Olga Kajtár-Pinjung

From Bush to Biden: Presidential Attitudes towards Guantánamo

ORCID iD: 0009-0009-6172-8912

Abstract: This paper investigates how the different administrations contributed to the construction of the enemy image of Guantánamo Bay detainees and how it appeared in their legislative processes following the 9/11 terrorist attacks. The unprecedented and transnational nature of global terrorism provided lawmakers with new, unforeseen challenges they needed to address and overcome. Shocked by the attacks, the Bush administration assumed a so-called reactionary approach that was motivated by fear of future attacks which resulted in problematic and questionable decisions. In an attempt to remedy the damage caused by his predecessor, President Obama used a troubleshooting approach to distance himself from the previous administration but to no avail because President Trump reversed the decisions of the Obama administration based on the ignorant approach he assumed upon election. The Biden presidency has chosen a reticent approach to Guantánamo. By analyzing and comparing presidential speeches, executive orders, and legislative decisions of the Bush, Obama, Trump, and Biden administrations pertaining to the Guantánamo Bay Naval Base, and analyzing the role of international laws in their respective decision-making processes, this essay provides a comprehensive look into the effects and significance of legislative enmification.

Keywords: legislative enmification, detention, enemy image construction, 9/11, Guantánamo Bay

*****

1. Introduction

The fate of Guantánamo Bay detainees has been significantly dependent upon the governing power and its approach to the detained individuals. Presidents Bush, Obama, Trump, and Biden brought their own agendas and unique attitudes to Guantánamo which appeared in their legislative measures as well. The purpose of the present paper is to analyze legislative measures, speeches, and laws codified by each president in order to reveal and provide an overall view of their magnitude in the enemy image construction, i.e. enmification of Guantánamo Bay detainees. By examining the reactionary politics of President Bush, the troubleshooting politics of President Obama, the ignorant approach of President Trump, the reticent approach of President Biden, and their respective legislation one might gain a deeper understanding of their in/efficiencies as well as their role in the enmification process.

The proportion of the analysis of each presidency is uneven; George W. Bush was the President of the United States at the time of the 9/11 terrorist attacks, consequently, most laws and regulations regarding Guantánamo Bay are connected to his name, therefore it occupies the biggest part of the research. Barack Obama served two terms as President; the Guantánamo Bay-related laws he signed are considerably fewer than those of his predecessor. President Trump's administration was in power for four years; thus, the analysis of his government is even shorter. Last but not least, Joe Biden has been in power since January 2021. The gradual decrease in the length of analysis of each president does not, by any means, diminish the significance and weight of their speeches, legislation, and role concerning the research; it is merely a result of the length of their presidency and the extent to which they were concerned with Guantánamo Bay detainees.

Following a brief historical background on the relationship between Cuba and the United States, the paper studies the legal situation of the Guantánamo Bay Naval Base, the notion of American exceptionalism, and the enemy in relation to the context. In the subsequent chapters, each administration is analyzed individually with regard to Guantánamo Bay and the War on Terror, with a special focus on enemy image construction.

2.1. *Guantánamo and the United States of America, 1898-2024*

The Guantánamo Bay Naval Base is situated on the Southeastern tip of the island of Cuba and it is under the control and jurisdiction of the United States of America. It has been used as a detention facility for the suspected terrorists associated with the 9/11 terrorist attacks since January 2002. The Naval Station has served various functions and purposes since the United States signed the lease agreement with Cuba; among others, it was a naval operations center, a detention facility for asylum seekers, a prison for HIV-positive Haitian refugees, and finally, it currently functions as a maximum-security detention center (Walicek and Adams 2017, 11).

Cuba and the United States share a complex and complicated history and in order to get a better understanding of Guantánamo's situation, one must travel back in time to the Spanish-American War when, with the interference of the United States, Cuba regained its independence from Spain. After the war, Cuba was faced with a choice: the United States agreed to withdraw its troops from the island on the condition that Cuba accept and sign the Platt Amendment which came to fruition in 1903. According to the Amendment, the United States officially began to lease the territory from Cuba. The contract can only be terminated in two cases, with the agreement of both parties or if the United States willingly abandons it (Kaplan 2005, 835-36). What it means in reality is that the fate of the base is exclusively in the hands of the United States until they decide otherwise regardless of the will of Cubans. Cuba is a passive party in this contract since it does not have the means or power to remove the Americans from the island. The latest attempt to terminate the contract occurred in 1959 when, following the revolution, Fidel Castro tried to render the contract null and void without success. Every year the United States draws a check of 4,085 U.S. dollars – the agreed-upon amount – which has never been cashed by the Cuban government as a way to protest against the American occupation of the area (Kaplan 2005, 835-36).

The suspected terrorists, captured in the War on Terror, were taken to the Guantánamo Bay Naval Base which was designed to be highly visible to the rest of the world yet never completely transparent (Coleman 2017, 39). This dichotomy between transparency and the lack of it significantly influenced the government's communication with the public. Lack of transparency, the censorship surrounding the detention facility, the bending of the truth, and manipulation of legal terms all contributed to the fact that the government of the U.S. could hide the atrocities and abuse that had been occurring on the base (Smith 2008, 128).

2.2 "*Legal Black Hole*"

The Bush government viewed the Guantánamo Bay detention facility as a so-called "legal black hole", where neither federal nor international laws apply, even though the third article of the lease agreement clearly states that as long as the United States occupies the area, it has complete control and jurisdiction over the territory (Agreement 1903). According to their main argument, since Cuba has sovereignty over the Guantánamo Bay territory, the United States does not have the right to enforce its legislation. Hence, anything they do is acceptable, and they cannot be held accountable for their actions (Kaplan 2005, 834). This attitude, however, raises several problematic issues.

It is undeniable that the unprecedented transnational nature of modern terrorism made the applicability of laws bound by geographic and national borders much more difficult (Prieto 2009, 17). This new kind of "asymmetric warfare" is defined as "acting, organizing, and thinking differently than opponents in order to maximize one's advantages, exploit an opponent's weaknesses, attain the initiative, or gain greater freedom of action" brought about issues regarding the question of warfare and combatancy (Metz and Johnson 2001, 5-6). Nevertheless, at the time of the 9/11 terrorist attacks several federal and international laws were in effect with which The United States could and should have complied, such as the laws of war sections of the Geneva Conventions from 1949, or the habeas corpus right of a person to question the legality of his or her detention (Amann 2005, 2085-87). Instead of acknowledging the existence and significance of the applicable laws and establishing the necessary modifications created by the new, unknown war circumstances, the highest-ranking decision-makers of the Bush administration ignored them (Amann 2005, 2087). The intention of the United States to capture and punish those who were either directly or indirectly involved in the 9/11 terrorist attacks, provided they have sufficient evidence against them, is understandable.

However, it does not mean that the United States had the right to deprive these suspected terrorists of their basic human rights and the right to due process of law (Butler 2004, 63). Not to mention the practically indefinite detention which enabled the government to exercise its power indefinitely (Butler 2004, 64). This kind of indecisiveness regarding jurisdiction and the application of international laws allowed for abuse, inhumane treatment of detainees, and the use of legal loopholes.

