



## Women and the Law in Islamic Societies: Legal Responses to Domestic Violence in Saudi Arabia and Morocco

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### INTRODUCTION

A common misconception pervades in the West that women are all mistreated in Arab societies due to the application of Islamic law (*shari`a*). Scanning media articles, we see references to stoning as punishment for adultery in Iran and requiring of the burka for women under the Taliban.<sup>1</sup> In Morocco, however, women are not obligated to wear the veil and stoning is not an acceptable punishment for any crime. All of these countries have Muslim governments, and all claim to base their legal systems on *shari`a* principles. What then accounts for the differences in their treatment of women under the law?

In this Article, I will examine the legal treatment of domestic violence in Saudi Arabia and Morocco in order to hypothesize about the roots of differential approaches to gender issues under the law in Muslim societies. I will examine how each country's response to domestic violence is shaped by the fundamental national values expressed in its constitution, as well as its approach to *shari`a* implementation. I will argue

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that these fundamental values and approaches to *shari`a* implementation ultimately determine the country's openness to change.

Part I outlines the scope of domestic violence laws addressed in this Article and introduces the case study countries. Part II examines the macro legal structures that influence each country's response to domestic violence: constitutions and Islamic law (*shari`a*). Part III discusses the micro-level institutions operating in each country: statutes and other laws, social practices, and social programs. Finally, Part IV concludes this Article by connecting each country's fundamental values and approach to *shari`a* implementation to the way it addresses domestic violence.

### PART I: AN INTRODUCTION TO THE TOPIC AND COUNTRIES

Before discussing responses to domestic violence in Morocco and Saudi Arabia, it is first necessary to define the problem. Amnesty International defines domestic violence thus:

A pattern of behavior used to establish power and control over another person through fear and intimidation, often including the threat or use of violence, when one person believes they are entitled to control another.<sup>2</sup>

The focus of this Article is on the physical aspect of domestic violence. The reason for this is to limit scope; economic, sexual, and psychological abuse are often targeted by separate laws. Also, I

address only abuse by men toward women—by far the most prevalent form of domestic violence.<sup>3</sup> Finally, because Moroccan and Saudi law address intimate partner abuse only in the context of the marital relationship, my analysis will similarly focus only on spousal abuse. Thus, this Article analyzes only those laws protecting a woman from physical abuse by her spouse.

I have chosen to focus on Saudi Arabia and Morocco because the two countries represent interesting extremes, both in terms of the national values expressed in their constitutions, and in terms of conservatism and progressivism in the application of a *shari`a*-based legal system. Saudi Arabia, located in the cradle of Islam, claims to adhere to the strictest interpretation of *shari`a*, while Morocco employs the more flexible approach of basing legislation on the *shari`a*'s philosophical foundations. These different values and approaches shape each country's responses to domestic violence in very different ways.

## PART II: OVERARCHING LEGAL STRUCTURES IN MOROCCO AND SAUDI ARABIA

Countries design their overarching legal structures in ways that reflect their fundamental values. These overarching legal structures in turn shape a country's codified law and legal practices. In Morocco and Saudi Arabia, legal treatment of domestic violence is shaped by the two most important components of each country's overarching legal structure: the constitutions and the approach to *shari`a* implementation.

### The Constitution of Morocco

Morocco is governed by its 1996 Constitution, passed by referendum under the previous king. Morocco's Constitution contains thirteen chapters delineating individual rights, the organization and powers of the government, and procedures for constitutional revision. French colonial influence is immediately evident in both the inclusion of certain principles of human rights and in certain aspects of the parliamentary model. However, the legal and governmental frameworks established by the Constitution are clearly tailored to the local environment. For example, Article 1 declares the country to be a "democratic, social and constitutional

Monarchy,"<sup>4</sup> and not a parliamentary democracy like France. Article 6 promulgates Islam as the official state religion, in contrast to France's secular state.<sup>5</sup>

In addition to establishing the state religion, Chapter 1 outlines many rights and freedoms that are not indigenous to Morocco, such as the rights to form political parties and trade unions (Article 3); equality (Article 5); due process (Article 10); secrecy in personal correspondence (Article 11); striking (Article 14); and private property (Article 15).<sup>6</sup> Article 9 guarantees freedom of movement, of opinion and of public gathering, and of association.<sup>7</sup>

Chapter 1 also places limits on royal power. Article 4 declares the supremacy of the law; at least in theory, no one, including the King, is above the law. Article 49 sets a limit of 30 days on any declaration of martial law by the King; extensions require Parliamentary approval.<sup>8</sup> In addition, Article 82 makes the judiciary independent from the legislative and executive branches.<sup>9</sup> These limitations on the powers of the King contrast starkly with the pre-independence period of absolute monarchy.

