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EPISTEMIC VIOLENCE IN THE 2003 IRAQ WAR: A Reflection on Its Legal, Political, and Social Consequences

Shathil Nawaf Shathil

Abstract

In March 2003, the United States and its allies initiated a war on Iraq, resulting in the occupation of the country and approximately half a million deaths. Many intellectuals, including some Iraqi exiles in the United States, alongside the American administration, advisors, and press, provided moral arguments to justify the invasion of Iraq. This dissertation examines the epistemic violence that manifested through the manipulation and distortion of knowledge, information, and discourse to rationalize the denial of a nation-state's legitimacy in the international law arena. It illuminates how epistemic violence—through constructed narratives and discourse—preceded, accompanied, and prolonged the physical violence inflicted upon Iraq, shaping realities, justifying war, and instigating deep societal divides. Today, undoubtedly, the questioning of the rules-based international order or international law is directly related to this violence of the invasion of Iraq.

About the Author

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I. Introduction

In March 2003, the United States and its allies initiated a war on Iraq, culminating in the occupation of the country and resulting in approximately half a million deaths.[1] Alongside the American administration, advisors, and the mainstream press promoting the war, there were champions of the invasion among some intellectuals, including some Iraqi exiles, who provided the moral arguments to justify the invasion. In fact, the physical and material violence of war was preceded by intellectual and symbolic violence. The exiled Iraqi writer Kanan Makiya is emblematic of this stance. He infamously wrote that the bombs over Baghdad were like "music to [his] ears."[2]

In this war against Iraq, an epistemic violence was manifested through the manipulation and distortion of knowledge, information, and discourse, all wielded to rationalize and perpetuate political violence. In Iraq's case, violence is primarily expressed in "a matter of theory and rhetoric," as described by Hannah Arendt in her reflection on violence.[3] This study surpasses the traditional view of violence solely as the infliction and experience of harm on physical and psychological levels, as well as on material and discursive structures. It focuses primarily on the instrumental aspect of violence, as defined by Hannah Arendt, understood here as epistemic violence.

Unable to provide credible reasons or get the Security Council's approval, the Bush administration invaded Iraq without legal justification.[4] Even worse,

1. Juan Cole, *655,000 dead in Iraq since Bush*, Informed Comment (Oct. 11, 2006), https://www.juancole.com/2006/10/655000-dead-in-iraq-since-bush.html (last visited Apr. 19, 2026).

2. Haythem Bahoora, *On Iraq War Revisionism: Kanan Makiya and the Arab Revolutions*, Jadaliyya (Apr. 17, 2013), https://www.jadaliyya.com/Details/28450/On-Iraq-War-Revisionism-Kanan-Makiya-and-the-Arab-Revolutions (last visited Apr. 21, 2026).

3. Hannah Arendt, *Reflections on Violence*, 23 J. Int'l Aff. 1, 44 (1969).

4. Nsama Jonathan Simuziya, *The (il)legality of the Iraq War of 2003: An Analytical Review of the Causes and Justifications for the US-led invasion*, 9 Cogent Soc. Sci. no. 1, 2023, at 24.

it made up false arguments. This brand of violence operated by crafting narratives, such as the presence of Weapons of Mass Destruction in Iraq and the country's purported links to Al-Qaeda, promoting concepts, like liberal wars, and advancing justifications that bolstered the invasion while marginalizing dissenting viewpoints. The 2003 war assumed that the human security of the people of Iraq merited intervention on their behalf, considering this assumption legitimate enough to violate international law and occupy a sovereign country. In this case, Iraq's rights as a state are denied as a consequence of the freezing of its sovereignty in a binary international system between liberal and illiberal states. In other words, a blatant precedent was set where a stronger nation coercively imposes its power upon a weaker one. This (il)legal precedent lies at the heart of Russia's 2022 invasion of Ukraine. Freedman therefore considers liberal wars as illiberal because they rely on basic instinct to dominate and deny the right to life.[5]

Epistemic violence directed at Iraq was evident in the portrayal of its citizens and society through dehumanization and applying stereotypical lenses, which served to legitimize military intervention as a means of "liberation" and "regime change." Such depictions contributed to the devaluation of Iraqi lives and the normalization of human rights violations against them, even in the aftermath of the invasion, as evidenced by the atrocities at Abu Ghraib prison near Baghdad.[6] This illegal war has significantly eroded the legitimacy of the United States and Western powers in the eyes of the Global South. The actions taken have also cast a long shadow over the credibility an international system based on the rule of law, of which Western nations proclaim themselves as the guarantors.

This study is structured around three critical axes. Epistemic violence over the city of Baghdad and its destruction examines how the portrayal of Iraq's capital as a symbol of oppression and a strategic target contributed to its destruction. The narrative constructed by Western intellectuals, Iraqi exiled intellectuals and mainstream media framed the city not merely as a geographic location but also as a laboratory for the application of politico-military theories, thus legitimizing a terror campaign against it. Then epistemic violence over the people and the entrenchment of ethno-sectarian divisions within Iraqis focuses on how the discourse of Iraq as a mosaic of conflicting sects and ethnicities entrenched divisions among the Iraqi population. This epistemic framing perpetuated and intensified ethno-sectarian violence, fracturing Iraqi society and intercommunal understanding and tolerance. Finally, epistemic violence over the country and the making and unmaking of Iraq explores the broader narrative that Iraq was a colonial construct lacking true sovereignty. This discourse, propagated since the colonial era,[7] laid the groundwork

5. Lawrence Freedman, *The Age of Liberal Wars*, 31 Rev. Int'l Stud. 93 (2005).

6. Michael Otterman, American Torture: From the Cold War to Abu Ghraib and Beyond 161–180 (Pluto Press 2007).

7. Orit Bashkin, The Other Iraq: Pluralism and Culture in Hashemite Iraq 2 (Stanford University Press 2009).

for political violence by depicting Iraq as an artificial entity, thereby justifying its deconstruction and the denial of its legitimacy as a nation-state.

By dissecting these axes, this article demonstrates the power of words in shaping realities, justifying illegal war, and instigating deep societal divides. It also helps to illustrate why today and, in the future, this violence in knowledge production has shattered Iraq as a society and a state, and by extension, how the invasion of Iraq has created a crisis in the realm of international law in terms of legitimacy and legality. This study utilizes discourse analysis and theoretical examination to explore constructed narratives and their impacts. Additionally, it integrates theories of postcolonialism to scrutinize the basis of epistemic violence and its socio-political implications in Iraq. Employing theory analysis, discourse analysis of intellectual compradors and news coverage, and the investigation of urbicide, the aim is to demonstrate how an illegal war has shaped Iraq's trajectory, perpetuating notions of its purported artificiality. This article argues the Iraq war led to the occupation of a sovereign state in blatant violation of international law, undermining the principles the U.S. and its allies claim to uphold. This act of unjustified aggression has had lasting consequences, including the global lack of support for Russia's 2022 invasion of Ukraine, which reflects the diminished legitimacy of the international order the U.S. and its allies tried to establish.

II. Epistemic Violence Over the City, the Destruction of Baghdad

The U.S.'s military theories regarding Baghdad and its biopolitics, before the beginning of the occupation, often portray the city devoid of its people.[8] This perspective is heavily influenced by a culture, a set of ideas, and ideologies formulated within the confines of offices in the State Department and some think tanks. These perspectives are notably disconnected from the realities on the ground in Iraq, a country that was under embargo for over a decade. This disconnection fosters epistemic violence by disregarding and silencing the local context and realities. It predicts the material and physical violence that will befall Baghdad and its inhabitants.

