasise that political solutions should be formulated in order to establish basic human needs and rights without destroying social order. Cosmopolitans contributed in forming international laws such as the international convention against genocide and this in turn led to greater awareness about moral concerns among policy makers.⁵⁹

2.4. Theory Critic

The above mentioned skeptics, state moralists and cosmopolitans reveal three different worldviews. Nevertheless, each of them poses some adverse aspects and that it is why I am now going to critically analyse those different positions.

The skeptics point out the importance of order necessary for justice but they leave out aspects that lie between order and justice such as compromise and cooperation.

In the world presented by the skeptics there is not so much space for choice and moral principle and everything is related to the state's interest. Professor Joseph Nye admits that a French diplomat once told him, "What is moral is whatever is good for France". This statement

⁵⁴ Just war doctrine covers two main components, which are principle of *jus ad bellum* and *jus in bello*. The first one, *jus ad bellum* points out morally permissible to use of force given to: just cause, right intention, legitimate authority, last resort and reasonable chance of success. *Jus in bello* underlines in turn how force may be used morally with reference to: observe the laws of war, maintain proportionality and observe the principle of non-combatant immunity. Source: Nye & Welsh, "*Global Conflict*", p. 26

⁵⁵ Beitz, "*Political Theory*", p. 134

⁵⁶ Beitz, "*Political Theory*", p. 48 & 50

⁵⁷ Beitz, Charles R. (2011), "*The Idea of Human Rights*" p. 1

⁵⁸ Beitz, "*Human Rights*", p. 1

⁵⁹ Nye & Welsh, "*Global Conflict*", p. 29

could be regarded as cynical because of just why French interest should be considered as paramount. Furthermore, the expression “I had no choice” often used by leaders hides other not particularly pleasant alternatives. If we do not have to choose between “kill or be killed”, there are other possibilities to choose. International relations are not always reduced to security and survival issues but based also on other aspects such as economic, social and military interaction. It is also worth pointing out that regardless of cultural differences there is room for moral argument in international politics and this can for example be reflected in international law.⁶⁰

State moralists on the other hand stress that the most significant value in an international system is the autonomy of states and their people. A society with certain rules, which ensure non-interference in each other’s affairs, is an example of an institutional approach to order. State moralists emphasize further that intervention is justified only if a state’s territorial integrity is threatened.⁶¹ However it should be pointed out using Finish Prime minister Jyrki Katainen’s words that: “*There are those who say that we are independent only if we can decide all things for ourselves. Such thinking leads to detachment and isolation*”.⁶² The real world is thus sometimes more complicated than this, that is perceived through the prism of states moralist values. External aggression often has an ambiguous character.⁶³

Cosmopolitans in turn concentrates on people and their rights but their premise about the radical redistribution of resources incurs the risk of creating disorder within the international arena because it cannot be easy for people to give up their wealth. Moreover national issues can also be contentious because it is usually not easy to put away the loyalty that people possess towards to their own nation.⁶⁴ Straying away from politics for a moment I would like to point out an example, which probably expresses national belonging most clearly, namely the Olympics Games. During the 1960s the then Olympic president proposed to downplay the national emphasis by abolishing flags and national anthems. The purpose of this was that athletes should only represent themselves and not the specific nation. Nevertheless as we already know, the proposal won no sympathy at all.⁶⁵ The issue of loyalty can also be illustrated by the fact that people often treat family and friends in a different way than for

⁶⁰ Nye & Welsh, “*Global Conflict*”, pp. 24-25 & 29

⁶¹ Nye & Welsh, “*Global Conflict*”, pp. 29 & 199

⁶² Katainen, Jyrki, <http://valtioneuvosto.fi/ajankohtaista/puheet/puhe/en.jsp?oid=333192>

⁶³ Nye & Welsh “*Global Conflict*” p. 199

⁶⁴ Nye & Welsh “*Global Conflict*” p. 29

⁶⁵ Ehn, Billy & others (2005), “*Försvenskningen av Sverige*”, p. 209

example neighbours and can feel greater affiliation to their own transnational religious group than others.⁶⁶

Each of these three different standpoints possess disadvantages and that is why most people develop some kind of a hybrid position over these three diverse standpoints. With reference to the differences between domestic and international politics it is not easy to apply moral aspects in international politics. Nevertheless, due to the plurality of principles, we cannot exclude that there are no principles at all. That is why Joseph Nye asks a crucial question: “*How far should we go in applying morality to international politics?*”⁶⁷ I am going to undertake the challenge by trying to describe how far the Obama Administration relates to moral aspects in its policy towards the Guantanamo prisoners. Moreover, I am going to try to identify what kind of moral aspects affect the Administration’s decision over the Guantanamo issue.

3. Method and Material

Ideas and ideologies have a crucial role in the international system and in the life of each person. Ludvig Beckman emphasis that: “*political ideas shape people’s beliefs, likes and pursuit, and has without hesitation a great importance for the development of society*”.⁶⁸ Given the importance of ideologies I would like to concentrate on them and ideas connected with the Obama Administration’s policy towards the Guantanamo prisoners. That is why ideology and argumentation method is the most suitable method to conduct my research.

Furthermore, it should be emphasizes that ideology and argumentation method has a diverse character.⁶⁹ By choosing from the range of possibilities, I am going to focus my analysis of this research on the one hand on an descriptive and argumentation approach which may answer my first research question and on the other hand an explanation approach to answer the second question (the research questions are presented in chapter 1.2, above).

I am going to explain below how I am going to carry out the research analysis using ideology and argumentation method and also describe the usage of material. Then I am going to explain the choice and role of material in this research.

⁶⁶ Nye & Welsh, “*Global Conflict*”, p. 29

⁶⁷ Nye & Welsh, “*Global Conflict*”, p. 29

⁶⁸ Beckman, Ludvig (2005), “*Grundbok i idéanalys*”, p. 9

⁶⁹ Bergström, G. & Boréus K. (eds.), (2010), “*Textens mening och makt*”, p. 155

3.1. The descriptive and argumentation approach

The aim of the descriptive approach is to through the analysis process, be able to extract aspects in the material which cannot be understood of its own accord. That is why the descriptive approach consists of making some claims about the nature and content of studying material. Those claims can in turn be understood with reference to different dimensions/measuring points, which are previously determined. It is also important to stress that if we have diversity within both the claims and measuring points it gives us a greater room to make comparisons and consequently determine which of them can in the best way say something about our material. Thanks to this comparison it is thus possible to conduct research and draw subsequent conclusions.⁷⁰ Moreover within the framework of the descriptive approach it is possible to make a *comparison over time*, which can increase our understanding of some phenomena given in relation to possible position changes over time.⁷¹

