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## **Navigating Orientalism in International Law: Weaponization of Linguistic Bias to Justify the Use of Force in Israel-Palestine**

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### **Abstract**

This paper explores the intersection of Orientalism and international law, focusing on how linguistic bias is weaponized to justify the use of force in the Israel-Palestine conflict, using qualitative discourse analysis methodology. By analyzing Orientalist tropes and language, the study reveals how Orientalist language legitimizes asymmetrical power and military action. Statements were collected from *Knesset* press releases, ICJ opinions, and major news outlets. These texts were examined for recurring linguistic patterns—i.e. metaphors (e.g., “human animals”), framing devices (e.g., “self-defense,” “terrorist entities”), and dehumanizing descriptors—then categorized under themes like othering and moral justification. Where overt rhetorical devices were absent in formal documents, reliable news sources were used to fill this gap. Reliability was assessed based on the outlets’ adherence to journalistic ethics, transparency, and reputational consistency in covering international legal matters. The analysis draws on Edward Said’s theory of Orientalism and Bamo Nouri’s application of it to international legal narratives. It demonstrates how Israeli discourse frames Palestinian resistance as terrorism, while casting Israeli military actions as legitimate self-defense, dehumanizing Palestinians and distorting the principles of international law. Through this examination, the paper calls for a critical reevaluation of legal to foster a more balanced and fair approach to international conflict resolution.

**Keywords:** Orientalism; Language; Dehumanization; Bias; International Law

## Introduction

*Language shapes what we think, and what we can think about.*

B. L. Whorf

Language matters, in absolutely everything. Since the very beginning of time, the study of linguistics has been at the crux of human evolution. If we do not understand each other, we cannot work together.<sup>1</sup> If we cannot work together, civilization sets its course on collapse.<sup>2</sup> With time, the importance of linguistics continuously amplifies. A mother uses carefully selected language to raise a child in a manner she deems fit.<sup>3</sup> A doctor maintains a professional tone to circumvent panic amongst his patients.<sup>4</sup> Perhaps more crucially, a government utilizes language to subconsciously proliferate perceptions and beliefs that strengthen its political position.<sup>5</sup> Linguistics does not merely concern itself with the grammar and vocabulary of a language. In fact, it is safe to say that linguistics is analogous to music in that it is not made only of its lyrics, but also of its *melody*. The crescendos and decrescendos of music parallels the emphasis of words in linguistics. The use of certain instruments to emit feelings from listeners mirrors that of *the use of select vocabulary to shape and build perceptions from speakers*. This nature of the study of linguistics is what makes it so subtle and perfectly utilized by those with the conscience to wield it against the subconscious others, to obtain a certain goal.<sup>6</sup> The select use of language that silently instills prejudice (henceforward referred to as *linguistic bias*) is what makes linguistics the perfect weapon that does not kill.

For the purposes of this paper, *linguistic bias* does not merely refer to spoken words or political rhetoric. Rather, it encompasses the full spectrum of language construction, including vocabulary, grammatical framing, syntax, and the semantic structures through which meaning is conveyed. This broader understanding enables a more precise identification of how language, both overt and subtle, is strategically used to perpetuate bias by normalizing power imbalances and justifying violence within international law.

In a separate theme, international law prohibits the use of force under Article 2(4) of the UN Charter except under certain circumstances, inter alia, if the acting state is behaving in self-defense.<sup>7</sup> How does one determine if a state is acting in self-defense? Who determines whether the self-defense excuse is valid and reasonable? The lines of linguistics and international law cross at this exact intersection. Linguistic biases have historically been intentionally and carefully

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<sup>1</sup> John H. McWhorter. (2002). *The Power of Babel: A Natural History of Language*. Random House.

<sup>2</sup> Turchin, P. (2008). Arise “Cliodynamics.” *Nature*, 454(7200), 34–35.

<sup>3</sup> Rivero, M., Vilaseca, R., Cantero, M.-J., Valls-Vidal, C., & Leiva, D. (2023). Relations between Positive Parenting Behavior during Play and Child Language Development at Early Ages. *Children*, 10(3), 505.

<sup>4</sup> Molina, R. L., & Kasper, J. (2019). The power of language-concordant care: a call to action for medical schools. *BMC Medical Education*, 19(1), 378.

<sup>5</sup> Altun, M. (2023). The Power of Language: Exploring its Significance in Shaping Perceptions, Beliefs, and Relationships. *International Journal of Social Sciences & Educational Studies*, 10(3).

<sup>6</sup> Cummins, J. (2000). *Language, Power and Pedagogy*. Multilingual Matters.

<sup>7</sup> Charter of the United Nations, Article 51.

selected and construed, to justify the use of force.<sup>8</sup> These linguistic biases are created through the lens of orientalism by demonizing the Orient and justifying the use of force against them for several reasons, the spread of democracy and freedom being but one of them. This use of demonizing language, aimed to ‘other’ the specified targets of the Middle East, Asia, and Africa, is what is dubbed as *Orientalism* by Edward Said.<sup>9</sup> His Orientalism refers to the Western academic and cultural tradition of representing the Orient as exotic, backward, and inferior to the West. In international law, Orientalism manifests through Eurocentric biases in legal norms, institutions, and practices.<sup>10</sup> Historically, colonial powers used legal justifications rooted in Orientalist narratives to legitimize their imperialist ventures and justify interventions in non-Western societies.<sup>11</sup> A clear instance to put in perspective on how these biases are utilized is through the use of the phrase ‘*advanced interrogation techniques*’ coined by President Bush after the tragedy of September 11th, masking the atrocities of torture it was committing to deflect its international responsibility as enshrined under Article 5 of the UNC.<sup>12</sup> This use of euphemistic language reflects a form of linguistic Orientalism, where Western powers attempt to justify their actions while downplaying the suffering inflicted upon non-Western populations.<sup>13</sup>

In Israel-Palestine, the phrase ‘self-defense’ is commonly used to justify the military aggression Israel poses upon Palestine. Alternatively, the right to ‘self-determination’ is used by Hamas in Palestine in order to justify their retaliation against the use of force exerted by Israel. The careless use of linguistics by parties to this conflict can have detrimental effects to international law, such as the legal *legitimization of violence* through distorted perceptions of the orient.<sup>14</sup> By framing Palestinian resistance as inherently violent and illegitimate, while portraying Israeli actions as defensive and necessary for security, the discourse surrounding the conflict perpetuates deeply entrenched stereotypes and prejudices. Terms such as “*terrorism*” and “*self-defense*” become laden with ideological connotations, shaping international perception surrounding the Palestinians, and subsequently inducing support for the mass killing of civilians under the pretense of necessity. Naturally, this also impacts the operation of international law as it normalizes occupation, creating an impediment to peace, the very notion international law has sworn to protect. Therefore, by delving into the intricate interplay between orientalism and international law, this paper unveils the subtle yet pervasive ways in which linguistic biases are leveraged to legitimize the use of force in Israel-Palestine.

<sup>8</sup> Jackson, R. (2007). Constructing Enemies: ‘Islamic Terrorism’ in Political and Academic Discourse. *Government and Opposition*, 42(3).