This approach to engaging with an Arab country in the Middle East echoes the colonial methods described by Edward Said in "Orientalism," where the Orient is constructed as an object of study to be dominated by imperial forces. Orientalism becomes not only a discipline but also a style and a global institution of domination, restructuring, and authority over the Orient.[9] In the invasion of Iraq, a similar method is employed, with intellectuals producing knowledge that allows political authorities in Washington to justify the American war. The continuity of colonial methods is impeccable. Fouad Ajami, as an "oriental" speaking

8. Derek Gregory, *The Biopolitics of Baghdad: Counterinsurgency and the counter-city*, 1 Hum. Geography 1, 19 (2008).

9. Edward Said, Orientalism (2003).

to Bush, convinced everyone in the U.S. that the invasion was a "noble" war and a "gift" to the people of Iraq.[10] Without delving into the role of native informers in the production of epistemic violence, it is essential here to highlight all those who bear moral responsibility for the violence inflicted on Iraq and its inhabitants, and who have unabashedly moved past this fiasco without accountability.[11]

At the onset of the Iraq invasion, American military and political strategies relied heavily on their technological edge to dominate in urban warfare.[12] The goal was to use this overwhelming military might, coupled with the "shock and awe" strategy, to disable Iraqi military resistance. This strategy revolves around leveraging the United States's extensive global dominance in surveillance, information, and targeting systems. These systems are closely linked to remote killing capabilities through increasingly intelligent, automated, and cyborg-like machines.[13] This top-down approach to geopolitics, which overlooks social, economic, and cultural factors as well as the impact of war on urban areas, is critiqued by Stephen Graham. It cloaks itself in nebulous theories without necessarily being able to concretely define a tangible assessment of reality.

The technicality of military theories quickly clashes with the absence of any scientific basis, as the initial years of the occupation revealed American military shortcomings in dealing with the Iraqi insurgency. In 2005, at the height of the insurgency, there were 34,131 attacks each day.[14] The blind faith in vertical geopolitics, combined with American policy denials, led American commanders to choose to withdraw from the capital and reduce their military presence.

Furthermore, Derek Gregory observes that the American military occupation rendered the Iraqi capital empty of its people. American soldiers, largely unprepared for resistance, had been led to believe by the exiled Arab and Iraqi intelligentsia that they would be greeted with flowers.[15] This exiled segment of Iraqi society accompany all the missteps of the American invasion and occupation.

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10. Fouad Ajami, The Foreigner's Gift: The Americans, the Arabs, and the Iraqis in Iraq (2006).

11. Hamid Dabashi, *Native Informers and the Making of the American Empire*, campus watch (June 1, 2006), https://www.meforum.org/campus-watch/10542/native-informers-and-the-making-of-the-american (last visited Apr. 19, 2026).

12. Stephen Graham, *Vertical Geopolitics: Baghdad and After*, 36 Antipode 12 (2004).

13. Manuel DeLanda, War in the Age of Intelligent Machines (1991).

14. Center for Strategic and International Studies, *Iraq's evolving insurgency: The nature of attacks and patterns and cycles in the conflict*, ReliefWeb (Feb. 3, 2006), https://reliefweb.int/report/iraq/iraqs-evolving-insurgencythe-nature-attacks-and-patterns-and-cycles-conflict (last visited Apr. 20, 2026).

15. Gordon Rayner, *Iraq inquiry: Pentagon was convinced Army would be greeted with 'flowers on rifles'*, The Telegraph (Dec. 3, 2009), https://www.telegraph.co.uk/news/worldnews/middleeast/iraq/6717529/Iraq-inquiry-Pentagon-was-convinced-Army-would-be-greeted-with-flowers-on-rifles.html#:~:text=Download%20our%20app-,Iraq%20inquiry%3A%20Pentagon%20was%20convinced%20Army%20would%20be%20greeted%20with,has%20told%20the%20Iraq%20Inquiry (last visited Apr. 20, 2026).

These actors consistently participate in manipulating information and knowledge in service of political power and the domination of Iraq, silencing and erasing the voices of inhabitants living in Baghdad and other cities. This manufacturing of information is reproduced in space, particularly in the repartition of territory within the city.

This colonial logic is persistently present in American military strategy, often drawing inspiration from other colonial approaches, such as those employed by Israel. As Graham notes, American military strategists believed that "the road to Baghdad lay through Jenin."[16] They collaborated closely with the Israeli military forces before the invasion of Iraq, studying urban battles in the occupied Palestinian territories. Special observers were sent before 2003 to watch the battle of Jenin, in preparation for the battle of Baghdad.

This preparation prompted deep reflection within the American military administration, which was obsessed with its surgical and technical superiority. The so-called scientific and medical-sounding language, as evidenced by the 1991 war, does not preclude the occurrence of the worst massacres. Graham indeed points out that the war on Iraq was among the most "one-sided in history," possibly only surpassed by the conflict in Afghanistan six months earlier. The extensive destruction and aerial bombardment inflicted on both Iraqi civilians and military personnel within their cities made any sustained resistance impossible.

Authors highlight the overwhelming force deployed by the American military in Iraq, which, through advanced IT-based targeting systems, enabled near-instant destruction of both civilian and military infrastructure, leaving little room for resistance.[17] Unlike the first Gulf War, where such coordination took hours due to less automated systems, this war benefited from enhanced automation.[18] Graham notes that this perceived success was bolstered by relaxed rules of engagement, allowing extensive targeting of cities with both precision and unguided munitions, including controversial weapons like cluster bombs and depleted uranium.[19] French-Iraqi journalist Feurat Alani has documented the long-term consequences of these strikes, particularly in Fallujah, where children are still being born with malformations due to the use of destructive weapons.[20]

16. Graham, *supra* note 12, at 8.

17. Kalev Sepp, *From 'Shock and Awe' to 'Hearts and Minds': The Fall and Rise of US Counterinsurgency Capability in Iraq*, 28(2) Third World Q. 217, 228 (2007).

18. Harlan Ullman, *20 years on, "'shock and awe' remains relevant*, The Hill (Mar. 20, 2023), https://thehill.com/opinion/national-security/3907622–20-years-on-shock-and-awe-remains-relevant/ (last visited Apr. 20, 2026).

19. Graham, *supra* note 12, at 8.

20. Feurat Alani, Falloujah - Ma campagne perdue (2020).

1. Embedding Sectarianism In Counter-Insurgency, The De-Sunnization Of Baghdad

On the 9th of April 2003, American forces entered Baghdad. By the 1st of May, President Bush declared that major military operations were over, although it would take many years for the war to effectively end.[21] Armed resistance operations began to spring up across the country, particularly in Baghdad, prompting the Americans to reconsider their occupation and counter-insurgency plans. Violence in Baghdad and elsewhere reached its peak between 2005 and 2006. From the summer to fall of 2006, violence exploded in Baghdad. By December 2006, insurgents were killing 150 Iraqis per day.[22] Different Iraqi factions were fighting against the Americans and among themselves, including the Shia Islamist insurgents from Jayesh Al Mahdi, Sunni Islamist insurgents, and insurgents from the former Iraqi army.

Faced with this insurgency, the American occupation had to rethink its strategy. In 2005, the United Nations (UN) mandated the US-led Multi-National Force - Iraq (MNF-I) to combat insurgency and to organize, train, and equip Iraqi security forces, a mission that continued until 2007.[23] Due to ineffective outcomes, the American approach to counterinsurgency in Baghdad required reevaluation to quell escalating violence between competing communities. In January 2007, George W. Bush announced the "new way forward in Iraq," deploying an additional 30,000 troops in Iraq. In other words, a new military strategy centered on culture-centric warfare was implemented, with United States Army General David Howell Petraeus appointed to lead a new counter-insurgency in February 2007.[24] His doctrine prioritized civilian protection over force protection and focused on engaging with the population directly, minimizing traditional warfare tactics and airpower usage.

Before its fall under occupation in 2003, Baghdad was relatively immune to sectarian fragmentation. But in 2006, the US occupation and its policies succeeded in fueling deadly violence between Shia and Sunni militias.[25] Insurgent violence had already erupted in cities like Fallujah in 2004. The bombing of the al-Askari Mosque in Samarra in 2006, a significant Shia symbol located

21. *Bush makes historic speech aboard warship*, CNN (May 1, 2003), https://www.cnn.com/2003/US/05/01/bush.transcript/ (last visited Apr. 20, 2026).

22. Lionel Beehner, *Iraq: Status of Iraq's insurgency*, Council on Foreign Relations (Sep. 13, 2005), https://www.cfr.org/backgrounders/iraq-status-iraqs-insurgency (last visited Apr. 20, 2026).

