The Fletcher School Online Journal for issues related to Southwest Asia and Islamic Civilization Spring 2004, Article 1

The Iranian Constitution: An Exercise in Contradictions

S. Waqar Hasib

I. Introduction

Since the overthrow of Shah Mohammed Reza Pahlevi in 1979, Iran can best be described as a nation of contradictions. Iranians are often shown on U.S. television burning American flags and chanting "death to America," while behind the camera they listen to Madonna, wear Tommy Hilfiger jeans and watch the latest Los Angeles Lakers games on satellite dishes.1 Iran ranks at the top of the U.S. State Department's list of nations that sponsor terrorism,2 yet Iranians lit candles and held mass impromptu vigils in the streets of Tehran for the victims of the September 11 attacks.3

Often a nation's externally visible characteristics are a result of its internal political structures. My goal in this paper is to identify and analyze the internal contradictions inherent in the Iranian constitution that may be contributing to Iran's externally visible inconsistencies. This is an important exercise for two reasons. First, from a microscopic level, it offers an excellent opportunity to apply the concepts of constitutionalism that we have developed in class to a real life situation. Second, from a macroscopic level, for better or worse the U.S. in recent months has adopted a new proactive approach to promote democracy in Southwest Asia. U.S. policymakers must have a keen understanding of the complexities of Iran's political structure if this new policy is to succeed.

II. The History Behind the Iranian Constitution

A constitution is not merely a document, nor a set of laws. Rather, in many ways a constitution is an expression of the values, needs, and desires of a particular community. Thus it is important to examine not only the actual content of a constitution, but also the particular historical context in which it was created. One could not properly study the U.S. constitution with out at least a basic understanding of the history of the British Empire in North America, the American Revolution, and the Articles of Confederation. Likewise, one cannot properly study the Iranian constitution without first examining the chain of events that led to its creation.

A. From the Qajars to Reza Khan – 1826 to 1941

The roots of the current Iranian constitution ratified in 1980 can be traced back over a century earlier to 1826, when Russia invaded Iran. Until that point, Iran had largely remained free of foreign influences since 1220 A.D., when Gengis Khan and the Mongols invaded what was then known as Persia. In the 19th century, the Russian Empire sought to expand its territory and gain access to a southern seaport in the Persian Gulf, thus becoming the first of several nations to intervene in Iranian domestic affairs to advance their own geopolitical and strategic interests.5 Soon thereafter, the British Empire, which already controlled Afghanistan in the north and the Indian subcontinent to the east, took advantage of Iran's military weakness to exact a number of economic concessions and trading privileges. Most importantly, the Qajar family, which then

ruled Iran, granted to the British the right to build communications and rail links from Turkey throughout all of Iran, thus connecting Britain's European and Middle Eastern possessions to the jewel of its colonial crown in India.

Iran remained neutral during World War I, though it was used as a battlefield by the British, the Turks, the Germans, and the Russians, with devastating results on the Iranian people. By 1918 the British were able to turn it into a de facto protectorate or colony. Iranian opposition to the British presence intensified, supported in no small part by the United States and President Woodrow Wilson's policy of promoting ethnic self-determination. Reza Khan, a young but charismatic general in the Iranian army, seized control of this nationalist sentiment to reform the Iranian armed forces and lead them on a series of military victories against Iranian tribal groups and ethnic minorities, eventually building enough momentum to oust the Qajars and crown himself as the Shah of Iran in 1925.

But Reza Khan was no less immune to foreign pressures than his predecessors. Though he embarked on an ambitious plan of social and economic reform modeled after a similar attempt in neighboring Turkey to jumpstart the industrialization process, he was forced out of power at the height of World War II, when he refused to grant the British and the Russians access to the Trans-Iranian railway. The British invaded in 1941 and installed his son, Mohammed Reza Pahlevi, as the new Shah.

B. The Reign of Mohammed Reza Pahlevi – 1941 to 1978

Pahlevi allowed the British a great deal of autonomy both during and after World War II. Angered by Pahlevi's submission, Mohammed Mossadegh, the democratically-elected prime minister and leader of Iran's Nationalist Front party, led a movement to nationalize Iran's lucrative oil industry in 1951. This caused a great deal of concern both to Britain, which controlled most of Iran's oilfields, and the United States, which was looking to expand its supply of energy resources to sustain its burgeoning post-war economy. Before Mossadegh could succeed in nationalizing the oil industry, however, Britain and the United States successfully conducted a covert operation in 1953, and, with Pahlevi's assistance, dissolved Parliament, overthrew Mossadegh, and installed a pro-Pahlevi and pro-Western government (see Appendix A).6

As a result of the 1953 coup, Iran under Pahlevi became an increasingly totalitarian, anti-democratic state. To prevent another unruly, Mossadegh-like Parliament from being elected, Pahlevi cancelled most popular elections, and rigged the few that he allowed. To monitor and suppress any significant political opposition from developing, he created a secret police force known as SAVAK. "SAVAK personnel were trained in the United States and Israel, where they learned 'scientific' methods to prevent unwanted deaths from "brute force" [including]… sleep deprivation, extensive solitary confinement, and an electric chair with a large metal mask to muffle screams while amplifying them for the victim."7 Thus, SAVAK was synonymous not only with foreign intervention in Iran, but with torture and oppression as well. Moreover, during Pahlevi's reign, most major decisions regarding Iran's oil output were made by a consortium of Western oil companies known as the "Seven Sisters." Pahlevi increased military spending substantially, thereby furthering Iran's reliance on Western military-exporting nations such as the United States, Britain, and France.

In 1962, Jalal al-e-Ahmad, a prominent Iranian philosopher, published Gharbzadegi, a book some believe was as important to the Iranian Revolution as the Communist Manifesto was to Marxism. Loosely translated as "westoxication," al-e-Ahmad criticized Iranian leaders and intellectuals for succumbing to the empty promises offered by Western-style industrialization and capitalism, losing any sense of their Iranian identity in the process. Summarizing the frustration that many Iranians felt after decades of foreign intervention in their country, al-e-Ahmad wrote

> [a] westoxicated man who is a member of the ruling establishment [in Iran] has no place to stand. He is like a dust

> particle floating in space, or a straw floating on water. He has severed his ties with the essence of society, culture, and custom. He is not a bond between antiquity and modernity. He is not a dividing line between the old and the new. He is something unrelated to the past and someone with no understanding of the future. He is not a point on a line, but an imaginary point on a plane or in space – just like that dust particle….

The westoxicated man never takes his eyes off the West. He does not care what happens in his cozy little part of the world, in this corner of the East. If by chance he is interested in politics, he is aware of the slightest shift to the right or left on the part of the English Labour Party and he knows the names of American Senators better than he knows the names of ministers in his own country's government. He knows more about the commentators in Time and the News Chronicle than he does about his cousin in Khorasan.8

Around the same time as Ahmad and gharbzadegi, another figure in Iranian politics was beginning to gain influence. Starting in 1960, Ayatollah Ruhollah Khomeini, a Shi'i Islamic cleric, led protests and resistance against the Pahlevi regime, appealing not only to religious conservatives and scholars but also to a wide base of Iranians who felt disenchanted by the government's pro-Western policies and the vast wealth of the political elite. Though exiled by Pahlevi in 1964 for leading anti-government protests, Khomeini remained an immensely popular figure in Iranian politics, even from France, as his followers distributed audiotapes of his speeches advocating the overthrow of Pahlevi and the creation of a popularly chosen, Islamic-oriented regime. His book, "Iranian Government," covered three main topics. First, it was a radical condemnation of the Pahlevi regime; second, it said that Islam gave man all the laws he needed for his happiness; third, following along the lines of gharbzadegi to some degree, Khomeini wrote that Islam is in danger, under attack from Western and other regimes that are diluting its values.

Meanwhile, as Khomeini and gharbzadegi attracted more and more followers, Pahlevi's social and economic policies had driven the country to the brink of disaster. By 1978, on the eve of the Iranian Revolution, "an economic recession, inflation, urban overcrowding, government policies that hurt the bazaar classes, glaring income gaps, and conspicuous Western-style consumption by the elite and the lack of political freedom or participation were all widely felt and belied the numerous official predictions that the "Great Civilization" was just around the corner."9

C. The Revolution, the Drafting, and the Redrafting of the Iranian Constitution—1978 to 1980

At the end of 1978, Pahlevi's regime finally began to crumble. Though many of the protests and demonstrations that took place had strong pro-Islamist elements, criticism of Pahlevi emanated from all quarters of the population, from the working class to professionals to students, from Marxists to socialists to industrialists. In January of 1979, Pahlevi left for the United States, ostensibly to obtain medical treatment but presumably under the assumption that calls for his ouster would not cease. Pahlevi's appointed prime minister could do little to stop the strikes and demonstrations that Khomeini had called for from France, and by February 1, 1979, Khomeini was able to return to Iran to a hero's welcome, with thousands of Iranians lining the streets on the road to the airport. On February 11, 1979, Khomeini and his followers took control of the government.

Initial proposals of a constitution had already been circulated prior to Khomeini's return, and by early 1979 a commission of Islamic scholars and civil jurists had a preliminary official draft ready for approval. This official draft contained a number of notable features:

- A popularly elected Parliament which had exclusive power to pass laws
- No "supreme leaders" or any other type of supra-constitutional body

- Adherence to shari'a law, but no suggestion that shari'a was infallible or immutable
- A "Guardian Council" of six civil scholars and five Islamic scholars, who would exercise only appellate jurisdiction to examine whether laws passed by Parliament conformed with shari'a10

Khomeini initially supported this constitution. He declared to reporters on several occasions that he had no intention to participate in governing Iran, but instead sought to be a kind of spiritual advisor to the nation. According to his representatives, the clergy neither deserved nor sought any role in the new constitution. Moreover, it was to be one of the world's most "progressive" constitutions. "As the representative of God, who is the true leader, the public will govern the state… the freedom of individuals and groups will be guaranteed."11 A leading Iranian newspaper concurred that the new constitution would "take into account of those freedoms that are based on the U.N. Charter of Human Rights… women can hold the highest government… they can even become President. In this respect the Islamic Republic will in no way resemble Saudi Arabia. If the Republic is called Islamic that is simply because the official religion of the country is Shi'ism."12

Over the course of the next two years, though, it became increasingly obvious that Khomeini's support for this preliminary constitution was purely superficial and based on political expediency. Just two months after ousting Pahlevi, Khomeini organized a popular referendum asking voters to decide on the single question of "whether the form of the future state would be the Islamic Republic or not."13 Turnout was extremely high and the referendum was approved by 98.2 percent of the electorate. Though that number seems artificially high, given the widespread disgust with the former regime and Khomeini's immense popularity at the time, it seems highly probable at the very least that the referendum would have passed by a wide margin, even in the most transparent of elections.

Regardless of the validity of the vote tally, though, Khomeini used the passage of the referendum as a kind of mandate to overhaul the proposed constitution, centralizing political power in the hands of the clergy and, most importantly, himself. First he and his followers withdrew their support for the "Constituent Assembly," a kind of constitutional convention whose purpose was to ratify the proposed constitution. Khomeini attacked the members of this assembly as enemies of Islam, declaring that "'we wish to create an Islamic constitution,' for which no 'Westernised' jurists [are] needed but only 'noble members of the clergy' and other 'knowers' of Islam."14 Given the appeal of gharbzadegi, this kind of anti-Western rhetoric proved to be extremely popular.

Instead of the now-defunct Constituent Assembly, Khomeini pushed for the creation of an "Assembly of Experts" in its place. This assembly, though popularly elected, was much smaller than the Constituent Assembly, and Khomeini was able to impose much stricter requirements for candidacy. Not surprisingly, when elections were held on August 3, 1979, 55 of the 72 delegates were religious clerics "who, with few exceptions, followed the so-called 'line of the Imam.'" Moreover, unlike the referendum held a few months earlier, this time there were widespread allegations of voter intimidation, ballot fraud, and election rigging. Nevertheless, the new assembly immediately set to work discrediting the proposed constitution, recommending instead a new version that called for much greater consolidation of power in the hands of Khomeini and the clergy.

Armed now with at least a cursory understanding of the historical genesis of the Iranian constitution, I turn now to the text of the Assembly of Experts' constitution, ultimately implemented in 1980. 4

III. The Iranian Constitution and its Inherent Contradictions

The 1980 constitution is a document of both massive scope and minute detail, declaring broad ideological visions for the nation as a whole,

while delegating powers to branches of government and describing specific procedures for those branches to carry out their functions. It is divided into 15 sections: the first section is a lengthy preamble explaining the roots of the Iranian Revolution and its overall goals, while the latter 14 sections contain 145 articles that delegate specific powers to various branches of government, provide individual citizens with various freedoms, and allow the government the ability to infringe on those freedoms in certain situations. In the interest of brevity, the basic structure of government is depicted in an organizational chart in Appendix B.15 Below, however, I discuss how some of the most fundamental features of this constitution contradict each other.

A. Velayat-i-Faqih versus Separation of Powers

1. Dominance of the Leader over the Political Institutions

Perhaps the most important contradiction in the Iranian Constitution lies in the concept of "velayat-i-faqih," roughly translated as rule by an Islamic jurist.16 Khomeini urged the Assembly of Experts to adopt velayat-i-faqih as the basis for all other distributions of power under the Constitution. They obliged in Chapter V, Article 57, entitled "Separation of Powers," which states that the Islamic Republic consists of three branches of government, a legislature, judiciary, and executive branch, but that all three "function under the supervision of the absolute religious Leader."17 (The reader may be more familiar with the Arabic and Persian term "Imam," rather than its English translation as "leader.") Clearly, no one branch can be separate from the other two, as the title of the article suggests, when all three are subject to absolute supervision by the Leader.

In fact, when comparing the specific powers delegated to each of the "separate" branches to the broad powers granted to the Leader, one wonders why the Assembly of Experts found any need for the three inferior branches at all. For instance, according to Chapter VI, Section 2, Article 71, the legislature can "establish laws on all matters" as long as those laws comport with Islamic law.18 However, this law-making power seems to directly conflict with the powers of the Leader, enumerated in Chapter VII, Article 110, which direct the Leader to "delineate… the general policies of the Islamic Republic," "supervise[] over the proper execution of the general policies," and "issue[] decrees for national referenda."19 According to one scholar on Iranian constitutional law, while Khomeini was Leader he issued fatwas, or religious decrees, that were treated as legislation on issues ranging from the outlawing of warrantless searches and seizures to the establishment of domestic consumption levels for caviar, among many other topics.20 Similar contradictions exist between the Leader's powers and those granted to the executive branch. For example, the powers to raise armies are listed under Chapter X, along with the rest of the executive's power. But Chapter VII, Article 110 states that the Leader is supreme commander of the armed forces, and he alone holds the power to mobilize for war.

Perhaps the most striking example of the incompatibility of velayat-i-faqih and the notion of separation of powers occurred during the Iran-Contra Affair in 1986. At the height of the Iran-Iraq War, Khomeini purchased arms from the U.S., even though it appears that most of the powers to conduct foreign affairs are granted by the Constitution to the executive branch. When details of the scandal surfaced in Iran, a handful of members of Parliament demanded an explanation. "Khomeini… vented his anger against them and condemned their demand as an act that would only serve Iran's enemies."21 The MPs quickly apologized in a letter to the president of parliament, stating that "the question which we put to the minister of foreign affairs was based on 5 the belief that discussion of these problems in parliament would be in the interest of the Revolution and would meet with the approval of the Imam. Now that we have learned the wishes of the Imam and been instructed as to the interests of the nation, we are aware that there is no longer any reason for our question."22

2. The Political Institutions Strike Back

Despite the authoritarian rule of Khomeini, there have been some promising signs in the past

few years that the branches of government may in fact be able to exercise power independently and separately of each other, and more importantly, independently and separately from the Leader. Khomeini died in 1989 and was replaced as Leader by Ali Khameini, who wields far less personal charm and popularity. More recently, Mohammed Khatami, a liberal cleric who promised political and social reforms, was elected President in regularly scheduled popular elections in 1997 and again in 2001. That such elections took place at all suggests that velayat-i-faqih is not as powerful a tool for Khameini as it was for Khomeini. Moreover, since taking power Khatami has engaged in a number of policies that have irked the clergy and Khameini, policies that would have been virtually unthinkable under Khomeini. For instance, in 1998 in a globally-televised interview with CNN's Christiane Amanpour he declared his respect and admiration for the "American civilization," and offered to open at the very least an unofficial dialogue between the two countries.23 He has also taken steps, albeit limited ones, to promote greater freedom of the press, even though the constitution specifically delegates ultimate authority over radio and television to the Leader.24 Elaine Sciolino, who covers Iran for the New York Times, said of Khatami, "[h]e didn't just charm me, he charmed the whole country - and that's why he was elected in 1997… This is a man who went on public buses. He's the kind of baby-kissing politician we're used to here in the United States. He rolled up his sleeves publicly and gave blood. He tries to straddle the world of Islam and Islamic clericalism, and the world of the people."25

Along with the rise of the executive branch under Khatami, the legislative branch in recent years also exhibited an increasing power to question the concept of velayat-i-faqih and a willingness to act as its own independent branch of government. In February of 2000, reformists aligned with President Khatami won a majority of seats in Parliament, including 27 of 30 seats in the capital, Tehran.26 Like Khatami, many of the reformist candidates relied on savvy electoral tactics one sees in liberal democracies. Their campaigns were "complete with catchy placards and slogans. They mastered the art of making whirlwind stops around the country and pressing the flesh with the voters. They even learned to flatter the packs of western journalists who descended on Tehran: a lavish press breakfast was held in honour of the foreign guests."27 Economist. Once in power, they displayed no qualms questioning the power of Khameini and the clergy. For example, in June of 2001 they opened a public investigation into the state media company, which falls squarely under the control of the Leader. Perhaps even more surprising, and indicative of the changing balance of power after the death of Khomeini, Khameini acquiesced to the investigation and even commended the Parliament for "protecting the health" of the institutions under his control.28

B. Power to the People... Except, Not Really.

Closely related to the issue of velayat-i-faqih is the question of who ultimately holds power under the constitution. If the most basic form of power in any constitutional state is the power to create a constitution, then whoever holds that power could be described as the constitution's ultimate sovereign. In the U.S., for example, ultimate sovereignty over the constitution emanates 6 from the people. In contrast, in Iran ultimate sovereignty appears to emanate from at least four distinct sources: the people, Khomeini, other Leaders after Khomeini, and God.

1. Sovereignty of the people

Ultimate sovereignty of the people is recognized in the lengthy preamble of the constitution. In a section entitled "The Wrath of the People," the preamble stresses the popular roots of the revolution. Efforts by Pahlevi to maintain power "caused an outburst of popular outrage across the country. The regime attempted to quiet the heat of the people's anger by drowning the protest and uprising in blood, but the bloodshed only quickened the pulse rate of the Revolution…. In the course of this popular movement, the employees of all government establishments took an active part… The widespread solidarity of men and women of all

segments of society and of all political and religious factions, played a clearly determining role in the struggle."29 Further along, in a section entitled "The Price the Nation Paid," the preamble recognizes that its existence is based on the "final and firm decision" of the Iranian people "to bring about a new political system, that of the Islamic Republic. A majority of 98.2 percent of the people voted for this system."30 Thus, although the language might be more ornate than "We the People of the United States… do ordain and establish this Constitution," the end result appears to establish popular sovereignty as the basis for the constitution just the same.

2. Sovereignty of Khomeini

The same preamble also seems to suggest that ultimate responsibility for creating the constitution lay with Khomeini, and that the people merely followed his lead. For instance, describing the roots of the concept of Islamic government, the preamble states "[t]he plan…proposed by [Khomeini] at the height of the period of repression and strangulation practiced by the despotic regime, produced a new specific, and streamlined motive for the Muslim people, opening up before them the true path of Islamic ideological struggle." Later, "the people, aroused, conscious, and resolute under the decisive and unfaltering leadership of [Khomeini], embarked on a triumphant, unified, comprehensive and countrywide uprising," (emphasis added).31

3. Sovereignty of the Leader

Yet another potential source of ultimate sovereignty under the constitution lies not in Khomeini personally, but in the office of the Leader in general. Chapter II, Article 5 establishes this office and declares that exclusive leadership over the ummah, or community, falls upon this "just and pious person," the Leader.32 Moreover, as described above, the concept of velayat-i-faqih grants the Leader supervisory authority over all the other branches of government, suggesting that it is the office, not Khomeini in particular, that possesses ultimate constitutional authority.