Following the 9/11 terrorist attacks, the Bush government applied a so-called "reactionary politics" (Hajjar 2019, 164), the point of which is that their decisions were based on and motivated by the fear of a possible further terrorist attack and loss of innocent lives. This can be correlated with Richard Hofstadter's claim that manifested in the 1960s, according to which the "syndrome of paranoid rhetoric" is created by disasters and the potential fear of disasters (Hofstadter 1996, 39). The reactionary attitude of the Bush government might be attributed to the fact that since the American War of Independence, America was attacked on its soil only three times: the first in 1812 when the British attacked the capital, the second on December 7, 1941, in Pearl Harbor, and the third was the 9/11 terrorist attacks (Smith 2008, 39).

The United States declared a global War on Terror to capture and detain the individuals responsible for the terrorist attacks. Only 5% of the detainees were captured by the American military. The remaining 95% were handed to the United States by allied forces (Pfiffner 2014, 129). The United States offered 5000 U.S. dollars bounty for every captured Taliban fighter (Smith 2008, 47). As a result, many were taken to prison based on hearsay, forcefully obtained information, and testimony (Prieto 2009, 21). The situation was aggravated and complicated by the fact that the American government did not ask for or require any form of identification of the suspected terrorists by the countries who handed them over (Smith 2008, 146).

Consequently, many non-combatants, people who had never set foot on a battlefield, were taken to Guantánamo because they were misidentified as enemies in communication with the government, including minors and elderly people, for instance, the oldest detainee on record was born in 1913 (Smith 2008, 151). 92% of the detainees had never been charged with being a member of al Qaeda which is a considerable percentage (Smith 2008, 163). Taking everything into account, by examining the decisions of the Bush government we can get a

deeper understanding of the disadvantages and potential dangers of reactionary politics and it opens a discussion to the role of legislation in enemy image construction.

2.3. *American Exceptionalism and the Notion of the Enemy*

American exceptionalism was one of the main cornerstones of the Bush administration, which became even more emphasized after 9/11. American exceptionalism is the notion according to which, the United States is different from and better than the rest of the world; it has to set an example to other countries, and it has to do so in the name of promoting and extending freedom (Peterecz 2016, 33). According to Hilde Eliassen Restad, American exceptionalism has three components: the first is that the United States is different from the old world, the second claims that it has a special and unique role in the history of the world; and finally, the United States will gain great power, and it will not lose its leading position in the world (2015, 3). As American exceptionalism has a long tradition and a broad existing literature, it must be noted that I use the notion restrictedly concerning my research on enemy image construction after 9/11 in the US.

The special position of the United States and the American people is not a newfangled phenomenon, its origins can be traced back to colonialization. Designations such as the "new world, the chosen nation, the city upon the hill, the promised land, new garden of Eden, American Jerusalem" all contributed to the feeling of predestination and the fact, that American exceptionalism has become one of the most significant notions used by the presidents of the United States (Peterecz, 253).

Correspondingly, the notion of civilization-consciousness must be mentioned, which further accentuates the fact that American civilization is different from Western civilization. It dates back to 1776, when the English philosopher and revolutionary, Thomas Paine stated that England and America "belong to different systems: England to Europe and America to itself". (Paine 1776, 83). This idea is supported by Robert Kagan, who suggests we acknowledge the fact that America and Europe see the world differently (Kagan 2004, 3). These opinions support the thesis with which many Americans and outsiders agree that America is a special kind of nation with an extraordinary commitment and destiny (Crockatt 2007, 14). This special role assigned to the United States became even more significant following the terrorist attacks because the whole world was on the edge, waiting for the U.S. to resolve the situation, which put extra pressure and limelight on the Bush government (Crockatt 2007, 22).

Rhetoric expressing the extraordinary situation and sense of assumed responsibility of the United States appeared in several of the post-9/11 speeches of President Bush. On the eve of the attacks, addressing the nation, he highlighted that their task was "to protect our citizens at home and around the world from further attacks". (Bush 2001a) Furthermore, the word civilization itself was a reoccurring one in the rhetoric of President Bush: "and what is at stake is not just America's freedom. This is the world's fight. This is civilization's fight", (Bush 2001b) he stated at the beginning of the War on Terror. On the fifth anniversary of the tragic events of 9/11, he emphasized that "this struggle [the War on Terror] has been called a clash of civilizations. In truth, it is a struggle for civilization" (Bush 2006b).

Moreover, one may quote from the State of the Union address in 2002, when he said "we have a great opportunity during this time of war to lead the world toward the values that will bring lasting peace" (Bush 2002). The above-mentioned quotations shed light on how the Bush administration assumed the responsibility and role of leading the world in its fight against terrorism. The Bush government is characterized by this type of responsibility since the War

on Terror provided the president with the perfect opportunity to solidify the leading role of America, which he recognized, however, later was not able to realize (Metz 2017, 234).

Nevertheless, the concept of the enemy as it is used in the present paper, needs to be clarified. According to Carl Schmitt, the founding stone of politics is the distinction between friend and enemy. He claims that in a completely peaceful world, without the possibility of war and the dichotomy of friend and enemy, there would be a world without politics (Schmitt 2007a, 35). He categorizes the enemy into two separate groups, real and absolute enemies; the latter is to be used for the Guantánamo Bay detainees, because, as opposed to the real enemy – who is fighting for a tangible purpose such as land or territory – the absolute enemy is more ideological and it can only be defeated in an absolute war that is not exclusively aimed at the enemy itself, but the realization of a higher purpose as well, by all means necessary (Schmitt 2007b, 94-95). This approach can be observed in the narrative and legislation of the Bush administration and later the Trump presidency.

3. *Legislation of the Bush Administration after 9/11*

The first order signed by President Bush following the terrorist attacks was the so-called *Authorization for Use of Military Force* which authorized the president to use any force necessary against nations, organizations, or people, who he deemed were either directly or indirectly involved in the planning or execution of the attacks (AUMF 2001). The language of the order is problematic and controversial. On the one hand, the president has the right to make a unilateral decision on who is considered to be a terrorist by the government and use any means and military force he deems necessary against such persons. The document, however, does not provide any criteria based on which the president could make such a significant determination as to declare a person a terrorist. Without clearly defined criteria, presidential power seems to be unlimited. On the other hand, the first steps of enemy image construction can be detected in the order as it suggests that these people are so dangerous to American society that the United States can do anything in its power to stop them.

Five days after 9/11, Richard "Dick" Cheney, Vice President, stated in a television interview that it is possible that the army of the United States might have to step onto the "dark side" and many of the things they are required to do should be done away from the eyes of the public, quietly "use any means at our disposal, to achieve our objective" (Paust 2007, 12, also see: Cheney interview). The statement of the Vice President accurately projected the direction that was taken by the Bush cabinet in the upcoming period.