By going back to the subject of this essay, it should be stressed that the measuring point for this research is going to be taken from theoretical frameworks (discussed in chapter 2, above). Theoretical frameworks, deliver the concepts, which are in turn components that make up the claims.⁷² Moreover it should be noted that theoretical frameworks for this essay consist of three different positions (skeptics, state moralists, cosmopolitans), which give the possibility to provide a relative broad comparison of the Obama Administration's point of view concerning national security and human rights with reference to the Guantanamo prisoners. The measuring point from which we are going to be study within the framework of this essay are first and foremost the Obama Administration's perception of national security and human rights. Nevertheless in order to both bring a clearer picture of the Obama Administration's standpoint and answer the research questions of this essay I decided to study even three other measuring points, which are in turn: the international vs. domestic issue, international law and moral/ethic. I would like to make it clear that these three additional measuring points are closely related to the purposes and questions, raised within this research and provide a complement to highlight the Obama Administration's standpoint concerning national security and human rights. Thus by studying these selected measuring points with reference to sources, which show the Obama Administration's consideration towards the Guantanamo prisoners it is going to be possible to carry through the analysis of this essay and see if it is national security or human rights or maybe these two aspects together that have importance for the Administration. Moreover, the descriptive

⁷⁰ Beckman, *Idéanalys*, pp. 49 & 51

⁷¹ Beckman, *Idéanalys*, pp. 53-54

⁷² Eliasson, Annika (2011), *Kvantitativ metod från början*, p. 12

analysis of this research is going to be related to the theoretical framework of this essay meaning it will be possible to see which of those three ethical views most suite the Obama Administration’s viewpoint.

Furthermore to make the analysis as clear as possible I have collected the three ethical views (sceptics, state moralist, cosmopolitans) with reference to the aforementioned measuring points (national security, human rights, the international vs. domestic issue, international law, moral/ethic) in a table 1, below. This table, can work, as a kind of point of reference to support this research and will hopefully be a helpful tool to give a better understanding of the analysis of this research, which is going to be presented in chapter 4

TABLE 1. The Three Ethical Views

<i>Perception of</i>	Sceptics	State moralist	Cosmopolitans
<u>National Security</u>	<i>Highest importance</i>	<i>Important</i>	<i>Focus on security on the international level</i>
<u>Human Rights</u>	<i>Second-rate issue</i>	<i>Important</i>	<i>High importance</i>
<u>International vs. Domestic Issue</u>	<i>State prime actor. Domestic issue are most important</i>	<i>Sovereign state and people are most important actor. Dividing line between international and domestic issue is unclear</i>	<i>International are first-rate issues</i>
<u>International law</u>	<i>Does not have importance</i>	<i>Different character during wartime</i>	<i>High importance</i>
<u>Moral/Ethic</u>	<i>Does not exist</i>	<i>Important</i>	<i>High importance⁷³</i>

Additionally, to get more a transparent view of the Obama Administration with regard to its ideological stance, I am going to differentiate the standpoints of specific representatives of the Administration. I have chosen to look at the argumentation about the Guantanamo issue of President Barack Obama, Vice President Joe Biden, Secretary of State

⁷³ I would like to explain that there is actually no specific underlying scale for those concepts. I use *important* and *high importance* to show that for example cosmopolitans devotes more attention to human rights than state moralists. The purpose of this table is to make it easier to understand further analysis with reference to the above-described theoretical framework of this thesis.

Hillary Clinton, Former Secretary of Defence (2006 – 2011) Robert Gates⁷⁴ and current Secretary of Defence Leon Panetta.

The aim of this research is also to study possible changes in the position of the Obama Administration concerning the Guantanamo prisoners since 2008. In order to achieve this task I am going to divert from the above-mentioned method concerning collected sources and perform an analysis in references to year: 2008 – 2009 and 2010 – 2012. Thanks to this division I hope to see if the Administration is maintaining the same stance and ideological pattern or if any changes have occurred with reference to its attitude to Guantanamo issue between years 2008 and 2012.⁷⁵

3.2. The explanation approach

As mentioned above, the second research question of this essay is based on an explanation approach that is also a branch of this analysis, the study of moral aspects which affect the Obama Administration's decisions with reference to the Guantanamo prisoners.

The starting point for the explanation approach the research is found within Judith Goldstein's and Robert O. Keohane's normative ideas and argumentation. The authors state that "*ideas as well as interest have casual weight in explanations of human action*".⁷⁶ Further they define *principled beliefs*, as a category of ideas that in turn point out normative aspects by specifying what is right or wrong or just and unjust. Examples of views demonstrating principled beliefs are "slavery is wrong" or "the right of free speech" that in turn are references to cultural symbolism. Moreover, Goldstein and Keohane stress that changes within principal beliefs have a great influence on political action.⁷⁷ Principled beliefs determine individuals' standpoints about the fundamental nature of human life as well as the morality of choices. Additionally, rationalistic analysis affirming that people do not always have complete information when they want to strive for desired outcomes and they have to at the same time choose between different strategies. That is why, ideas, which people hold, is a significant tool for the explanation of policy choices.⁷⁸

⁷⁴ Robert Gates worked as Secretary of Defence in Washington between years 2006 and 2011. That means that he before his cooperation with the President Obama, Gates worked within the Bush Administration. However, Gates resigned from his Secretary of Defence post year 2011 and Leon Panetta has taken his duties. Source: NE: <http://www.ne.se/robert-gates> & U.S. Department of Defense: <http://www.defense.gov/bios/biographydetail.aspx?biographyid=310>

⁷⁵ Beckman, "*Idéanalys*", pp. 53-54

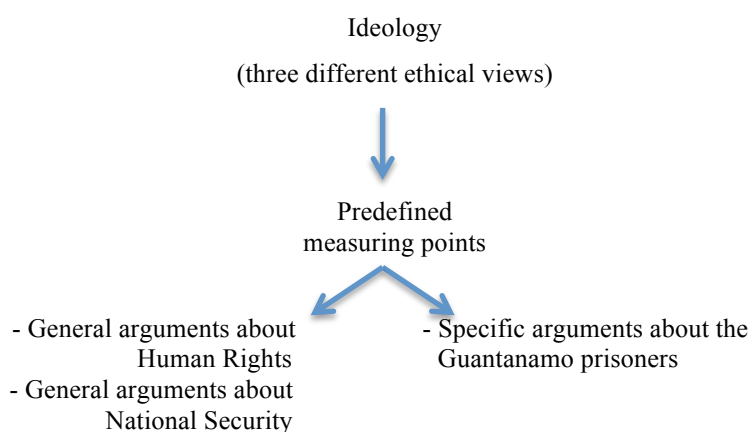
⁷⁶ Goldstein J. & Keohane O. R. (eds.), (1993), "*Ideas and Foreign Policy*", p. 4

⁷⁷ Goldstein & Keohane, "*Ideas*", pp. 8-9

⁷⁸ Goldstein & Keohane, "*Ideas*", pp. 12-13

With reference to the above-mentioned aspects I would now like to explain how I am going to carry out my research concerning second question. After a descriptive analysis of each category connected with the time issue (discussed in chapter 2.1, above) to study more closely what kind of ethical view affects the Obama Administration’s decisions concerning the Guantanamo prisoners I am going to proceed according to the given pattern illustrated in figure 1, below.⁷⁹