4. Sovereignty of God

Finally, there lies the possibility that ultimate constitutional authority may lie directly with God, rather than in the hands of any mortal beings. Naturally, placing ultimate sovereignty in a supernatural being creates a host of practical and theoretical problems. Can God amend His (Her?) own constitution, or would doing so acknowledge fallibility? If the constitution comes from God, why did the Iranian people need to vote on whether they wanted an Islamic Republic or not? And, at the risk of sounding flippant, does God have judicial review, and if so, how is it exercised?

The Iranian constitution attempts to resolve some of these dilemmas. Article 56, entitled "The Divine Right of Sovereignty," states that "[a]bsolute sovereignty over the world and man belongs to God, and it is He Who has made man master of his own social destiny. No one can deprive man of this divine right, nor subordinate it to the vested interests of a particular individual or group. The people are to exercise this divine right in the manner specified in the following articles."33 7

But rather than resolve dilemmas, Article 56 only creates more contradictions. For example, if the people are the terrestrial representatives of God's constitutional sovereignty, then neither the Leader nor velayat-i-faqih should be necessary. In fact, since there is virtually no role for the people in selecting the Leader, the entire notion of velayat-i-faqih quite possibly violates Article 56.

C. Substantive Rights That Lack Substance

The Iranian Constitution contains an impressive list of individual rights, much broader in scope and detail than our own Bill of Rights. For example, the constitution at least nominally grants full equal protection to women, obliges the government to provide every citizen the opportunity to work, provides for free education, guarantees housing, and protects the rights of the accused to be represented by counsel in all circumstances. Yet a number of these provisions are self-contradictory. For example, "publications and the press have freedom of expression, except when it is detrimental to the fundamental

principles of Islam or the rights of the public,"34 leaving one to wonder what exactly "freedom of expression" entails under Iranian constitutional law. Similarly, the Constitution guarantees a right to "freedom" of association, where parties, societies, and professional associations are permitted, provided "they do not violate the principles of independence, freedom, national unity, the criteria of Islam, or the basis of the Islamic Republic."35

Other individual rights directly conflict with articles elsewhere in the Constitution. For instance, Article 19 says that "[a]ll people of Iran, whatever the ethnic group or tribe to which they belong, enjoy equal rights."36 At the same time, according to Article 64, Zoroastrians, Jews, and Armenian Christians are each allowed only one representative in the legislature, while Assyrian and Chaldean Christians are allowed only one between them, which hardly seems compatible with the concept of equal rights.

The limits on "freedoms" enumerated in the constitution extend also to the economic sphere. For example, Articles 46 and 47 declare that "everyone is the owner of the fruits of his legitimate business and labor" and that "[p]rivate ownership, legitimately acquired, is to be respected."37 At the same time, Article 43 declares that one of the overall goals of the national economy is the "the prohibition of extravagance and wastefulness in all matters related to the economy, including consumption, investment, production, distribution, and services."38 Clearly, a conflict inevitably arises if a person consumes the fruits of his legitimate business and labor in an extravagant manner.

IV. Constitutionalism and the Iranian Constitution

What impact do these contradictions have on Iran as a constitutionalist state? Below I apply some of the theories of constitutionalism that we have discussed in class to the Iranian constitution.

A. Is the Iranian Constitution a "sham" constitution?

Walter Murphy writes that some constitutions are "shams," intended to deceive their subjects that some form of political order exists, when in fact power is exercised arbitrarily to suit the particular needs of a political elite. Murphy cites constitutions under Stalin and Mao as typical "sham" constitutions.39 Certainly, under Khomeini one could make the case that the Iranian constitution was little more than a symbolic piece of paper, and that any power it purported to distribute to individual branches of government was completely neutralized by Khomeini's centralized, autocratic regime. But Khomeini has been dead for nearly 15 years, yet Iranian politics continues to function in accordance with the constitution. For example, as described above President Khatami and the members reformist Parliament both came to power through constitutionally mandated elections. Voter turnout was very high in both elections, higher even 8 than most U.S. elections, suggesting that the average Iranian citizen believes that the constitution offers a real and meaningful framework for Iran's political culture. Indeed, the Economist describes Khatami not as a "Gorbachev, a man who would make possible the end of a system, let alone a Yeltsin, a man who might precipitate that end," but rather "a reformer, one who can improve and thereby safeguard the system by bringing about limited change, not one who would tear it down."40 At the very least, that a reformer such as Khatami could come to power in Iran through constitutional means suggests that Iran's constitution is more than a mere "sham."

The work of Iranian lawyer Shireen Ebadi, who recently won the Nobel Peace Prize, also suggests that the Iranian constitution is more than just a "sham." The cornerstone of Ebadi's efforts is to use Iranian laws and Iranian institutions to advance Iranian human rights. She believes in "piecemeal legal reform, underpinned by an enlightened approach to Shia jurisprudence, [to] solve women's problems" in Iran.41 Commentators describe her in sharp contrast to other reformers in Iran who take "issue less with laws than with the whole legal superstructure."42 Clearly, if the Iranian constitution were a sham, women like Ebadi would not employ it to advance their causes.

B. Is the Iranian Constitution an Expression of the People?

One school of thought suggests that in order to be legitimate, a constitution requires at a minimum some sort of authorization for a transfer of power from the citizens it seeks to govern into the governing institutions it seeks to establish. Under this theory, the Iranian constitution was clearly flawed from its inception. Though there can be no doubt that Khomeini enjoyed broad popular support throughout the Revolution, the manner in which he disbanded the Constituent Assembly and replaced it with the Assembly of Experts substantially restricted the opportunities for any non-religious sectors of the population to comment on or contribute to the new constitution. Certainly, the referendum on the Islamic Republic that passed with a 98.2% majority suggests that many Iranians might have supported the constitution had they been given a chance. But such speculation is moot, and does not change the fact that Khomeini largely engineered the ratification of the constitution by the Assembly of Experts. Under this theory, the Iranian constitution is about as legitimate as the U.S constitution would be had Madison, Hamilton, and Jay handpicked the majority of constitutional delegates and then ratified it themselves, without any input from the states.

C. Does the Iranian Constitution "entrench" any values?

Cass Sunstein writes that one of the most basic functions of a constitution is to "entrench" certain basic rights and arrangements. In other words, some issues are so important to the viability of a nation that they must be taken off the "ordinary political agenda" and "entrenched" in a constitution.43 Constitutions "create rights and institutions that follow from some independent theory of what individuals are owed by government."44 Here one could argue that Iranian constitution has been a resounding success. After nearly 200 years of foreign intervention, punctuated by the brutal tactics of the foreign-supported Pahlevi regime, the single most important issue to the Iranian people in the wake of the Revolution was the right to be free from foreign influence. This right is entrenched in numerous provisions of the Iranian constitution, including:

Preamble: "Our nation, in the course of its revolutionary developments, has cleansed itself of the dust and impurities that accumulated during the past and purged itself of foreign ideological influences"

Article 3(5) (State Goals): "…[t]he government of the Islamic Republic of Iran has the duty of directing all its resources to… (5) the complete elimination of imperialism and the prevention of foreign influence." 9

Article 43(8) (Economic Principles): "The economy of the Islamic Republic of Iran… is based on the following criteria… (8) prevention of foreign economic domination over the country's economy."

Article 153 (Foreign Control): Any form of agreement resulting in foreign control over the natural resources, economy, army, or culture of the country, as well as other aspects of the national life, is forbidden.

Oddly, perhaps the best indicator of the success of the Iranian constitution in entrenching the right to be free from foreign influence is the fact that, apart from a few isolated incidents, Iran has had virtually no contact with the U.S. since its constitution was implemented.

D. Is the Iranian Constitution "autochthonous?"

H.W.O. Okoth-Ogendo writes that many African nations have constitutions, but lack constitutionalism. He explains that many such nations are struggling to find an "autochthonous" constitution. "This search for autochthony involves not only the rejection of external ('specifically 'western') institutions and constitutional 'devices'," but also a distribution of power that reflects the needs and goals of underdeveloped, recently decolonized African nations.45 Applying Okoth-Ogendo's definition of "autochthony" to Iran yields mixed results. It seems clear that Iran has rejected "western" institutions by creating an Islamic Republic and placing broad supervisory authority over the three branches of government in the hands of the Leader and the clergy. But it is not as clear that

Iran this distribution of power accurately reflects the needs and goals of the nation. Rather, more than anything else the centralization of power in the hands of the clergy reflects Khomeini's immense popularity after the revolution and his ability to impose the concept of velayat-i-faqih into the new constitution. Thus, Iran seems to be struggling with the same dilemma as many of the nations Okoth-Ogendo describes: how to create a constitutionalist state without creating a "western" style of government.

V. Conclusion—What do Contradictions in the Constitution Mean to Iran Today?

The Iranian constitution is full of contradictions. It purports to allocate power in three separate branches, but then unifies those branches under the supervisory authority of the Leader and the concept of velayat-i-faqih. Ultimate sovereignty under the constitution emanates from at least four distinct sources that conflict with each other: the people, Khomeini, the office of the Leader, and God. The constitution grants individuals broad freedoms but then limits those freedoms to values that are consistent with Islam, leaving one to wonder what "freedom" really means in Iran. The constitution has allowed for popular reformers to come to power through regularly scheduled democratic elections, yet the constitution itself was forged largely under the direction of Khomeini in a most undemocratic manner. The Economist summarized the effects that these paradoxes are having on Iranian political life today:

Not far to the south-west of Tehran stands the holy shrine of Imam Ruhollah Khomeini, the ayatollah who inspired, led and largely created the modern world's only theocracy. The site is well chosen. To the north is Tehran, the city that swept the ayatollah to power in the revolution of 1979. To the south is Qom, the sun-baked seminary town where he had studied, preached and challenged the rule of Shah Mohammad Reza Pahlevi, and which is now the theological heart of Shia Islam. Next door is Behesht-e Zahra, the main cemetery for Tehran and the resting-place, too, for about 30,000 Iranian soldiers killed in the 1980-88 war with Iraq. Soon, if all goes to plan, a new international airport will open nearby, bearing the ayatollah's name. Here, if anywhere, it seems, you can appreciate the transformation of Iran from an American-manipulated dependency to a proud, self-sufficient Islamic republic. 10

At a distance the shrine, a vast edifice with huge courtyards, towering minarets and blue-tiled domes, is certainly impressive. But on closer inspection this is not a building throbbing with life, or even quiet contemplation. True, on official mourning days, and especially on June 4th, the anniversary of the ayatollah's death, the multitudes appear. But usually the buildings are quiet, the pilgrims few and, in the cavernous, alabaster-floored hall where a green-bulbed chandelier shines down on the ayatollah's tomb, only a trickle of devotees come to pay their respects. Most of the shops are unlet, the snack bars unpatronised, and the travertine steps are beginning to break up. Even before it is finished, the shrine is becoming dilapidated. So it is with the Islamic republic itself.

The most striking aspect of this decay is the virtual paralysis of government, a consequence at one level of the power struggle that convulses the country. At a deeper level, though, it is a consequence of the contradiction embedded in a constitution that stipulates for Iran both religious and democratic rule. After nearly 24 post-revolutionary years, it has become apparent, if not admitted, that a government cannot be satisfactorily run both by the elected representatives of the people and by the unelected representatives of God.46

I concur with the Economist's bleak outlook for Iran. True, the Iranian constitution allows reformers such as Mohammed Khatami and Shireen Ebadi to encourage Iranian political progress from within, and not outside of, its institutions. But the same constitution could just as easily give rise to another autocratic regime like Khomeini's. In the end, I believe that this constitution will not be able to withstand its own internal consistencies.

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 on Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.

1 See, e.g., Ingwerson, Martin. "Iran's Next Revolution? Not by Zeal Alone," Christian Sci. Monitor, pg. unavailable online (August 28, 1997) (available at http://search.csmonitor.com/durable/1997/08/28/intl/intl.7.html).

2 Wolfe, Richard. "U.S. Names Iran as Chief Sponsor of Terror," Fin. Times, pg. unavailable online (May 21, 2002) (available at 2002 WL 19893785).

3 Barzegar, Jamshid. "September 11, One Year ON: Iran Mistrust Remains." BBCnews.com (September 2, 2002) (available at http://news.bbc.co.uk/1/hi/in_depth/world/2002/september_11_one_year_on/2233280.stm).

4 I relied heavily in this section on an excellent history of Iran by Nikkie Keddie, a leading scholar on Iranian politics. See Keddie, Nikkie. "Modern Iran: Roots and Results of Revolution," pgs 1-104. New Haven: Yale University Press, 2003.

5 Foreshadowing events that would occur over 150 years later, Iranians reacted to Russian interference in their domestic affairs by storming the Russian Embassy and taking hostages.

6 Documents recently declassified by the U.S. government confirm the CIA's instrumental role in overthrowing Mossadegh. Available at George Washington University National Security Archive at http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB28/index.html#documents

7 Marouf, Fatima. Review of "Tortured Confessions," by Abrahmian, Ervand, Berkeley: University of California Press, 1999, in Harvard Human Rights J., Vol. 13, Spring 2000.

8 al-e-Ahmad, Jalal. Translated by Sprachman, Paul. "Plagued by the West," pgs. 67-75, New York: Caravan Books, 1981. 11

9 "Modern Iran: Roots and Results of Revolution," pg. 96, supra. n. 4.

10 Schirazi, Ashghar. Translated by O'Kane, John. "The Constitution of Iran: Politics and the State in the Islamic Republic," pgs. 22-35, London: I.B. Tauris & Co., Ltd., 1997.

11 Id. at pg 27.

12 Id. at pg 26.

13 Id. at pg 24

14 Id. at pg 30.

15 "The Surreal World of Iranian Politics: Anatomy of a Power Struggle." Economist, pg. unavailable online (January 16, 2003).

16 Schirazi, supra. n. 9, at pg. 12.

17 Iranian Const., Chapter V., Art. 57.

18 Id., Chapter VI, Sec. 2, Art. 71.

19 Id., Chapter VII, Art. 110.

20 Schirazi, supra. n. 9, at pg. 68.

21 Id. at pg. 70.

22 Id.

23 Interview with Pres. Mohammed Khatami by Christiane Amanpour (January 7, 1998) (available at http://edition.cnn.com/WORLD/9801/07/iran/interview).

24 "God's Rule, or Man's?" Economist, pg. unavailable online (January 16, 2003).

25 "Profile: Mohammed Khatami," BBCNews.com (June 6, 2001) (available at http://news.bbc.co.uk/1/hi/world/middle_east/1373476.stm).

26 "Iran's Reformers Vault to Victory," Economist, pg. unavailable online (February 24, 2000).

27 Id.

28 "Iran's Parliament: Reforms, but only as Largesse," Economist, pg. unavailable online (June 21, 2001).
29 Iranian Const., Chapter I.
30 Id.
31 Id.
32 Id., Chapter II, Art. 5.
33 Id., Chapter V, Art. 56. 12
34 Id., Chapter II, Art. 24
35 Id., Chapter II, Art. 26
36 Id., Chapter II, Art. 19
37 Id., Chapter II, Art. 46-47
38 Id., Chapter II, Art. 43
39 Murphy, Walter, "Constitutions, Constitutionalism, and Democracy" in Jackson, Vickie and Tushnet, Mark. "Comparative Constitutional Law," pg. 197, New York: Foundation Press, 1999.
40 "God's Rule, or Man's?" supra., n. 22
41 "Shorn of Dignity and Equality," Economist, pg. Unavailable online (October 16, 2003)
42 Id.
43 Sunstein, Cass, "Constitutionalism and Secession" in Jackson, Vicki and Tushnet, Mark. "Comparative Constitutional Law," pg. 190, New York: Foundation Press, 1999.
44 Id.
45 Okoth-Ogendo, H.W.O., "Constitutions without Constitutionalism: Reflections on an African Political Paradox," in Jackson, Vicki and Tushnet, Mark. "Comparative Constitutional Law," pg. 190, New York: Foundation Press, 1999.
46 "God's Rule, or Man's?" supra., n. 22 13

The Fletcher School Online Journal for issues related to Southwest Asia and Islamic Civilization Spring 2004, Article 2

The Shanghai Cooperation Organization: A Holy Alliance For Central Asia?

Jan Arno Hessbruegge

Introduction: A New Holy Alliance?

At the Congress of Vienna in 1815, Emperor Francis of Austria, King Frederick William of Prussia and Tsar Alexander of Russia formed the Holy Alliance. While the three monarchs also sought to create a multilateral counter-pole to France, the dominant European power until Napoleon's fall, the Holy Alliance was primarily inward-looking in nature. It was directed against non-state forces. Its key purpose was to preserve the conservative domestic order of its monarchic members against the ideological threats of democracy, human rights and nationalism emanating from the French Revolution.

At first glance, the *Shanghai Cooperation Organization* (SCO), a regional intergovernmental organization composed of China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan, reminds one of this Holy Alliance. Five of its members are governed by authoritarian regimes with poor human rights records.[2] The Russian Government under Vladimir Putin shows increasingly authoritarian tendencies.[3] The SCO's two principal member states, China and Russia, are struggling with ethnic Islamic self-determination movements in Xinjiang (Northwest China) and Chechnya respectively. Notwithstanding the fact that both the Uighur and the Chechen movement comprise of violent as well as of non-violent factions, China and Russia have relied for the most part on brute force to stifle all expressions of ethnic separatism.[4]

Against this factual backdrop it comes as no surprise that the SCO strongly emphasizes the principles of non-interference in internal affairs and territorial sovereignty. While nominally professing to respect human rights, the SCO heads of state have jointly expressed their dismay about "the use of double standards in questions of human rights and interference in the internal affairs of other states under the pretext of defending them."[5]

At the same time, the SCO has made it its foremost goal to fight the triad of what it calls "terrorism, extremism and separatism." The SCO's principal documents neither discriminate between violent and non-violent self-determination movements, nor between those striving for outright secession and those that only want increased regional autonomy. All are summarily regarded as separatists.[6] In practice, SCO member states tolerate, or at times even support, when other members crush any other form of anti-government dissent.

After briefly outlining the historical evolvement of the SCO this paper analyzes what its future path might be. Contrary to the initial fear of some, the SCO will not, and is in fact effectively unable to, transform itself into an alliance directed against Western (United States or NATO) interests. Instead, the SCO is likely to

remain an inward-looking alliance directed against armed non-state actors. In order to do this effectively, the SCO has to expand into South Asia by accepting Pakistan and India as members.

From the Sino-Soviet Border Treaties to the Shanghai Cooperation Organization

The SCO has its origins in the Sino-Soviet (and later Sino-Russian) border negotiations of the early 1990s. Through treaties concluded in 1991 and 1994 the two countries de-lineated a border of 4,600 miles that had seen armed clashes in the late 1960s and early 1970s. After the break-up of the Soviet Union, the three newly independent Central Asian states bordering China—Kazakhstan, Tajikistan and Kyrgyzstan—joined the ongoing border negotiations. In April 1996 the five states signed the *Agreement on Confidence-building in the Border Area* that imposed restrictions on military deployment and activity within a hundred-kilometer (62 mile) demilitarization zone along the border. Since the Agreement was concluded in Shanghai the five states where henceforth identified as the Shanghai Five.

Beginning with the 1998 Almaty Summit the Shanghai Five began to turn their focus on other threats to the security of their countries and regimes: religious extremism, ethnic separatism and terrorism. This focus has remained at the heart of the SCO's activities ever since, while cooperation in other fields has not gone much beyond the rhetoric of summit declarations. On June 15, 2001 Uzbekistan, already an observer at the 2000 summit, joined the Shanghai Five. On the same day the now six Shanghai Five jointly declared to establish the Shanghai Cooperation Organization, which has since functioned as an inter-governmental forum for multi-level consultations in regular intervals.[7] In the course of the same meeting, the SCO members also adopted the Shanghai Convention on Combating Terrorism, Separatism and Extremism that establishes mechanisms for intelligence sharing.

The attacks of September 11, 2001 have raised serious questions about the viability of the organization. Despite the SCO's early focus on terrorism, its member states did not manage to agree on a common policy response to the attacks. Instead, Central Asian countries rushed to offer their support to the United States. Uzbekistan reportedly tendered its military bases to the U.S. without even consulting with its SCO partners.[8] The SCO processes were only activated on January 7, 2002 when China insisted to host an extraordinary meeting of the SCO foreign ministers.