On November 13, 2001, President Bush signed a military order titled *Detention, Treatment, and Trial of Certain Non-Citizens*, which made it possible for essentially anybody who is not an American citizen to be arrested, tried, and convicted by military commissions (Military Order 2001). The procedures used by military commissions significantly differ from the procedures of regular trials in the justice system.

In a criminal trial, the defendant has the right to have access to all the evidence presented against him/her; information obtained by force or coercion is inadmissible as evidence; the defendant has the right and freedom to choose an attorney (Department of Justice, *Steps in the Federal Criminal Process).* On the contrary, the military commissions are not obliged to provide the defendant with access to all the evidence used against him/her, and evidence that was obtained by force or coercion might be admissible. The commission decides with the consent of the Secretary of Defense; the defendant cannot choose an attorney, it is appointed by the commission. Furthermore, the defendant does not have the right to seek remedy or compensation either in any court of the United States or in international courts (Military

Order 2001). In other words, the military commission system deprived detainees of their basic human rights, which generated significant backlash among civil rights organizations worldwide.

The following step occurred in January 2002 when Donald Rumsfeld, then Secretary of Defense stated, as it has previously been mentioned, that detainees should be called "unlawful combatants" instead of "prisoners of war". As a justification, he said that per the Geneva Conventions, prisoners of war are entitled to certain rights such as the right to humane treatment, whereas "unlawful combatants" do not have such rights (Seeye 2002). The term was first used in the court case *Quirin v Cox* 1 in 1942 and states that "by the law of war, lawful combatants are subject to capture and detention as prisoners of war; unlawful combatants, in addition, are subject to trial and punishment by military tribunals for acts which render their belligerency unlawful" (*Quirin v Cox* 1942). According to the wording, the difference between lawful and unlawful combatants lies in the trial procedure; nevertheless, both should be detained as prisoners of war.

The Bush administration codified Rumsfeld's perspective on February 7, 2002, when he formally denied prisoner-of-war status to the captured suspected terrorists (Decision 2002). Per article three of the Third Geneva Conventions, prisoners of war are entitled to certain protections; for instance, the use of "outrages upon personal dignity, in particular humiliating and degrading treatment" is forbidden. Furthermore, prisoners of war "shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria" (Article 3 1949). The arguments behind the decision of the President are not completely obvious and changed over time. They claimed that the Geneva Conventions do not apply in the case of non-state organizations such as members of al Qaeda because the United States is at war with a terrorist organization and not a particular nation-state which justifies the suspension of laws (Butler 2002). At the same time, at the beginning of the conflict, Afghanistan – where the majority of the detainees were captured – did not have a functioning government following the deposed Taliban leadership (Jalali 2002, 184) therefore the Geneva Conventions are not applicable (Decision 2002, 477). However, the Bush administration repeatedly asserted that they treated detainees "in a fashion consistent with the conventions" (Decision, 480). It is imperative to emphasize the contradiction; why would the government decide to deny prisoner-of-war status to people they had captured in the War on Terror if, at the same time, they claimed they were treated under the Conventions? The denial of the status enabled the United States to interrogate detainees freely, using any means without regard to the consequences. Besides the Geneva Conventions, the United States disregarded the United Nations' so-called *International Covenant on Economic, Social and Cultural Rights* which states the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world" (United Nations, 1966). One might rightfully pose the question of "if the detainees were not entitled to the protections of the prisoner-of-war status, to what legal protections were unlawful combatants entitled?

3.1. *Enhanced Interrogation Techniques*

The Bush administration accepted the use of enhanced interrogation techniques for national security reasons because it deemed them the fastest and most effective way of collecting intelligence (Pfiffner 2014, 128). The use of the name "enhanced interrogation technique" instead of the word "torture" which is closer to the true meaning of the practice served the same purpose as the already mentioned, carefully crafted terms. These legal, semantic,

seemingly insignificant differences proved to be essential regarding Guantánamo detainees, their treatment, and their rights – or the lack thereof – since they further contributed to their dehumanization.

The use of enhanced interrogation techniques is concerning from a legal perspective as well. On the one hand, confessions made under duress are often unreliable: suspects may make false statements to end the unpleasant or painful procedure (Smith 2008, 46). If the suspect makes a false confession and admits to having committed a crime, it affects his whole life which he might have to spend behind bars (Smith 2008, 79). This argument is supported by the 1963 publication of the CIA titled *Counterintelligence Interrogation*, which states that "intense pain is quite likely to produce false confession, concocted as a means of escaping from distress. A time-consuming delay results while the investigation is conducted, and the admissions are proven untrue" (CIA 1963, 94).

The inefficiency of the use of enhanced interrogation techniques is further supported by Matthew Alexander (pseudonym), who worked as a military interrogator for seventeen years, led over three hundred interrogations, and participated in nearly one thousand during the War on Terror (Pfiffner 2014, 139). Alexander claims – and his experience supports it – that during a successful interrogation, the task of the interrogator is to gain the trust of the interrogatee, learn everything about him/her while using a respectful and open communication method by manipulating the conversation through directed questions using the information at his/her disposal (Alexander 2011, 283-291). All in all, it can be determined that the Bush government applied the use of enhanced interrogation techniques without doing thorough research on their efficacy and involving experts in the field even though they brought about several ethical and intelligence dilemmas.

The second half of 2002 was characterized by the so-called torture memoranda addressed to government officials, which were later leaked in the spring of 2004. These documents were written by the Attorney General and the Assistant Attorney General of the United States and addressed to the president, the Central Intelligence Agency, and the Department of Defense. They were necessary because there is a fine line between torture and enhanced interrogation techniques. Torture is strictly forbidden in both American and international law, while there are no such restrictions on enhanced interrogation techniques. The most well-known torture memo was addressed to Alberto R. Gonzales, who was a White House Counsel at the time and became Attorney General in 2005. This nearly fifty-page long document contains a comprehensive analysis of the definition of torture as it is included in the United States criminal resource manual and its applicability in the case of suspects captured in the War on Terror (Department of Justice 2002). Torture means "an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control" (US Code).

The Gonzales memo examines the definition exhaustively and makes two significant determinations: one is that in the war with al Qaeda and its allies, it is justified to use the controversial method of interrogation due to national security reasons. Moreover, it provides impunity to interrogators thus preventing them from being held accountable for their actions in a court of law because, at the time of the use of enhanced interrogation, their primary purpose was the extraction of intelligence and not the abuse itself (Department of Justice 2002), which is called good faith reliance. Concerning the Guantánamo Bay Naval Base, good faith reliance means that interrogators, who used enhanced interrogation techniques, will not be held responsible for their actions, because their main priority was the extraction of

information from the detainees that could potentially lead to the prevention of a possible terrorist attack.

Besides the Gonzales memorandum, the one connected to Major General Michal B. Dunlavey should be mentioned, in which he asked for the approval of the application of several special interrogation techniques which was accepted and signed by Secretary of Defense, Donald Rumsfeld in December 2002 (Paust 2007, 13). The different interrogation methods detailed in the memorandum were approved for the sake of easing the extraction of intelligence even though they might be considered torture, which is nearly impossible to define as the threshold for human beings to tolerate pain and where they place the line between torture and acceptable methods of interrogation is highly subjective.