FIGURE 1. Analysis schedule given to explanation approach in this research:



The first analytical step within the explanation approach refers to the three different ideological ethical views (skeptics, state moralists, cosmopolitans) and that by applying defined measuring points (table 1, above) to those parts of the chosen material which relate to the Administration decision concerning the Guantanamo issue I hope to identify which of Nye’s three ethical views affects those decisions. Furthermore, to achieve a broader picture of the Obama Administration’s decision, I have decided to take into account general arguments about human rights and national security, which can help to explain decisions taken in other contexts, not only with reference to Guantanamo. Whereas, specific arguments about the Guantanamo prisoners can give some detailed explanation about why the Administration makes just a particular decision or uses of this kind of argumentation and not others in the specific time given to the Guantanamo issue.⁸⁰

The aim of using both descriptive/argumentation and explanation approaches is that those methods will cooperate and complete each other. The difference between them is based on that the first one going to describe the Administration’s standpoints given to different

⁷⁹ Inspiration for how to carry out the analysis within explanation approach is taken from Esaiasson, Peter & others book (2009) “Metodpraktikan”. Figure 1 in this research reflect figure, which is presented in “Metodpraktikan” on page 330

⁸⁰ Esaiasson and others, “Metodpraktikan”, pp. 330-331 & 334

speeches while the other one is going to explain which of these three ethical views affect the decision's of the Administration given to the Guantanamo prisoners.

3.3. Validity and Reliability

Within the framework of this chapter I am going to discuss validity and reliability concerning this essay.

Validity demonstrates if research verifies this what was assumed in the beginning. To increase validity within this essay I have based my research on authentic/true sources. I have devoted lots of time to finding not only a suitable amount of sources but have also focused on their quality. Chosen speeches and documents, which are going to be analysed coming from the official homepages of the United States government. Additionally, all sources used in this research are consistent with the subject of this thesis and demonstrate a particular standpoint of the Obama Administration toward national security and human rights.

Furthermore, I am going to specify what I mean by individual concepts in this thesis and I am going to demonstrate in large measure that those concepts are consistent with the theoretical definitions of this research. Moreover I am going to use different measuring points in this research taken from its theoretical framework. By carrying out analysis in reference to those predefined measuring points I hope to achieve a high validity for this research. Additionally, I would like to point out that this essay is going to study only the Obama Administration's standpoint concerning national security and human rights in relation to the Guantanamo prisoners. Nevertheless using extensive theoretical frameworks and specify measuring points I hope to discover a useful tool to conduct further research related to the same points but in a different context or by pointing out the standpoints of other governments in different countries.⁸¹

Reliability points out to the possibility of relying on conducted research. More specifically, this asks it is possible to repeat the research and get the same result. To increase the reliability of this essay, I am going to carry out analysis according to the way described above (chapters 3.1 and 3.2). Moreover, in order to achieve greater transparency concerning this research I am collecting measuring points in a table, which are presented in chapter 3.1. This table can work as a kind of reference point to the analysis and can also help to check out the result with reference to the predefined measuring points and theoretical framework of this research. Furthermore, all collected sources that are going to be used in the analysis of this research I am saving in my computer but I am also printing all that information and saving it in

⁸¹ Eliasson, "Kvantitativ", pp. 16-17

a binder. All of this information, together with my own notes in the margin will be available for anyone, who would like to check the sources of this research.⁸²

3.4. Sources

This essay is going to be based on both primary and secondary sources. I am going to study primary sources in the form of speeches of representatives of the Obama Administration but also reports and executive orders. To achieve as high representative as possible, in regards to the sources coming from US Government official website, I searched the archive and choose the material which overlap in the best way subject of this research. Moreover, I am going to focus on those people within the Obama Administration, whose work and decision-making is directly related to the Guantanamo prisoners.

The most crucial person, in this context is undoubtedly President Barack Obama. At that time I was looking for sources for my research I found that President Barack Obama is also the person who expresses himself most often about the Guantanamo issue. That is why I am going to study ten of his speeches: six of them are from the period between the years 2008 and 2009 and the remaining four derive from the time between 2010 and 2012.

Another person, whose statements are important for this research is Vice President Joe Biden. I had difficulty in finding speeches by Joe Biden, concerning the Guantanamo issue. That is why I am going to study just two of his announcements. One of them is from the year 2009 and one from 2010.

A further representative of the Obama Administration whose statements I am going to pay attention to within the frame of this essay is the Secretary of State Hillary Clinton. I am going to study five of Hillary Clinton speeches. Two of them come from the year 2009 as well as three from the period 2010 – 2012.

Next, I am going also to point out speeches of the Secretary of Defence. Robert Gates, fulfilled the duties of the Secretary of Defence in the White House between the years 2006 and 2011. After the resignation of Gates in the year 2011, his post was taken over by Leon Panetta.⁸³ It should be pointed out that it was difficult, as in the case of the Vice President, to find speeches by both Gates and Panetta with reference to Guantanamo issue. That is why I am going to study only one speech by Robert Gates from the year 2010 and one speech by Leon Panetta from the year 2012.

Moreover, I am going to study two reports from the years 2009 and 2011 as well

⁸² Eliasson, "Kvantitativ", pp.14-16

⁸³ See, footnote 74, on page 20 in this essay

as two executive orders: one from the year 2009 and one from 2011, which point out decisions taken by the Obama Administration concerning the Guantanamo prisoners. Analysis of this research is also going to be based on secondary sources in the form of books, which were used to construct the theoretical framework of this research.

3.5. Definition of Concepts and operationalization

This essay focuses on two main concepts: National Security and Human Rights. Those concepts are complex and can be understood in different ways. That is why I specify below, how National Security and Human Rights should be comprehended within the frame of this research.

3.5.1. National Security

The concept of National Security within the framework of this research should be understood with reference to Ken Booth and Richard Wyn Jones, who point out that states are grounded on human communities. That is why, Booth and Wyn Jones believe that security should be directed first and foremost to the people and not to “*the state itself in some abstract sense*”.⁸⁴ Furthermore the authors stress that, threats whether they be military, environmental, economic, political or societal affect people in the first place.⁸⁵

To get even closer to the concept of National Security as the subject of this essay I would like to point out that the US after the 9/11 emphasised homeland security in a very narrow sense meaning the protection of the country from terror attacks, especially those using possibly nuclear material. During the 9/11 era, the US has directed particular importance toward the protection of the countries borders and keeping terrorists outside it.⁸⁶

3.5.2. Human Rights

The concept of Human Rights in this thesis is based on the United Nation’s Universal Declaration of Human Rights, which consists of thirty articles. The introductory articles of the Declaration emphasise that people’s conscience and possibility to live a dignified life are the core elements of what it means to be a human being and that it is just people, who form the principals as to why all action should be related in the first place to human beings.⁸⁷

The first article of the Declaration, which says that: “*All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should*

⁸⁴ Peoples C. & Vaughan-Williams N. (2010), “*Critical Security Studies. An introduction*”, p. 23

⁸⁵ Peoples & Vaughan-Williams “*Security Studies*”, p. 23

⁸⁶ Pillar, Paul R. (2008), “*Counterterrorism*”, in Williams, Paul D. (ed.), “*Security Studies. An introduction*”, pp. 380-381

⁸⁷ Roth, Hans Ingvar (2007), “*Vad är mänskliga rättigheter*”, p. 35

*act towards one another in a spirit of brotherhood*⁸⁸ is the essence of the concept of Human Rights. The Declaration is also clear that all people have the same, not only political and civil rights but also economic, social and cultural rights. Nevertheless it is important to underline further that the Declaration covers among other things issues such as the right to live, freedom and personal security and the prohibition of discrimination and torture (art. 2 – 5), equality before the law (art. 7), the right to a fair trial (art.10) or the right to a nationality (art. 15).