In the wake of this political default, the member states led by China have attempted to reinvigorate the SCO in the last two years. Within the SCO framework China and Kyrgyzstan conducted a cross-border anti-terrorist military maneuver in October 2002, a first for China. Ten months later all five of the original Shanghai Five states took part in a second joint anti-terrorism exercise. In the same year the Regional Anti-Terrorist Structure (RATS), now situated in Tashkent, finally became fully operational—more than five years after the member states first endorsed its creation. In January 2004 the SCO General-Secretariat in Beijing was opened and Zhang Deguang, a former Chinese ambassador to Russia, was appointed Secretary-General. For the moment both institutions have to subsist on a meager annual budget of US$ 4 million.[9]

Mutual Accommodation in the Great Game

It has become fashionable to invoke Rudyard Kipling's notion of the 'Great Game' to describe the renewed political and economic interest in Central Asia. Essentially, this game is played for two prizes. The tangible prizes are the immense energy resources of the Caspian Sea and the possibility to transport them via pipeline to the markets of South and East Asia, instead of moving them westward. The Caspian Sea has proven oil reserves of up to 32.8 billion barrels and a potential of up to 218.8 billion barrels. With 232 trillion cubic feet, its proven gas reserves are comparable to those of Saudi Arabia.[10]

The intangible prize lies in Southeast Asia's geo-strategic significance. Even in the information age, geographic proximity remains relevant to

project power.[11] Central Asia's position makes it possible to project power into the Greater Middle East, Europe, South Asia and East Asia leading one analyst to conclude that "the globalization for Central Asia is not merely an economic phenomenon, but possibly or even primarily a strategic one."[12]

In view of China's ongoing ascendancy to economic and military super-power status and Russia's simultaneous decline, many had thought that China would try to replace Russia as the dominant power in this strategic hub. However, quite the contrary occurred. China more or less supported the status quo. It calculated that continued Russian pre-eminence in Central Asia would function as a bulwark against growing radical Islamic and American influence while ensuring that China had a role in the region's economic development.[13] The Chinese-led Shanghai Process is a consequence of this strategy. It fixes Russia's acceptance that China has a major role in Central Asia, while demonstrating that Beijing prefers to work with Russia and not against it.[14]

Three reasons motivate China to strike this bargain of mutual accommodation with Russia rather than to challenge the incumbent regional hegemon. First, Central Asia's energy resources can help satisfy China's ever-growing energy needs.[15] A benign Russian posture makes it easier for China to pursue the active energy diplomacy in Central Asia that it has begun several years ago.[16]

Secondly, Central Asia's geo-strategic significance has not been lost on Islamic armed non-state actors either. These groups are establishing a network of mutual support (e.g. for training, arms procurement, and intelligence) in order to more effectively challenge governments from the Caucasus to South Asia. China is currently experiencing this in Xinjiang, where it is confronted with an Islamic self-determination movement. What is today Xinjiang Uighur Autonomous Region (XUAR) has only become part of China in 1884 when Qing Dynasty troops finally overcame the fierce resistance of the Uighurs living in what was then East Turkestan. Since 1949, the Chinese government has systematically resettled ethnic Han Chinese to Xinjiang in order to gradually incorporate it into the Chinese heartland. This strategy has only exacerbated tensions resulting in an upward-spinning spiral of Uighur separatist violence countered by Chinese repression.[17] If the Uighurs managed to secede from China they would not only take one-sixth of China's territory with them, but also China's bridge to the energy resources of Central Asia, its nuclear testing grounds and the oil reserves that Xinjiang itself is presumed to harbor.[18]

Third, stability in Central Asia combined with secured access to the region allows China to concentrate on Taiwan and the South China Sea. Incidentally, good political relations with Russia also facilitate purchases of modern Russian arms that China needs to project military power beyond its shores.[19] In addition, the SCO framework entrenches a bargain China struck with the Central Asian autocracies. In exchange for recognition of the "One China" principle, China promised not to interfere in their internal affairs.[20]

The Birth of an Anti-Western Alliance? Not So

As the Shanghai Process gathered momentum, many analysts began to wonder, whether they were seeing the birth of an anti-Western, or more specifically anti-American, alliance led by China and Russia. These suspicions were fuelled by Boris Yeltzin's and Jiang Zemin's announcement of a "strategic partnership" and the subsequent joint Sino-Russian condemnations of Western security policies such as NATO's military intervention in Kosovo or the American plans for a Ballistic Missile Defense. The SCO itself has been sending mixed messages. On one hand, its leaders have expressly declared that the SCO is not an alliance directed against any other states or region.[21] On the other hand. they have voiced their opposition to Western hegemony by jointly speaking out for

a multi-polar world, for the primacy of the U.N. Security Council and, as mentioned above, against humanitarian intervention.[22]

Since September 11, 2001 China and Russia have been plagued by the fear that the United States or NATO will expand their traditional spheres of influence under the pretext of the war on terror.[23] Recent developments in Central Asia arguably confirm this fear. The United States has manifested its strategic interest in Central Asia by continuing to operate military bases in Kyrgyzstan and Uzbekistan, which it used during the Afghanistan campaign.

It is likely that the United States will maintain a permanent military presence in Central Asia, notwithstanding China's and Russia's expectation to the contrary.[24] The Euro-Atlantic Part-nership Council (EAPC), born out of NATO's Partnership for Peace (PfP) initiative, formally links NATO with the countries of Central Asia. In 2002, NATO expressly declared that it considers the Caucasus and Central Asia to be "strategically important."[25]

The pertinent question of the day is therefore whether Russia and China will try to transform the SCO into a vehicle to oppose this increasing Western influence in Central Asia. Russian Foreign Minister Ivanov has hinted at this possibility when he stated that the SCO could "play the role of one of the key supports in a multipolar world order."[26] His Chinese counterpart Li Zhaoxing rejected this notion in a 2004 article, reiterating that the SCO is "not directed against other countries" but aims at "maintaining a good surrounding environment and promoting China's modernization drive."[27]

Lack of Cohesion Within the SCO and Common Ground With the West

In the short-term to medium-term, the SCO will not transform itself from a counter-terrorist to an anti-Western alliance. There is still a profound lack of cohesion within the group and all members have an interest in not antagonizing the West at this point and time. In spite of their rapprochement in recent years, significant sources of irritation remain present in Sino-Russians relations that make a firm alliance improbable. Russia fears losing control over the vast Russian Far East, which constitutes one third of Russia's territory (6 million square kilometers), but is only home to a dwindling 6.7 million Russians. Even with the borders now delineated, Moscow remains afraid of losing its factual grip on the region as illegal migrants from China (and elsewhere) stream into the territory.[28] The policies of both countries also clash with regard to South Asia. Whereas China maintains good relations with Pakistan, Russia is close with India.

Furthermore, SCO members have concluded that they stand to benefit more from a cooperative, or at least accommodating posture, towards the West, while they are pushing for much needed economic growth. With the possible exception of the Taiwan question, China has decided not to challenge the United States at this juncture.[29] The Chinese strategy is to concentrate on economic reform and growth, while maintaining peace relations with global leaders and normalizing relations with its neighbors. Former President Jiang Zemin reportedly summarized the policy approach as "sheathing the sword and cultivating humility", while building up "overall state might."[30] Economically, China has a lot more to gain from the United States and the West than from Russia. China's trade with the United States and also with Japan is each worth well over US$ 100 billion annually, whereas the annual trade with Russia has never exceeded 11 billion.[31] Moreover, China and the Transatlantic Alliance are now facing interlinked security threats from non-state actors. The perception of common threats may be one reason why China requested a formal dialog with NATO in October 2002.

Russia also shares a lot of common ground with the West, and its leaders are aware of that. In 2003, the Russian State Council's Working Group on International Issues proposed a similar strategy of temporary cooperation until Russia has caught up with the West. The Working Group recommended to work together with the U.S. on

global security issues such as international terrorism, while building constructive partnerships with NATO and the European Union in the West and with China and the SCO in the East.[32] Russia's exclusively rhetorical response to the 2004 NATO expansion demonstrates that it is neither able nor willing to pursue any other strategy than accommodation.

The Central Asian SCO members do not want to antagonize the West either. Their region is a so-called shatterbelt, i.e. a strategically important but politically fragmented area of competition between the continental and maritime powers.[33] Realizing that, they do not chose one great power over the other. Instead, each country tries to play the competing great powers off against one another, while jockeying for position in the region. For this reason, they all rushed to offer their broad support to the American counter-terrorism campaign pushing their own agendas over that of the SCO.

The Expansion Question

The SCO will not become an effective anti-Western Alliance in the medium and long-term either. Instead it will be faced with a crucial choice of either expanding into South Asia or to become irrelevant. Both India and Pakistan have let it be known that they wish to join the SCO.[34] Troubled by Islamic extremist groups as well, India has strong strategic interests in creating stability in Central Asia and it wants its burgeoning population to have secure access to Central Asia's energy resources. Naturally, Pakistan would not like to be barred from a regional club to which India is a member. The result of both countries' accession would be an organization embracing three out of the world's six billion inhabitants. Counter-intuitively perhaps, the added weight would make the SCO a more likely strategic partner than competitor of the West. The divergence of geopolitical viewpoints within an enlarged SCO would make a coordinated opposition impossible. The SCO would have to concentrate instead on fighting common non-state security threats and on coordinating Central Asia's development.

The present SCO members have signaled however, that they currently do not intend to admit new members "until [the SCO] stands on its own feet."[35] The true reason lies in the diametrically opposed policies Russia and China have adopted towards South Asia. India and Russia have an excellent relationship going back to a remarkable 1971 treaty that linked democratic India to the Communist Soviet Union. Up to this day Russia continues to be India's principal supplier of arms.[36] Conversely, Russia conceived Pakistan as a threat prior to September 11, 2001 fearing that Pakistan would support Islamic extremism on the territory of the former Soviet Union just like it had done in Afghanistan. With Pakistan's participation in the global coalition against terror this perception seems to have changed. President Musharraf's 2002 visit to Moscow marked the first official visit by a Pakistani Head of State in more than thirty years. Russia might therefore be willing to support Pakistan's membership bid, if India can also join.

The ball is now in China's field. China has to overcome its historic suspicion of India and link a strategic competitor to a region, in which China itself is just establishing a presence. Yet, there are sound reasons for expanding the SCO into South Asia, even from the Chinese perspective. Without it the organization's principal raison d'être—the effective suppression of terrorism, separatism and extremism—is called into question. If the operating theatre of the armed non-state actor network the SCO intends to fight spans into South Asia, it makes sense to expand the SCO's reach. Moreover, the SCO is in dire need to differentiate itself from two post-Soviet entities that seek to deal with non-state threats. In 2000, the Commonwealth of Independent States (CIS) created an Anti-Terrorist Centre in Moscow with a branch office in Bishkek. The Collective Security Treaty Organization (ODKB, Organitzatsiya Dogovora o Kollektivnoi Bezopasnosti), which is composed of Russia, Armenia, Belarus, Kazakhstan, Kyrgyzstan, and Tajikistan, has already established a 1,500 men strong Collective Rapid Deployment Force. Vladimir Putin has clarified that the ODKB and its instruments are

directed against international terrorism and not against other states.[37] In the field of trade and economics the Eurasian Economic Union (Russia, Belarus, Kazakhstan, Kyrgyzstan, and Tajikistan) is staking out its turf.

The existence of this parallel network of post-Soviet institutions will tend to keep China out of the decision-making loop, unless it can offer enough money or military assistance to keep the other SCO members interested. The obvious solution to this problem of asymmetry is to expand the SCO from a group of former Soviet republics plus one to a larger regional entity.[38] This larger entity could also help manage the political competition relating to the region's major energy and transport infrastructure projects and channel it into multilateral dispute resolution processes.

If India and Pakistan are snubbed for membership on the other hand, they can be expected to engage in the shatterbelt game. They will seek to pull some of the Central Asian countries into their camp in order to undermine the SCO, prevent Chinese dominance in Central Asia and secure their access to the Caspian Sea's energy resources. India, for instance, has already strong ties with Tajikistan harkening back to the two countries' joint efforts to assist the late Ahmad Shah Masood and the Afghan Northern Alliance.[39] It even operates an airforce base in Aini, Tajikistan. India has also already secured a formal expression of support for its SCO membership from Kazakhstan.[40] These ties should be strengthened and woven into the existing institutional framework rather than letting them tear the SCO apart.

Conclusion

Compared to the level of international attention it has received, the SCO has achieved very little in substantive terms. It chose to concentrate on one substantive area, fighting terrorism, extremism, and separatism. Yet, it failed to adequately respond to the most important terrorist attack in modern history. Interest in the SCO nevertheless persists because it would fulfill pressing needs, if it would ever become politically effective. Central and South Asia are home to numerous interlinked extremist groups. Yet, there is no regional organization with a geographical ambit that is congruent with this transnational threat. Moreover, there is no organization that can politically coordinate the extensive transnational infrastructure projects the region will see in the years to come.

Fears that the SCO might be an anti-Western alliance in waiting are misplaced. In the short-term to medium-term its members are neither interested nor able to launch a coordinated opposition to NATO or U.S. interests. In the medium- to long-run it has to expand into South Asia or become insignificant. If western-friendly India and Pakistan are members, the smallest common political denominator in the SCO does not go beyond a common enmity towards Islamic extremism and terrorism.

A final word of caution needs to be added. The Holy Alliance of 1815 ultimately failed because it could not simultaneously suppress the forces of ethnic separatism and the struggle for individual liberty. Any Central Asian security grouping may experience the same fate, if its leaders do not learn to distinguish between incorrigible extremists and the moderates who strive for no more than individual liberty and, in some cases, adequate recognition of their ethnic group's minority status.

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 on Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.

[1] The author would like to thank Mr. Rudolf Scharping for his insightful advice and Ms. Angie Armelle Brice for her support in the preparation of this article. The views and opinions expressed are solely my own.

[2] See, e.g. Freedom House, Freedom in the World 2003: Country and Territory Reports, http://www.freedomhouse.org/research/freeworld/2003/countries.htm (rating China, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan as 'not free' countries).

[3] A worrisome example was the extensive employment of unfair practices in the run-up to the recent Duma elec-tions. See OSCE, Russian Federation: Elections to the State Duma (7 December 2003): OSCE/ODIHR Election Observation Mission Report, http://www.osce.org/documents/odihr/2004/01/1947_en.pdf. 129.

[4] See, e.g. Mike Jendrzejczyk, "Condemning the Crackdown in Western China," Asian Wall Street Journal, December 16, 2002, Human Rights Watch, China: Human Rights Concerns in Xinjiang, http://www.hrw.org/backgrounder/asia/china-bck1017.htm ; Chechnya: Into Harm's Way – Forced Return of Displaced People to Chechnya, http://hrw.org/reports/2003/russia0103.

[5] Declaration by the Heads of the Member States of the Shanghai Cooperation Organization, June 10, 2002, http://www.ln.mid.ru/bl.nsf/900b2c3ac91734634325698f002d9dcf/cbc1ea4d4c4c826a43256bd400330c09?OpenDocument.

[6] Joint Statement of Kazakhstan, China, Kyrgyzstan, Russia and Tajikistan on the Almaty Meeting, July 3, 1998, http://russia.shaps.hawaii.edu/fp/russia/joint-statement980703.html, para. 5:

"Parties are unanimous in their opinion that any forms of manifestation of national separatism, ethnic intolerance and religious extremism are inadmissible."

The Shanghai Convention on Combating Terrorism, Separatism and Extremism, June 16, 2001, http://www.unionlawyers.ru/journal/journal.pdf, defines separatism as:

"any deed aimed at breach of the territorial integrity of a state, including at separation of a part of its territory or disintegration of the state committed by violence, … " The definition logically implies that acts can be of a separatist nature even if they are non-violent or aim only at increased regional autonomy.

[7] The Charter of the Shanghai Cooperation Organisation was formally adopted one year later on 10 June 2002.

[8] Jyotsna Bakshi, "Shanghai Co-operation Organisation (SCO) Before and After September 11," Strategic Analysis 26, No. (2002): 265-276, http://www.idsa-india.org/SAARCHIVES/SA200202/an-apr6.htm.

[9] Figure according to Mathew Oresman, "The Moscow Summit: Tempered Hope for the SCO," Central Asia-Caucasus Analyst, June 4, 2003, http://www.cacianalyst.org/view_article.php?articleid=1462.

[10] Figures according to United States Energy Information Administration, Caspian Sea Region: Key Oil and Gas Statistics (August 2003), http://www.eia.doe.gov/emeu/cabs/caspstats.html.

[11] Colin Gray, "The Continued Primacy of Geogaphy," Orbis 40, No. 2 (1996): 247-260. But see Martin Libicki, "The Emerging Primacy of Information," ibid.: 261-273.

[12] Stephen Blank, "Central Asia and the Transformation of Asia's Strategic Geography," Journal of East Asian Affairs 17, No. 2 (2003): 338.

[13] Richard Weitz, "Why Russia and China have not formed an anti-American alliance," Naval War College Re-view 56, no. 4 (2003): 42. Cf. Bates Gill & Mathew Oresman, China's New Journey to the West (Washington: CSIS, 2003): 13-38.

[14] Dimitri Trenin, "Russia and Global Security Norms," Washington Quarterly 27, No. 2 (2003): 73.

[15] Having recently surpassed Japan, China is now the second biggest oil importer in the world after the U.S. See BBC, China fears over Siberia pipeline, February 24, 2004, http://news.bbc.co.uk/1/hi/business/3516129.stm.

[16] In 1997, for instance, the China National Petroleum Corporation (CNPC) bought 60 % of Kazakhstan's Ak-tyubinsk Oil Company for US$ 4,3 billion. In 2003 both countries signed an agreement to build a pipeline of 3000 km linking Kazakhstan and Xinjiang. See Jing-Dong Yuan, "China and the Shanghai Cooperation Organization: Anti-Terrorism and Bejing's Central Asian Policy, Politologiske Studier 6, No. 2 (2003):

[17] Cf. Dewardric L. McNeal, China's Relations with Central Asian States and Problems with Terrorism (Wash-ington D.C., Congressional Research Service, 2001), http://fpc.state.gov/documents/organization/7945.pdf.

[18] Ibid, 130.

[19] It is, for instance, widely believed that China is buying Russian Sovremenny-class destroyers armed with anti-ship missiles that might prevent a the U.S. from intervening in an operation against Taiwan. See Denny Roy, "China's Reaction to American Predominance," Survival 45, No. 3 (2003): 62.

[20] Jing-Dong Yuan, "China and the Shanghai Cooperation Organization," 129. Cf. Declaration by the Heads of the Member States of the Shanghai Cooperation Organisation, June 10 2002 (noting that "Taiwan is an integral part of China").

[21] See, e.g. Declaration on the Creation of the Shanghai Cooperation Organisation, 20 June 2001, http://www.ln.mid.ru/Bl.nsf/arh/4255347F7E3D3DD643256A720052A1C8?OpenDocument: para. 7.

[22] See, e.g. Dushanbe Declaration by the Heads of State of the Republic of Kazakhstan, of the People's Republic of China, of the Kyrgyz Republic, of the Russian Federation, and of the Republic of Tajikistan, July 6, 2000, http://www.ln.mid.ru/Bl.nsf/arh/A69BB7197B47EC174325699C003B5F9D?OpenDocument.

[23] Alexandre Y. Mansourov, "Russian National Security Under the Post-9/11 Pax Americana: Dilemmas in Northeast Asia," Journal of East Asian Affairs 17, No. 2: 293; Roy, "China's Reaction to American Predomi-nance," 60.

[24] Cf. Blank, "Central Asia and the Transformation," 337-338.

[25] Prague Summit Declaration Issued by the Heads of State and Government Participating in the Meeting of the North Atlantic Council in Prague, November 21, 2002, http://www.nato.int/docu/pr/2002/p02-127e.htm.

[26] ITAR-TASS, "Russian FM says Shanghai group could play key role in 'multipolar world'," February 28, 2003 http://wnc.fedworld.gov.

[27] Asia Africa Intelligence Wire, "Chinese foreign minister's article on purpose of Shanghai Group," January 16, 2000, http://web4.infotrav.galegroup.com (translating Li Zhaoxing's article published on the Chinese Commu-nist Party newspaper Renmin Ribao web site on 15 January 2004). For the Chinese perspective on the SCO's purpose cf. also Jing-Dong Yuan, "China and the Shanghai Coopera-tion Organisation," 134.