23. Sepp, *supra* note 17.

24. Fred Kaplan, *The End of the Age of Petraeus: The Rise and Fall of Counterinsurgency*, 92 Foreign Affairs 75 (2013).

25. Harith H. Al-Qarawee, *Iraq's sectarian crisis: A legacy of exclusion*, Carnegie Endowment for Int'l Peace (Apr. 23, 2014), https://carnegieendowment.org/research/2014/04/iraqs-sectarian-crisis-a-legacy-of-exclusion (last visited Apr. 20, 2026).

in a Sunni city, triggered widespread sectarian conflict across Iraq.[26] Derek Gregory emphasizes that during Baghdad's sectarian war, arrests by Iraqi security forces frequently led to the deaths of mostly Sunnis, as the city fragmented into militia-controlled enclaves where survival depended on navigating sectarian checkpoints, often requiring residents to carry multiple identification cards.[27]

By early 2007, sectarian militias had driven Baghdad residents into segregated enclaves through threats, kidnappings, and violence, compelling them to relocate between neighborhoods. Intense fighting between the Mahdi Army and Sunni insurgents resulted in the Mahdi Army taking control of much of eastern Baghdad, which led to the ethnic cleansing and displacement of Sunni residents from previously mixed neighborhoods.[28] In a similar way, neighborhoods in Baghdad that had previously been home to both Shia and other segments were also emptied of their residents. Consequently, many of these once diverse areas saw a significant decline after 2007.

According to Damluji, this sectarian violence established a new spatial order in which sectarian identity determined social boundaries, severely limiting the freedom of Iraqi citizens in choosing where they could live, work, and move safely.[29] In Baghdad, the counterinsurgency strategy led to the creation of sectarian enclaves and boundary walls, limiting residents' autonomy, with military leaders later crediting these divisive measures and community engagement for increased neighborhood security.

Urban violence in Iraq was significantly worsened by the Coalition Provisional Authority's rapid dismantling of security institutions, including the army and police, under the guise of "de-Baathification." This action left nearly 500,000 people unemployed, many of whom subsequently joined insurgencies and terrorist groups such as Al-Qaeda. Mona Damluji argues that these decisions were both punitive and discriminatory against Sunnis.[30] The CPA was largely under the control of the Shia Islamist parties like Al Dawa and the SCIRI, allowing them to advance a sectarian agenda. For instance, the SCIRI's control of the Ministry of the Interior allowed Shia militias to dominate the police, leading to a sharp rise in Sunni killings.[31]

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26. Anthony H. Cordesman & Emma Davies, *Iraq's Sectarian and Ethnic Violence and Its Evolving Insurgency: Developments through late-January 2007*, Center for Strategic and Int'l Studies (2007).

27. Gregory, *supra* note 8.

28. Roger D. Petersen, Death, Dominance, and State-Building: The US in Iraq and the Future of American Military Intervention 89–112 (2024).

29. Mona Damluji, *"Securing Democracy in Iraq": Sectarian Politics and Segregation in Baghdad, 2003–2007*, 21(2) Traditional Dwellings and Settlements Rev. 71 (2010).

30. *Id.*

31. Andrew Rathmell, *Fixing Iraq's Internal Security Forces: Why is Return of the Ministry of Interior so Hard?*, Center for Strategic and Int'l Studies (Nov. 2007).

Here we find some of the consequences of epistemic violence: convinced by exiled intellectuals of the unscientifically proven amalgamation that the Baath party consisted solely of Sunnis, de-Baathification became an authorization for the ethnic cleansing of a segment of the Iraqi population. It is often overlooked that this was a secular and non-religious ideological party, that included all elements of Iraqi society. Saddam Hussein's tyrannical grip gradually made it more sectarian, from a tribal rather than a communal perspective, as noted by John Devlin: "his inner circle of associates has become progressively dominated by men related to him by blood or marriage."[32] The view of Iraq past, particularly before the occupation of the country, is often biased, as evidenced by the fact that the archives of the former regime are in the hands of the foundation of the person who promoted the invasion: Kanan Makiya, whom I cited at the beginning of the research.[33] Conflicts of interest and lack of ethics dominate this epistemic violence.

Petraeus acknowledged that Baghdad had become predominantly Shia due to ethnic cleansing, a situation linked to the policies of the Bush administration. Instead of alleviating sectarian tensions, the American-led counter-insurgency efforts exacerbated them, further intensified by a partisan Iraqi government and its security forces. American involvement intentionally deepened ethno-sectarian divisions, employing "divide-and-rule" tactics.[34] This was evident in the sectarian treatment in prisons and the agreements between Shia militias and the U.S., where Shia militants were favored at the expense of other segments of society. Ironically, Baghdad's stability was achieved not through political or security measures, but through the diminution of targets available for abduction or violence.

2. Trapped In Urban Sectarianism, A Modern-Day Sisyphus

In Greek mythology, Sisyphus, a mortal condemned to eternally push a boulder uphill only for it to roll back down, symbolizes for Albert Camus the absurdity of life in a meaningless world. Camus interprets Sisyphus's plight as a metaphor for the human condition, where the search for meaning is a source of suffering.[35] Confronted with this absurdity, Camus argues that one must choose internal revolt over despair, finding freedom and even happiness by embracing the struggle and accepting the futility of the task as a way to truly live.

This struggle against the absurdity of existence, with all the violence it produces, is reminiscent of what the Iraqis have had to endure since 2003,

32. John F. Devlin, *The Baath Party: Rise and Metamorphosis*, 96 The American Historical Review 1396 (1991).

33. Michael Brill, *The Archives of Saddam Hussein's Baʿth Party and the Politics of Remembering and Forgetting the Baʿthist Era in Iraq*, 55 Int'l Journal of Middle East Studies 336, 342 (2023).

34. Damluji, *supra* note 29.

35. Albert Camus, The Myth of Sisyphus and Other Essays (1955).

especially during the wave of explosions and murders that have affected the entire country. Every time the Iraqis believed they had overcome this cycle of violence, it returned like the eternal boulder rolling back down the hill. Iraq seems condemned to push this eternal boulder of sectarianism, which the occupation brought to the forefront in 2003 through the promotion of consociationalism and its form in Iraqi politics: *muhasasa ta'ifia*, the allocation of government posts through sectarian apportionment.

Sectarianism in Iraqi politics has resulted in a surge of ethno-sectarian discrimination, as we have shown. It affects both human beings and the country's cultural heritage, evidenced by the multiplication of attacks on places of worship and national symbols.[36] This includes the attack on predominantly Shia officers in Camp Speicher, where more than 1700 soldiers were massacred[37] in 2014 by Daesh, the extrajudicial (still silenced) kidnappings and forced disappearances of thousands of Sunni Arabs in Anbar province[38] by pro-Iranian militias and state-sectarian sponsored ones, and the messianic violence in Mosul[39] and Fallujah,[40] where the population was caught between the Daesh terrorist organization and pro-Iranian militias committing sectarian atrocities. Sectarianism also led to the destruction of an 18th-century Ottoman-era mosque[41] amid sectarian escalation in Basra, where the Sunni population underwent ethnic cleansing, dropping from 40% to 15%.[42] Another example is the genocidal massacres of the Yazidis[43]

36. Mehiyar Kathem, Eleanor Robson & Lina G. Tahan, *Cultural heritage predation in Iraq: The sectarian appropriation of Iraq's past*, Chatham House 16 (Royal Institute of International Affairs 2022).

37. UNITAD*, The massacre at the Tikrit Presidential Palace Complex against personnel who departed from the*

Tikrit Air Academy: 12–14 June 2014, (Jun. 2024), https://iraq.un.org/sites/default/files/2024–06/camp_speicher-pattern_of_mass_killing_and_genocidal_intend_en.pdf.

38. Press Release, OHCHR, Iraq: UN Committee urges urgent investigation and legislation to eradicate enforced disappearances (Apr. 4, 2023), https://www.ohchr.org/en/press-releases/2023/04/iraq-un-committee-urges-urgent-investigation-and-legislation-eradicate.

39. *Iraq: As battle for Mosul begins, warning that Shia militias have carried out mass revenge attacks on Sunnis - new report*, Amnesty International (Oct. 18, 2016), https://www.amnesty.org.uk/press-releases/iraq-battle-mosul-begins-warning-shia-militias-have-carried-out-mass-revenge-attacks.

40. *Iraq: Authorities must act to reveal fate of 643 men and boys abducted by government-linked militias*, Amnesty International (Jun. 5, 2023), https://www.amnesty.org/en/latest/news/2023/06/iraq-authorities-must-act-to-reveal-fate-of-643-men-and-boys-abducted-by-government-linked-militias/

41. Mina Aldroubi & Holly Johnston, *"Crime against humanity": Iraqis outraged by destruction of 300-year-old minaret in Basra*, The National News (Jul. 14, 2023), https://www.thenationalnews.com/mena/iraq/2023/07/14/crime-against-humanity-iraqis-outraged-by-destruction-of-300-year-old-minaret-in-basra/

42. *Sunnis decline in Basra, official says*, Al Jazeera (Jun. 1, 2006), https://www.aljazeera.com/news/2006/6/1/sunnis-decline-in-basra-official-says.