<sup>9</sup> Clifford, J., & Said, E. W. (1980). Orientalism. *History and Theory*, 19(2), 204.

<sup>10</sup> Anghie, Antony. *Imperialism, Sovereignty, and the making of International Law*. Cambridge: Cambridge University Press, 2005.

<sup>11</sup> Allain, J. (2004). Orientalism and International Law: The Middle East as the Underclass of the International Legal Order. *Leiden Journal of International Law*, 17(2), 391–404.

<sup>12</sup> Dayan, C. (2013). Torture By Any Other Name: Prelude to Guantanamo. In *Violence and Visibility in Modern History* (pp. 25–42). Palgrave Macmillan US.

<sup>13</sup> Halabi, R. (2023). “Why Words Matter”.

<sup>14</sup> (Lukin & Marrugo, 2023)

As the Palestinian conflict remains a focal point of global attention, this paper's exploration of orientalism in legal discourse not only exposes systemic injustices but also advocates for a more nuanced and equitable approach to international law.

## **A. Seeds of Orientalism.**

Before probing into the bulk of how orientalism is manifested in Israel-Palestine through the weaponization of language, this paper seeks to carefully deconstruct the extensive concept piece by piece to connect the frames into the bigger picture. For clarity, this chapter will be fractionated into 3 separate limbs: The first, to provide evidence as to the existence of orientalism by visiting history, subsequently identifying its prominence within the framework of international law through the analysis of colonial era treaties, and finally, the setting of the foundation of this very paper through the analysis of the American linguistic biases used to justify the use of military force during The 2001 Invasion of Iraq.

### **I. Historical Roots of Orientalism.**

This section of the chapter focuses on the evidence established to prove the existence of orientalism since modern colonialism. It is critical to discuss this in order to proceed with the argument that orientalism is interlaced within the international legal system.

Orientalist attitudes have been prevalent within western society for centuries. Its roots date as far back as classical antiquity, when Eastern civilizations like Egypt, India, and Persia were portrayed as "Other" in Greek and Roman writings.<sup>15</sup> In his *Histories*, Herodotus creates a division between the irrational East and the rational West by contrasting the freedom-loving Greeks with the autocratic Persians.<sup>16</sup> Then, in the Middle Ages, religious and military exchanges, especially the Crusades, influenced European relations with the East.<sup>17</sup> It was common during this period to portray Islamic civilization—embodied by the Caliphates and the Ottoman Empire—as a competing culture and a danger to Christianity.<sup>18</sup> Both; a lack of firsthand understanding of Eastern societies and religious prejudices had a significant impact on these portrayals. According to Said's *Orientalism*, this prejudice then propagated in the 18th century during Napoleon's invasion of Egypt, slithering through the cracks of academia in the European learning centers when the study of East Asia became a prominent area of study in order for Europe to persist in its domination over the regions.<sup>19</sup> Said opined that the imperialists utilized the knowledge production of these 'orientalists' in their colonial endeavors, resulting in the proliferation of the idea that the East is almost *perpendicular* to the West, as a result of these

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<sup>15</sup> Lianeri, A. (2007). 14 The Persian Wars as the 'Origin' of Historiography: *Ancient and Modern Orientalism in George Grote's History of Greece*. In *Cultural Responses to the Persian Wars* (pp. 331–354).

<sup>16</sup> MacKendrick, P., Herodotus, & Selincourt, A. de. (1955). Herodotus, the Histories. *The Classical Weekly*, 48(13), 183.

<sup>17</sup> Omoush, "The Interaction between the Crusaders and Muslims in the East: Myth and Reality".

<sup>18</sup> Omoush, "The Interaction between the Crusaders and Muslims in the East: Myth and Reality".

<sup>19</sup> Clifford and Said, "Orientalism," 204.

studies often carrying a Eurocentric bias.<sup>20</sup> Scholars like Montesquieu (in Chapter 9 of his *The Spirit of the Laws: Book III*) portrayed Eastern societies as despotic and stagnant, contrasting them with the rational and progressive West.<sup>21</sup> Essentially, where the West is civilized, democratic and peace-loving, the East is portrayed as primitive, decadent, and ultimately, inferior.

In the context of Israel-Palestine, Orientalism manifests itself not only towards the Arabs living within the boundaries of the state of Israel. In fact, Jewish diaspora native to the Middle East, the *Mizrahi* Jews (literally translated into *Oriental* Jews), faced the same prejudice the Arabs did for their cultural ties to the Arab heritage.<sup>22</sup> Before the establishment of Israel in 1948, the Jewish communities in the Middle East and North Africa had rich cultural and historical ties to the Arab world.<sup>23</sup> They spoke Arabic, adopted local customs, and lived alongside their Arab neighbors, contributing to a shared cultural heritage.<sup>24</sup> Post 1948, the Mizrahims immigrated into Israel, where they were frequently perceived in Israel via an Orientalist prism, just like Arabs were. They were perceived as being less sophisticated, archaic, and foreign than their Ashkenazi colleagues as a result of the Eurocentric beliefs of Israel's mostly Ashkenazi leadership, which exalted Western culture.<sup>25</sup> They experienced severe socioeconomic inequality and prejudice in a number of spheres of life, such as housing, work, and education. They received worse schooling, were frequently sent to outlying areas, and had few chances to grow economically.<sup>26</sup> Furthermore, Mizrahi customs and traditions were marginalized by Israeli government policies and practices that showed a preference for Ashkenazi culture and values. To shed this second-class treatment, a fraction of the Mizrahims decided to assimilate into the *Ashkenazi* (European diaspora Jews) culture within Israel, and erode their inherent ancestral heritage and culture, namely their similarities with the Arabs.<sup>27</sup>

The experience of Mizrahi Jews in Israel is a poignant example of how Orientalism can manifest internally within a society, leading to the marginalization of a community based on cultural and ethnic differences. It did not matter that the Mizrahims themselves were of Jewish descent; only that they are part of the orient based on the ontological similarities shared by both subjects. We argue, then, that Orientalist attitudes are prominent and persist in time in the state of Israel.

## II. Orientalist Threads in International Law

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<sup>20</sup> Clifford and Said, "Orientalism," 204.

<sup>21</sup> Montesquieu, C. de S. baron de, Nugent, T., & Alembert, J. L. R. d'. (1949). *The Spirit of Laws*.

<sup>22</sup> Kalmar & Penslar, "*Orientalism and the Jews*".

<sup>23</sup> Kalmar & Penslar, "*Orientalism and the Jews*".

<sup>24</sup> Levy, Lital. "Historicizing the Concept of Arab Jews in the 'Mashriq.'" *The Jewish Quarterly Review* 98, no. 4 (2008): 452–469.

<sup>25</sup> Young, Michael. "When Jews Were Arabs Too." *Carnegie Endowment for International Peace*, September 4, 2023.

<sup>26</sup> Young, "When Jews Were Arabs Too."

<sup>27</sup> Young, "When Jews Were Arabs Too."

