



## “Islam versus the West” and the Political Thought of AbdolKarim

Soroush<sup>1</sup>

Hassan Abbas

### Introduction

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Interaction between Islam and the West, at various levels and in different forms, is a centuries-old phenomenon. In the post-September 11 context, however, the discourse is increasingly framed in terms of “us versus them,” an “Islam versus the West” issue. Terrorist attacks in Spain and United Kingdom in the last two years and the recent cartoon controversy have further exacerbated this confrontational discourse. Within the Muslim world today, the conservative elements largely understand interactions with the West as “Muslims versus Christians,” including an element of Jewish conspiracy as well. Most Muslims see America’s military campaign in Afghanistan in October 2001; its so-called “preemptive attack” on Iraq in early 2003 and its bloody aftermath; and media disclosures about U.S. police profiling of Muslims as reflective of an American war on Islam rather than as components of a war on terror. Many westerners also view ordinary Muslims as potential terrorists and as adherents of a religion that is orthodox in its approach and violent in its worldview, an excessively sweeping and profoundly incorrect assessment. Tragically, these perceptions have generated a gulf of estrangement between Islam and the West.

This paper represents an effort to understand these trends and shifts in perception and approach of both Muslims and the West (primarily the United States) in the light of how AbdolKarim Soroush, a leading and influential Muslim scholar from Iran, analyzes this matter. Soroush was born in Tehran in 1945. He studied chemistry and then

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philosophy of science in United Kingdom before returning to Iran immediately after the 1979 Revolution. There, he became part of an effort to reform the education system. His relationship with the establishment was short-lived, as he became critical of the political role played by the Iranian clergy. His lectures and writings became very popular in Iran, and since the early 1990s, he has emerged as one of the leading moderate revisionist thinkers of the Muslim world. Since 2000, Soroush has taught at Harvard, Yale, Princeton and most recently at Wissenschaftskolleg in Berlin.

The major focus of this paper will be on the political thought of Soroush *vis-à-vis* his views on Muslims’ interaction with Western culture. To understand his work, it will be looked at in the Iranian political and religious context as well.

### West-toxication: Soroush: Coming to Terms with Western Culture<sup>2</sup>

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#### Truth Versus Identity

While briefly referring to Samuel Huntington’s “clash of civilizations” argument, Soroush maintains that there are two kinds of Islam: the Islam of identity and the Islam of truth. In the former, Islam is a guise for cultural identity and a response to what is considered a “crisis of identity.” The latter refers to Islam as a repository of truths that direct believers toward the path of worldly and outwardly salvation. The Prophet of Islam, he argues, was recognized as a messenger of those truths, and his intention was not merely to build a new civilization. Soroush interestingly maintains that “the term civilization is a construct of the historians,” and expresses his concern that Muslims in “their confrontation with the Western civilization wish to turn to Islam as an identity.”<sup>3</sup>

**For Soroush, there are two kinds of Islam: the Islam of identity and the Islam of truth. Islam can be a guise for cultural identity and a response to a “crisis of identity.” Or it can be a repository of truths that direct believers toward the path of worldly and outwardly salvation**

For Soroush, this identity-based Islam represents one of the greatest theoretical plagues of the Islamic world. His proposed solution is that “Islam of

identity should yield to the Islam of truth.” Soroush argues that Islam as truth can co-exist with other truths, while Islam as identity is by its very nature belligerent and bellicose: “Two identities would fight each other, while two truths would cooperate.”<sup>4</sup>

This is an attractive argument theoretically, but the reality is that Islam has generated a civilization and a sense of Islamic identity. Islamic civilization has different shades in different parts of the world, with distinctive

colors in Iran, South Asia and Turkey for instance that are influenced by pre-Islamic cultures of these regions. In many ways, Muslims in these states are as influenced by Islam as by their historic local cultures in everyday life. Secondly, for millions of Muslims living in Europe and North America, their religious orientation is a matter of identity for them, in addition to their national origins.

### Early Encounters

Soroush believes that the initial encounter between Islam and the West—and between Islam and classical Greek thought—during Islam’s early years of expansion represented a dynamic and fruitful interaction. This was the case because Islam possessed ample power to absorb and entice, while “[Islam’s] attitudes about foreign ideas was that of a victor dealing with the vanquished.”<sup>5</sup> However, during the early twentieth century, when Muslims faced Western culture as an “invading culture armed with weapons of science and technology” the Muslims were weak and drained. He also terms this encounter as one between a strong culture (Western) and a stagnant and feeble one (Islamic), though he is specifically referring to the case of Iran and to the constitutional revolution of 1905-11. Consequently, Western culture witnessed little resistance and proceeded to “enchant and mesmerize all.”<sup>6</sup> Here Soroush cites examples from Reza Khan’s era in Iran, along with that of Ataturk in Turkey.

His argument and logic arrests on generalizations, but they are nonetheless largely

applicable to other Muslim-majority regions, such as the Arab world. However, in the Indian sub-continent there was a resistance of sorts, spearheaded by the religious groups, against the British imperialist project. In addition, it can be argued that between these two encounters there was regular interaction between Islam and the West, and that it did not always take the form of conflict.

### Iranian Reactions: West-toxication and Westernization

Soroush further expands the above thesis by arguing that that during this “second encounter,” Muslims in Iran had two different kinds of reactions. One reaction was to lament Muslims who had been captured by *gharb zadegi* (West-toxication).<sup>7</sup> West-toxication is a perjorative term for the vast influence of Western customs, manners, and technology, often at the cost of local and Islamic cultural assets and historical legacies, that is frequently used to urge Muslims “back to traditions.” However, the other reaction (though also framed as *gharb zadegi*) was that Islamic and native cultures were long past their prime and, having been superseded by the west, were incapable of revival or cultural renewal. For this group *gharb zadegi* meant sharing in the historical destiny of the West. Soroush concludes that the former interpretation of the events and its proposed reaction (i.e. that Western influences must be carefully examined but vigorously resisted) was flexible because it was based on a critical approach to Western culture. By contrast, the later version was passive and smacked of defeatism. Soroush infers that the Westernizing bent became the more popular version in Iran and maintains that “Western customs, rites, worldviews and philosophies wafted through us and were enthusiastically received” with the consequence that “walls crumbled as exchanges intensified.”<sup>8</sup> It is debatable whether this was the case in the rest of the Muslim world as well, although it can be argued that Muslim elites in the Middle East and the Indian Sub-continent

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were also undergoing a similar transition or at least pretending to be influenced by similar trends.

### Prescriptions

Finally, Soroush argues that Islamic civilizations should engage in a constructive cultural exchange with the West instead of adopting Western culture uncritically as a means to develop and progress. Soroush distinguishes between servile and dignified varieties of exchange, while lamenting the shortsightedness of

Muslims who view every encounter through the prism of “us versus them.” Soroush offers the examples of Muslims who feel that, to justify embracing Western science and technology, they must attempt to trace the roots of these sciences back to Muslims. Such Muslims claim that Europeans borrowed such disciplines as mechanics, medicine, pharmacology, philosophy, and astronomy from Muslims and then developed these to their present form. Soroush is not challenging this assertion per se but instead exposing the

mentality of those who argue that science and technology are only deserving of Muslim attention and acceptance because they were originally “ours.” The underlying logic is that if something has not sprouted in our midst, it is necessarily alien to us and somehow unworthy.

The crux of Soroush’s argument is that there is no shame in choosing to maintain or abandon certain elements of one’s culture on the basis of investigation, insight, and critical inquiry. Here, he aggressively makes a case for rational choice in the world of ideas. He proposes that in this process, “blind imitation is forever condemned, whereas the rational search for truth is eternally noble.”<sup>9</sup> To understand Soroush’s plan for implementing such attitudinal changes, one must explore Soroush’s proposals in light of the Iranian political context from which they arose.

### Iranian Context of Soroush’s Philosophy

In the aftermath of Iran’s 1905 constitutional revolution, the debate between traditional Shi’a clergy and secular intelligentsia about the role of

religion in governance gained momentum and became more public. Despite their disagreements, both groups had favored a constitutional path for Iran with the aim to “limit the power of uncontrolled autocrats who were selling Iran to the Western powers.”<sup>10</sup> Reformist thought in Iran was not a consequence of its interaction with the West. Iran has always had reformists in the fields of religion, politics, poetry, and politics.<sup>11</sup> The debate went through many phases, though by and large the clergy remained confined to Qom, which housed the most prominent Iranian seminaries, while the “enlightened” regimes of Reza Khan and his son Reza Shah Pahlavi established secular foundations of Iran.

The most popular democratic leader produced by Iran, Mohammad Mossadegh, was also a secular person. He served as prime minister during the early 1950s. Mossadegh’s fight to nationalize the oil industry and remove it from British control roused nationalist fervor and energized democratic institutions, but this proved short-lived as British and US intelligence agencies orchestrated his overthrow in 1953.<sup>12</sup> Iran reverted to complete authoritarian system of government, and the foreign-sponsored coup against a popular leader sowed the seeds of an anti-Western revolution.

In tune with the global politics of the times, many Iranian scholars adopted Marxist terminology to express their anger against the growing Western, and specifically American, influence in Iran, and on the policies of Reza Shah. Clergy was also active in this struggle. The most prominent among the clergy were Ayatollah Ruhollah Khomeini, Ayatollah Shariatmadari, and Mamud Taleqani. Among the liberal intellectuals, Mehdi Bazargan, Ali Shariati, and AbolHasan Bani Sadr were at the forefront. All these individuals had different agendas and objectives in political realm but had a common cause – getting rid of Reza Shah and his program of supposed Westernization. Soroush’s political thought is greatly influenced by the writings of these individuals, particularly by the works of Ali Shariati, who was the most popular and influential Iranian intellectual of pre-revolution Iran. When asked about how he compares himself with Shariati, Soroush maintains, “Shariati wanted to

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make religion plumper, but I want to make it leaner.”<sup>13</sup> A comparative reading of Shariati and Soroush shows that while Shariati focused on establishing the dynamism of Islamic philosophy and framed issues in an anti-Shah context,<sup>14</sup> Soroush challenges the orthodox clergy for its lack of knowledge and failure to learn from modern sciences and political thought.

The 1979 Iranian revolution rid the country of the corrupt and repressive government of the American-backed Shah, and Iranians optimistically expected a government that would promote social justice and spiritual fulfillment. However, the leader of the revolution, Ayatollah Ruhollah Khomeini, quickly admonished Iranians that the purpose of the revolution was not “to have less expensive melons” but to lead a more elevated life.<sup>15</sup>

Unexpectedly, Khomeini saddled Iran with something for which not all of his supporters had bargained: the doctrine of *velayat-i-faqih*, or the rule of the jurist. This doctrine effectively delivered

the forefront of debates about religion, reform, and politics. This discourse gained increasing popularity in the 1990s, especially among the urban middle class, and proved to be more than a mere philosophical debate. The reformist discourse began to have a significant impact on the formulation of public policy in Iran, on the larger Iranian polity, and even on Iran's relations with the outside world.<sup>16</sup> The rise of reformist cleric Mohammad Khatami to the Presidency of Iran in 1997 can be viewed as an outcome of this trend. Reformist ideas and debates attained mass currency in a relatively short period of time and quickly became popular through journals and various progressive newspapers. The religious establishment has responded to this trend with autocratic press restrictions, election manipulation, jailings and attacks on dissidents.

The story of Iran today is one of economic decline: its per capita income is one-third of what it was before the revolution; oil production is two-thirds of its 1979 level, and the middle class is being squeezed by chronically high inflation, widespread unemployment. Perhaps most importantly, two-thirds of Iran's population

is under the age of 30.<sup>17</sup> The 1979 revolution faces a profound challenge from this new and disenchanting generation, widely known in Iran as “the third force.”<sup>18</sup> For this generation, the revolution's promise of a just and free Islamic society is still a dream. Unfortunately, the US response to this generation has been disappointing. Instead of attempting to understand Iran's historical currents and positively responding to President Khatami's offer of “dialogue among civilizations,” thereby strengthening reformists, the Bush administration imprudently declared Iran a member of the “axis of evil” in early 2002. Ideas about US-sponsored “regime change” in Iran became popular in some US think tank and media circles. These policy decisions led to a revival of the clergy's influence in Iran by enabling them to target the reformists as

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autocratic executive powers to Iran's clerics, and particularly to the Ayatollah deemed wisest by his peers—in this case, Khomeini himself. Soroush was appointed by Ayatollah Khomeini as a member of the Cultural Revolution Committee (CRC), though he quit over differences with committee members about the religious content of school curricula. His lectures in Tehran, which were routinely covered by state electronic media, were discontinued. Soroush's caution and concern that Iran's humane Islamic values could come under threat from religious despotism had gotten him into trouble with the religious establishment.

Soroush's disagreements with the clergy intensified when he started directly attacking the clergy's growing role in politics. Soon, the religious establishment made life difficult for him and he was forced into exile. Soroush was not alone in this struggle. Other scholars like Hasan Yosufi Eshkevari, Mohammad Mojtahed Shabestari, and Mohsen Kadivar have also been at

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agents of outside forces. On this pretext, the ruling clergy entrenched itself further.

Against this backdrop, scholars such as Soroush have continued to write passionately against the excessive role of clergy in society and government policymaking, without associating themselves politically with any side. For Soroush, pronouncements such as the following do not necessarily tilt toward reformers so much as against orthodox clergy: "I openly declare that most of the current theological views taught in the religious seminaries are unexamined and merely taken for granted. If *Hawzeh* (seminary) decides to clean house, we shall see that many of these views are open to revision. But this airing out can proceed only in an open atmosphere cleansed of pseudo sacredness."<sup>19</sup> He further argues that because *ayatollahs* and *mujtahids* (accomplished religious scholars), and not God or the Prophet, reside in seminaries, whatever they produce is not sacred knowledge and thus should be open to criticism and questioning<sup>20</sup>. This view, as obvious as it might seem in the West, is a revolutionary statement to make in a country where religious seminary is perceived to be the center of the world and above any challenge.

With respect to gender issues, Soroush challenges the clerics to clarify their position once and for all about the general image of women in the *revayat* (traditions) passed on by religious authorities. This indeed is one of the central questions in the "Islam versus the West" debate because the status of women in Islam is often questioned in the West. He maintains that controversial religious commentaries on women's issues must be critiqued and "if religion is not to become a historical relic or a curiosity in a museum."<sup>21</sup>

Finally, Soroush also makes a strong case in support of democratic government. Although his preferred brand is "religious democratic

government" and not what he calls "jurisprudential democratic government." He asserts that religious understanding will have to adjust to democracy, not the other way around. Soroush's most potent contention is his theory that justice and human rights are values that cannot be religious, and religion must be made to be just.

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## Conclusion

The internal crisis in the Muslim world today, both in Muslim-majority states and in the Muslim communities in the West, is grave and complex. In this context, AbdolKarim Soroush's views and analysis are cogent, logical, and highly relevant. Extremist forces in the Muslim world can only be defeated if progressive forces both in the West and in the Islamic world cooperate to tackle the issue through dialogue and constructive engagement. A partnership is required. A unilateral campaign by the West to win the hearts and minds of Muslims without listening to their concerns or enlisting their aid will not succeed. Moreover, America should keep in mind that democracy can be promoted, supported, and nurtured, but not enforced or imposed. That is the only way to overpower mutual mistrust, which sadly seems to be on the ascendant these days. In this sphere, AbdolKarim Soroush provides a valuable framework for progressive forces in the Muslim world.

*The views and opinions expressed in articles are strictly the author's own, and do not necessarily represent those of Al Nakhlah, its Advisory and Editorial Boards, or the Program for Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.*

<sup>1</sup> The research paper was originally written in late 2004 as a requirement for Prof. Ayesha Jalal's course "Islam and the West" at the Fletcher School, Tufts University. This is a shorter, revised and updated version of the paper that benefits from Prof. Jalal's comments on the paper.

<sup>2</sup> The views of AbdolKarim Soroush about the interaction between the West and Islam are summarized from his articles that appeared in his collection of essays (*Reason, Freedom and Democracy in Islam*), and various websites that are dedicated to his works such as: <http://www.drSORoush.com/English.htm>, <http://www.seraj.org/>, [http://www.iranchamber.com/personalities/asoroush/abdolkarim\\_soroush.php](http://www.iranchamber.com/personalities/asoroush/abdolkarim_soroush.php), <http://www.islam-democracy.org/SoroushAddress.shtml>, and from notes that I took during his various lectures while he was a visiting scholar at the Harvard Law School during 2002.

<sup>3</sup> Mahmood Sadri and Ahmed Sadri, eds., *Reason, Freedom and Democracy in Islam: Essential Writings of AbdolKarim Soroush* (New York: Oxford University Press, 2000) 24.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid., 159.

<sup>6</sup> Ibid., 160.

<sup>7</sup> This phrase was first used by Iranian scholar Al-e Ahmed.

<sup>8</sup> AbdolKarim Soroush, *Reason, Freedom and Democracy in Islam*, 161.

<sup>9</sup> Ibid. 169.

<sup>10</sup> Nikki R. Keddie, *Roots of Revolution: An Interpretive History of Modern Iran* (New Heaven: Yale University Press, 1981), 194.

<sup>11</sup> Ibid., 186.

<sup>12</sup> For details of the episode, see Stephen Kinzer, *All the Shah's Men: An American coup and the Roots of Middle East Terror* (New Jersey: Jon Wiley and Sons, 2003).

<sup>13</sup> Mahmoud Sadri and Ahmed Sadri, eds., *Reason, Freedom and Democracy in Islam*, 21.

<sup>14</sup> The comment is based on a comparative reading of Soroush's book under discussion and Ali Shariati's *On the Sociology of Islam*.

<sup>15</sup> Laura Secor, "The Democrat: Iran's leading reformist intellectual tries to reconcile religious duties and human rights", *Boston Globe*, March 14, 2004.

<sup>16</sup> Mehran Kamrava, "Iranian Shiism under Debate", *Middle East Policy Council Journal*, Volume X, No. 2, Summer 2003.

<sup>17</sup> Afshin Molavi, "Buying Time in Tehran", *Foreign Affairs*, November/December 2004.

<sup>18</sup> Jahangir Amuzegar, "Iran's Crumbling Revolution", *Foreign Affairs*, January/February, 2003.

<sup>19</sup> AbdolKarim Soroush, *Reason, Freedom and Democracy in Islam*, 176.

<sup>20</sup> Ibid., 177.

<sup>21</sup> Ibid., 182.



## Instigating Instability: Iran's Support of Non-State Armed Groups in Iraq

Geoffrey Gresh

**With the help of Iranian-backed Non-State Armed Groups in Iraq, Iran seeks to establish a pro-Iranian government and increase its influence over Iraq's Shi'a community in a post-Saddam era**

The increase in Iranian sponsorship for insurgent, militia, and terrorist activities in Iraq during the past two years is of great concern for the United States and the newly formed government of Iraq as they strive to establish a durable democracy. Since its 1979 Islamic revolution, Iran has supported and armed radical and violent Islamic organizations, or non-state armed groups (NSAGs), around the globe. For nearly two decades, Iran's foreign policy was motivated by the

international exportation of its Islamic revolution. More recently, however, Iran's foreign policy has become less steeped in religious ideology and more influenced by pragmatism and national interest. As an historical supporter of NSAGs, Iran continues its external sponsorship of such groups in Iraq today. Iran's support for non-state armed groups in Iraq exemplifies a more pragmatic approach in

comparison to its foreign policy that sought to spread its Islamic revolution in the 1980s. With the help of Iranian-backed NSAGs in Iraq, Iran seeks to establish a pro-Iranian government and increase its influence over Iraq's Shi'a community in a post-Saddam era. Iran also aims to prevent against the future possibility of an American-led invasion of Iran by fueling Iraq's insurgency through the support of NSAGs.

Iran's role in Iraq provides an excellent case study of state-sponsorship of NSAGs and their use as an important and highly effective foreign policy tool. As a predominantly Shi'a country

neighboring Iraq, Iran has much to lose if it fails to garner favorable support from Iraq's Shi'a majority. Moreover, if the United States is successful in establishing a western-leaning democracy in Iraq, there is a greater chance that the United States will invade Iran and enforce regime change. In an attempt to stave off such a future incursion and to establish closer ties with Shi'a leaders in Iraq, Iran has embarked on a foreign policy of covert support and sponsorship for many different NSAGs in Iraq, including Shi'a, Kurdish, and Sunni groups, and other terrorist organizations linked to al-Qaeda.

Iran also aims to expand and improve its relations with Iraq's Shi'a community. Iraqi Shi'a are significantly divided along religious and secular lines, and currently lack any decisive political or religious leader. Thus, Iran has adopted a policy of maintaining amicable relations with all of the Shi'a factions in Iraq. As Juan Cole, an expert on Shi'a Islam, notes, "It seems clear that the Iranians are trying to butter both sides of the bread and all four crust edges."<sup>1</sup> In other words, Iran's government has adopted a policy to support as many different groups as it can to ensure a self-interested and favorable outcome in Iraq. Sponsorship of diverse religious and armed groups across Iraq will guarantee that instability and chaos prevails for Iran's benefit. Indeed, sponsoring opposing NSAGs can be risky with the potential for an outbreak of civil war and spillover effect into Iran, but Iran has much to gain by tying the United States down to Iraq and its insurgency. By making

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sure the United States is confined to Iraq, some argue, Iran will be permitted to continue the development of its nuclear program. Nevertheless, Iran can take advantage of the outcome in Iraq and

has adopted a foreign policy for the support of NSAGs that preserves many national interests.

In its support of NSAGs, Iran has been careful not to ignite the outbreak of an all-out sectarian war between Shi'a, Sunnis, and Kurds for fear of a spillover effect into Iran. Since Iran's sponsorship of NSAGs in Iraq is a relatively new phenomenon, measuring the effectiveness of Iran's policy will remain outside the scope of this study. In any case, Iran's support of NSAGs has moved forward very prudently. From one standpoint, Iran wants to ensure the U.S. military is overwhelmed and unequipped to fight

Iraq's insurgency. From another angle, however, Iran is taking a risk to preserve its national interests by supporting opposing NSAGs that could spark a sectarian war where Iran could potentially lose control of its influence in Iraq altogether.<sup>2</sup>

### Iran's Historical Support for NSAGs and Relations with Iraq

Since the overthrow of the Iranian Shah at the start of the Islamic revolution in 1979, Iran began a new radical period characterized by a foreign policy that sought to propagate Iran's revolution to other Muslim countries. In addition to spreading its revolution, Iran supported the sponsorship of international terrorism and the spread of radical and violent Islamic movements around the world. The following passage summarizes Iran's post-revolution foreign policy:

Its principal themes included a belief in the revolution's exportability; a commitment, at least in the early years of the revolution, to altering the nature of the regimes in the Persian Gulf and the regional balance of power; a conviction that certain aspects of Western culture were threatening to Iran's cultural and

national identity; a suspicion of Western, and particularly American, intentions toward Iran; a revolutionary ideology that attached value to a truculent, muscular posture in international relations...and a willingness to use unconventional means, including assassination and hostage taking, to achieve foreign policy ends.<sup>3</sup>

As shown above, Iran adopted a foreign policy that was driven by ideology during the 1980s. Its foreign policy was also anti-western in nature and opposed to any relations with the United States. Today, Iranian policymakers have preserved certain aspects of its post-revolution policies from the 1980s. In particular, Iran today is increasingly concerned about the presence of the United States in neighboring Iraq and Afghanistan.

By the 1990s, Iran's foreign policy grew more pragmatic and was less steeped in ideology: "[Today,] Tehran has become less active in its support for radical Islamists. The fate of Shi'a communities outside Iran is no longer a major concern of Iran's leadership."<sup>4</sup> This shift in policy stemmed in part from the rise of a political reform movement in Iran and from a change in national priorities, including both economic and geopolitical interests. Moreover, the Iranian government desired a foreign policy that emphasized greater international trade and commerce, foreign direct investment, and coordination of its oil policy with international oil companies to prevent any future price collapse. A similar foreign policy continues today.<sup>5</sup>

Despite a shift in foreign policy objectives, Iran has been accused of sponsoring terrorist activities in Israel, Palestine, Egypt, Jordan, Saudi Arabia, Bahrain, and Lebanon. Iran has also been known to back terrorist activities as far away as Argentina. Furthermore, Iran has planned assassinations of dissidents in the United States, Europe, and neighboring Pakistan.<sup>6</sup> In particular, international Iranian/Shi'a terror activity is based on an organizational and command infrastructure that includes five levels:

- Iranian embassies and consulates (which enjoy diplomatic immunity);
- Iranian institutions, organizations, and companies (the Iranian national carrier, shipping companies, banks, etc.);
- Institutions, organizations, and companies belonging to Iranian or Muslim residents living all over the world, which are prepared to assist Iran or its embassies;



- Cooperation with radical Islamic states and organizations (such as Sudan);
- Terror “by proxy” through sponsored organizations such as Hezbollah.<sup>7</sup>

Such an organizational structure has permitted Iran to operate more fluidly around the world in support of NSAGs and other subversive activities. From 1980 to 1999, Shi’a terrorist organizations and other Iranian establishments carried out 260 international attacks (not including Hezbollah-sponsored terrorist actions in Lebanon and other terrorist attacks against Iraq during the Iran-Iraq War from 1980 to 1988). The terrorist attacks included the detonation of explosive devices and car bombs<sup>8</sup> (31.53%), kidnappings of hostages (25.76%), hijacking/detonating airplanes (4.61%), and assassinations (generally by shooting—37.30%).<sup>9</sup> Table 1.1 breaks down Iranian and Shi’a international terrorist attacks by region.

