

PhD Research Proposal*

For the Interdisciplinary Legal Studies PhD Doctoral Programme

Faculty of Law (Juridicum) – University of Vienna, Diplomatic Academy of Vienna

TITLE

Continuities in the American Foreign Policy between Presidents George W. Bush and Barack Obama. Case study: The Global War on Terror, Counter Terrorism Policies and their Compliance with International Law

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***Disclaimer:** Please note that this PhD Proposal is based on the Master Thesis with a similar title and topic written for the completion of the Master of Advanced International Studies Programme, Diplomatic Academy of Vienna, University of Vienna (class of 2013) – Author Corina Ioana Trăistaru. It is my intention to continue and develop my research on the same topic starting from and building on the Master Thesis written for the Master of Advanced International Studies Programme. This research proposal has been previously submitted in August 2015 for the admission to the preparatory course of the Interdisciplinary Legal Studies PhD Doctoral Programme.

Introduction

The terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, marked a turning point in the foreign policy of the United States of America (USA). On September 20, 2001, in his Speech to a Joint Session of Congress, President George W. Bush declared the Global War on Terror/Terrorism (GWOT) against Al-Qaeda “a radical network of terrorists and every government that supports them.”¹ After President Obama took office, Obama’s then top adviser for Homeland Security and Counterterrorism, George Brennan, stated that the new Administration viewed the post-9/11 security environment differently. The Obama Administration would work on the underlying factors of terrorism (e.g. lack of education, unemployment and poverty) instead of focusing heavily on counterterrorism. This seemed to indicate that the GWOT would be fought differently by President Obama.²

As elements of **discontinuity** we can identify the following: (1) **Language**: President Obama tried to change the denomination of the conflict (GWOT) to Overseas Contingency Operations or “war against Al-Qaeda and its affiliates.”³ (2) **Increased lack of transparency**: “the cold reality of national security leadership has forced the Obama administration to balance its former counter-GWOT rhetoric with a quiet toughness which at times has had to be even more hard-nosed than that of the Bush administration (the number of Predator kills being the most obvious yardstick).”⁴ (3) **Broadening the conflict’s scope**: Initially, the GWOT was fought mainly in Iraq and Afghanistan. This broadening of scope has become even more evident with the extension of the drone attacks not only to Pakistan, but also to Somalia or Yemen. (4) More **intrusive/destructive methods**: The drones program and the so-called “kill lists”⁵ are two examples of GWOT policies “at odds with the expectations of many supporters in 2008.”⁶ Also, the National Security Agency (NSA) expanded its secret surveillance program of American citizens and began an unprecedented crackdown on those alarming about the unconstitutionality of Obama’s GWOT policies (whistleblowers).⁷

¹ George W. Bush, Address to the Nation, (20.09.2001). <http://www.presidentialrhetoric.com/speeches/09.20.01.html> (accessed 22.05.2013).

² Sebastian Gorka, “Success in the Gwot Has Made Us Unsafe,” *Foundation for Defense of Democracies*, (14.03.2011). <http://www.defenddemocracy.org/media-hit/success-in-the-gwot-has-made-us-unsafe/> (accessed 13.01.2013).

³ Scott Wilson, Al Kamen, “‘Global War On Terror’ Is Given New Name,” *Washington Post*, (25.03.2009). <http://www.washingtonpost.com/wp-dyn/content/article/2009/03/24/AR2009032402818.html> (accessed August 8, 2015).

⁴ Sebastian Gorka, *art.cit.*

⁵ Paul Harris, “Drone Wars and State Secrecy - How Barack Obama Became a Hardliner,” *Observer*, (02.06.2012). <http://www.guardian.co.uk/world/2012/jun/02/drone-wars-secrecy-barack-obama> (accessed 17.01.2013).

⁶ Ibidem.

⁷ Ibidem.

President Obama did not only strengthen many of President Bush's policies, but he also **continued** some of these policies: (1) **The Patriot Act**: this law passed one month after the 9/11 attacks significantly expanded the government's ability to conduct investigations and antiterrorism surveillance. President Obama extended for four years some key provisions of the Act on May 26, 2011. (2) **The Guantánamo Bay Detention Camp**: Obama tried to close down the Guantánamo prison, but failed to do so due to numerous legal impediments such as the legal status of the detainees or the extradition regime. The Guantánamo detainees continue to be held "indefinitely, without trial, pursuant to the laws of war, rather than as criminal suspects."⁸ (3) **The War in Afghanistan**: started in 2001 as the first military reaction to the 9/11 attacks, the Afghanistan war has gradually become a protracted conflict: although President Obama started withdrawing the troops in 2014, Afghanistan's internal instability is slowing down the withdrawal process. (4) **Counter-terrorism policies (controversial practices and justifications)** ranging from actions taken under the PATRIOT Act (such as search and seizure) to the use of force in the GWOT.