The final limb of this chapter concerns the analysis of orientalism traced within international law, specifically through the analysis of colonial era treaties. It is important to consider orientalist threads in International Law because they reveal how entrenched cultural biases and stereotypes can shape legal norms and practices, creating lopsided laws, and creating lacunas. One such example lies in the United Nations Charter itself, which, despite promoting sovereign equality and self-determination, failed to recognize the rights of indigenous and colonized peoples.<sup>28</sup> Instead, it upheld borders drawn by colonial powers, often at the expense of local identities and historical claims.<sup>29</sup> This oversight reveals an implicit bias: Western-imposed structures were treated as legitimate, while indigenous voices were marginalized. Such ideas will be discussed below.

It would be careless of one to trace orientalism within the international legal scene without consideration to the ‘Unequal Treaties’ of Anglo-China in the early 19th century. The Unequal Treaties, predominantly imposed by Western powers on Eastern nations during the colonial era, exemplify Orientalism in international relations.<sup>30</sup> These treaties were instruments of Western dominance, imposing unequal terms on Eastern countries and reinforcing the perception of the East as inferior and in need of Western guidance.<sup>31</sup> The treaties served as proof that even on Oriental soil, western interests prevail and trample other needs by the Orient.

Most notably, the first unequal treaty is that of the Treaty of Nanking. In August of 1842, the Treaty of Nanking, which ended the First Opium War between Great Britain and the Qing Dynasty of China, was signed. The treaty reflected Western perceptions of China as weak and inferior, leading to and evidenced by the unequal terms that favored British interests. The treaty itself was only *artlessly* translated into Chinese,<sup>32</sup> and included embarrassing and insulting terms to be fulfilled on part of China in order to submit to *peace* and *cooperation* with Great Britain. Some of these terms included the cession of Hong Kong to Britain,<sup>33</sup> monetary compensation of about tens of millions of pounds for the damages of opium that was seized and destroyed by the Chinese authorities,<sup>34</sup> and the opening of ports in the region with British control over tariffs.<sup>35</sup> The justification for the British actions leading to and following the Treaty of Nanking was steeped in the rhetoric of a *civilizing* mission, a key component of Orientalist thought. The Chinese government was portrayed in British discourse as being corrupt, autocratic, and opposed

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<sup>28</sup> Yoon, Mi Yung. “Colonialism and Border Disputes in Africa: The Case of the Malawi-Tanzania Dispute over Lake Malawi/Nyasa.” *The Journal of Territorial and Maritime Studies* 1, no. 1 (2014): 75–89. <https://www.jstor.org/stable/26664099>.

<sup>29</sup> Yoon, “Colonialism and Border Disputes in Africa: The Case of the Malawi-Tanzania Dispute over Lake Malawi/Nyasa.” 76.

<sup>30</sup> Hissong, 2021.

<sup>31</sup> Conde P., Elena V., and Zhaklin Y., “Unequal Treaties in International Law.” *Oxford Bibliographies in International Law*, March 25, 2020.

<sup>32</sup> Treaty of Nanking.

<sup>33</sup> Treaty of Nanking 1843, Article 3.

<sup>34</sup> Treaty of Nanking 1843, Article 4;7.

<sup>35</sup> Treaty of Nanking 1843, Article 2; 9; 10.

to the advancement and reason that Western civilization stood for. The British positioned themselves as agents of enlightenment, delivering civilization to a country that was backward in thought, by justifying their presence as a necessary step to open China to free trade and modernity. The aggressive nature of the opium trade, which was fueled by British commercial interests and had disastrous social repercussions for China, was simply overlooked in this story. Alternatively, the emphasis was on the alleged advantages of Western influence, which served to further the idea of Western superiority and the necessity of "civilizing" the East.

The 1843 Treaty of Bogue was signed supplementarily to Nanking. This treaty humiliated China even further, challenging its legal system by introducing the 'legal extension of extraterritoriality' clause which effectively meant that the right or privilege of a state to exercise authority in certain circumstances extends beyond the limits of its territory. Foreigners can now come to China and still be subject to their own legal systems instead of China's. This was largely pushed by the British due to their belief that British law was the more '*civil*' law to be applied in comparison to China's own laws and customs. The extraterritorial rights provision is a particularly stark example of Orientalist 'othering.' By insisting that British nationals be governed by British law while in China, the treaty implicitly suggested that Chinese law was inferior, unjust, or incapable of properly adjudicating disputes involving Westerners. This provision entrenched the notion of Chinese legal and cultural inferiority and reinforced the perception of Western superiority.

Soon after, the United States followed Britain's lead and made its own unfair deal with China. In 1844, the Treaty of Wanghia, focusing on trade and where Americans could live in Chinese ports, was signed. This treaty expanded on the earlier British treaty's idea that foreigners living in China would follow their own laws instead of China's. France also made a similar deal with China in 1844, in the Treaty of Whampoa. Essentially, the Chinese identity was slowly being shaped to fit a Western mold as a result of these treaties. The rationale of extraterritoriality being utilized by the Western powers in these treaties being that of the effort undertaken by them to bring forward *just* laws in China mirrors the quintessential orientalist argument of 'heroes rescuing a *forsaken* land'. We will, as this paper progresses, see this very argument being used in numerous instances to justify Western acts against the Orient.

It is worthy of note that there indeed *were* treaties unequal in nature signed between 2 *western* states. In the 1919 Treaty of Versailles,<sup>36</sup> the Allied Powers had deliberately excluded Germany (an axis power) from the making of the treaty, and instead negotiated amongst themselves; a difficult venture as they had trouble finding common ground as to the sanctions Germany would face.<sup>37</sup> Thus, when the treaty was presented for signature to Germany, it was very severe.<sup>38</sup> Its efforts in counter proposing were also all immediately shut down by the Allied Powers, ultimately resulting in Germany refusing to sign the peace treaty.<sup>39</sup> They were

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<sup>36</sup> Charles E., (1776). *Treaties and other International Legal Instruments*.

<sup>37</sup> Evans, "Treaties and other International Legal Instruments".

<sup>38</sup> Evans, "Treaties and other International Legal Instruments".

<sup>39</sup> Evans, "Treaties and other International Legal Instruments".

subsequently forced to sign, with the threat of the resumption of war looming by the Allied Powers.<sup>40</sup> The terms were also manifest as one-sided. Germany was only allowed an extremely restricted size of army,<sup>41</sup> no entry to the League of Nations,<sup>42</sup> and harsh economic sanctions as well as insults and embarrassments much like the *Guilt Clause 231* of the treaty,<sup>43</sup> aimed to shame them for starting a war, which they disclaim committing.<sup>44</sup> Ironically enough, the punitive nature of this treaty was popularly thought to be the rudimentary reason for the initiation of World War 2 by Germany.<sup>45</sup> This was not deemed to be the only unequal Western treaty. A year after the signing of Versailles, the Treaty of Trianon resulted in the maiming of the Kingdom of Hungary, as a consequence of the collective loss of the Central Powers, with a third of its central regions ceding to its neighbor states.<sup>46</sup> Markedly, this paper acknowledges the necessity to recognize that the oppression from colonial powers is not only limited to Oriental states.