43. *ISIL crimes against Yazidis constitute genocide, UN investigation team finds*, UN News (May 10, 2021), https://news.un.org/en/story/2021/05/1091662.

and the attacks on Christian churches in Iraq, including the attack on Our Lady of Salvation Cathedral in Baghdad on October 31, 2010.[44]

The desire of each community to carve out its own space in the city by ejecting the other redefines the space in a violent manner. This is a consequence of the injection of sectarianism by the American occupation and local political elites. We thus witness the tangible result of epistemic violence that sought to reshape Iraq in its own image. Baghdad, as a contemporary city, has been the battleground where global powers and stubbornly local ideologies and identities converge. This instability in threatened political and religious identities has a profound impact on cities where urbicide has become a reality, involving the material destruction of urban and cultural heritage, as seen in Baghdad and other major Iraqi cities such as Mosul and Basra.[45]

Local Iraqi elites have turned to violence as their primary means of public expression, abandoning political strategies. Instead of emulating Otto von Bismarck's diplomatic methods, these elites have adopted a more aggressive and destructive approach akin to Adolf Hitler's, as distinguished by Hans Morgenthau in his 1948 essay *The Twilight of International Morality*.[46] While Bismarck used cunning diplomacy to address Germany's encirclement by France and Russia, Hitler sought to destroy these enemies without moral restraint. Similarly, Iraqi elites, through non-state actors like pro-Iranian militias and Daesh, are driven by an ideological obsession to eradicate perceived enemies and fulfill their ambitions.

Since 2019, the Iraqis, particularly civil society, attempt to overcome the absurdity of this inhumane violence like Sisyphus. This is evident in the slogans of the youth in Baghdad who revolted against sectarianism and demanded the implementation of a non-sectarian policy. The Iraqi state and militias, managed by Iranian General Soleimani, showed no mercy; 600 people (mostly young) were killed.[47] But the passionate revolt is slowly transforming, as seen in the rise of secular political parties in the south, the initial stronghold of Iranian-backed religious parties.[48]

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44. Martin Chulov, *Baghdad church siege survivors speak of taunts, killings and explosions,* The Guardian (Nov. 1, 2010), https://www.theguardian.com/world/2010/nov/01/baghdad-church-siege-survivors-speak.

45. Zygmunt Bauman, *Identity in the Globalising World*, 9 Soc. Anthropology. 121 (2001).

46. Hans J. Morgenthau, *The Twilight of International Morality*, 58 Ethics 79, 79 (Jan. 1948).

47. Salma Eissa, *Iran's October Revolution: Six Months On*, Armed Conflict Location & Event Data (Apr. 10, 2020), https://acleddata.com/report/iraqs-october-revolution-six-months.

48. Hayder Al-Shakeri, *Iraq's new MPs must unite to achieve genuine change*, Chatham House (Feb. 10, 2022), https://www.chathamhouse.org/2022/02/iraqs-new-mps-must-unite-achieve-genuine-change.

III. Epistemic Violence Over the People, the Entrenchment of Ethno-Sectarian Divisions Within Iraqi's Legal Framework

This redefinition of Iraq's political identity led to a new Iraqi constitution in 2005, which entrenches the legal fragmentation of the Iraqi nation-state. On December 17, 2002, as the United States and the United Kingdom were preparing to invade Iraq militarily, they sponsored a conference in London that brought together all Iraqi opposition parties.[49] The purpose of this conference was to lay the legal foundations for a political project following the invasion of the country.[50] The outlines of today's Iraq were already emerging, with federalism and, more significantly, the ethno-sectarian antagonisms of the country, notably the partitioning of Iraq into three ethno-sectarian political groups: Kurds, Shia Arabs, and Sunni Arabs. Sectarianism, a taboo subject in pre-invasion Iraq, was already being promoted in the Western press, as evidenced by various reports from the meeting.[51] The fragmentation of Iraqi society was evident early on, with certain segments being marginalized in favor of others.

The role of Western intellectuals during the occupation of Iraq in entrenching sectarian discourse, thereby promoting fixed political identities, is indicative of the continuity of colonial practices. The case of Brendan O'Leary, who was was in Iraq between 2004 and 2005, is particularly illustrative in the context of Iraq. O'Leary served as an "international constitutional advisor" to the Kurdistan Regional Government in Iraq.[52] His biography says that he has played a key role in negotiating the Transitional Administrative Law (2004), designing electoral systems (2004–2005), drafting the Constitution of Iraq (2005), and the draft Constitution of the Kurdistan Region (since 2005). Additionally, he has monitored "violations of the Iraqi Constitution by the federal government."[53] His profile reminds us that O'Leary has also provided expert testimony on Iraq and Kurdistan to the American administration and the United Kingdom's Iraq Commission, and has served as an expert witness "in court cases related to Iraq's Constitution."[54]

The collaboration of intellectuals with occupying forces in Iraq parallels Napoleon Bonaparte's 1798 expedition to Egypt, where scholars accompanied

49. George W. Bush, *Statement by the Press Secretary: Iraqi Opposition Conference – London, December 2002*, The American Presidency Project (Dec. 17, 2002), https://www.presidency.ucsb.edu/documents/statement-the-press-secretary-iraqi-opposition-conference-london-december-2002.

50. *Iraqi Exiles Plan Path to Power*, BBC News (Dec. 17, 2002, 7:24 PM), http://news.bbc.co.uk/2/hi/middle_east/2583603.stm.

51. *Iraq Opposition Agrees Blueprint*, CNN (Dec. 15, 2002, 4:31 PM), https://www.cnn.com/2002/WORLD/meast/12/15/sproject.irq.london/.

52. *Brendan O'Leary*, Penn Arts & Sciences Political Science Department, https://live-sas-www-polisci.pantheon.sas.upenn.edu/people/standing-faculty/brendan-oleary.

53. *Id.*

54. *Id.*

the military, conducting research that supported French imperial ambitions, as Edward Said discusses in *Orientalism*.[55] This blend of military conquest and scientific investigation laid the groundwork for modern Orientalism, with figures like Sylvestre de Sacy exemplifying the scholarly aspect of colonialism through his influential research in linguistics and philology. Juan Cole argues that Napoleon's invasion was the first modern attempt to invade the Arab world, inventing the rhetoric of liberal imperialism, where intellectuals constructed knowledge that justified and facilitated Western domination, often detached from the realities of the societies they described.[56]

In 2007, O'Leary harshly advocated for consociationalism in Iraq while the country was engulfed in a fratricidal crisis, rejecting the notion of a unified Iraq. His refutation of any idea of an "Iraqi nation" relied on arguments with essentialist undertones, particularly towards the "Sunni Arab" segment of Iraq: "The most enthusiastic and numerous supporters of a centralized Iraq are not the liberal centrists, but the parties rooted in Iraq's Sunni Arab community. However, their support for centralization is mostly ethnocentric in nature and based on nostalgia for the Iraq that Sunni Arabs controlled since its creation. [. . .] Even Sunni Arabs' calls for a government based on technocracy and for a "professional" army are not as impartial and civic as they might seem, since Sunni Arabs dominated both the technocratic and army officer class under Saddam."[57] The tone used by O'Leary is nourished by suspicions and moral judgments without nuance.

In addition to being essentialist and sectarian, his stance fails to account for the complexity of the history of nationalism in Iraq. In fact, the political history of Iraq at the dawn of the 20th century, during the early formation of the Iraqi nation-state, was far from being exclusively dominated by Sunni Arabs, as O'Leary claims. The rejection of colonialism by the Iraqis was swiftly initiated by the Arab Shia clergies, who were joined by Arab Sunnis in Iraq. This period is known as the Great Iraqi Revolution of 1920. It was directed against the British, who occupied Iraq during the First World War and imposed a mandate on the region. The revolution lasted for four months until the British suppressed it. The 1920 Revolution remains established in the Iraqi collective memory as a formative event symbolizing national solidarity, unity, and the patriotic spirit to fight against foreign interference for their freedom.[58] It is not surprising, then, that the Baath Party, which ruled Iraq from 1968 to 2003, was founded in Iraq by an Iraqi Shia Arab, Fuad al-Rikabi.[59]

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55. Said, *supra* note 9.