What does Morocco's constitution reveal about the country's values and priorities? The constitution establishes individual rights, limitations on the power of the monarchy, and the state religion. The contents of the first chapter must express the values that the Moroccan people hold most dear. As will be examined in Part IV, the fundamental values, expressed in the Moroccan constitution, shape the country's response to domestic violence. Moreover, the values expressed in the Moroccan Constitution

**What accounts for the differences in [Muslim countries'] treatment of women under the law? In Morocco and Saudi Arabia, legal treatment of domestic violence is shaped by the constitutions and the approach to *shari`a* implementation.**

could not be more different than those evident in the Saudi 'Basic Law.'

### Saudi Arabia's 'Basic System of Rules'

The nation of Saudi Arabia was officially founded in 1932. It embraced *shari'a* as its constitution and promulgated laws by royal decree. In the decades that followed, "fragmented constitutional principles"<sup>10</sup> derived from Islamic, traditional, and international theories governed the country. Various reform movements arose periodically to establish a formal constitution. Orthodox Islamists opposed these movements, claiming that the Qu'ran and traditions of the Prophet provided ample regulations for public and private life. Conservative members of the royal family also opposed enacting a constitution because they viewed it as a political institution that could curb the family's power.<sup>11</sup> Those in favor of constitutional reform were highly educated Saudis and, ironically, conservative Islamists who wished the *shari'a's* place in the legal system to be formally established in a governing document.<sup>12</sup>

In 1992, after much public debate, King Fahd enacted legal reforms, including the 'Basic System of Rules,' or 'Basic Law.'<sup>13</sup>

Although the Basic Law functions as a constitution, King Fahd named it otherwise based on the belief that only the Qu'ran holds a place high enough to be considered Saudi Arabia's constitution. The Basic Law contains the same elements generally found in a constitution, such as enumerations of rights and obligations, and delineation of government structure.

The Basic Law is organized into seven parts. The first establishes the State as a kingdom and Islam as the official religion, and sets out state holidays and the state flag. Part II declares the monarchy as the system of rule and requires that all citizens obey the King. Part III, 'Components of Saudi Society,' contains articles solidifying national identity and enjoining citizens to obey

God. Citizens are required to: "love and take pride in the fatherland and its glorious history" (Article 9); strengthen "national unity" (Article 12); and "contribute to building . . . society to loving and being proud of the history of their homeland." Part III also bases Saudi society on Islamic values such as giving alms, maintaining solidarity, and not discriminating.

Part V, 'Rights and Obligations,' demonstrates the government's commitment to caring for its citizens. Although Part V mentions individual rights "according to norms of the Islamic *shari'a*"<sup>14</sup> (Article 26), the Basic System places more emphasis on the government's obligations toward citizens. Rights, in this sense, are guarantees that citizens can access certain government services: social services (Article 27); employment for able-bodied people (Article 28); education (Article 30); and healthcare (Article 31). Part IV also includes the right to due process (Article 36). Thus, the Saudi Basic System of Rules embodies a patriarchal concept of individual rights: rights are promises from the benevolent kingdom toward people who obey both God and the King.

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Both constitutions open by recognizing Islam as the state religion and the King as the monarch. The Moroccan constitution, however, emphasizes individual rights, while the Saudi Basic Law places greater weight on national unity. Moroccan rights focus on the right of citizens to do something (for example, freedom of the press) as opposed to the right to receive something (for example, the right to employment for able-bodied people). The Moroccan constitution also provides extensive detail about how the government is structured and about each branch's roles and responsibilities. The Saudi Basic System of Rules, on the other hand, provides a more general sketch of government organization in Part VI, and notes

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that details will be provided in laws (royal decrees).

The Saudi Basic Law elaborates one aspect of government in fine detail: the powers of the King. The Saudi King is the Prime Minister *ex-officio* and holds both executive and legislative powers.<sup>15</sup> He approves the appointment of the Crown Prince and dismisses him at will; as head of the Council of Ministers (the legislative body), the King appoints and relieves individual deputies and ministers, even dissolving the Council if he wishes.<sup>16</sup> The King may also dissolve the Consultative Council (similar to a Cabinet). He is Commander in Chief of the armed forces and has charge over the implementation of judicial rulings.<sup>17</sup> By granting the King such broad powers, the Saudi Basic Law expresses its deep trust in him to guide the Saudi people in myriad aspects of their lives.