At this juncture, perhaps some would argue that this negates the notion of orientalism within the Unequal Treaties; evidently oriental states were not the *sole* victims of the intricate power play within the international scene during the signature of treaties, so it disproves that any oppression towards them partakes in the orientalist argument (discrimination and xenophobia perhaps, but not *specifically* orientalism). This is a false dichotomy fallacy. There is not an ‘either or’ concept in which orientalist attitudes must never leave room for Western states to also trample other Western states. One truth does not discredit another truth, as reality is multifaceted. Therefore, any traces of orientalism within treaties, in the context of the effort to ‘other’ and belittle the Orient, must be thoroughly considered in order to preserve expansion of the conversation concerning orientalist attitudes in international law.

Pursuant to all that is mentioned within this section, Orientalist tropes still exist to this day. A stark manifestation of such contemporary bias within international legal enforcement is observable in the response to the ICC’s arrest warrant request against Israeli Prime Minister Benjamin Netanyahu.<sup>47</sup> Despite the issuance of the warrant for alleged international crimes, including the targeting of civilians in Gaza, several states that are parties to the Rome Statute have signaled their intention to refuse arresting Netanyahu should he enter their territory.<sup>48</sup> We compare this to the ICC’s warrant against Syria’s Bashar Al-Assad. This paper submits that there is to be seen the selective Western interest over a state situated in the Middle Eastern bloc, exemplary through the lens of France’s actions. When it came to Syria (a non-member state to the ICC), The Appellate courts of France ruled for an arrest warrant against Bashar to be issued

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<sup>40</sup> Evans, “*Treaties and other International Legal Instruments*”.

<sup>41</sup> Evans, “*Treaties and other International Legal Instruments*”.

<sup>42</sup> Evans, “*Treaties and other International Legal Instruments*”.

<sup>43</sup> Evans, “*Treaties and other International Legal Instruments*”.

<sup>44</sup> Treaty of Versailles 1920, Art 231.

<sup>45</sup> Treaty of Versailles 1920, Art 231.

<sup>46</sup> Evans, “*Treaties and other International Legal Instruments*”.

<sup>47</sup> ICC, (2024)

<sup>48</sup> (Jones, 2024)



for his alleged complicity in crimes against humanity.<sup>49</sup> In contrast, though at first glance France agreed to comply with Netanyahu's arrest warrant,<sup>50</sup> the French foreign ministry redacted its position, and came out with the argument that Netanyahu is *immune* from international arrest as he is an official Head of State, and that Israel is not member to the ICC.<sup>51</sup> This argument has been alive since the beginning of time; when Russia used it to protect Vladimir Putin,<sup>52</sup> and when al-Bashir was not arrested when he stepped on Jordanian soil.<sup>53</sup> What matters is France's divergent approaches reflect selective political interest within the same regional bloc. Both Israel and Syria lie within the Middle East; yet only one is enveloped in the protective posture of the West. This inconsistency is emblematic of Orientalist logic: the "favored" Middle Eastern state is aligned with Western ideals (and is itself made of a majority of European descendants)<sup>54</sup> and is thus insulated from international legal consequences, while the "othered" state is subjected to swift condemnation and active pursuit of accountability. The law, therefore, is not applied in a vacuum but through a lens of entrenched geopolitical hierarchies shaped by colonial legacies. The legal obligation under Article 86 of the Rome Statute (to fully cooperate with the Court) is quietly dismissed in favor of political solidarity with a Western-backed ally.

### III. American Linguistic Biases Used to Justify The 2001 Invasion of Iraq

The unequal treaties painted a vivid picture of orientalist attitudes during the high of colonial times. In modern day society, the expansion of awareness over the depravity of prejudice culminates in orientalism being increasingly inconspicuous in nature. This is where linguistic biases intersect into the persistence of orientalism. In the Anglo-Chinese treaties, it was clear that the agreements between the nations were expressly one-sided and resulted in the oppression towards the Chinese, mainly due to the west's notion of the Chinese being lesser than. This attitude would be less than accepted by the public today. A newer, more subtle, perhaps *abstract* weaponry must be equipped to commit the same prejudice. Building upon this idea, *and this very paper*, we analyze Bamo Nouri's significant piece,<sup>55</sup> on the prevalence of Orientalism in the 2001 American invasion of Iraq. His key discovery included that the Bush administration's select use of language consecrated the US' invasion of Iraq, by *othering* Iraq, and disseminating prejudice over it. This is critical to ascertain, as it provides the most fundamental basis for the arguments this paper shall present henceforth on Israel-Palestine.

Nouri begins by citing Jackson in '*Writing the War on Terrorism*', who argues that for a government to carry out a large-scale project for hostilities, such as wars or counterterrorism

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<sup>49</sup> (Gritten, 2024)

<sup>50</sup> ("France Backs ICC after It Seeks Arrest Warrants for Israel's Netanyahu, Hamas Leaders," 2024)

<sup>51</sup> (Borger, 2024)

<sup>52</sup> ("Russia-Ukraine War: Moscow Ignores Arrest Warrants for Putin Commanders," 2024)

<sup>53</sup> ("ICC: Jordan Was Required to Arrest Sudan's Bashir," 2019)

<sup>54</sup> Harvard, 2022.

<sup>55</sup> Harvard, 2022.

efforts, they will need a lot of people to agree that it's necessary and doable. This agreement is usually created through *the way* in which they talk about it, or their "*discourse*". When a government wants to convince people to support a war, they don't merely spread propaganda through posters or ads. Instead, they create a whole new way of talking about the situation that makes it seem normal and unquestionable. This new way of talking about things makes it easier for people to accept the violence and not question it. This process involves creating a new reality where violence by the government is legitimized and actions like counterterrorism efforts and the call of war seem like reasonable solutions to problems.

According to Nouri, *the way* in which people talk about these topics does not merely happen out of the blue. Accounts by President Bush's speechwriter included that after the 9/11 attacks, there was a debate among White House staff on how to talk about the people responsible for the attacks. Some opined the US should 'educate Muslims about American values', while the others, led by Karl Rove, believed the focus of this effort should be on Islam's *failures*. Subsequently, the White House invited a historian, Bernard Lewis, to explain why Muslims might hate the West. Lewis argued that Islam had a long history of conflict with the West and that Muslims would never accept Western dominance. He stressed that what the West deemed as the "war on terror" was seen by Muslims as a "holy war". The efforts to *other* Iraq have now begun, by demonizing the entirety of the Islamic belief.

Nouri then provides his evidence as to the language used by President Bush during his regime against Iraq through quotes from Bush's speeches when dealing with 'The War on Terror'. The quotes show how Bush and his secretary of state, Condoleezza Rice, emphasize a clear divide between "*us*" and "*them*" with an orientalist perspective. This division extends to feelings of "*love and hate*," as Bush says, "*They hate us because of what we love*," and to notions of hatred and madness, as he describes, "The depth of their hatred is equaled by the madness of the destruction they design". The Bush administration consistently emphasizes the contrast between the East and West by repeating orientalist ideas. In speeches promoting the Bush doctrine, Bush mentions "justice" numerous times and portrays the US as associated with the "Good war". This portrayal has significant implications for how international law is understood and how US military force is viewed. Presenting the 'War on Terror' as a "just war" was crucial for gaining support for the wars in Afghanistan and Iraq. This legitimizing effect of speech was evident in the response of scholars like Richard Falk, who, despite typically opposing US military actions, described the war as "the first truly just war since World War II". In the end, Iraq was merely an add-on to the larger 'War on Terror' which by 2003 had gained widespread acceptance as a justifiable and holy conflict.