These elements of continuity presented above show that President Obama has done nothing but to continue and develop the main policies put in place by his predecessor. It is precisely the aim of this research to identify and explain possible causes for the continuities in the foreign policy behavior of the two Presidents with regards to the GWOT. Consequently, the **research question** is: "*In the Global War on Terror, what explains the continuities in the American foreign policy between Presidents George W. Bush and Barack Obama?*"

The GWOT is one of the most debated topics of our times; the media, the academia, politicians, all present (conflicting) points of view on the way the USA wages this war. As a student of political science and international relations, I researched the American foreign and security policy as well as the GWOT throughout my Bachelor and Master studies. In this particular research, my purpose is to analyze what causes the continuity in the foreign policy behaviors of Presidents Bush and Obama with regards to the GWOT. I consider that it is important to study this topic given the relevance it has for the current international security agenda: even though the US has been fighting against terrorism since 2001, the threat is far from being eliminated. Terrorism continues to influence international affairs from the US to the Middle East. The fight against terrorism has been substantially intensified with the rise of the Islamic State and the latest terrorist attacks in countries such as France or Tunisia, combined with the takeover of parts of Syria and Iraq by the terrorist organization.

⁸ John B. Bellinger III, „More Continuity Than Change,” *The New York Times*, (14.02.2010). http://www.nytimes.com/2010/02/15/opinion/15iht-edbellinger.html?_r=0 (accessed 29.04.2013).

Literature Review

Scholars generally identify three intellectual perspectives on American foreign policy: *realism*, *liberalism*, and *constructivism*.⁹ For realists “states are the primary actors [in international relations] and can be analyzed as if they were unitary and rational actors whose core national interest can be defined as power.”¹⁰ Liberalism preaches moral autonomy and individual liberty; states may still be the key actors of international politics, “but their status rests on whether or not they can reasonably be seen as the legitimate guarantors of the rights and aspirations of their populations.”¹¹ Constructivism examines “the potential importance of nonmaterial as well as material factors in shaping situations and affecting outcomes.”¹²

Regarding nonmaterial factors, Samuel Huntington develops on the importance of *national values and democratic institutions* in shaping the American foreign policy. The American people have always supported “liberal, democratic, individualistic and egalitarian values.”¹³ Americans always believed that their institutions should function and be structured so as to reflect liberal values and “American foreign policy should also be substantively directed to the promotion of those values...”¹⁴ These values are entrenched into the patterns of thinking of both American decision-makers and the public opinion and generate two types of foreign policy behavior: *isolationism* and *commitment*.¹⁵ They portray America as *beacon* and as *crusader*. Isolationism establishes that “America serves its values best by perfecting democracy at home, thereby acting as a beacon for the rest of mankind”¹⁶ while commitment implies that they impose “an obligation to crusade for them around the world.”¹⁷

Reisman¹⁸ refers to America’s “*prophetic* and *reformist* role: ... for more than a century, the US has seen its destiny linked to the reform of international politics, an impulse that arises from many strands in American political and civic culture.”¹⁹ The *custodial* role implies that „the United States functions as the ultimate custodian of international order...”²⁰

⁹ Amos A. Jordan, William J. Taylor Jr., Michael J. Meese, and Suzanne C. Nielsen, *American National Security*, 6th ed. (Baltimore: John Hopkins University Press, 2009), p.5.

¹⁰ Ibidem, p.6. For more information on the main principles of political realism, see pp. 5-7.

¹¹ Ibidem, p.7. For more information, see pp.7-9.

¹² Ibidem, p.10. For more information, see pp.10-11.

¹³ Samuel P. Huntington, „American Ideals versus American Institutions,” in *American Foreign Policy: Theoretical Essays*, 5th ed. ed. G. John Ikenberry (Boston, New York: Houghton Mifflin Company, 2005), p.214.

¹⁴ Ibidem, p.229.

¹⁵ Henry Kissinger, *Diplomacy* (a Touchstone Book), highlighting edition ed. (New York: Simon & Schuster, 1995), p.18.

¹⁶ Ibidem.

¹⁷ Ibidem.

¹⁸ Michael Reisman, „The United States and International Institutions,” in *American Foreign Policy: Theoretical Essays*, ed. G. John Ikenberry, pp.40-58.

¹⁹ Ibidem, p.42.

²⁰ Ibidem.