The first breakthrough in the legal situation of the detainees occurred with the *Rasul v Bush* (2004) case which determined that non-American citizens are entitled to submit a habeas corpus petition and thus question the legality of their detention. The court was looking for the answer to the question: do American courts have jurisdiction and authority to accept the petition of individuals detained at the Guantánamo Bay naval base, to which the answer was a definite yes. The Supreme Court stated that "because the United States exercised "complete jurisdiction and control" (per the content of the lease agreement) over the base, the fact that ultimate sovereignty remained with Cuba was irrelevant" (*Rasul v Bush* 2004). The administration placed the detainees outside of the country's geographical borders, beyond the reach of the law where they had no access to courts. However, with the *Rasul v Bush* decision, the Supreme Court extended the applicability of the law (Kaplan 2005, 846).

Photographs of the Abu Ghraib scandal were released on April 28, 2004, depicting American soldiers abusing Iraqi prisoners. The photographs were first broadcast on CBS and shortly after they were circulated all over the world. The most famous photo shows an Iraqi prisoner with a hood over his head, standing on a box, connected to a piece of electrical equipment. According to intelligence, he was threatened to be electrocuted if he fell off the box (Amann 2005, 2091). Following the scandal, the United States immediately launched an investigation to impeach the responsible parties.

Major General Antonio Taguba prepared a report detailing the deliberately executed, systemic, illegal abuse of Iraqi prisoners in the hands of American guards (2004, 16). Taguba connected the Abu Ghraib abuse with the Iraqi visit of the commander of the military unit called Joint Task Force Guantánamo (2004, 8). There were reports of abuse coming from Guantánamo even months after the Abu Ghraib scandal, for instance, by representatives of the International Committee of the Red Cross from November 2004, which claimed that detainees were subjected to mental and physical violence that was "tantamount to torture" (Lewis 2004).

The abuse and interrogation techniques applied in Abu Ghraib were used in Guantánamo Bay as well. Notwithstanding, the photos taken in the Iraqi prison opened the eyes of the world to the abuse taking place in prisons operated by the United States. The Bush administration used the "bad apple" argument to react to the scandal, claiming that there are bad people everywhere and the atrocities committed in Iraq do not represent the values of the American people. He reassured the public that their "soldiers in uniform are honorable, decent, loving people" (CNN 2004). In the meantime, they insisted on claiming that America had never used torture during interrogations, a statement that lost all its credibility following the scandal.

One of the formal responses of the American government to the Iraqi scandal was the creation of the Combatant Status Review Board (CSRT) by the Department of Defense. The primary

task of the CSRT was to examine the situation of the detainees and the legality of their detention within a legal framework (Lattmann 2009, 15). Based on the available evidence, the CSRT divided the detainees into four categories: "level 1: demonstrated threat as an enemy combatant" (Felter and Brachman 2007, 4), "level 2: potential threat as an enemy combatant" (5), "level 3: associated threat as an enemy combatant", and finally, "level 4: no evidence of threat" (6). The first "demonstrated threat" category includes detainees who directly took part in, planned to, or intended to take part in attacks against the United States; "potential threat" means individuals who supported anti-American organizations and received support from such organizations; detainees who were in contact with terrorists belong to the third category; detainees against whom the CSRT had not found any evidence are included in the fourth category (6). The CSRT conducted its investigation and categorization between July 2004 and March 2005 (Felter-Brachman 2007, 4-6). Nonetheless, the categorization did not result in any positive outcome or consequence for the detainees.

3.2. *Turning Point*

President Bush signed the *Detainee Treatment Act of 2005* (DTA), which could be considered a formal reaction to the Abu Ghraib scandal, which prohibits "cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the United States government" (DTA 2005). Furthermore, based on the content of the act, those employees of the government who had participated in "authorized interrogations" and face civil or criminal charges, have the right to use the argument that at the time of the interrogations, they were not aware of the fact that what they were doing was against the law, they were following procedures they were ordered to do i.e., they acted in good faith (DTA 2005).

In 2006, in the decision of the *Hamdan v Rumsfeld* case, the Supreme Court of the United States terminated the military commissions system, thus revoking the military order (2001), because it violated the rules of the Geneva Conventions and the Constitution of the United States (*Hamdan v Rumsfeld* 2006). The plaintiff in the case was Salim Ahmed Hamdan, a Yemeni citizen, who was held at Guantánamo until 2008. As a reaction to the Supreme Court decision, President Bush addressed the nation on September 6, 2006, to emphasize the necessity and importance of reinstating military commissions by claiming that "terrorists who declared war on America represent no nation" they are the "the most important source of information" in this new war on terrorism which can only be victorious if they can "detain, question, and, when appropriate, prosecute terrorists captured here in America, and on the battlefields around the world" (Bush 2006a). Additionally, he highlighted how significant it was that

> Americans and others across the world to understand the kind of people held at Guantanamo. These aren't common criminals, or bystanders accidentally swept up on the battlefield -- we have in place a rigorous process to ensure those held at Guantanamo Bay belong at Guantanamo. Those held at Guantanamo include suspected bomb makers, terrorist trainers, recruiters and facilitators, and potential suicide bombers. They are in our custody so they cannot murder our people. (Bush 2006a)

He added that these individuals should be taken to a safe place where they can be subjected to interrogations carried out by experts and reassured the nation that "these procedures were designed to be safe, to comply with our laws, our Constitution, and our treaty obligations" (2006a), ending his speech with "the United States does not torture. It's against our laws, and it's against our values. I have not authorized it -- and I will not authorize it" (2006a). By emphasizing on the one hand that the detainees pose a threat to the country, and on the other,

that they should be held at Guantánamo Bay, the president's intention to create an enemy image of the detainees is evident.

Three months after the speech, the government accepted the *Military Commissions Act of 2006* (MCA) which overturned the Hamdan decision by authorizing the president to create military commissions to try and prosecute "unlawful enemy combatants" (Metz 2017, 232). The act differentiates between "lawful" and "unlawful enemy combatants", Guantánamo detainees belong to the latter (MCA 2006). "Unlawful enemy combatants are persons not entitled to combatant immunity, who engage in acts against the United States or its coalition partners in violation of the laws and customs of war during an armed conflict" (MCA 2006). For the War on Terrorism, the term "unlawful enemy combatant" is defined to include, but is not limited to, an individual who is or was part of or supporting Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners" (Department of the Army). It has become clear at this point what might have appeared blurry before, the government began to use the term "enemy" in its legislation to designate the detainees. As an update, one change should be mentioned compared to the military order. Namely, it states that evidence obtained by force shall not be admissible, unless the military judge decides otherwise or if the Secretary of Defense prescribes it. That is to say, forcefully obtained testimonies may still be admissible depending on the situation.

