# Colonial Discourse During the War on Terror: How the USA, the UK, and Australia Undermined International Humanitarian Law

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**Colonial Discourse During The War on Terror: How the USA, the UK, and Australia Undermined International Humanitarian Law.**

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*"Terrorists, terrorists, terrorists. In the Middle East, in the entire Muslim world, this word would become a plague, a meaningless punctuation mark in all our lives, a full stop erected to finish all discussion of injustice…Who would ever say a word in favor of terrorists? What cause could justify terror? So, our enemies are always 'terrorists'."*[1]

1. Introduction

International humanitarian law (IHL), or the laws of war, has been criticized as an inherently exclusively discipline, shaped by interactions between the 'enlightened European' with his 'barbaric other' (Anghie, 2005a, p. 274). Non-Western peoples were excluded from international law and IHL through being construed as irrational, dangerous, and uncivilized (Killingsworth, 2024). Mainstream framings of IHL today claim it has shed itself form its colonial past and has become a tool of the oppressed, especially due to the 1977 Additional Protocols which validated resistance to colonial and racist regimes (Mégret, 2006; Takahashi, 2024). However, many critical scholars see the continuing reproduction of colonial tropes in IHL today and their manipulation to exclude non-Western people from the protections afforded by IHL (Anghie, 2005b). A resurfacing of these colonial tropes and attempts at exclusion from IHL has been extensively discussed (Anghie, 2005a; Okafor, 2005; Mégret, 2006; Greenwald, 2007).

Given this, the present study will explore how reproduction of colonial discourse by powerful figures in the USA, UK, and Australia, promoted the undermining of IHL during the War on Terror. During the War on Terror there were numerous breaches of IHL. For example, the principle of distinction, in terms of both targeting and detention, was regularly breached during counterterrorism operations (Quénivet, 2010). Guantanamo and Abu Ghraib, and the torture and indefinite detentions there, are clear violations of IHL (Human Rights Watch, 2022). This subject is particularly relevant today. Israel's onslaught on Gaza violates numerous principles of IHL but the Western world has deemed it legitimate, nonetheless (Takahashi, 2024; Human Rights Watch, 2024). It has consistently employed colonial tropes which mirror the ones of the nineteenth and twentieth centuries to legitimize its slaughter of the Palestinian people (Buxbaum, 2023). Israel frames its genocide on Gaza, for example in joint remarks made by

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[1] This quote is from the book, *The Great War for Civilisation: The Conquest of the Middle East*, by Robert Fisk (2005, pp. 90-91).

Netanyahu and Biden in October 2023, as its own War on Terror against Hamas and other factions of the Palestinian resistance. Therefore, to understand the permissibility given to Israel to carry out its genocide, it is useful to see how contemporarily these narratives have been normalized, and how the way has been paved to violate IHL during the 21st century. This will help clarify a pattern of persistent Western supremacy and how it manifests in international 'inclusive' tools, such as IHL, and hopefully lead to the reevaluation of these tools. Further, the objective of this study is to show how colonial discourse permits *and legitimizes* unconstrained violence, and furthermore breaches of IHL. The research question of this study is: *How did colonial discourse during the War on Terror undermine international humanitarian law?*

2. Literature review

With respect to the research question, this section reviewed pre-existing literature, to understand established knowledge and debates, and incorporate these in the current study. The first section examines literature about the general influence of colonial ideas on international law. The second section examines literature on how colonial narratives have legitimized the exclusion of peoples from IHL. It is divided into three subsections which correspond to the main themes identified.

2.1. International law and colonialism: A 5-century love story

International humanitarian law, also known as the laws of war, can be understood as a compromise between a state's right to use force as a means for its political ends and humanitarian concerns "as they developed since the nineteenth century" (Killingsworth, 2024, p. 130). Multiple scholars contend that double standards continue to exist today in the protections afforded by international humanitarian law (Mégret 2006; Kinsella, 2011; Killingsworth, 2024, p. 127). As mentioned in the introduction, these double standards flourished along the fault lines of 'civilized' nations and their comparative, barbarous 'other' (Killingsworth, 2024, p. 127). Killingsworth (2024, p. 128) identifies this dichotomy of civilized-uncivilized as the source of the 'standard of civilization'. The standard of civilization created a racist taxonomy and evaluated peoples based on European notions of modernity and civility (Killingsworth, 2024, p. 128). Subsequently, those deemed barbarous were left out of international society and international law and thus, the protections offered by international humanitarian law (Killingsworth, 2024, pp. 128-129). They were excluded from rules

determining the legitimate scope of violence (Killingsworth, 2024, p. 129). Other authors also support the understanding of the standard of civilization as a tool of hegemony. Keene (2002, p. 117) argues that the concept of civilization is not only "a standard for regulating the entry of new states in international society, but also for validating an entirely different set of legal rules and political institutions in their own right" against those not deemed as 'civilized'. Koskenniemi (2001, pp. 134-135) also contends that the mere belief in the standard of civilization which differentiated between the West and the rest, gave the West permissibility to exclude the rest from protections offered by the laws of war.