Table 1.1: *Iranian and Shi’a Terror Attacks 1980-1999*

57 attacks in Europe	21.92%
173 attacks in the Middle East	66.54%
23 attacks in Asia	8.85%
6 attacks in the United States	2.31%
1 attack in Africa <sup>10</sup>	.38%

Source: Shaul Shai, *The Axis of Evil*, 82.

Such statistics are important because they demonstrate Iran’s significant infrastructure to support and operate international terrorism and other NSAGs around the world. In order to finance such activities, Iran often allocates money to government entities like its Foreign Ministry or Revolutionary Guards, or to semi-governmental entities like charitable foundations established by Khomeini to export the Revolution. In addition, Iran has raised funds through drug trafficking of poppy and cannabis, or by producing counterfeit money.<sup>11</sup> Indeed, Iran is a veteran supporter and financial backer of covert terror operations and other illicit behavior.

When it comes to the present situation in Iraq, Iran has a significant advantage over other Iraqi insurgent groups because of its previously established network of agents and proxy groups used to export terror. In addition, as a neighbor of Iraq, and with cooperation from its regionally sponsored groups like Hezbollah, Iran has been

able to support NSAGs on a much wider scale. Moreover, after fighting the Iran-Iraq War for eight years, Iranian intelligence has a well-developed knowledge of Iraq’s geography and terrain to oversee effective operations within Iraq.

Despite a well-established infrastructure to support terror, many analysts question why Iran adopts policies to support NSAGs that often contradict Iranian national interest. In the following passage Shaul Bakhash explains why Iran’s foreign policy is often seen as incongruous:

Foreign policy was significantly influenced by domestic politics and rivalries; by the conflicting agendas of different government agencies or quasi-independent groups acting with only partial government sanction; and by the propensity of government itself to pursue several conflicting foreign-policy goals at the same time.<sup>12</sup>

The above excerpt makes the claim that many Iranian domestic actors often operate quasi-independently of the national government, leading to the implementation of contradictory policies. The domestic actors involved in national and international security policymaking are the Ministry of Intelligence and Security (MOIS), the Ministry of Foreign Affairs, and the Iranian Revolutionary Guard Corps<sup>13</sup>, also known as the IRGC or *Pasdaran*. Each institution is directly or indirectly involved in supporting NSAGs. Each unit, however, often operates independently of the others, resulting in conflicting outcomes. Without a centralized mechanism to oversee each of the individual institutions, the Iranian government has had difficulty in producing a unified internal national policy regarding NSAGs.<sup>14</sup>

Despite the adoption of conflicting policies, Iran’s domestic actors have been instrumental in permitting Iran’s government to succeed as an external supporter of NSAGs. In particular, the IRGC and its Special Forces, most importantly its al-Quds unit, have played the most influential role in directly supporting NSAGs, including some that have been linked to al-Qaeda, an extremist Wahhabi/Sunni terrorist group.<sup>15</sup> The IRGC has provided sanctuary, weapons, and training for many terrorist and insurgent organizations. In the 1990s, for example, it operated twelve training camps within Iran, graduating 4,000 to 5,000 annually.<sup>16</sup> The IRGC has also sponsored training camps in Lebanon for its main terrorist proxy group, Hezbollah, as well as setting up camps in South Africa and the Sudan.<sup>17</sup> The use of training camps for Iranian proxy groups has been a tactic continued today. By supporting proxy groups, Iran

is able to cover its tracks and protect itself from a country that might seek retribution after a terrorist attack. Since it is not easy to clearly trace back the roots of a proxy group to Iran, Iran is able to deny any sponsorship of terrorism.<sup>18</sup>

It is also important to note that Iran has reportedly had direct contact with many operatives of al-Qaeda, assisting both directly and indirectly with some cells' operations. In particular, Iranian/Shi'a-backed Hezbollah has trained al-Qaeda operatives and provided weapons and bomb-making capabilities for the group during the 1990s and the beginning of the next decade.<sup>19</sup> Iran's Revolutionary Guards have also been directly involved with several al-Qaeda members. In recent years, one report has alleged that the IRGC provided sanctuary to two senior al-Qaeda fugitives, as well as to dozens of other mid-level al-Qaeda operatives entering Iran from Afghanistan. The same report also claims that Iran has permitted al-Qaeda members to use Iran as a base for operations.<sup>20</sup>

Most recently, other reports allege that Abu Musaab Zarqawi, the Jordanian-born and current leader of al-Qaeda in Iraq, was originally linked to both Hezbollah and Iran for strategic and tactical reasons. Specifically, in the late 1990s Hezbollah equipped Zarqawi and his followers with bomb-

making capabilities for any possible future attacks in Jordan or elsewhere.<sup>21</sup> Overall, the allegations that link Iran to al-Qaeda are very significant, although not clearly defined. Despite being led by Shi'a clerics who view Islam in a very different way from Sunnis, Iran has

allegedly continued its support for the training and aid of several al-Qaeda operatives prior to the invasion of Afghanistan in the fall of 2001. Before the start of the US-led invasion of Iraq in 2003, al-Qaeda's objectives of fighting the infidel West were largely harmonious with many of Iran's own policies against the West, ultimately leading to a very convenient relationship. As it will be examined below, however, Iran's relationship with al-Qaeda has grown more complicated and ambiguous in a post-Saddam era.

In exploring Iran's current support for Iraqi NSAGs, it is also important to look briefly at Iran's relationship with Iraq during the past two decades. As stated previously, Iran and Iraq fought a fierce war from 1980 to 1988, leaving more than one million dead. The legacy of the war continues to affect relations today. Ultimately, the war was

driven more by regional hegemony and territory than it was by religion or historically-rooted conflict.<sup>22</sup> Following the end of the war in 1988, Iran and Iraq maintained tepid relations with each other. The two countries eventually restored diplomatic relations in the 1990s but tensions remained. In particular, both Iran and Iraq supported dissident groups to instill fear against each other. Iraq, for example, sponsored the anti-Tehran Mujahideen-e Khalq organization (MEK) that carried out assassinations for several Iranian politicians, in addition to claiming other terrorist attacks against Iran. For its part, Iran sponsored the Iraqi exiled Shi'a group, the Supreme Council for Islamic Revolution in Iraq (SCIRI), and its armed wing, the Badr Corps. The two groups were used as pawns by both Iran and Iraq as a tool for keeping the other power in check.<sup>23</sup>

The two groups still exist today, and one of the reasons Iran continues to back the Badr Corps, an NSAG, is because it is still anxious about the prospect of a future MEK terrorist attack on Iranian soil.

Overall, the Iran-Iraq War created a new relationship of mistrust between Iran and Iraq. Iraqi Shi'a bitterly fought against Iranian Shi'a in an eight-year war of attrition. As a result of such a brutal war, Iraqis continue to feel an element of disdain for Iranians, and vice versa. Iran has had to tread delicately with the Shi'a of Iraq to establish greater power and influence over Shi'a politicians and religious leaders.

### Iran's Support of NSAGs in a Post-Saddam Iraq

The overthrow of Saddam Hussein and his Sunni Baathist Party marked the beginning of a new period of hope for Iraqi Shi'a and Kurds. For the first time in decades, the Shi'a and Kurds would align to form a democratic government representative of all Iraqis. Unfortunately, the past two years of Iraq's reconstruction has been tainted by an inability to restore law and order because of a mounting insurgency. Iraq also has been negatively affected by an unstable economy, high unemployment, and a relatively untrained army and police force to restore order.

Iraq is considered a weak state and Iran has been one of the many proactive forces to take advantage of the chaos within Iraq by working to protect its many national interests, including

**Despite a shift in foreign policy objectives, Iran has been accused of sponsoring terrorist activities in Israel, Palestine, Egypt, Jordan, Saudi Arabia, Bahrain, and Lebanon**

**The Iranian Revolutionary Guard Corps and its Special Forces have played the most influential role in directly supporting NSAGs**

improved relations with Iraqi Shi'a, through the external support of NSAGs. More importantly, the only way for Iran to preserve its interests in a state of lawlessness, where more than one hundred insurgent groups abound, is by supporting its own NSAGs.<sup>24</sup> Iraq's central government is largely unable to control provincial and municipal governments because of the national scope and complexity of the insurgency and lack of military forces. As a result, local governments must rely on local militias and other armed groups to wield any power.<sup>25</sup>

Iran favors instability as a means to safeguard its interests in Iraq so long as Iraq's instability does not destabilize Iran.<sup>26</sup> In other words, Iran has adopted a policy that aims to manage the chaos it has incited with the external support of NSAGs; it does not want Iraq to be completely stable, nor does it want Iraq to descend into total chaos.<sup>27</sup> To best understand why Iran has sponsored NSAGs as elements of the insurgency in Iraq, the criteria most relevant to Iran from Table 1.2 will be applied to the analysis below.

Table 1.2 Reasons for State Sponsorship of an Insurgency

Regional influence	Support for coreligionists
Destabilization of neighbors	Support for co-ethnics
Payback for a previous action	Irredentism
Regime change	Leftist Ideology
Ensuring influence within the opposition	Plunder
Internal security	Prestige

Source: Daniel Byman, Peter Chalk, Bruce Hoffman, William Rosenau, and David Brannan, *Trends in Outside Support for Insurgent Movements* (Santa Monica, CA: RAND, 2001), 30.

### Garnering Shi'a Support in a Divided Community

Since 2003, Shi'a political and religious leaders from both Iraq and Iran have been engaged in a competition to win the hearts and minds of Iraqi Shi'a.<sup>28</sup> Iran in particular has found it very difficult to gain influence over the Iraqi Shi'a because of tribal, religious, and secular divisions.

The Shi'a are divided into many disjointed sub-groups. Indeed, religion plays an important role for each community, but tribal and kinship ties are equally as important and cannot be overlooked. One of Iran's main goals for Iraq is to establish a Shi'a-dominated Iraqi government that will be partial to Iran. However, Iran is learning that such a goal is difficult to ascertain due to the divisions that exist within the Shi'a community. Despite such divisions, Iran is aware of its violent past with Iraq and the repercussions that prevailed. Therefore, Iran is working to promote the formation of a pro-Iranian government to avoid any future conflict between the two countries that could result in another Iran-Iraq War that destroyed Iran's national defenses.

Another dilemma faced by Iran in bolstering support from Iraqi Shi'a is the inherent distrust that lingers across Iraq from the Iran-Iraq War: "Today, nearly all of the clergy inside Iraq and many of the Islamic groups in exile see Iran as a state that manipulates Iraqi Shi'a in pursuit of its own interest."<sup>29</sup> Iran and its clerics have often been viewed as the spiritual leaders for Shi'a Islam around the world, operating from Iran's religious centers like Qom and Mashhad. This esteemed position, however, is in danger of eclipsing in a post-Saddam era. For decades, Saddam suppressed his Shi'a majority and prohibited religious activities from taking place in the most revered cities of Shi'a Islam, Najaf, and Karbala. In the wake of Saddam's overthrow, clerics in Najaf and Karbala have been working to reestablish the two cities as the most sacred centers of Shiism, thus threatening Iran's power and influence among the Shi'a internationally. Moreover, the clerics of Najaf and Karbala, some of whom are linked to SCIRI, have begun to question Tehran and Qom's *velayet-e faqih* system where the rule of law is "established through a clerical jurisprudential system in which a senior cleric acts as the spiritual leader of the Islamic state."<sup>30</sup>

Iran's support for NSAGs in Iraq has been greatly influenced by both the threat that Iran will lose its religious and spiritual influence over Shi'a in Iraq and internationally, and the desire to ensure a pro-Iranian and Shi'a-dominated Iraqi government. When applying the categories from Table 1.2 to these factors, it is clear that Iran, then, is supporting NSAGs for regional influence, prestige in the Shi'a community, destabilization of Iraq, and support for co-religionists. Although there are several Shi'a armed groups in Iraq, the two main Shi'a factions, Moqtada al-Sadr's Mahdi Army and the Badr Corps, the armed wing of SCIRI,<sup>31</sup> best exemplify how Iran benefits from supporting opposing factions.

Since the 1980s, Iran has housed and supported SCIRI exiles to undermine Saddam Hussein and Iraq. Today, SCIRI has returned to Iraq with its 10,000-strong Badr Organization, becoming Iraq's most powerful Shi'a political bloc.<sup>32</sup> One of the original founders and leaders of SCIRI, Ayatollah Muhammad Baqr al-Hakim, returned to Iraq triumphantly in May 2003 after twenty-three years in exile to cheering supporters, but at the end of August Ayatollah al-Hakim was assassinated in a car bomb attack in Najaf.<sup>33</sup> His brother, Abd al-Aziz al-Hakim, has been named the new leader of SCIRI, but the loss of Ayatollah al-Hakim deprives both SCIRI and Iran of a strong and distinguished pro-Iranian ruler. Thus, Iran has been forced to look for new allies in an attempt to continue its exertion of power over Iraq.<sup>34</sup>

SCIRI's Badr Organization still receives sizeable funding and training from the IRGC and, after the assassination of Ayatollah al-Hakim in the summer of 2003, was deployed to prevent against any further outbreaks of violence in Najaf. This event established a new precedent in which an externally-backed militia was used to restore order. Moreover, use of the Badr Organization marked the beginning proliferation of individual and ethnically-based militias across Iraq: "If each community in Iraq believes that the United States cannot provide security, then they will form their own militias and it will be difficult to build a true national army and sense of Iraqi nationhood. This already appears to be happening."<sup>35</sup> The Badr Organization's presence is strongly felt throughout the south, but there are also units based in Kurdistan at Sulaimaniya and Myadan. The majority of its forces remain in Iran at its headquarters in Kharamanshahr.<sup>36</sup>

Since SCIRI has gained extensive control of the Ministry of Interior in recent months after coming to power in the newly formed Iraqi government, Badr Organization members have infiltrated the ministry's police, intelligence, and commando units. In addition, the Badr Organization is accused of running underground prisons where militia members have tortured and killed prisoners, most of whom are Sunnis.<sup>37</sup> Based on the largely Sunni and ex-Baathist nature of Iraq's insurgency, many Shi'a have been targeted for their involvement with the United States in forming a new government. Iran has an interest in preventing a rise in the number of insurgent attacks targeting Shi'a so that its regional influence and support for the new Shi'a government is not undermined. This may well be a factor in Iran's continued support for a group like the Badr Organization, which is capable of protecting various Shi'a communities across Iraq from other NSAGs. Specifically, Iran is concerned about the

prospect of *jihadists* and Wahhabi fundamentalists igniting a sectarian war between Shi'a and Sunnis.<sup>38</sup> Lawlessness and violence prevails in Iraq, and the only way for Iran to ensure the formation of a pro-Iranian government is by fighting lawlessness with lawlessness—in other words through the support of NSAGs.

In addition to SCIRI and its Badr Organization, Muqtada al-Sadr, the fourth son of the late Ayatollah Muhammad Sadiq al-Sadr who was assassinated by Saddam in 1999, heads another important Shi'a faction, including the Mahdi Army. Al-Sadr's Mahdi Army, whose emergence has polarized the Iraqi Shi'a community, has three dissimilar, homegrown components: "The clerical core, formed mostly of young clergy and novices who were loyal to [Sadr's] father, the charity networks built by [Sadr's] father, and spontaneous armed mobs, which derive from the security vacuum after the fall of the regime."<sup>39</sup> Today, the Mahdi Army is largely in control of Baghdad's Shi'a neighborhoods and several important cities in the south, including Basra. Al-Sadr and the Mahdi Army are backed by the IRGC and have allegedly received \$80 million from Iran to sustain its operations in 2004 alone. In addition, the IRGC supposedly trained between 800 and 1,200 members of the Mahdi Army along Iran's border in the south of Iraq.<sup>40</sup>

Moqtada al-Sadr is a relatively young radical leader in his early thirties and, as a result of his age and inexperience, lacks any serious religious clout compared to other Shi'a clerics. His battles against Iraq's Shi'a clerics has tarnished his credibility among many of the Shi'a elite: as one commentator put it, "Single-handedly, Muqtada is waging a war against what he termed as traditional clerics, 'non-Iraqi' clerics and pro-Baathist clerics, in other words against everyone but himself."<sup>41</sup> Specifically, al-Sadr is responsible for the death of the prominent moderate Shi'a cleric of Najaf, Abu'l-Qasim al-Khoei in 2003. Al-Sadr has also been accused of using his followers to menace Ayatollah Ali Sistani, currently the most-prominent Iranian-born Shi'a cleric of Iraq, who remains apolitical and very popular.<sup>42</sup>

**Iraq is considered a weak state and Iran has been one of the many proactive forces to take advantage of the chaos within Iraq by working to protect its many national interests, including improved relations with Iraqi Shi'a, through the external support of NSAGs**



Starting out with relatively little widespread support, al-Sadr's popularity increased significantly after a standoff with U.S. Coalition Forces at Najaf's holy shrine and mosque. According to some polls, al-Sadr has become the second-most popular man in Iraq after Ayatollah Sistani.<sup>43</sup> Since al-Sadr's recent rise to power, his Mahdi Army has successfully taken control of city police forces in southern cities such as Basra.<sup>44</sup> Al-Sadr's rise to prestige through his Mahdi Army even carried over into the political arena, where 24 pro-Sadr candidates were elected to the Transitional National Assembly in January 2005.<sup>45</sup>

Certainly, al-Sadr has defined himself as a prominent leader among certain Iraqi Shi'a, leading to greater external support from Iran for his followers. Al-Sadr's more influential stature, however, has created a rift with other Shi'a groups, including SCIRI and the Badr Organization. In fact, al-Sadr's militia violently clashed with Badr forces in Baghdad over constitutional issues during the summer of 2005: "Their confrontations threaten to break down the Shi'a political dominance that has been in Iran's interest to sustain."<sup>46</sup> Iran backs both groups in the Badr-Sadr rivalry to ensure that it will enjoy favorable relations if either group finally establishes power in a permanent Iraqi government. Moreover, due the lack of one clear Shi'a political or religious leader in Iraq, Iran must support the main Shi'a factions as a way to preserve its influence throughout Iraq. Nonetheless, this rise in intra-Shi'a violence does not bode well for the future political stability of the country.

### Regional Influence and National Security

Although Iran's Revolutionary Guards are not technically an NSAG, they have been used like one in a covert manner to directly support and train terrorist proxy groups and militias in both Iran and Iraq. It is estimated that Iran has 14,000 intelligence agents operating in Iraq.<sup>47</sup> Moreover, Iran is spending an estimated US\$70 million a month on its special operations units.<sup>48</sup> Iran has deployed its IRGC and Special Forces for three primary reasons:

1. To ensure the Mujahideen-e Khalq, which was the Iranian dissident group originally sponsored by Saddam Hussein, does not plan any more attacks against Iran or gather intelligence for the United States;<sup>49</sup>
2. To prevent any further spread of Kurdish nationalism across Iraq's borders into Iran's Kurdish territories;<sup>50</sup> and
3. To keep Iraq unstable enough to prevent any future attack by the U.S. military against Iran

and to make certain Americans are "pinned down to divert their attention from [Iran's] nuclear program."<sup>51</sup>

Although the third reason is largely speculative, there is a high probability that Iran might be pursuing such a policy that aims to use Iraq as a diversion to build its nuclear program.<sup>52</sup> According to Table 1.2, Iran is supporting its IRGC as a quasi-NSAG for reasons motivated by regional influence, internal security, and destabilization.

In addition to supporting the main Shi'a factions, the IRGC has also assisted Lebanese Hezbollah, which sent approximately 100 fighters to Iraq immediately after the fall of Saddam Hussein: "The presence of Hezbollah fighters in Iraq is meant to neutralize any attempt by the Coalition Forces to activate opposition to Iran from within Iraq."<sup>53</sup> Hezbollah members have also been integrated into various local police force units of several southern Iraqi cities, including Nasiriya and Ummara.<sup>54</sup> It is also believed that Iran supports other groups including a cell of the Mujahideen for Islamic Revolution in Iraq (MIRI), a paramilitary unit coordinated out of the IRGC's base in Ahvaz, Iran; Thar-allah (Vengeance of God), one of many militant groups suspected of assassinations in Iraq;<sup>55</sup> al-Dawa (The Call), an Islamist group historically aligned with SCIRI and Hezbollah;<sup>56</sup> and the Islamic Movement in Kurdistan (IMK).<sup>57</sup>

Overall, Iran has used the IRGC and its Special Forces as a means to support many different proxy groups and other militias within Iraq to fuel the instability that currently exists. In addition, Iran aims to protect against any future attacks that might be planned in Iraq by dissident groups currently in operation. Moreover, Iran desires to stave off any future invasion led by an American coalition:

The ongoing 'chaos' in Iraq is Iran's 'insurance policy,' for if there were peace and quiet in Iraq the American might decide to pay more attention to Iran. The coalition's failure to stabilize the situation in Iraq forces them to maintain a military presence and they suffer from a growing number of losses and a reduced legitimacy for their presence in Iraq.<sup>58</sup>

Iran will continue to externally support NSAGs as one way to flex its muscles against the United States.<sup>59</sup>

## Ensuring Influence within the Opposition: Support for Sunni Groups

**Al-Sadr's rise to prestige through his Mahdi Army carried over into the political arena, where 24 pro-Sadr candidates were elected to the Transitional National Assembly in January 2005**

As demonstrated in Table 1.2, one other important reason why a state externally supports an NSAG is to make sure an opposition movement does not adopt goals or policies that are hostile to

the state's interests.<sup>60</sup> In the case of Iran, for example, it sees the sponsorship of such groups as another way to destabilize Iraq. In particular, there are two noteworthy terrorist groups linked to Iran in Iraq: Ansar al-Islam (Jund al-Islam) and al-Qaeda. Although Ansar al-Islam is a Kurdish based group backed by Iran, it also has important ties to al-Qaeda.<sup>61</sup> Initially, Abu Musaab al-Zarqawi was a

prominent leader in Ansar al-Islam before recently splintering off, ultimately leading to his current position as the head of al-Qaeda in Iraq. In the early 2000s, Zarqawi developed terrorist networks in Iran, using it both as a country of transit and a base for operations to plan several terrorist attacks.<sup>62</sup> At the start of the US-led invasion of Iraq, Iran used Ansar al-Islam to fight the Kurdish Peshmerga in the north. In addition, Iran supported Ansar al-Islam to patrol the entrance and exit to/from Kurdistan and Iran. In 2003 when the United States attacked Ansar al-Islam's bases in northern Iraq, Iran allegedly provided sanctuary for the surviving members of the group. Ansar al-Islam was able to regroup to a certain extent in Iran and train its forces with the help of the IRGC. The group continues to operate in northern Iraq but to a lesser extent than before with only 1,000 fighters.<sup>63</sup>

Aside from Ansar al-Islam, Iran has also allegedly permitted other al-Qaeda cells to plan operations within its borders.<sup>64</sup> More importantly, in late 2003 it was believed that Zarqawi planned his Iraqi operations from Iran.<sup>65</sup> At the beginning of Iraq's insurgency, the al-Qaeda cells were largely disorganized in Iraq, only attacking sporadically. However, over time the attacks grew more organized and al-Qaeda's target list greatly expanded:

Attacks on U.S. soldiers continue, but new targets include other coalition forces; US civilians; Iraqis working with the coalition, such as policemen or the mayor;

and infrastructure such as oil and water pipelines or electrical pylons, the Jordanian embassy, the Imam Ali Mosque in Najaf, and the UN headquarters.<sup>66</sup>

More troubling for Iran, however, was the fact that Zarqawi and his al-Qaeda associates began to see many Shi'a as *rafida*, or renegades, because of their collaboration with the Americans in the formation of Iraq's new government. In addition, Zarqawi has recently declared war on the Badr Organization and proposed the formation of an Omar Brigades to assassinate leaders of the Badr Corps.<sup>67</sup> One could argue that such an increase in the targeting of Shi'a by al-Qaeda is potentially very troublesome for Iran. Initially, Iran's support for the opposition insurgent groups stemmed from sharing a similar objective as al-Qaeda, mainly attacking U.S. Coalition military personnel and bases. However, in the past year it appears that supporting the opposition is beginning to backfire on Iran. Although civil war has not ignited as a result of the new attacks against the Shi'a, there is a great risk for such a possibility. If sectarian war were to erupt, Iran would be in grave danger of losing control of the situation, in addition to losing the power it wields over many of its externally sponsored armed groups.

## Conclusion

The situation in Iraq today is unpredictable at best and anarchical at worst. The sponsorship of NSAGs in Iraq by Iran has greatly contributed to the chaos and instability that prevails today. Iraq's lack of a central authority to enforce law and order across the country has bred the national proliferation of NSAGs. The case of Iranian involvement in Iraq shows how NSAGs can be used as important foreign policy instruments of a state. Iran has sponsored militia, insurgent, and terrorist groups to ensure that its power in Iraq is maintained. External support for Iraq's NSAGs, and in particular Shi'a militias, has permitted Iran to reconstruct its relations with Iraqi Shi'a. More than ever, Iran desires to establish a pro-Iranian, Shi'a-led government and by supporting the major Shi'a factions Iran has a better chance of realizing this goal. In addition, Iran benefits doubly because the unmanageable nature of the insurgency also means the US is less able to devote its attention to Iran and the development of its nuclear program.