[28] Mansourov, "Russian National Security": 293-295 & 308-309.

[29] Roy, "China's Reaction to American Predominance," 71-75.

[30] Vasily Mikheev, "China's Foreign Policy and Current Challenges to Russian-Chinese Relations," Far Eastern Affairs 31, No. 4 (2003): 8.

[31] Weitz, "Why Russia and China have not formed an anti-American alliance," 45-47.

[32] See Mansourov, "Russian National Security," 297.

[33] Blank, "Central Asia and the Transformation," 340-341

[34] ITAR-TASS, "Russia Welcomes India's Bid to Join Shanghai Cooperation Organisation," 26 February, 2003 http://wnc.fedworld.gov; Asia Africa Intelligence Wire, "Pakistan Aspires to enter Shanghai bloc with Russian support," February 9, 2003; http://web4.infotrac.galegroup.com.
On January 3, 2001 Pakistan formally requested observer status to the SCO. India-friendly Tajikistan opposed this and despite strong Chinese lobbying the request was not granted. See Bakshi, "SCO Before and After Sep-tember 11."

[35] ITAR-TASS, "Russian national coordinator says SCO not planning to admit new members," March 3, 2003 http://wnc.fedworld.gov (quoting Russian national coordinator Vitaly Vorobyov).

[36] Trenin, "Russia and Global Security Norms," 66.

[37] Steven J. Main, Regional groupings and the fight against international terrorism: the Collective Security Treaty Organisation and Shanghai Co-operation Organisation, http://www.marshallcenter.org/site-graphic/lang-en/page-conf-summary-index/xdocs/conf/conference-summaries/0405/0405.htm.

[38] Cf. Mikheev, "China's Foreign Policy and Current Challenges to Russian-Chinese Relations," 19-20.

[39] Ashok K. Mehta, "India Arrives in Central Asia," The Pioneer (New Dehli), November 19, 2003; http://wnc.fedworld.gov.

[40] Joint Declaration India and Kazakhstan, February 12, 2002, http://www.meadev.nic.in/foreign/jt-decl-indo -kazakh.htm.

The Fletcher School Online Journal for issues related to Southwest Asia and Islamic Civilization Spring 2004, Article 3

An Islamic Revolution in Egypt?

By Rudy Jaafar

Middle Eastern countries—particularly in the second half of the twentieth century—have witnessed the rise of sociopolitical movements that pressure governments to adopt the Shari'a, or holy law of Islam, as ultimate arbiter of social and public affairs. The failures of socialism and pan-Arabism have, more than ever, strengthened the belief in political Islam as panacea to political and economic woes. These Islamic movements, coupled with other popular grievances, can often threaten established regimes and state structures, resulting in violent armed conflict and chaos. The history of the modern Middle East is replete with such events: the Syrian regime's assault on the city of Hama in 1982, the nullification of the 1992 elections and the subsequent civil war in Algeria, and the recurrent flare-ups between militants and security forces in Egypt, to name a few. The most significant of them all, however, was the Iranian revolution, for it was the sole Islamic struggle that culminated in the establishment of an Islamic state. Using the Iranian model as a basis of comparison, I will examine the possibility, or lack thereof, of the emergence of a revolutionary Islamic government in Egypt, and by extension, evaluate the apparent uniqueness of the Iranian revolution in the history of political Islam. As the Arab world's most populous nation, Egypt is also, quoting Fouad Ajami, the state where "Arab history comes into focus."[1] In other words, an analysis of revolutionary political Islam in Egypt would shed some light on the developments of Islamic movements in other Arab countries. I will start my analysis with the obvious: Iran is a Shi'a country, whereas Egypt's population is predominantly Sunni. Is there an intrinsic characteristic in Shi'a Islam that allows its adherents to mobilize and fight for a religious authority? We will attempt to answer this question by considering, first, the ideological and doctrinal foundations, as well as the historical positions of Shi'a and Sunni spiritual leaders vis-à-vis temporal authority.

Temporal and Spiritual inter-relations in Shi'a Islam

The Shi'a, to this day, believe that the leadership of the community of Muslims is the divine right of the descendants of the Prophet through the first Imam 'Ali. This line of descendants constitutes the line of Shi'a Imams, who have, historically, challenged the prevailing authority of their time. Their rebellious activity resulted in the martyrdom of the first three Imams and the subsequent persecution of their descendants. The Imami challenge to temporal authority continued until the *ghaiba*, or occultation, of the twelfth and last Imam, Muhammad al-Mahdi, in 874. Here, it is believed the twelfth Imam miraculously disappeared; however, he is to return to the temporal plane in the future in order to institute justice on earth and herald a golden age for Muslims and humanity.

Shi'a Ethos

The origins of Shi'a ethos are therefore found in rebellion and martyrdom. The rebellious and disappearing Imams of Shi'ism have enabled the development of a dual ideology that could be either revolutionary or quietist. Indeed, the paradigm of the messianic Mahdi can carry, on the one hand, a revolutionary significance, similar to the rebellions against the temporal authorities of the early founding Imams. In contrast, the ideology can also be quietist in nature, and here the concept of the ghaiba is of utmost importance, for, in the absence of the Mahdi, the Shi'a are to mind their own business and pay lip-service to the authorities.

Another major aspect of Shi'a ethos stems from the martyrdom of the early Imams. Ali's, and particularly Hussein's, deaths at the hands of their enemies have created an abhorrence of tyranny and injustice in the minds of the followers of Shi'ism. The early Imams have been remembered as champions of the oppressed in their struggle against the impious rulers. The dialectic between the concepts of justice and rebellion in opposition to those of tyranny and oppression has therefore been central to Shi'a thought. We will now examine the influence it has had on the development of the Shi'a clergy.

Iranian Shi'a Clerics

The particular historical and ideological development of Shi'a identity has led to unique results in the evolution of the Shi'a clerical establishment. Beginning in sixteenth century Iran, the Safavids bestowed upon these clerics, or 'ulama (singular: 'alim) - religious scholars considered guardians of Islamic traditions - economic benefits such as property and the right to collect religious taxes from the populous.[2] The Iranian Shi'a 'ulama enjoyed, therefore, from the start and as a result of their relative financial independence, strong positions vis-à-vis the state. Moreover, the decline of temporal power in Persia, from the seventeenth century onwards, further strengthened the 'ulama and enabled them to question the legitimacy of the rulers. Another factor that proved to be a source of independence and increasing power for the 'ulama was the location of important Shi'a centers of learning and leadership outside Iran, in the Ottoman cities of Najaf and Karbala. Temporal and spiritual powers were therefore geographically separated, and the clergy could better resist the pressure of the Iranian state.[3]

The Usuli School

The independence of the 'ulama in eighteenth century Persia led to the emergence of a school of thought specific to Persian Shi'a Islam. The Usuli, or Mujtahidi, doctrine, as it came to be known, centered on the concept of the mujtahid, a cleric who has undergone extensive training in theology and has become a recognized interpreter of law and doctrine. This ideology bounds believers, rulers included, to follow the teaching of an accomplished mujtahid, sometimes referred to as marja'-e taqlid, in the political sphere as in other areas of human activity. Hamid Algar argues that, under Usuli doctrine, "the monarch was theoretically bound, no less than his subjects, to submit to the guidance of a mujtahid, in effect making the state the executive branch of 'ulama authority".[4] Usuli doctrine therefore provides the mujtahid with tremendous power, his rulings carrying far more legitimacy than any issued by the state.

The emergence of these particular doctrines and powers of the Shi'a clergy in Persia is, therefore, a direct result of the historical conditions arising since the birth of Islam through the early twentieth century. We will now turn to the role of the Egyptian 'ulama, who have had a diametrically opposed historical path in a land subscribing to Sunni Islam.

Temporal and Spiritual inter-relations in Sunni Islam

Early Sunni doctrinal developments, and contrasts with Shi'ism

The history of orthodox Islam has produced differing results for the Sunni, compared to the Shi'a, 'ulama. The Sunni clerical establishment has historically supported the rulers and they therefore enjoyed the protection of the state. Unlike their Shi'a counterparts, the Sunni 'ulama therefore had to develop their doctrines under the aegis of a government claiming political legitimacy. The Shi'a 'ulama possessed no political protectors, and were, as a result, not forced to reconcile their doctrines with official temporal creed. Sunni clerics, on the other hand, in return for state protection, had to sacrifice their doctrinal independence.[5] There have been interesting parallel historical processes, albeit with different end-results, between Sunni and Shi'a doctrinal developments. The Sunni Abbasid dynasty in Baghdad as well as the Shi'a Safavids of Iran had both supported, in their coming to power, 'ulama with a Mu'tazili outlook. Mu'tazili thought emphasizes the application of reason and educated judgment to questions of law and doctrine. This rationalist approach was challenged, however, in both cases, by traditionalists refusing to waiver from the literal meaning of religious texts. In Safavid Iran, as we have seen, the 'ulama maintained individual judgment and interpretation in legal theory; ijtihad was indeed encouraged following rigorous training. In the Abbasid case though, the victory, for reasons beyond the scope of this study, was achieved by the literalists. Individual interpretation of law and doctrine was prohibited. This event is referred to as the 'closure of the doors of ijtihad in Sunni Islam.' Evidently, this development further curtails the power of Sunni 'ulama.[6]

The 'ulama of Egypt

The Egyptian 'ulama's financial situation was radically different than that of their Iranian Shi'a counterparts; they were financially dependent on the state. The Egyptian 'ulama received no cash money for their teaching but were paid in rations of bread, donations, gifts of clothing, or financial endowments.[7] On several occasions, the Egyptian 'ulama were "cowed through finances" by the rulers due to their dependence on the state.[8] Unlike the Safavids or the Qajars, the Ottoman and Mameluk rulers of Egypt were therefore very effective in curtailing the power of the 'ulama. Moreover, the Egyptian state's successful formation of a modernized army and a central bureaucracy in the early nineteenth century further reduced the power of the 'ulama.[9] This case contrasts sharply, as we have seen, with developments in Iran. The financial dependence of the 'ulama on the state and the centralization of Egypt do not explain, however, the absence of political leadership on the part of the Sunni clerics. There were many occasions when the state effectively collapsed and the 'ulama were left with tremendous power on their hands, yet they failed to show leadership and take control of the situation. Throughout Egyptian history, the 'ulama have temporarily filled a power vacuum, when one occurred, only to relinquish political authority when it was firmly in their hands.[10] The most notable example, occurred following the French invasion in 1798. Napoleon courted the 'ulama and lavished them with gifts and wealth for he saw them as natural leaders of the native society. He tried to establish a native government by offering the 'ulama the highest political offices, but the 'ulama would not accept. They informed him that they were accustomed to having Turkish officials at the head of all bureaus of the government, and Turks were finally retained at the head of the governorship, the army and the police.[11] Daniel Crecelius argues that this development is a reflex from the Sunni 'ulama's centuries-old submission to political tyranny, as well as

an admission of their inability to perform the vital functions of government.[12]

The Sunni 'ulama could not conceive of a government in which they exercised power. Their role, as it has always been, was to advise the government of others; to govern the governors. They did not aspire to lead politically. They were preservers of tradition, political brokers at most, and they could not shatter this image of themselves.[13] They correspond to the classical Sunni role of the Muslim thinker, best expounded by Al-Ghazali, described as "director of conscience for political authority in administering and disciplining men that order and justice may reign in this world".[14]

The doctrinal differences we have explored between the Shi'a and Sunni 'ulama are numerous and consequential. Alone, however, they do not explain the phenomenon of the Islamic revolution. After all, the Iranian 'ulama had coexisted for hundreds of years with rulers more authoritarian and despotic than Mohammad Reza Shah. Moreover, the clerics of Iran had not, preceding the revolution, advocated the seizure of political power; on the contrary, they had remained on the margins of politics. Based on this analysis, it is safe to conclude that there happened a specific development in twentieth century Iran which permitted the establishment of an Islamic republic. A development, as we shall see, not mirrored in Egypt.

The rise of the Islamist movement in Egypt

The government, al-Azhar, and the militants

As discussed earlier, the 'ulama in Egypt had always been an instrument of the state to legitimize the ruling elite. Following the 1952 revolution, however, the abuse of this instrument reached absurd proportions, as the following example illustrates. Under Nasser, the services of the 'ulama were used to legitimize Arab nationalism and socialism. Sadat then solicited al-Azhar to delegitimize the socialists and the nasserites. He then pushed for support of his policies and used al-Azhar as a counterweight to the militants, as did his successor Mubarak.[15] The Egyptian government's takeover of religious institutions, and their subsequent crisis of legitimacy, were the most important factors contributing to the emergence of radical Islamic groups, such as Jihad, Gamaa Islamiya, and Takfir wa al-Hijra, whose purpose was the violent overthrow of the regime.[16] Another element strengthening the recruitment base of these radical groups was the explosion of the urban population due to a decrease in the mortality rates coupled with massive rural migration. Indeed, the slums of Cairo constitute perfect environments for the effervescence of radical Islamic ideologies, feeding on the alienation and destitution of large collectives of people. The Egyptian Islamic militants believed the clerics had surrendered their right as interpreters of the faith because they colluded with the unjust temporal authorities.

Violent actions against the rulers, carried under the banner of Islam, were therefore legitimate. These extremist groups engaged in assassinations and brutal attacks in order to destabilize the ruling authorities. The most notable event was President Sadat's assassination in 1981 by Egyptian army members of al-Jihad. Another important event is the November 1997 Luxor attack by Gamaa extremists which killed 58 foreign tourists and 4 Egyptians, and which resulted in a massive reduction in the number of tourists, followed by a serious downturn in the country's economy. Following these operations, however, there occurred a shift in support away from the militants. The Egyptian population's backing for the militant Islamists withered as images of the displays of violence were broadcast on the news. These actions appalled a large section of the people, and as a result, the militants lost the public support they had enjoyed. Moreover, the government seized the opportunity and responded with

an all-out war on these extremists before completely neutralizing their operational capacity. Many militants died or fled the country during these ruthless campaigns waged by the state security forces. The conclusion was an unconditional ceasefire announced by Gamaa Islamiya in March 1999, followed thereafter by Al-Jihad's declaration of the end of military operations in June 2000.[17] Nowadays, therefore, the violent and direct threat to the integrity of the Egyptian state has significantly subsided. This development has not spelled the end of the Islamic movement in Egypt however. A 1994 al-Ahram poll declared that 86 percent of Egyptians believed violent Islamic groups did not work to the benefit of society. The same poll also mentioned that 73 percent thought non-violent Islamic groups benefited Egypt. There was therefore broad support among the people to give Islam a greater role in state and society; the disagreement was over the means employed to achieve that result.

The path of non-violent political Islam in Egypt

The pillar of Muslim activism in Egypt and in most Arab countries is the Muslim Brotherhood.[18] Established in 1928 by Hassan Al-Banna, the Brotherhood's ideology is based on the establishment of an Islamic state and the application of Shari'a as the only solution to all societal ills. Its commitment is to social justice and it perceives its foreign enemies as Capitalism and Zionism.[19] In the eighties, following fruitless bloody conflicts with the government, the Brethren renounced violence as a means of achieving their political aims. Those members who disagreed and believed in the continuation of violent struggle splintered and formed the violent groups Gamaa and Jihad mentioned earlier. With this new non-violent strategy, the Brethren were allowed by Sadat to run for parliamentary elections.[20] The Muslim Brothers' new focus shifted towards penetrating the organs of civil society in order to enlarge their power base and spread their message. Their targets were the professional associations of doctors, engineers, pharmacists and university teachers.[21] Throughout the Arab world, these associations are the most active civil organizations because of the high level of education and political conscience of their members, as well as their independent financial resources. This new non-violent strategy proved very successful and political Islamic activism developed a substantial socioeconomic base. For example, the movement created new Islamic banks which amassed deposits surpassing those of state-owned or conventional banks. The movement was also capable of providing better health and social services than those of the state.[22]

Public support for Islamic groupings also increased, when in times of crisis, these organizations outperformed the government in assisting the victims, as was the case in the October 1992 earthquake. The Brotherhood emerged from the 2000 elections with 17 seats, the largest group in the opposition.

As we have seen, the state's dominance of Al-Azhar's completely discredited the institution. This in turn has provided support to the Islamic militants from a population disenchanted by the dearth of a viable and constructive political ideology, as well as by increasing economic and social woes. The extreme violence perpetrated by the militants alienated the people, however, and the Egyptian government managed to subdue the militant Islamic threat to its integrity. The growth of the non-violent Islamic movement seeking to turn Egypt into an Islamic state has not been affected though. Indications actually point towards an increase in its popular base.

Iranian developments in political Islam

On the other side of the Middle East, Iranian history followed a distinctly different path. Similarly to the Egyptian case, there was massive rural migration, a destabilization of the traditional social groups due to rapid

modernization, and state repression.[23] The regime, however, was unable to weather the assaults on its authority. The Pahlavis simply could not hold on to power amid the massive nationwide campaign of civil disobedience.[24] A question arises: how was popular discontent transformed into large-scale rebellion, before ending in the establishment of an Islamic regime? We will start our analysis with the leader of the revolution, Ayatollah Khomeini.

Khomeini's leadership

With the publication of Velayat-e Faqih, his seminal work, and in a radical break with traditional Shi'a positions of political passivity, Khomeini advocated the acquisition of temporal power by the clergy.[25] He argued that it was the duty of the Faqih to seize power and implement the precepts of Shari'a as best as he could. A society based on the holy law of Islam, and guided by a Muslim religious jurisconsult, was the best that could be achieved before the coming of the Mahdi. Though many in the Shi'a clerical establishment opposed his views, Khomeini was able, nonetheless, to provide the 'ulama with a theoretical and doctrinal justification for political engagement. In order to expand his message further and unite, under his leadership, the various groups opposed to the Shah, Khomeini incorporated into his work ideas from another Iranian theoretical thinker, Dr. Ali Shariati. Khomeini substituted the concept of the faqih for Shariati's rawshanfekran, or 'enlightened intellectual', as the leader of the Islamic revolution. Moreover, in his discourse post-1970, he used Marxist terms of class struggle, plentiful in Shariati's analysis, to proclaim himself representative of the disinherited.[26] S.E. Ibrahim states that "Islamic and leftist ideologies provide a persuasive intellectual response to the issues of national crises, class malaise, and individual alienation".[27] Khomeini succeeded in magnifying their impacts. His groundbreaking work fused the two ideologies together, the Islamic and the leftist, and their combined effect proved to be far superior than the sum of their individual parts. Khomeini's ideas spread to large segments of the Iranian population; poor young militants interpreted this new Shi'a doctrine in a revolutionary context, and the educated urban middle class joined the chorus. This intelligentsia deluded itself into believing that in the end, following the removal of the Shah, it would unseat Khomeini, this "charismatic but impotent old man".[28] Their predictions, obviously, failed miserably. In addition to the poor and the secular middle class, another important social group, the bazaar, joined Khomeini's revolutionary forces. These merchants represented the traditional allies of the clerical establishment in Iran and the two classes had, in the past, joined forces in their hostility to a strong state. The bazaar always resented a centralized government that could have burdened it with heavy taxation. It had therefore supported the 'ulama in their opposition to the state since the late 19th century. The alliance between the mosque and the bazaar was old and well established. With the first violent incidents in 1978, the revolutionary wheel was set in motion. In addition to Khomeini's leadership, the popular uprising benefited from the confluence of several other factors: the 'ulama provided logistical and organizational support using their network of 80,000 mosques, the bazaaris supplied the funds, and the rural migration of the previous years provided the human potential for mass mobilization in every major city in Iran.[29] In summary, we can state that though the opposition to the Shah was widespread and the popular movement benefited from favorable causes, most importantly, it was united under the leadership of the Ayatollah, as he accomplished two major developments. He first transcended, theoretically, the limitations of the marja'-e taqlid and

established the concept of Velayat-e Faqih, increasing further the power of the clergy. Secondly, he created an umbrella for all the different political and social movements opposing the Shah.

Comparative Analysis

The Egyptian 'ulama lost their legitimacy, and the popular religious leadership of the opposition passed to reactionary organizations created by men who were not clerics with traditional religious educations. The ensuing rift between these two poles of the Islamic movement in Egypt severely constrained its powers and effectiveness in challenging the state. The Iranian religious movement was capable of facing the Shah with one united front, whereas the Egyptian Islamic opposition is handicapped by its internal conflict, which has prevented the emergence of a unifying figure in the image of the Ayatollah Khomeini, an indispensable leader in the case of the Iranian revolution.