56. Juan Cole, Napoleon's Egypt: Invading the Middle East 12 (2008).

57. John McGarry & Brendan O'Leary, *Iraq's Constitution of 2005: Liberal consociation as political prescription*, 5 Int'l J. of Const. L 670, 684 (Oct. 2007).

58. Eli Amarilyo, *History, Memory and Commemoration: The Iraqi Revolution of 1920 and the Process of Nation Building in Iraq*, 51 Middle E. Studies 72 (2015).

59. F.C. & P.G.D., 'IRĀQ47 Oriente Moderno 70 (1967).

The new sectarian political space created by the invasion and occupation of Iraq gives rise to contradictions marked by the complacency of the elites who participated in the invasion. Toby Dodge, Blair's advisor during the invasion of Iraq,[60] praises Faleh Abdul Jabar, whom Renad Mansour describes as "respected by political elites across party lines and frequently asked to provide advice, he often found himself at the center of power."[61] The abovementioned researchers have all been engaged in the political dynamics after the invasion. Faleh Abdul Jabar, although a Marxist, advised the Islamist Iraqi Shi'i cleric Muqtada al-Sadr. It is noted that "in meetings first in Beirut and then in Baghdad, he helped to provide Sadr with a theoretical understanding of the concept of technocracy to ensure that Sadr's political movement was compatible with democracy and the political process in Iraq."[62] Faleh also became one of the key architects of the alliance between the Sadrists and the leftist, secular, and civil society factions, forming an improbable coalition. However, epistemic violence silences the fact that Faleh Abdul Jabar advised a militia commander who was accused of operating "death squads" targeting Sunni Arab civilians.[63] The intellectuals behind the invasion appear immune to serious academic criticism.

1. The Controversial Institutionalisation Of Consociationalism In The New Iraqi Constitution

The legal implementation of consociational democracy in a divided society, such as Iraq, has merely institutionalized ethno-sectarian partitions at the core of its doctrine and entrenched sectarianism within its society, thereby severely damaging its social fabric. The effects of sectarianism on Iraq's political stability have been extensively debated over the last two decades. Commenting on Fanar Haddad's essay on sectarianism, Carl Shook echoes Haddad's reflection, which points out that it is the assertive and often aggressive nature of sectarian identities, when they feel threatened, that causes conflicts.[64]

Consociationalism as a political theory emerged as a potential means to enhance political stability in deeply divided societies, as the political scientist Arend Lijphart observed in 1969.[65] No On the legal ground, the latter advocates that the destabilizing effects of subcultural antagonisms can be mitigated at the

60. Toby Dodge, *In Memory of Faleh Abdul Jabar: Scholar, Mentor, Activist, and Friend*, LSE Blogs (June 1, 2018), https://blogs.lse.ac.uk/mec/2018/06/01/in-memory-of-faleh-abdul-jabar-scholar-mentor-activist-and-friend/.

61. Renad Mansour, *The Legacy of Faleh Abdul Janar (1946–2018)*, 285 Middle E. Rep. 58, 59 (2018).

62. *Id.*

63. *Moqtada al-Sadr: The Influential Shia Cleric Behind Iraq Protests*, BBC News (Aug. 30, 2022), https://www.bbc.com/news/world-middle-east-12135160?embed=true.

64. Carl Shook, *Sectarianism in Iraq: Antagonistic Visions of Unity by Fanar Haddad*, 23 Arab Stud. J. 378, 378 (2015) (book review).

65. Arend Lijphart, *Consociational Democracy*, 21 World Politics 207 (1969).

elite level through the implementation of conflict resolution mechanisms that prevent the domination of a majority. Lijphart argues that a consociational government should consist of a grand coalition of political leaders representing all significant segments of the country, grant substantial autonomy to each segment, implement proportional representation, and allow for the use of mutual vetoes.[66] He also points to various political factors, such as a strong national loyalty to the state and socio-economic equality, as key elements that can explain the success or failure of consociational democracy.

However, this political theory has faced significant criticism, including claims that consociationalism, rather than alleviating ethnic conflicts, actually deepens ethnonational divisions by relying on essentialist, identity-centered assumptions. This, in turn, could pave the way for sectarian authoritarianism.[67] I argue that the adoption of the 2005 Iraqi constitution following the occupation of the country led to the institutionalisation of consociationalism. Subsequently, this has reinforced violent sectarianism in the country, creating a corrupt authoritarian system that was ultimately denounced by Iraqi youth in 2019.[68]

Two years after the occupation of the country, the Iraqi constitution was promulgated on October 15, 2005. Since then, scholars did not fail to point out the opaque, hasty and sectarian method in which it was drafted.[69] This constitution has raised multiples issues. The seven-month timeframe in which the constitution was drafted has been a source of controversy, especially when compared to other post-conflict constitution-writing processes.[70] Initially, the National Assembly and its Constitutional Committee were tasked with completing the constitution by August 2005. However, in a surprising turn of events, these bodies were unable to finalize the drafting process. Instead, the responsibility was shifted to the Leadership Council, a group that notably excluded representatives from various segments of Iraqi society. Toby Dodge argues that this development became a focal point for those marginalized by the post-2003 political establishment, ultimately becoming a significant catalyst for escalating

66. Arend Lijphart, Democracy in Plural Societies: A Comparative Exploration 25 (1977).

67. Michael Kerr, Imposing Power Sharing: Conflict and Coexistence in Northern Ireland and Lebanon 26–40 (2006).

68. Ghaith Abdul-Ahad, *Iraq's Young Protesters Count Cost of a Month of Violence*, The Guardian (Oct. 29, 2019), https://www.theguardian.com/world/2019/oct/29/iraqi-protesters-demonstrations-month-of-violence.

69. *See* Ashley S. Deeks & Matthew D. Burton, Iraq's Constitution: A Drafting History, 40 Cornell Int'l L.J. 1 (2007) (provides a drafting history of the most significant and controversial provisions of the 2005 Iraqi constitution); s*ee also* Andrew Arato, Constitution Making Under Occupation, The Politics of Imposed Revolution in Iraq (Columbia University Press 2009) (arguing that attempts to draft and adopt constitution in Iraq were unintended events, noting external pressure by Americans during the drafting process).

70. Zaid Al-Ali, The Struggle for Iraq's Future: How Corruption, Incompetence and Sectarianism Have Undermined Democracy 189 (Yale University Press 2014).

civil conflict. This fundamental flaw in the constitution drafting process has played a significant role in perpetuating ongoing structural instability and violence against the citizens of Iraq.[71]

Lijphart's recommendations call for a constitutional framework in divided societies that incorporates three key elements: federalism, proportional representation in elections, and a parliamentary system.[72] Despite these pillars being integrated into the Iraqi political system, they were criticized for undermining Iraq's political stability, as Nussaibah Younis observed.[73] She argues that consociational political structures are inherently weak because they rigidly adhere to group identities and cannot adapt to changes or even the dissolution of these identities over time, thereby reinforcing divisions. The history of political identity in Iraq demonstrates that identities can evolve significantly over time. The adopted constitution has struggled to foster effective governance amidst ongoing political crisis and societal divisions, contributing to ongoing instability in the country. The three aforementioned pillars of consociationalism have produced varied outcomes in Iraq.

A federal structure was promoted by Lijphart because it can ensure a competent government in divided societies.[74] Scholars and governments have supported federalism for Iraq-related matters.[75] In this context, Younis notes that the American Congress passed a non-binding resolution in 2007 advocating for a federal political settlement in Iraq.[76] The new Iraqi constitution, as outlined in Article 1 and Article 116, establishes a federal system comprising decentralized regions, governorates, and local administrations; Article 117 specifically designates Kurdistan as a federal region. This federalism reflects the Shia Arabs' and Kurdish politicians' desire for greater regional autonomy amid mutual suspicion, highlighting a lack of confidence in the new political structure and exacerbating existing divisions.[77]

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71. Toby Dodge, *Iraq's Informal Consociationalism and Its Problems*, 20 Studies in Ethnicity and Nationalism 145, 147 (2020).

72. Arend Lijphart, *Constitutional Design for Divided Societies*, 15 J. of Democracy 96 (2004).

73. Nussaibah Younis, *Set up to fail: consociational political structures in post–war Iraq, 2003–2010*, 4 Contemporary Arab Affairs 1 (2011).