Probably the most significant Supreme Court decision in the legal situation of the detainees was made in the *Boumediene v Bush* case, where the court determined that similarly to U.S. citizens, non-citizens do have the constitutional right to submit a habeas corpus petition which had previously been impossible according to the *Military Commissions Act of 2006*. Moreover, they declared that placing detainees beyond the reach of U.S. law does not mean that their basic human rights disappear (*Boumediene v Bush* 2008).

Since the arrival of the first detainees to Guantánamo Bay in 2002, there have been approximately 780 individuals held there, of which 540 were released and transported to their home countries by the Bush administration, this is how President Obama inherited the incredibly complex issue of the Guantánamo Bay detention facility from President Bush in January 2009.

4. *The Obama Administration*

President Obama openly criticized the reactionary politics and its consequences carried out by the previous administration, highlighting that "all too often our government made decisions based on fear rather than foresight; that all too often our government trimmed facts and evidence to fit ideological predispositions" (2009a). His presidency was characterized by a troubleshooting approach, attempting to remedy the issues created by the Bush government. As his first act as President, Barack Obama signed two executive orders concerning Guantánamo in January 2009; *Executive Order 13491* titled *Ensuring Lawful Interrogations* states that,

> an individual in the custody or under the effective control of an officer, employee, or other agent of the United States Government, or detained within a facility owned, operated, or controlled by a department or agency of the United States, in any armed conflict, shall not be subjected to any interrogation technique or approach, or any treatment related to interrogation, that is not authorized by and listed in Army Field Manual 2-22.3. (Executive Order 13491)

The relevant section of the Army Field Manual prohibits the inhumane and degrading treatment of unlawful enemy combatants, hence banning the use of coercive interrogation techniques (Department of the Army 2006). With the signing *of Executive Order 13492—Review and Disposition of Individuals Detained at the Guantánamo Bay Naval Base and Closure of Detention Facilities*, President Obama attempted to achieve the impossible and ordered the closure of the detention facilities at Guantánamo Bay (Executive Order 13492 2009), which, as we know, did not come to fruition.

4.1. *Why Close Guantánamo?*

The President was very vocal about his intention to close the facility and his reasons seemed sound and reasonable. The three pillars of his arguments were security-related, financial, and moral. According to Obama – as he reiterated several times – the detention facility at Guantánamo has become a symbol for coercive interrogation. It is being used as "a recruitment tool for terrorists and increase the will of our enemies to fight us while decreasing the will of others to work with America" (2009a) adding that it is evident by the messages delivered by terrorist organizations as well as on websites they operate (Obama 2010). What is more, the safety of American troops might be jeopardized who could be mistreated if captured as retaliation for Guantánamo Bay. (Obama 2009a). The financial burden the operation of the offsite prison places on taxpayers is considerable as in 2015, for example, it cost nearly 450 million U.S. dollars for less than a hundred detainees. (Obama 2016). The reason for the high cost is quite straightforward: as it is completely separated from the rest of the island, everything the United States has and needs at Guantánamo Bay has to be transported, including personnel, equipment, and vehicles. The most emphasized reason of the president was the moral aspect, saying "when terrorists offer only the injustice of disorder and destruction, America must demonstrate that our values and our institutions are more resilient than hateful ideology" adding that their values have been the saving grace for the nation for ages (Obama 2009a). As we can see, American exceptionalism was not exclusively used by President Bush.

4.2. *How to Close Guantánamo?*

In his speech on May 21, 2009, President Obama introduced the administration's plan regarding the situation and disposition of detainees by establishing five distinct categories. The first category includes detainees who can be prosecuted in federal courts (instead of military commission) for violating U.S. criminal laws. He had previously reiterated his opposition to the military commissions system used by the Bush administration for lack of efficiency. As a justification and example of the competence of U.S. courts, he mentioned the case of Zacarias Moussaoui, the twentieth 9/11 hijacker who was tried and convicted in U.S. court. In case of suspects accused of violating the laws of war – the second category – President Obama proposed the use of military commissions, which would enable sensitive information to remain confidential – with significant changes and updates to the flawed version of the previous administration, by "bringing our commissions in line with the rule of law" (2009a). Detainees, who had been cleared for release by courts, belong to the third category. The fourth one contains those who had been cleared for transfers to other countries either for "detention or rehabilitation". Finally, the fifth category includes the most problematic cases, those "who cannot be prosecuted yet who pose a clear danger to the American people" (2009a). The reason why they cannot be prosecuted varies but, in many cases, it is due to "tainted" evidence, for instance, evidence obtained forcefully (Obama 2009a). As we can see, the Obama administration began its first term with a thorough, elaborate, and explicit plan to close Guantánamo.

At the same time, in a memorandum, the Obama administration supplemented the AUMF with a seemingly small yet significant addition: "The President also has the authority to detain persons who were part of, or substantially supported, Taliban or al-Qaida forces or *associated forces* (highlighted by the author) (Respondents' Memorandum 2009). In the interpretation of the International Crisis Group, the vague term "associated forces" provided a loophole for the government to detain those whom they could not directly link to the Taliban or al Qaeda (International Crisis Group 2021). As far as the topic of the current research is concerned, "associated forces" is relevant because it is one of the many terms used by all administrations to cover a group for which they lack a clear legal framework.

The Military Commissions Act of 2009 was a reformed version of its 2006 counterpart. One of the biggest changes was the designation, which was changed from "unlawful enemy combatant" to "unprivileged enemy belligerent" (MCA 2009), a term which is defined by Richard Baxter in an article originally published in 1951, as "a category of persons who are not entitled to treatment either as peaceful civilians or as prisoners of war because they have engaged in hostile conduct without meeting" the requirements established by the Geneva Conventions (Baxter 1951, 42). Conversely, the definition included in the *MCA of 2009* is more specific, supplementing hostility with intent, acting "purposefully" and adding being part of al Qaeda "at the time of the alleged offense" (*MCA* 2009). However interesting the change in designation may seem, there is no significant alteration in the definition itself, compared to the "unlawful enemy combatant" title applied by the previous administration. An essential difference, however, is that the *MCA of 2009* forbids the use of evidence obtained by force "whether or not (the abuse was committed) under the color of law" (MCA 2009). The sole reasonable justification for using a distinct name for detainees is that the Obama administration wanted to distinctly isolate itself from the previous government, even regarding their legislative measures.

This assumption is supported by Tung Yin's arguments examined in his article titled "Anything But Bush? The Obama Administration and Guantánamo Bay" (2001). The Obama administration proposed the purchase and refurbishment of the Thomson Correctional Center in Thomson, Illinois as a possible feasible location for detainees upon the close of Guantánamo Bay. It was initially supported by the local governments since it would have meant the creation of hundreds of new job opportunities in the region (Dinan 2010). The Senate Armed Services Committee, however, decided to strip funding for the execution of the plan. Yin did comprehensive research on the topic and analyzed many possible reasons for the closure of Guantánamo Bay and the failure to retrofit the Thomson prison and arrived at the conclusion that it "would have been a change merely for its own sake, without any meaningful motivation other than to do something different from what the previous administration had done" (Yin 2011, 480).