There is consensus that the term 'standard of civilization' collapsed after 1945, though this 'collapse' is seen as completely superficial (Fidler, 2000, pp. 388-389; Killingsworth, 2011; Buzan, 2014). According to Clark (2007, pp. 16-20) the standard of civilization has been replaced by new categories of the 'progressive' international agenda such as environmentalism, human rights, and democracy. More specifically, Douzinas (2007, p. 83) proposes seeing the globalization of human rights as part of a larger historical pattern of the West exporting civilization to the uncivilized. Douzinas (2007) points out that "Despite differences in content, colonialism and the human rights movement form a continuum…which started with the great discoveries of the new world and is now carried out in the streets of Iraq: bringing civilization to the barbarians" (p. 83). The commonality between the two is the establishment of a universal morality which hierarchizes groups of people (Douzinas, 2007, p. 83). This hierarchy distinguishes the West as morally superior and therefore able to act as the civilizing agent for lower forms of civilization (Douzinas, 2007, p. 83). Non-Western cultures are depicted as backward and in need of saving, in both cases of the civilizing mission and human rights (Münkler & Camiller, 2007, p. 83).

Some authors, like Buzan (2014), contend that especially after the 1990s there has been an "explicit re-emergence if not of the term 'standard of civilization', at least of the 'civilized' versus 'barbarian' trope that underpins it" (p. 592). Buzan (2014, p. 592) and Bowden (2005, p. 2589) attribute this re-emergence to discourses around failed states and terrorism. Anghie (2005a, p. 292) writes that the response to 9/11 closely resembles the civilizing mission, only nowadays combined with the rhetoric of self-defense (defending from the 'savages'). New doctrines and re-interpreted ones are being used to construct a new legal framework for the war on terror which asserts the spread of human rights, humanitarian intervention, and democratic governance, to the 'savages' as a necessity for the safety of the West (Anghie, 2005a, p. 292).

This new model is termed by Anghie (2005a) as 'defensive imperialism'. It derives its power and legitimacy from the civilizing mission "thus affirming the enduring hold of these formations of the structure and imagination of international law" (Anghie, 2005a, p. 292).

Other scholars understand these contemporary double standards embedded in the laws of war through the prism of 'lawfare'. Lawfare is defined as "the use of law as a weapon of war" and/or "a method of warfare where law is used as a means of realizing military objectives" (Hajjar, 2017, p. 60). Western powers themselves use lawfare, and advocate the use of law as a tool to achieve political objectives (Hajjar, 2017; Irani, 2017). Lawfare has been used by the United States and Israel to legitimize practices such as torture, as responses to terrorism (Hajjar, 2017, p. 84). Integral to lawfare is employing specific discourse. For example, during the War on Terror, referring to Afghanistan as a failed state and further translating that into rightlessness under the laws of war, to create alternative legalities (Hajjar, 2006, p. 37). Hajjar (2006, p. 37) contends that the effect of these discourses is to "challenge the legal foundation of "humanity" itself" by establishing that some people or groups of people have no legal rights, thus robbing them of their status as human beings. Such rhetoric also mirrors the civilized and savage tropes which sought to deprive indigenous populations off their humanity and thus legal rights (Killingsworth, 2024). Further, international humanitarian law is reinterpreted to suit hegemonic political goals, regardless of actual legality (Hajjar, 2006, p. 21). Such discourse was heavily proliferated during the War on Terror (Hajjar, 2006, p. 21). IHL was reinterpreted "in a self-serving and one-sided conversation to "legalize" policies of torture and targeted killing that the executive branch deemed strategically and operationally necessary" (Hajjar, 2019, p. 948). Now, this process of reinterpretation has culminated to the paradigm of counterterrorism (Hajjar, 2019, p. 948).

2.2. The colonial discursive mechanisms of IHL

2.2.1. Savages, victims, and saviors

As discussed above, the discourse of the civilizing mission persists today and most often has been repackaged as items of the progressive agenda, for example human rights (Buzan, 2014; Clark, 2007). According to Mutua (2001, pp. 201-202), Western actors have authored a human rights discourse premised on, what he refers to as, the savage-victim-savior (SVS) prism. Mutua (2001) traces this prism to the Western *mission civilisatrice* and the self-appointed

characteristic of superiority. The savage dimension refers to an 'uncivilized', 'bad' culture which deviates from human rights (Mutua, 2001, p. 203). The state in this case is neutral, it is the culture that possesses savage proclivities (Mutua, 2001, p. 203). The victim dimension refers to a "human being whose "dignity and worth" have been violated by the savage" (Mutua, 2001, p. 204). Finally, the savior dimension refers to the protector of the victim, the one that fights the savage, the civilized one (Mutua, 2001, p. 204). The inference of this metaphor is that the savages are unable to follow and respect the law and therefore the West is required to bring about progress and law-abidingness (Mutua, 2001, pp. 201-210). The demarcation of the non-Western world as unable to abide by law leads to claims that these 'savages' are "unconstrained by humanitarian ethics" and "*orchestrat*[e] situations that deliberately endanger noncombatants" (Irani, 2018, p. 125). Western lawlessness is presented as a response, a defense, to the conduct of the savages (Irani, 2018, p. 125). The West is imagined as a victim forced into lawlessness, and the savage is held responsible for Western violence (Irani, 2018, p. 125). The suggestion is that it is justified for the West to operate beyond the bounds of IHL because of non-Western lawlessness (Irani, 2018, p. 125). Overall, this discourse frames Western breaches of IHL as a necessity to combat savages and to pave the way for civilization, law-abidingness, and progress. This is a practice which has been used during the War on Terror to legitimize extraordinary renditions and indefinite detentions by claiming them to be a necessity due to exceptional terrorist violence (Morrissey, 2011, pp. 280-291; Irani, 2018, p. 130).