Over the years, Iran has developed a well-organized infrastructure to support and execute terrorist and insurgent attacks. Such a strong network of experienced intelligence agents has assisted Iran in establishing new bases of

operations from Iraq. Unfortunately, more time is needed to conclude whether or not Iran's sponsorship of NSAGs is effective in safeguarding its national interest in Iraq. Certainly, Iran has supported Shi'a, Kurdish, and Sunni groups as a means to assist Iran in the preservation of its interests. However, by supporting opposing groups Iran runs the risk of igniting a sectarian war. Therefore, time will be the only true determinant of whether or not Iran has fully staved off a protracted civil war and successfully managed the chaos that prevails in Iraq.

Overall, the non-state actors that infiltrate Iraq today are representative of the new global trends revolutionizing the nature and scope of internal wars and conflict, including an increase in the use of violent technology and new innovations for supporting wars from a distance. Internal wars no longer possess purely local elements but incorporate more transnational or global trends.

One such global force is that of an externally-backed NSAG. What is more alarming, however, is that this is very cost-effective in fighting a superpower like the United States, compared to the full deployment of conventional forces. In any case, more research is needed to address just how effective NSAGs can be used as foreign policy tools. Iran's motivations for sponsoring NSAGs in Iraq is more clearly known but whether or not such a policy can be successfully maintained in a country that teeters on the edge of perpetual chaos remains to be seen.

*The views and opinions expressed in articles are strictly the author's own, and do not necessarily represent those of Al Nakhlah, its Advisory and Editorial Boards, or the Program for Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.*

- <sup>1</sup> Edward Wong, "Iran is in Strong Position to Steer Iraq's Political Future," *The New York Times*, July 3, 2005, A6, Accessed through Lexus Nexus.
- <sup>2</sup> Zbigniew Brezinski and Robert M. Gates, Task Force Co-chairs, *Iran: Time for a New Approach* (Uncorrected proof) (New York: Council on Foreign Relations, 2004), 27-28.
- <sup>3</sup> Shaul Bakhash, "Iran's Foreign Policy under the Islamic Republic, 1979-2000," in *Diplomacy in the Middle East: The International Relations of Regional and Outside Powers*, L. Carl Brown, ed. (New York: I.B. Tauris, 2001), 251-252.
- <sup>4</sup> Daniel Byman, Shahram Chubin, Anoushiravan Ehteshami, and Jerrold Green, *Iran's Security Policy in the Post-Revolutionary Era* (Santa Monica, California: RAND Corporation, 2001), 92.
- <sup>5</sup> Brezinski and Gates, 16.
- <sup>6</sup> "External Affairs, Iran," *Jane's Sentinel Security Assessment—The Gulf States*, August 9, 2005, Available from *Jane's Information Group* (Viewed November 15, 2005).
- <sup>7</sup> Shay, 42.
- <sup>8</sup> This category statistically includes suicide attacks. See Shay, 125 # 4.
- <sup>9</sup> There are additional attacks that are not included in these categories such as tossing of hand grenades and Molotov cocktails. Such attacks account for 0.8 % of all attacks and were therefore not included in the data. See Shay 81-82 and 125 #3.
- <sup>10</sup> *Ibid.*, 82.
- <sup>11</sup> Shay, 223-225.
- <sup>12</sup> Bakhash, 252.
- <sup>13</sup> During the Iran-Iraq War, the Revolutionary Guard had 750,000 troops. Today, the number has dropped to 150,000. Al Venter, "Iran Still Exporting Terrorism to Spread its Islamic Vision," *Jane's Intelligence Review* 9, no. 11 (November 1, 1997), Accessed through *Jane's Information Group*.
- <sup>14</sup> Yael Shahaar, "Al-Qaida's Links to Iranian Security Services," *Institute for Counter Terrorism*, January 20, 2003: <<http://www.ict.org.il/>> (Viewed November 26, 2005).
- <sup>15</sup> Anthony H. Cordesman, *Iran's Developing Military Capabilities* (Washington, DC: CSIS Press, 2005), 48-49.
- <sup>16</sup> Thomas Hunter, "Bomb School: International Training Camps," *Jane's Intelligence Review* 9, no. 3 (March 1, 1997), Accessed through *Jane's Information Group*.
- <sup>17</sup> *Ibid.*
- <sup>18</sup> Venter, Accessed through *Jane's Information Group*.
- <sup>19</sup> Yael Shahaar, "Al-Qaida's Links to Iranian Security Services," *Institute for Counter Terrorism*, January 20, 2003: <<http://www.ict.org.il/>> (Viewed November 26, 2005). If this source is correct, then it would further demonstrate a strong link between Iran and its link to al-Qaeda, in addition to its direct sponsorship of international NSAGs.
- <sup>20</sup> *Ibid.*
- <sup>21</sup> More will be discussed on Zarqawi's links to Iran in the proceeding section.
- <sup>22</sup> Anoushiravan Ehteshami, "Iran-Iraq Relations after Saddam," *The Washington Quarterly* 26, no. 4 (2003): 117.
- <sup>23</sup> Ehteshami, 126.
- <sup>24</sup> "Iraq Country Report-Main Report—The political scene: Shia-led confederation proposed by some Shia leaders," *Economist Intelligence Unit*, September 9, 2005, Accessed through *Economist Intelligence Unit Reports*.
- <sup>25</sup> "Security—Iraq," *Jane's Sentinel Security Assessment—The Gulf States*, November 3, 2005 (Viewed November 15, 2005 and accessed through *Jane's Information Group*).
- <sup>26</sup> Edward Wong, "Iran is in Strong Position to Steer Iraq's Political Future," *The New York Times*, July 3, 2005, A6, Accessed through Lexus Nexus.
- <sup>27</sup> "Iran in Iraq: How Much Influence?" *International Crisis Group*, Middle East Report no. 38, March 21, 2005, 22.
- <sup>28</sup> Laith Kubba, "Iraqi Shi'i Politics," in *Iran, Iraq, and the Legacies of War*, Lawrence G. Potter and Gary G. Sick, eds. (New York: Palgrave Macmillan, 2004), 143.
- <sup>29</sup> Kubba, 148.
- <sup>30</sup> Ehteshami, 125.
- <sup>31</sup> Today the Badr Corps is known as the Badr Organization for Development and Reconstruction.



- <sup>32</sup> “Battle for Iraq lies in the south,” *Jane’s Intelligence Review*, June 1, 2005, Accessed through *Jane’s Information Group*.
- <sup>33</sup> Muqtada al-Sadr’s Mahdi Army is accused by some for the assassination of al-Hakim. See Nimrod Raphaeli, “Muqtada al-Sadr vis-à-vis the Shi’a Religious Establishment,” *Middle East Media Research Institute: Inquiry and Analysis Series*, no. 177 (June 4, 2004).
- <sup>34</sup> “Supreme Council for the Islamic Revolution in Iraq (SCIRI),” *Jane’s World Insurgency and Terrorism*, June 23, 2005 (Viewed November 5, 2005 and accessed through *Jane’s Information Group*).
- <sup>35</sup> Kenneth Katzman, “Political Scenarios in Post-War Iraq,” in *Iraq Reconstruction and Future Role* (Abu Dhabi, UAE: The Emirates Center for Strategic Studies and Research, 2004), 77-78.
- <sup>36</sup> “Supreme Council for the Islamic Revolution in Iraq (SCIRI),” *Jane’s World Insurgency and Terrorism*, June 23, 2005 (Viewed November 5, 2005 and accessed through *Jane’s Information Group*).
- <sup>37</sup> Edward Wong and John F. Burns, “Iraqi Rift Grows After Discovery of Prison,” *The New York Times* (online), November 17, 2005. See also Dexter Filkins, “Sunnis Accuse Iraqi Military Executions,” *The New York Times* (online), November 29, 2005.
- <sup>38</sup> Mohsen M. Milani, “Iran, the Status Quo Power,” *Current History*, January 2005, 34.
- <sup>39</sup> Jabar, 18.
- <sup>40</sup> “External Affairs—Iran,” *Jane’s Sentinel Security Assessment—The Gulf States*, August 9, 2005 (Viewed November 5, 2005 and accessed through *Jane’s Information Group*).
- <sup>41</sup> Faleh A. Jabar, “The World Roots of Religiosity in Post-Saddam Iraq,” *Middle East Report* 227 (Summer 2003): 17.
- <sup>42</sup> *Ibid.*, 17.
- <sup>43</sup> One poll taken in December 2003 claimed that only 1 percent of Iraqis supported al-Sadr’s activities. However, in May 2004 some 68 percent of Iraqis supported al-Sadr to some degree. Ryan Philips and Jeffrey White, “Sadrist revolt provides lesson for counterinsurgency in Iraq,” *Jane’s Intelligence Review*, August 1, 2004, Accessed through *Jane’s Information Group*
- <sup>44</sup> Kathleen Ridolfo, “Iraq: Al-Sadr Militia Taking Law Into Own Hands,” *Radio Free Europe/Radio Liberty*, November 4, 2005: <[http://www.rferl.org/features/features\\_Article.aspx?m=11&y=2005&id=35B8BB23-2A15-4275-99EE-B368FDE58B0A](http://www.rferl.org/features/features_Article.aspx?m=11&y=2005&id=35B8BB23-2A15-4275-99EE-B368FDE58B0A)> (Viewed November 4, 2005).
- <sup>45</sup> “Battle for Iraq lies in the south,” *Jane’s Intelligence Review*, June 1, 2005, Accessed through *Jane’s Information Group*.
- <sup>46</sup> “A Critical Triangle: Iraq, Iran and The United States,” *United States Institute for Peace Briefing*, September 2005: <[http://www.usip.org/newsmedia/releases/2005/0923\\_triangle.html](http://www.usip.org/newsmedia/releases/2005/0923_triangle.html)> (Viewed 18 November 2005).
- <sup>47</sup> Nimrod Raphaeli, “Iran’s Stirrings in Iraq,” *Middle East Media Research Institute: Inquiry and Analysis Series*, no. 173 (May 5, 2004).
- <sup>48</sup> “Iran’s Role in the Recent Uprising in Iraq,” *Middle East Media Research Institute: Special Dispatch Series*, no. 692, April 9, 2004.
- <sup>49</sup> “Are US troops operating in Iran?” *Foreign Report*, February 24, 2005 (Viewed November 15, 2005 and accessed through *Jane’s Information Group*).
- <sup>50</sup> “Security—Iraq,” *Jane’s Sentinel Security Assessment—The Gulf States*, November 3, 2005 (Viewed November 15, 2005 and accessed through *Jane’s Information Group*).
- <sup>51</sup> See N. Raphaeli.
- <sup>52</sup> See Kenneth Pollack and Ray Takeyh, “Taking on Tehran,” *Foreign Affairs*, March/April 2005, for an overview of Iran’s nuclear program.
- <sup>53</sup> See N. Raphaeli.
- <sup>54</sup> Raymond Tanter, “Iran’s Threat to Coalition Forces in Iraq,” *Washington Institute for Near East Policy*, Policy Watch #827, January 15, 2004, Accessed through CIAO Net.
- <sup>55</sup> Michael Ware, “Inside Iran’s Secret War for Iraq,” *Time*, August 22, 2005, Accessed through *Expanded Academic Index*.
- <sup>56</sup> Ed Blanche, “Iraq’s militias become a threat,” *Jane’s Terrorism & Security Monitor*, April 1, 2004, Accessed through *Jane’s Information Group*.
- <sup>57</sup> “Iraqi Kurdistan,” *Jane’s Sentinel Security Assessment—Gulf States*, April 28, 2005 (Viewed November 15, 2005 and accessed via *Jane’s Information Group*). See also “Islamic Movement of Kurdistan,” [www.globalsecurity.org](http://www.globalsecurity.org) (Viewed November 30, 2005). It could be speculated that one reason why Iran

supports this group is to fight Iranian dissident groups located in Northern Iraq, such as the MEK or the Kurdish Communist Party of Iran (Komala)—See “Kurdish Communist Party of Iran (Komala),” *Jane’s World Insurgency and Terrorism*, July 1, 2005.) One could also argue that such a group is supported by Iran to make certain Iranian Kurds are prevented from linking up with Iraqi Kurds to ignite Kurdish national fervor.

<sup>58</sup> Shay, 255.

<sup>59</sup> Ehteshami, 124.

<sup>60</sup> Byman, Chalk, Hoffman, Rosenau, and Brannan, 34.

<sup>61</sup> Jonathan Schanzer, “Tehran’s Hidden Hand: Iran’s Mounting Threats in Iraq,” in *Operation Iraqi Freedom and the New Iraq: Insights and Forecasts*, Michael Knights, ed. (Washington, DC: The Washington Institute for Near East Policy, 2004), 354.

<sup>62</sup> Rohan Gunaratna, “Abu Musab al-ZARQAWI: A new Generation terrorist leader,” *Institute of Defence and Strategic Studies Commentaries*, July 5, 2004, 3.

<sup>63</sup> Schanzer, 354.

<sup>64</sup> US State Department, *Country Reports on Terrorism 2004* (Washington DC: US State Department, April 2005), 88.

<sup>65</sup> Matthew Levitt, “USA ties terrorist attacks in Iraq to extensive Zarqawi network,” *Jane’s Intelligence Review*, April 1, 2004, Accessed through *Jane’s Information Group*.

<sup>66</sup> Stephen Metz, “Insurgency and Counterinsurgency in Iraq,” *The Washington Quarterly* 21, no. 1 (2003): 30.

<sup>67</sup> Murad Batal al-Shishani, “Al-Zarqawi’s Rise to Power: Analyzing Tactics and Targets,” *The Jamestown Foundation: Terrorism Monitor* 3, no. 22, November 17, 2005, 2-3.



## Fighting Terror By Indictment: A Review of How the Yemeni Justice Sector is Facing Salafi Jihadist Violence

*Matthew M. McCandless*

Four years after the devastating attacks of September 11, it appears increasingly clear that in addition to the significantly stepped-up military and intelligence efforts devoted to hunting down al-Qaeda and its affiliates, Washington will have to invest significant resources to pursuing these groups through greater law enforcement cooperation across the globe. U.S. military and intelligence assets might still be effectively deployed against top leadership targets or other key al-Qaeda assets that can be located in remote areas, but the networks these groups have established in some forty countries involve far more operatives than the U.S. can take down through politically-costly and logistically-difficult renditions. In addition, these individuals usually live or operate in population-dense locations where air strikes would necessarily incur great civilian casualties. Since experience has shown that these individuals often are involved in the full gambit of terrorist operations—from fundraising and recruiting to military training and attacks—disruption through law enforcement activities would appear to be the most effective remaining option.

Launching a successful law enforcement “front” against al-Qaeda poses an immediate challenge in that it will require the United States to develop a body of expertise in the diverse legal systems of much of the Muslim world—a topic U.S. embassies and federal agencies cared little about in the heyday of the Cold War and its aftermath. This

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article seeks to help build this expertise by providing an initial review of the legal system and recent counterterrorism track record of Yemen, one of several key Muslim-majority states involved in the war against the al-Qaeda network. It concludes that Yemen has a strong legal system on paper to fight crimes of terrorism, but has largely undercut this potential by skirting these laws in a short-term bid to get suspected terrorists off the streets, which in turn has discredited its efforts and led to the release of many terrorist suspects. The paper argues that, despite these setbacks, Washington has much to gain from pushing for a renewed law enforcement-led counterterrorism effort in Yemen and should invest time and people toward this goal.

### Yemen’s Legal System in Brief

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The Republic of Yemen is a relatively modern creation, established in 1990 through a unification of North Yemen—a one-time territory of the Ottoman Empire that adopted a republican form of government in 1964 under the heavy influence of Egyptian President Nasser—and South Yemen—a British protectorate and later Soviet-backed socialist state.<sup>1</sup> Despite years of civil war between north and south, modern Yemen largely adopted the late constitutional structure of the north, which combined a parliamentary system with a strong presidency. While a largely free press and opposition parties have emerged in united Yemen, its President, Abi Abdallah Salih, is a former Army officer who rose to power in North Yemen in 1978 and continues to dominate Yemen’s nascent democratic institutions to this day.

The country’s legal system, again drawn mostly from North Yemen, incorporates both

Islamic law (*shariah*) and civil law traditions.<sup>2</sup> Yemen's *shariah* tradition dates back to the time of the Prophet in the seventh century. North Yemen's adoption of a constitutional republic in 1964 kept *shariah* as a fundamental source of law, but framed it for the first time in a civil law judicial structure modeled on the Egyptian (and thus French) system. As is common in areas of Southwest Asia, Yemen's more remote tribal areas have practiced a form of customary law (*urf*) that incorporates pre-Islamic, Islamic, and unique cultural norms. *Urf* settlements in local civil disputes continue to this day, but they have little impact on the country's counterterrorism efforts and are thus beyond the scope of this study.

### Sources of Law

Amendments to the Yemeni Constitution in 1994 changed the status of *shariah* from "a major source" to "the (single) source" of all domestic law, although there is little indication that this had a significant impact on the status of legislation already in force. The jurisprudence in modern Yemeni courts is predominantly Sunni, although the Islamic leadership of Yemen prior to the republican revolt was Zaydi, a Shi'i-based school. Jurisprudence during this era was a mix of both Zaydi and Shafi'i perspectives. In the last several years, Salafi principles—which share roots with the early Zaydi school—have emerged, in part due to a growing number of Saudi-funded schools.

Law journal reviews indicate Yemeni courts continue to base decisions on positivized law, both the Constitution and a series of civil, criminal, and procedural codes ostensibly based on established *shariah* rules. While most statutes originate from Yemen's legislature, the country's executive branch also can enact legislation—another mark of its French-influenced Constitution. Executive law takes the form of presidential decrees, government regulations and emergency statutes issued when parliament is not in session. Yemen's prime minister and council of ministers may also issue regulations.<sup>3</sup> The theory is that these laws are not supposed to override prior legislative statutes, although historically presidents have often abused their lawmaking powers. Yemen's constitution also asserts that the Republic "confirms its adherence to the UN Charter, the International Declaration of Human Rights, the Charter of the Arab League and dogma of international law which are generally recognized." While this provision does not clearly state that international law is a source of law in municipal courts, the door seems to be open for Yemeni judges to draw that conclusion in the future.

### Judicial Structure

Like the French system, Yemen's prosecution is an extension of the courts. Yemen reportedly once allowed for investigating judges,<sup>4</sup> although this practice has been abandoned. Yemen's judicial system is broadly divided into ordinary and administrative courts. Ordinary courts have two levels—those of first instance and appeal—with both levels having internal divisions between criminal, civil, family, and commercial law. President Salih, by decree in 1999, created an additional special panel in the first instance and appeals court in the capital of Sana'a in order to try suspects accused of terrorism offenses and crimes against the state. Appeals courts in both countries can effectively retry cases heard in the lower courts at the request of either party (including the prosecution in criminal matters) on points of law or fact. Appeals panels consist of three judges. Yemen's constitution provides that all court hearings should be open to the public unless a court decides otherwise based on considerations of security or "morals." Finally, this system does not recognize the concept of *stare decisis*, or precedent, in court rulings with the exception of instances of judicial review.

A Supreme Court sits at the top of this structure.<sup>5</sup> At this level, five-judge panels can overturn a lower court decision if they find that the law was applied incorrectly. The court consists of several dozen judges and is divided into substantive divisions. Yemen's Supreme Court in 1991 obtained the added power of constitutional judicial review for existing laws.<sup>6</sup> A Supreme Court general assembly, consisting of the entire court and the Minister of Justice, can be called if a Supreme Court appeals panel wants to overturn a prior decision of the court.<sup>7</sup> The constitution also created a separate Constitutional Court comprised of nine justices<sup>8</sup> empowered to test the constitutionality of any law. Constitutional judicial review includes the authority to hear both concrete cases referred by parties and abstract review on questions submitted by either parliament or the executive branch. Yemen's Supreme Court is charged with additional duties including trying high crimes committed by the president or vice president.

**It appears increasingly clear that Washington will have to invest significant resources to pursuing al-Qaeda and its affiliates through greater law enforcement cooperation across the globe**



The Yemeni constitution states explicitly that the judiciary is to be independent of other branches of government, going so far as to criminalize interference with a judicial decision.<sup>9</sup> Judicial councils are nominally independent of the executive and charged with overseeing the hiring, disciplining, and firing of judges.<sup>10</sup> This council, however, is led by the president.

Yemen's adoption of a civil law structure marks a significant departure from the traditional practice of *shariah* in at least two respects. The provision of a multi-layered court system that allowed for appeals and multi-judge panels is considerably different than the practice in traditional *shariah* courts. Historically a single judge would issue a unique ruling which carried the weight of divine provenance and was therefore not subject to appeals.<sup>11</sup> Secondly, by creating a system of positivized law contained in the constitution and legislative codes, traditional textualist scholars might complain that Yemen has replaced acceptable sources of Islam (most importantly the Quran and Hadith) with manmade law.

### Fighting Terror in Theory: Criminal Court Structure and Laws

Yemen boasts a fairly progressive criminal procedure on paper. The Constitution vests powers of arrest and pre-trial detention almost entirely with the judge, allowing the prosecutor (as an officer of the court) a maximum of seven days to detain a suspect, and required court approval for any additional detention beyond this. Police may arrest an individual caught in the commission of a crime, but any other arrest on their part must be approved by a warrant given by a prosecutor or judge. The constitution provides for *habeas corpus* review within 24 hours of an arrest and stipulates that law should establish a maximum detention period—which appears to have been done in the Yemeni criminal code of procedure, according to a 2003 Amnesty International report.<sup>12</sup> Yemen's penal code makes arbitrary arrest punishable by a five-year maximum jail sentence.<sup>13</sup> The Constitution explicitly prohibits physical or psychological torture (which is criminalized), forced confessions or interrogating a suspect without the presence of an attorney. In language that mirrors Article I of the modern German constitution, Article 47(b) of the Yemeni constitution stipulates that anyone whose freedom has been restricted must have his "dignity" protected. The constitution establishes that an accused is to be considered innocent until proven guilty and prohibits the application of law

retroactively. As is common in civil law tradition, there is no right against self-incrimination.

Yemen's conviction and evidentiary standards are firmly rooted in *shariah* norms.<sup>14</sup> This standard in most cases views the testimony of two upright Muslim males as sufficient for conviction. A woman's testimony carries half the weight of a man's. Press reports of Yemeni terrorism trials suggest court appear to allow most types of physical evidence and expert testimony.

Yemen's Justice Minister in April 2004 told journalists that his country was drafting a special terrorism law, but to date the country has depended on provisions in the penal code and other existing laws.<sup>15</sup> Press reports and law journals indicate these provisions include several crimes that result in capital punishment, including leading a group formed to conduct a kidnapping or armed attack. Other possibly useful prohibitions include additional kidnapping charges, hijacking, sabotage or destruction of oil or economic assets, and accomplice provisions including document fraud and transferring funds used in an attack. Suspects may be charged with plotting or attempting an attack.

Yemen's Constitution allows judges to try suspects for crimes committed either in codified law or the *shariah*, meaning in principle that prosecutors could also try terror suspects for Quranic prohibitions against "making war" (*hiraba*), rebellion (*baghy*), or "sowing corruption in the earth", which has been defined in Saudi Arabia as sabotage or bombing and is the most commonly used charge against terrorist suspects there. Under *hiraba*, a judge has the option of sentencing a convicted party to banishment (imprisonment),

amputation of the opposite hand and foot, beheading, or crucifixion (usually performed after beheading). *Baghy* is not punishable once the rebellion is quelled, in part because the concept defines the crime as one based on an incorrect but not un-Islamic belief. Finally, "sowing corruption in the earth" has been treated as a crime of *ta'zir*, or sin, which allows a judge to issue a discretionary sentence against the accused—usually death. Under *hiraba* and the "sowing corruption" charge, a defendant may avoid sentencing if he repents.<sup>16</sup> Yemen's constitution requires the president to approve all sentences of capital punishment.<sup>17</sup> As of 2001, execution was carried out in public by

Amendments to the Yemeni Constitution in 1994 changed the status of *shariah* from "a major source" to "the (single) source" of all domestic law

placing the convict on the ground and shooting him in the back.<sup>18</sup>

### Yemen's Track Record: Excesses, Successes, and Failures

Yemen has suffered a series of terrorist-style attacks, including some against U.S. targets, that have been attributed to al-Qaeda affiliates called at different times the "Aden-Abayan Army" and, more recently, the Islamic Jihad Movement. Once considered tolerant of or sympathetic to Salafi jihadist groups, the Salih government vowed its cooperation with Washington after September 11, in part out of fear that the participation of Yemeni al-Qaeda members in that attack might prompt a U.S. invasion of the Arab republic, according to press reports. Despite this commitment, suspicions remain that al-Qaeda has influence in official circles in Yemen. In May 2005, the country's ambassador to Syria, who was also its former chief naval commander, fed these fears after he defected to the United Kingdom and asserted publicly that "al-Qaeda cells in the Yemeni military" helped execute the bombing of the U.S.S. Cole in October 2000.<sup>19</sup>

In a telling sign of President Salih's real power behind Yemen's democratic structure, however, government authorities quickly dispensed with the human rights protections afforded in the Constitution and criminal code of procedure. Salih's Political Security Organization, an intelligence vice law enforcement agency which reports directly to him, rounded up hundreds of suspected al-Qaeda sympathizers, many of whom were alumni of the Afghan *jihad* against the Soviets. These individuals were detained in secret facilities without warrant or court approval for periods lasting over a year. Several allegations of torture have emerged. In August 2002, Salih created by decree another security agency, the National Security Organization, charged with "discovering and fighting hostile terrorist activities" and taking any other measures necessary to "protect state security."<sup>20</sup>

Sana'a in mid-2004 tried some of these detainees for two key terrorist attacks, but not without considerable controversy stemming in large part from the extensive and secretive pre-trial arrest periods of the defendant, which gave credibility to allegations of torture and forced confessions. The Sana'a special lower court panel on terrorism and crimes against the state convicted Abd al-Rahim al-Nashiri and Jamal al-Badawi for helping to orchestrate the bombing of the Cole. The court initially sentenced both to death, although al-Nashiri was tried *in absentia* and is in U.S. custody.