Obama's efforts to close the prison were unsuccessful. Before his inauguration, the issue was supported by both the Democratic and Republican parties. Later, as steps were taken towards the closure of the facility, what initially had been a bipartisan issue became a partisan one, Republican politicians backed out for political reasons and made it virtually impossible for the president to achieve his goal (Obama 2017).

As far as enmification is concerned, the Obama presidency did everything it could to remedy the situation created by the previous administration. It is evident from the communication of the President and the introduced laws that they made efforts to achieve the closure of the Guantánamo Bay facility, even though it was fruitless. The administration of President Obama replaced the reactionary politics of the Bush government with a troubleshooting

approach and in doing so achieved minor changes in improving the enemy image of the Guantánamo Bay detainees.

5. *The Trump Administration*

If the Bush presidency was characterized by a reactionary attitude and that of President Obama by troubleshooting, Donald Trump assumed an ignorant approach to politics. In the information overload of the 21st century, attention has become crucial, and it is believed to be "the last currency we own" and have control over (Merkovity 2017, 48). As Norbert Merkovity claims, the purpose of attention-based politics is to be constantly discussed in public life and become a phenomenon that cannot be ignored (2017, 50). In the words of McAllister, "Trump created a communicative environment where it was impossible not to talk about him" (2016, 1190). With his populist use of social media, specifically Twitter, he managed to be unmissable for a huge part of American society. His use of harsh criticism, intentional lack of regard for being politically correct, and his divisive tweets succeeded in drawing the attention of not only his supporters but the whole world to himself and his political agenda (Merkovity 2017, 55).

Balázs Böcskei argues that Trump created so-called "post-truth" politics which resulted in the growing division and gap between different groups instead of bringing opposing sides together to have a conversation on issues regarding their differences. Böcskei adds that besides common sense, passion entered the stage of political discourse ((Böcskei 2017, 258-260). Passion, attention-based, and post-truth politics are terms that best describe the communication of the Trump administration concerning Guantánamo.

On January 30, 2018, President Trump signed Executive Order 13823 titled *Protecting America through Lawful Detention,* which not only revoked Executive Order 13492 regarding the close of the prison but made it possible for the government to send additional detainees to the base in the name of national security (Executive Order 13823).

President Trump expressed his view on Guantánamo and the detainees in various interviews and Twitter posts, all of which bear the same message and opinion, namely that Guantánamo Bay detainees are "extremely dangerous people and should not be allowed back on the battlefield" (Trump 2017). When he announced the executive order about keeping the prison open, the United States did not have a choice but to "annihilate them" which strongly resembled Carl Schmitt's proposal regarding the defeat of the absolute enemy which is only possible in an absolute war. (2007b, 94-95) Furthermore, during his candidacy, he repeatedly expressed his support for the use of torture during interrogations, for instance waterboarding, claiming that "torture works" and methods such as "waterboarding is fine but not nearly tough enough" (Trump 2016a). All of the above-mentioned examples point towards a clear attempt of the president to reinstate the enemy status the Obama administration tried to soften.

The efficiency of the ignorant approach used by President Trump is undeniable. His bold and harsh statements are impossible to disregard. Nevertheless, his ignorance of facts is easily noticeable in his speeches, here are two examples from a one-minute-long excerpt from one of his rallies from 2016: "but here's the thing I didn't understand. I heard it, but I didn't understand it. We spend 40 million dollars a month on maintaining this place", claiming he could operate it for a fraction of the amount (Trump 2016b). This statement suggests the extent of his ignorance on the financial cost of having to transport everything to the base. Moreover, in the same speech he proposes that the United States should "get Cuba to reimburse us 'cause we're probably paying rent" (Trump 2016b) another evident example of

the dangers of misinformation. These statements prove a powerful regression to strengthening the enemy image of Guantánamo Bay detainees.

6. *The Biden Administration*

President Biden and his administration have been quiet about expressing opinions and plans about Guantánamo Bay. As opposed to the Obama administration – which was very vocal about its intentions from day one – Biden chose a more reserved approach – a reticent one – in his communication about the base, most likely due to the failure of the Obama approach. Nonetheless, he has been working towards closing the prison by freeing one and repatriating six detainees to their home countries, reducing the detainee population of Guantánamo Bay to 30 today (Lee and Kube 2023). With President Biden's withdrawal from the 2024 presidential election, we shall see what the future holds for the remaining Guantánamo detainees.

7. *Conclusion*

Every president applied his singular approach in the decision-making process regarding Guantánamo Bay detainees which affected the construction of the enemy image to varying extents. George W. Bush, who was the President of the United States of America at the time of the 9/11 attacks, assumed a reactionary politics; the legislative decisions and presidential communication were driven and inspired by the fear of further attacks. Understandably, a tragedy of this volume forced the Bush administration to capture and punish those responsible as soon as possible. Due to the shock caused by the unforeseen situation, however, they made several mistakes that would have been possible to prevent with some consideration and respect to the relevant laws.

As the victim of the attacks, the United States was willing to assume the role of the nation that would remedy the situation and the rest of the world entrusted it to be the sole decision-maker. One of the most severe legal and moral mistakes the Bush administration made was taking the suspected captured or otherwise acquired suspects to the Guantánamo Bay detention center based on hearsay and assumed associations to terrorist organizations. Consequently, there were many individuals held at Guantánamo who had nothing to do with al Qaeda or the 9/11 attacks. At the same time, the government disregarded federal and international laws, thus depriving detainees of their basic human rights. The respective legislative measure signed by President Bush contributed to the enmification and dehumanization of the detainees by emphasizing how dangerous individuals held at Guantánamo Bay were; how any measure should have been taken to extract information from them, including the application of enhanced interrogation techniques; they were considered to be the "worst of the worst"; they were denied prisoner-of-war status; they were designated "unlawful enemy combatants". As a result, the status and image of Guantánamo Bay detainees as the enemy was solidified.

In contrast, President Barack Obama opted for a radically separate approach and attempted to mitigate the situation and mistakes made by the Bush administration. This troubleshooting politics provided more legal protection for individuals held at Guantánamo Bay – by banning the use of enhanced interrogation techniques – and intended to close the facility permanently. Despite the sound financial, moral, and security-related reasons, due to the lack of bipartisan support, the plan failed. The administration was keen on separating itself and its legislation from the previous one, so much so that they changed the name of detainees from "unlawful enemy combatants" to "unprivileged enemy belligerents" which did not imply any considerable changes in the situation of the detainees besides further proving its isolation from the Bush government.

With the election of President Trump, attention-based politics, ignorance, and passion became the main motivational factors in Guantánamo-related legislation. President Trump's harsh and raw perspective of detainees put a stop to President Obama's efforts to close the detention facility. Additionally, he openly expressed his support for the use of torture during interrogations. President Trump's legislation and speeches resulted in a significant setback compared to his predecessor by accentuating and reinstating the dangerous terrorist or enemy status of the detainees.