The spirit of orientalism is, directly and indirectly, subtly and obviously, ingrained within the application of international law. Building upon that, we advance our discourse onto the key findings of this paper, on how like US-Iraq, orientalism is manifested through language to justify the use of force in Israel-Palestine.

## **B. Orientalism in Israel-Palestine: The Justification of the Use of Force through Linguistic Biases**

This chapter focuses on the dispensation of evidence to prove the existence of linguistic biases used to justify the use of force in Israel-Palestine. We delve into the crux of this paper; the examination of orientalist attitudes with regards to the use of force in the Israel-Palestine conflict. This involves the identification of orientalist language and juxtaposing them with the findings outlined by Nouri during the Iraq invasion.

### **I. Central Idea**

In Nouri's analysis of US-Iraq, orientalism was present in its most perfect picture – a battle between a force of the West and the East in its most direct form.<sup>56</sup> Nevertheless, Edward Said's Orientalism is much more intangible and complex in nature than the mere geographical location of the forces in question. It concerns the *identity* of the East; the ontological and epistemological separation between the East and the West.<sup>57</sup> Therefore, despite Israel being geographically situated in the East, Orientalism has presented itself in the state of Israel since the beginning of its foundation through the Zionist movement. In the early 1900s, the father of Zionism, Theodor Herzl, sought British support for the creation of a Jewish state, believing that the British, who were pioneers in recognizing 'the need' for colonial expansion, would quickly grasp *the Zionist vision*, which he described as a colonial endeavor.<sup>58</sup> At the time, Colonialism was often justified as a means of "*civilizing*" other parts of the world (a familiar argument in this thematic discourse). Reflecting this mindset, Israel's first prime minister, David Ben-Gurion, candidly stated:

*"We do not want Israelis to become Arabs. We are duty bound to fight against the spirit of the Levant, which corrupts individuals and societies."*<sup>59</sup>

Relatively, throughout this chapter, multiple statements made by the Israeli officials in the effort to demonize Arabs in general will be utilized to build the central argument of this paper. This is principally because in analysis, these statements are made against the same *other* group; the Palestinians. In furtherance of this, we dive into the statements made against the Palestinians under this prejudicial light.

### **II. Us v Them**

Substantially, the orientalist discourse is built upon an *othering* technique by differentiating the "Us" and the "Them". This distinction is made in numerous other synonyms such as the

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<sup>56</sup> Nouri, B. (2021). Orientalism and the application of international law in the 2003 Iraq War and occupation. *Journal of Global Faultlines*, 8(2).

<sup>57</sup> Clifford and Said, "Orientalism," 204.

<sup>58</sup> Kornberg, 1980.

<sup>59</sup> Nocke, A. (2009). *The Place of the Mediterranean in Modern Israeli Identity*. BRILL. <https://doi.org/10.1163/ej.9789004173248.i-282>

primitive and the civilized, the good and the evil, and the likes. In Nouri's paper, the divisions planted by the American government against the Iraqis focused primarily on demonizing the Arab heritage, by employing this 'Us vs Them' narrative, critically justifying its invasion over Iraq as the cleansing of backwardness and propagation of democracy over '*a troubled area*'.<sup>60</sup> Where the West is the frontier and father of the democratic and just world, the Arabs are the extreme opposite; rejecting any possibility of a free society.

*"Why do they hate us? . . . They hate what they see right here in this chamber: a democratically elected government. Their leaders are self-appointed. They hate our freedoms: our freedom of religion, our freedom of speech, our freedom to vote and assemble and disagree with each other. We have seen their kind before. **They're the heirs of all the murderous ideologies of the 20th century.** By sacrificing human life to serve their radical visions, by abandoning every value except the will to power, they follow in the path of fascism, Nazism and totalitarianism. And they will follow that path all the way to where it ends in history's unmarked grave of discarded lies."*<sup>61</sup>

Similar to Nouri's findings, the Palestinians, as part of the Arab world, are painted in dim, wretched light by the Israeli government. At the opening of Israel's October 2023 *knesset* (synonymous with a parliamentary sitting), Prime Minister Netanyahu unmistakably echoed Herzl's notion of Israel bringing democracy to *a troubled region*. He noted Hamas as seeking to destroy the state of Israel to

*"... return the Middle East to the abyss of the **barbaric fanaticism of the Middle Ages**, whereas we want to take the Middle East forward to the heights of progress of the 21st century."*<sup>62</sup>

This paper does not seek to defend Hamas or consider its status as a terrorist group. The significance of this statement is that it highlights the '*returning*' of the Middle East into '*barbaric fanaticism of the Middle Ages*', a direct reference to their orientalist perspectives on the '*decadent*' region. In contrast to this extreme, Israel's own soldiers are painted with values and dignity. Israel, through the IDF website, pictures its own forces as conforming to 4 core principles; the defense (as opposed to offensive armed missions) of the state Israel, patriotism and loyalty to the state of Israel, human dignity, and statehood.<sup>63</sup> In short, the support of the IDF in its hostilities against Hamas and the Palestinians are deemed as *loyalty* towards the state of Israel.<sup>64</sup> On the other hand, Palestinian support for Hamas hostilities against Israel is viewed as the common denominator of all Arabs: a passion for 'bloodthirst' and 'murderous ideologies'. It is not the justification of the support that this paper wishes to emphasize; rather the distinct opposite ends of two different narratives used by Israel in this conflict. A strikingly similar list of events occurred during US-Iraq. Nouri opined Bush to have painted its own people in favorable light when demonizing the Arabs, stating:

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<sup>60</sup> Nouri, "Orientalism and the Application of International Law in the 2003 Iraq War and Occupation,".

<sup>61</sup> Nouri, "Orientalism and the Application of International Law in the 2003 Iraq War and Occupation,".

<sup>62</sup> 25<sup>th</sup> Knesset Opening Remarks, 21 May 2024.

<sup>63</sup> Israel Defense Forces Official Site.