Al-Badawi's sentence was later reduced to 15 years for reasons not apparent in the limited press coverage of the appeal. Four others were convicted as accomplices, receiving sentences ranging from five to ten years in jail for roles that included document forgery and filming the attack. Prosecutors presented several sworn confessions and an impressive array of physical evidence in court, including purchase orders, licensing agreements, permit requests and expert reports. Defense lawyers, however, claimed the trial to be a farce and boycotted most of the hearings based on the state's failure to grant them access to the defendants before trial began or access to evidence prior to its submission in court.

The same court convicted 15 other defendants for the bombing in late 2002 of the French tanker M/V Limburg and related attacks, including the murder of a police officer, an attack against an oil company helicopter, and plots to kill the U.S. Ambassador and attack four embassies and the civil aviation authority. Two of the convicted received death sentences, one again *in absentia*, while others were ordered to serve between three to ten years for directly or indirectly facilitating the acts.

Unfortunately, 23 of Yemen's convicted al-Qaeda operatives—including al-Badawi and Limburg co-conspirator Fawaz al-Rabeei—escaped from jail on February 3, 2006 after digging a tunnel under a detention center in Sana'a.<sup>21</sup> The prison break was not the first involving al-Qa'ida suspects; 10 alleged to have been involved in the Cole attack slipped out of a prison in Aden in 2003.<sup>22</sup> The 2006 escape came just before the planned indictment of another 16 Yemeni detainees for being members of al-Qa'ida. One defendant, Muhammad Hamdi al-Ahdal al-Makani, is suspected of involvement in the Cole and Limburg attacks. Others are accused of plotting future attacks either in Yemen or against Western targets in Iraq. One of the defendants, Ali Sufyan, confessed directly to the judge of plotting attacks in Iraq, possessing six kilograms of explosives, and forging travel documents. The 15 others denied the charges against them, although prosecutors read several confessions made during interrogations. At least one press report suggest defense attorneys still were not getting access to prosecution files until after the beginning of trial.<sup>23</sup>

**The Salih government vowed its cooperation with Washington after September 11, in part out of fear that the participation of Yemeni al-Qaeda members in that attack might prompt a U.S. invasion of the Arab republic**

Salih has reportedly used his renewed campaign against terror to target internal enemies. In 2004, he directed government forces to assault followers of a Zaydi cleric, Badr al-Din al-Huthi. While the initial justification for the military engagement is murky, authorities by late 2005 had arrested hundreds of alleged al-Huthi supporters. As was the case with the arrests of suspected Salafi terrorists, all of the al-Huthi supporters have been held outside of normal criminal procedure. The Sana'a special court as of October 2005 had sentenced one al-Huthi supporter to death for "incitement" and conspiracy to overthrow the government. The court as of this writing was trying two more for "rising sectarian strife" and "plotting" with a foreign country, ostensibly Iran. In what appears to be a related case, prosecutors in December indicted a group of 36 others for an unspecified bombing in Sana'a in April 2005—a likely reference to a grenade attack against a senior Yemeni military official.<sup>24</sup> As with the other trials, the state's evidence appears to consist mostly of detainee statements and press coverage of court proceedings has been very limited.

Growing criticism of Salih's counterterrorism policy by domestic press agencies, NGOs, legislators, lawyers, and even judges—plus the inherent difficulty in processing several hundred detainees through the courts with little evidence of

**Salih's Political Security Organization rounded up hundreds of suspected al-Qaeda sympathizers. These individuals were detained in secret facilities without warrant or court approval for periods lasting over a year**

their involvement in specific terrorist acts—appears to have prompted the creation in August 2002 of a Religious Dialogue Committee. This committee, led by Humud al-Hattar, a prominent Supreme Court justice and *shariah* jurist, has engaged both Salafi and Zaydi detainees in an epistemological and legal dialogue intended to disprove the ideologies of these movements and thereby convert the detainees into law-

abiding citizens. The process mirrors a voluntary mediation, where a panel of judges and Islamic scholars invite the detainees to engage, then ask them to prove the basic tenants of their ideologies.<sup>25</sup> Some 360 detainees have been released under this program.

As noted in the section on Yemeni penal provisions, this process is generally compatible with the *Shariah* injunctions against "making war" (*hiraba*) and "sowing corruption in the land." While Justice al-Hattar suggests this concept has

considerable merit, especially with foot soldiers of terrorist groups whose indoctrination is steeped in isolation from opposing viewpoints, some pundits wonder if the government is overselling the program. Officials including al-Hattar claimed that by mid-2004 that the program had achieved "90 percent success" in "eliminating" the ideology behind terror and that there were no remaining al-Qaeda cells in Yemen.

## Conclusion

While additional detailed analysis is needed, an initial review of the effectiveness of Yemen's record in prosecuting crimes of terrorism suggests the country has a long way to go. President Salih has chosen to largely ignore the judiciary, and at times violate the constitution, despite relatively clear provisions against terrorism in domestic law. It does not appear that Yemen's judiciary exacts exceedingly high evidentiary standards, nor has media coverage of the few trials that have occurred revealed a debilitating lack of evidence available to the state. While some might argue that Salih's heavy-handed tactics took terrorists off the street quickly, his methods later discredited the few prosecutions pursued and appear to have forced the creation of the Religious Dialogue Committee—a mechanism that has merit in "turning" foot soldiers and recent recruits, but which seems to have been too eager in claiming victory and releasing detainees quickly. Finally, the escape in February of most of the few al-Qaeda associates Sana'a has actually convicted casts an even darker shadow on the Yemeni effort.

Despite this problematic track record, the U.S. and its allies should encourage greater legal efforts against remnant al-Qaeda groups in Yemen. As this review has shown, Yemeni has a strong system of laws, procedures, and legal expertise drawn from both *shariah* and civil law traditions, and several specific penal provisions that should allow the state to try both terrorist operatives involved directly in attacks as well as leaders and support personnel. A stronger emphasis on transparent arrests and prosecutions is likely to meet with greater credibility at home and abroad and could serve as an example for other Muslim-majority states struggling with al-Qaeda associates of their own.

The U.S. and other countries fighting al-Qaeda also should seek to learn as much as possible from Yemen's Religious Dialogue Committee, not only as a sign of respect to the country's Islamic legal scholars, but also to gain a better standing of the specific "weak points" in the terrorists' jihadist ideology from a *shariah* perspective. Understanding these nuances at minimum would better inform our diplomatic

relations with Muslim countries fighting terror, and it also may give us a better chance of success in suggesting to the Committee that it incorporate some measure of retributive justice into its program by requiring, for example, that a participant serve a minimum jail sentence or perform some community service. If the Dialogue Committee proves to have a low rate of recidivism, Washington should consider working with Yemen and other countries to promote the concept as a potentially effective model of countering al Qaeda's recruiting and propaganda operations in the Muslim world.

Finally, as this paper first argued, Washington would be well advised to invest some resources in building expertise within the federal government on the Yemeni legal system, particularly in the area of criminal law, which has not attracted much attention historically in Western

academic circles. As a first step, this means training or hiring a few FBI agents or federal prosecutors who can speak Arabic, paying for English translations of relevant Yemeni codes and law journal articles, and sponsoring bilateral or multilateral working-level exchanges with Yemeni judges and prosecutors. Such investments would undoubtedly pay significant dividends to U.S. interests in the (unfortunately likely) event of another major attack against Western interests in this key Muslim state.

*The views and opinions expressed in articles are strictly the author's own, and do not necessarily represent those of Al Nakhlah, its Advisory and Editorial Boards, or the Program for Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.*



<sup>1</sup> Richard Nyrop, ed., *The Yemens: Country Study*. (Washington: American University, Foreign Area Studies, 1986), 78-79.

<sup>2</sup> Contrary to a claim in the 2004 CIA World Factbook, Yemen's legal system does not appear to have incorporated any aspect of British common law, despite Great Britain's past colonial rule over the port city of Aden and its protectorate status of neighboring territories that would later comprise South Yemen.

<sup>3</sup> Shamiri, Nageeb, "Country Survey: Yemen," *Yearbook of Islamic and Middle Eastern Law*, vol. 1 (1994): 369-383.

<sup>4</sup> Al-Hubaishi, Husain Ali. *Legal System & Basic Law in Yemen*. Worcester, United Kingdom: Billing & Sons, 1988.

<sup>5</sup> North Yemen's first high court was called a court of cassation identical to the French model; but this was changed in the 1970 Constitution.

<sup>6</sup> Constitution of the Republic of Yemen, 1994, Art. 151.

<sup>7</sup> Shamiri, Nageeb, 372-3.

<sup>8</sup> The Supreme Court, House of Representatives and President nominate three justices each.

<sup>9</sup> Constitution of the Republic of Yemen, Art. 147.

<sup>10</sup> Shamiri, Nageeb, 372-3.

<sup>11</sup> According to traditional Sunni jurisprudence, a party is required to disregard a ruling from an Islamic court if he knew that the decision was based on false information critical to the decision, or if the judgment was not based exclusively on the judge's exercise of his scholarly knowledge and application of appropriate sources of law and religious reasoning (*ijtihad*), which would be the case, for example, if he was bribed. I do not want to overstress this point; even Saudi Arabia, which holds the *Quran* as its constitution and practices *shariah* according to the extremely textualist Hanbali school of jurisprudence, has established a limited court of appeal in modern times, although this court's purpose is largely to reinforce lower court rulings. An excellent summation of this role was stated by a Saudi justice in an interview in September 2005: "The judiciary issues judgments, which are subject to study afterward either to confirm them or to reinforce their strictness." Abdallah Al-Urayfij, "Shaykh al-Luhaydan: Anyone Whom Kills Himself is Not a Martyr," *Ukaz*, September 14, 2005.

<sup>12</sup> Constitution of the Republic of Yemen, Art. 47.

<sup>13</sup> Amnesty International. "Yemen: The Rule of Law Sidelined in the Name of Security" (September 2003)

<sup>14</sup> Said Hasson Sohbi. "Women's Rights in Yemen Today," *Yearbook of Islamic and Middle Eastern Law*, vol. 6 (1999-2000): 82.

<sup>15</sup> "Yemen to Enact Anti-Terror Law," *Arab News*, April 21, 2004, internet edition

<sup>16</sup> Frank Vogel, "The Trial of Terrorists Under Classical Islamic Law." *Harvard International Law Journal*, Winter 2002.

<sup>17</sup> Art. 123.

<sup>18</sup> Yemen Gateway Website.

<sup>19</sup> Paris AFP, "Al-Qa'ida in Yemen Army Behind USS Cole Bombing: Former Envoy," 4 May 2004.

<sup>20</sup> Nageeb Shamiri, "Country Survey: Yemen," *Yearbook of Islamic and Middle Eastern Law*, vol. 9 (2002-03): 315-16.

<sup>21</sup> Al-Haj, Ahmed, "Plotter in USS Cole Attack Flees Jail," *Washington Post*, 6 february 2006, p. A10.

<sup>22</sup> BBC News Online, "Yemen arrests al-Qaeda members," 4 March 2004.

<sup>23</sup> Makaram, Faysal, "The trial of cell members accused of attacks against foreigners begins," al-Hayah, 5 February 2005, as translated by the U.S. Open Source Center.

<sup>24</sup> Saba, "Trial of Sana'a Bombing Suspects Adjourned," 6 February 2006, as translated by the U.S. Open Source Center.

<sup>25</sup> Yemeni Judge on Dialogue With al Qaeda Supporters, Change in Convictions." *Al-Quds al-Arabi*, 18 December 2004, 4.



## Rebuilding the Judicial Sector in Afghanistan: The Role of Customary Law

Amy Senier

### Introduction

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Afghanistan is in the midst of a security crisis. Lingering Taliban forces, a surging drug trade and crime threaten the country with destabilization and civil war.<sup>1</sup> This insecurity is fueled by an absence of the rule of law. As J. Alexander Thier says, "So long as impunity goes unchecked, citizens, civil servants and politicians will continue to serve military, rather than legal authority."<sup>2</sup>

Afghanistan's rule of law vacuum is the result of its violent history. Instability rendered by a communist coup, Soviet occupation, *mujahideen* warfare and Taliban rule have left the country with a "patchwork" of laws,<sup>3</sup> untrained practitioners and little physical infrastructure.<sup>4</sup> For decades, Afghans' interaction with their legal system was marred by delay, corruption, and human rights abuses.<sup>5</sup>

As national and international actors orchestrate Afghanistan's transition from a nation under "rule of the gun"<sup>6</sup> to one where the rule of law prevails, they face innumerable challenges including ongoing conflict<sup>7</sup> and a lack of human resources, physical capacity<sup>8</sup>, funding and coordination.<sup>9</sup> Reconstruction<sup>10</sup> tasks include training of police, judges and lawyers, law reform, bolstering corrections and establishing mechanisms for the administration of traditional justice.<sup>11</sup>

Reform efforts should also account for local customary law. Afghanistan's legal system includes elements of secular, religious and

customary law, a compilation of indigenous tribal codes and customs<sup>12</sup> which is characterized by orality, elder councils, reconciliation and informal dispute resolution procedures.<sup>13</sup> Regardless of their country's political and military landscape, Afghans have relied on customary law for centuries as a means of dispute resolution and communal reconciliation. Therefore, in re-establishing Afghanistan's rule of law to confront the country's growing insecurity, reformers should accommodate customary law.

### Background

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Prior to 1964, Afghanistan had a dual legal system: clergy-led *shariah* (Islamic law) courts heard criminal, family and personal cases while state courts handled commerce, tax and civil servant matters.<sup>14</sup> The 1964 Constitution of Afghanistan unified the court system under a hierarchical structure headed by a Supreme Court.<sup>15</sup> However, the attendant legal reforms of that time, including the codification of civil rights, never took hold in the country's rural areas due to the influence of tribal leaders.<sup>16</sup>

The insulation of traditional legal systems from central government control persisted despite a 1978 communist coup which brought the People's Democratic Party of Afghanistan to power.<sup>17</sup> The new regime's reforms of customs concerning land tenure and marriage met with violent resistance led by rural tribal leaders and urban Islamists.<sup>18</sup> The 1979 Soviet invasion and subsequent 10-year occupation also had little effect on customary legal systems.<sup>19</sup> The Soviets were driven from Afghanistan by warring *mujahideen* factions that gave way to the Taliban over the course of the 1990s.<sup>20</sup> This period heralded a harsh application of *shariah* law by state courts consistent with the

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Taliban's pursuit of an Islamic state.<sup>21</sup> Afghanistan is widely thought to have seen an end to active conflict after the U.S. invasion of 2001.<sup>22</sup> However, violence persists throughout the country.<sup>23</sup>

### Afghan Customary Law

Afghanistan is home to approximately 55 distinct ethnic groups and as many customary legal systems.<sup>24</sup> While customary systems vary by tribe and geography, there are some key similarities that should be considered when planning for national judicial reform. First, the use of the customary tribunals – *jirgas*, *maracas shuras* or *mookee khans* – are employed by nearly all ethnic groups in Afghanistan.<sup>25</sup> While the precise makeup of the tribunals varies from elders<sup>26</sup> to *imams*,<sup>27</sup> the local mediation/arbitration panel is common among Afghanistan's customary legal traditions. Afghan traditional systems also share the core principles of apology and forgiveness.<sup>28</sup> These are seen as necessary precursors to reconciliation. Most Afghan customary systems are

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based on the principle of restorative justice. While many tribes utilize sentences of *poar* (blood money), such remedies are accompanied by requests of forgiveness and are intended to eliminate enmity between parties and restore harmony to the village.<sup>29</sup> Even the Pashtun *poar* for murder – two “fair and virgin girls” to be given by the perpetrator's family to that of the victim – is justified on restorative grounds.<sup>30</sup> “When the girls are wedded to the victim's family, kinship and blood sharing will transform the severe

enmity into friendship.”<sup>31</sup> Precisely how restorative this practice is for Pashtun women is not considered. Indeed, Afghanistan could be held in violation of international human rights law for permitting such *poar*.<sup>32</sup>

While Afghanistan's Ministry of Justice (MOJ) praises customary law as “flexible, adaptable justice, [which is] tailored to local beliefs and conditions,” it cautions that customary practices can violate human rights norms.<sup>33</sup> Yet customary law's

flexibility might be its very savior from designation as a human rights pariah. For example, tribes in the Hindu Kush have condemned *poar* of girls in recent times. The tribe's “blood money” for murder is now 200 to 250 cows.<sup>34</sup> The evolution of the *poar* for murder in central Afghanistan indicates that custom is flexible. Thus, Afghans may be able to retain traditional legal practices that promote forgiveness and reconciliation provided that tribes repeal particular practices which violate international human rights standards.

Notwithstanding questions surrounding the definition of customary law and its implications for human rights in Afghanistan, the reality is that it remains the population's venue of choice. War, corruption and ineffectiveness have reduced the formal judiciary to a non-option for many Afghans. The MOJ estimates that 90% of Afghans rely on customary law due to a lack of “trust and confidence” in the nation's formal judicial institutions as well as such institutions' “physical absence and low capacity.”<sup>35</sup> The Ministry warns that this reliance will take considerable time to reverse.<sup>36</sup> Such caution should weigh heavily on national and international rule of law reformers.

### Theoretical Considerations for Customary Law in Post-Conflict Afghanistan

Customary law may provide the antidote to a major shortcoming of rule of law reform in Afghanistan. Surveying a variety of reform initiatives in post-conflict and developing states, Thomas Carothers offers a persuasive empirical critique of rule of law and democratic reform. Carothers concludes that traditional reform's “top-down” design has contributed to its lack of sustainability.<sup>37</sup> He argues that the international community's focus on state institutions and law drafting<sup>38</sup> has been less effective than recent “bottom-up” approaches.<sup>39</sup> Carothers recognizes that sustainability of reconstruction necessitates popular support. He avers that programs that work with judicial institutions as “connected in manifold ways with the societies of which they are a part are more successful than those that treat judiciaries as “self-contained entities that can be tinkered with as though they are machines that run on their own.”<sup>40</sup> Carothers thus recognizes that sustainability of reconstruction necessitates popular support.<sup>41</sup> In Afghanistan, customary law may very well be the mechanism by which such sustainability is achieved.

Customary legal tradition, also known as chthonic law, has been the subject of a great deal of scholarship and debate. Though its oral, fluid

nature has complicated its evaluation by outsiders, some useful constants have been identified<sup>42</sup> that can help frame the judicial reconstruction effort in Afghanistan. Most relevant to the post-conflict reconstruction process is chthonic law's relationship to the broader cultural tradition in which it operates.<sup>43</sup> Chthonic law has been mistakenly characterized as resting in the hands of a few select elders, rigid traditionalists impervious to change.<sup>44</sup> Yet an alternate view casts elders as informal procedural gatekeepers intent more on maintaining communal order than on perpetuating fixed norms. Indeed, chthonic legal norms are shaped by their overall society.<sup>45</sup> Tradition is not static, and traditional chthonic norms influence and are influenced by the forces around it.<sup>46</sup> *Shariah's* influence on customary law in Northern Afghanistan is evidence of this.<sup>47</sup> The consequences of chthonic theory for judicial reform are momentous. If customary law is viewed as an institution in a dynamic society, then by engaging with that society and its law, reformers have the opportunity to affect change.

The term "customary law" has also been cast as an imperialist construct that subordinates traditional legal institutions to those of the state.<sup>48</sup> Such critiques point out that modern state systems which purport to adhere to legal pluralism in fact undermine traditional systems by carving them up and relegating them to second-tier status.<sup>49</sup> A better view would be to cast customary law as a question of self-determination.<sup>50</sup> In practice, each culture would choose how it adopts state law, if at all.<sup>51</sup> Proponents of this approach are adamant, however, that customary systems should adhere to

international human rights standards.<sup>52</sup> Though a custom-centric system has its appeal, its realization in Afghanistan raises significant political and logistical challenges.

Rama Mani also provides a cautionary critique of customary law, which she calls "informal justice."<sup>53</sup> She notes that proponents of informal justice cite custom's focus on community, reconciliation and problem-solving as its strengths.<sup>54</sup> However, she argues that dual legal regimes create debilitating confusion when the relationship between the formal and informal justice sectors is not clear.<sup>55</sup> She also suggests that hybrid legal systems subordinate the rights of the disenfranchised by relegating their claims to

customary institutions while reserving formal courts for the rich and powerful.<sup>56</sup> These critiques have either been borne out in Afghanistan or pose a very real threat to its future rule of law and must be considered during the reform process.

### Critique of Current Treatment of Afghan Customary Law

The Afghanistan National Development Framework states that "[t]he judicial system will be revived through a program that provides training, makes laws and precedents available to all parts of the system and rehabilitates the physical infrastructure and equipment of the judicial sector."<sup>57</sup> Afghanistan's justice sector is defined as the Judicial Reform Commission (JRC), the Supreme Court, the MOJ, the Attorney General's Office, police, corrections and legal training centers.<sup>58</sup> Neither the guiding framework nor the definition of Afghanistan's judicial sector explicitly recognizes customary law.

Moreover, the 2004 Constitution passed by Afghanistan's *Loya Jirga* (national assembly) is silent on customary law. Guidance may be inferred from the document's treatment of Islam. The new constitution precludes the adoption of laws which are not consistent with the tenets of Islam,<sup>59</sup> and *shariah* permits the practice of customary law provided it does not interfere with those tenets.<sup>60</sup>

Since 2001, Afghanistan's Transitional Authority and the international community have been planning the reconstruction of the country's judicial sector. The JRC, a body of Islamic and secular law scholars, must reform Afghan law in concert with the national judicial sector and propose legal and regulatory amendments.<sup>61</sup> No seats on this council were allotted to representatives from the customary law tradition. As a result, the JRC has given customary law scant attention.<sup>62</sup>

A May 2005 needs assessment by the MOJ set forth an ambitious vision for the country's justice sector, including "stronger linkages where appropriate and where in keeping with the rights of citizens between the state system and the traditional systems that are for many Afghans their only regular justice system."<sup>63</sup> The report also includes customary law among several of its strategic principles. "Justice reform must be appropriate to Afghanistan. In its policy, it must reflect Afghan political circumstances, social and legal traditions and aspirations for the future... Justice reform should address... traditional institutions and their capacity to function within state and international norms."<sup>64</sup> Unfortunately, the Ministry's suggestions have yet to be absorbed

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by the strategies of either the JRC or the international community.

The international response to Afghan customary law has been tepid at best, prioritizing research over action and circumscribing the traditional system.<sup>65</sup> This is compounded by the marginal funding of the international community's judicial reconstruction effort as a whole, especially when compared to other rule of law efforts such as policing.<sup>66</sup>

Internationally-aided judicial reform programs in Afghanistan center on state-centric, top-down initiatives to the exclusion of grassroots customary law. For example, the United Nations Development Programme's (UNDP) activities center on strengthening the JRC, training judicial staff, establishing a state judicial bureaucracy, constructing physical judicial infrastructure and improving legal education.<sup>67</sup>

There are signs that the international community is broadening its approach to judicial reform by devoting some resources to local justice. In February 2005, Italy and UNDP launched

## Recommendations for Integrating Customary and Formal Courts

### Factors to Consider When Recognizing Customary Law

Despite the reluctance of reformers to adequately integrate customary law into the judicial reconstruction process, there are advantages to creating space for customary law in Afghanistan's judicial reform process. Customary law "reflects the needs of the citizens themselves and has continued to maintain social harmony within the communities for centuries."<sup>73</sup> The little documentation available thus far on traditional justice systems in Afghanistan reinforces this point. Afghans have long resorted to *jirgas* and *shuras* as a result of state judicial failure. Thus, it is the traditional systems in Afghanistan which engage with and embody citizens' sense of justice. Consequently, reform efforts that ignore or subordinate customary law will not win the support of those they aim to serve.

The second advantage to including customary legal institutions in any post-conflict reform process is cost.<sup>74</sup> It has been estimated that Afghanistan's judicial reconstruction effort will cost US\$ 9 million over two years.<sup>75</sup> By relying on existing customary courts to dispense justice in rural areas on issues related to property and minor crime, Afghanistan can fill the post-conflict rule of law vacuum while it determines the shape of its formal judicial system.

Customary institutions also afford parties a level of comfort that state courts cannot. *Jirgas* and *shuras* are close to the parties' communities and often comprised of people with whom they are familiar. While such ties can have the drawback of communal pressure on parties to settle disputes in unfavorable terms, proximity is viewed as favorable to distant state bureaucracies.<sup>76</sup> This could be the case in Afghanistan where the state system has been seen as the locus of abuse and corruption.

Customary legal systems also have the benefit of operating in the mother tongue of the parties.<sup>77</sup> Afghanistan is home to 34 languages.<sup>78</sup> It is unlikely that a state judicial system will immediately be able to accommodate such linguistic diversity. Due process and public trust demand linguistic-sensitive proceedings.