Another important factor is the scope of the ideology underpinning the revolt. The Iranian revolution contained elements of a class struggle superimposed on the religious nature of the event. Khomeini's radical ideology was the cornerstone of this revolution, for it united the multifarious forces opposing the Shah under one banner, that of political Islam. Though Egyptian Islamists attracted people from diverse backgrounds, their ideas were opposed by the clerical establishment, and were therefore denied their support in becoming a significant force for change. The organizational role played by the mosque in the Iranian revolution is a case in point. The legitimacy of the governments the radical Islamists are fighting is also of importance to this study. The Shah, for example, was alien to his people. His forced modernization policies, as well as his Kemalist attacks on the traditional mores of his society, decreased his legitimacy. His strong alliance with the US and Israel, as well as his capitulation to the American demand of legal immunity to US personnel in Iran, also damaged his credibility. On the other hand, the radical Egyptian groups face a government possessing stronger credentials from the populous. Nasser, for example, was the champion of nationalism and pan-Arabism, a larger-than-life figure who was extremely popular in Egypt. Nasser was therefore able to fight the Islamists more effectively than the Shah. Even Sadat's position was better than the Shah's, for, though he signed a peace treaty with Israel, he had fought a successful war with the Israelis and managed to regain the Sinai with the Camp David accords.

Conclusion

I have traced, throughout this study, the historical, doctrinal, ideological and political dimensions of the Islamic movements in both Iran and Egypt. Both actors sought to initiate a popular Islamic revolution and topple the government, though only one was successful. Today, it seems unlikely that the second event will occur; in other words, Egypt will not experience an Islamic revolution. However, this conclusion does not exclude the possibility of Egypt becoming an Islamic state. Indeed, as it is mentioned in this research, the Egyptian Islamists are gaining ground. They are slowly, but surely, penetrating all instruments of civil society; they have shifted their strategy from a top-down to a bottom-up approach. Nonetheless, their ultimate goal has remained the establishment of an Islamic government. Vali Nasr distinguishes the two movements as Red and Green Islam.[30] Red Islam corresponds to the Iranian case; a revolutionary ideology imbued with elements of Marxist class struggle. Green Islam, on the other hand, is not revolutionary but consists of a slow and gradual evolution towards the establishment of an Islamic state. Geneive Abdo's work[31] is insightful in this respect, as it elucidates some of the tactics and progress achieved by the new Islamists of Egypt in furthering their agenda.

[1] Fouad Ajami, The Arab predicament: Arab political thought and practice since 1967 (New York: Cambridge University Press), 13.

[2] Nikki Keddie, "The roots of the Ulama's power in modern Iran," in Scholars, Saints, and Sufis: Muslim religious institutions in the Middle East since 1500, ed. Nikki R. Keddie (Los Angeles: University of California Press), 221-222.

[3] Ibid, 226.

[4] Hamid Algar, "The oppositional role of the Ulama in Twentieth-century Iran," in Scholars, Saints, and Sufis: Muslim religious institutions in the Middle East since 1500, ed. Nikki R. Keddie (Los Angeles: University of California Press), 235.

[5] Nikki Keddie, "The roots of the Ulama's power in modern Iran," in Scholars, Saints, and Sufis: Muslim religious institutions in the Middle East since 1500, ed. Nikki R. Keddie (Los Angeles: University of California Press), 216.

[6] Ibid, 223-224.

[7] Afaf Lutfi al-Sayyid Marsot, "The Ulama of Cairo in the Eighteenth and Nineteenth centuries," in Scholars, Saints, and Sufis: Muslim religious institutions in the Middle East since 1500, ed. Nikki R. Keddie (Los Angeles: University of California Press), 154-155.

[8] Ibid.

[9] Nikki Keddie, "The roots of the Ulama's power in modern Iran," in Scholars, Saints, and Sufis: Muslim religious institutions in the Middle East since 1500, ed. Nikki R. Keddie (Los Angeles: University of California Press), 213.

[10] Afaf Lutfi al-Sayyid Marsot, "The Ulama of Cairo in the Eighteenth and Nineteenth centuries," in Scholars, Saints, and Sufis: Muslim religious institutions in the Middle East since 1500, ed. Nikki R. Keddie (Los Angeles: University of California Press), 159-163.

[11] Daniel Crecelius, "Non-ideological responses of the Egyptian Ulama to modernization," in Scholars, Saints, and Sufis: Muslim religious institutions in the Middle East since 1500, ed. Nikki R. Keddie (Los Angeles: University of California Press), 173-174.

[12] Ibid.

[13] Afaf Lutfi al-Sayyid Marsot, "The Ulama of Cairo in the Eighteenth and Nineteenth centuries," in Scholars, Saints, and Sufis: Muslim religious institutions in the Middle East since 1500, ed. Nikki R. Keddie (Los Angeles: University of California Press), 164-165.

[14] Gilles Kepel, Muslim Extremism in Egypt (Los Angeles: University of California Press), 229-230.

[15] Muhammad Qasim Zaman, The Ulama in contemporary Islam: custodians of change (New Jersey: Princeton University Press), 146.

[16] Tamir Moustafa, "Conflict and Cooperation Between the State and Religious Institutions in Contemporary Egypt," International Journal of Middle Eastern Studies 32 (2000): 10.

[17] The Economist Intelligence Unit, "Country profile 2002: Egypt," The Economist Intelligence Unit Limited (2002): 9.

[18] Saad Eddin Ibrahim, Egypt, Islam, and Democracy (Cairo: The American University in Cairo Press), 56.

[19] Ibid, 24.

[20] Tamir Moustafa, "Conflict and Cooperation Between the State and Religious Institutions in contemporary Egypt," International Journal of Middle Eastern Studies 32 (2000): 17-18.

[21] Saad Eddin Ibrahim, Egypt, Islam, and Democracy (Cairo: The American University in Cairo Press), 58.

[22] Ibid, 60-61.

[23] Gilles Kepel, Jihad – The Trail of Political Islam (Massachusetts: The Belknap Press of Harvard University Press), 108; Hossein Bashiriyeh, The State and Revolution in Iran, 1962-1982 (New York: St Martin's Press), 34.

[24] Said Amir Arjomand, The Turban for the Crown – The Islamic Revolution in Iran (New York: Oxford University Press), 191.

[25] Gilles Kepel, Jihad – The Trail of Political Islam (Massachusetts: The Belknap Press of Harvard University Press), 40.

[26] Ibid, 41.

[27] Saad Eddin Ibrahim, Egypt, Islam, and Democracy (Cairo: The American University in Cairo Press), 26.

[28] Gilles Kepel, Jihad – The Trail of Political Islam (Massachusetts: The Belknap Press of Harvard University Press), 7.

[29] Hossein Bashiriyeh, The State and Revolution in Iran, 1962-1982 (New York: St Martin's Press), 121-122.

[30] Seyyed Reza Vali Nasr, lecture on Latest trends in political Islam, The Fletcher School of Law and Diplomacy, Tufts University, Medford, MA., 5 November 2003.

[31] See Geneive Abdo, No God but God: Egypt and the triumph of Islam (New York: Oxford University Press).

The Fletcher School Online Journal for issues related to Southwest Asia and Islamic Civilization Spring 2004, Article 4

Osama bin Laden: Legitimate within Islamic Legal Thought?

By Rebecca Kinyon

The Arab world is rife with friction between secular reformists and Sharia-minded traditionalists. The significance of this struggle cannot be underestimated. A way of life is at stake, and the intensity of the conflict has sparked a revolution against the West. Osama bin Laden, Saudi billionaire and mastermind behind terrorist attacks, puts a face to this elusive, and increasingly violent, backlash being waged on U.S. soil.

There is a willful lack of motivation within the United States to understand the reasons behind the violence, as policymakers choose to condemn the means of aggression instead of understanding their roots. The reasons behind this reaction may parallel those regarding the spread of communism. One theory regarding why George Kennan's theory of containment was so heartily adopted by administrations throughout the Cold War, was that it did not require the United States to modify its own actions—simply to contain the actions of other nations. The same may be true of terrorist networks today. It is far more compelling—for reasons of maintaining status quo, clear conscience, and straightforward policy—to focus upon de-legitimizing bin Laden and his followers instead of examining their demands. However, whether legitimate or not, bin Laden is being granted authority within the Islamic world. No amount of rhetoric within the United States can undo that fact, and no amount of homeland security can dismantle a paradigm in which a child is viewed as a legitimate target for a war against the United States. This article aims to understand the context within which Osama bin Laden is operating, concluding that our tactic of discrediting bin Laden's authority, instead of understanding from where it is derived and how it is sustained, will not halt its influence.

Authority

Authority can be legitimized in two ways within the Islamic tradition: through the 'ulama (the scholarly religious establishment), or through the sword. Osama bin Laden's authority is granted through the latter. The precedent for claiming authority by the sword is, ironically, found within the Quran. Although subjects under Islamic states are commanded to obey the ruler, or *imam*, this duty of obedience is null and void if rulers fail to uphold the word of Allah. Within the text it is written, "If any (rulers) do fail to judge by what Allah has revealed, they are (no better than) unbelievers."[1] Bin Laden's support rests on his claim that he is a self-declared *amir* (commander), who is willing to do what no other Arab leaders are doing. In the absence of true leadership, he is a de facto military commander, the only one willing to stand up against the western infidels and occupiers. In Islam, there is no obligation for the military leader to be a religious man as well, and bin Laden makes no claim on being one. Nonetheless, his quiet and assured demeanor,

with hand gripping a gun, inspires awe in his followers, which is only heightened by his ancestral line that extends to the holy cities of Mecca and Medina.[2]

Understanding Osama bin Laden's actions within the context of Islamic legal thought rests on two main issues. The first is a *de jure* question: whether or not his call for jihad is legitimate within Islamic texts, specifically the Quran and hadith. The second is a de facto issue, and in some ways independent of the answer to the first issue: whether influential leaders have condemned him, or whether they approve.

Jihad: Struggle in the name of Allah

> "Prescribed to you is fighting, though it be hateful to you. Yet it may happen that you will hate a thing which is better for you; and it may happen that you will love a thing which is worse for you. God knows and you do not"[3]

The following three points regarding jihad must be examined in order to determine whether or not, within the Islamic tradition, bin Laden's call for jihad against the West can be legitimized.

First, the validity of the jihad, specifically, whether it is defensive or offensive in nature. The Verses of Fighting clearly state that when injustice has been committed against Muslims, they are permitted—even called—to fight. "Leave is given to those who are fought because they were wronged—surely God is able to help them—who were expelled from their habitations without right, except that they say "Our Lord is God. "[4] Moreover, the Quran adds, "Whosoever commits aggression against you, do you commit aggression against him like as he has committed against you; and fear you God, and know that God is with the godfearing."[5] Thus, jihad is clearly legitimized as a defensive war. However, there are contradictory statements regarding whether jihad can be an offensive war, for example as a tool of conversion. Although it is not explicitly described as such within the text, some scholars claim that in the quest to reach dar al-Ilsam (the ultimate Muslim realm in which all men are reunified under Islam), there is an implied order from God for Muslims to fight against unbelievers.[6] However, there are scholars who claim jihad is strictly a defensive war by pointing to verses stating, "Let there be no compulsion in religion."[7]

This point may or may not be moot, however, as bin Laden claims his jihad is a defensive one. When asked how he justified the killing of innocent men in the light of Islamic teachings, he answered:

> This is a major point in jurisprudence. In my view, if an enemy occupies a Muslim territory and uses common people as human shields, then it is permitted to attack that enemy…America and its allies are massacring us in Palestine, Chechnya, Kashmir and Iraq. The Muslims have the right to attack America in reprisal. The Islamic Shariat says Muslims should not live in the land of the infidel for long.[8]

The second point considers jihad's rules of engagement. Scholars agree that the obligation to fight in the jihad applies to healthy "adult free men who have the means at their disposal to go to war," and the rest of society can stay behind. Similarly, the rules of engagement state that all adult, able-bodied, unbelieving males may be killed, but it is forbidden to slay women and children, provided that they are not fighting. This is based on the fact that the Prophet prohibited the slaughter of women and children, when he said of a woman who had been slain, "She was not one who would have fought."[9]

Given these rules, one may claim that even if bin Laden's jihad truly is defensive and therefore legitimate in Islam, he has violated rules of engagement through the killing of innocent citizens. This point is critical. Western policymakers refuse to acknowledge his demands, and validate that policy through focusing upon the illegitimacy of his warfare. However, if there are interpretations of Islamic law that validate his methods, then U.S. policy is only a valiant effort to reaffirm our own values, sacrificing increased understanding and security.

Influential muftis have issued statements condemning the tactics used in 9-11, such as Sheik Yusuf Qaradawi of Egypt. His rulings and opinions are among the most respected, but also the most enigmatic. He is viewed as an extremist for his statements sanctioning the suicide bombings in Israel, but is a liberal in his belief that Israel and a Palestinian state can coexist, and in his fatwa sanctioning women as candidates in Bahrain's municipal elections. The complexity of his opinions draws critics, frustrated by their inability to characterize him; and draws large numbers of supporters as well, heartened by his independence from political agendas. As director of the Institute of Islamic Political Thought in London was quoted, "If Sheik Qaradawi gives a fatwa (religious ruling), that fatwa will be heeded tomorrow in hundreds of places around the world."[10]

Thus, when Qaradawi both legitimizes terrorism in Israel but condemns terrorism in the United States, the West must listen, for Qaradawi's sympathy to the United States rests upon a fine line of distinction between Israel citizens and U.S. citizens. Qaradawi writes, "Islam categorically forbids the striking of civilians or the killing of civilians or the killing of those who do not fight."[11] However, he claims that the entire society in Israel is military, that no one in it is a civilian, perhaps due to the fact that every citizen is required to serve military duty. Thus, he makes a fine distinction between the two countries, as Israelis are all combatants but Americans can be civilians. Where U.S. policymakers must be on guard, however, is the fact that Qaradawi believes Israelis are expelling people from their land through state-sponsored terrorism, with the support of the world powers. Were Qaradawi begin to focus upon the complicity of the United States in Israel's policies, as bin Laden does, he may feel fully justified in placing Americans in the realm of combatants as well as Israelis, for supporting their government. bin Laden writes the following, to this effect:

> The 11 September attacks were not targeted at women and children. The real targets were America's icons of military and economic power…The American people should remember that they pay taxes to their government, they elect their president, their government manufactures arms and gives them to Israel and Israel uses them to massacre Palestinians…I ask the American people to force their government to give up anti-Muslim policies. The American people had risen against their government's war in Vietnam. They must do the same today.[12]

Moreover, it is possible for an argument to be made that adopts the western military's phrase "collateral damage"—used to legally justify the tens of thousands of civilians that have been killed in "Operation Iraqi Freedom"—and apply it to the civilians killed in terrorist activities against U.S embassies, the World Trade Center, the Pentagon, and hijacked airplanes. Militant Islamists, in taking on the United States' military dominance, cannot fight with the same weapons. In the 9-11 attacks, airplanes were makeshift missiles to attack the centers of power within the United States, and could be construed as necessarily carrying their collateral damage inside them in order to

attack their targets. Whether or not the targets were legitimate, given that they were not all military targets, is an argument to be answered in the question above of whether all civilians are complicit in their government's activities.

The third and final point to consider regarding jihad is the distinction between a collective obligation to fight (fard kifaya), and a personal, individual obligation (fard 'ayn). The moment at which it is transformed from a collective to personal obligation is at the discretion of the sovereign ruler, and will obligate every Muslim to fight. Qaradawi has already stated that jihad against Israel is fard 'ayn, through his belief that women can now participate in terrorism: "When jihad is fard 'ayn, such as when the enemy invades a country, it is demanded from women that they perform jihad along with men side by side."[13] This underscores the point made above, that the line distinguishing rules of engagement between Israel and the United States is a fine one, and indeed potentially blurry. Were the United States' support of Israel, and other of its policies in the Middle East, to implicate it as an invading enemy, then the United States may become the objects of a defensive, fard 'ayn jihad.

If this were to pass, then the United States would truly find no solace in fatwas issued by muftis sympathetic to the West, because enough contemporary theorists envisage an Islamic state in which the head of a polity (amir)—even a self-appointed one such as bin Laden—need no longer draw authority from the 'ulama. The writings of Sayyid Abu'l-A'la Mawdudi of Pakistan, an influential early twentieth century Islamic journalist and activist, highlight this point. Mawdudi simultaneously supported and criticized the 'ulama in his country. He acknowledged the importance of the 'ulama, specifically in the formulation of Pakistan's constitution, but also found their desire to be involved in statehood a burden on the formulation of an Islamic state. Mawdudi's ideology calls for a new community of righteous individuals to lead the society to an Islamic revolution. This state would grant decision-making power to the amir, or head of the polity, with no requirement to consult with the 'ulama, which he found to be so conservative as to have lost touch with the modern world.[14] Thus, bin Laden may be granted more than enough authority for his jihad to be waged without restraint.

The Adversary

American policymakers have chosen to paint Osama bin Laden as a pathological opportunist who is playing upon the worst fears of the Islamic world. Influential journalists perpetuate this idea, such as New York Times columnist Thomas Friedman. In his May 5, 2004 column, Friedman condemned the Arab world for not knowing the difference "between victories that come from educating your population to innovate and 'victories' that come from a one-night stand by suicidal maniacs like 9/11."[15] Indeed, our worst fear would be that Osama and his followers are not insane, but rather symbolic of the Islamic world; that they reflect deeply-held sentiments as opposed to stirring up latent ones. If this fear proves true, then it is not a few pathological opportunists that U.S. policy is aiming to kill, but a deeply compelling revolutionary idea, one that not only resonates within the social fabric of the Islamic world, but that is justified within its legal fabric.

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 on Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.

[1] The Quran, V:47.

[2] This idea is taken [i]from a conversation with Frank Vogel, professor of Islamic Legal Thought at Harvard Law School.

[3] The Quran, 2:216.

[4] Ibid, 73.

[5] Ibid, 74.

[6] "International Law," Oxford Encyclopedia of the Modern Islamic World (1995), 213.

[7] The Koran, II:256.

[8] "Muslims have the right to attack America," The Observer, November 11, 2001.

[9] Rudolph Peters, Jihad in Classical and Modern Islam ,(1996), 33.

[10] Anthony Shadid, "Maverick Cleric is a Hit on Arab TV," Washington Post, February 14, 2003, A01.

[11] "It Is Not Permitted to Use Civil Airplanes as Instruments of Terrorizing Others," October 12, 2001, <http://www.qaradawi.net>.

[12] "Muslims have the right to attack America," The Observer, November 11, 2001.

[13] "Participation of Women in Martyrdom-Seeking Operations," April 6, 2002, http://www.qaradawi.net .

[14] Ibid.

[15] Thomas L. Friedman, "Cursed By Oil," New York Times, May 5, 2004.

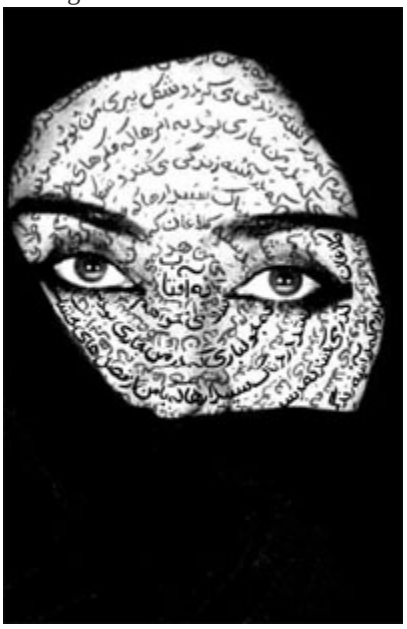
The Fletcher School Online Journal for issues related to Southwest Asia and Islamic Civilization Spring 2004, Article 5

At the Crossroads of Islamic Feminism: Negotiating the gender politics of identity

Maliha Masood

The Emergence of the Female Muslim Scholar/Activist

Perhaps more than any other time in history, Muslim women today are directly engaged in the process of questioning Islamic precepts and socio-politico values. One of the crucial strategies being employed in this arena is the alternative exegesis of the Qur'an from a woman's perspective. By readdressing the prevailing patriarchal paradigms within Islam, these courageous Muslim scholars hope to develop a more autonomous and authentic female Islamic identity, fostered on increasing women's rights and fully incorporating the stature of Muslim women in Islam. Their theoretical and ethical debate differs from the revivalist male perspectives, by recognizing women as active partners in the reinterpretation process.