In conclusion, the status of Guantánamo Bay detainees is remarkably dependent on the political agenda of the sitting President. His approach and legislative measures are decisive in the extent to which non-combatant individuals detained at the facility are considered enemies. The enmification of the detainees does not exclusively affect the individuals themselves, but an enemy status may lead to questioning the credibility of the person as well as his entire future once he is released from Guantánamo; he may leave the base but cannot escape the status and perception of him created by the government.

Reference List

Primary Sources

Agreement between the United States and Cuba for the Lease of Lands for Coaling and Naval stations. 1903. https://avalon.law.yale.edu/20th_century/dip_cuba002.asp

Article 3, The Geneva Conventions. 1949. https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949/article-3?activeTab=undefined

AUMF. 2001. *Joint Resolution to authorize the use of United States Armed Forces against those responsible for the recent attacks launched against the United States.* https://www.congress.gov/107/plaws/publ40/PLAW-107publ40.pdf

Bush, George W. 2001a. *Statement by the President in His Address to the Nation.* September 11, 2001. https://georgewbush-whitehouse.archives.govnews/releases/2001/09/20010911-16.html

—. 2001b. *Address to a Joint Session of Congress and the American People*. September 20, 2001. https://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010920-8.html

—. 2002. *President Delivers State of the Union Address.* January 29, 2002. https://georgewbush-whitehouse.archives.gov/news/releases/2002/01/20020129-11.html

—. 2006a. *President Discusses Creation of Military Commissions to Try Suspected Terrorists.* September 6, 2006. https://georgewbush-whitehouse.archives.gov/news/releases/2006/09/20060906-3.html

—. 2006b. *President's Address to the Nation*. September 11, 2006. https://georgewbush-whitehouse.archives.gov/news/releases/2006/09/20060911-3.html

CNN. 2004. "Bush 'sorry' for abuse of Iraqi prisoners: President expresses apology to Jordan's king." CNN, May 7, 2004. https://edition.cnn.com/2004/ALLPOLITICS/05/07/bush.apology/index.html

CIA. 1963. *KUBARK: Counterintelligence Interrogation.* July 1963. https://nsarchive2.gwu.edu/NSAEBB/NSAEBB122/CIA%20Kubark%201-60.pdf

Cheney, Richard. 2001. *The Vice President appears on Meet the Press with Tim Russert*. September 16, 2001. https://georgewbush-whitehouse.archives.gov/vicepresident/news-speeches/speeches/vp20010916.html

"Decision Not to Regard Persons Detained in Afghanistan as POWs." *The American Journal of International Law*, vol. 96, (2002) No. 2. 475–480. https://doi.org/10.2307/2693945

Department of the Army. 2006. *Human Intelligence Collector Operations.* https://irp.fas.org/doddir/army/fm2-22-3.pdf

Detainee Treatment Act of 2005 - Sec. 1001 – 1006. December 30, 2005. https://www.govinfo.gov/content/pkg/COMPS-489/pdf/COMPS-489.pdf

Quirin v Cox 317 U.S. 1. 1942. https://supreme.justia.com/cases/federal/us/317/1/#30

Executive Order 13492. 2009. *Review and Disposition of Individuals Detained at the Guantánamo Bay Naval Base and Closure of Detention Facilities* https://www.govinfo.gov/content/pkg/DCPD-200900005/pdf/DCPD-200900005.pdf

Executive Order 13491. 2009. *Ensuring Lawful Interrogations*. https://obamawhitehouse.archives.gov/the-press-office/ensuring-lawful-interrogations

Executive Order 13823. 2018. *Protecting America Through Lawful Detention of Terrorists*. https://www.presidency.ucsb.edu/documents/executive-order-13823-protecting-america-through-lawful-detention-terrorists

Military Commissions Act of 2006. October 17, 2006. https://www.congress.gov/bill/109th-congress/senate-bill/3930

Military Commissions Act of 2009. https://www.intelligence.senate.gov/laws/military-commissions-act-2009-title-xviii-national-defense-authorization-act-fiscal-year-2010

Military Order. 2001. *Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism*. November 13, 2001. https://georgewbush-whitehouse.archives.gov/news/releases/2001/11/20011113-27.html

Obama, Barack. 2009a. *The White House, Remarks by the President On National Security 5-21-09*, Washington D.C. https://obamawhitehouse.archives.gov/the-press-office/remarks-President-national-security-5-21-09

—. 2010. *News Conference by The President December 22, 2010.* https://obamawhitehouse.archives.gov/the-press-office/2010/12/22/news-conference-president

—. 2016. *Remarks by the President on Plan to Close the Prison at Guantanamo Bay February 23, 2016.* https://obamawhitehouse.archives.gov/the-press-office/2016/02/23/remarks-president-plan-close-prison-guantanamo-bay

—. 2017. *Letter from the President -- Report with Respect to Guantanamo January 19 2017* https://obamawhitehouse.archives.gov/the-press-office/2017/01/19/letter-president-report-respect-guantanamo

Rasul v Bush. 2004. OYEZ LII Supreme Court Resources June 28, 2004. https://www.oyez.org/cases/2003/03-334

Respondents' Memorandum Regarding the Government's detention Authority Relative to Detainees Held at Guantánamo. https://www.justice.gov/archive/opa/documents/memo-re-det-auth.pdf

Taguba, Antonio M. 2004. *Article 15-6 Investigation of the 800th Military Police Brigade.* https://irp.fas.org/agency/dod/taguba.pdf

Trump Donald. 2016a. "Donald Trump: Torture Works." https://www.youtube.com/watch?v=Kpj3pp10wD8

—. 2016b. "Trump: Load Guantanamo Bay Up with 'Bad Dudes'." https://www.youtube.com/watch?v=j7dmMI3CtKI

—. (@realDonaldTrump). 2017. Tweet, January 3, 2017. https://twitter.com/realDonaldTrump/status/816333480409833472

United Nations. 1966. *International Covenant on Economic, Social and Cultural Rights.* https://www.refworld.org/legal/agreements/unga/1966/en/33423

US Code: Title 18 – Crimes and Criminal Procedure: Chapter 113C – Torture. https://www.govinfo.gov/content/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-chap113C.pdf

U.S. Department of Justice, Office of Legal Counsel. 2002. *Memorandum for Alberto R. Gonzales Counsel to the President.* https://nsarchive2.gwu.edu/NSAEBB/NSAEBB127/02.08.01.pdf
U.S. Department of Justice: *Steps in Federal Criminal Process.* https://www.justice.gov/usao/justice-101/discovery
Boumediene v. Bush. 2008. *553 U.S. 723.* June 12, 2008. https://supreme.justia.com/cases/federal/us/553/723/
Hamdan v. Rumsfeld. 2006. *548 U.S. 557.* June 29, 2006. https://supreme.justia.com/cases/federal/us/548/557/