In addition, when a post-conflict state's national judicial system is as crippled as Afghanistan's,<sup>79</sup> traditions that do not require courthouses are able to function where the state cannot.<sup>80</sup> Moreover, as discussed earlier, some elements of customary law are more restorative than those of the state. Retributive state sentences

**By relying on existing customary courts to dispense justice in rural areas on issues related to property and minor crime, Afghanistan can fill the post-conflict rule of law vacuum while it builds a formal state judiciary**

Access to Justice.<sup>68</sup> Billed as a "judicial literacy" program, Access to Justice will educate rural populations about national legal reforms that could impact the realization of their rights before traditional courts. The program will teach rural Afghans how to demand their new legal rights in the face of discriminatory traditions. Rather than dismantle customary structures, Access to Justice

empowers villagers to defend their rights within existing local structures.

Another area in which the international community has been receptive to customary law has been research. In addition to UNDP's strategy for "mapping customary law,"<sup>69</sup> several international organizations such as the U.S. Institute for Peace,<sup>70</sup> the International Legal Foundation<sup>71</sup> and the UN Children's Fund<sup>72</sup> have undertaken comprehensive surveys on Afghan customary law. This research lays the groundwork necessary for effective partnering between international, national and local reformers. It is crucial that such research is applied in the judicial reform process via concrete programmatic strategies.



will be difficult to enforce at the local level given distance and lack of infrastructure.<sup>81</sup>

Of course, one should not minimize the disadvantages associated with recognizing customary law in any reform process, particularly one that takes place in a post-conflict setting. The unwritten nature of Afghan customary law renders it open to arbitrary application and abuse. Indeed, the current domination of *shuras* in the north by commanders is ample proof of the susceptibility of customary legal institutions.<sup>82</sup> In addition, customary legal decisions are arguably undemocratic in that they rely largely on the judgment of a few male elders.<sup>83</sup> Some methods of adjudication and remedies may also be arcane and unsuited to the evolving Afghan state.<sup>84</sup> The lack of codified procedure can lead to unfairness in customary decisions<sup>85</sup> and Afghanistan lacks the civil society and state capacity to monitor such lapses. Without clear, written procedure, customary law can and has been open to abuse and thus may not be a legitimate partner in the reform process.

However, while the challenges to recognizing customary legal institutions in a manner which minimizes its weaknesses and maximizes its strengths are formidable, such results can be achieved through reforms that bring traditional practices into line with recognized human rights norms and foster clear relationships between state and tradition. By virtue of its chthonic nature, Afghan customary law can be affected by its inclusion in the reform process. Moreover, failed reform processes in other post-conflict states illustrate that top-down, state-centric reconstruction frameworks lack the bottom-up means to be sustainable because they neglect the populations served by these institutions. Judicial reform in Afghanistan may best take root in its customary systems. Key strategies for the reform process are outlined below.

### Bring Customary Law into Line with International Human Rights Norms

Many customary practices violate international human rights norms. From the extreme example of *poar* of girls in exchange for murder<sup>86</sup> to procedural concerns about the right to cross-examine witnesses,<sup>87</sup> customary practice raises doubts about its ability to preserve individual human rights.

Human rights concerns have divided the Afghan legal community over the role customary law should play in the new national legal order.<sup>88</sup> However, given the pertinence of the customary system to the majority of Afghans and its role in promoting sustainable reform, Afghanistan should

consider integration as an opportunity to bring the existing traditional system into line with international human rights norms. Customary law's chthonic nature renders it particularly open to influence from such cooperation. The Constitution's recognition of Afghanistan's obligations under international human rights treaties can forestall abuse at the local level by providing grounds to appeal abusive customary practices in the state system.<sup>89</sup> Therefore, mindful of its legal obligations to uphold international human rights, Afghanistan can embark upon initiatives that marry the customary and formal judicial systems.

### Recognition Through Formal Legislation

There are a number of ways in which countries have recognized customary law through formal legislation, including recognition by exclusion or incorporation, general codification, incorporation, adjustment and accommodation.<sup>90</sup> While all of these models are instructive for Afghanistan, they subordinate the customary legal system to that of the state. However, a functional recognition of customary law would draw upon elements of each of these models in a manner that meets the host system's needs.<sup>91</sup> Afghanistan should thus tailor a functional recognition of its customary legal systems to suit the self-determination needs of its many ethnic groups.<sup>92</sup> An example of this method of recognition follows.

At the outset of the reform process, the MOJ should incorporate customary law. A constitutional amendment can give general recognition to customary law while reserving the right of the legislature and courts to interpret that recognition at a later date.<sup>93</sup> Additional legislation should set minimum standards for procedure in customary courts, such as the right to counsel and the weighing of evidence. This strategy establishes a stopgap measure for the dispensation of justice which, while not guaranteeing the full panoply of human rights, comports with basic principles of fair procedure. However, because it tables rights, this strategy should not end the process by which customary law's relationship to the state system is codified.

**Given the pertinence of the customary system to the majority of Afghans and its role in promoting sustainable reform, Afghanistan should foster integration as an opportunity to bring the existing traditional system into line with international human rights norms**

A long-range plan should allow for more functional recognition of customary law within Afghanistan's judicial sector as a whole. The *Loya Jirga* should pass legislation that delegates specific areas of law to customary jurisdiction and reserves all other areas for the state. For example, given that many Afghan traditions have been successfully adjudicating minor crimes and property disputes for centuries, the state should formalize its jurisdiction over those matters. The legislation can include leave to appeal customary decisions to the state system or choice of venue for the parties. Moreover, given the human rights concerns and patriarchal nature of the customary legal system, serious and gender-based crimes should be reserved for the state system as well as issues of national interest such as inter-provincial commerce and foreign affairs.

The above strategy provides procedural guarantees of fairness in the short-term while opening the door to a preservation of human rights in the long-term. Additionally, this initial reliance on customary law could serve as the basis for long-term cooperation by building trust between the state and traditional sectors as well as identifying strengths and weaknesses in each. The legislative channel between the customary and state sectors also leaves room for the chthonic tradition to meet and ultimately internalize human rights benchmarks set by the state. Lastly, a national legislative structure which posits traditional courts as those of first instance while allowing for exceptions in cases of serious crime (including gender-based violence) or a choice of venue for parties would lighten the caseload on the state system, preserve cultural autonomy and maintain restorative justice in the regions.

### Institution Building

While customary legal systems often do not possess their own buildings and law reports, they serve as legal institutions in that they promote social order.<sup>94</sup> Therefore, Afghanistan's judicial reconstruction effort should dedicate resources to building the institutions of its customary system. This is not to suggest that the government and donors should construct courthouses for the customary system as it has for the state but rather to recommend that Afghanistan locate the customary system within the country's overall judicial framework. It can accomplish this by permitting the application of customary norms in state courts or establishing formal customary courts subject to state control.<sup>95</sup> However, these approaches divest customary law of its very strength—its roots in tradition and community—and subordinate it to

that of the state, which could provoke resistance among traditional leaders.

Perhaps the most viable option is to develop Afghanistan's existing customary courts.<sup>96</sup> Admittedly, this approach requires the drafting of legislation regarding jurisdiction as mentioned above.<sup>97</sup> However, the heart of this reform strategy lies in projects that build the capacity of existing traditional courts.

The MOJ identified several strategies by which the government can cooperate with traditional justice institutions in order to "eliminate its unacceptable elements and maximize its positive features," such as training elders in adherence to human rights norms, "incentives to follow the best approaches" and links to the formal state system.<sup>98</sup> The Ministry advocated the use of traditional institutions in promoting the development of alternative dispute resolution (ADR). ADR can alleviate the burden on a burgeoning formal state system by mediating and arbitrating civil and minor criminal cases.<sup>99</sup>

This reform is particularly suited to customary law since local *shuras* and *jirgas* have been providing this service to villages for centuries.

Specifically, customary ADR can supplant formal trials in areas of land dispute and minor crimes. This is especially true considering that state courts are not yet constructed, many laws are not yet written and most judges are not yet trained. To avert the potential legal vacuum that results at the close of active hostilities in many post-conflict states, it is in Afghanistan's interest to support customary legal institutions as a means of maintaining peace and order, particularly in rural areas.

In addition to elder training and formal links between customary and state institutions, customary law practitioners should be allotted seats on the JRC and other national reform commissions. The number of various systems throughout the country suggests that this strategy will be difficult. However, this challenge can be met by rotating seats on a regional basis or establishing a national customary law organization that can elect representatives to various commissions.

Local civic groups will also be essential in the institutionalization of the customary legal system. Village groups inclusive of women, minorities and

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young people can serve as a check on traditional institutions by monitoring their compliance with human rights norms. This strategy would only require small provincial offices to receive complaints and conduct investigations while empowering local communities to play an even greater role in the restoration of justice. Such groups can be created as a follow-up to UNDP's Access to Justice program.

### Political Considerations

Any analysis of Afghanistan's judicial future necessitates some discussion of the country's political past and present. Afghanistan is currently being pulled in various directions by elite émigrés, Islamists and foreign donors, each with their own vision of what shape the Afghan state should take.<sup>100</sup> Each of these parties will view the potential integration of customary law into the national judicial system with suspicion as it could be perceived as a threat to their own state constructs.

Islamist parties, for example, who hold great sway in present-day Afghanistan, have a vision of an Afghan judiciary that is in some ways diametrically opposed to the inclusive dialogue between local and national legal authority explored here. Islamists seek a nation-wide legal system based on *shariah* law, which would circumscribe the space in which traditional customary law can operate.<sup>101</sup> This need not rule out the inclusion of customary practitioners in the judicial reform process. Instead, it suggests that the integration of customary law can be part of the negotiation process among proponents of various visions of Afghanistan's judicial system.

It is important to remember that many of Afghanistan's current troubles arise from the fact that its composition as a state was imposed by foreign powers.<sup>102</sup> It has thus been proposed that the international community should refrain from dictating a modern secular structure for Afghanistan and instead support a loose confederation of provinces headed by a "mediation committee."<sup>103</sup> This committee will ensure that the "minimal conditions for medieval civilization" are met, specifically: the prevention of war, maintenance of trade routes and security of Kabul.<sup>104</sup> Such a confederation is well suited to the proposed integration of customary law. Customary law can provide a stopgap measure for dispute

resolution of minor crimes and land disputes at the local level while Afghanistan decides its national personality. It can therefore assist in the preservation of "minimal conditions" as the Afghan people decide how to move forward as a state or federation and what shape their judiciary will assume.

Without prescribing legal substance, there is a significant role for customary law within Afghanistan's reconstruction. Given that Afghans have embarked on a judicial reform program, donors should assist them in creating space for customary law within that process. The recommendations above suggest how that space may be created in the short and long term.

### Conclusion

Afghanistan faces innumerable challenges as it creates some semblance of the rule of law. Part of its effort will include the reconstruction of its judicial system, a formidable task in light of the lack of human resources and physical and legal infrastructure. However, if Afghanistan turns to its customary legal system, which has maintained a modicum of justice in rural areas during decades of instability, it may soon be able to provide a minimum of procedural fairness while it weighs more expansive, long-term reform, including the preservation of human rights.

Without romanticizing the current or future role of customary law in post-conflict Afghanistan, it seems that the system has earned the trust of many citizens and is currently the only institution at work in many rural areas. Afghan and international actors should seize upon the strengths of Afghanistan's customary legal system in the process of reconstructing the state judiciary. If successful, this approach may hold lessons for other post-conflict states. Reformers should acknowledge the vital role of customary law in Afghanistan as both a reality and an opportunity.

*The views and opinions expressed in articles are strictly the author's own, and do not necessarily represent those of Al Nakhlah, its Advisory and Editorial Boards, or the Program for Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.*

<sup>1</sup> J. Alexander Thier, *Reestablishing the Judicial System in Afghanistan* (Stanford, CA: Center on Democracy, Development and Rule of Law, Stanford Institute for International Studies, 2004), 4.

<sup>2</sup> Thier, 4.

<sup>3</sup> *Special Report: Establishing the Rule of Law in Afghanistan* (Washington, D.C: United States Institute of Peace, 2004), 3.

<sup>4</sup> *Afghanistan: Judicial Reform and Transitional Justice* (Brussels: International Crisis Group, 2003), i.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Special Report: Establishing the Rule of Law in Afghanistan*, 1.

<sup>7</sup> *Afghanistan: Judicial Reform and Transitional Justice*, 20.

<sup>8</sup> *Special Report: Establishing the Rule of Law in Afghanistan*, 1.

<sup>9</sup> *Special Report: Establishing the Rule of Law in Afghanistan*, 2.

<sup>10</sup> While reconstruction and reform have different meanings, they will be used interchangeably throughout this document to refer to the process by which the Afghan and international communities are rebuilding the rule of law.

<sup>11</sup> *Special Report: Establishing the Rule of Law in Afghanistan*, 5-13.

<sup>12</sup> *Afghanistan: Judicial Reform and Transitional Justice*, 3.

<sup>13</sup> *Ibid.*, 58.

<sup>14</sup> J. Alexander Thier, *Reestablishing the Judicial System in Afghanistan* (Stanford, CA: Center on Democracy, Development and Rule of Law, Stanford Institute for International Studies, 2004), 5.

<sup>15</sup> *Ibid.*; 6.

<sup>16</sup> *Afghanistan: Judicial Reform and Transitional Justice*, 4.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*, 5.

<sup>19</sup> Willem Vogelsang, *The Afghans* (Oxford: Blackwell, 2002), 4.

<sup>20</sup> *Afghanistan: Country Background* (London: Economist Intelligence Unit, 2004), 3.

<sup>21</sup> *Afghanistan: Judicial Reform and Transitional Justice*, 6.

<sup>22</sup> *Ibid.*, i. and *Special Report: Establishing the Rule of Law in Afghanistan*, 1.

<sup>23</sup> *Afghanistan: Country Report*, 3.

<sup>24</sup> Vogelsang, 16.

<sup>25</sup> *The Customary Laws of Afghanistan* (New York, Kabul: International Law Foundation, 2004).

<sup>26</sup> *Ibid.*, 7.

<sup>27</sup> *Ibid.*, 52.

<sup>28</sup> *Ibid.*, 37.

<sup>29</sup> *Ibid.*, 10.

<sup>30</sup> *Ibid.*, 11.

<sup>31</sup> *Ibid.*

<sup>32</sup> For example, Article 5(a) of the *Convention to Eliminate All Discrimination Against Women* states that parties will “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”

<sup>33</sup> *Justice For All: A Comprehensive Needs Analysis for Justice in Afghanistan* (Kabul: Ministry of Justice, 2005), 4.

<sup>34</sup> *The Customary Laws of Afghanistan*, 38-9.

<sup>35</sup> *Justice For All*, 12.

<sup>36</sup> *Ibid.*

<sup>37</sup> Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve* (Washington, D.C.: Carnegie Endowment for International Peace, 1999), 181.

<sup>38</sup> *Ibid.*, 165.

<sup>39</sup> *Ibid.*, 204.

<sup>40</sup> Carothers, 177.

<sup>41</sup> Carothers, 205.

- <sup>42</sup> H. Patrick Glenn, *Legal Traditions of the World: Sustainable Diversity in Law*. (Oxford: Oxford University Press, 2000), 58.
- <sup>43</sup> *Ibid*, 65.
- <sup>44</sup> *Ibid*, 70.
- <sup>45</sup> *Ibid*, 66.
- <sup>46</sup> *Ibid*, 72.
- <sup>47</sup> *The Customary Laws of Afghanistan*, 52.
- <sup>48</sup> Chris Cunneen and Melanie Schwartz, *Customary Law, Human Rights and International Law: Some Conceptual Issues*. (Perth, Australia: Law Reform Commission of Western Australia, 2005), 7.
- <sup>49</sup> *Ibid*, 9.
- <sup>50</sup> *Ibid*, 11.
- <sup>51</sup> *Ibid*.
- <sup>52</sup> *Ibid*, 26.
- <sup>53</sup> Rama Mani, *Beyond Retribution: Seeking Justice in the Shadows of War* (Cambridge: Polity Press, 2002), 36.
- <sup>54</sup> *Ibid*, 37.
- <sup>55</sup> *Ibid*.
- <sup>56</sup> *Ibid*.
- <sup>57</sup> *Rebuilding the Justice Sector of Afghanistan* (Kabul: Judicial Reform Commission, 2003), 3.
- <sup>58</sup> *Ibid*.
- <sup>59</sup> Constitution of Afghanistan (2004) Ch. 1, art 3.
- <sup>60</sup> Mark A. Drumbl, "Rights, Culture and Crime: The Role of Rule of Law for the Women of Afghanistan," *Columbia Journal of Transnational Law*, no. 42 (2004), 381.
- <sup>61</sup> In November 2002 President Karzai named the JRC to replace the Judicial Commission, a similar body created under art. 11(2) of the Bonn Agreement but which was dissolved in August 2002 due to lack of effectiveness. *Afghanistan: Judicial Reform and Transitional Justice*, 12.
- <sup>62</sup> *List of Priorities Identified by the Judicial Commission* (Kabul: Judicial Commission, 2003).
- <sup>63</sup> *Justice for All*, 4.
- <sup>64</sup> *Ibid*.
- <sup>65</sup> *Special Report: Establishing the Rule of Law in Afghanistan*, 10.
- <sup>66</sup> *Ibid*, 5.
- <sup>67</sup> *Rebuilding the Justice Sector of Afghanistan*, 6-10.
- <sup>68</sup> "Afghanistan: Efforts To Improve Justice in Rural Areas." United Nations Integrated Regional Information Networks. February 15, 2005.
- <sup>69</sup> *Rebuilding the Justice Sector of Afghanistan*, 8.
- <sup>70</sup> *Special Report: Establishing the Rule of Law in Afghanistan*, 10.
- <sup>71</sup> *The Customary Laws of Afghanistan*.
- <sup>72</sup> UNICEF Humanitarian Action Afghanistan: Donor Update (New York: UNICEF, 2004), 4.
- <sup>73</sup> Christian Ranheim, "Legal Pluralism in East Timor: The Formal Judicial System and Community-Based Customary Law" (draft paper, The Role of Informal Justice Systems in Fostering the Rule of Law in Post-Conflict Societies, Fletcher/USIP, 2005), 18.
- <sup>74</sup> *Ibid*.
- <sup>75</sup> *Rebuilding the Justice Sector of Afghanistan*, 14.
- <sup>76</sup> *Ibid*.
- <sup>77</sup> *Ibid*.
- <sup>78</sup> Central Intelligence Agency World Factbook: Afghanistan (Accessed October 25, 2005); available from <http://www.cia.gov/cia/publications/factbook/geos/af.html#People>.
- <sup>79</sup> *Special Report: Establishing the Rule of Law in Afghanistan*, 7.
- <sup>80</sup> Ranheim, "Legal Pluralism in East Timor," 19.
- <sup>81</sup> *Ibid*.
- <sup>82</sup> *Ibid*.
- <sup>83</sup> *Ibid*.
- <sup>84</sup> *Ibid*.



<sup>85</sup> Ibid.

<sup>86</sup> Violates art. 5(a) of the *Convention to Eliminate All Discrimination Against Women*.

<sup>87</sup> Violates art. 13, §3(e) of the *International Covenant on Civil and Political Rights*.

<sup>88</sup> *Afghan Legal Reform: Challenges and Opportunities*. (Cambridge, MA: Harvard Program on Humanitarian Policy and Conflict Research, 2003), 6-7.

<sup>89</sup> Constitution of Afghanistan. 2004. Ch. 1, art. 7. Relevant conventions and treaties include: *International Covenant on Economic, Social and Cultural Rights*; *International Covenant on Civil and Political Rights*; *Convention on the Elimination of Discrimination Against Women*; *International Convention Against Torture*.

<sup>90</sup> Ranheim, "Legal Pluralism in East Timor," 23-25.

<sup>91</sup> Ibid, 24.

<sup>92</sup> Ibid.

<sup>93</sup> For example, South Africa's Constitution Act 108 of 1996, Ch. 12 recognizes the role of traditional leaders subject to the constitution.

<sup>94</sup> Berman, Greiner, and Saliba, *The Nature and Functions of Law*, 6.

<sup>95</sup> Ibid, 25-6.

<sup>96</sup> Ibid, 27.

<sup>97</sup> Ibid, 27-8.

<sup>98</sup> *Justice for All*, 12.

<sup>99</sup> Ibid.

<sup>100</sup> Marina Ottaway and Anatol Lieven, *Rebuilding Afghanistan: Fantasy versus Reality*, Washington, DC: Carnegie Endowment for International Peace, 2002.

<sup>101</sup> Dan Morrison, "Karzai Weathers Power Struggle, But at a Price," *Christian Science Monitor*, December 26, 2003: 1.

<sup>102</sup> Anatol Lieven, "Afghan Statecraft," *Prospect* 70; 2002.

<sup>103</sup> Ottaway and Lieven, 5.

<sup>104</sup> Ibid., 6.



## The Arab Foreign Fighters and the Sacralization of the Chechen Conflict

Lorenzo Vidino

### Introduction

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In 1999, an unnamed Chechen leader confided his fears about the arrival of hundreds of foreign *mujahideen* in Chechnya to a *Washington Post* reporter: "We do not need them, they will give us a lot of trouble, but we won't be able to stop them."<sup>1</sup> Considering the events that have unfolded on the ground in the Caucasus over the last ten years, these words sound ominously prophetic.

While it is common for states to have a dramatic impact on the dynamics and even final outcome of internal conflicts in which they are not directly involved, it is extremely rare for external non-state actors to play such a significant role. Those who voluntarily intervene generally limit their support to financing, training, or providing weapons and technology to one side. In some cases they fight, but their intervention rarely alters the face of the conflict. Foreign *jihadis*, the phalanxes of Islamist volunteer combatants that have decided to join the global *jihad* and fight in various internal conflicts on behalf of Muslims against those they deem to be infidel enemies, have often sought this role. Foreign *mujahideen* have fought with Muslim separatists in Afghanistan, in the Philippines, in defense of local Muslims in Bosnia and other areas of the Balkans, supporting Islamist movements in Algeria, Tajikistan, Kashmir, Somalia, Yemen, and Eritrea. And yet, while these experiences were crucial for developing and maintaining a global *jihadi* movement with operational ties among many radical groups, their impact on the internal

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conflicts themselves has often been negligible. Even in Afghanistan, despite claims by the foreign *mujahideen*, Russian and American analysts of the conflict generally believe that the Afghan war was won by Afghan fighters and not by the Arabs.<sup>2</sup>

Chechnya is the exception to the rule. Although foreign Arab fighters numbered just a few dozen when they first arrived in the region around the mid-1990s and never reached a numerically imposing presence in Chechnya's fifteen years of war, foreign Arab fighters have played an essential role in shaping the conflict far beyond their numbers. Today the character, actors, tactics, and very nature of the ongoing second Chechen war have all been profoundly influenced by the activities of the foreign *mujahideen* who have successfully "sacralized" a separatist conflict into a militant Islamist uprising.

### Arab Fighters During the First Chechen War and the Interwar Period

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Small groups of Afghan Arabs entered the Caucasus at the start of the 1990s, enticed by the conflicts in Abkhazia and Nagorno-Karabakh. Reportedly, the first Afghan Arab to reach Chechnya was a Jordanian of Chechen descent, Sheik Fathi, whose presence attracted other veterans of the Afghan *jihad*.<sup>3</sup> In 1995, a small group led by Ibn ul Khattab, a charismatic Saudi national who had gained notoriety fighting in Afghanistan with *jihadi* icons like Abdullah Azzam, Hassan al Sarehi, and Osama Bin Laden, reached Chechnya after a short period fighting in Tajikistan's civil war.<sup>4</sup> Also in 1995, al-Qaeda dispatched a few operatives to Chechnya where one of its key front-charities, Illinois-based Benevolence International Foundation (BIF), became active in providing material support to Fathi, Khattab, and other *mujahideen*.<sup>5</sup>

Despite the presence of foreign fighters, the first Chechen War represented a quintessential nationalist conflict where an Islamic dimension was almost nonexistent. Aside from a fringe group of radicals headed by the future president of Chechnya, Zelimkhan Yandarbiyev, the vast majority of Chechen politicians and commanders to lead the independence movement were committed nationalists, largely unaffected by religion.<sup>6</sup> Jokhar Dudayev, the undisputed leader of the first war, was a former Soviet general whose knowledge of Islam was minimal. His aim was to build a state preserving Chechnya's social structure and Islamic identity within a rigidly secular state framed by a modern constitution with freedom of religion and the preservation of rights for both Chechens and Russians.<sup>7</sup>

The Wahhabis, an extreme sect of Islam financed and spread largely by Saudi Arabians, had radically different plans for Chechnya. For Khattab, Chechnya was another Muslim nation like Afghanistan under attack from the infidels. Furthermore, he saw Chechnya as a country to liberate, Islamize, and use as a model for the conquest of all Muslim lands in the Caucasus and southern Russia.<sup>8</sup> While very few among the Chechen population and leadership embraced this view, external support was needed to overcome the military disparity with the Russians. As a result, the foreign Wahhabis were welcomed by most Chechens.

As marginal players during the first war, the foreign *mujahideen* gained influence in the interwar period. Respected by Chechen authorities

**Khattab saw Chechnya as a country to liberate, Islamize, and use as a model for the conquest of all Muslim lands in the Caucasus and southern Russia**

for their military skills and courted for the external funding from Islamic charities and wealthy foreign donors, the Arabs established strong links with some Chechen commanders. According to Khattab, after the conflict ended in 1996 the Arabs, "were asked by the [Chechen] civil and military leadership and the President to train the people because nobody was convinced the Russians would completely withdraw."<sup>9</sup> In fact, Khattab was officially hired by the Chechen government to establish the Chechen Armed Forces' Training Center in a former Soviet facility near the village of Serzhen-Yurt.<sup>10</sup> With money and instructors arriving from Afghanistan and the Middle East to the newly independent republic, Khattab established another three camps, training an average of 400 people per two-month session.<sup>11</sup>

Russian authorities estimate that up to 2,500 fighters were trained in the camps during the interwar period.<sup>12</sup> The trainees were not only locals, but also came from other Muslim regions in the Caucasus, southern Russia, and Central Asia.