2.2.2. The phenomenon of newness

Attributing the status of "new" to a certain event in history is a tactic that has historically been employed by imperial powers to justify their imperial practices. Anghie (2005a; 2005b) brings this phenomenon to light in his works, where he shows that "newness" was integral to the civilizing mission. Imperial powers argued that by virtue of the unprecedentedness of a situation, new responses needed to be devised (Anghie, 2005b, pp. 60-63). According to Okafor (2005, p. 188), this meant new international law rules that would promote the colonization of indigenous populations and the imperial expansion of the West. Further, newness and difference have historically been at the forefront of shaping international law reforms to satisfy imperial ambitions (Okafor, 2005, p. 188). Both Anghie (2005b) and Okafor (2005) demonstrate that this discursive pattern persists today, with reference to the War on Terror. Okafor (2005) debunks the myth of the 9/11 and hence, the post-9/11 world as unprecedented.

9/11 is in fact not different from the experiences of many other people, but employed as a political maneuver which removes non-Westerners' suffering from international consciousness (Okafor, 2005, pp. 172-173). Anghie (2005b, pp. 60-61) shows that the characterization of the War on Terror as an unprecedented situation, has led to attempts of imperial legal reforms, alike to those of the civilizing mission.

2.2.3. Manichaeism

Fanon (1961) first used the concept of Manichaeism to explain the discourse around how colonizer and colonized relate to each other. Fanon (1961) described the oppositional dichotomization between these two groups and the fundamentalist characterization of the former as a force of good and the latter as one of evil. Manichaean narratives act as "a moral and symbolic framework that constructs the world as polarized by forces of good and evil, represented in their oppositions between lightness and darkness and between black and white" (Mitchell, 2024, p. 484). However, as Simone de Beauvoir points out in The Second Sex (1953, p. 65), "The essence of Manichaeism is not only to recognize two principles, one good and one evil: it is also to posit that good is attained by the abolition of evil and not by a positive movement". Overall, this narrative renders complex geopolitical realities as simple problems with simple solutions, namely the total destruction of evil, through moralization (Mitchell, 2024, p. 484).

In his book, *A Tragic Legacy: How a Good vs. Evil Mentality Destroyed the Bush Presidency*, Glenn Greenwald (2007) showed that seeing events as Good versus Evil was integral to the response to 9/11 and the War on Terror. Greenwald (2007) draws this conclusion from Bush's own speeches. He says that this understanding of one side as the pure good was translated into anything it does being inherently justifiable because it would be for the greater good (Greenwald, 2007). This discourse, according to Greenwald (2007), is what gave permission to prisons, killings, torture, Abu Ghraib, and to irreparable damage and destruction. Because, as Simone de Beauvoir highlighted, there can be no limits to what the good people can do to defeat the evil people; destruction is the solution. This discourse was generally key in the dehumanization of the Iraqis, Afghans, Arabs and provided the justification to bypass international humanitarian law (Greenwald, 2007). Kellner (2006) draws similar conclusions. He characterizes Bush's rhetoric as Manichaean, positing totalizing and absolutistic oppositions between good and evil, civilization and barbarism, and us and them (Kellner, 2006,

pp. 47-48). Kellner (2006) highlights that such a discourse "legitimates any action taken in the name of good, no matter how destructive, on the grounds that it is attacking evil" (p. 48). This legitimizes the principles of good and evil to become the principles and laws of war (Kellner, 2006, p. 48).

2.3 Literature gap

Most of the texts about the War on Terror only focus on the discourse coming from the USA. The UK and Australia were staunch supporters of the War on Terror, and contributed to the undermining of IHL, but are not researched enough. Additionally, most studies focus on a singular discursive mechanism, hence concluding that one discourse type is problematic, rather than a discursive pattern, namely the colonial one. Therefore, there is little to no research understanding the undermining of IHL during the War on Terror through the larger frame of colonial discourse. The following study will aim to close the literature gaps, and provide a better understanding of the discourse which undermined IHL.

3. Theoretical framework

3.1. Third World Approaches to International Law (TWAIL)

Third World Approaches to International Law (TWAIL) focus on the colonial past and present of international law, specifically the construction and legitimization of Western imperial policies (Khosla, 2007, p. 296). They examine international law's role in the exclusion and subjugation of non-Western peoples, and thus, in the reproduction of dynamics of difference and power (Khosla, 2007, p. 296). International law was a primary instrument in the creation of these hierarchies not only in the form of treaties or protectorates, but also "in the form of international legal theories that gave the logic and bases of justification [for the exclusion of non-Westerners]" (Onuma, 2000, p. 64). To that end, TWAIL scholars note the importance of binaries, such as the notion of 'othering' or 'civilized-uncivilized', in shaping international law (Buzan, 2005; Clark, 2007; Anghie, 2005a). For this research, approaches from within TWAIL are used to understand, colonial discourse employed during the War on Terror and how it undermined international humanitarian law.