Barry Rosen talks of strategic options in American foreign policy: (1) *neo-isolationism* (makes internationalism almost irrelevant by proclaiming that national defense is the only interest vital to the U.S: if no other country has the power to threaten the American sovereignty, national integrity or safety, America is safe²¹); (2) *selective engagement*²² focuses on the need to ensure peace amongst the great powers;²³ (3) *cooperative security*²⁴ (starts from the premise that peace is indivisible; therefore, “the United States has a huge national interest in world peace”²⁵); and (4) *primacy*²⁶ (motivated by peace and the configuration of power, because “only a preponderance of U.S. power ensures peace”²⁷).

John Lewis Gaddis identifies several ways in which the US can ensure its security:²⁸ (1) *preemption* (the US has vast borders and limited means for its defense; consequently, it cannot anticipate all the threats to its national security and it has to deal with possible dangers to its national security before they turn into actual threats²⁹); (2) *unilateralism* (the US “should be prepared to act on its own”³⁰); and (3) *hegemony* (America is secure as long as it is the hegemonic power of the international system³¹).

From this brief literature review one can see how elements of both political realism and liberalism simultaneously influence the American foreign policy, each of them serving as theoretical foundations for America’s actions on the international arena. The GWOT is a perfect example of how these two schools, combined with constructivism, influence the American foreign policy. The definition given to the GWOT is heavily loaded with liberal values (nonmaterial factors). Nevertheless, since America’s fight against global extremism is a military conflict, political realism comes into place. In the case of the GWOT it is interesting to see how liberal values (i.e. nonmaterial factors) generate a foreign policy behavior that pertains to the realm of realism. It is even more interesting to analyze how the usage of nonmaterial factors creates material structures that are extremely difficult to alter.

²¹ Barry R. Posen, Andrew L. Ross. "Competing Visions for U.S. Grand Strategy." Chap. Part I: A Framework for Analyzing U.S. Strategic Choices in *America's Strategic Choices (An International Security Reader)*, ed. Owen R. Coté Jr., Sean M. Lynn-Jones, Steven E. Miller, and Michael E. Brown, (Cambridge, Massachusetts: The MIT Press, 2000), p.11.

²² Ibidem, pp.15-21.

²³ Ibidem, p.15.

²⁴ Ibidem, pp.21-30.

²⁵ Ibidem, pp.21-2.

²⁶ Ibidem, pp.30-41.

²⁷ Ibidem, 30.

²⁸ John Lewis Gaddis, *Surprise, Security and the American Experience*, Joanna Jackson Goldman Memorial Lecture on American Civilization, (United States of America: First Harvard University Press Paperback Edition, 2005), p.16.

²⁹ Ibidem, pp.16-22.

³⁰ Ibidem, p. 22.

³¹ For more details see Ibidem, pp.26-30.

Theoretical Framework: Approaches to Foreign Policy

Walter Carlsnaes explains the “four types of rock-bottom perspective in the study of foreign policy.”³² His starting point is the history of foreign policy analysis as intellectual discipline: Woodrow Wilson is the American President that started the “democratization of foreign policy – of why and how public values and interests should be introduced to every stage in the formulation and execution of such policy.”³³ On the other hand, by “linking [the] view of power to the concept of national interest, [Morgenthau] believed that he could provide a universal explanation for the behavior of particular states.”³⁴ This leads to a classical division in the interpretation of foreign policy between domestic and international politics and to a discussion based on meta-theoretical dimensions (ontological and epistemological).³⁵ By establishing its units of analysis, this discussion conceptualizes the foreign policy domain.³⁶

The analysis of foreign policy has a series of explanatory factors. The “ontological foundation of social systems”³⁷ discusses the location of the dynamic foundations of the systems which have two origins: the effects of individual actions (individualism) or the evolving rules of the structures that reproduce themselves (holism).

The below table³⁸ expresses the different perspectives on foreign policy with three dimensions of analysis: intentional, dispositional and structural.³⁹

Ontology	Epistemology	
Holism	Objectivism <i>Structural Perspective</i> ⁴⁰	Interpretativism <i>Social-institutional perspective</i> ⁴¹
Individualism	<i>Agency-based Perspective</i> ⁴²	<i>Interpretative actor perspective</i> ⁴³

Sewell connects structure to agency, providing the link between the holistic and individualistic perspectives on foreign policy. “Structural or structuralist arguments tend to assume ... regime determinism in social life.”⁴⁴ What is defined as structure is treated as

³² Walter Carlsnaes, „Foreign Policy,” in *Handbook of International Relations*, ed. Walter Carlsnaes, Thomas Risse and Beth A. Simmons (London: Sage Publications Ltd, 2002), p.336.