<sup>64</sup> Sharp & Zanotti, 2024

*“Our fellow Americans are generous and kind, resourceful and brave. We see our national character in rescuers working past exhaustion . . . we have seen our national character in eloquent acts of sacrifice . . . Americans showed a deep commitment to one another, and an abiding love for our country.”*

In comparison, Iraqis are considered to “Hate” democracy, and Americans as a whole, in opposition to the “freedom” they propagate. The “Us vs Them” narrative does not stop there. It continues with the likening of the Palestinians to animals, and to a greater evil overall. On the 9th of October 2023, the Israeli Minister of Defense stated explicitly when announcing a “complete siege over Gaza”:

*“We are fighting **human animals**, and we are acting accordingly.”*<sup>65</sup>

Similarly, Netanyahu, in his plan to build a wall around Israel to “keep off” the Palestinians, justified his plans as necessary to:

*“...protect the country from **infiltration by both Palestinians and the citizens of surrounding Arab states**... [whom he described as] “wild beasts.”*<sup>66</sup>

Another instance mirrored Israel’s words directly to the words of Bush during the aftermath of the 9/11 attacks in the US. Shortly after the tragedy of the 7th of October, the IDF released a picture on its X account of an almost identical slogan as one propagated by the Bush administration during the Iraq invasion:

*“You either stand with Israel or you stand with terrorism”*

*“Either you are with us, or you are with the terrorists.”*<sup>67</sup>

The structure of words intentionally put together to produce negative Islamist imagery, mainly by saying the adversary (Palestinians) is barbaric, terroristic and perpendicular to the civilized Western ways are a direct use of Orientalism to perpetuate the idea that Palestinians deserve to be killed. After all, it’s difficult to commit ‘atrocities’ upon a population that is demonized and considered as the quintessential terrorist state.

### III. Nazism

On a different limb, in the same October *Knesset*, Netanyahu made multiple statements ‘othering’ the Palestinians by elucidating the Arabs as synonymous with Nazis. Nazism itself is associated with the most serious crimes: genocide, crimes against humanity, and racial persecution, referenced literally from the Nazi regime during the Holocaust.<sup>68</sup> As affirmed in the amicus curiae submission of the International Commission of Jurists in ICC-01/18-311, these crimes are codified as *jus cogens* (peremptory) norms,<sup>69</sup> meaning they are non-derogable and universally

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<sup>65</sup> Fabian, 2023

<sup>66</sup> (Beaumont, 2016)

<sup>67</sup> (“Address to a Joint Session of Congress and the American People,” 2001)

<sup>68</sup> (Weisz, 2025).

<sup>69</sup> ICC-01/18-311 07-08-2024 1/12 PT , 21.

prohibited. Labeling a group or people as “Nazis” carries immense legal and historical weight and should not be used without clear factual grounding.

The weaponization of the term *Nazism* is not a new feat within orientalism. In US-Iraq, the same term was used to describe the Iraqis. The likening of Palestinians to Nazis has been reiterated by the Israeli officials multiple times. On the 26th of October 2024, the Israeli Minister of Heritage stated, in response to the ICJ ordering Israel to take immediate measures to protect Palestinian civilians in Gaza:

***“With Nazis and their helpers, you do not speak. You eradicate evil from the world.”***

Echoing this *Nazi* narrative, the Israeli Minister of Finance, Bezalel Smotrich, voiced out in a statement:

***“... we need to establish a proper Jewish settlement in the Gaza Strip in order to ensure Jewish presence in the long term, so that terrorism can't develop there, because if we aren't there, if **there are 2 million Nazis who want to wipe us out every day** when they wake up in the morning, we won't exist. Period. We'll wake up in 10 or 15 years to another October 7th.”***

The likening of Palestinians to Nazis goes as far as to deny them of any basic humanitarian needs. In a statement strongly denying the Palestinians their right to aid, Israeli Minister of Jerusalem Affairs Amichai Eliyahu said:

***“We wouldn't hand the **Nazis** aid. There is no such thing as uninvolved civilians in Gaza.”***<sup>70</sup>

When directed with the question of where the civilians are expected to flee when Israel bombs their civilian buildings, Eliyahu again demonized the civilians and had no considerations for its survivability.

***“They can go to Ireland or others... **The monsters in Gaza** should find a solution for themselves.”***<sup>71</sup>

The use of statements that weaponize Nazism pushes for a narrative that demonizes the Palestinians by likening them with a terroristic, genocidal militant force. This fear is further strengthened by Israel's contention that the failure to ‘suppress’ the Palestinians *now* in Israel will light the path for terrorism to make its way to Europe and the entirety of the Occident. In one instance, an Israeli official outright admitted that the fight against Hamas is intended for the benefit of the *Western* civilization, as opposed to humanity as a whole.

***“This war is a war that is not only between Israel and Hamas. It's a war that is intended, really, truly, to save Western civilization. To save the values of Western civilization. We are attacked by [a] Jihadist***

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<sup>70</sup> *The Times of Israel*. “Far-Right Minister Says Nuking Gaza an Option; PM Suspends Him from Cabinet Meetings.”

<sup>71</sup> *The Times of Israel*. “Far-Right Minister Says Nuking Gaza an Option; PM Suspends Him from Cabinet Meetings.”

*network, an empire of evil. [...] this empire wants to conquer the entire Middle East, and if it weren't for us, Europe would be next, and the United States follows."*

#### IV. Policy Adaptations

While the focus of this paper is directed mainly towards the identification of orientalist tropes through the language used against Palestine, it is prudent to understand that these rhetorics cause genuine harm and are not merely meaningless words put together. This section therefore addresses the adaptations of the rhetoric into actual policies implemented by Israel, including a brief insight into the ethnic profiling practices and the *Dahiya Doctrine*.<sup>72</sup>

Israeli security forces have been documented employing ethnic profiling tactics, particularly targeting Arab populations.<sup>73</sup> This includes practices such as increased ID checks and surveillance in public spaces, as well as differential treatment at checkpoints in airports.<sup>74</sup> Such policies institutionalize discrimination and reflect a broader narrative that associates Arab identity with security threats. While this isn't a direct reflection of the policies in relation to the use of force, it does matter in terms of the segregation of the Arabs and the rest of the population of Israel, which then turns into and strengthens, the '*us v them*' dichotomy, going in loops of perpetuating the same rhetoric. This is because these policies reflect a broader mindset of 'segregation as the most effective means of protecting Israel' that is built on the idea Israel is acting in self-defense since Arabs are inherently violent, and untrustworthy, exemplified even by academics such as a retired Professor of Psychology, Ariel Merrari in his words:

*"It's foolishness not to use profiles when you know that most terrorists come from certain ethnic groups and certain age groups... A bomber on a plane is likely to be Muslim and young, not an elderly Holocaust survivor. We're talking about preventing a lot of casualties, and that justifies inconveniencing a certain ethnic group."*<sup>75</sup>

This paper is not the avenue to decide on the truth of this statement. What matters within the parameter of discussion is this *institutionalization of suspicion* toward Arabs (even within academia)<sup>76</sup>, framed as a rational security measure, which not only reinforces the 'us versus them' dichotomy but also creates the ideological foundation upon which disproportionate and discriminatory policies (particularly those involving the use of force) are justified and normalized within both legal and military frameworks.

Further into this discussion, the *Dahiya Doctrine* crystallizes how the dehumanization of the Arab enemy is translated into the military justification for disproportionate force and

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<sup>72</sup> Marei, F. G. "Dahiya Doctrine." In *Conflict in the Modern Middle East: An Encyclopedia of Civil War, Revolutions, and Regime Change*, edited by I. William Zartman, 75–76. Santa Barbara, CA: ABC-CLIO, 2020.

<sup>73</sup> (Badi et al., 2012)

<sup>74</sup> NBC News, "Rights group challenges Israel's airport security". (2008, March)

<sup>75</sup> NBC News, "Rights group challenges Israel's airport security". (2008, March 20).