3.2. Colonial Discourse Theory

The foundations of colonial discourse theory have been articulated in Edward Said's (1978) book, *Orientalism*. Orientalism is a tool of domination and power used by the West against the Arab peoples according to Said (2003). Said describes Orientalism as the Western view of the Orient based on an ontological and epistemological distinction made between the West and the Orient (Said, 2003, pp. 3-10). The dynamic of domination happened through the creation of such a discourse of an oppositional binary and its dissemination through writings and teachings for example (Said, 2003). In this discourse the Orient was portrayed as inferior exotic and feminine through the eyes of the West (Elaref, 2023, p. 85). Orientalist discourse provided a justification for imperial expansion and colonization as the Orient was constructed to be uncivilized, savage, and an inferior entity needing to be saved (Elaref, 2023, p. 85).

Colonial discourse theory thus aims to identify the colonial hegemony that sustains Western colonial power over colonized people (Elaref, 2023, p. 85). It explores the hidden, such as context, and evident elements of a discourse to understand how our instutions, culture, and language reproduce asymmetric, colonial dynamics (Elaref, 2023, p. 85). Also, it explores the relation of colonial philosophies and knowledge to colonial institutions (Elaref, 2023, p. 85). It looks at the erasure of colonized voices, psychological repression reproduced by language, and positionality of colonized peoples in discourse (Elaref, 2023, p. 85). This research is based on colonial discourse theory. It explores the construction of hegemony through discourse, and the reproduction of unequal dynamics through such a discourse.

3.3. Conceptualization

For the following research, IHL is defined as is "A set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare" (ICRC, 2004). IHL is governed by the 1949 Geneva Conventions, and three Additional Protocols: the two 1977 Additional Protocols and the 2005 Additional Protocol. The four Geneva Conventions (1949) discuss the treatment of soldiers who are out of combat and adapt this to situations at sea, the treatment of prisoners of war, and the treatment of civilians in areas of armed conflict or under occupation (ICRC, 2011). The Additional Protocols discuss the protection of victims of international armed conflicts, the protection of victims of non-international armed conflicts, and the adoption of the red crystal as an emblem (ICRC, 2011).

4. Methodology

4.1. Methodological approach

The methodological approach I have chosen to carry out my research is Critical Discourse Analysis (CDA). CDA's primary aim is to explore connections between language, power, and ideology (Halperin & Heath, 2020, p. 368). CDA explores these relationships through analyses of discursive power and of how discourse controls less powerful groups (Halperin & Heath, 2020, p. 368). Discursive power is a mode of social power: more powerful social groups and institutions have more access and control over public discourse (Halperin & Heath, 2020, p. 368). Thus, they are able to dominate those who have less access (Halperin & Heath, 2020, p. 368). Controlling the minds of less powerful people, is directly linked to discursive power (Halperin & Heath, 2020, p. 368). Oftentimes, people accept the ideologies conveyed through the discourse of those they view as authoritative and knowledgeable (Halperin & Heath, 2020, p. 368). CDA focuses not only on what is explicitly said but also on the context in which it is (Halperin & Heath, 2020, pp. 369-370). It engages latent, contextual meanings, rather than just manifest ones (Halperin & Heath, 2020, pp. 369-370). It directly mirrors the aforementioned colonial discourse theory. Both heavily draw on Foucault's understanding of discourse and its interactions with power (Halperin & Heath, 2020).

4.2. Case selection

This research will be carried out as a small-N case study. The issue area of the is the War on Terror. There are three case studies, which are the following: the USA, the UK, and Australia. The UK and Australia were strong supporters of the War on Terror, and perpetuated narratives like the ones emanating from the US, however, have been sidelined in existing literature. Additionally, they are at the forefront of the Western order and extremely powerful globally. In accordance with CDA, powerful players have more access to public discourse and furthermore to shaping public opinion and legitimizing narratives and behaviors (Halperin & Heath, 2020, p. 368). Therefore, all three cases should be considered.

4.3. Operationalization: Data and Sources

4.3.1 Sources

For this research eleven primary sources will be analyzed. They are speeches given by George W. Bush, John Howard and Tony Blair, between 2001 and 2006. In accordance with CDA, powerful groups have more control over public discourse, thus dominate those who have less access and produce discourse that by virtue of being understood as authoritative, becomes normalized (Halperin & Heath, 2020, pp. 368-370). Therefore, powerful figures can alter what is normalized and legitimized through the discourse they employ (Halperin & Heath, 2020, pp. 368-370). Hence the choice of speeches by the three leaders. Primary sources were also chosen as they can directly show the reproduction of colonial tropes and understandings regarding IHL at that point in time, since they were delivered within the context of the beginning of the War on Terror.

4.3.2. Operationalization of data: Colonial narratives framework

To identify colonial discourse in the abovementioned sources, three categories of such discourse have been formulated, using the preexisting literature.

The first category is *Manichaean Narratives*. This category encompasses the moralizing dichotomy of 'good' versus 'evil'. This narrative was chosen as it produces a moral power structure and justification for one, the 'good' to inflict unconstrained violence on the other, the 'evil'. Historically Manichaeism has been used to demonize colonized peoples and legitimize imperial practices and policies (Fanon, 1961; Mitchell, 2024). In this section, the reproduction of Manichaean narratives throughout the War on Terror by influential figures in the USA, UK, and Australia, and their use to legitimize otherwise illegitimate violence, are investigated.