It was not God who wronged them,
But they wronged their own souls
The Qur'an (30:9)

In a parallel vein, there is a small but significant movement of women in modern Turkey who have adopted the veil as the symbol of their Islamic identity and accepted it as the public face of their revivalist position. For them the veil is a liberating and not an oppressive force. In the context of the prevailing social structures that shape women's lives, the veil is a means of bypassing sexual harassment and "gaining respect". But the fact remains that in Turkey, the headscarf is officially banned in public offices and universities, by way of a constitutional law since the 1980's.[1] With an interesting twist, the Turkish context represents the veiling movement as an outcome of a new, more literal interpretation of Islam by highly educated and politicized Muslim women whose recently acquired visibility and strongly articulated identity is challenging preconceived cultural, religious, and political realms.

A Dual Debate

As the discussion above suggests, women in the Muslim world

today are fighting two different pressures: one stemming from the internal patriarchal system of scripture and law and the other emitted by external societal forces threatening national, religious and cultural boundaries. This paper delves deeper into the growing phenomenon of "Islamic feminism,"a movement of women who are maintaining their religious beliefs while trying to promote egalitarian ethics of Islam in both theory and practice. To provide an analytical framework, two distinct camps of Muslim women will be compared and contrasted: the Muslim women attempting to reinterpret the Qur'an from a female perspective and the Muslim women in Turkey demanding the right to wear the headscarf. Both groups of women profess similar ideals, motives and beliefs – namely freedom of choice and a full exercise of identity – however, they differ in their methodologies, which may or may not produce identical results. The following analysis reveals the varying perspectives of both groups of women and the underlying dynamics and tensions produced by inter-mingling these comparative models in both concept and reality.

The Female Hermeneutics—a theoretical model

The rereading of the Qur'an is a central project of some Islamic feminists, whose own religious convictions are spurring renewed inquiries regarding women's role in the Islamic discourse. Fully aware of the high stakes in combating male dominated readings of the Qur'an, without any sanctioned interpretive authority, they are bravely attempting to break the monopoly on religious knowledge, traditionally assigned as a male epistemic privilege in Islam. While it seems inconclusive and controversial if Muslim women share the interpretive space with men, such a dialogue has never been more urgent, although it remains largely one-sided. Nevertheless, a concerted effort to provide fresh interpretations of the Qur'an in order to present a balanced, nuanced and ultimately more accurate rendition that illuminates its hidden depths and enhances the full relevance of the text is currently under way. The fundamental premise is to challenge laws and policies that are based on orthodox, literalist or misogynist interpretations and in doing so, allow women to seek liberation within an Islamic framework. Primarily, it is a matter of Muslim women seeking to exercise their God given rights within Islam, to use their full intellectual capacity (aqal), and to remove the male bias of an inherently gender neutral faith. The ensuing discussion elaborates on this challenge by examining the work of two prominent Muslim women scholars, Amina Wadud and Asma Barlas, who are engaged in the complex task of reinterpreting the Qur'an from a female perspective.

Reading as a Female

The great Muslim jurist Umar ibn al Khattab, known for the accuracy of his judgment, allegedly made a mistake in his interpretation that caused him to be corrected by a woman in his assembly: "Commander of the believers! Why do you deny us a right granted to us by God?" was her simple plea.[2] There is little doubt that Asma Barlas would join the same chorus today. In her recent book, Believing Women in Islam: Unreading Patriarchal Interpretations of the Qur'an, the Pakistani scholar/professor points to the lack of "a creative synthesis of Qur'anic principles" as a result of the failure to "recognize and link the Qur'an's textual and thematic holism".[3] Her most scathing critique of male interpretations is their inadequate linkage of the Qur'an's contents within the context of their revelations.[4] According to Barlas, the assimilation of the commentaries (and the commentaries upon commentaries?) of the Qur'an (tafsir) became secondary religious texts that enabled the "textualization of misogyny in Islam".[5] As a result, she

argues, the blurring of the Qur'an with its tafsir has eclipsed the sacred message of the Qur'an itself and continues to perpetuate the confusion of Islam with gender oppression.

In her critical assessment of patriarchal readings, Barlas highlights a number of conceptual dilemmas, the most endemic of which is a philosophical clash between the Qur'an as revelation (Divine Discourse) and as text (a discourse fixed in writing and interpreted by humans in a time/space continuum).[6] The conundrum routinely facing interpreters is how to safely infer meaning from the Qur'an without reading into the text too much. Although this seems to be an interpretive issue for both male and female interpretations, Barlas subscribes a large portion of the blame to patriarchal readings that absorbed the many norms that are labeled as "Islamic" to Qur'anic teachings. The failure to "connect God to God's speech" she claims, has resulted in blurring the principle of God's Unity or Tawhid and inevitably produced the disjuncture between Islam in theory and Islam in practice.[7]

While Barlas readily acknowledges that multiple meanings of the Qur'an are a natural consequence of its numerous layers, she also points to the Qur'anic emphasis on reading the text as "a cumulative, holistic process".[8] What seems most significant to her mind, is the need for every individual to discover his or her own meanings by exercising individual reason and intellect. By drawing inspiration directly from the Qur'an for critical engagement, she notes there are some 750 allusions in the Qur'an (as opposed to 260 on legislative matters) that instruct believers to "reflect and make the best use of reason" in trying to decipher its multifarious depths.[9] As a "believing woman" Barlas is primarily interested in challenging the assumption that only men seem to have the authority to dictate what God really means. But she is quick to add that patriarchal readings can be derived by both men and women by devaluing the female perspective. She also concentrates not only on what the Qur'an says but also on what it does not say, thus viewing silence as symbolically suggestive.

Reading for Liberation

Keenly aware of the gender imbalance in the prevailing male dominated interpretations of the Qur'an, Amina Wadud, has also created a new hermeneutics that is inclusive of the female experiences and voice; one that would yield greater gender parity to Islamic thought and practice. One of her goals is to establish some form of definitive criteria for evaluating the extent to which the position of women in Muslim cultures accurately (or not) mirrors the actual Qur'anic intentions for women. The need to validate the female voice and bring it out of the shadows is an essential part of her mission. In Qur'an and Women: Rereading the Sacred Text from a Woman's Perspective, Wadud convincingly argues against a monolithic, misogynist interpretation and attempts to distill the language and meaning of Qur'anic statements within a more balanced framework that underscores the inherent universalism of Islam.

According to Wadud, male restrictive readings have failed to distinguish the general from the specific within the Qur'an which causes them to elevate some ayat above others while de-emphasizing their full contexts. She blames the conservative male ulama for ignoring the doctrine of the Qur'an's universalism, which they themselves profess, while adhering to a "unicultural perspective" of the Prophet's community, a view that "severely limits the application and contradicts the stated universal purpose of the Book itself".[10] In addition, she questions the canonization of readings generated over a thousand years ago in the name of sacred history which possibly leads to a redemptive future and limits the built in flexibility within Islam that encourages adaptation. For Wadud, the relevance of the Qur'an can only be maintained through a continual process of

re-interpretation and re-evaluation by each new generation of Muslims.[11] In this way, she aims to foster a perennial system of checks and balances to measure the applicability of Qur'anic theory with practice.

Implications of the female hermeneutical model

While no reading of the Qur'an (male or female) can ever be wholly conclusive or objective, subjectivity, in and of itself, does not rule out the possibility of saying something essentially true. However, the question that both Barlas and Wadud fail to readily answer is: whose truth is believable and upon which criteria is it based? While admitting that contemporary readings of the Qur'an, especially those by women, run the risk of immediate dismissal, they still insist that applying new insights to read the Qur'an is both unavoidable and justifiable. Since Islam is not bound by space, time or context, it should also be possible to question how and if the Qur'an's teachings address and accommodate ideas that are compelling in this day and age. For dissent to be meaningful, it must contend with some discursive framework it seeks to counter. According to Asma Barlas, the failure to distinguish religion and religious knowledge, as well as to register the ways in which the later changes, is the most troublesome issue for Muslim revivalists, male or female. Despite the stated advantages of female readings of the Qur'an, it is also conceivable that a reformist or woman-centric interpretation of religious scriptures and laws risks being marginalized as yet another version of Islam. Consequently, Islam itself can become more and more fragmented until the point where it will be difficult to know which brand of Islam to subscribe to—be it patriarchal, matriarchal, traditionalist, neo-traditionalist, modernist, post-modernist, none or all of the above. With a colorful palette ranging from political, militant, to spiritual and Sufi variations, Islam has never suffered from a dearth of interpretations. Will the female model add one more voice to this chorus? How can this feministic ijtihad continue without forsaking the essential unity of Islam?

It is worth noting that treating men and women differently does not always amount to treating them unequally, nor does treating them identically necessarily mean treating them equally. Both Barlas and Wadud would concur in the end that a reading of the Qur'an, no matter how good, is just a reading that attempts to approximate the essence of the Qur'an. This may be why the Qur'an distinguishes between itself and its exegesis, by condemning those "who write the Book with their own hands, and then say: 'This is from God'". (2:79; in Ali, 38)[12] Perhaps more acrimonious critics of women scholars such as Wadud and Barlas engaged in the reinterpretation of the Qur'an, will allege that their achievements obscure the political, ideological and religious differences among Muslim women and mask the valiant efforts of socialists, democrats and other feminists striving towards modernism and progress. But their argument is significantly weakened by the alternative comparative scenario of Turkish women activists who are aiming to advance Islamic causes within a secular framework.

Turkish women/activists - a real world model

At first glance, it seems highly anomalous why women living in a country shrouded in the motto of secularism have begun demanding the right to wear the Islamic headscarf which is officially banned in Turkey. In 1937, when the Turkish state was declared constitutionally secular, religious institutions were completely dismantled with state institutions extending surveillance over religious matters.[13] While Turkish secularism did initially improve the status of women by granting them more rights and increasing their stature in society, it also paved the way

for Islamist opposition. This is precisely what happened when the dispute over the headscarf ban flared up en masse during the mid 1980's and continues to be the source of fierce political/religious debate today. For the first time in the Turkish Republic's history, the majority view which equated Islam with women's "imprisonment" at home is being challenged by the appearance of highly educated, elite, politicized and religiously oriented women espousing an "Islamic way of life" and a full assertion of their God given rights, through open demonstrations, hunger strikes and political rallies in which they effectively employ the weapons and tactics of modern democracy to redefine gender roles.

Interplay of similar elements

1. Redefining gender roles

Turkish women advocating the right to wear the veil are looking outside the scriptures (having taken them at face value) and concentrating their efforts in battling a state hegemony that restricts their rights to choose freely. In this context, veiling is a political statement to redefine gender roles whose contemporary actors are university students, government officials, future intellectuals and professionals, not marginal, uneducated, frustrated groups. In a similarly inclined mode, the women interpreting the Qur'an are above all advocating an enlightened female identity that surpasses the clutches of male ordained thought and regulations. By approaching the discourse of change from inside the realm of Islamic scriptures, they are essentially attempting to liberalize women through a structural and theoretical rereading of the Qur'an that will revitalize outdated paradigms and unshackle the male control in the field of religious knowledge.

2. Blurring the contours of traditionalism/ modernism/ secularism

In Turkey, the veiled, educated woman appears to be a walking paradox, for she doesn't quite fit the Turkish concept of modernity that equates education with enlightenment and a release from the conservatism of Islamic religion and traditions. What some critics fail to notice is that veiling in the Turkish case is not simply an act of religious zeal but firmly rooted in liberal concepts where gender discrimination and the equality of rights are mantras for social change. As stated by Turkish sociologist Nilüfer Göle, "it can be said the questions of women, modesty and sexuality are discerned and problematized by the contemporary Islamist movements, more as a result of critical dependence on modernity rather than of loyalty to Islamic religion".[14] In a unique way, the conflict over the veil in Turkey exemplifies the convergence of secularism, modernism and Islamism. Though it is important to detect that none of these ideologies exist in complete isolation but in fact, borrow freely from intersecting precepts. The Turkish women's defense of the veil is based on values related to personal and moral dignity, professional ambitions and an urge to reach emancipation from patriarchal, social and institutional pressures, all of which are a blend of traditional/modern/secular principles. The women scholars rereading the Qur'an are also blurring these distinctions by upholding intersecting values linked to individual freedom, religious virtue and system change.

3. Playing with the private/public divide

Turkish veiled women are not simply passive conveyers of their provincial cultures. They are rather active and self-asserting women who demand access to the public domain within an encapsulated existence construed according to the principles of the Islamic faith. By adopting the scarf, they attempt to update or revive Islamic virtues and merge them with the economic and educational opportunities open to women within the modern setting. Their entry into the public sphere is not at the periphery,

where traditions prevail, but in the urban settlements and universities, where modernism flourishes. In this process of "emancipation", veiling acts as a regulator of space, where the private sphere merges with the creation of a secure public arena bolstered by faith. In a similar vein, Asma Barlas and Amina Wadud are also smudging these spatial distinctions. By looking inside the Scriptures for religious innovation, their mission is to construct a blueprint for action in the public spaces that affect the lives of Muslim women. The need to reinstate the woman as an educational agent, both in the mosque and the public university, one who will outline her own priorities and define her own boundaries, is an essential narrative of the transitivity of public/private spaces.

Comparative Tensions

A rise in religious consciousness and social awareness does not undermine the secular structure of a regime, nor does it dismantle the edifice of religious scriptural knowledge. As an example of how an Islamic opposition by women may integrate itself into a modern secular system, Turkey remains a fascinating case study. It is also important to note that for Turkish women activists, a true reconciliation will only be achieved when Islamic values, enshrined in the Qur'anic principles of social justice and equal rights, are not banned from the political realm by a staunch hold on secularism, but also respected and incorporated into the public sphere as a legitimate voice. It is this same voice that women like Asma Barlas and Amina Wadud are attempting to reclaim—a distinctively female voice that also hints at universality, with shades of nuance, balance and dignity that only seek to re-align the power imbalance between male/female, authoritarian/democratic dichotomies.

Islam and Feminism

Both groups of women in this comparative analysis are working within systems that marginalize them to disentangle language, religion, gender and politics, and in the process, becoming publicly visible and audible. Their brand of feminism is an attitude, a frame of mind that highlights the role of gender in seeking social justice. But feminism mingled with Islam is not a coherent identity, rather a contingent, contextually determined, strategic form of self-positioning. Hence the term, "Islamic feminism" invites a double commitment: on the one hand, to a faith based position and on the other hand, to women's rights both inside and outside the home. It is a living ideology that bridges Islam with activism thereby creating a new female identity that celebrates multiple belongings - be it religious scholar, political activist, university student, or a veiled Minister of Parliament.

The current discourse of Muslim women scholars/activists, through a gradual progression from awareness to rejection to empowerment, is equally challenging the patriarchal values within nationalist and religious ideologues that limits women's full agency. Despite their different methodologies, both sides or both feminist interpretations agree on the importance and urgency to elevate and liberate Islam from a legacy of patriarchy and oppression, on both theoretical and practical levels. However, in striving for that elusive plane of harmony where Islam is essentially based on a private contract between the individual and God, they still have to grapple with the cultural conundrums and societal values in which they live. But this is the female jihad: to project voices for justice and freedom as public intellectuals, as women and as human beings.

Repositioning the debate

While there is no denying that women in any society are potent symbols of national, cultural and religious identities, it is equally important to critically examine the ways in which they are working to achieve the delicate balance between a private and public identity or alternatively between self and society. The problem is that Muslim feminists who condemn Islam as a patriarchy, both through the male bias in religious texts and in

governing structures such as the case of Turkey, cannot easily escape the male dominated confines because they are so deeply imbedded in Muslim culture and society. At best, they can try to work within these limitations by carving out their own space in the public sphere of discourse and action. As a poignant reminder, only during the hajj do gender differences seem to momentarily disappear: men and women circumambulate the Ka'aba, all dressed in the same simple white cloth. The fact that Muslim women from all walks of life and every persuasion dress exactly the same way as men and participate equally with them shows the inherent democratic and egalitarian spirit of Islam that is in such desperate need of reviving. As illustrated in both comparative models, Muslim women scholars/activists, as modern day Crusaders, are courageously embarking on this momentous journey, however, the success of their campaigns remains a work in progress.

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[1] Ozdalga Elisabeth. The Veiling Issue, Official Secularism and Popular Islam in Modern Turkey, p. 21, (Curzon Press) 1998.

[2] Webb Gisela. Windows of Faith: Muslim Women Scholar Activists in North America, p. 100, (Syracuse University Press) 2000.

[3] Barlas Asma. Believing Women in Islam: Unreading Patriarchal Interpretations of the Qur'an, p. 8, (University of Texas Press) 2002.

[4] Ibid, p.9

[5] Ibid, p.15

[6] Ibid, p. 10

[7] Ibid, p. 13

[8] Ibid, p. 18

[9] Ibid, p. 22

[10] Wadud Amina. Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective, p. 6, (Oxford University Press) 1999.

[11] Ibid, p. 17

[12] Yusuf Ali Abdullah, The Holy Quran: Text, Translation and Commentary, 2nd. U.S. ed. (New York: Tahrike Tarsile Qu'an, 1998)

[13] Ozdalga Elisabeth. The Veiling Issue, Official Secularism and Popular Islam in Modern Turkey, p. 33, (Curzon Press) 1998

[14] Gole, Nilufer. The Forbidden Modern, p. 49, (University of Michigan) 1996.

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The Fletcher School Online Journal for issues related to Southwest Asia and Islamic Civilization Spring 2004, Article 6

One Voice? The Crisis of Legal Authority in Islam

Miriam Netzer

On February 23, 1998, Osama bin Laden issued a *fatwa*, or 'juridical ruling,' establishing a '*fard 'ayn,*' (individual duty) upon all faithful Muslims to wage holy war against the United States - on its territory, and against its civilian population—in acts of terror.[1] On September 12, 2001, prominent Qatar-based cleric, Yusuf Qaradawi, issued a fatwa condemning the attacks on the World Trade Center and Pentagon, after praising suicide-bombing missions against Israeli civilians, as self-defense. Last year, he designated attacks on U.S. soldiers in Iraq, as acts of 'martyrdom.' On September 12, and December 3, 2001, Sheikh Tantawi, rector of Al-Azhar University, the premier body of Sunni legal scholarship, issued fatwas condemning attacks on civilians under any and all circumstances, as fundamentally 'un-Islamic.' However, he issued a further *fatwa* last March proclaiming the killing of American soldiers in Iraq, an 'individual duty,' for Muslims, to act in defense of their Iraqi brethren.[2]

> "...And those who are firmly grounded in knowledge say: 'We believe in the Book; the whole of it is from our Lord:' and none will grasp the Message except men of understanding."
> (Al-Quran, 3:7, Yusuf Ali Translation)

These conflicting fatwas may cause Western readers to question the nature of *fatwas*..Are they intended to be binding on the Islamic corpus, as are our laws in positive legal systems? Second, how is it that 'Islam' seems to support so many radically differing interpretations of what is *Islamic*? Finally, is there an authentic, versus an inauthentic version of Islam, and if so, how are they distinguishable within the audience for whom these *fatwas* are intended?

Before we attempt to explore the above issues, it is important to note that most Americans will *never* be struck by the above complexities. The reason is simple: while most Americans will have access to bin Laden's *fatwas* through local and national media coverage, only some will have heard of Qaradawi, and a scant number will be aware of Al-Azhar's stance in opposition to terrorism. It is because of this disparity of information—where the sensational, fearsome statements of a bin Laden get more coverage than comparably moderate voices within Al-Azhar—that Americans across the country have concluded that there is *one voice* in Islam, and that this voice is the voice of terror.

This article seeks to address the issue of legal authority in Islam, and particularly, to highlight the systemic crisis in authority which plagues governments in Islamic

countries seeking accommodation between *Shari'a,*[3] and modern legal codes in their state legal systems. The polarization of Islamic opinion on recent events in Afghanistan and the Middle East has served to cast suspicion even upon scholars with the most tenuous connection to moderate or liberal Islam, and in the context of current discourse on the conduct of *jihad,*[4] has lent authority to peripheral voices, like Osama bin Laden's.