74. Daniel J. Elazar, *Federalism and Consociational Regimes*, 15 Publius 17 (Spring 1985).

75. *See* Liam Anderson & Gareth Stansfield, *The Implications of Elections for Federalism in Iraq: Toward a Five-Region Model*, 35 Publius 359 (2005) (concluding that an ethnic, plurinational federalism based on Iraq's five broad regions would be the least bad system).

76. Younis, *supra* note 73, at 7 ("In 2007 the US Congress took the extraordinary step of adopting a non-binding
resolution in support of a federal political settlement for Iraq.").

77. Sean Kane, Joost R. Hiltermann, & Raad Alkadiri, *Iraq's Federalism Quandary*, 118 The National Interest 20 (2012).

Lijphart criticized direct presidential elections for favoring the largest societal segment, advocating instead for a parliamentary system led by a prime minister constrained by the need to maintain a majority in parliament.[78] The Iraqi constitution reflects this, granting the prime minister significant powers, including control over the armed forces and state policy, while the president's role remains largely ceremonial. As prime minister, Nouri al Maliki centralized power, leveraging his position to dominate the security apparatus and marginalize opponents, ultimately leading an authoritarian, sectarian government.[79] His reign is characterized by revolts in Sunni provinces against the discrimination[80] and violence they suffered.[81] These revolts will be met with excessive authoritarianism, sowing the seeds of radicalism that will lead to the rise of Daesh. The latter is not the cause of instability and political violence in Iraq, but rather it is the consequence of the sectarian violence perpetrated by the regime in power since 2003.

2. The Necessary Reassessment Of Iraq's Flawed Consociationalism

Fueled by a sectarian approach to Iraq, a fixed notion of identity, self-interested intellectuals, and postcolonial biases, the application of consociationalism in Iraq has faced strong criticism.[82] The informal consociational legal arrangement in Iraq has allocated the positions of President, Prime Minister, and Speaker of the National Assembly among the three major political segments. However, Sunni Arabs are often perceived as powerless and lacking decision-making authority.

Younes argues that consociational political structures are fundamentally flawed due to their rigid adherence to group identities, which renders them incapable of adapting to the evolution or dissolution of these identities over time.[83] This rigidity, the researcher observes, reinforces ethno-sectarian divisions by presuming that such identities will remain the primary political units in a divided society. Contrary to the dominant narrative, she notes that Iraq in the 1950s and 1960s experienced social dynamics that transcended sectarian lines. During

78. Lijphart, *supra* note 72.

79. Mark Chamoun, *Consolidating Power Through the Ambiguous: Ambiguity in the 2005 Iraqi Constitution and its Exploitation by Prime Minister Nouri al-Maliki*, 15 Asian Journal of Middle Eastern and Islamic Studies 447 (2021).

80. Kamal Naama, *Thousands of Iraqi Sunni protesters say no to Maliki*, Reuters (Feb. 1, 2013), https://www.reuters.com/article/idUSBRE9100MJ/.

81. David Romano, *Iraq's Descent into Civil War: A Constitutional Explanation*, 68 Middle East Journal 547, 555 (2014).

82. Paul Dixon, *Power-Sharing in Deeply Divided Societies: Consociationalism and Sectarian Authoritarianism*, 20 Studies in Ethnicity and Nationalism 117 (2020).

83. Younis, *supra* note 73, at 2 ("The endless headlines reporting sectarian violence, however, confer a sense of fixity upon Iraqi identity, suggesting that its ethno-sectarian divisions are primordial and timeless. In fact, these identities are heightened and politicized in response to social contexts, and they can change, dissolve and reformulate themselves as these contexts change.").

this period, Iraq underwent significant modernization and urbanization which brought notable advancements in the education system. This era also saw the emergence of an influential urban middle class, especially among the *effendiya*, which included bureaucrats, teachers, journalists, freelancers, and public intellectuals.[84] Anderson reflects on how print literacy facilitated the creation of the "imagined community" that underpins a nation.[85] Consequently, increased material wealth and access to print media allowed educated, urban Iraqis to redefine their identities in more complex ways.[86]

Dixon argues that consociationalism has logically led to the entrenchment of sectarian authoritarianism because of its essentialist assumptions.[87] While consociationalism was initially hailed as a political success, the outbreak of civil war in 2006 and the rise of terrorism have raised significant questions about Iraq's consociationalism, as it has become associated with a corrupt, sectarian authoritarian state.[88] In October 2019, unexpected demonstrations began to profoundly disrupt Iraq's rigid political landscape.[89] In the following months, thousands of young Iraqis took to the streets, confronting security forces and extremist militias, mainly backed by Iran, which responded with live ammunition, killing hundreds of Iraqis. Commenting on these protests, Dodge notes that "the high point of protests that started in 2009, and it has developed a powerful critique of Iraq's consociational system and the widespread corruption the protestors associate with it."[90] The epistemic violence inherent in Iraq's ethno-sectarian system perpetuates divisions by imposing rigid, essentialist identities, thereby marginalizing diverse narratives and reinforcing sectarian biases. The integration of consociational democracy into Iraq's 2005 constitution, in a society marked by deep divisions, has dramatically institutionalized ethno-sectarian antagonisms at the heart of the Iraqi political system.

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84. Michael Eppel, *The Elite, the Effendiyya, and the Growth of Nationalism and Pan-Arabism in Hashemite Iraq*, *1921–1958*, 30 Int.l J. Middle East Stud. 227 (1998).

85. Benedict Anderson, Imagined Communities: Reflections on the Origin and Spread of Nationalism 67 (Verso 1983).

86. Younis, *supra* note 73, at 2 ("These educated and wealthy urban dwellers – often referred to as the effendiyya – were newly cut off from the rural structures of authority that had previously governed their intellectual and social lives.").

87. Dixon, *supra* note 82.

88. Taif Alkhudary, *From Muhasasa to Mawatana: Consociationalism and Identity Transformation within the Protest Movement in Federal Iraq, 2011–2019*, 30 Nationalism and Ethnic Politics 145, 156 (2023).

89. *See* Chiara Lovotti & Licia Proserpio, *The October 2019 Protest Movement in Iraq: An Analysis of the 'Early Moments' of the Mobilisation*, 14 Partecipazione E Conflitto 644 (2021) (analyzes factors that shaped Iraqi activists' decisions and lead to different forms of spontaneous participation in the context of both social movement and Iraqi studies).

90. Dodge, *supra* note 71, at 149.

IV. Epistemic Violence Over the Country: The Making and Unmaking of Iraq

The rhetoric justifying and preparing for the U.S. war against Iraq did not spare the cities or the Iraqi people; the symbolic violence even questioned the very idea of a legal, social and political reality for the country. This ideological assault effectively suspended Iraq's sovereignty, a fundamental right enjoyed by all nations. This negation of a core principle of international law, sovereignty, has had far-reaching consequences, contributing to the ongoing international political crisis extending throughout the Middle East and even to Ukraine.

One cannot grasp the current global crises without understanding the profound impact of the Iraq invasion. It was an invasion broadcast live with the real-time revelation of the American administration's lies, which served as a political awakening for an entire generation of researchers. This event marked the zenith of the hubris of an invading government and a nation at the peak of its military prowess. It was an act of excess driven by brutality, whose enormity outraged the entire world. However, to reach this point, intellectuals and scholars serving Bush's administration interests had diligently worked to undermine the very concept of Iraq as legal entity. As is often the case, this engineering of mystification has roots in the colonial era. To conquer and dispossess a land, one must first deny its existence and, consequently, all its rights.

The Arab states of the Middle East have been at the center of numerous academic discussions, especially concerning their modern nation-state structures and the impact of colonial legacies on the Arab state system in the region. Some scholars have pointed to Western colonial powers as key contributors to the current political instability in the Middle East. They argue that, after the collapse of the Ottoman Empire, colonial powers created artificial states by arbitrarily uniting various sectarian and ethnic groups.[91] Iraq holds a special place in this debate since it has been one of the most unsettling countries in the international system, as noted by Rogan.[92] Pursley emphasizes the issue by stating that "no modern state has been recalled 'artificial' more times than Iraq."[93] We thus note that epistemic violence runs through the history of Iraq.

The modern state of Iraq emerged between 1919 and 1923 with the consolidation of the three Ottoman vilayets of Mosul, Baghdad, and Basra, often

91. M. E. McMillan, *The Ottoman Empire: How the Arab World Was Won and Lost*, *in* From the First World War to the Arab Spring 15–41 (Palgrave Macmillan ed. 2016).