Secondly, narratives which are a reformulation of the narratives of the civilizing mission are explored. This category is termed *Modern Mission Civilisatrice*. These narratives include reproductions of the SVS prism, where one category of people is posited as the savages, one as the victims, and one as the saviors. Additionally, reproductions of the civilized-uncivilized binary, and usage of words like savages or barbarians, implying that one group of people is uncivilized and/or subhuman. This category was chosen because it reproduces a hierarchy whereby the 'civilized'/'saviors' are superior to the 'savages'. This power structure permits relentless violence from one group (civilized) towards another (savages), in two different ways. Firstly, a dynamic of exclusion is created as the savages are portrayed as not having the qualifications of modern Westerners, thus not meriting to be part of international society and

protected by IHL (Killingsworth, 2024, pp. 128-129). Secondly, they are portrayed as completely unconstrained by humanitarian ethics, dangerous, and irrational (Irani, 2018, p. 125). Thus, the civilized are permitted to use lawless violence and exert barbarity upon the savages, because they claim to be merely defending themselves (Irani, 2018, p. 125). This is part of lawfare discourse which aims to alter the definition of humanity itself and remove certain groups from the scope of the law (Hajjar, 2017, pp. 21-37).

Thirdly, the category of *Newness.* The usage of the word 'new' to describe a situation has long been used by imperial powers to justify exceptional measures, and use of violence (Okafor, 2005). In the following analysis, the usage of 'newness' rhetoric during the War on Terror is explored to understand how it produced the undermining of IHL.

5. Results and analysis

5.1 'They' are evil, and 'we' are good: Manichean discourse.

In multiple speeches given by Bush, Blair, and Howard between 2001 and 2006, Manichaean discourse is regularly employed. Specifically, the word 'evil' is used sixteen times (Blair, 2001; Bush, 2001; Bush, 2002a; Howard, 2002a; Howard, 2002b; Bush, 2002b; Bush, 2003; Howard, 2003; Blair, 2004; Blair, 2005; Bush, 2006). As discussed by Mitchell (2024), Manichaean rhetoric is employed to simplify complex geopolitical realities and construct an absolutist framing, where one is purely good and the other purely evil.  This discourse was employed by colonizers when discussing colonized populations, and continued during the War of Terror. For example, Blair (2001) deems 9/11 as an "Act of evil", thereby erasing contextual nuances and promoting a fundamentalist understanding of 9/11, and furthermore how to deal with terrorism. When one side is identified as purely evil, the other is positioned as inherently good. For example, in his 2002 State of the Union Address, Bush (2002a) said "we can overcome evil with greater good", thus solidifying a binary where 'we' are good, 'they' are evil, and by virtue of being good 'we' will overcome evil.

An integral part of Manichaean discourse is, through identifying this moral binary of good and evil, promoting destruction of evil as the only solution (de Beauvoir, 1953, p. 65). As Greenwald (2007) showed, Bush's promotion of one side as inherently good during the War on Terror, normalized the idea that anything it did could be justified because it would be for the sake of the greater good. In this analysis, a pattern beyond Bush is discovered, whereby this

colonial discourse is used to normalize responses that breach IHL. For example, Blair (2001) said "It is out of the shadow of this evil, should emerge lasting good: destruction of the machinery of terrorism wherever it is found". Here it is stated that for good to overcome evil, the solution is destruction. This implies that anything the good side does should be justified because it will benefit the greater good. In this case, the greater good refers to overcoming evil. Furthermore, when responding to evil, anything should be permissible, regardless of the boundaries of IHL, because the only solution for good to thrive is destroying evil. Such rhetoric was also promoted by Howard (2002a), when he deemed 9/11 "an evil attack that had to be in a measured, resilient way, responded to". As Howard (2002a) deems the attack evil, this leaves the inference that any response can be considered measured, because evil must be destroyed for good to prevail. In praxis, this is gives permissibility to a wide range of responses which could otherwise be considered in breach of IHL.

Notably, Manichaeism has its roots in religious beliefs. The proclamations of Blair, Bush, and Howard about good versus evil posit a divine difference between the two. This religious imagery alludes to the War on Terror as a cosmic battle, a holy war (Esch, 2010, p. 376). This furthers the moralization and exceptionalism of the War on Terror because it erases any nuances for which side to support. Ultimately, the imagery of the *inherently* evil 'Other' avoids addressing political motives, and depoliticizes the violence unleashed by the West against it. Moreover, Manichaean discourse promotes breaches of IHL, because it moralizes them. Terrorist acts are judged from a moral perspective rather than a political and legal one. Breaches of IHL are therefore also judged morally rather than politically. These breaches are judged against the most immoral acts and entities, the evil ones, and thus become legitimized.

In addition, the way evil is constructed is as an abstract, general entity. For example, Bush (2002a) clumps Iran, Iraq, and North Korea, three very different countries with diverging agendas, all together under the term "axis of evil". Blair (2005) also refers to an abstract, general "evil ideology". It is commonplace within the speeches of the three leaders to refer to an abstract entity of 'the terrorists'. Al-Qaeda and the Taliban have been conflated in the Western mind, as a singular entity with one common goal to destroy the West, since the War on Terror (Strick van Linschoten & Kuehn, 2012). Creating a generalizable image of the enemy refutes nuances and reinforces the idea of 'us' versus 'them'. This is further exploited to paint a divine picture of Western nations and promote their exceptionalism, as they fight against an

ominous evil. Rhetoric which promotes this exceptionalism is further used to bypass obligations under IHL.