It is important to stress that there may be a certain amount of deviation from such principles, in emergency situations, when a nation's survival is threatened. However, there is no concession in the articles, when it comes to the right to live and to be a legal entity as well as freedom of religion. There is also no concession on the prohibition of torture, slavery or servitude; the prohibition of punishment for non-completion of contractual obligation (e.g. non-funded debt), art 11 or retroactivity.⁸⁹

4. Analysis

This chapter presents an analysis of the Obama Administration's consideration related to the dilemma between national security and human rights as well as an analysis of ideological aspects, which affected the Administration's decisions concerning prisoners of war, detained at Guantanamo Bay. First, I am going to present an analysis of the Obama Administration between the years 2008 and 2009 and then an analysis of the Administration between 2010 and 2012.

4.1. The Obama Administration 2008 – 2009

Barack Obama began his presidential post with a clear declaration that the prison camp at Guantanamo Bay was going to be closed within a year and this has been assessed among others such as the Secretary of State Hillary Clinton as the biggest change and issue that singles out the current Administration from its predecessors.⁹⁰

President Obama in his speech in Washington D.C. on the 21 May 2009 mentioned the Guantanamo prisoners by underlining national security and American values. The President expressed his conviction that Guantanamo set back American morality and had

⁸⁸ The Universal Declaration of Human Rights: <http://www.un.org/en/documents/udhr/index.shtml>

⁸⁹ Fisher, David I. (2012), *"Mänskliga rättigheter"*, pp. 23-24

⁹⁰ Clinton, Hillary (Philippines, November 13, 2009), *Townterview Hosted by ABS-CBN with Manila Studenters*, (printed version [hereinafter pv.], p. 7) & Obama, Barack (Cairo, Egypt, June 4, 2009), *Remarks by the President on a New Beginning*, (pv. p. 3)

the opposite effect: instead of counter terrorism it helped al-Qaeda to recruit terrorist.⁹¹ He pointed out: “*Guantanamo has weakened American national security*”.⁹² The President stressed also that the security of the American people is his most important responsibility and this responsibility gets great emphasis in the time when extremist ideologies threatens American people. Obama expressed moreover that the government possesses knowledge that al-Qaeda is actively planning to attack America again. Nevertheless, Obama assures that investment in military and intelligence capabilities allow the US to stay one step ahead of the enemy and he further emphasizes that:

We’re [American government] better protecting our border, and increasing our preparedness for any future attack or natural disaster. We’re building new partnership around the world to disrupt, dismantle, and defeat al-Qaeda and its affiliates. And we have renewed American diplomacy so that we once again have the strength and standing to truly lead the world.⁹³

The president underlines the importance of the American peoples’ security as well as government’s undertakings, which are connected to the protection of US borders and that indicates the state moralist standpoint of the Administration. Because, according to the state the moralist’s viewpoint national borders do have moral meanings and it further should be pointed out that the state is the entity representing people’s rights.⁹⁴ Moreover the President points out that America cannot be kept secure without regard to most fundamental values and he emphasizes the authority of documents such as the Declaration of Independence, the Constitution and the Bill of Rights. That President Obama accentuates domestic law and passes over international law reveals rejection of the cosmopolitans viewpoint and once again indicate on state moralist position. Additionally, according to the President, when terrorists bring only the injustice of disorder and destruction America must show that its values and institutions are stronger than a “*hateful ideology*”.⁹⁵ With regard to this last point, the President criticizes the former Bush Administration by emphasizing that his predecessor made a range of hasty decisions. Besides, President Obama points out that his negative assessment of the former Administration is not only his own but that of the American people, who elected him to be the new president because his policy rejected torture and admitted that it is imperative to close the prison at Guantanamo Bay.⁹⁶ The argument, which stresses the prohibition of

⁹¹ See, footnote 121 p. 31

⁹² Obama, Barack (Washington D.C. May 21, 2009), *Remarks by the President on National Security*, (pv. p. 3)

⁹³ Obama, *Remarks by the President on National Security*. (pv. p. 1)

⁹⁴ Nye & Welsh, “*Global Conflict*”, p. 27

⁹⁵ Obama, *Remarks by the President on National Security*, (pv. pp. 1-2, quote on page 2)

⁹⁶ Obama, *Remarks by the President on National Security*, (pv. p. 2)

torture can be connected to the states moralist and viewpoint as well as that of Walzer, who points out the importance of the law of war and the necessity of trial to prove the possible guilt of prisoners of war.⁹⁷ However, the cosmopolitans also share this opinion.

The President also states that if some of the Guantanamo prisoners were tried and convicted they would not be detained at all in a facility like that. It is evident in the statements of President Obama that he perceives the former Administration as sceptics and questioned their decisions by stressing that they were against American ideals and traditions as well as the rule of war.⁹⁸

President Obama in other speeches during the year 2009 underlined the importance of cooperation with American's friend and allies, which would bear fruit within a new and comprehensive strategy to defeat al-Qaeda and combat extremism. However, the President argued that America would defend itself with respect to the sovereignty of other nations and the rule of law.⁹⁹ That standpoint overlaps clearly the state moralist's viewpoint, which point out importance of sovereignty. Another time, Obama stresses also that there is no more powerful force than America in the world and the country have to uphold their values which are also defended by the troops. Living out American values, according to President Obama does not make the country weaker but just the opposite; it makes America safer and stronger. That is why the closing of prison at Guantanamo is a significant issue because United States of America does not torture and this argument comes out many times within the Obama Administration. This argument is also a unanimous state moralist position based on Geneva Conventions and it protection of prisoners of war.¹⁰⁰ The President underlines moreover that eyes of people in all nations are once again upon America and they are waiting for American's to take a leading roll.¹⁰¹ The desire to see the US dominant roll in the international system reminds about the balance of power, which was pointed out by skeptics. The US would still like to hold some degree of order in the international arena and not stand back.¹⁰²

American values and ideals as well as the rule of law and justice are the often-used arguments by the Obama Administration to question the Guantanamo prison. Further, it should be pointed out that just as state moralist but even cosmopolitans the

⁹⁷ Walzer, *Just and Unjust*, pp. 209 & 213

⁹⁸ Obama, Barack (Dresden, Germany June 5, 2009), *Remarks by President Obama and Chancellor Merkel of Germany*, (pv. p. 3)