<sup>76</sup> Tosini, D. (2012). Ariel Merari, 2010, *Driven to Death : Psychological and Social Aspects of Suicide Terrorism*, Oxford, Oxford University Press, 315 p. *Revue Européenne Des Sciences Sociales*, 50–1, 270–272

the targeting of civilian infrastructure,<sup>77</sup> going directly against the prohibition of attacks expected to result in loss of civilian life or objects excessive to the anticipated military advantage.<sup>78</sup> The Doctrine was originally mentioned by then-Chief of Northern Command, General Gadi Eizenkot:

*“What happened in the Dahiya quarter of Beirut in 2006 **will happen in every village from which Israel is fired on...** We will apply disproportionate force on it (village) and cause great damage and destruction there. **From our standpoint, these are not civilian villages, they are military bases...** This is not a recommendation. This is a plan. And it has been approved.”*

Eizenkot’s articulation of the Dahiya Doctrine reveals an official strategic position that deliberately erodes the legal distinction between civilian and military targets, effectively transforming entire communities into presumed combatants. The doctrine stands as a stark example of how framing Arab populations as inherently violent and complicit become entrenched within military policy, ultimately facilitating systemic violations of international humanitarian law.

Orientalism is not a new concept in Israel-Palestine. It has been prevalent since the creation of Israel and has been the backdrop of its arguments justifying the use of force against Palestinians to date. Whether or not the legal justifications used by Israel to commit war crimes against its occupying state is not the concern of this paper. What this paper seeks to materialize is the assertion that whilst utilizing legal justifications to warrant attacks on Palestine, Israel is simultaneously *strengthening* the incessant prejudice against Palestinians as part of the Oriental to justify their demise. The identification of these attitudes is monumental to be retained for the further development of the ‘Orientalism in Armed Conflicts’ discourse. The first step towards a better future is, after all, the acceptance of a prevalent issue in the status quo.

### C. Orientalism and International Humanitarian Law

We have examined the instances in which orientalist language was used to dehumanize the Palestinians and *other* them Orientalist-style in Israel-Palestine. We now consider how this demonization leads to the justification of the use of force against Palestinian civilians. We do this by linking statements to the violations in international humanitarian law and juxtaposing them with Bamo Nouri’s findings in US-Iraq.

First, we consider that the statements made in both conflicts are not *always* directed to Iraqis and Palestinians narrowly. In several instances, the statements were made with reference to an aspect of similarity between Iraq and Palestine that is written in bold: both are Arab countries with a majority practicing the religion of Islam. In US-Iraq, the enemy was not first described as a terrorist, but instead as the product of the failures and shortcomings of Islam. The Orientalist

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<sup>77</sup> Khalidi, R. I. (2014). From the Editor. *Journal of Palestine Studies*, 44(1), 5–13.

<sup>78</sup> Geneva Convention IV, Article 51.



*othering* in the Middle East can fairly be said as an attempt by the West to *other* Islam, and demonize its people.<sup>79</sup> Post-9/11, Nouri found the discourse in the West to often frame Islam and Muslims in terms of terrorism and extremism, reinforcing stereotypes of Muslims as threats to Western security and values by portraying Islam as a monolithic and inherently violent religion, contributing to the demonization of its followers.<sup>80</sup> Nouri highlighted statements in his paper wherein the US started grouping the ‘*Muslim world*’ in order to build the ‘us against them’ story. Israel, in erecting its self-defense arguments, at times subtly and others directly, use this story to justify the use of force against the Palestinian people. The othering in this regard is viewed as two opposite ends of the extremist line. One is a quintessential civilized world, peace-loving, and a supporter of freedom.<sup>81</sup> The other; one that cannot reconcile with the values of the former, and is archaic in thinking and culture.<sup>82</sup> We repeat the question; is it truly wrong for a civilized nation to embark on a military endeavor to protect its democratic values and hard-earned freedom against the demons that threaten its existence?

We move, then, to the law protecting civilians in an armed conflict. International humanitarian law serves as the branch of law focusing on limiting casualties during armed conflicts. Civilians are under a protected status in IHL, manifest within the 4 Geneva Conventions and its Additional Protocols. Under Article 3, common to the four Geneva Conventions, violence is prohibited against civilians, including murder, mutilation, cruel treatment, and torture. Additionally, the very first rule under international law governing armed conflicts is the principle of distinction; There *must* be a careful distinction between combatants and non-combatants when committing an attack.<sup>83</sup> The Israel cabinet is not blind to this expressed law. In fact, on numerous occasions, care to mitigate loss of human lives was sworn by different members of their government. Nevertheless, contrary to its promise to make a distinction between civilians and combatants, the orientalist nature in Israeli statements subtly and repeatedly suggest that the killing of civilians is justified since they are in support of militant groups. International law does not support this notion. Under IHL, civilians only lose their status of protection once they *partake* in hostilities, not when they are in support of them.<sup>84</sup> Nevertheless, the consistent use of language by Israel continuously builds upon the idea that it is normal and acceptable, or rather: it *should* be such, for civilians to pay the price for their own regional militant groups’ hostile acts. In essence, due care is taken to lessen civilian casualties *except* if they are in support of their militant group, after which they are no longer to be considered as civilians, but as ‘part of the problem’. Even in US-Iraq, particularly in the counterinsurgency phase, there were instances where the lines between combatants and non-combatants were blurred. Insurgents often

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<sup>79</sup> Clifford and Said, “Orientalism,” 204.

<sup>80</sup> Nouri, “Orientalism and the Application of International Law in the 2003 Iraq War and Occupation,”.

<sup>81</sup> Nouri, “Orientalism and the Application of International Law in the 2003 Iraq War and Occupation,”.

<sup>82</sup> Nouri, “Orientalism and the Application of International Law in the 2003 Iraq War and Occupation,”.

<sup>83</sup> International Committee of the Red Cross, ‘Customary IHL - Rule 1: The Principle of Distinction between Civilians and Combatants’ (ICRC)

<sup>84</sup> ICRC, “Customary IHL - Rule 1”.

operated within civilian populations, making it difficult to distinguish between fighters and non-fighters.<sup>85</sup> The US military used similar rhetoric to Israel suggesting that those who supported or provided aid to insurgents in Iraq could be considered as part of the enemy. In a 2007 press briefing, General Petraeus of the US army stated

*“We are targeting not just the trigger-pullers, but those who support them, including financiers and logisticians. Those who provide safe havens, medical care, and other forms of support are also part of the insurgency and will be treated as such.”*

It is to be noted that in both conflicts, the justification to civilian killing is not hollow in that it is only established upon the civilian support for militant groups, but more so related to the propagation of the idea that the culture of the Middle Easterners to support the backward, extremist regimes that aim to maim democracy and the ways of the west is reason enough to consider them as part of the *other* group, that deserves eradication. Civilians are seen not merely as supporters of insurgents or militants, but as embodying an entire cultural or ideological threat. In Nouri’s paper, he noted time and again the instances wherein the Bush administration referred to Iraq (as a whole) as being a danger and hating democracy. This repetition and propagation eventually created an environment where the invasion and killings in Iraq was seen not as merciless and inhuman, but *necessary* and *just* to prevent the downfall of the civilized world. He (Nouri) noted that even academics, including the likes of Richard Falk; a name not unfamiliar in the international legal plate as a man openly resisting many US military actions, called the use of force against Iraq as ‘*just*’, notwithstanding clear international restrictions against it. In this manner, Israel, like the US, attempts to bypass international legal restraints to the killing of civilians by fogging its innocent status. Israel’s tactics are not unsimilar to the ones the Bush administration utilized in Iraq.<sup>86</sup> The *othering* of Palestinians mirror, almost directly, to the Iraq *othering*, most notably when Israel admitted that this war was indeed *for* the Western civilization as a whole.<sup>87</sup> Israel, after all, is commonly regarded as ‘the only democratic state in the Middle East’.<sup>88</sup> In this way, it is trying to enunciate the same chorus for the ‘danger to democracy’ rhetoric.