Overall, Manichaean discourses are employed to moralize the War on Terror and undermine IHL. By distinguishing one side as good and the other as evil these powerful leaders automatically normalize an absolutist understanding of the War on Terror. They suggest that the only solution to overcome the threat of evil is to destroy evil completely. When portraying a situation as evil and calling for total annihilation, the leaders cultivate the ground to disregard rules, as any measure to defeat a moral threat, an inherent evil, is justified and necessary for the good people to survive. The good is acting to defend itself from the evil. This automatically undermines IHL, which provides guidelines for conduct in times of conflict and reserves rights for all people.

5.2 From civilizing the savages to civilizing the terrorists: Modern repackaging of the *mission civilisatrice.*

Narratives closely resembling the concept of the Western *mission civilisatrice* were also regularly employed. Discourse mirroring Mutua's (2001) SVS metaphor was very prominent in all the leaders' speeches. The SVS prism is one that traces back to the civilizing mission, and describes the uncivilized barbarians versus the civilized people (Mutua, 2001). During the War on Terror, in their speeches, Blair (2001) referred to terrorists as savages, and Howard (2002a; 2002b) as barbaric. In his National Security Strategy (NSS) Speech, Bush (2002b) stated that the USA "will actively work to bring the hope of democracy, development, free markets, and free trade to every corner of the world", positioning it as the 'savior' who will export all the 'modern' standards. This representation of the US as the savior is also evident in his Ultimatum Speech (2003a), where he states that the US will help build "a new Iraq that is prosperous and free". Simultaneously, this rhetoric positions the Iraqi people as victims who need to be enlightened and saved by the USA. By victimizing the Iraqi people, the US is imagined to be acting heroically and defensively, in response to the savages' lawlessness and disregard for humanitarian ethics. Violations of the laws of war are justified through this frame of defense because they are presented as a response to non-Western savagery and lawlessness. For example, when justifying the 'interrogation methods' used at Guantanamo, Bush (2006) concluded "We are fighting for our way of life and our ability to live in freedom. We're fighting for the cause of humanity against those who seek to impose the darkness of tyranny and terror

upon the world". Bush (2006) makes an explicit association of 'us' with freedom and humanity, while the terrorists are associated with tyranny and darkness. More obviously he has termed terrorists as "enemies of civilization" (Bush, 2002b). This association construes the idea that the 'us', the good ones, are acting defensively because 'we' are fighting for humanity and freedom against an apocalyptic threat. In his 2004 speech regarding global terror, Blair also establishes that "The best defence of our security lies in our values", positioning the West as acting defensively again, and coating the language of imperialism in self-defense. The language of self-defense is used to legitimize Western unrestricted violence and imperialism because it positions the West as protecting themselves and the other victims of savagery. This is the modern repackaging of the civilizing mission, bringing Western values to the barbarians. Overall, there is a common framing of a necessity to destroy the 'other' to preserve 'us', or the good and civilized. This has been a rhetorical pattern in imperial expansion since the sixteenth century. Imperial powers have historically always presented their conquests as a result of *necessary self-defense* against a group which is irrational, subhuman, savage, and therefore an existential threat (Anghie, 2005a, p. 294). This narrative legitimized, and legitimizes new legal frameworks which permit violations of the laws of war.

Additionally, the terrorists are excluded from humanity, thus reproducing their status as sub-human. This speech is in the context of a direct justification and legitimization of torture at Guantanamo. The terrorists are dehumanized, and the Westerners idealized, in a direct attempt to place methods employed at Guantanamo within the framework of IHL. Generally, this binary within the idea of civilization versus barbarism construes an enemy that is sub-human, and whose ideology fundamentally threatens civilization (Esch, 2010, p. 385). In all the leaders' speeches terrorists are placed outside of civilization and thus outside of humanity. For example, Blair (2005) while talking about terrorists' "evil ideology", said "all civilized people, Muslim, or other, feel revulsion at it", automatically excluding terrorists from the category of civilized people. In his 2006 speech on terrorism, Bush also stated that the entire civilized world is engaged in a global struggle, thereby enhancing the civilizational dichotomy and removing the terrorists from the realm of humanity again. This dehumanization abets the idea of an unnatural threat that must be removed and purports that IHL can be disregarded because of not dealing with full human beings. By default, using words such as civilization, civilized, savage or barbarian, creates an exclusionary dynamic. These words are defined by their value opposites and thus always imply a polarity (Esch, 2010, p. 388). In these cases, there always exists a value positive and a value negative category which are linked, implicitly or explicitly, with 'us'

and 'them' respectively (Esch, 2010, p. 388). These binaries are inherently exclusive and result to 'othering'. International law in general, and IHL specifically, have been shaped through the contact of the enlightened European with his barbaric 'other' (Anghie, 2005a, p. 274). The leaders of the War on Terror employ the same discourse that has historically produced a dynamic of difference which disrupts legal categories and places certain groups beyond the protection of the laws of war. Howard (2003), also said that the primary reason why Australia is a "target of terrorism" is its "Western values", positing Western values in direct opposition to terrorism. Therefore, the dichotomy of civilized versus barbarian, in all its forms, enhances the ideology of 'us' versus them'. In reproducing this ideology, and along the lines of the SVS prism, the identity of 'us' became tautological with a duty to protect civilization, safeguard freedom, and save the victims, as seen in the above quotations. As such one side, the civilized, could be unambiguously just and right. This side is also seen as acting defensively by virtue of these identities. With the reproduction of these colonial tropes, use of force that did not align with the laws of war became legitimized. As Killingsworth (2024, p. 128) discusses, the notion of civilized and uncivilized promoted a racist taxonomy, whereby the uncivilized, who did not meet the European arbitrary standards, could be excluded from the protections afforded by international humanitarian law by virtue of their 'uncivility'. Similar notions about the civilized and the uncivilized were reproduced in the context of the War on Terror. Westerners are associated with "freedom", and non-Westerners with "darkness and tyranny" (Bush, 2006).