Lessons in military techniques, such as mine laying and ambushing tactics, were combined with a religious indoctrination that followed a strict Wahhabi curriculum and was supervised by scholars from Saudi Arabia and Pakistan.<sup>13</sup>

Shortly after the January 1997 elections, the unity among Chechens that had characterized the first conflict ceased to exist and some Chechen commanders began to embrace the radical ideology espoused by Khattab. While some clans and commanders remained loyal to the newly-elected president Aslan Maskhadov, a committed nationalist who, like Dudayev, desired a secular independent state with friendly relations toward Moscow, many commanders strayed from his command. Clan-based militias also splintered, with some militias renouncing any ideology, whether nationalist or Islamist. Some groups turned to crime and banditry, while others found it more convenient to join forces with Khattab.

It is very likely that at least a few commanders turned to Khattab hoping to satisfy personal economic and political ambitions with Saudi support. Money also played a key role in attracting soldiers. According to Russian media reports, clerics who "converted" to Wahhabism were given a lump sum of \$1,000-\$1,500, in addition to receiving a monthly salary. Recruiters also received small sums for each recruit.<sup>14</sup> While it is impossible to estimate what percentage of Chechen fighters turned their backs to the central government during the interwar period, it is undeniable that Maskhadov lost control of large parts of the country within a few months of his electoral victory.

Conflicting personal ambitions, inexperienced leadership, widespread corruption, Russian interference, a nonexistent economy, and nationwide insecurity rapidly brought Chechnya to the point of complete implosion. Moreover, banditry grew rampant with easy access to cheap

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and light arms, and the absence of a central government to enforce the rule of law. Armed militias who had previously fought the Russian army devoted their military efforts to kidnapping and attacks on trains and businesses, further eroding Maskhadov's authority across Chechnya and discouraging foreign investments in the country.

As the situation rapidly deteriorated, conflicting views over the future of Chechnya emerged. While all Chechens agreed on an independent Chechnya, there was little agreement on the type of nation it should be. Basayev, Yandarbiyev, and other Wahhabized commanders publicly expressed a desire to turn Chechnya into a strict Islamic state. Taking advantage of Maskhadov's weakness, the newly-formed alliance of foreign fighters and Wahhabized commanders acted upon their words and began to create a state within the state.

Wahhabis elected to the government began adopting legislation to Islamize Chechen society. Soviet laws were replaced by a form of *shariah* modeled on the Sudanese legal system and Islamic courts were established across Chechnya under the supervision of Islam Khalimov, a close associate of Khattab and Minister of *shariah* state security.<sup>15</sup> A Saudi Afghan Arab and close associate of Khattab, Abu Omar Al Seif, was put in charge of organizing the new legal system and was later given the title of Head of the Court of Cassation of Chechnya.<sup>16</sup>

Graduates of Khattab's camps became the enforcers and defenders of this state within the state, making it more difficult for the central government to control. When the Chechen central government in Grozny attempted to exert pressure and influence over these Wahhabi enclaves, it met harsh resistance. In 1998 armed fights between troops loyal to Maskhadov and Wahhabi militias broke out near Gudermes. After the bloody clashes, Maskhadov sacked many Wahhabi officials (including Khalimov<sup>17</sup>), dissolved the *shariah* guards and issued a deportation order against Khattab.<sup>18</sup> The Saudi commander not only ignored the order, but also solidified his alliance with Shamil Basayev, deputy Prime Minister of Chechnya at the time.<sup>19</sup> The two built new training camps around Urus Martan and, according to Akhmadov, "the financial support from the Vakhabites abroad enabled [them] to function without any financial support from the state bodies of Ichkeria."<sup>20</sup>

Tensions increased in July 1997 when a revolt erupted in Urus Martan as parts of the Chechen National Guard, headed by Arby Barayev, sided with the Wahhabis and clashed with Sufi militias from Gudermes. The revolt did not escalate into civil war due in large part to Basayev and

Khattab's decision not to participate in the feud. Nonetheless, the fracture between Sufis and Wahhabis had reached the point of no return. While the Sufi Congress of the Caucasus pushed to ban Wahhabism through legislation, the Grand Mufti, Akhmad Khadyrov, issued a *fatwa* denouncing the Wahhabis as "enemies of Islam and the Chechen nation."<sup>21</sup>

Maskhadov took further action and ordered the expulsion of foreign Wahhabis. He proclaimed: "[We are] no longer going to tolerate foreign nationals in our land who are trying to enforce their rules and...split the Chechen society into different groups, movements, and parties, so as to prevent the building of an independent Chechen state."<sup>22</sup> The Wahhabis responded by turning to the Supreme Shariah Court of Chechnya. The court ultimately ruled that Maskhadov had violated laws and ordered the suspension of the elected parliament. Institutional chaos reached its apex when parliament, in turn, declared the Shariah Court unconstitutional. Maskhadov attempted to deflect the tension by issuing a decree that introduced full *shariah* law in Chechnya, but the decision only emboldened the Wahhabis.

### The Expansion of War into Dagestan

Basayev's intention to "go further" manifested itself in Dagestan, another troubled Russian territory in the Caucasus. As a predominantly Muslim population with close cultural ties to Chechnya, Dagestanis fought alongside the Chechens against Russian imperialism in the 19<sup>th</sup> century. After the Bolshevik takeover, the two provinces united under Sufism to fight for the defense of the independent North Caucasus Republic.<sup>23</sup>

During the Soviet era, Dagestanis accepted Moscow's rule with less animosity than their Chechen neighbors, and once the communist regime fell, no major independence movement developed. A partial explanation for this different attitude is found in Dagestan's fragmented ethnic mosaic with less than two million people and thirty-four distinct ethnic groups. Traditionally, the main allegiance lies in the *djamaat*, the village or small group of villages, that, according to Matthew Evangelista, operates "more or less like an ancient city-state."<sup>24</sup> This lack of unity, while preventing the development of nationalistic impulses, constituted fertile ground for potential inter-communitarian animosities that religious fundamentalists sought to exploit immediately after the collapse of the Soviet Union.

Foreign Wahhabi missionaries began to appear in Dagestan in the late 1980s and became a

**The Wahhabi invasion of Dagestan triggered the start of the second Chechen War, which continues today**

serious force in the following decade when they financed the construction of several mosques throughout the poverty-stricken region.<sup>25</sup> In most cases, Wahhabi imams lured local youth to convert to their radical interpretation of Islam by offering them money, jobs, and a sense of much-needed purpose after the chaos that followed the disintegration of the Soviet Union. In a region where unemployment for men ages 18 to 28 was 60%<sup>26</sup> and the per capita GNP was \$60,<sup>27</sup> the \$30 reportedly given by Wahhabi missionaries to every convert attracted many young Dagestanis.<sup>28</sup> Over time, Wahhabi enclaves were created in parts of the state where the influence of the central government was weak and local *djamaat* leaders welcomed foreign money. While most *djamaats* and large segments of the Dagestani population remained loyal to their moderate Sufi traditions, villages like Karamakhi, Chabanmaki, and Kadar became Wahhabi enclaves within the Russian Federation by the end of the 1990s. These villages enforced their own strict interpretation of Islamic law, forbidding music and forcing women to wear the full veil or *niqab*, a garment completely foreign to traditional Caucasian customs. Trenches were dug and checkpoints and border posts were also erected by the Wahhabis to signal their *de facto* independence from secular Dagestan.<sup>29</sup>

By 1998, Dagestani police had lost complete control in the portions of the state controlled by Wahhabis. “[The Wahhabis] tried to lure people in a friendly way at first,” recounted the Sufi imam of Karamakhi, Magomed Makhdiyev. “But by 1999, they were saying, ‘Join us or we’ll cut your head off.’”<sup>30</sup> Dagestani and Arab Wahhabis, most of whom had trained in Khattab’s camps in Chechnya, began attacking various Dagestani state institutions, assaulting police stations and kidnapping officials.<sup>31</sup> The rift with the Sufis became insurmountable when the Wahhabis killed the Sufi mufti of Dagestan. The trouble facing Dagestan in 1998 was expressed by Russia’s Interior Minister: “We believe the greatest threat comes from Islamic fundamentalism, namely Wahhabism. It is a special form of extremism similar to terrorism.”<sup>32</sup>

Dagestan was ideal for Khattab’s goal of creating a pan-Caucasian Islamic state because of the strong ties with Wahhabis. In the tight-knit and clan-based Caucasian societies, one way to establish close relationships is through marriage. In fact, Khattab and sixteen of his men adapted to

the clan structure by marrying Dagestani women from Karamakhi.

Other prominent Dagestani Wahhabis soon settled in Chechnya where Chechen radicals such as Basayev and Yandarbiyev welcomed them. In April 1998, these forces formed the Congress of the Peoples of Chechnya and Dagestan, calling for a unified theocratic state. Shamil Basayev was elected its chair, even though he still officially served in Maskhadov’s government as acting Prime Minister.<sup>33</sup> Hundreds of Dagestani Wahhabis also trained in Khattab’s camps and, in some cases, Chechen and Arab fighters crossed the border to join their Dagestani brothers in attacks against Dagestani police forces and Russian patrols. The responsibility for these actions was often claimed by the “Central Front for the Liberalization of the Caucasus and Dagestan,” a group promoting a call to *jihad* in Dagestan.<sup>34</sup>

Foreign-imported Wahhabism had usurped power in another weak province of Russia. Wahhabi forces had expanded from Chechnya to Dagestan and used it as a new base of operations to continue its fight against Russia. By 1998, Russian authorities publicly recognized Wahhabism as a major threat to the security of the Federation<sup>35</sup> and understood they could not tolerate further propagation to its Muslim population of 15 million.<sup>36</sup> Frequent attacks on government facilities carried out by Chechen-trained militants (not only in Dagestan, but also in other areas of the Caucasus and southern Russia) contributed to Moscow’s fear and anger. Russia could not possibly tolerate the presence of a weak, violence-ridden, and aggressive state on the border of its weakest region.

Anatol Lieven describes Russia’s situation as, “a modern state’s nightmare... It is as if Moscow had a mixture of Afghanistan and Sierra Leone for a neighbor.”<sup>37</sup> The problem only increased because those who were *de facto* in charge of the country were intent on subtracting large parts of Russian territory to fulfill their perceived religious duty.

In May 1998 militiamen linked to the Khachilaev brothers, and supported by many of Khattab’s men, seized Dagestan’s State Council building.<sup>38</sup> Other skirmishes also broke out at the start of 1999 involving Chechen-trained militants. Despite Maskhadov’s pending deportation order

**Respected by Chechen authorities for their military skills and courted for the external funding from Islamic charities and wealthy foreign donors, the Arabs established strong links with some Chechen commanders**



against Khattab, the Congress of the Peoples of Chechnya and Dagestan commanded him to lead a force of 700 Arab and Chechen fighters. The force, a *de facto* parallel army, was called the “Peacekeeping Brigade” and was designed to intervene in the case of a Russian attack against the Wahhabi villages in Dagestan.<sup>39</sup> At this point, the tensions both inside Chechnya and with Russia had reached a breaking point.

Maskhadov, fearing a Basayev attack in Dagestan, removed Basayev from his position as deputy commander in chief of the Chechen army. Due to Maskhadov’s weakness and isolation, he was in no position to stop Basayev and Khattab.<sup>40</sup> In August 1999, a brigade of Chechen and foreign fighters crossed the border from Chechnya into Dagestan with the declared objective of defending the Wahhabi villages of Dagestan that had been surrounded by Russian federal forces determined to re-establish Russian sovereignty in the area. Basayev and Khattab, who had received *fatwas* from Saudi and Pakistani clerics legitimizing their holy war, led a 2,000-man force to cleanse Dagestan from world Zionism, not exactly the enemy most Chechens had in mind when they took up arms in 1994.<sup>41</sup> In the first days of conflict, the Wahhabis conquered 36 villages and declared the creation of the independent Islamic State of Dagestan. They established the Islamic Shura of Dagestan as its governing body, immediately nominated Basayev as its commander, established *shariah* law over its occupied territory, and declared war on Russia.

Moscow did not tolerate the invasion of its territory and formally declared war. Russian federal forces, together with thousands of Dagestani police officers and villagers who rejected the presence of Wahhabis, attacked the Wahhabi enclave in Dagestan and liberated it in less than a month, forcing most of the fighters back to Chechnya. It is noteworthy that many Dagestani peasants sided with Moscow, clearly stating their preference for traditional Sufism, democracy, and peaceful coexistence with Russia.<sup>42</sup> Vladimir Putin, who was appointed Prime Minister by Boris Yeltsin shortly after the Dagestani invasion, decided that Russia’s drive should not stop at the Chechen border and deemed it necessary to uproot the social and political conditions that permitted the foreign invasion. What had started as a conquest quickly turned into a defensive war for the Chechen Wahhabis. Backed by strong public support, Putin ordered Russian-led attacks to continue in Chechnya, bombing Wahhabi strongholds in places like Vedeno, Urus-Martan, and Gudermes.<sup>43</sup> The Wahhabi invasion of Dagestan triggered the start of the second Chechen War, which continues today.

The Wahhabi motives for the Dagestani invasion are multidimensional. First, the desire to defend Wahhabi villages in Dagestan from the Russian attack and create a united Islamic state constitutes an important reason. However, pure ambition and personal gain also accounted for why some Chechen warlords participated in the invasion. Additionally, access to the Caspian Sea and the opportunity to profit from the Dagestani oil pipeline were other strong motivating reasons for some leaders.<sup>44</sup>

### Wahhabi Tactics for the New War

The second Chechen War was triggered by the Wahhabis’ actions, where war dynamics and tactics bore the characteristics of the foreign *mujahideen*. With the second stage of operations under way, the Islamic fighters developed completely different fighting tactics to avoid being targeted by Russian mass bombings as in Dagestan. Purely military methods of the first Chechen War gave way to military-political ones.<sup>45</sup> With these intentions, Khattab announced the *mujahideen*’s new strategy after the Dagestani debacle. He was soon successful. In the three weeks following the defeat in Dagestan, a series of bombings ravaged apartment complexes and shopping centers inside Russia, killing more than 300 people.<sup>46</sup> Russian investigators arrested the perpetrators who were mostly Chechens and Dagestanis and had received training in explosives in Khattab’s camps. Some of them confessed to personally receiving several hundred thousand dollars from Khattab to carry out the attacks.<sup>47</sup>

The 1999 bombings were indicative of what was to come. Chechens had resorted to terrorism in the first conflict, but with less frequency and brutality. Until 1999, Chechen fighters (including Basayev) had hijacked airplanes and placed explosive devices in public places around Russia, but these actions were mostly demonstrative, designed to frighten Moscow and attract the attention of the international community. Even the deadly 1995 Budennovsk siege, where more than one hundred hostages were killed in the battle that ensued after Basayev and his men barricaded themselves inside the local hospital, was more a by-product of a military operation gone astray than a terrorist operation designed to kill civilians.<sup>48</sup> But in the second war, terrorism became the weapon of choice of the Chechen Wahhabis.

Unlike the first war, today Chechen fighters limit their actions inside Chechnya to ambushes and terrorism. After crushing defeats at the end of 1999, the *mujahideen* relied exclusively on hit-and-

run tactics.<sup>49</sup> Unable to face Russian forces in open territory, the *mujahideen* established their bases in the mountains, and left their posts only to ambush Russian forces who rarely ventured away from the plains around Grozny. Commonly used forms of attack included car-bombings, kidnappings, and the use of suicide vehicles against military installations. Russian authorities revealed that the most frequent form of attack consisted of roadside

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bomb detonations and the subsequent attack on Russian convoys with heavy gunfire.<sup>50</sup> While successful in causing a relatively high number of casualties among Russian forces (and in obtaining much-needed weapons), these tactics failed to guarantee any territorial

gain, highlighting the *mujahideen's* lack of clear military strategy or goals.

Since 1999, *mujahideen* trained in Khattab's camps carried out hundreds of attacks both in Chechnya and Russia. While the perpetrators are mostly from Chechnya and various regions of the Caucasus and southern Russia, their trainers are predominantly Arab.<sup>51</sup> In 2003, Colonel Ilya Shabalkin, spokesman for the Russian forces in Chechnya, indicated that only about 200 foreign fighters were present in the region but highlighted their importance: "The Arabs are the specialists, they are the experts in mines and communications."<sup>52</sup> Confirming Shabalkin's assessment, the forensic analysis of the landmines and detonators used most recently by Chechen fighters indicate that identical designs and mechanisms have been employed in the Middle East and other areas where *ihadists* are active.<sup>53</sup> In 2002, a small group of Arab *mujahideen* established a presence in the Pankisi Gorge, a remote area of Georgia neighboring Chechnya where Chechen fighters gain shelter against Russian attacks. Reportedly, the Arabs were computer, communications and financial specialists, military trainers, chemists, and bombers who established a base of operations to support Khattab's group inside Chechnya, while simultaneously preparing for terrorist attacks against American and Western targets in Russia and Central Asia.<sup>54</sup>

Terrorism has called the world's attention to Chechnya. Aside from technical expertise, Arabs provide religious guidance with *fatwas* being issued by clerics close to Khattab and his successors Abu Walid and Abu Hafs al-Urdani to justify terrorist attacks and martyrdom operations. Moreover, one cannot avoid blaming the growing Wahhabi influence for the arrival of suicide attacks

in Chechnya. While no suicide attack had taken place in the region before 2000 and the strong presence of Wahhabis, the last five years have been marred by dozens of suicide attacks, many of whom are women, both inside and outside Chechnya.<sup>55</sup> Scores of suicide bombers have blown themselves up in Moscow's subway system, at a rock concert, and on two Russian airliners. Teams of ready-to-die fanatics who had trained in Khattab's camps carried out the brazen operations of the Dubrovka Theater and Beslan. Russian authorities, have blamed most of these attacks had been planned and financed by Khattab and Abu Walid.<sup>56</sup>

Paul Murphy has outlined a list of reasons that can explain why terrorism has supplanted traditional war, and even guerrilla tactics, in Chechnya. Murphy believes Chechens have embraced terrorism because: "Other options are limited; it is inexpensive and attracts bigger foreign investment; Basayev's power has grown; and Chechens have become impatient."<sup>57</sup> All these reasons are valid but should be considered in light of the drastic change of perspective brought to the region by the Wahhabis. The enemy, as well as the nature of the conflict itself, is now seen by many of the fighters through the lens of Wahhabism, turning it into a cosmic religious war between good and evil, and Allah and infidelity. While the large majority of the Chechen population proudly upholds its Sufi heritage, most of the fighters are Wahhabis and have a powerful influence over how the conflict is fought. Naturally, when a war takes these characteristics and becomes "sacralized", all constraints disappear, the use of violence becomes legitimized, and atrocities become routine.<sup>58</sup> All Russians and non-Russians who do not support the Wahhabi project are enemies and do not deserve any mercy, as they are opposing God's will. The enemy is dehumanized and satanized, being described as a cruel demon that needs to be killed to obey a divine order.<sup>59</sup>

One aspect where this shift is most evident is in the attitude of the combatants toward their own population. While the first Chechen War can be duly characterized as a genuine popular struggle to obtain independence, today's conflict is fought by lawless groups of militiamen, bandits, and religious extremists who do not bother to fight the battle for the hearts and minds of the local

**The Wahhabis fight today's war as a cosmic confrontation in which all is permitted and where civilian casualties, even on their own side, are irrelevant collateral damages**

population. Human Rights Watch, for example, has documented many cases in which Arab fighters refused to leave Chechen villages after locals told them their presence was attracting the attention of the Russian army. “[The foreign fighters] were not defending us but were there only out of their own interest,” recounted residents of Alkhan-Yurt, a Chechen village attacked by Russian forces. “Some of the fighters said they would not go because they had taken the vow of *Ghazavat* (*jihad*).”<sup>60</sup> Chechen villages are often subjected to harsh punitive measures by Russian forces once the foreign fighters leave, something that seems inconsistent with the Chechen fighters’ commitment of defending every Chechen life and inch of land during the first war. While Dudayev’s men in the first war were fighting for the defense of their own nation, Khattab and Basayev’s fighters can be duly characterized as ideological insurgents who prioritize their religious war over the wellbeing of the Chechen people.

The Wahhabis fight today’s war as a cosmic confrontation in which all is permitted and where civilian casualties, even on their own side, are irrelevant collateral damages. The foreign *mujahideen* have become famous for their cold-blooded executions of Russian soldiers and many gruesome videos that circulate in Islamist circles show Khattab and his disciples torturing and beheading captured Russian prisoners.<sup>61</sup> This complete neglect for the laws of war is also reflected in their treatment of war prisoners. In contrast, during the first war prisoners were treated with relative decency and many exchanges of prisoners took place. Reports also indicate that mutual acts of decency and kindness did indeed occur—Chechens in some cases fed starving Russian soldiers.<sup>62</sup>

### ***Dela* or Allah, *Adat* or *Shariah*, Peace or *Jihad*? A Grim Future**

At the end of November 2005, President Putin hailed the results of the elections held in Chechnya, where pro-Moscow candidates won an overwhelming majority.<sup>63</sup> As he has done in the past, Putin is trying to control the situation in Chechnya by delegating authority to a mix of Russian civilian and military administrators and Chechen leaders who have decided to cooperate with Moscow. While this is probably the best tactic Russia can employ to keep Chechnya under its control, it is hardly a success since violence still plagues everyday life in the region.

Moscow’s new ally in Chechnya is the Sufi clergy. Even though they fought alongside other Chechen forces in the first conflict, many Sufi clerics

and brotherhoods cast their support to Russian federal forces at the start of the second war. Motivated by their desire for peace and deep-rooted hatred for the Wahhabis, some of them established friendly relationships with Russian officials and even took up arms against the Wahhabis, similar to what Dagestani brotherhoods did in 1999.<sup>64</sup> In 2000, Putin appointed the former Sufi Grand Mufti Akhmad Khadyrov as Civilian Administrator of Chechnya, a move that signified the definitive split among Chechens on the relationship with Russia. In response to his appointment, Khadyrov was convicted of apostasy in March 2001 by the Wahhabi Shariah Court and sentenced to death.<sup>65</sup> After repeated attempts on his life, Khadyrov was killed in May 2004 by a bomb placed under the stands of Grozny’s stadium while attending a military parade, confirming the instability of the institutions backed by Moscow inside Chechnya.

The fight between Wahhabis and Sufis in Chechnya is both political and religious, a battle for the soul of Islam in the Caucasus and, consequently, for the political future of the region. During his presidency, Maskhadov had repeatedly accused foreign Wahhabis of planning to turn Chechnya into another Taliban-run Afghanistan, highlighting their differences with Sufism. “We are Naqshbandi and Qadari Sufis,” said Maskhadov, “There is no place for any other Islamic sects in Chechnya.”<sup>66</sup> While it is clearly in the best interest of some Chechen warlords to exploit them for personal gain, the differences between traditional Chechen Sufis and the foreign-imported Wahhabis cannot be overstated. Sufism has been an important factor rallying Chechens and other Caucasian peoples against the Russians during the last three centuries, but Islam, contrary to the Wahhabis’ core belief, was not seen as a factor shaping everyday life. First of all, local rules and customs such as the *adat*, a local penal code, are more important than the almost unknown *shariah* law, and Chechens’ first allegiance is to their *teip*, or clan, not to the universalist concept of the Islamic *umma*.<sup>67</sup> Moreover, Chechen Sufism is filled with local customs of pagan origin such as the veneration of saints, the belief in miracles, and the importance of ritualistic dances, all concepts that are anathema to the Wahhabis.<sup>68</sup> Chechens have traditionally referred to God with the Chechen word “*Dela*” and not with the Arabic “Allah,” a clear sign of the strength of their pre-Islamic traditions that have shaped their form of Sufism.<sup>69</sup> As the war continues and desperation grows, the differing views over the role of religion, the nature of the conflict, and the structure of their own society have caused serious rifts among Chechens. While the majority of Chechens have not embraced

radical Islam, a growing percentage of the few thousand individuals fighting on the ground today have. More importantly, many of today's most charismatic and powerful Chechen leaders appear to have committed themselves to Wahhabi ideology. For some of them, such as Shamil Basayev (who has even Arabized his name into Amir Abdallah Shamil Abu-Idris<sup>70</sup>), the conversion to Wahhabism seems to be heartfelt. Others wage their own private wars, covering their self-serving actions under the mantle of the Chechen struggle and their conversion to Wahhabism is "a convenient tool for attaining separatist ends"<sup>71</sup> or to gain personal power, a façade that reminds the public assertions of communism made by many Third World rebel groups during the Cold War to garner Soviet support.