Therefore, Palestinians are painted as a threat to democratic values and the entirety of the existence of the state of Israel as they embody an entire ideological threat, that seeks the downfall of the West; lest the West maims them first. So, we beg the question; is international law so blind in its application that the use of force is *permitted* against the Orient? Jean Allain in his *Orientalism and International Law* piece iterates that the propagation of ‘facts’ by the West against the Orient

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<sup>85</sup> Nouri, “Orientalism and the Application of International Law in the 2003 Iraq War and Occupation,”.

<sup>86</sup> Nouri, “Orientalism and the Application of International Law in the 2003 Iraq War and Occupation,”.

<sup>87</sup> Magid, J. (2024). Netanyahu to defend ‘just war’ in July 24 speech to joint session of US Congress.

<sup>88</sup> Morgan, M. (2023). What’s Happening to Israel’s Democracy?

is used to create a large gap in international law between the ‘civilized’ and the ‘backward’, leading to legal justification as to warrant the *appropriation* of selective use of international law when dealing with states like Palestine and Iraq. In addition, Nouri found that there is no denying that international law has been inconsistently enforced in the ‘Orient’, often with minimal or no accountability for the consequences and lasting impacts of those actions. It is not that international law permits it explicitly, but more so that it is mysteriously flexible in its behavior towards the Orient. The law *per se* is not to be blamed here. In fact, this paper agrees with the likes of Nouri and Allain in that it is the parties making tools of it to achieve their means that makes international law lopsided in its exercise. The application of it fails, as a result.

This notwithstanding, the ICJ in its 26th January 2024 ruling on *South Africa v Israel* was thought to favor the Palestinians in this conflict.<sup>89</sup> This case was first thought to forge new paths in the development of international law, for many considered it to be the first time the ICJ recognizes a West-backed power as the *possible* perpetrator of genocide against an Oriental state. The court, in its own words noted:

*“In the Court’s view, the facts and circumstances... are sufficient to conclude that at least some of the rights claimed by South Africa [under the Genocide Convention] and for which it is seeking protection are plausible.”*<sup>90</sup>

However, on April of 2024, the President of the ICJ hearing in this case explained that it is not *genocide* that they were referring to when uttering the word *plausible*, it was South Africa’s rights to be *protected under the Genocide Convention* that was so.<sup>91</sup> This means we are yet again back to the initial position in the development of international law. No cases yet have considered even the plausibility of a West-backed state being the possible perpetrator of genocide against an Oriental, let alone Middle Eastern, state. If it was indeed ruled that there was plausibility of Genocide in Israel-Palestine, it would prove most ultimately of the existence of *othering* in this conflict, further strengthening this paper’s Orientalism argument. This is because genocide is of itself an act against a targeted *group* of people and inevitably raises the ‘us against them’ narrative, to eradicate ‘them’. Whether or not the reluctance of the court to utter the words “Genocide is plausible” in this instance contributes to the narrative that international law operates unfairly towards the Orient is a matter for a more decorated legal scholar to answer than this paper.

In essence, the use of orientalism creates an environment in which lawlessness is justified in Israel-Palestine, just as it was in US-Iraq. Nouri’s piece, unraveling the extraterritoriality

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<sup>89</sup> Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel).

<sup>90</sup> *South Africa v Israel* [2023], 66.

<sup>91</sup> Casciani, D. (2024, May 17). What did ICJ ruling mean in South Africa’s genocide case against Israel? BBC News.

favorably '*granted*' to the US in Iraq due to the orientalist discourse enabled the same lawlessness we are considering in this very paper. When disseminating narratives and prejudice against the Palestinians, Israel establishes a hierarchy of *good*, and places itself atop it, whilst the Palestinians are unbearably *opposite*. This is considerably further worsened when we consider that the prejudice against the Palestinians is built upon the very same prejudices pitted against the Iraqis over the common denominator of them being Middle Eastern Muslim countries, that was already demonized even during US-Iraq. Where this lawlessness is created, international law is slowly applied as if it were malleable. The danger then begins, as that is where atrocities begin to find sanctity in its commission.

## Conclusion

At present, the battle of the *naming* of genocide has not yet been settled. As founded by Allain, international law has, for quite some time, been applied lopsidedly to allow Western colonial endeavors. For a short period of time, legal scholars and enthusiasts saw a glimpse of hope for the ICJ to name a West-backed state as the perpetrator of genocide for the very first time. Quite quickly, this hope was shot down and has not seen progress since. Nevertheless, new hope for the prosecution of the leaders responsible for the death of countless civilians in this conflict arises as the ICC Prosecutor applies for arrest warrants against them. Additionally, public outcry continues to persist and circulate, manifesting in the form of protests by the public to call for a ceasefire and pressure world leaders into prioritizing humanity over politics. In future, the discourse surrounding the use of orientalism in international law must be sustained. It is only through the identification of orientalism that we shall learn how to deprogram it as an injustice. In furtherance of the effort to continue this academic discourse, perhaps newer efforts should be made to consider the *plausibility* of the justifications used by Israel in its attack against the Palestinians; an aspect this paper could not consider for lack of expertise.

In concluding this exploration of Orientalism in international law and the weaponization of linguistic bias to justify the use of force in Israel-Palestine, it is imperative to reflect on the profound human consequences of these abstract concepts. Orientalism, with its insidious portrayal of the "Other," and the manipulation of language to dehumanize and vilify, do not merely shape policies and legal frameworks—they shape lives, destinies, and futures. In the streets of Gaza and Tel Aviv, the scars of conflict are etched not just in the landscape, but in the hearts of families, children, and communities. The biased narratives that permeate international discourse strip away the humanity of those living through this enduring struggle, reducing their lived experiences to mere footnotes in a geopolitical chess game. The toll is not measured solely in casualties and destruction, but in the loss of hope, the erosion of trust, and the perpetuation of fear and hatred. We must recognize that behind every statistic, there is a story. Behind every political statement, there is a person whose life is irrevocably altered. When we confront the weaponization of linguistic bias, we are not just challenging an academic concept; we are advocating for the dignity and humanity of every individual affected by this conflict. We are

calling for a world where every person's story is heard and valued, regardless of their nationality, religion, or ethnicity.

In doing so, we honor not only the principles of international law but also the shared humanity that binds us all.

End.

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