92. Eugene Rogan, *The Emergence of the Middle East into the Modern State System*, *in* International Relations of the Middle East 39 (Louise Fawcett ed., 3rd ed. 2009).

93. Sara Pursley, *Lines Drawn on an Empty Map': Iraq's Borders and the Legend of the Artificial State (Part 1)*, Jadaliyya (June 3, 2015), https://www.jadaliyya.com/Details/32140/%60Lines-Drawn-on-an-Empty-Map%60-Iraq%E2%80%99s-Borders-and-the-Legend-of-the-Artificial-State-Part-1.

described as a British "creation."[94] Despite this, there has been considerable debate about the concept of the nation-state in Iraq. Harik points out that while Iraq's Westphalian statehood was established in the 1920s under British influence, the country itself has an ancient societal history.[95] In fact, recent Ottoman historiography has pointed out that Arab modern states were not merely lines drawn on empty maps, but were founded on social foundations already established by an "Ottoman statebuilding endeavor."[96] The debate surrounding the artificial nature of the State of Iraq often reflects political biases rather than neutral academic analysis. Accordingly, I argue that Iraq's current borders are frequently contested to undermine its historical legitimacy and justify its occupation.

1. The Old And Constant Epistemic Violence Surrounding Iraq's Borders

The discourse surrounding the borders of Iraq illustrates the way that debates about the artificiality of the state's border formation have played a crucial role in justifying Iraq's occupation by both Great Britain in 1918 and the United States and its allies in 2003. The challenge to the sovereignty of the peoples living in what would become Iraq, based on the argument of the state's artificiality, was first raised in the early 1920s. The question of borders involves an entanglement between the legal considerations of the establishment of an Arab nation-state and the colonial worldview that prevailed in the 20th century.

After the First World War, the victorious powers, particularly Great Britain in the case of Iraq, sought to discredit the claims of Iraqi nationalists by arguing that they were not mature enough to manage the affairs of their own country.[97] This narrative goes beyond questioning the state itself; it also denies the existence of any coherent social reality before colonisation. The London Times in 1922 exemplifies this denial with its statement: "This no common purpose yet animates these heterogeneous communities (. . .) Mesopotamia, with its vague frontiers and mixed population, was treated as a nation, as an embryo State, to be ranked with the modern democracies included under the League of Nations."[98]

Analyzing discourses produced on Iraq's territorial sovereignty in the 1920s and early 2000s, Usha Natarajan considers Iraq a significant case study because it faced the occupation from the U.S. and its allies, as well as occupation by the British under the League of Nations.[99] Both the U.S. and the U.K. share a

94. Giuditta Fontana, *Creating Nations, Establishing States: Ethno-Religious Heterogeneity and the British Creation of Iraq in 1919–23*, 46 Middle Eastern Studies 1, 13 (2010).

95. Iliya Harik, *The Origins of the Arab State System*, 20 The Int'l Spectator 20 (1985).

96. Daniel Neep, *'What have the Ottomans ever done for us?' Why history matters for politics in the Arab Middle East*, 97 Int'l Aff. 1825, 1835 (2021).

97. Harik, *supra* note 95.

98. Fontana, *supra* note 94.

99. Usha Natarajan, *Creating and Recreating Iraq: Legacies of the Mandate System in*

similar approach to the Global South, characterized by assumptions of moral and cultural superiority, which serve as a foundation for legal imperial racism. Natarajan mentions Antony Anghie, who argues that the League initially conceived sovereignty in Third World countries under Western guidance.[100] Iraq's fate illustrates how epistemological violence, grounded in colonial assumptions, allows Western powers to assert the authority to determine which countries merit sovereignty, thereby implying an unequal recognition of borders within the international system.

Natarajan cites Tony Blair's statement before the 2003 Iraq invasion, promising to "protect Iraq's territorial integrity" and "support representative government" based on human rights and the rule of law,[101] reflecting the notion of liberal war that labels non-Western-aligned nations as "failed states." Liberal wars are often portrayed as interventions aimed at advancing humanitarian goals, addressing human rights violations, and reshaping the internal balance of power within a state.[102] In Iraq, this perspective undermines state sovereignty by promoting liberal hegemony, rooted in modern capitalism and colonialism, which seeks to expand its authority by rejecting boundaries and enforcing Western ideals. The invasion led by the United States, considered an act of aggression under international law, tarnished the United States's international reputation, and undermined its commitment to human rights and humanitarian law. This intervention also weakened the legitimacy of the state on the global stage, potentially violating key norms of public international law and eroding the foundations of multilateral cooperation and collective security.

The persistent epistemological violence over the Iraq's delimitation is exemplified by David Fromkin in *A Peace to End All Peace*. Fromkin seems to endorse the idea of a historical legacy of European fabrication of Middle Eastern nations and frontiers post-World War I: "It was an era in which Middle Eastern countries and frontiers were fabricated in Europe. Iraq and what we now call Jordan, for example, were British inventions, lines drawn on an empty map by British politicians after the First World War, while the boundaries of Saudi Arabia, Kuwait, and Iraq were established by a British civil servant in 1922."[103] Fromkin addresses the common belief that Iraq, like Jordan, Saudi Arabia, and Kuwait, was a British construction, with borders arbitrarily drawn by British policymakers using their imagination, as if someone was drawing lines in the empty

Contemporary Understandings of Third World Sovereignty, 24 Leiden J. of Int'l L.799, 799 (2011).

100. Antony Anghie, *Colonialism and the Birth of International Institutions: Sovereignty, Economy, and the Mandate System of the League of Nations*, 34 New York University J. of Int'l L. and Pol. 115 (2005) (Quoting Natarajan (2011)).

101. Natarajan, *supra* note 99.

102. Freedman, *supra* note 5.

103. David Fromkin, A Peace to End All Peace: The Fall of the Ottoman Empire and the Creation of the Modern Middle East 9 (Henry Holt & Co. 1989).

sand. None of the local actors appear to have played any role in this narrative, as if they were mere ghosts.

Jeffrey Goldberg builds on this historical context in his article "After Iraq," proposing the fragmentation of Iraq due to its perceived lack of modern conceptual foundations.[104] Goldberg's envisioned map of the Middle East reimagines existing states in the background, prioritizing a reconfiguration of the region that aligns with its ethno-sectarian dynamics. This speculative map serves as a political statement advocating for the *Mashreq*'s remapping, attributing the region's unstable state system to its original Western cartographic imposition. Goldberg considers the Middle East unsuitable for "modern, multicultural, and multi-confessional states." Thus, ongoing questioning of Iraq's current borders, and existence, reflect a deliberate effort to erase its historical context, portraying it as a malleable entity vulnerable to the will of the first occupation power to arrive. Pursley rejects this narrative by pointing to an 1883 Ottoman map that prominently labels Basra and Baghdad as "*al-Iraq al-Arabi*," demonstrating that Iraq had a longstanding social reality rooted in the Ottoman legacy, rather than being solely a British creation.[105]

2. The Ottoman Historiography Against The Colonial Narrative

Before World War I, the Arab provinces were part of the Ottoman Empire. During the Tanzimat period (1839–1876), the Ottoman elite introduced legal reforms aimed at modernizing these provinces to prevent European intervention, focusing on governance aspects like taxation, administration, bureaucratic rationalization, and the rule of law.[106]

By the late 19th and early 20th centuries, Arabs were electing representatives to city, provincial, regional councils, and the Imperial Parliament.[107] Understanding this Ottoman legacy of statehood is crucial for comprehending the transformation of Ottoman Arab provinces into Arab states under the hegemony of European colonial presence. These victorious European hegemons shaped the Arab state system to reflect Ottoman provincial governance, transforming provincial capitals into national capitals.[108] At the end of the First World War, Great Britain took control of Arab territories in the Middle East, including Iraq. The partition of these lands was organized at the San Remo Conference in 1920 and sanctioned under the League of Nations mandate system in 1922.[109]

104. Jeffery Goldberg, *After Iraq*, The Atlantic (2008), https://olli.gmu.edu/docstore/600docs/1403–651–5-After%20Iraq.pdf.

105. Pursely, *supra* note 93.

106. Rogan, *supra* note 92.

107. Bruce Masters, *The Tanzimat and the Time of Re-Ottomanization*, in The Arabs of the Ottoman Empire, 1516–1918: A Social and Cultural History 157 (Cambridge University Press 2013).