³³ Ibidem, p.333.

³⁴ Ibidem.

³⁵ Ibidem p.334.

³⁶ Ibidem, p.335.

³⁷ Ibidem.

³⁸ See table in Ibidem, p.336.

³⁹ Ibidem, pp. 341-3.

⁴⁰ Ibidem, pp.336-7.

⁴¹ Ibidem, pp.339-41.

⁴² Ibidem, pp. 337-9.

⁴³ Ibidem, p.341.

⁴⁴ William J. Sewell Jr., “A Theory of Structure: Duality, Agency and Transformation,” *American Journal of Sociology* Vol.98, No.1 (July 1992): p.2.

“primary, hard and immutable,... What tends to get lost in the language of structure is the efficiency of human action – or “agency” ...”⁴⁵ because in social sciences, structure exists apart from the social life whose shape it determines. Therefore, the actors in social sciences are simply “cleverly programmed automatons”⁴⁶ since structuralism implies stability and shapes social life into patterns, without explaining how these patterns change with the time. These patterns of relations have a tendency to reproduce themselves “even when actors engaging in the relations are unaware of the patterns or do not desire their reproduction.”⁴⁷

According to Anthony Giddens’ dualist theory of structuralism not only structures shape people’s behavior but also people shape structures.⁴⁸ Consequently, “human agency and structure, far from being *opposed*, in fact, *presuppose* each other.”⁴⁹ To have structures, basically all you need is “knowledgeable” human agents, i.e. people who know what they are doing and how they have to do it. This interpretation makes change possible in structuralism.

My interest is to focus on ideational structures - “the intersubjectively shared ideas that shape behavior by constituting the identities and interests of actors.”⁵⁰ These structures focus on the “role of shared ideas as an ideational structure constraining and shaping behavior;”⁵¹ “ideational structures and actors (“agents”) co-constitute and co-determine each other”⁵² in the sense that structures are constructed by the identities and interests of the actors, but they can also be produced, reproduced and changed by further practices of the agents. The school of thought studying how ideational structures determine the way in which actors perceive themselves (their identity, goals and roles) is constructivism.

This research aims at explaining the continuities in the foreign policy of Presidents George W. Bush and Barack Obama with regards to the GWOT. To find this explanation, we must turn to the perspectives in the study of foreign policy: holism and individualism.

From the outset, the two American Presidents have different political backgrounds: George W. Bush is a Republican, while Barack Obama is a Democrat. Nevertheless, two Presidents with different personalities and backgrounds produce a similar foreign policy outcome. This means that individualism and the agency-based perspective do not offer the

⁴⁵ Ibidem.

⁴⁶ Ibidem

⁴⁷ Ibidem, p.3.

⁴⁸ Ibidem, p.4.

⁴⁹ Ibidem.

⁵⁰ Dale C. Copeland, „The Constructivist Challenge to Structural Realism: A Review Essay,” *International Security*, Vol.25, No.2 (Autumn 2000): p.187.

⁵¹ Ibidem, p.189.

⁵² Ibidem, p.190.

necessary explanation for their foreign policy behavior. To find such explanation, one has to turn to the holistic approach and look at structural perspectives (material and ideational).

My aim is to look at ideational structures. The decisions taken by decision-makers are shaped by “the analytical categories through which they impose meaning on the world.”⁵³ The options chosen must be acceptable to the political establishment and the public opinion. Societies impose upon decision-makers ideological categories that can constrain, empower and help them make sense of the world. They take the form of a paradigm which transforms reality into an inflexible box.⁵⁴ The best way to generate consensus for foreign and security policies is to formulate them by using values that are supported by the society. Once national security interests are defined using core values, it is impossible to “escape” the definition given because it would seem contrary to the national interest. It is precisely this circular determinism that I consider extremely interesting: if an American President wants to rally support for his policies, he has to present them to the public as the embodiment of core American values; but, once he has done so, that definition becomes a frame.

Since values are crucial in defining foreign policy goals, I am interested in analyzing the ideational frame/structure of the GWOT.

Methodology: Research Design and Case Study

This research wants to explain the continuities in the American foreign policy between Presidents Bush and Obama with regards to the GWOT. Hence, the dependent variable incorporates a series of aspects of American foreign policy (e.g. the Afghanistan war, the counter-terrorism policies); the independent variable will have to provide a general explanation for these continuities.

I chose the ideational structuralist approach to provide this explanation. I will work with ideational structures by looking at the main American values used to frame the GWOT. The framework President Bush provided to the conflict determined the actions taken in the GWOT, and, therefore, the continuity between the two Presidents. Consequently, the independent variable is the framework provided to the GWOT after 9/11. This framework is, in its turn, composed of several elements (the values employed to define the war).