Secondary Sources

Alexander, Matthew. 2011. *Kill or Capture: How a Special Operations Task Force Took Down a Notorious al Qaeda Terrorist.* New York: St. Martin's Press.
Amann, Diane Marie. 2005. "Abu Ghraib". *University of Pennsylvania Law Review*, 153 (6): 2085–141. https://doi.org/10.2307/4150658
Baxter, Richard. 2013. "So-Called 'Unprivileged Belligerency': Spies, Guerrillas, and Saboteurs." In *Humanizing the Laws of War* edited by Detlev F. Vagts, Theodor Meron and Stephen M. Schwebel, Oxford University Press. (This piece was originally published in *The British Year Book of International Law,* 1951, 28:. 323-345.)
Böcskei, Balázs. 2017. "Post-truth politics" as the normal state of politics." In *Tamara – Journal of Critical Organization Inquiry* 15 (3-4): 257-60.
Butler, Judith. 2002. "Guantánamo Limbo." In *The Nation,* March. 14, 2002. https://www.thenation.com/article/archive/guantanamo-limbo/
—. 2004. "Indefinite Detention." In *Precarious Life: The Powers f Mourning and Violence.* New York, New York: Verso.
Coleman, Diana Murtaugh. 2017. "The Amen Temple of Empire". In *Guantánamo and American Empire: The Humanities Respond* edited by Don E. Walicek and Jessica Adams, 39–67. Cham, Switzerland: Palgrave Macmillan. DOI: https://doi.org/10.1007/978-3-319-62268-2_2
Crockatt, Richard. 2007. *After 9/11: Cultural Dimensions of American Global Power.* London –New York: Routledge.
Dinan, Stephen. 2010. "Obama's Gitmo plan takes another hit." In *The Washington Times.* May 28, 2010. https://www.washingtontimes.com/news/2010/may/28/senate-panel-strips-funding-illinois-prison/
Felter, Joseph and Jarret Brachman. 2007. *CTC Report: An Assessment of 516 Combatant Status Review Tribunal (CSRT) Unclassified Summaries.* West Point, NY: The Combating Terrorism Center.
Hajjar, Lisa 2009. "The Afterlives of Torture: The Global Implications of Reactionary US Politics." *State Crime Journal*. 8 (2):164-74. DOI: 10.13169/statecrime.8.2.0164
Hofstadter, Richard 1996. *The Paranoid Style in American Politics and Other Essays.* Cambridge, Massachusetts: Harvard University Press, (Republished version of the original which was published in 1964)
International Crisis Group. 2021. "Overkill: Reforming the Legal Basis for the U.S. War on Terror." https://www.crisisgroup.org/united-states/005-overkill-reforming-legal-basis-us-war-terror
Jalali, Ali A. 2003. "Afghanistan in 2002: The Struggle to Win the Peace." In *Asian Survey* 43 (1): 174-85. DOI: https://doi.org/10.1525/as.2003.43.1.174
Kagan, Robert 2004. *Of Paradise and Power: America and Europe in the New World Order.* New York: Vintage Books.

Kaplan, Amy. 2005. “Where is Guantánamo?” In *American Quarterly*, 57. no. 3 (September): 831–58. DOI: https://doi.org/10.1353/aq.2005.0048
Lattmann, Tamás. 2009. “Fogolytábor a guantánamói támaszponton – áttekintés a megnyitástól a bezárásig.” In *Nemzet és Biztonság: Biztonságpolitikai Szemle*, 2 (1): 10-19.
Lee, Carol E. and Courtney Kube. 2023. “Newest transfer brings Guantanamo detainee population down to 30; Biden administration wants to cut it still more” https://www.nbcnews.com/politics/national-security/transfer-drops-guantanamo-population-30-biden-wants-to-close-rcna80478
Lewis, Neil A. 2004. “Red Cross Finds Detainee Abuse in Guantánamo”. *The New York Times*, November 30. https://www.nytimes.com/2004/11/30/politics/red-cross-finds-detainee-abuse-in-guantanamo.html
McAllister, M.P. 2016. “Optimism and Pessimism about the Democratic Potential of Media.” In *New Media & Society*. 18 (7): 1190-95. https://doi.org/10.1177/1461444816644920
Merkovity, Norbert. 2017. “Introduction to Attention-Based Politics.” https://www.researchgate.net/publication/324107360_Introduction_to_attention-based_politics
Metz, Rudolf Tamás. 2017. “A kis-nagy ember. George W. Bush és a 9/11-es terrortámadás.” In *Viharban kormányozni: Politikai vezetők válsághelyzetekben,* edited by Körösényi András, 218–239. Budapest: MTA TK PTI.
Metz, Steven, and Douglas V. Johnson. 2001. “Asymmetry and U.S. Military Strategy: Definition, Background, and Strategic Concepts.” Strategic Studies Institute, US Army War College. http://www.jstor.org/stable/resrep11225.
Paine, Thomas. 1776. *Common Sense: Address to the Inhabitants of America, on the Following Interesting Subjects.* Philadelphia: W. & T. Bradford. E-book available: https://www.gutenberg.org/files/147/147-h/147-h.htm
Peterecz, Zoltán. 2016. *A kivételes Amerika: Az amerikai kivételesség történelmi bemutatása.* Budapest: Gondolat Kiadó.
Pfiffner, James P. 2014. “The Efficacy of Coercive Interrogation.” In *Examining Torture: Empirical Studies of State Repression*, edited by Tracy Lightcap and James P. Pfiffner, 127-159. New York: Palgrave Macmillan. https://doi.org/10.1057/9781137439161.0009
Paust, Jordan. 2007. *Beyond the Law: The Bush Administration’s Unlawful Responses in the “War” on Terror.* New York: Cambridge University Press.
Prieto, Daniel B., and Swetha Sridharan. 2009. “Detention and Interrogation.” *War About Terror: Civil Liberties and National Security After 9/11*. Council on Foreign Relations. http://www.jstor.org/stable/resrep05782.9.
Restad, Hilde Eliassen. 2015. *American Exceptionalism: An Idea that Made a Nation and Remade the World.* London – New York: Routledge.
Schmitt, Carl. 2007a. *The Concept of the Political.* Chicago: The University of Chicago Press.
—. 2007b. *Theory of the Partisan.* New York: Telos Press Publishing.
Seeye, Katherine Q. 2002. “A Nation Challenged: The Prisoners; First 'Unlawful Combatants' Seized in Afghanistan Arrive at U.S. Base in Cuba.*” The New York Times*, January 22, 2002. https://www.nytimes.com/2002/01/12/world/nation-challenged-prisoners-first-unlawful-combatants-seized-afghanistan-arrive.html
Smith, Clive Stafford. 2008. *Bad Men: Guantanamo Bay and the Secret Prisons.* London: W&N.
Walicek, Don E. and Adams, Jessica. 2017. “Finding Guantánamo: Freedom, Paradox, and Poetry.” In *Guantánamo and American Empire: The Humanities Respond* edited by

Don E. Walicek and Jessica Adams, 1-39. Cham, Switzerland: Palgrave Macmillan. https://doi.org/10.1007/978-3-319-62268-2_1

Yin, Tung. 2011. "'Anything But Bush?': The Obama Administration and Guantanamo Bay". In *Harvard Journal of Law and Public Policy*, 34, (2): 453-95. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1855047#paper-citations-widget