⁹⁹ Obama, *Remarks by the President on a New Beginning*. (pv. p. 3)

¹⁰⁰ Walzer, *Just and Unjust*, pp. 209

¹⁰¹ Obama, Barack, (February 24, 2009), *Remarks of President Barack Obama - As Prepared for Delivery Address to Joint Session of Congress*, (pv. p. 6)

¹⁰² Nye & Welsh *Global Conflict*, p. 25

Administration believes that international alliances and organisations do have an importance in advancing among other things collective security. Vice President Joe Biden argues also that cooperation with Russian “*colleagues*” is significant to defeat the common enemy, who are the Taliban and al-Qaeda.¹⁰³ Nevertheless, Obama with reference to Russia used a different rhetoric during one of his presidential debate with Senator McCain in 2008. Certainly, Russia is a not the subject of this essay and I am not going to elaborate this point here, but contemporary statements by Obama can anyway have a connection to the purpose of this research. Obama, said namely that: “*You deal with Russia based on, what are your – what are the national security interests of the United States of America*”.¹⁰⁴ The national security argument is clearly stated by the Obama Administration and this can be understood through the sceptics’ viewpoint. However the Administration also points out the human rights aspects: “*Our mission is to embrace it, to work for lasting peace through a principled human rights agenda, and practical strategy to implement it*”.¹⁰⁵ Furthermore, Hillary Clinton states that human rights cover universal standards, to which everyone is accountable, including America. The Secretary of State also make it clear that President Obama complies to human rights rules issued by executive order, prohibiting torture and cruelty by any American official as mentioned at the beginning of this chapter, ordering the closure of the prison at Guantanamo Bay.¹⁰⁶

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To recapitulate the analysis above it should be pointed out that the argument for national security is what dominates the Obama Administration’s viewpoint. It is also visible that the Obama Administration’s viewpoint refers predominantly to state moralist ethical view. Nevertheless it would be worth, before drawing definitive conclusions, to look at the Obama Administration’s decisions given to the Guantanamo issue. These could complete the current, acquired knowledge by showing a broader picture of the Administration’s attitude towards the prisoners of Guantanamo. Thus, I am going to study first Executive Order 13492, which President Obama signed in January 2009 and then a report from year 2009.

The President in Executive Order 13492 – *Closure Of Guantanamo Detention Facilities* from 22 January 2009 declares a prompt of closing the detention facilities at

¹⁰³ Obama, Barack (Caen, France, June 6, 2009), *Remarks by President Obama and President Sarkozy of France*, (pv. p. 1) & Biden, Joe (Munich, Germany, February 7, 2009), *Remarks by Vice President Biden at 45th Munich Conference on Security Policy*, (pv. pp. 2 & 4; Biden’s quote on page 4)

¹⁰⁴ Obama, Barack (September 26, 2008), *Presidential Debate Transcript, Mississippi*, (pv. pp. 38-39)

¹⁰⁵ Clinton, Hillary (Washington D.C. December 14, 2009), *Remarks on the Human Rights Agenda for the 21st Century*, (pv. p. 1)

¹⁰⁶ Clinton, *Remarks on the Human Rights Agenda*, (pv. p. 2)

Guantanamo. No later than one year from the date of the signed order, the prisoners would be transferred to a third country or another U.S. detention facility. The President's decision is affected by state moralists ideology because he motivated the closure of Guantanamo by pointing out that it is in interest of United States national security, foreign policy interest as well as interest of justice. Furthermore, the President emphasizes even the importance of the Geneva Conventions Common Article 3, which describes the humanitarian treatment of Prisoner of War.¹⁰⁷ Those aspects listed by President Obama are the cores of states moralists' ideology because their ethical view is based on the importance for national security but in the same time they do not deny the importance of human rights. State moralist believes that morality and international law are linked and just like the President, they refer to the values of the Geneva Convention. President Obama underlines the "*respect to the individuals currently detained at Guantánamo*".¹⁰⁸ State moralists emphasis moreover the weight of domestic issue but are aware that cooperation on the international arena is important and that is why they do not draw a clear dividing line between international and domestic issues.¹⁰⁹ That last point is also visible in this Executive Order because the President emphasizes that the Guantanamo prisoners shall be returned to their home countries or transferred to other prisons in the US or to a third country.¹¹⁰ To be able to transfer Prisoners of War from Guantanamo to other countries thus requires close cooperation on the international arena.

A report, which has been made to the Senate by Deborah N. Pearlstein shows that there should be no doubt that President Obama "*made the right decision*"¹¹¹ in reference to closing Guantanamo. Pearlstein underlines that Guantanamo does not help U.S. national security and it would be, according to her testimony: "*irresponsible as a matter of national security to allow the problem to continue to fester*".¹¹² However Pearlstein emphasizes also that the closing of Guantanamo is a difficult task because of, *inter alia* the variance action that undermined the U.S. obligations under Article 5 of the Third Geneva Convention, which was taken by the former Bush Administration. Nevertheless she underlines that regardless of the

¹⁰⁷ Obama, Barack (Washington DC, January 22, 2009), *Executive Order 13492 "Closure Of Guantanamo Detention Facilities"*, (pv. pp. 1-2)

¹⁰⁸ Obama, *Executive order "Closure Of Guantanamo"*, (pv. p. 2)

¹⁰⁹ State moralists' standpoint is discussed in this essay on pp. 11-13 and illustrated in a table 1 on p. 19

¹¹⁰ Obama, *Executive order "Closure Of Guantanamo"*, (pv. p. 2)

¹¹¹ Pearlstein, Deborah N. (July 28, 2009), "Prosecuting Terrorist: Civilian and Military Trials for GTMO and Beyond", *Prepared Testimony to the Subcommittee on Terrorism and Homeland Security Committee on the Judiciary United States Senate*, p. 3

¹¹² Pearlstein, "Prosecuting Terrorist", pp. 4-5 quote on p. 4

many obstacles it is not only possible to close Guantanamo but even that the prison must be closed.¹¹³

Report of Deborah Pearlstein shows thus the rightness of President Obama's decision about closing of Guantanamo in reference to national security and international law as Geneva Convention. This decision is also pertinent to already mentioned state moralist viewpoint. Now, I am going to analysis the Obama Administration's standpoint in reference to the Guantanamo issue but given to period between years 2010 and 2012.