The research is a qualitative research of available literature and sources on the topic. The research will be based on secondary data: books on foreign and security policy, articles on the same topic from journals on international relations, articles from newspapers

⁵³ Toby Dodge, „The Ideological Roots of Failure: the application of kinetic neo-liberalism to Iraq,” *International Affairs* Vol.86, No.6 (November 2010): p.1270.

⁵⁴ *Ibidem*, p.1271.

presenting information on the GWOT, electronic sources such as think tank reports on American foreign policy and the GWOT or Presidential speeches. The bibliography is divided into three parts. The books section focuses on the literature presenting different views on American foreign policy and explaining its theoretical foundations; the national security aspects are also covered with a focus on the implications of the GWOT on the US national security. The articles section includes literature explaining the theoretical foundations of the American foreign policy, presenting and analyzing different aspects of the GWOT (and their legal implications). The think tank reports provide the points of view of foreign policy analysts. The other sources section is key to the case study since it is comprised of speeches of Presidents Bush and Obama which will be used to identify the definition the two Presidents provide to the GWOT. The National Security Strategies will present the perceptions of the two Presidents on national security threats as well as the main actions they plan to undertake to defend America's national security.

The case study will take the form of a structured, focused comparison: the same aspects of the two Presidencies of George W. Bush and Barack Obama will be analyzed and compared. To make the comparison, it is useful to design a set of questions to be answered for the foreign and security policies of both Presidents Bush and Obama:

- (1) What are the main values used to provide a framework to the GWOT?
- (2) What are the main characteristics of the GWOT (as defined by Presidents Bush and Obama)?
- (3) What are the main pillars of the National Security Strategies of Presidents Bush and Obama?
- (4) What are the main common actions undertaken by Presidents Bush and Obama in the GWOT?
- (5) What are the common legal implications of the main foreign policy actions of Presidents Bush and Obama?

The case study will aim at providing answers to these questions with the purpose of outlining the way in which the incorporation of values in the definition of the GWOT provides for the continuity in the American foreign policy between the two Presidents.

The sketch of the research will look as follows: (1) introduction: construction of the research puzzle – continuities and discontinuities in the GWOT; (2) overview of the literature on American foreign and security policy; (3) theoretical framework: foundations of foreign policy analysis; (4) methodology and main elements of the case study; (5) George W. Bush chapter: (a) main speeches of President Bush and the definition of the GWOT; (b) main

elements of the NSS (the Bush Doctrine); (c) the Bush Doctrine compared against other approaches in the US foreign and security policy; (6) Barack Obama chapter (same structure as in the a, b, and c points of the above): President's Obama approach to the GWOT; (7) presentation of the main elements of the American foreign policy after 9/11: (a) main actions taken by the two Presidents in the GWOT: this part will not merely retake the same aspects of continuity as in the introduction – it will present the foreign policy actions as consequences of the framework provided to the GWOT; (b) the legal implications of these actions; (7) conclusion – given the fact that by the time this research will be completed, President Obama would have finished his second term in office, in the final chapter I will be able to compare the foreign policy legacy of Presidents Bush and Obama with regards to the GWOT.

It is important to note that the case study will be divided into two main parts, each part answering different research questions from the structured focused comparison. The first part of the case study will answer the first three questions: by analyzing the main speeches of Presidents Bush and Obama I will identify the values the two Presidents use to define the GWOT and the main characteristics they provide to the conflict (thus answering the first two questions); by analyzing the NSSs of the two Presidents I will be answering the third question. The second part will deal with analyzing the main foreign policy actions of the two Presidents and their legal implications, thereby answering the last two questions.

The present research is a multidisciplinary study comprising aspects of political science and international relations, history and (international) law. Focusing on American foreign policy and the values used to define America's external actions the political science and international relations part will be an important element of this research. The history part will come into place when describing the foreign policy actions taken in the GWOT.

The law part will be one of the key pillars of this research, being present when: (1) discussing the concept of justice and its role in defining the American foreign policy, in general, and the GWOT, in particular; (2) analyzing the constitutionality of the foreign policy actions undertaken in the GWOT from the point of view of the American constitution; (3) presenting the legal implications of the actions undertaken in the GWOT (e.g. the drone attacks). The emphasis will be on how the concept of justice is used to define the GWOT, yet many of the actions undertaken in fighting the war involve breaches of (international) law. It is particularly relevant to focus on the legal implications of the GWOT also from the point of view of the legitimacy of America's actions on the international arena: other states/international actors will be more likely to support America's GWOT if its actions in fighting this war are perceived as just.

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