When the Prophet Muhammad brought God's revelation to the people of seventh century Arabia, it was intended to lay the foundation for a righteous, ethical society. It was claimed by the followers of Muhammad, that the Quran and Sunnah, the main body of revelation and teachings of the Prophet, contained comprehensive prescriptions for correct individual and communal behavior. However, these texts are decidedly sparse in their coverage of human affairs. As Muslim society coalesced and solidified, and particularly as it expanded its borders in military conquests of the seventh and eighth centuries, it became necessary to coax rules and regulations by means of hermeneutics from the reticent text. The science of jurisprudence relating to Islamic law became known as fiqh, and is the domain of the religious scholar/jurist throughout Islamic history. Fiqh is not an exact science by any means. It utilizes different methods of legal reasoning, giving rise to widely divergent opinions. In order to narrow down legal rulings into an actionable body of law, deference has been given to the consensus, or ijma of scholars, and at times, to the emulation of past scholarly opinions. Yet overall, the rich diversity of legal rulings has remained the hallmark of fiqh law.

As fiqh continued to burgeon, it became necessary to contain the uncontrolled expansion of legal interpretations, making it possible to function as a society. One mechanism of control was the eventual division of Sunni scholarship into the four main madhabs or 'schools,' in approximately the tenth century A.D.—the Maliki, Shafi'i, Hanbali and Hanafi. Furthermore, in the public realm, affairs of state—administrative, and public law that were outside the realm of expertise or enforcement of legal scholars—devolved upon the state's temporal rulership, in a parallel legal system called siyasa. As long as the Caliph or Sultan did not contravene the Quran and accepted Sunnah, he was free to create a body of state law according to the functional needs of society. The office of the qadi, (judge), was established in order to facilitate the implementation of law, and as a conduit between the temporal and religious spheres. While the temporal ruler needed the tacit support of the ulema (clerics) in order to legitimate his rule, he often jealously guarded his legal domain, keeping a watchful eye on the religious establishment. In fact, in order to contain the pressure placed upon them by the Abassid rulers to manipulate fiqh, the ulema of the tenth century declared the infamous 'closing of the gates of ijtihad,' by which independent legal reasoning was curtailed in favor of precedent.

This bifurcation of the Islamic legal system continued in a state of more or less uneasy codependence for centuries, until the colonial domination of Europe in the eighteenth and nineteenth centuries swallowed the traditional fiqh realm, primarily in areas of civil and criminal law, under the carpet of Western legal codes. With the emergence of independent nation-states across the Middle East and Southwest Asia in the mid-twentieth century, the realm of siyasa, or ruler-made law made steady advances over the territory of jurist law. With the exception of Iran and Saudi Arabia, very few countries with majority Muslim populations have attempted to implement Shari'a law as the sole state legal system, and even in these cases, there exists a dominant 'siyasa' component.[5]

In states where the overwhelming majority of the population is Muslim, and

where Islam is increasingly the primary identifying factor in people's lives, this can lead to a crisis in legal authority, where the regime is challenged for its un-Islamic laws. In order to ease the introduction of positive legal codes, and placate Islamist forces, several governments needed to place a 'nod' to Shari'a law in their constitutions, where positive legislation must pass the litmus test of non-contravention with the Quran and Sunnah. This hearkens back to the siyasa system of legislation, absent the commensurate power given to fiqh in the private domain.[6] And yet, ironically, it is the ulema that still often hold the key to the 'Islamic legitimacy' of a government. It is for this reason that regimes across the Islamic world have tried with one hand to draw political support and approbation from Islamic scholars, while with the other, attempted to keep Islamist forces at bay.

In countries like Egypt, the government has taken over the funding of religious schools and scholars, and created ministerial posts by which the government is 'advised,' as to what is or is not Islamic. While these positions are often occupied by genuine scholars, in regimes that are criticized for corruption and collusion with Western powers, the ulema in these roles risk tarnishing their own legitimacy. Al-Azhar has thus had its authority impugned for supporting unpopular Egyptian policies, such as the Camp David Accords under Anwar Sadat in 1976, as well as sweeping changes in personal law implemented to increase gender equality. An Al-Azhar fatwa released this year, regarding the permissibility of the French government's headscarf ban, has angered many Muslims. In circumstances such as these, 'official' Islamic spokespersons lose credibility when they declare the fatwas of radicals like bin Laden "un-Islamic." For example, a storm of criticism followed the fatwa of the grand mufti of Saudi Arabia, Shaykh Abd al-Aziz bin Abdallah Aal al-Shaykh, pronouncing terrorism anathema to Islam.

The controversy over jihad highlights the crisis in authority that arises from the tense and unnatural relations between state and religion. Although discussions of the nature and purpose of jihad are well rooted in works by medieval scholars such as Ibn Taymiyya and Ibn Rushd, current discourse on the use of terror tactics has been at the epicenter of controversy over legislative legitimacy in Islam. In a BBC article following the Al-Azhar fatwa against terrorism, the reaction of the Egyptian public was guardedly dismissive: "Egyptians say that Sheikh Tantawi's views are respected by many Muslims, but that they are not binding by law and that earlier this year, Palestinians in Gaza dismissed as irrelevant the views of government-appointed clerics in Egypt and Saudi Arabia."[7] Osama bin Laden himself, in an interview with a Pakistani journalist, made his contempt clear for the fatwas of Al-Azhar:

> Interviewer: The head of Egypt's Al-Azhar has issued a fatwa against you, saying your views and beliefs have nothing to do with Islam. What do you say about that?
> UBL: The fatwa of any official Aalim (cleric) has no value for me. History is full of such Ulema who justify…the occupation of Palestine by the Jews, who justify the presence of American troops around Harmain Sharifain.[8]

Meanwhile, popular figures like Yusuf Qaradawi struggle to maintain their mantle of 'independence,' yet stand accused of government cooptation for condemning bin Laden's version of jihad. At the same time as Qaradawi is reviled as a 'sell out,' for his facilitative views toward Western culture and science, he is castigated in the Western press for 'radical Islamic views.' Public support for Hamas, and his rulings in favor of suicide bombings in Israel, caused the U.S. State

Department to revoke Qaradawi's visa in 1999. Media have called him a "radical, anti-Western cleric who preaches Muslims will one day "conquer" the United States."[9] That Qaradawi can be accused of being in bed with the West, and labeled a "wicked mufti,[10] " by coreligionists, highlights the tenuous state of the Islamic scholar's legitimacy, and the ever-lurking insinuation of government collusion.

The struggle within Islamic states to maintain an "Islamic legitimacy," while implementing legal reform and engaging in political and economic relations with the West has contributed to the loss of legitimacy, not only on the part of state-supported institutions of Islamic scholarship, but also on 'independents,' such as Qaradawi. It is of concern that Islamic scholars may be, in the future, reticent to share views that are deemed as "too Western."

It must not be forgotten that the backdrop to the current crisis of legal authority in Islam is the traditional crisis of legal authority in Islam—where for centuries, the Islamic polity has struggled to maintain decisive, actionable, positive law, while at the same time, allowing for the dynamic, multifaceted, inconclusive science of fiqh, and the non-binding nature of fatwas. This brings us to our final question—if there is indeed an authentic, or inauthentic version of Islam – is it distinguishable to the audience for whom these fatwas are intended?

The fluid state of fiqh, the inconclusive and enigmatic texts of the Quran and Sunnah, and current political realities, make it clear that there will probably never be a definitive version of Islam. While a majority of Muslims worldwide condemn bin Laden's violent espousal of a radical interpretation of jihad, an increasing proportion are also turning aside from official clerical bodies such as Al-Azhar, seen as spokespersons for unpopular regimes and/or policies. This trend is worrisome. It seems that the crisis in legal authority in the Muslim world will soon, if it hasn't already, become a crisis for the Western world as well.

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 on Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.

[1] "Saudi Arabia: bin-Ladin, Others Sign Fatwa To 'Kill Americans' Everywhere," Al-Quds al-'Arabi (London), available from http://www.emergency.com/bladen98.htm

[2] Fatwa Bank, March 11, 2003, available from http://www.islamonline.net/fatwa/english/FatwaDisplay.asp?hFatwaID=94227

[3] Shari'a is the uncodified law of Islam, collected from the texts of the Quran and Sunnah, (anecdotal collection of actions and sayings of the Prophet), and subjected to exegesis. Shari'a means literally, "a path to water," and figuratively, "the righteous path."

[4] Jihad means "a struggle," and has been used throughout Islamic history to cover anything from man's internal struggle to do good, to a large-scale war in defense of Islam.

[5] In the form of king's decrees (nizam), in Saudi Arabia, or a legislature and supreme jurisconsult in the case of Iran.

[6] For more on the topic of modern day siyasa and its relation to fiqh, see Frank E. Vogel, Islamic Law and Legal System: Studies of Saudi Arabia (The Netherlands: Koninklitjke Brill NV, 2000)

[7] Frank Gardner, "Grand Sheikh Condemns Suicide Bombings," BBC News, December 4, 2001, available from http://news.bbc.co.uk/1/hi/world/middle_east/1690624.stm

[8] Interview given by Hamid Mir, Pakistani journalist, available from The Observer, U.K., November 11, 2001

[9] Jonathan Wells, "Despite Denials, Rad Tied to Hub Mosque," The Boston Herald, March 7, 2004, News, pg. 10

[10] Available from http://en.wikipedia.org/wiki/Yusuf_al-Qaradawi#Opinions_on_Qaradawi

The Fletcher School Online Journal for issues related to Southwest Asia and Islamic Civilization Spring 2004, Article 7

Understanding Iraq's Insurgency

Jim Ruvalcaba

Introduction

Many questions have been posited as to which tactics, strategies, and policies, are best and should be employed to counter the insurgent threat in Iraq. Many argue that the military should be the primary instrument involved whereas others argue that more emphasis should be placed on the diplomatic and economic instruments to resolve this threat. However, before anyone can attempt to argue in favor of any recommendation, option, or policy, it is important to understand the problem. The purpose of this article is to provide an understanding of Iraq's insurgency using the detailed framework for analysis developed by Dr. Bard O'Neill and described in his book, *Insurgency and Terrorism*. This broad framework analyzes insurgencies by examining the international system, domestic context, goals, purpose, means utilized, and strategies. From this analysis, the nature of the insurgency, type, the problems they pose, and the requirements they place on respective actors can be determined.[1] Therefore, with such an understanding, individuals will be better prepared to assess the tactics, strategies, and policies that are recommended and possibly employed in addressing this threat.

Insurgency Definition

A comprehensive definition of insurgency is provided by the pamphlet *Guide to the Analysis of Insurgency*, published by the Central Intelligence Agency. It states: Insurgency is a protracted political-military activity directed toward completely or partially controlling the resources of a country through the use of irregular military forces and illegal political organizations. Insurgent activity—including guerrilla warfare, terrorism, and political mobilization (such as propaganda, recruitment, front and covert party organization, and international activity) is designed to weaken government control and legitimacy while increasing insurgent control and legitimacy. The common denominator of most insurgent groups is their desire to control a particular area. This objective differentiates insurgent groups from purely terrorist organizations, whose objectives do not include the creation of an alternative government capable of controlling a given area or country.[2] Several aspects of this definition are particularly important to note. First, it is a protracted political-military activity that includes guerrilla warfare and terrorism aimed at the weakening government control. Second, terrorism in this context is an auxiliary tactic that insurgents use as part of a broader strategy rather than an exclusive one.

International System

The end of the Cold War undoubtedly changed the international system. The international system is no longer a bipolar one that is divided between eastern and western blocs and led by two major powers. Since the demise of the Soviet Union, the United States has emerged as the world leader in military, economic and

arguably, in political aspects. Additionally, the attacks on the World Trade Center, Washington D.C., and Pennsylvania, have also dramatically changed the international system.

In the short term, just after the September 11th terrorist attacks, the international community unified against the newly perceived international threat by displaying unconditional support for the United States in its efforts to bring the terrorist perpetrators to justice. Evidence supporting this was the adoption of United Nations' Security Council Resolution 1373, condemning the terrorist actions, and in effect, passing binding legislation.[3] One need only look at the clear and directive language that is found in paragraphs 1, 2, and 6 that stipulates that "all states shall prevent and suppress the financing of terrorists acts, refrain from providing any form of support to terrorists, take necessary steps to prevent the commission of terrorists acts, prevent the movement of terrorists and terrorists groups by effecting border controls, and establish a Committee of the Security Council to monitor the implementation of this resolution."[4] Furthermore, the United States took unprecedented unilateral action against the Taliban regime in Afghanistan for supporting the Al Qaeda terrorist group and invoked article 51 (self-defense) of the UN Charter.[5] Although this sparked some debate, the international system acquiesced to this action. Even five weeks later when the UN passed Security Council Resolution 1378, it did not reprimand the United States for this unilateral use of force and preemptive action. Instead, it criticized the Taliban Regime for not taking measures to stop its support to the Al Qaeda terrorists and it expressed its support for the new Afghanistan transitional administration supported by the United States.[6]

The support given to the United States in the long term, however, is not as vast as it was in the immediate aftermath of the attacks, especially in light of the international controversy leading to U.S.-led coalition preemptive attacks on Iraq (Operation Iraqi Freedom). Hereafter, it can be argued that the international community would no longer acquiesce to the preemptive actions of the United States. Thus the actions of the only remaining superpower would no longer be unchallenged. It became clear that the international community, (through the UN) was not going to endorse the United States' desired combat operations under the aforementioned Article 51 of the UN Charter. Subsequently, the United States, understanding that it could not garner this international support for justification of preemptive self-defense, pursued the approval of UN Security Council resolution (SC 1441) that focused on giving Iraq one last chance to comply with the previous Security Council resolutions, in which it was found to be in "material breach."[7] This resolution outlined the following:

- Specifically recalled SC Resolution 678 (use of UN Charter Chapter VII enforcement action) and asserted that, failing compliance, SC Resolution 678 is reaffirmed.
- Asserted Iraq was in "material breach" of obligations under SC Resolution 687.
- Gave Iraq a "final opportunity" to comply with disarmament obligations.
- Ordered Iraq to provide UNMOVIC with unrestricted access to all sites, including Presidential sites.
- Granted UNMOVIC and IAEA sole discretion over removing, destroying weapons.[8]

Thus, it came to pass that the United States and United Kingdom engaged in operation Iraqi Freedom "under authorization of the United Nations" specified in Security Council Resolution 1441 and because of Iraq's continued "material breaches" of Security Council Resolution 687.[9] However, this action did not come without harsh criticism: France Germany, and Russia expressed their concerns, stating "there is no basis in the UN Charter for a regime change with military means."[10]

Although this article is not focused on the international system, the examples above were discussed in detail to prove that the international

system does not currently possess a standard lens through which it views the international threats. It can be argued that in the in the wake of the September 11th attacks, the United States received overwhelming support and it was able to provide a "standard universal" lens through which most nations viewed terrorists, as evidenced by the overwhelming support for Security Council Resolution 1373. However, as the United States and the United Kingdom expanded this threat to include Saddam Hussein's regime, the short-lived universal lens shattered and the international security environment is once again perceived quite differently throughout the world: a view substantiated by Helga Haftendorn in her article, "The Security Puzzle."[11] Subsequently, recent events have proven that even though the United States is the only major remaining superpower enjoying unmatched military and economic strength, its political influence will be affected and perhaps limited by the manner in which the rest of the international community perceives the international security setting.

Iraqi Domestic System: Background

It is equally important to understand the nature and dynamics of the Iraqi domestic setting and political system. While insightful analysis on Iraq's political and social dynamics in the pre-Saddam period exists, the closed nature of the former autocratic state makes it challenging to assess Saddam Hussein's former political system. Nonetheless, it is possible to make a number of observations. While the British and the Hashemite monarchy sought to undertake the building of the state, it was never fully realized. Saddam Hussein's autocratic regime, under the guise of the Ba'athist party purporting to represent the will of the people continued to make progress in building the Iraqi state in terms of the organizational and physical infrastructure of a modern, unitary state, until the 1990s. Iraq was able to develop formal administrative structures. These covered all aspects of society, from central to local government, from education through public works to the oil industry, which were staffed by relatively well-educated and competent technocrats. However, in terms of building a unified nation, whether in a monarchist, Arab nationalist, or revolutionary Ba'athist guise, it proceeded sporadically since the 1920s.[12] A recent and over-simplified observation is that Saddam's Sunni-led government, buttressed by the military and the intelligence services (mukhabarat), which were "bureaucracies of repression" for the Kurds and Shiites, contributed to Iraq's current day lack of national identity.[13]

Table 1.1 summarizes the political systems utilized by O'Neill. A simplified analysis reveals that Saddam Hussein's regime possessed characteristics of both the modernizing autocracy as well as the totalitarian system. These two political systems are in sharp contrast to the pluralistic system that the United States is attempting to emplace and in which the Iraqis have no previous experience with. Thus, it is evident that this transition to a new political system will not be timely and cannot be rushed given the lack of democratic experience. Steven Metz also supported this argument when he stated, "Moving from the psychology of totalitarianism to the psychology of an open society, with its foundations in political initiative, consensus building, and compromise, is a long and tortuous journey."[14]

Table 1.1

Political Systems: Sources of Support, Methods Control & Role of the Public.[15]

Political System	Sources of Support	Method of Control	Role of Public
Traditional Autocracy	Military, Landowners, Clergy provide support in exchange for socio-economic privileges.	Elites maintain tight control on "right to rule." Reinforce the importance of birthright, and personalism as key values to rule.	Expected to be apathetic and loyal. Opposition will be oppressed and controlled.
Modernizing Autocracy	Bureaucrats, Military, Landowners, and Clergy provide support in exchange for socio-economic privileges.	Birthright, personalism and religion also stressed as right to rule but emphasis placed on building "state power" to remain in hands of few elites. Hierarchical structure evolves with patrons dispensing favors for support.	Masses do not actively participate in political process. Some regulated private activity is permitted in widely state-owned enterprises.
Totalitarian	Tightly controlled vanguard party and societal groups.	Party claims to represent the popular will. Leaders use a complex bureaucracy, media and education system to carry out control of political, economic, and social aspects.	Expected to participate in vanguard party. Economic control may be in hands of public sector.
Pluralistic (Democracy)	Public acting through political parties.	Numerous political structures established within and outside of government. External groups act autonomously. Limits placed on powers of leaders. lace the political system in favor of individual freedom and liberty	Public actively participates in espousing values of freedom, liberty and compromise

Iraqi Domestic System: Present Day

No clean ending + developmental regression = challenging rebuilding. The fact that the end of the conventional part of Operation Iraqi Freedom did not have a clean ending gave rise to cadres of Ba'ath loyalists as well as other opponents of the U.S. led coalition. In fact, it is now suspected that many of the insurgent threats operating in Iraq are from other Arab countries like Syria, Jordan and Saudi Arabia fighting to end what is now clearly seen as an occupation.[16] Given this continued insurgent threat challenging Iraq's long transition to democracy, it is clear that the conventional military victory did not transpire to political victory or grand strategy victory as some leaders had expected. Anthony Cordesman, correctly points out that military victory was always a prelude to a much more important struggle: winning the peace.[17]

Unlike the formal surrenders of previous conventional wars, like those of Germany and Japan, where defeated armies stopped fighting, the war in Iraq did not) produce a formal and open surrender from any senior official in the former regime. This lack of formal surrender has contributed to this "unclean" ending as former Saddam loyalists, who are unhappy that they have lost control, influence, and social status, and continue to fight the American occupation. Although it is difficult to measure to what extent a formal surrender could have deterred the former regime loyalist from continuing to fight, it is arguable that even a small reduction of insurgent fighters (attained through a formal surrender) could have significantly improved the domestic setting by reducing the number of insurgents deeply committed at conducting terrorist acts. It is with this understanding that Ambassador Barbara Bodine stated, "We tried mightily to find some, any senior Iraqi officers

who would surrender prior to April 9th."[18] Terrorist acts play a huge role in affecting the psyche of the masses and legitimacy of the government. Therefore, this notion of reducing the number of insurgents becomes even more significant when placed in the context of not only transforming a repressive autocratic government into a new democracy but also in attempting to rebuild the national infrastructure while simultaneously fighting an insurgency.