4.2. The Obama Administration 2010 – 2012

President Barack Obama admits year 2010 that he wanted to close Guantanamo sooner and that the Administration has missed, the above-mentioned deadline, not because of lack of trying but for politic difficulty that is connected with this issue.¹¹⁴ Hillary Clinton emphasize also that closing of Guantanamo is a challenging task and became impossible to complete within a year.¹¹⁵

Nevertheless once more the Obama Administration argumentation is dominant by the state moralist view within its statements given to Guantanamo prisoners during the period between 2010 and 2012. The Administration, namely underlines the significance of the national security issue but does not forget cooperation with other countries: "*It was always our intent to transfer detainees to other countries only under conditions that our security is being protected*".¹¹⁶ Hillary Clinton underlines also the aspect of global security,¹¹⁷ which is a factor that could even be related to the cosmopolitans' position because they focus the security issue on the international level.¹¹⁸ Furthermore, Clinton stressed the importance of the willingness of other countries; those that want to take in prisoners of Guantanamo, because it helps America to close the prison. The Secretary of State is also grateful for those countries, like Spain that have already done it.¹¹⁹ However, the process of transferring of the Guantanamo prisoners is

¹¹³ Pearlstein, "Prosecuting Terrorist", pp. 4-5. To could make this point more clear it should be pointed out that unlawful treatment such, as torture and cruelty of prisoner of war by the Bush Administration can have consequences in form of that the United States has constrain possibility to transfer the prisoner to another country, when there is evidence that they were not being treated according to international law. Source: *Id.* p. 4 & Garcia, Michael John & others (February 11, 2011) CRS Report for Congress: "*Closing the Guantanamo Detention Center: Legal Issue*" p. 8

¹¹⁴ Obama, Barack (September 10, 2010), *Press Conference by President Obama*, (pv. p. 10)

¹¹⁵ Clinton, Hillary (Doha, Qatar February 14, 2010), *Remarks at the U.S.-Islamic World Forum*, (pv. p. 4)

¹¹⁶ Obama, Barack (January 05, 2010) *Remarks by the President on Security Reviews* (pv. p. 2)

¹¹⁷ Clinton, *Remarks at the U.S.-Islamic World Forum*, (pv. p. 4)

¹¹⁸ See, theoretical framework of this essay pp. 13-15 & table 1 p. 19

¹¹⁹ Clinton, *Remarks at the U.S.-Islamic World Forum* (pv. p. 4) & Clinton (Washington DC, January 2011), *Remarks With Spanish Foreign Minister Jimenez Ater Their Meeting*, (pv. p. 3)

not easy because it is connected with several negotiations, as in the example of Omar Khadr, who would be transferred from Guantanamo to Canada.¹²⁰

Another aspect that is consistent with the state moralist position is American values, and this is also visible in announcements of the Administration. Example of that can be a declaration of Joe Biden, who points out that; principles make America stronger and that Guantanamo is going to be closed because it is a “*symbol of injustice and a rallying cry for terrorist*”.¹²¹ The President, who underlined that Guantanamo became a tool for al-Qaeda to recruit new members, also emphasized the last argument.¹²² President Obama underlines furthermore the importance of the justice system, including Article III of Courts,¹²³ which condition American security and values. According to the President, the trial of the Guantanamo prisoners in Federal court is a “*powerful tool in our [United States] efforts to protect the Nation and should be among the options available to us*”.¹²⁴ President Obama also points out that the Administration are going to work with members of Congress to create a sensible system for prosecuting the Guantanamo prisoners, appropriate to above mentioned Article III Courts.¹²⁵ Moreover, the Administration refer, as in year 2009, to the Geneva Conventions and points out according to Common Article 3 of the Conventions the right to fair treatment and fair trial of the Guantanamo prisoners.¹²⁶ Trials for the prisoners and treatment that is in accordance with domestic and international law reflect the state moralist worldview. This argument was even noticeable to a considerable degree in the first part of the analysis in chapter 4.1 above.

The issue connected to Guantanamo, which was not visible in year 2009 but comes out later relates to fiscal aspects of the prison. The President points out, namely that it is more expensive to hold prisoners at Guantanamo than in a super maximum-security prison in

¹²⁰ Panetta, Leon (March 27, 2012), *Media Availability with North America Defence Ministers on Threats to American Security at Auditoriu, Ottawa, Canada*, (pv. p. 6)

¹²¹ Biden, Joe (Brussels, Belgium, May 6, 2010) *Remarks by Vice President Biden to the European Parliament* (printed version pp. 3-4). To make clear in which way Guantanamo became a *rallying cry for terrorist and recruiting tool for al-Qaeda* I would like to point out Professor Lawrence E. Cline's research. Cline explains, namely that some people understand that the role of Guantanamo as a prison, which is against Islam, can affect additional resistance from the terrorist's side. Source: Cline, Lawrence E. (February 21, 2010) “*Guantanamo: A less than tremendous recruiting tool for Al Qaeda*” Literature Review Project p. approximately 3 (unnumbered pages)

¹²² Obama, *Press Conference by President Obama*, (pv. p. 10)

¹²³ Article Three of the United States Constitution defines the judicial Power of the United States that comprises of one Supreme Court and inferior Courts, which are ordain and establish by Congress. Source: The Constitution of the United States, available: <http://www.usconstitution.net/const.pdf>

¹²⁴ Obama, Barack (January 7, 2011), *Statement by the President on H.R. 6523*, (pv. p. 1)

¹²⁵ Obama, *Press Conference by President Obama* (pv. p. 10)

¹²⁶ Obama, Barack (March 7, 2011) *New Actions on Guantanamo Bay and Detainee Policy* (pv. p. 1) & Clinton, Hillary (Washington DC, March 7, 2011) *Reaffirming America's Commitment to Humane Treatment of Detainees* (pv. p. 1)

the United States.¹²⁷ The same argument is even emphasized by Secretary of Defence Robert Gates. When questioned during the discussion before the Senate Appropriations year 2010, about substantial cost connected with the transfer of prisoners from Guantanamo to Illinois, Gates replied that the Administration is about to close Guantanamo. Gates added also that the mentioned substantial costs are a one-time cost and, for the long-term, the closing of Guantanamo and transfer of prisoners to other detention facilities is going to be less costly.¹²⁸ The fiscal aspect can be understood in reference to sceptics view because, according to sceptics; nobody should do more then their capacity. That is why sceptics would explain the decision about closing Guantanamo in the way that the prison rather strains the United States economy than moral aspects connected with the transfer of prisoners of war to other detention facilities.¹²⁹

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Current analysis of statement of the Obama Administration between 2010 and 2012 shows that argumentation about national security and human rights were covered in considerable degree, just like the Administration between 2008 and 2009. That means that security issue is clearly pointed out by the Administration but they mentioned also human rights. Nevertheless, given to ideological viewpoint, aside from state moralist even other perspectives as sceptics became more visible in this part of the analysis, in speeches from members of the Administration. To be able to clarify the picture of the Administration's standpoint in reference to the Guantanamo prisoners, I am now going to analysis further material in form of the President's Executive Order 13567 from year 2011, as well as a report from the same year, which provides an overview of major legal issues connected with executive and legislative action that was taken to close the Guantanamo detention facility.

Executive Order 13567 – *Periodic Review of Individuals Detained at Guantánamo Bay Naval Station Pursuant to the Authorization for Use of Military Force*, which was signed by President Obama in The White House on 7th March 2011, refers to the prisoners of war currently being held at Guantanamo. The purpose of the Order is, as the tittle point out, to establish a system of periodic review for detainees held at Guantanamo.