Overall, civilizational dichotomies are used to legitimize breaches of IHL either by promoting the idea that terrorists are subhuman therefore should be excluded from IHL, or by propagating the idea of a necessary self-defense because terrorists are lawless. The latter justifies breaches of IHL because it promotes the idea that any action the West is taking is merely a reaction. By reinforcing the Western status as the primary victim, it seems as if the Western attacks are in self-defense, and it places the West in an ever-lasting moral high ground. Suffering resulting from Western actions can always be attributed to the terrorists, because the West was merely acting in 'self-defense' and those people were 'collateral damage'.

5.3 A new world

Historically, the concept of newness has been employed to legitimize imperial expansion and colonial practices (Okafor, 2005, p. 187). In the texts analyzed there is a pattern of referring to terrorism as a new, and unique in history, phenomenon. In his speech discussing the USA

Patriot Act, Bush (2001) refers to "modern terrorists" as posing "new realities and dangers", and the post-9/11 world as presenting "new and sudden challenges" that require "relentless" responses. This rhetoric signifies a new global environment, that is uncertain because it is unprecedented. The most important implication of making a claim of newness for a situation is that existing or traditional "constitutional and international legal constraints may not be wholly responsive" (Okafor, 2005, p. 180). This is evident in the Patriot Act Speech (Bush, 2001): "We're dealing with terrorists who operate by highly sophisticated methods and technologies, some of which were not even available when our existing laws were written…The existing law was written in the era of rotary telephones". This is suggestive of the fact that existing laws are outdated and insufficient to deal with new threats, thus new laws are required. This framing of uncertainty, and insufficiency of existing legal frameworks, provides a justification to push for new legal frameworks that substantially modify the international legal regime and do not align with the principles of IHL. This is evidenced when Bush (2001) justified the Patriot Act by saying it will provide "important new tools to fight a present danger" to officials because it "takes account of the new realities and dangers", and by listing numerous ways in which it will "enhance" and "help law enforcement to identify, to dismantle, to disrupt, and to punish terrorists before they strike". The ICRC has stated that certain decisions, including the USA Patriot Act, have created contradictions between counterterrorism legislations and the way IHL should be implemented (Sarfati, 2021, pp. 277-278). The Patriot Act is in violation of IHL, specifically because it permits indefinite detention which also raises concerns regarding torture (de Zayas, 2005, p. 20). Moreover, even though it was incompatible with the laws of war, the Patriot Act was justified as a necessity for a new threat that could not be dealt with otherwise, that already existing laws could not overcome. In 2006, Bush also justified 'detainment and transport' and 'investigation methods' at Guantanamo through claims of a "new war" that required new laws to obtain information. Again, claiming a status of exceptionalism for the War on Terror, provided the justification to bypass the laws of war.

This pattern is not seldom limited to Bush's rhetoric. In examining all of the leaders' speeches this element of newness was repeatedly highlighted. The phrases "a threat like no other", "new realities and dangers", "new world", "unprecedented dangers", "unprecedented war", "new enemies", "new threats" and "new era" are used (Bush 2002a; Howard, 2002b; Blair, 2004). Howard (2003) declared that 9/11 brought a "new menace and a different menace" referring to terrorism. In the same speech Howard (2003) described the post-9/11world as "new

international circumstances" whereby the attitude of Americans and other liberal democracies changed towards their security. Again, the inference here is that the post-9/11 world is an unprecedented phenomenon which has given rise to unprecedented responses. Howard (2003) also claimed, "how to respond to Iraq" under the new circumstances "is the very first test for the world", inferring the need for a new type of response. Statements such as these determine a future of uncertainty, and necessitate new responses which match this new reality. This promotes an override of the principles of IHL, as existing legal frameworks are understood to be insufficient.

Overall, the same pattern of terming a phenomenon and peoples as "new" that was used to legitimize imperial expansion in the past, is being used in the War of Terror to support international legal reforms which mirror the same imperial tendencies.

6. Conclusion

This study has focused on how colonial narratives undermined international humanitarian law during the War on Terror. The method of critical discourse analysis (CDA) has been employed to examine speeches given by the three prominent Western leaders, Bush, Blair and Howard, during the War on Terror (2001-2006). Further, the broader issue area of the study is the War on Terror, and the cases examined are the USA, the UK, and Australia.