Dr. O'Neill addresses two fundamental challenges that confront nations in their transition to independence: lack of national integration and economic underdevelopment.[19] Societal divisions along one or more lines-racial, ethnic, linguistic, or religious-and an absence of political tradition that transcends parochial loyalties are plaguing post conflict Iraq. Since the forceful removal of Saddam Hussein, the absence of the hard-line Ba'athist regime can no longer demand the citizens' loyalties through terror and intimidation. As rival groups now vie for their share of power, they foster inter-group antagonism and distrust, which may give rise to even more insurrections directed at the provisional government if it is dominated by rival groups, or perceived to be illegitimate. Retired Marine Corps General Zinni has even gone as far as stating that the United States must prepare itself for a possible civil war in Iraq.[20]

Obstacles to economic development that have hampered or continue to hamper Iraq include sanctions, a long and costly war with Iran, war reparations for the invasion of Kuwait, corruption of government officials, poorly trained or inefficient bureaucracies, the lack of adequate communications and transportation infrastructure, an uncompetitive economic position, and a misuse of foreign assistance that was misdirected in favor of its military establishment. According to a study conducted by Anthony Cordesman, the Iraqi annual per capita income dropped from approximately $8,200 in 1978 to $1,435 in 1990, to $723 in 1991 and current figures now show $150 in 2003.[21]

Iraq has experienced a huge economic decline. Therefore, the lack of a hard-line centralist control of diverse and competing groups, the lack of the clean ending to post Iraqi war hostilities, and the cluster of significant societal and economic factors have led to the emergence of new dissatisfied groups and the rise to the insurgents and terrorists threats that previously held a disdain towards the United States.

International – Domestic Interplay

As previously addressed, the terrorist attacks on the United States initially had a unifying effect on the international community but the lack of broader international support for Operation Iraqi Freedom is proof that in the long term, it had the opposite effect. At the domestic level, the lack of a clear ending coupled with the economic underdevelopment and lack of national integration eventually gave birth to the insurgent threat. David Reiff points out that when the administrator to the Coalition Provisional Authority Paul Bremer, announced the complete disbanding of the Iraqi Army, some 400,000 strong, and the lustration of 50,000 members of the Ba'ath Party, one U.S. official remarked, "That was the week we made 450,000 enemies on the ground in Iraq."[22] This statement is even more alarming when on realizes that these 450,000 newly minted "enemies" also have family members; so the number of disaffected Iraqis can easily exceed 1 million. Thus, the current situation in Iraq, shaped by the international context of ambivalent support and the domestic context of dissatisfied groups is now a breeding ground for not only the local Iraqi insurgents, but also those international terrorists that desire to drive a wedge in the international community by attacking the U.S. in Iraq as well as those that align with it. With this understanding the attention will now turn to analyzing the insurgency in Iraq by looking at the types of insurgents, their strategy, goals and means, as well as to determine the demands they place on different actors.

Types of Insurgencies

Dr. O'Neill identifies seven types of insurgencies. These are: anarchist, egalitarian, traditionalist, pluralist, secessionist, reformist, and preservationist. Brief descriptors follow and are summarized in Table 1.2:

• Anarchists wish to eliminate the institutionalized political arrangements because they are viewed as illegitimate.

• Egalitarian Insurgents seek to impose a new system of based on the ultimate value of distributional equality and centrally controlled structures designed to mobilize the people and radically transform the society.

• Traditionalist insurgents also seek to displace the political system but they articulate primordial and sacred values rooted in ancestral ties and religion. And although they espouse some autonomy at the local level, widespread participation in national politics, especially by opposition groups is discouraged.

• Pluralists seek to establish a system in which the values of individual freedom, liberty, and compromise are emphasized and in which the political structures are differentiated and autonomous. Many groups use this rhetoric but their ultimate goals are anything but pluralistic.

• Secessionists renounce the political community of which they are a part of and seek to constitute a new and independent political community. Their focus can be regional, ethnic, racial, religious or a combination thereof but secessionist consider themselves nationalist in which their primary aim is independence.

• Reformists are the least ambitious type of insurgent. They seek more political social, and economic benefits for the population but do not reject the political community or system of authorities. Their primary concern is the allocation of material and political resources, which they consider discriminatory and illegitimate.

• Preservationists are quite different than the previously mentioned insurgent types as they seek to maintain the status quo because of the political, economic, and social privileges they receive from it. These groups seek to maintain the existing political system by engaging in illegal acts of violence against non-ruling groups and authorities that are trying to effect change. (e.g. death squads)

Table 2.2

Types of Insurgencies, their goals, and examples.

Type of insurgency	Goal	Example
Anarchist	Eliminate all institutionalized political arrangements; they perceive authority relationships as unnecessary and illegitimate	Foreign terrorist in Iraq – Ansar al Islam & Jaish Ansar al Islam
Egalitarian (socialist and communist	Impose a new system based on distribution of equality and centrally controlled structures to mobilize the people and radically transform the social structure within an existing political community	Shining Path in Peru
Traditionalist	Displace the political system; the values they articulate are primordial and sacred ones rooted in ancestral ties and religion	Fawq in Iraq (Sadr's militia)
Pluralist	Displace the political system in favor of individual freedom and liberty	UNITA in Angola
Secessionist	Withdraw from the present political community and constitute a new and independent political community	Tamil Tigers in Sri Lanka
Reformist	Gain autonomy and reallocate political and material resources within the present political system	Kurds in former Iraq
Preservationist	Maintain the existing political system by engaging in illegal acts against non ruling groups and authorities who desire change	Former Ba'athist

[23]

Recent data supports that the Iraqi insurgent threat is composed of dissatisfied Iraqis of the former Ba'athist regime, international terrorists such as Ansar al Islam & Jaish Ansar al Islam, and tribal militias (known as the Fawq).[24] Upon examination of their goals and/or actions that support specific goals, these three main groups can be classified as preservationists, anarchists, and traditionalists, respectively one must be cautious when attempting to classify the insurgents, and keep in mind the following challenges to categorization:

• Insurgents ability to transform their goals.

• Numerous insurgent groups may have different and mutually exclusive goals.

• They may mask their goals or convey misleading rhetoric.

• Goal ambiguity, as evidenced by two or more aims of which neither of them predominates.[25]

The latter challenge has indeed posed problems in analyzing some of the insurgents in Iraq. According to an article written by Patrick J. McDonnell and Sebastian Rotella, many of the suicide bombers in Iraq appear to be natives. This is in contrast to the statements from the Department of Defense briefings, which state that suicide attacks are primarily the works of foreign jihadists like Abu Musab Zarqawi, a Jordanian connected to Ansar al Islam and affiliated with al Qaeda. As evidence, they point to the definitive identification of an Iraqi suicide bomber that struck on December 9th 2003 as well as statements from Lt. Col. Ken Devan, an intelligence officer for the Army's 1st Cavalry Division in Baghdad that stated, "Overall, the facts say that the majority of folks we are fighting are Iraqis."[26] Yet despite this assessment, U.S. and Iraqi officials have repeatedly stated that Iraqis are unlikely to engage in such suicide missions because they do not have a history of violent religious extremism.

O'Neill also describes four strategies that can be employed by insurgents. These are: conspiratorial, protracted war, military focus, and urban warfare strategies.[27] These strategies vary as to the importance they place on the following variables: the environment, popular support, organization, cohesion, external support, and the government's response. A summary of each strategy follows:

• Conspiratorial Strategy: In this strategy a small group conspires to remove a ruling authority through limited but swift force. This strategy normally requires a well-organized group and does not necessarily rely on external support. This strategy is typical of coups led by military officers.

• Protracted War Strategy: This strategy seeks to prolong the fight against the ruling government because insurgents realize the government has a conventional force advantage. They adapt asymmetric means to attack selected targets in order to discredit the government and cause disenfranchisement among the population. This strategy is the most widely used and is normally associated with Mao's guerrilla movement, which encompassed three stages: political organization and low-level violence which focused on recruitment and the infrastructure, guerrilla warfare, which encompassed violent military directed at the ruling government, and mobile conventional war, which encompassed large conventional attacks as well as psychological and political means to collapse the government. Mao also emphasized flexibility in these phases allowing leaders to revert to previous stages if necessary.

• Military Focus Strategy: This strategy gives primacy to military action and subordinates political action. It places little emphasis on the political aspect because it assumes that there is sufficient popular support or it will be a by-product of military victory. It focuses on catalyzing the insurgency through military efforts.

• Urban Warfare Strategy: This strategy employs terrorism as a key factor in destabilizing the society and its government. The purpose is to create havoc and insecurity, which will eventually produce a loss of confidence in the government. It employs tactics such as assassinations, bombings,

kidnappings, armed propaganda, ambushes, and assaults on fixed targets in an effort to sabotage economic assets.

Table 1.3 is a simplified matrix of the three major insurgent threats in Iraq depicting the insurgency and type, strategy, means employed, and primary region(s) of operation. Although there are no distinct lines that clearly differentiate one insurgent group from another, it is important to note that each insurgency embraces a different strategy, and operates in specific regions. The insurgents do share the goal of expelling the coalition forces from Iraq, however, the Fawq are more willing to work with the Coalition in order to preserve or enhance their regional influence.[28]

Table 1.3

Types of Iraqi insurgents, their strategy, means, and regional location

Insurgency / Type	Strategy	Means	Region
Foreign Terrorist / Anarchist	Urban Warfare Strategy- transform political crisis into armed conflict by conducting terrorist acts that will force the government into military action. The purpose is to create havoc and insecurity, which will eventually produce a loss of confidence in the government.	Suicide Bombings,[29] Car bombings, Rocket attacks, Assassinations, Ambushes, Kidnappings Propaganda blaming the Coalition	Central and Northern Iraq
Ba'athist Regime / Preservationist	Protracted popular war strategy - prolong the fight against the transitioning government. Employ asymmetric means to attack selected targets to discredit the government and cause disenfranchisement among the population.	Bombings (IEDs), Car bombings, Rocket attacks, Mortar attacks, SAM at helos, Assassinations, Ambushes, Kidnappings, Propaganda blaming the Coalition, Infiltration.[30]	Baghdad, Tikrit, SW Basra, and other predominant Sunni cities
Tribal Militia (Fawq) / Traditionalist	To emplace a village or community based force supporting sacred primordial values rooted in ancestral ties and religion. Willing to work with coalition if position of influence is respected. (Flirting w/ Military Strategy)	Ambushes, Sniper fire, RPG fires, Car-jackings, Smuggling	Southern Iraq, Basra, Al Faw, Umm Qsar

[31]

Problems to Actors

The problems posed by the three insurgent groups are primarily of a security nature to all the actors operating in Iraq but there are other problems that manifest themselves differently and in differing intensities toward specific actors. For example, the Coalition also faces the politicized challenges of dealing with the international community and can see its influence fluctuate based the policies and means it employs in countering the insurgency threats. Additionally, a non-governmental organization or a private organization can be dissuaded from continuing its participation in the rebuilding because the monetary or personal security costs are too high. See table 1.4

Table 1.4

Actors in Iraq, problems encountered, and requirements placed on actors.

Actor	Problem Encountered by Insurgency	Requirements Placed on Actor
U.S.-led Coalition	Security of local population, Security of Iraqi Governing Council, Security of NGOs and Private Groups Force protection, Credibility and Reputation, Ability to influence international community, Financial costs	Increase Forces – Seen negatively Increase force protection measures Impose restrictive measures Combat negative propaganda Increase expenditures
Iraqi Governing Council	Personal Security- High value targets Credibility- Seen as puppet Govt Inability to accommodate factionalized groups Groups can be politicized by attacks	Restrict personal mobility to secure areas Overcome factionalization Combat negative propaganda Provide reputable services/ policies amenable to public at large
Iraqi Security Forces	Personal Security- Seen as traitors Overwhelming task to secure local environment Limited Resources Limited Training Fear, leading to inaction	Combat negative propaganda through reputable security posture Patrol the streets enforcing law and order Improve training levels Earn trust of public through fair, just, and valiant law enforcement
NGOs and Private Sector	Personal Security- Seen as Collaborators Fear- Attacks will dissuade rebuilding efforts Costs for Security- An Additional 10%[32] Attacks on infrastructure increases project workload	Increase personal security measures Assess feasibility of continuing rebuilding efforts or relocating to more secure environment Spend more on security which means less money for projects

Conclusion

By using Dr. O'Neill's framework for analysis, it was shown that Iraq's insurgency is not composed of one insurgent faction but rather various factions that possess their own (as well as shared) goals and utilize various tactics and means of support. These insurgents pose common as well as unique problems to different actors, which in turn call for specific measures to counter such problems. Identifying the insurgent threat by type, region(s) of operation as well as having an understanding the domestic and international setting are also valuable in successfully developing effective tactics, strategies and policies. Therefore, it is with this understanding of the insurgency in Iraq that one can better contemplate the uses of the economic, diplomatic and military instruments as they apply to this current challenge in Iraq.

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 on Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.

Bibliography

Bodine, Barbara. U.S. State Department. Response to Personal Email, March 21, 2004.

Burns, John. "2 American Civilians Killed by Fake Iraqi Policemen," New York Times, March 11, 2004.

Central Intelligence Agency. Guide to the Analysis of Insurgency, Washington, D.C.: Central Intelligence Agency, n.d..

Cordesman, Anthony H. The Lessons of the Iraq War: Main Report. Washington D.C.: Center for Strategic and International Studies, 2003.

Cordesman, Anthony H. Military Balance in the Middle East. Washington D.C.: Center for Strategic and International Studies,1998.

Flaherty, Mary P. "In Iraq, Contractors' Security Costs Rise," Washington Post, February 18, 2004.

Fearon, James and David Laitin: "Ethnicity, Insurgency, and Civil War." American Political Science Review, Vol. 97, no. 1, (2003): 75.

A General's View. Accessed March 5, 2004. Available from http://www.pbs.org/newshour/bb/military/july-dec03/zinni_09-30.html .

Haftendorn, Helga. "The Security Puzzle: The Theory Building and Discipline Building in International Security." International Studies Quarterly 35 (1991): 3-17.

How Do We Overhaul the Nation's Defense to Win the Next War? Accessed January 23, 2004. Available from http://www.mca-usniforum.org/ .

The Insurgency Threat in Southern Iraq. Jane's Terrorism and Insurgency Centre. Accessed on 24 Feb 2004. Available from http//jtic.janes.com/suscribe/jtic/doc_view/ .

Kagan, Fredrick W. "War and Aftermath." Policy Review No. 120, (2003).

McDonnell, Patrick J. "Iraqi Suicide Bombers Appear to be Natives," The Seattle Times, March 1, 2004.

Metz, Steven. "Insurgency and Counterinsurgency in Iraq." The Washington Quarterly, (Winter 2003-2004): 27.

O'Neill, Bard E. Insurgency and Terrorism. Washington: Brassey's, 1990.

RAND. America's Role in Nation-Building: From Germany to Iraq. 2003. Accessed January 9, 2004. Available from http://www.rand.org/publications/MR/MR1753/ .

Rieff, David. "Blueprint for a Mess," New York Times, November 2, 2003.

Russia, Germany, France Criticize United States On Iraq. Accessed 21 February 2004. Available at http://www.dw-world.de/english/0,3367,7489_A_812501_1_A,00.html

The Theory and Practice of Insurgency and Counterinsurgency. Accessed February 19, 2004. Available from http://www.nwc.navy.mil/press/Review/1998/winter/art5-w98.htm#author .

United Nations. Letter From the US Representative to the UN. October 7, 2001. Accessed January 19, 2004. Available from http://www.un.int/usa/s-2001-946.htm .

United Nations. Letter From the US Representative to the UN. March 20, 2003. Accessed January 19, 2004. Available from http://www.un.int/usa/s2003_351.pdf .

United Nations. Security Council Resolution 1373. 4385th Meeting. September 28, 2001. Accessed January 19, 2004. Available from http://ods-dds-ny.un.org/doc/UNDOC/GEN/N01/557/43/PDF/N0155743.pdf?OpenElement .

United Nations. Security Council Resolution 1378. 4415th Meeting. November 14, 2001. Accessed January 19, 2004. Available from http://www.un.org/Docs/scres/2001/sc2001.htm .

United Nations. Security Council Resolution 1441. 4644th Meeting. November 8, 2002. Accessed January 19, 2004. Available from http://www.un.org/Docs/scres/2002/sc2002.htm .

---

[1] Bard E. O'Neill, Insurgency and Terrorism, (Washington: Brassey's, 1990), 12.

[2] Central Intelligence Agency, Guide to the Analysis of Insurgency, Washington, D.C.: Central Intelligence Agency, n.d. 2.

[3] United Nations, Security Council Resolution 1373, 4385th Meeting., September 28, 2001, (accessed January 19, 2004); available from http://www.un.org/Docs/scres/2001/sc2001.htm .

[4] Ibid

[5] United Nations, Letter From the US Representative to the UN, October 7, 2001, (accessed January 19, 2004); available from http://www.un.int/usa/s-2001-946.htm .

[6] United Nations, Security Council Resolution 1378, 4415th Meeting, November 14, 2001, (accessed January 19, 2004); available from http://www.un.org/Docs/scres/2001/sc2001.htm .

[7] United Nations, Security Council Resolution 1441, 4644th Meeting, November 8, 2002. (accessed January 19, 2004); available from http://www.un.org/Docs/scres/2002/sc2002.htm .

[8] Ibid

[9] United Nations, Letter From the US Representative to the UN, March 20, 2003, (accessed January 19, 2004); available from http://www.un.int/usa/s2003_351.pdf .

[10] Deutsche- Welle: "Russia, Germany, France Criticize United States On Iraq", 19 March 2003. (accessed 21 February 2004); available at http://www.dw-world.de/english/0,3367,7489_A_812501_1_A,00.html

[11] Helga Haftendorn, "The Security Puzzle: The Theory Building and Discipline Building in International Security," International Studies Quarterly 35 (March 1991): 3-17. In this article, Haftendorn argues that there is no universal security definition that applies to all situations. National and international security environments can be interpreted differently and are case specific.

[12] RAND, America's Role in Nation-Building: From Germany to Iraq, 2003 (accessed January 9, 2004); available from http://www.rand.org/publications/MR/MR1753/ .

[13] Ibid., 186.

[14] Steven Metz, "Insurgency and Counterinsurgency in Iraq," The Washington Quarterly, (Winter 2003-2004): 27.

[15] Bard E. O'Neill, 13-16.

[16] Raymond Bonner, "Experts Warn Regional Groups Pose Growing Threat," New York Times, February 8, 2004, I1.

[17] Anthony Cordesman, The Lessons of the Iraq War: Main Report, (Washington D.C.: Center for Strategic and International Studies, 2003) 122.

[18] Barbara Bodine, U.S. State Department, Response to Personal Email, March 21, 2004.

[19] Bard E. O'Neill, 3.

[20] A General's View, (accessed 5 March, 2004); available from http://www.pbs.org/newshour/bb/military/july-dec03/zinni_09-30.html

[21] Anthony H. Cordesman, Military Balance in the Middle East , (Washington D.C.: Center for Strategic and International Studies,1998) 12.

[22] David Rieff, "Blueprint for a Mess," New York Times, November 2, 2003.

[23] Bard E. O'Neill, 27.

[24] Tim Ripley, JTIC Briefing: The Insurgency Threat in Southern Iraq, Jane's Terrorism and Insurgency Centre, (accessed on 24 Feb 2004); available at http//jtic.janes.com/suscribe/jtic/doc_view/ .

[25] Bard E. O'Neill, 21.

[26] Patrick J. McDonnell and Sebastian Rotella, "Iraq Suicide Bombers Appear to be Natives," The Seattle Times, March 1, 2004.

[27] Bard E. O'Neill, 31.

[28] Tim Ripley.

[29] According to a March 1st 2004 Seattle Times article written by Patrick J. McDonnell and Sebastian Rotella, many of the suicide bombers in Iraq appear to be natives. This however is in contrast to the statements from the DoD briefings, which state that suicide attacks are primarily the works of foreign jihadists like Abu Musab Zarqawi, a Jordanian connected to Ansar al Islam and affiliated with al-Qaeda. U.S. and Iraqi officials have said repeatedly that Iraqis are unlikely to engage in such missions because they do not have a history of violent religious extremism.

[30] John Burns, "2 American Civilians Killed by Fake Iraqi Policemen," New York Times, March 11, 2004.

[31] Bard E. O'Neill, 49.

[32] Mary Pat Flaherty, "In Iraq, Contractors' Security Costs Rise," Washington Post, February 18, 2004, A01.