Moreover, while it is true that the overall Chechen society has maintained its traditions, it is undeniable that the clan system is facing a crisis and that, in Anatol Lieven's words, a growing number of young Chechens perceive radical Islam as, "the only discipline that can hold their society together."<sup>72</sup> The sense of frustration and desperation that fifteen years of savage war has brought upon the Chechens has been exploited by a few extremists. Today, a growing number of young Chechen men and women turn to fundamentalism. Russian brutality also played a key role in this process and an analysis of the evolution of the conflict shows that the sacralization of the Chechen conflict was "a reaction to conditions rather than a cause."<sup>73</sup> More than ten years ago, even Dudayev foresaw the sacralization of the conflict due to Russia's blind policies, stating that, "Russia...has forced us to take the Islamic path."<sup>74</sup> What can be defined as a mixture of ethnic and criminal insurgency has increasingly taken a deeply ideological bent, losing its former secular characteristics.<sup>75</sup> While the ethnonationalism that motivated and united Chechen clans during the 1990s is still important among most Chechens, the majority of the forces fighting on the ground today have replaced clan ties with a visceral form of religious fundamentalism that is foreign to Chechen tradition.

Given these premises, the future of the conflict looks grim. In the post-9/11 world, the Chechen *mujahideen* have been increasingly linked to al-Qaeda. Furthermore, Moscow's claim that Chechnya is just one of the battles waged by Bin Laden against the West has now been (somehow reluctantly) accepted by the United States. While the links to al-Qaeda are undeniable, equating the conflict with Bin Laden's global *jihād* denies justice to the legitimate claims of the Chechens and gives the Russians virtual *carte blanche* in dealing with all forces on the ground, Wahhabis and Chechen nationalists alike.

The death of Maskhadov, killed under mysterious circumstances in March 2005, was hailed by Russian authorities as an important success. Nevertheless, Maskhadov might have been Moscow's last hope for a negotiated solution in Chechnya. Despite his undeniable flaws, Maskhadov, the former president of Ichkeria, was the last Chechen leader with a secular view who had retained significant military power and national prestige. In 2004, the nationalist and secular forces controlled by Maskhadov represented roughly one third of the entire Chechen movement.<sup>76</sup> But with the commander's death, Wahhabi militants have now gained virtually unchallenged prominence. In fact, immediately after Maskhadov's death, Basayev announced that the new president of Ichkeria was the little-known Islamic scholar Abdul Khalim Sadulaev, at the time head of the Wahhabi-instituted Supreme Shariah Court.<sup>77</sup> Non-Wahhabi forces led by commanders such as Doku Umarov, a traditional Sufi who has repeatedly condemned Wahhabi terrorism, have indeed continued to fight tenaciously. Many believe that with Maskhadov's death the real power rests more solidly in the hands of Basayev and other Wahhabi fighters, making peace in Chechnya a distant dream.

*The views and opinions expressed in articles are strictly the author's own, and do not necessarily represent those of Al Nakhlah, its Advisory and Editorial Boards, or the Program for Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.*

<sup>1</sup> Yo'av Karny, "Undying Enmity; The Chechen Leaders Thrive On Perpetual, Idealized War," *Washington Post*, October 10, 1999.

<sup>2</sup> On the limited military role of the Arabs in Afghanistan, see for example Gilles Kepel, *Jihad; the Trail of Political Islam*, Cambridge, MA: Harvard University Press, 2002. 147-8.

<sup>3</sup> Yavus Akhmadov, Stephen R. Bowers, Marion T. Doss Jr., "Islam in the North Caucasus," *The Journal of Social, Political, and Economic Studies*; Fall 2001; Volume 26, Number 3. 577.

<sup>4</sup> Profile of Ibn ul Khattab, Azzam Publications, August 1999. Khattab's real name is Samir Salih Abdallah al Suwaylim and he was born in Saudi Arabia in 1970.

<sup>5</sup> For the involvement of al Qaeda and BIF in Chechnya, see the "Government Evidentiary Proffer Supporting the Admissibility of Co-conspirator Statements," in *United States of America v. Enaam M. Arnout*, U.S. District Court, Northern District of Illinois, Eastern Division, 02-CR-892 (N. D. Ill. filed Jan. 6, 2003).

<sup>6</sup> John B. Dunlop, *Russia Confronts Chechnya. Roots of a Separatist Conflict*, Cambridge, UK; Cambridge University Press, 1998. 92-95.

<sup>7</sup> Confirming Dudayev's lack of "Islamist tendencies," reports indicate that Dudayev commanded Soviet forces in the war in Afghanistan, taking parts in bombing campaigns against fellow Muslims in western Afghanistan. See Dunlop, "Russia Confronts Chechnya. Roots of a Separatist Conflict." 97.

<sup>8</sup> "Life and Times of Ibn ul Khattab," documentary released by the Ansaar News Agency, Birmingham, UK, 2002.

<sup>9</sup> *Life and Times of Ibn ul Khattab*, documentary by the Ansaar News Agency, Birmingham, UK, 2002.

<sup>10</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 39.

<sup>11</sup> "Life and Times of Ibn ul Khattab," documentary released by the Ansaar News Agency, Birmingham, UK, 2002.

<sup>12</sup> Dimitri V. Trenin and Aleksei Malashenko with Anatol Lieven, *Russia's Restless Frontier. The Chechnya Factor in Post-Soviet Russia*, Washington, D.C.: Carnegie Endowment for International Peace, 2004. 94.

<sup>13</sup> A famous Islamist scholar that contributed to the indoctrination of the trainees in the Chechen camps was Yusuf al Ayiri. Al Ayiri worked closely with Khattab and published several *fatwas* and writing on the situation in Chechnya even after Khattab's death (including the writing "The Theatre Operation in Moscow. What have the Mujahidin Benefited from it?"). Al Ayri was killed by Saudi security forces in Riyadh in May 2003.

<sup>14</sup> Dimitri V. Trenin and Aleksei Malashenko with Anatol Lieven, *Russia's Restless Frontier. The Chechnya Factor in Post-Soviet Russia*, Washington, D.C.: Carnegie Endowment for International Peace, 2004. 95.

<sup>15</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 41.

<sup>16</sup> Murad al Shishani, "Portrait of a Chechen Mujahid Leader," *Terrorism Monitor*, The Jamestown Foundation, Volume 2, Issue 8 (April 23, 2004). Al Seif is widely respected among Islamist circles as a scholar and theorist, and his writings on the legitimacy of suicide bombings have had wide circulation.

<sup>17</sup> Mayrbek Vachagaev, "Evolution of the Chechen Djamaat," *The Jamestown Foundation*, April 6, 2005. [http://www.jamestown.org/publications\\_details.php?volume\\_id=409&issue\\_id=3291&article\\_id=236956](http://www.jamestown.org/publications_details.php?volume_id=409&issue_id=3291&article_id=236956)

<sup>18</sup> Paul J. Murphy. *The Wolves of Islam: Russia and the Faces of Chechen Terror*. Washington, D.C.; Brassey's Inc., 2004. 41.

<sup>19</sup> According to Murphy, the bond between the two was solidified by the "adoption" of Khattab as a son by Basayev's parents, a necessary step to make foreigners acceptable to Chechen society. See Murphy, 90.

<sup>20</sup> Yavus Akhmadov, Stephen R. Bowers, Marion T. Doss Jr., "Islam in the North Caucasus," *The Journal of Social, Political, and Economic Studies*; Fall 2001; Volume 26, Number 3. 578.

<sup>21</sup> Yavus Akhmadov, Stephen R. Bowers, Marion T. Doss Jr., "Islam in the North Caucasus," *The Journal of Social, Political, and Economic Studies*; Fall 2001; Volume 26, Number 3. 578.

<sup>22</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 43.

<sup>23</sup> Anatol Lieven, *Chechnya: Tombstone of Russian Power*, New Haven and London: Yale University Press, 1998. 317.



- <sup>24</sup> Matthew Evangelista, *The Chechen Wars: Will Russia Go the Way of the Soviet Union?* Washington D.C., The Brookings Institution, 2002. 93.
- <sup>25</sup> Yavus Akhmadov, Stephen R. Bowers, Marion T. Doss Jr.. "Islam in the North Caucasus," *The Journal of Social, Political, and Economic Studies*; Fall 2001; Volume 26, Number 3.
- <sup>26</sup> Matthew Evangelista. *The Chechen Wars: Will Russia Go the Way of the Soviet Union?* Washington D.C., The Brookings Institution, 2002. 92.
- <sup>27</sup> "The Dynamics of Dagestan," *Financial Times Asia Intelligence Wire*, August 24, 1999.
- <sup>28</sup> Sharon LaFraniere, "How Jihad Made its way to Chechnya; Secular Separatist Movement Transformed by Militant Vanguard," *Washington Post*, April 26, 2003.
- <sup>29</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 45.
- <sup>30</sup> Sharon LaFraniere, "How Jihad Made its way to Chechnya; Secular Separatist Movement Transformed by Militant Vanguard," *Washington Post*, April 26, 2003.
- <sup>31</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 45.
- <sup>32</sup> Yo'av Karny, *Highlanders: A Journey to the Caucasus*, New York: Farrar, Strauss and Giroux, 2000. 258-9.
- <sup>33</sup> Dimitri V. Trenin, Aleksei V. Malashenko with Anatol Lieven, *Russia's Restless Frontier. The Chechnya Factor in Post-Soviet Russia*, Washington D.C.: Carnegie Endowment for International Peace, 2004. 34.
- <sup>34</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 45-6.
- <sup>35</sup> "Security of CIS Threatened by Religious Extremism," *Segodnia*, June 5, 1998.
- <sup>36</sup> The exact number of Muslims in the Russian Federation is debated. See Alexei Malashenko, "The Islamic Factor in Russia," *New Europe Review*, November 2004.
- <sup>37</sup> Anatol Lieven, "Nightmare in the Caucasus," *Washington Quarterly*, Winter 2000, 23:1. 145.
- <sup>38</sup> Nabi Abdullaev, "Nadir and Magomed Khachilaev: Politicians for the New Russia," *The Jamestown Foundation, PRISM*, Volume 5, Issue 18. October 22, 1999.
- <sup>39</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 92.
- <sup>40</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 92.
- <sup>41</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 99.
- <sup>42</sup> Matthew Evangelista, *The Chechen Wars: Will Russia Go the Way of the Soviet Union?* Washington D.C., The Brookings Institution, 2002. 90-6.
- <sup>43</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 99.
- <sup>44</sup> Dimitri V. Trenin and Aleksei Malashenko with Anatol Lieven, *Russia's Restless Frontier. The Chechnya Factor in Post-Soviet Russia*, Washington, D.C.: Carnegie Endowment for International Peace, 2004. 82.
- <sup>45</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 99.
- <sup>46</sup> Matthew Evangelista, *The Chechen Wars: Will Russia Go the Way of the Soviet Union?* Washington D.C., The Brookings Institution, 2002. 67.
- <sup>47</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 103-7.
- <sup>48</sup> Anatol Lieven, *Chechnya: Tombstone of Russian Power*, New Haven and London: Yale University Press, 1998. 124-5.
- <sup>49</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey's Inc., 2004. 115.
- <sup>50</sup> Mark Kramer, "The Perils of Counterinsurgency; Russia's War in Chechnya," *International Security*, Volume 29, Issue 3 (Winter 2004). 19.
- <sup>51</sup> In a 2000 interview with the Islamist website Sawt al Qoqaz (Voice of the Caucasus, [www.qoqaz.net](http://www.qoqaz.net)) Shamil Basayev confirmed the importance of the teachings of the Arab mujahideen for some Chechen commanders: "We have benefited from studying the Afghan Jihad, particularly after Commanders Khattab, Yaqub al Ghamidi and his deputy Abu Waled al Ghamidi, Abu Jafar al Yemeni, Hakim al Madani

and Abu Bakr Aqeedah (may Allah have mercy upon these two) explained to us the details of what happened in Afghanistan. We studied the various dimensions and developments of their cause and we are knowledgeable about what happened.”

<sup>52</sup> Sharon LaFraniere, “How Jihad Made its way to Chechnya; Secular Separatist Movement Transformed by Militant Vanguard,” *Washington Post*, April 26, 2003.

<sup>53</sup> Mark Kramer, “The Perils of Counterinsurgency; Russia’s War in Chechnya,” *International Security*, Volume 29, Issue 3 (Winter 2004). 31.

<sup>54</sup> Paul Quinn-Judge, “Inside al Qaeda’s Georgia Refuge,” *Time*, October 19, 2002.

<sup>55</sup> John Reuter, “Chechnya’s Suicide Bombers: Desperate, Devout or Deceived?” *The American Committee for Peace in Chechnya*, September 16, 2004.

<sup>56</sup> Sharon LaFraniere, “How Jihad Made its way to Chechnya; Secular Separatist Movement Transformed by Militant Vanguard,” *Washington Post*, April 26, 2003.

<sup>57</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey’s Inc., 2004. 197.

<sup>58</sup> Mark Jurgensmeyer, *Terror in the Mind of God*, Los Angeles & Berkeley, California; University of California Press, 2000. 163.

<sup>59</sup> Mark Jurgensmeyer, *Terror in the Mind of God*, Los Angeles & Berkeley, California; University of California Press, 2000. 172.

<sup>60</sup> Interview with residents of Alkhan-Yurt, Human Rights Watch. Available at:

[http://www.hrw.org/reports/2000/russia\\_chechnya2/Rusch004-02.htm](http://www.hrw.org/reports/2000/russia_chechnya2/Rusch004-02.htm)

<sup>61</sup> Videos include Life and Times of Ibn ul Khattab and Russian Hell 1 and 2, which are available at <http://www.tibyan.net/home.asp>

<sup>62</sup> Carlotta Gall and Thomas de Waal, *Chechnya; Calamity in the Caucasus*, New York: New York University Press, 2000. 215-28.

<sup>63</sup> Steven Lee Myers, “Putin’s Candidates Sweep Chechnya Elections,” *New York Times*, November 29, 2005.

<sup>64</sup> Yavus Akhmadov, Stephen R. Bowers, Marion T. Doss Jr.. “Islam in the North Caucasus,” *The Journal of Social, Political, and Economic Studies*; Fall 2001; Volume 26, Number 3. 585.

<sup>65</sup> “Chechen Court Convicts Kadirov of Apostasy,” *Sawt al Qoqaz*, March 21, 2001.

<sup>66</sup> Paul J. Murphy, *The Wolves of Islam: Russia and the Faces of Chechen Terror*, Washington, D.C.; Brassey’s Inc., 2004. 62.

<sup>67</sup> Timothy L. Thomas, “The Battle of Grozny: Deadly Classroom for Urban Combat,” *Parameters, US Army War College Quarterly*, Summer 1999. Yavus Akhmadov, Stephen R. Bowers, Marion T. Doss Jr.. “Islam in the North Caucasus,” *The Journal of Social, Political, and Economic Studies*; Fall 2001; Volume 26, Number 3. 569-73.

<sup>68</sup> Yavus Akhmadov, Stephen R. Bowers, Marion T. Doss Jr.. “Islam in the North Caucasus.” *The Journal of Social, Political, and Economic Studies*; Fall 2001; Volume 26, Number 3. 569-73.

<sup>69</sup> Anatol Lieven. *Chechnya: Tombstone of Russian Power*. New Haven and London: Yale University Press, 1998. 340.

<sup>70</sup> See for example the message with which Basayev claimed responsibility for the October 2005 operation in Nalchik, which is available at: <http://www.kavkazcenter.com/eng/content/2005/10/17/4156.shtml>

<sup>71</sup> Dimitri V. Trenin and Aleksei Malashenko with Anatol Lieven, *Russia’s Restless Frontier. The Chechnya Factor in Post-Soviet Russia*, Washington, D.C.: Carnegie Endowment for International Peace, 2004. 73.

<sup>72</sup> Anatol Lieven, *Chechnya: Tombstone of Russian Power*, New Haven and London: Yale University Press, 1998. 302.

<sup>73</sup> Dimitri V. Trenin and Aleksei Malashenko with Anatol Lieven, *Russia’s Restless Frontier. The Chechnya Factor in Post-Soviet Russia*, Washington, D.C.: Carnegie Endowment for International Peace, 2004. 79.

<sup>74</sup> Dimitri V. Trenin and Aleksei Malashenko with Anatol Lieven, *Russia’s Restless Frontier. The Chechnya Factor in Post-Soviet Russia*, Washington, D.C.: Carnegie Endowment for International Peace, 2004. 74

<sup>75</sup> Donald Snow, *UnCivil Wars*, Boulder, CO: Lynne Rienner Publishers, 1996. 56.

<sup>76</sup> “Chechen Guerrillas,” *Jane’s World Insurgency and Terrorism*, June 25, 2004.

<sup>77</sup> Paul Tumelty, “A Biography of Abdul-Khalim Sadulaev,” *Chechnya Weekly*, Volume 6, Issue 11 (March 16, 2005).



## **Toward a National Education Development Paradigm in the Arab World: A Comparative Study of Saudi Arabia and Qatar**

*Sarah Yamani*

### **Introduction**

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In today's knowledge-crazed world, education is the cornerstone of human development. While it is doubtful that education can stand alone in achieving this goal, it is certainly one of the most instrumental factors. The acquisition of knowledge gives humans a sense of freedom—the power to think—that in turn becomes a means to develop other types of freedom, including freedom of speech, freedom of association, and freedom of political and economic participation.<sup>1</sup> Therefore, it is not surprising that many countries have identified education as one of the main priorities for developing their societies. More importantly, education is a universal concern for both developing and developed countries. Developing countries continually aspire to modernize their education systems, and developed countries pursue the adoption of the best education reforms and structure for their systems. In the end, all countries hope to gain from their education systems more effective citizens who can be productive participants, domestically and abroad, in markets and communities.

To understand how modernization efforts in education can work in one country, one must look at the foundations of an education system, how that system has evolved, and whether it can modernize within its present context. This paper seeks to

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explore such issues through a comparative case study of two countries in the Persian Gulf: Saudi Arabia, and Qatar. By examining the historical, cultural, economic and political contexts, this study aims to address why one country developed a comprehensive education reform system while the other chose a more cautious approach.

### **Education Development and the Arab World**

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Since September 11, 2001, the Arab world has been exposed to great scrutiny. Education has become a critical issue in defining a state of decline that exists in many Arab countries. While this part of the world is historically known as the cradle of scientific discovery and learning, it has largely failed to keep up. Even though Arab countries spend a higher percentage of GDP on education than any other developing region, the 2002 Arab Human Development Report stated that educational achievements in the Arab countries as a whole were still considered modest when compared to the rest of the world and even when compared to other developing countries.<sup>2</sup> Moreover, the Report estimated that approximately 40 percent of adult Arabs are illiterate, two-thirds of whom are women. While the 2002 Report emphasized the deficient qualitative nature of education systems in the Arab World, the 2003 Report highlighted that Arab countries, “lack[ed] an integrated vision of the education process and its objectives.”<sup>3</sup> Furthermore, the report stated that the quality of education excludes quantitative resources and depends more on organizational aspects of the educational process, or means of delivery and evaluation. In addition to the region's growing knowledge gap, amongst the educated elite, roughly one-fourth of all university graduates,

emigrate to other countries, creating a large brain drain.

## The Evolution of the Saudi and Qatari Education Systems

Prior to modern education, Saudi Arabia and Qatar, like their neighboring Gulf countries, followed a traditional form of education called *Kuttab*. Students in *Kuttab* schools learned through rote memorization,

**Although women in Saudi Arabia remain prohibited from holding ministerial positions, a woman has been recently appointed as dean of Qatar's Arab Open University**

studying Quranic verses and religious principles. Beginning in the 1950s, a more formal education system was adopted in Saudi Arabia and Qatar. The men's education system in both countries was divided into three stages: the primary stage (six years), intermediate stage (three years), and secondary stage (three

years). Girls' education was also included and funded by each respective government.

Today, the education policy in Saudi Arabia aims to promote the "belief in One God, Islam as the way of life, and Muhammad as God's Messenger."<sup>4</sup> Similarly, and according to the Qatari Ministry of Education, Qatar's education policy builds on two notions: that Islam is Qatar's national religion and that Qatar's constitution is the country's source for laws and regulations.<sup>5</sup>

In Saudi Arabia, there are eight major universities, where five of them accept both male and female students. In Qatar, the major public higher education institution is Qatar University, which is currently undergoing major reform efforts to meet its government's objectives of raising academic qualifications and efficiency to confront the forces of modern change.

## Educational Reform Initiatives at the National Level

### Saudi Arabia

Over a year ago, the Interior Minister stated that the aim of the Saudi educational reform efforts is to enhance Islamic values and respect for the opinions of others. He denied reports that Saudi Arabia was under pressure from the United States to change the national curriculum. In addition, he said that the aim of Saudi education reform is to place more emphasis on scientific and technical

training to meet the future needs of the labor market.<sup>6</sup>

The need for higher education institutions in the country has been heightened since September 11, because many Saudi students have been rejected visas to study in the U.S. Additionally, the following reform initiatives were also adopted:

- A new process of evaluating and assessing the Saudi school curriculum by eliminating any possibly offensive language that promotes hate and intolerance towards the West from Saudi textbooks. The government claims that only 5 percent (some reports say 15 percent) of the curriculum has been deemed inappropriate or disturbing and that the material has been 'updated' and 'modernized'.<sup>7</sup>
- The creation of student councils in public schools in an effort to educate young Saudis "about civic responsibilities and participatory governance".<sup>8</sup>
- Opening up private higher education to foreign investment, as well as encouraging the establishment of private higher education institutions. Recently, the Arab Open University (AOU) has opened a campus in Jeddah.<sup>9</sup> The student body is comprised of 25,000 students in three undergraduate programs. The university offers correspondence courses in computer science, information technology, English language, business administration and teacher training. Dr. Maha Abdullah Orkubi was appointed Dean of the University on October 2003, the first Saudi woman to ever hold a senior academic position.
- English language instruction: classes have been introduced to the sixth grade (instead of the seventh grade) in order to improve English skills at the intermediary and secondary school levels. This has been complemented with teacher-training programs to increase the amount of English teachers.
- Teacher training programs: The government has introduced two pilot programs, one in Jeddah and the other in Riyadh, for training teachers on innovative teaching methods.
- Expansion of technical and vocational education
- Class Server Project: the Ministry of Education and Microsoft Arabia have recently signed a Memorandum of Understanding (MOU) to bring improved Information, Computer and Communications Technologies (ICT) education to schools under Microsoft's 'Partners in Learning' global initiative.<sup>10</sup> The agreement



includes teacher training, an e-learning gateway, a digital curriculum and data center.

- For girls' education colleges, the government has launched pilot programs in distance learning through the Internet in an effort to empower professional women and university graduates in Saudi Arabia with requisite skills, including information technology. The government has also started a training program for academic staff on WebCT programs for e-learning.

## Qatar

### *Education for a New Era*

In an effort to transform Qatari schools into a world-class education system, the Qatar has developed a groundbreaking education reform initiative known as Education for a New Era. The only one of its kind in the Arab world, this initiative has been praised worldwide as a revolutionary advance. Led by the Emir of Qatar, Sheikh Hamad bin Khalifa al-Thani, Education for

a New Era (ENE) began in May 2001 and took a critical step towards the success of the larger social, economic, and political reform efforts currently taking place in Qatar.

The only short term objective of ENE is to build a "modern, world-class public school system" that will provide the Qatari children with the "best education possible."<sup>11</sup> The long term

goal is to "prepare future generations to be productive members of Qatari society and the world at large."<sup>12</sup> This transformation includes changing the existing rigid, centralized, and low-performing education system into a modern, decentralized (self-managed) and effective one.

The two key elements of this reform initiative are building new government-funded 'Independent Schools' and establishing annual student assessment and surveys to help monitor student learning and performance. Every Independent School must establish curriculum standards in Arabic, English, math, and science while complying with periodic financial requirements.

*Education for a New Era* reflects four critical principals that underlie the reform effort:

1. **Autonomy:** for schools and teachers in choosing their staff, teaching methods, and approaches in dealing with the needs of individual students and parents, all within a framework of international curriculum standards
2. **Accountability:** through a transparent assessment system that would hold all school leaders, teachers and parents responsible for the success of students
3. **Variety:** in schooling alternatives, encouraging schools to engage in different types of instructional programs
4. **Choice:** for parents in selecting schools that they think best suits their children

### *Supreme Education Council: Structure and Functions*

The organization responsible for overseeing the goals of Qatar's education reform initiative is the Supreme Education Council (SEC). This body was developed by Emiri decree 37 in November 2002 (six months after the inauguration of the plan) and has been instrumental in the reform's development and implementation process. The members of the SEC were all chosen from Qatar's top leaders in government, business, and academia.

In addition to overseeing the progress of the reform effort, the SEC directs the work of three critical sub-bodies: the Education Institute (dealing with curriculum standards and teacher training), the Evaluation Institute, and the Higher Education Institute. The SEC is also working with the Ministry of Education to ensure the inclusion and establishment of new independent schools across the entire Qatari school system.

Qatar has also requested assistance from international sources of expertise such as the Rand-Qatar Policy Institute, as well as Australian and British institutions. It has also signed an agreement with a New Zealand-based education service provider to help mentor Qatari schools through a process of modernization and decentralization.<sup>13</sup>

### *The Qatar Foundation for Education, Science and Community Development*

Sheikh Hamad bin Khalifa al-Thani and his wife, Sheikha Mozah bint Nasser al-Misnad, were not satisfied with the higher education system in Qatar for their children. Instead of sending them abroad, however, they dreamed of creating world-class education close to home. They envisioned a university that would provide their children, as well as all Qataris, a full range of courses including information technology, Islamic Studies, business, medicine, and music. That vision turned into

**While Qatar was supported internationally for giving autonomy to independent schools, Saudi Arabia would probably be watched carefully if it chose to do the same**



reality with the creation of the Qatar Foundation for Education, Science and Community Development, deemed the most innovative education project ever seen in the Gulf.