The President, in the order, stresses that the detainees have the constitutional privilege of the writ of habeas¹³⁰ and the jurisdiction of the Federal Courts is not going to by

¹²⁷ Obama, *Press Conference by President Obama*, (pv. p. 10)

¹²⁸ Gates, Robert (March 25, 2010), *Remarks Before the Senate Appropriations Subcommittee on State, Foreign Operation, and Related Programs* (pv. pp. 6-7)

¹²⁹ See, theoretical framework of this essay on p. 10

¹³⁰ Habeas Corpus, according to this principle a person that is under arrest should be brought before a court that could judge about his or her further detention. Source: NE: <http://www.ne.se/lang/habeas-corpus-act>

effected by the Order. Moreover, President Obama pointed out that in the case of transfer of the Guantanamo prisoners to other U.S. detention facilities they are still going to be covered by the Order.¹³¹ In the Order the President draws attention to that the transfer of the Guantanamo prisoners should comply with the national security and foreign policy interest of the United States. He authorizes also the Secretary of State, in consultation with the Secretary of Defense to the responsibility for assurance of security and humane treatment for any detainee, who is going to be transferred to another country.¹³² This decision of the President illustrates once again that it is affected by state moralist view given to the concern about national interest, but in the same time the significance of humane treatment of the prisoners of war.¹³³ Nevertheless, President Obama refers also to the international community by pointing out international laws in form of the Convention Against Torture, Common Article 3 of the Geneva Conventions, the Detainee Treatment Act of 2005 and other laws “*relating to the transfer, treatment and interrogation of individuals detained in an armed conflict*”.¹³⁴ This adopts the cosmopolitan’s attitude because, for the cosmopolitans, international law and human rights are the first-rate issues. Cosmopolitans believe also that moral aspects does have the same importance during both peace and in wartime.¹³⁵

The report “*Closing the Guantanamo Detention Center: Legal Issues*” from 11th of February 2011 shows that the decisions of the Obama Administration are affected of state moralist viewpoint because the report confirm the antecedent position of the Administration given to the Guantanamo prisoners. The report points out that Guantanamo has not been closed yet, not because of that the Obama Administration has changed in its’ decisions since the Executive Order from January 2009,¹³⁶ but the efforts of the Administration have been hindered by the row of congressional enactments that limits the transfer or release of the Guantanamo prisoners.¹³⁷ The report emphasizes that, since the issuance of the Order in 2009 only one prisoner, Ahmed Ghailani, held at Guantanamo has been transferred to the United States and that was in June the same year. The transfer took place shortly before “*Congress enacted the first of several restriction on the use of appropriated funds to bring Guantanamo detainees to the Unites States*”.¹³⁸ The report underlines further that President Obama

¹³¹ Obama, Barack (March 7, 2011), *Executive Order 13567* “Periodic Review of Individuals Detained at Guantanamo Bay Naval Station Pursuant to the Authorization for Use of Military Force”, (pv. p. 1)

¹³² Obama, *Executive Order 13567* “Periodic Review of Individuals” (pv. p. 2)

¹³³ See, Theoretical Framework of this essay p. 13 and table 1 p. 19

¹³⁴ Obama, *Executive Order 13567* “Periodic Review of Individuals” (pv. p. 3)

¹³⁵ See, Theoretical Framework of this essay p. 15 and table p. 19

¹³⁶ See, chapter 4.1 in this essay on pp. 28-29

¹³⁷ Garcia, Michael John & others, CRS Report: “*Closing the Guantanamo*” p. 5

¹³⁸ Garcia, Michael John & others, CRS Report: “*Closing the Guantanamo*” pp. 3-4

expressed his opposition to those provisions that restrict executive discretion to transfer the Guantanamo prisoners to another custody in the United States or other countries. The report cites a statement of the President, when he emphasizes that the interference of Congress collides with making significance and consequential decisions of the executive branch given to both foreign policy and national security resolution. Furthermore, the report underlines, as already mentioned (p. 31) the willingness of the Administration to work together with members of Congress to help mitigate the effect of the restriction, but also that the President will “*oppose any attempt to extend or expand them in the future*”.¹³⁹ Moreover, the report explains in detail regulation connected with, for example the transfer of the Guantanamo prisoner to the United States or other countries but on account of this research purpose and scope I am not going to describe those different provisions here because it requires a separate analysis. Nevertheless, I would like to emphasize here some aspects given to the treatment of detained persons. The report points out, namely that the Detainee Treatment Act of 2005¹⁴⁰ provides that treatment of the Guantanamo prisoners would not be unchanged in the case of transferring detainees to the United States; treatment of all detainees should be conformity with the Geneva Conventions and “*prohibits the use of torture or cruel, inhuman, and degrading treatment in any circumstance*”.¹⁴¹ However, the case when detainees are transferred outside of the United States is more confusing because those prisoners do not have the same constitutional protection. This situation illustrates well the case of *Kiyemba v. Obama*, which involves a group of the Guantanamo prisoners, who were no longer perceived as enemy combatants. However they could not been transferred to their home country of China because there was evidence that they could became a subject to torture after homecoming. Those Guantanamo prisoners’ situations ended in deadlock because when they could not been transferred to third country, the Supreme Court returned the case to the D.C. Circuit for retrial examination with reference to new circumstances. Nevertheless, the D.C. Circuit reinstated its earlier verdict by taking into account the congressional decision about limiting of transfers of any Guantanamo detainee into United States.¹⁴² This example shows not only the complexities of the law but also that the President, regardless of his declaration about his opposition in the case of congressional hinder to transfer of the Guantanamo prisoners, did not make this resolution consistently.

¹³⁹ Garcia, Michael John & others, CRS Report: “*Closing the Guantanamo*” pp. 3-4

¹⁴⁰ The Detainee Treatment Act of 2005 is an Act of the United States Congress, which prohibits cruel, inhuman, degrading or degrading treatment of prisoner in US custody. Source: Bradbury, Steven G. (August 31, 2006) “*Memorandum for John A. Rizzo*” p. 1

¹⁴¹ Garcia, Michael John & others, CRS Report: “*Closing the Guantanamo*” in footnote 8 on pp. 2-3 & p. 17

¹⁴² Garcia, Michael John & others, CRS Report: “*Closing the Guantanamo*” pp. 17-18

5. Conclusions and Final Discussion

The purpose of this research was to study the Obama Administration position given to the Guantanamo prisoners in reference to three different ethical views and by way of introduction I presented two questions. Now, I would like to return to those two research questions and on the basis of the analysis (chapter 4) I would like to answer them one by one.

The first question was as follow: Drawing on three different ethical views, how does the Obama Administration consider the dilemma between national security and human rights, specifically in relation to the Guantanamo prisoners and has it changed its position since 2008?