Three categories of colonial discourses have been identified, through examining previous literature. The first is *Manichaean narratives*, which refer to the construction of a binary of 'good' versus 'evil' (Mitchell, 2024). Manichaeism has been used historically to moralize, and thus depoliticize imperial conquest and unconstrained violence against non-Westerners (Fanon, 1961; Mitchell, 2024). In this study, it is found that once again during the War on Terror, Manichaean narratives were employed to promote vilify terrorists, erase any nuances surrounding 9/11 and is aftermath, and furthermore promote illegitimate violence against 'evil'. Additionally, the understanding of one side as 'evil' was translated to the necessity of its destruction. The good needs to defend itself because the 'other' is evil. This narrative legitimized violence that violated the principles of IHL because it presented the War on Terror as a moral battle, rather than a political or legal one. Breaches of IHL were justified because they were understood to be a necessity to preserve the morally good side, regardless of their

legitimacy. The second category is the *Modern Mission Civilisatrice*. This category identified contemporary articulations of the civilizing mission, including dehumanizing terrorists by calling them savages or barbaric, as well as the West portraying itself as a superior savior who will liberate the non-Western world by bringing democracy, human rights, and freedom to them. This narrative was reproduced multiple times in the leaders' speeches. Discourse reproducing the ideas of the civilizing mission justified violations of IHL because it legitimized the necessity to use violence. Such discourse dehumanized terrorists thus deeming them undeserving or excluded from the protections of IHL. It also generally portrays non-Western peoples as not having the enlightened characteristics of Westerners, with the West acting as a value savior, further deeming them us undeserving of the same benefits of IHL. Finally, the terrorists are understood as barbaric and unable to be constrained by humanitarian ethics. They are imagined to be completely lawless. Furthermore, Western violations of IHL such as Guantanamo or the Patriot Act, are understood as merely necessarily responses to non-Western lawlessness. Thus, Western violations of IHL not only become legitimized, by framing the savages as subhuman, inferior, and a threat to everything good about civilization, but also by being coated in the language of self-defense. Finally, there is the category of *Newness*, which refers to discourse which constructs a situation as completely new, unprecedented, and deems it exceptional. The leaders treat the War on Terror as a new, unprecedented threat oftentimes, and the post-9/11 world as an exceptional moment in history. The leaders highlighted how new tools and new laws are needed to overcome new threats. This rhetoric deems existing legal frameworks as insufficient to deal with what is presented to be an apocalyptic, unprecedented danger. Thus, IHL is understood as insufficient and illegitimate violence becomes legitimized as a necessity against a new reality.

Going back to the research question, '*How did colonial discourses during the War on Terror undermine international humanitarian law?*', this study concludes that during the War on Terror specific patterns of colonial discourses were used to legitimize violent practices which breached the principles of IHL. Specifically, narratives of Manichaean nature, ones mirroring the civilizing mission, and ones of unprecedentedness, were employed. All of these have been used in the past to legitimize imperialism and practices breaching IHL. During the War on Terror, they were once again used to legitimize the Western onslaught and imperial ambitions, both of which breach IHL, on the Middle East and South Asia.

This research has certain limitations. Firstly, the methodological approach of CDA has been criticized by political scientists. It has been criticized for being based on prior theoretical assumptions, namely a theory of dominance (Halperin & Heath, 2020, p. 368). This makes it equally a political theory and a method of inquiry (Halperin & Heath, 2020, p. 368). Hence, this approach is considered as biased at the outset. Secondly, this study is conducted from a TWAIL perspective, which has been criticized as having a few setbacks. While TWAIL scholars denounce international law as a predatory system, they remain committed to the idea that it can be a source of emancipation (Haskell, 2014, p. 383). They still maintain support for an international normative regime predicated on existing structures (Haskell, 2014, p. 383). Furthermore, a study which explores how IHL has been undermined because colonial narratives maintain a stronghold in the West can be setback from the TWAIL perspective. The goal of understanding these narratives and their power over existing institutions such as IHL, is to reconsider them and the structures that keep them alive. Genuine reevaluation is hindered when the outset of this revaluation is that the solution will lie in the structures which reproduce oppression. Finally, a different number of sources was used for each case. Less sources were available for the UK and Australia compared to the US. As mentioned in the literature review, most research has focused on the US so far. This begs the question, did this lack of sources skew researchers' focus?

Nonetheless, this study remains a valuable contribution for academia and the future of decolonization. First and foremost, it produces a critical discourse analysis of the colonial narratives employed by powerful figures in three leading Western countries, during the War on Terror. It moves beyond the scope of the USA which is what most TWAIL academics have focused on until now. It brings to light the reproduction of these narratives in the UK and Australia as well, two countries that unconditionally backed the War on Terror but oftentimes have their role sidelined. Additionally, while many academics refer these patterns in speech during the War on Terror, they do so without critically examining the speeches. An in-depth analysis of the speeches of different Western countries will enlighten how normalized colonial narratives remain, and how engrained they are in the Western mind. Most importantly, this knowledge can be used to reevaluate our tools and practices. An institution, IHL, which the world claims has become a tool of the oppressed and a mechanism of progress is still easily manipulated and disregarded by the Western world. *How can it really be strengthened? Is it time to rebuild IHL from ground zero?* This is a potential question for future research, alongside with how the constant reproduction of colonial rhetoric has affected the image of IHL today.

What is the continuation between the narratives during the War on Terror, and the ones used by Israel to justify their genocide of Gaza? As they see the double standards between the West and the rest, have the people lost their faith that institutions such as IHL can truly be effective?

To conclude, this study demonstrates how colonial narratives still have a stronghold in the Western world and how they still succeeded in excluding non-Western peoples from 'universal' institutions. IHL is supposed to offer *universal protections*. We have seen the failures of IHL in the streets of Iraq, and we see them today in the concentration camp that is Gaza. It is time to dismantle the narratives that legitimized Abu Ghraib and that legitimize the genocide of Gaza to this day.

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