The Foundation was established by Sheikh Hamad bin Khalifa al-Thani in 1995 as a non-profit private organization aiming to support the development of quality human resources through centers of excellence in education, research, and technology. As noted by Sheikha Mozah, chairperson of the Foundation: "The sharing of knowledge, ideas and values is the noblest way to transcend barriers. In this sense, globalization is the architect, which constructs academic bridges across cultural and geographical landscapes."<sup>14</sup> The Foundation defines its vision, philosophy, objectives, and mission as follows:<sup>15</sup>

- *Visions:* to develop and utilize human potential
- *Philosophy:* People are the most valuable asset of a nation
- *Objective:* To upgrade scientific and artistic capabilities and direct them towards the good of society
- *Mission:* to foster centers of excellence which develop people's abilities through investment in human capital, innovative technology, state of the art facilities, and partnerships with elite organizations thus raising the competency of people and the quality of life.

To achieve its objective of upgrading scientific and artistic capabilities for the good of society, and to accomplish its vision of developing "human potential," the Qatar Foundation has established a number of affiliated organs which are quasi-independent and linked through the Foundation in the fields of education, health, and community development. In addition, the Foundation's Education City campus, inaugurated in 2002, hosts leading U.S. colleges, educational organizations, and research centers. This integrated educational environment aims to encourage interaction between the existing educational and recreational facilities on-site, in addition to those envisaged within the new academic and medical areas of the University. Sheikha Mozah calls the Education City, "an engine of change for Qatar."<sup>16</sup>

Overall, Education City has formed a partnership with leading U.S. colleges, including Virginia Commonwealth University for arts degrees, Texas A&M University for engineering, Cornell's Weill Medical College, and Georgetown University, which joined in the fall of 2004. The American universities control admission standards, employ their own faculty, and determine the curriculum.

Despite the establishment of new transnational partnerships, development of Education City's 10 million square meter site is not due to be completed until 2008. While there is no accurate cost figure for the Foundation, some estimates put the project at over \$300 million. Moreover, the government has made it clear that it would allocate a significant portion of its GDP to research and development and specifically to Education City.

Other institutions at Education City include: Qatar Academy, a school devoted to the promotion of critical thinking; the Academic Bridge Program, which prepares secondary school graduates for enrollment in the Foundation's American universities; the Social Development Center, which mobilizes efforts in the service of society; and the Science and Technology Park, which aims to become the hub for technology

research and development. One of the most important institutions at Education City is the Rand-Qatar Policy Institute, which provides research, technical development, and training for analysts in the region. This in turn translates into policy decisions and implementation efforts related to education development.

Education City is constantly developing new areas of expertise, inviting excellent institutions, and creating an environment that is research driven. One of its ongoing projects, for example, is the Specialty Teaching Hospital, a modern medical center devoted to training medical students with the latest technology in medicine. Moreover, the Foundation intends to offer liberal arts courses, as well as graduate education. This futuristic Education City seeks to make Qatar the education center of the Middle East and one of the most developed and knowledge-based societies in the world.

### Saudi Arabia and Qatar and their Structural Differences

Even though both Saudi Arabia and Qatar appear to follow the human capital theory that education leads to greater economic participation,

**A review was ordered of all Saudi textbooks for evidence of extremism; five percent was deemed questionable by authorities and discarded. For example, some textbooks replaced the term *jihad*, a term defined by many as holy war, with *tadhiya*, a less incendiary word meaning sacrifice**

they chose different paths-- or perhaps were led to different paths--in developing their education reform initiatives. While Qatar followed a sweeping reform targeting public schools, Saudi Arabia focused on "fixing" curriculum language, vocational and technical training, and internet-focused programs.

Overall, both countries initiated modern education systems about the same time, shared similar education policy objectives, and later exercised the political will to reform their education

**Since the conservative religious establishment controls the whole Saudi educational system, from primary to university level, the government cannot simply undertake sweeping modernization efforts with regards to education reform**

systems. Why, then, has Saudi Arabia not opted for a more comprehensive educational reform initiative comparable to that of Qatar's Education for a New Era? The answer lies in the structural differences—political, geographic, demographic, economic, and social—that exist between the two monarchies.

Generally speaking, Saudi Arabia and Qatar share many socio-economic and political attributes. They are both absolute monarchies; both

acquire their wealth from oil and gas revenues; both identify themselves as Muslim and Arab; and both are conservative societies. In addition, both countries historically aligned with the British against Ottoman control, and today both are important allies of the United States.

Structural and contextual differences, however, also make each country very distinct: First, Saudi Arabia holds a critical position among Arab and Muslim states as the guardian of the holy mosques in Mecca and Medina, two of the holiest cities of Islam. Thus, Saudi Arabia will continue to preserve its religious image and uphold the principles of Islam. Additionally, the Saudi regime has a deep relationship with the religious Wahhabi institution that feeds its legitimacy. Any hasty moves by the al-Sauds to disengage from the Wahhabi religious right would be tantamount to political suicide. And since the conservative religious establishment controls the whole Saudi educational system, from primary to university level, the government cannot simply undertake sweeping modernization efforts with regards to education reform. In order to avoid internal instability, the monarchy can only take careful moderate steps that would not threaten the conservative nature of its society.

Even though Qatar is also a Muslim country, it has no religious institutional attachments that dictate or influence its internal affairs. Therefore, Qatar, unlike Saudi Arabia, has more flexibility to introduce reform efforts such as the ambitious Education for a New Era and the Qatar Foundation. Importing U.S. universities, for example, has created little to no internal opposition in the country, despite having received some criticism from conservative groups in Saudi Arabia.

In addition to Wahhabi institutional control over the Saudi education system, the Saudi regime is currently facing internal instability. In support of Bin Laden's extremism, al-Qaeda factions have engaged in violent and deadly suicide bombings over the past two years, targeting Western compounds in protest of the government's friendly relations with the United States. This wave of aggression has led the Saudi government to take immediate measures to halt further terrorist attacks. While Qatar experienced a suicide bombing last year, instability in Saudi Arabia is much more pronounced. Following Qatar's footsteps with comprehensive reforms would only worsen internal tensions.

Saudi Arabia has become infamous as the home of 15 among the 19 hijackers in the September 11 attacks. As a result, the Saudi education system was subjected to worldwide scrutiny. Reports claimed that the religious curriculum, and in some extreme cases that Islam itself, preached hate, intolerance, and terrorism. Saudi officials such as the Education Minister denied such allegations: "If that was the case, all of the millions of Saudis who were educated in the system would be committing these acts."<sup>17</sup> A review was ordered of all textbooks for evidence of extremism; five percent were deemed questionable by authorities and discarded. For example, some textbooks replaced the term *jihad*, a term defined by many as holy war, with *tadhiya*, a less incendiary word meaning sacrifice.

This reformed curriculum would not have taken place were it not for the external pressures facing the Saudi-Wahhabi education system.

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However, many Saudi officials have blamed outsiders for unfairly criticizing the focus on religion in the education system. In comparison, Qatar has not faced the same external scrutiny and therefore has been able to successfully craft its ENE program around modern reforms and initiatives. While Qatar was supported internationally for giving autonomy to independent schools, Saudi

Arabia would probably be watched carefully if it chose to do the same.

Social factors also contribute to the divergence of the two countries' education systems. Both Saudi Arabia and Qatar are conservative societies. But while Saudi Arabia has maintained conservative beliefs regarding women, Qatar has encouraged women to participate in the political, economic, and educational spheres. As mentioned above, Qatar not only opened the door for women to vote, but it has also permitted women to run for Council positions and hold ministerial posts. Today, a woman serves as Qatar's

Minister of Education. Additionally, out of the SEC's seven board members, three are very educated and influential Qatari women. The Emir's consort, Sheikha Mozah, has also built a distinguished image for herself through her efforts in Education City, while becoming the face of education reform efforts across the Arab World.

Although women in Saudi Arabia remain prohibited from holding ministerial positions, a woman has been appointed as dean of Qatar's Arab Open University. Nevertheless, there are still many conservative aspects inherent in Saudi Arabia's religious society where men and women are not permitted to interact in work areas, permitting skeptics to question whether Saudi Arabia is ready for a legitimate modernization in education reform.

Another difference between the two countries is population size. Saudi Arabia has approximately 24 million more inhabitants than Qatar. Moreover, the GDP per capita in Qatar is much higher than that of Saudi Arabia. Thus, Qatar has an economic advantage over Saudi Arabia, which places it in a better position to undertake comprehensive reform initiatives at the national level. In other words,

Qatar can afford to use a big part of its government expenditure on education reform, while at the same time maintaining its other larger reform efforts.

Country size is also an important characteristic to note when understanding either Qatar or Saudi Arabia's capability to adopt educational reforms. Qatar', for example, is approximately equal to two large cities in Saudi Arabia. Moreover, while Qatar's main city and capital is Doha, Saudi Arabia has 13 regions and at least five major cities. In devising a broad reform initiative, Saudi Arabia has to take into consideration that it would have to spend extensive amounts of capital, provide more teacher training and textbooks, and build more schools. In addition, a national educational reform initiative in Saudi Arabia would have to assume that not all its public schools are at the same stage of development. Therefore, a comprehensive plan would have to follow pilot programs.

## Conclusion

The Saudi government has undoubtedly begun to implement modern educational reforms in the last few decades. The oil boom, for example, created a welfare society and transformed the nomadic nature of Saudi Arabia into an industrialized nation. Its education system, however, is not developing at a pace fast enough to adapt to the rapid changes currently taking place in the competitive global economy.

While Saudi Arabia cannot mirror Qatar's Education for a New Era, Saudi education reform initiatives can and should follow Qatar's educational initiatives, vision, and progress. In undertaking reform, Saudi Arabia can only follow a gradual approach that reflects the needs of its society. At the same time, an educational system should keep up with the demands of globalization and the examples of more developed nations in their approach to education and knowledge-based societies.

In the end, these will not be quick endeavors, and it will be necessary for governments and decision makers to think long-term. The rate of return for investing in human capital development is long and drawn out. However, principles such as those embodied within Education for a New Era - autonomy, accountability, variety and choice - could prove instrumental to Saudi Arabia, with its large geographic and socio-ethnic scope. Also, decentralization efforts, including transferring control from the national ministerial level to the school level, are important to give schools the chance to manage themselves and exercise autonomy while simultaneously introducing new

**Even though Arab countries spend a higher percentage of GDP on education than any other developing region, the 2002 Arab Human Development Report stated that educational achievements in the Arab countries as a whole were still considered modest when compared to other developing countries**

levels of administrative efficiency and academic superiority.

*The views and opinions expressed in articles are strictly the author's own, and do not necessarily represent those of Al Nakhlah, its Advisory and Editorial Boards, or the Program for Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.*

<sup>1</sup> Sen, Amartya. *Development as Freedom*. New York: Anchor Books (1999). 38-40.

<sup>2</sup> Arab Human Development Report: *Creating Opportunities for Future Generations*. UNDP, 2002, 6

<sup>3</sup> Arab Human Development Report: *Building a Knowledge Society*. UNDP, 2003, 54

<sup>4</sup> Saudi Ministry of Education website: <http://www.moe.gov.sa/openshare/moe/index.htm> (accessed April 14, 2005)

<sup>5</sup> Ministry of Education website: <http://www.moe.edu.qa/Arabic/index.shtml> (accessed April 8, 2005)

<sup>6</sup> "Educational Reform not under Foreign Pressure, Says Naif." Arab News, January 22, 2004.

<sup>7</sup> Political and Economic Reform in the Kingdom of Saudi Arabia (2004).

<sup>8</sup> Ibid, 6

<sup>9</sup> The AOU has branches in Jordan, Bahrain, Lebanon and Egypt.

<sup>10</sup> AME Info: <http://www.ameinfo.com/45893.html> (accessed April 14, 2005)

<sup>11</sup> SEC website: <http://www.english.education.gov.qa/>

<sup>12</sup> Dr. Sheikha: "Education Reform Critical to Qatar's Development," see SEC website

<sup>13</sup> Qatar Widens NZ to Help Modernize System. See SEC website.

<sup>14</sup> Qatar Foundation website <http://www.qf.edu.qa/rs.htm> (accessed April 13, 2005)

<sup>15</sup> Qatar Foundation website <http://www.qf.edu.qa/rs.htm> (accessed April 13, 2005)

<sup>16</sup> The Pearl Newsletter at <http://www.qatarebassy.net/news/QatarNews6.pdf> 19

<sup>17</sup> "Qatar Reshapes its Schools, Putting English over Islam: Conservatives See Reform as Extension of US Influence in Gulf." Washington Post Foreign Service. February 2, 2003, p A20. Online at Supreme Education Council website.





## Interview with Dr. Saad Eddin Ibrahim

*Daniel Benaim*

In the weeks leading up to Egypt's Presidential election, I had the opportunity to interview Dr. Saad Eddin Ibrahim. Dr. Ibrahim is perhaps Egypt's best-known dissident intellectual and the Founder and Chairman of the [Ibn Khaldun Center for Development Studies](#) in Cairo, where I was a Summer Fellow in 2005. In June 2000, Dr. Ibrahim and two dozen of his associates were arrested and jailed on charges ranging from defrauding the European Union to disseminating information harmful to Egypt's interests. After a three-year ordeal during which Dr. Ibrahim (62 years old at the time) was sentenced to seven years of hard labor--all charges against him were dismissed by Egypt's highest court and he was released from prison in 2003. Sitting in his office in a beautiful Islamic villa in Cairo's Mokattam Heights, Dr. Ibrahim reflected on the prospects for democratization in Egypt and on his unique role in Egyptian politics.

**People have said that one of the major problems with the United States' Middle East policy is a failure to predict and account for change. Are the US and Western governments ready to deal with the possibility of religious parties taking major roles across the region?**

Religious parties have already taken control in Turkey, and I don't see any reason why they cannot do it here. We are telling policymakers to be ready. I am telling everybody to get ready, because if we don't open the process to religious parties, then we will be beholden to the autocrats. And if the autocrats continue, they will be the greatest help to the theocrats, who are their mirror image.

**Is democracy in Egypt possible without the Muslim Brotherhood?**

No. You can't have democracy without being inclusive of everybody, so long as people are respectful of the rules of the game.

**One critic worried that you were describing the Islamists that you wish for, rather than those that you see. How would you integrate the Muslim Brotherhood into Egyptian politics while assuring that they play by the rules of the game? Isn't there a danger that the process would be irreversible?**

The Egyptian Constitution includes all kinds of built-in safeguards. I suggested the armed forces and the constitution serve as the safeguards of pluralism, of civil government, and of regular old democratic aims. Should anyone tamper with them, Islamists or otherwise, these institutions should have the right to interfere and remove that obstacle or threat.

**A Turkish model?**

An improved Turkish model. I'm suggesting an armed and a civilian institution as guardians. To force things, you need physical force, but you also need the moral and legal authority of the Egyptian constitutions.

**Should civil-military reform, then, take a backseat to other kinds of reform in Egypt? Some, like Steve Cook, see the military's role in politics as an essential bulwark of authoritarian rule across the Middle East.**

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They already have a role in politics, but it is de facto. I want to make it explicit, transparent, and have demarcation lines instead of the diffuse influence they have now on the entire political life through the Presidency and the intelligence agencies.

**Religious parties have already taken control in Turkey, and I don't see any reason why they cannot do so in Egypt. We are telling policymakers to be ready. I am telling everybody to get ready, because if we don't open the process to religious parties, then we will be beholden to the autocrats**

**Is the military ready for a non-military president?**

I think they could be made ready. After all, the top echelon of the military have had Western training in countries like the United States, England, and France, and they have seen models of a military under civilian control. If it is done with care, without removing their privileges, then it is possible. After all, that's the way it was before 1952.

**Critics of your work have often argued that Egyptians simply aren't interested in democracy.**

Well, I don't agree that Egyptians aren't interested. Without polling and scientific methods to electoral politics, it is very hard for anyone to make concrete claims about the interest of Egyptians in democracy or in anything else. But we have many proxy indicators—for example a ten-country survey from 1980 indicating that as many as sixteen percent of Egyptians put democracy as their highest priority. That's just one example, and admittedly it's a dated survey, but if some 25 years ago that many Egyptians indicated this sentiment, then surely more would think so now.

**Where does the lack of political freedom fit into the overall constellation of problems faced by Egyptians today?**

Twenty-five years ago, democracy came as fourth or fifth place in terms of what concerns people, in terms of what was really important to people. Today, I would assume that social and economic issues will still rank very high domestically. Regionally, the Palestinian question will still be number one, likely followed by Iraq and the Sudan in terms of Egyptians' concerns. But, by and large, the overwhelming majority of

Egyptians are indeed more concerned about social and economic issues. For example, they are very much interested in the issue of corruption, which is really beginning to impact their lives. And, whether the level of corruption is accurately perceived or exaggerated, it is definitely on their minds. Nowadays, there is a lot of political campaigning for the presidency and for parliament, where many of the candidates have focused on corruption as the number one issue in their campaigns.

**Part of your role in Egyptian politics has been to act as a provocateur, raising difficult questions and getting under the regime's skin. Do you take a special pleasure in that?**

These roles are usually thrust on people. Rarely do public figures or public intellectuals choose their roles. They may choose their mission or they may know their objective, but as an actor in public life, often it's a convergence of events, biography, and environment. These three together usually determine your position and trajectory in public life. That is basically what has happened with me. The fact that I have spent the 1960s in America, in the heyday of activism—the antiwar movement, the civil rights movement, the women's movement, the environmental

movement—all of these great movements of the 1960s and early 1970s were part of my upbringing and my youth. And of course I was also very active student, both in American politics and in Arab politics. I was President of the Arab students of North America and these are roles that, again, I found not by design but

by the thrust of events and by interest. Being a social scientist, being young and in America at the time, I became interested. All of this has much to do with my agenda in Egypt and what I came to be here, both in my own perception and in other people's perception. I don't necessarily try to be a provocateur. What I do is raise issues that nobody else would raise, not to be provocative but to be a conscience for my society, for my country, for my time. If people consider that to be provocative—and sometimes my family shares this view—I don't. These things come to me very spontaneously and without design.

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**You recently withdrew your candidacy for Egyptian president, along with a few other reform-minded candidates, because you didn't consider it a fair contest. Do such protest boycotts represent an effective strategy of opposition?**

As a matter of principle I'm against boycotts. But if there's a boycott, it has to be active. You declare it, and then you make sure it will achieve something. That's what I'm trying to do. I withdrew, and then I made a case. Even though I withdrew and made my case, and others did the same thing, we are still going to monitor the elections. If there is a low turnout, then that will be grounds for challenging the legitimacy of whomever is elected and calling for another election within a year or two.

**Across the region, groups are sitting out elections and urging supporters to boycott. Is this a wise strategy? If so, when? Does it detract from long-term political health?**

It doesn't help. I like people to be engaged. However, if your engagement is used as window-dressing for a sham, for a black comedy, then you should declare that and withdraw. Explain the ploy, and then withdraw and monitor. That is an active boycott. It is not withdrawal or retreat or surrender. It is loud. Therefore, I hope that the people who are going to boycott will organize demonstrations before the elections, as

they did before the May 25<sup>th</sup> referendum [on multi-candidate Presidential elections].

**Do you plan to vote in the Presidential election?**

Yes, I'll be voting for [recently jailed al-Ghad party candidate] Dr. Ayman Nour.

**Over the years, your relationship with the regime has transformed. At a certain point, you even advised President Hosni Mubarak, whose regime later jailed you. What, for you, were the signposts along the road to becoming a political dissident?**

Well, you give anybody the benefit of the doubt. And I did. I had also met with and advised President Sadat, including a trip to his house a few weeks before his death. I was actually performing a mission abroad for him when he was assassinated. With Mubarak, I had known him when he was Vice President [1975-1981] through his wife, Suzanne, who was my student. She did her M.A. with me. And frequently as Vice President, he would ask for memos and things to help him understand certain issues, which I gladly gave to him. I was flattered that he asked, and it was the same with his wife. The relationship started on a cordial note. I met with him as Vice President several times. I also met with him soon after he became President. He asked for new ideas and I was appreciative of what he did initially. He stabilized the country and defused the situation, which was then very tense after Sadat's death. He restored Egypt's relations with its neighbors, with Arab countries, and with the rest of the world. These were all positives.

Then he was challenged by Islamic militants, radical Islamists, and again he asked for help. He asked me to have a talk show for young people in Egypt. I did that for five years on prime time, right after the news. Every night in the early- to mid-1990s we did these talk shows, called "The Enlightenment Programs." Every opportunity I had to help, I did so. So long as he was responsive, I was gratified. However, after having helped him in his first two Presidential terms, in his third campaign he promised to change things and then didn't. I began to be critical. When he continued to ignore my recommendations, I realized his real motives.

**Was there a single meeting or interaction that marked the end of your relationship with President Mubarak?**

When I wrote an article suggesting that the Muslim Brotherhood be incorporated into the government ministries, that offended him. And that was the turning point. He did not appreciate what I wrote, even though it was just my opinion.

**Part of your strategy of nonviolent protest has been to mobilize people by evoking and**

**I don't see red lines. I speak my mind against anything, on any subject. I will not say anything I do not believe, and anything I believe, I'll express. And in that sense, I don't have any red lines. It would be a form of surrender**

**Although I was willing to pay the price myself for what I was doing, I regretted that the government made others pay who were completely innocent, and who had done nothing except being my aide, being my associate**

exposing the ugliest parts of the regime. Even a nonviolent mission can provoke a brutal and even violent reaction. In the case of the Ibn Khaldun Center, twenty-seven of your colleagues went to jail alongside you. Do you feel responsible?

I feel very responsible. And if there's anything that saddens me about the ordeal that I and the [Ibn Khaldun] Center went through, it was what happened to my family and young colleagues. Although I was willing to pay the price myself for what I was doing, I regretted that the government made others pay who were completely innocent, and who had nothing to do except being my aide, being my associate. If we were in a respectful, law-abiding society, then none of that would have happened. Many of my 27 associates who were jailed, you can't imagine why the government pronounced them guilty.

**Now that you are free, do you feel you have to moderate yourself? Are there still red lines for you that you can't cross?**

My wife tells people, Saad is a colorblind man. I don't see red lines. I speak my mind against anything, on any subject. I will not say anything I do not believe, and anything I believe, I'll express.

**It was a field day for me as a sociologist. If there is any consolation to being a prisoner, it is having this human laboratory. You see a part of the Egyptian body politic that you can't see outside**

And in that sense, I don't have any red lines. It would be a form of surrender. The Mubarak regime tried to make a deal with me three times while I was in prison. In return for closing my mouth and leaving the country, they would have closed my file and taken me out of prison. I said, "I will still speak my mind. I'd rather serve the seven years than make a deal. And if I am freed, I would

like it to be by a court ruling." So I waited until the court ruled. It took three years, but at least it was a high court ruling—and a ruling on the books is much more satisfying to me than any secret deal.

**Why does the Mubarak regime see you as such a threat?**

All of the major issues raised that have been thorns in the side of the regime were started by me. The ones who start something get skinned for it at the beginning. Many people disavow us, criticize us, only to discover within six months to a year that

we were right and everyone else was wrong. This was the case with my views on [Arab leaders] grooming their sons [to replace them]. When we talked about it six years ago, nobody had ever paid attention. Now everyone talks about it. It was the same thing with minority rights in Egypt, the same thing with monitoring elections, the same thing with the call for freedom of political and religious information. These are taboos. Nobody talks about these things until we do. The regime, of course, is always scared of what we do because they know that, in due time, despite the smearing and defamation and attacks, that it will catch up with them. It will become part of the public discourse. And that is a role that I'm very proud of.

**Egyptian intellectuals are looking for the perfect martyr. A friend of mine jokes that even Jesus Christ might not get the support of the Egyptian intelligentsia against the regime**

**What has your time in prison and your troubles with the regime taught you about the experience of living in a semi-authoritarian regime like Egypt's, where most people enjoy partial freedom most of the time?**

It taught me a great deal about Egyptian intellectuals and pressure from the regime, but it also taught me a lot about myself and my fellow prisoners. I saw firsthand how, at certain times, so many members of the elite ended up in prison. Through them, through the Islamists, I saw two sides of the same thing. I had about three or four cabinet members with me, people who served very closely with Hosni Mubarak, not to mention those who had worked for previous presidents. There were two gentlemen who went to military academy with him, two gentlemen, not to mention a few regional governors. It was quite an educational experience. It was a field day for me as a sociologist. If there is any consolation to being a prisoner, it is having this human laboratory. You see a part of the Egyptian body politic that you can't see outside.

I also learned how easily Egyptian intellectuals could be cowed and intimidated. Out of the thousand or so intellectuals here that really deserve to be in that category—having really produced new knowledge and valuable opinions—out of those thousand, who knew me well, only about 250 spoke up. It started with one, then 50, then 250, in three waves. The other 750 were cowed. Some probably took delight in my



predicament, who knows? But that was quite revealing to me.

And when the same thing happened to others, I found even more intimidation. That was the case with Ayman Nour. I was the only one who dared to speak out in the beginning, and only when I started to campaign for him in Western capitals did others begin reluctantly to fall in line. You'll find all kinds of excuses for not supporting this or that, to the point where a friend of ours, [European MP] Emma Bonino, had a famous diagnosis of the Egyptian intelligentsia: They are looking for the perfect martyr. Just know that even

martyrs are not perfect. They want a perfect martyr before they will endorse, support, or declare their solidarity. Even Jesus Christ—she doubts if he would have the support of the Egyptian intelligentsia against the regime.

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