Analysis presented above in chapter four, shows that national security dominates the statements of the Obama Administration. The Administration points out namely that the security of American people is their most important responsibility and the United States makes all efforts to secure the country's borders as well as protect American national security interests. Nevertheless the Administration underlines also that America cannot be kept secure without regard to the most fundamental values, that shows in turn that moral and ethical aspects do have importance for the current Administration. The Obama Administration argues also that Guantanamo detention facility undermined United States values and weakened national security. That is why the Administration strives after to close the Guantanamo. Willingness to close the Guantanamo is also motivated by the Administration in reference to human rights aspects because United States does not torture and the prison became a symbol of injustice. Moreover, the Administration argues that human rights are covered by universal standards, which should be obeyed by all states, including the United States. It points out the importance of international law like Geneva Conventions, Convention Against Torture or Detainee Treatment Act of 2005. Further, the Obama Administration emphasizes cooperation with other states in the case of transfer the Guantanamo prisoners to help ensure global security.

The way in which the Obama Administration considers the dilemma between national security and human rights can be understood through the prism of state moralists view. This means that national security does have an important role within policy of the current Administration. Nevertheless, the Administration points out also the importance of human rights by underlining prohibition of torture and humane treatment of the prisoners of war detained at Guantanamo as well as complying with international law such as Geneva Conventions.

Furthermore, it should be emphasized that analysis of this research displayed that the Obama Administration has not changed its line of argumentation given to national security and human rights since 2008. The position of the Obama Administration between 2008 and 2009 as well as between 2010 and 2012 is characterized by pointing out the importance of the security issue but in the same time the Administration does not deny the significance of human rights.

Now, I would like to refer to the second research question of this essay that was: What kind of moral aspects affects the Obama Administration's decisions about the Guantanamo prisoners?

The most significant decision of the Obama Administration given to the Guantanamo prisoners is undoubtedly, President Obama's declaration concerning closing the Guantanamo detention facility. Furthermore, the Administration pointed out repeatability between the years 2008 and 2012 the testimony of assurance of American people's security and humane treatment of the prisoners of war, who are detained at Guantanamo. The operationalization of the theoretical framework (illustrated in table 1 on p. 19) and methodological approach of this research presented in chapter three enabled me to come to a conclusion that the Obama Administration's decisions are affected in large measures by the state moralists view. This conclusion is based on the fact that the Administration does not place national security and national interest as the issue of the first-rate issue without regard to other aspects like human rights, as in the case of the sceptics. The Administration does not either priority security and human rights issues on the international arena by forgetting about American sovereignty, as would the cosmopolitans would do.

State moralist view points out aspects such as territorial integrity, political sovereignty as well as people's important role within the state and that is also visible within the Administration's policy. The Administration emphasizes, namely American values, people's choices and country sovereignty. The current Administration makes decision in reference to national security and foreign interests of the United States and it is coherent with state moralist view because their ethical position create the theory of aggression that take into consideration the security of the people. According to both the theory of aggression and the Obama Administration, the state is obligated to defend and protect the country because, a possible attack would affect first and foremost the people. That is why President Obama declared that the security of American people is his most important responsibility. Those mentioned aspect could be related not only to the Guantanamo prisoners but also to the general argumentation about national security connected with the Administration's policy.

Furthermore it should be pointed out that regardless of the importance of national security and sovereignty, state moralist emphasize also the human rights aspect given to international law such as Geneva Conventions. Michael Walzer, who represents the state moralist position, believes that civilian people and prisoner of war should be protected. Walzer expresses his critic against *deterrence without retribution*¹⁴³ that allows using civilian people as a deterring element during wartime. The Obama Administration shares Walzer's view when it directs its criticism towards the Bush Administration and labels the former Administration as the sceptics. That fact that the Obama Administration takes into consideration international law and humane treatment of prisoners of war can be related to more general argumentation about human rights. Nevertheless, the analysis shows moreover the Administration's specific argumentation connected with the Guantanamo issue, such as the importance of the trials of the Guantanamo prisoners or the closure of Guantanamo is coherent with United States national security, foreign policy interest as well and interest of justice. Those arguments in turn covers also state moralist view.

The state moralist position explains, to a large degree, the Obama Administration standpoint in reference to the Guantanamo issue but does not explain everything. Analysis of this research shows even that some aspects of the Administration's argumentation can be even explained by both the sceptics and the cosmopolitans. Nevertheless, according to Joseph Nye's standpoint, presented in theory critic in this research (chapter 2.4) most people develops some kind of hybrid position given to those three diverse ethical views. The Guantanamo facility is a compound issue, which can explain that argumentation of the Administration can vary given to the context of a specific situation.

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Additionally, this research about the Obama Administration's position in reference to the prisoner of war detained at Guantanamo shows the intricacy of the political issues in the international system. This research shows also that both ideology as well as morals and ethics matter in international relations. It is visible that the ideological beliefs of the Obama Administration are a driving force to strive after the closing of the Guantanamo detention facility. Nevertheless, the above analysis of the report "*Closing the Guantanamo Detention Center: Legal Issues*" from year 2011 shows that, regardless of the willingness and efforts of the Administration, the actions designed to close the Guantanamo are, on the one hand hindered by laws obstacles and on the other hand opposed by the position of the Congress.

¹⁴³ See, theoretical framework of this research p. 13

Furthermore, it should be also pointed out by allude to previous researches (presented in chapter 1.4), which shows that, contrary to the Obama Administration's announcement about changes within counterterrorism, there is still the same policy as the previous Administration. Moreover the previous research displays that the Obama new Military Commissions Act still leaves the room for more of Bush's old practices. The previous research underlines also that the Obama Administration not only continues the Bush Administration liberties in the subject of surveillance area but also expanding other practises such as using drone aircraft to kill people suspected of terrorism. Nevertheless, analysis of this research highlights a surprising result of the studied material. Analysis of the Obama Administration's speeches, executive orders as well as reports, prove that the current Administration do not only use a markedly differ rhetoric in comparison to the Bush Administration but are also trying to implement real changes related to the prisoners of war detained at Guantanamo. One of the differences between this study and the presented previous research is that this study focuses strictly on the Guantanamo prisoners and bypasses aspects such as the war in Afghanistan or the use of drone aircraft by the Administration. Moreover this study complete previous research by showing the Administration's decision concerning the Guantanamo issue in the new light of Nye's three different ethical views. The theoretical frameworks showed to be a good tool that could both describe and explain the Administration decision given to the Guantanamo prisoners. However, within framework of this research there was no space to be able to carry out a wider analysis of changed in the law since 2009 connected with the Guantanamo issue as for example already mentioned the Obama Military Commissions Act. It would be also a significant complement to complete the current study by focuses the future researches on for-mentioned drone aircraft. This military force cause's controversy not only in reference to its mechanism of action but also it can be observed in media that more and more countries are interested in purchasing of drone aircraft. It could be also important that future research follow the Guantanamo issue during the next term in office of the Obama Administration, particularly with regards to that President Obama nominated on 7th January 2013 a new Secretary of Defense, who is Chuck Hagel. Hagel is opposed to military intervention and prefer instead diplomatic solution within international relations.¹⁴⁴

¹⁴⁴ News American Forces Press. US DOD: <http://www.defense.gov/news/newsarticle.aspx?id=118930>

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