108. Rogan, *supra* note 92.

109. Peter Sluglett, *An improvement on colonialism? The "A" mandates and their legacy*

On August 23, 1921, King Faisal I was declared King of Iraq following a British-monitored plebiscite, leading to the establishment of a monarchy under the British mandate with a constitutional framework, elected parliament, and cabinet government.[110] While the alliance with the British established Iraq as a state, its borders were not solely defined by the British.[111] The nationalists around King Faisal, who participated in the Arab Revolt during the First World War, along with other regional factors, played a significant role in shaping Iraq's borders.[112]

Recent historiographic publications on the establishment of Iraq's borders in the 1920s has revealed the complexity of the border design in relation to its neighbors. Contrary to the notion that the British Empire arbitrarily drew these borders on its own, some scholars have highlighted the significant role of various local actors in shaping the borders of the new Iraqi state. Sara Pursley, for example, argues that the narrative of the artificial state is more a reflection of colonial assumptions that overlook the contributions of local actors. Additionally, jihadist extremists, some Western newspapers, and even some leftist intellectuals have adopted this narrative for political or ideological reasons, often exaggerating or misrepresenting the impact of the Sykes-Picot agreements.[113] Pursley highlights that the current borders, such as those between Syria and Iraq, did not originate from the San Remo agreement, which merely confirmed the existence of these states as new political entities without specifying their boundaries.

The original 1916 Sykes-Picot map depicted Iraq from Basra to Baghdad, encompassing Kuwait and extending down to the coasts of Saudi Arabia to Qatar. Though, it should be noted that the northern province of Mosul was not initially part of the territory designated as Iraq. The inclusion of Mosul in Iraq occurred later, following negotiations and political developments involving the British, the Turkish, and other international legal institutions.

The current Iraq-Syria border was not outlined in the Sykes-Picot agreement, which originally divided the territories differently. Pursley highlights that Iraqi and Syrian nationalist parties, formed by former Ottoman officers, played a key role in advocating for independent states with Damascus and Baghdad as capitals.[114] In 1919, Iraqi nationalists ceded Dayr al-Zur to Syria, hoping it would serve as a strategic base against British forces in Iraq, amid growing resentment that led to the 1920 revolt.[115] The delineation of Iraq's southern borders,

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in the Middle East, 90 Int'l Aff. 413 (2014).

110. Hanna Batatu, The Old Social Classes and the Revolutionary Movements of Iraq: A Study of Old Iraq's Old Landed and Commercial Classes and of its Communists, Ba'thists and Free Officers 319 (Princeton University Press 1978).

111. Martin Walker, *The Making of Modern Iraq*, 27 The Wilson Quarterly 93 (2003).

112. Rogan, *supra* note 92.

113. Pursley, *supra* note 92.

114. *Id.*

115. Eli Amarilyo, *History, Memory and Commemoration: The Iraqi Revolution of 1920 and the Process of Nation Building in Iraq*, 51 Middle E. Stud. 72 (2015).

particularly with the Najd territory of the Emir Abdulaziz bin Abdul Rahman Al Saud (now Saudi Arabia), was influenced by treaties and the balance of power among Iraqi and British officers and King Saud's armies,[116] notably the Ikhwan bedouin militia. The Ikhwan continued to encroach on territories on the west side until 1927 when British armies halted their advance.

The pivotal issue in establishing modern Iraq was the contention over the Ottoman province of Mosul.[117] Despite the British occupation starting on November 3, 1918, the Turkish War of Independence, led by Mustafa Kemal, played a crucial role in shaping the region's borders, with Pursley arguing that the Iraq-Turkey borders were less a result of European imposition and more a product of negotiation. While the subsequent Treaty of Lausanne established most of Turkey's current borders, it left the border with Iraq unsettled.[118] The Treaty of Lausanne's failure to resolve the status of Mosul led to its referral to the League of Nations, which ultimately assigned it to Iraq, despite Turkey's 1925 contest and 1926 rejection of its appeal.[119] King Faisal then considered Iraq's borders fixed. Batatu highlights that British and Iraqi leaders used a combination of coercion and negotiation to make the oil-rich city of Mosul part of Iraq.[120]

Between 1914 and 1932, Europe produced various contradictory maps of Iraq, reflecting a complex and contested process of resolving territorial claims through coercion and conflict involving both colonial and local forces, rather than simply the whims of British Imperial bureaucrats. The critique of epistemic violence and its colonial roots demonstrate an old, continual, and insatiable will to manipulate the borders and history of these young nation-states to constrain them to the imperialist will, dominate them, and subject them to external control. Epistemic violence is expressed through the negation of this history. It aims to show that what the old colonist has done, the new colonist can undo. In the context of Iraq during the 2003 invasion, this meant that what Great Britain created from scratch, the United States can undo. However, history shows that the formation of Iraq's borders parallels the way nation-state borders have been established worldwide, with considerable effort and significant violence playing a role in their delimitation, involving various types of actors, including local ones.

These interventions that make and unmake a country have particular resonance in the conflict between Ukraine and Russia. The rhetoric and actions that accompanied the American invasion of Iraq resurfaced against the American administration in 2022. As the United States and its European allies urged other nations to condemn the Russian invasion of Ukraine for violating Ukraine's

116. Joseph Kostiner, On Instruments and Their Designers: The Ikhwan of Najd and the Emergence of the Saudi State, 21 Middle E. Stud. 298 (1985).

117. Quincy Wright, *The Mosul Dispute*, 20 The Am. J. of Int'l L. 453 (1926).

118. Pursley, *supra* note 92.

119. Wright, *supra* note 117.

120. Batatu, *supra* note 110.

sovereignty, many pointed out that the Bush administration had done the same thing about 20 years earlier by violating Iraq's sovereignty.[121] The American rhetoric of 2022, which emphasized human rights and sovereignty, lacked legitimacy in the eyes of the world, which remembered that twenty years earlier, Bush was in a position similar to that of Putin today.

In addition to blatantly highlighting a Western double standard regarding compliance with the norms that have governed the international system since the end of World War II, the Russian invasion has demonstrated the consequences of the epistemic violence that accompanied the invasion of Iraq. Words and discourses on human rights now appear to the Global South more as grounds for suspicion than as rules to be respected. No one has forgotten the images of the bombing of Baghdad, the Iraqi civilian deaths, and the torture at Abu Ghraib prison. *Le Roi est nu*.

V. Conclusion

Before the destruction of cities, monuments, infrastructure, and the looting of museums and other heritage of the country, the American invasion of Iraq presented itself as a storm of words, ideas, and violent speeches directed against the Iraqis, their country, and their capital. This dissertation first explored the epistemic violence that surrounded the military attacks against Iraq and its capital, Baghdad, which was seen as a laboratory where military, legal and political theories could be tested. This marked the beginning of the dehumanization of the Iraqis in this punitive expedition.

This reflection then focused on the epistemic violence that affected the Iraqis by instilling hatred and division among the different sects of the country. Consociationalism in Iraq was initially based on a fixed and discriminatory vision of the various segments of the Iraqi social fabric, leading to ethnic cleansing against different segments of the Iraqi population.

Finally, we have shown the colonial nature of the epistemic violence that affects the Iraqi nation-state and its borders. The making and unmaking of Iraq did not begin in 2003 but has its origins in the first colonial maneuvers after the fall of the Ottoman Empire and the arrival of Great Britain in Iraq. Each time, the occupier of Iraq promoted the idea of an artificial Iraq that could be undone since it was created by a foreign power, thus contributing to the erasure and marginalization of the Iraqis as local actors, and ultimately legitimizing violence against them.

The invasion of Iraq, which exacerbated internal conflicts and escalated violence, bears a closer resemblance to a colonial expedition in a region still shaped

121. Amr Salah, *Why does some of the Arab public support Putin's war in Ukraine?* Sada (Jun. 16, 2022)https://carnegieendowment.org/sada/2022/06/why-does-some-of-the-arab-public-support-putins-war-in-ukraine.

by the legacy of European colonialism. Two decades after the invasion, the crisis of legitimacy and trust towards the international legal system persists among the nations of the Global South. Today, amidst the ongoing conflict between Ukraine and Russia, this system is more contested and in crisis than ever, particularly given the flagrant violations of fundamental international norms committed by the Bush administration against the Iraqi population.