### **Shari`a Implementation in Morocco and Saudi Arabia**

Legal norms in both Saudi Arabia and Morocco, are also strongly influenced by Muslim beliefs as written in the *shari`a*, or ‘way.’ The two sources of *shari`a* are the Qu`ran (considered the word of God as revealed to the Prophet Muhammed) and the *sunna* (the reported words and behavior of the Prophet).<sup>18</sup> *Shari`a* refers to verses throughout the Qu`ran (the primary source) and the *sunna* (the secondary source) that provide concrete rules or recommendations. Some of these rules appear to contradict each other, and, as in the case of domestic violence, sometimes the interpretation of a single word could be the subject of fierce dispute.

In the period following the Prophet’s death, Islamic scholars developed a legal science called *fiqh* as a methodology to interpret the *shari`a*.<sup>19</sup> Four schools of thought eventually emerged, each named after the scholar-founder: Maliki, Hanafi, Shafi’i, and Hanbali. Saudi Arabia adheres to the Wahhabi branch of Islam, and thus belongs to the Hanbali school, which is distinguished by its textual interpretation of *shari`a*.<sup>20</sup> Morocco has traditionally belonged to the Maliki school, which also relies on textual sources of legal norms.<sup>21</sup> Morocco has also been influenced by the Hanafi school.<sup>22</sup> Generally speaking, the Maliki and

Hanafi schools allow use of analogy and consideration of the public good in legal decisions. As a result, they enable more interpretation as opposed to relying solely on the written word.

A central challenge facing Muslim societies today is how to implement the *shari`a* in a modern nation-state. In general, implementing the *shari`a* means “establishing a legal system in which God’s law sets the ground rules, authorizing and validating everyday laws passed by an elected legislature.”<sup>23</sup> In other words, the *shari`a* is expected to function somewhat like a modern constitution.<sup>24</sup> In more liberal Muslim societies, as in Morocco, government officials draft legislation based on the *shari`a*’s philosophical guidelines. In addition, Morocco is able to borrow from the civil law tradition—adopted from the French—to fill in lacunae left by the *shari`a*. More conservative societies, such as Saudi Arabia, face the greater challenge of thoroughly implementing *shari`a* principles when so many gaps abound. In addition, Saudi Arabia was never directly colonized, so foreign influence has not had the same impact as in Morocco. Saudi Arabia therefore applies Hanbali *fiqh* to personal status cases<sup>25</sup> and otherwise relies on royal decrees as the sources of law. These different approaches to *shari`a* implementation have direct bearing on each country’s response to domestic violence.

## **PART III: LAWS AND PRACTICES REGARDING DOMESTIC VIOLENCE**

A challenge facing any study of personal status laws in Saudi Arabia is that these are not codified. Although Saudi Arabia has extensively codified commercial and investigatory laws, family law is governed directly by *shari`a*, which turns on individual judges’ interpretation. In Morocco, domestic violence is addressed in the penal code and the family code (*Moudawana*).

### **Domestic Violence Laws and Practices in Morocco**

In 1962, Article 404 of the Moroccan penal code stated, “[A]nyone striking his mother, father, or relatives is punished.”<sup>26</sup> In order to clarify that this protection extends to marital partners, the code was amended in 2003 to read: “anyone striking his father, his mother, *spouse*, or any other

relatives is punished” (emphasis added).<sup>27</sup> Punishment varies according to the “gravity of the violence.”<sup>28</sup>

King Muhammed VI, who ascended to the throne in 1999, took domestic violence protections a step further, as part of sweeping reforms to the *Moudawana* enacted in 2006. The updated code permits a wife to initiate divorce proceedings—previously the exclusive right of the husband—when “the husband does not fulfill any of the conditions stipulated in the marriage contract, or for harm caused to the wife such as lack of financial support, abandonment, violence, and other harm.” Specifically, Chapter Two, Article 98 provides that, “[t]he wife may petition for divorce on one of the following grounds: 1) Non respect by the husband of one of the conditions in the marriage contract; 2) Harm; 3) Non maintenance; 4) Absence; 5) Latent defect;<sup>29</sup> 6) Abstinence and abandonment.”<sup>30</sup> Thus, the *Moudawana* reinforces the penal code by permitting wives to divorce abusive husbands.

Despite these legal protections, it does not appear that Moroccan women who suffer domestic abuse frequently divorce their husbands; nor do they often press charges. Two factors complicate women’s ability to access the law in Morocco: police officers reportedly do not take allegations seriously,<sup>31</sup> and social pressures favor both the preservation of the family unit and the obedience of women.<sup>32</sup> These factors merit further explanation.

Hard data on police response to domestic violence in Morocco is difficult to find. Police stations in Morocco are required to compile monthly statistics on domestic violence complaints,<sup>33</sup> but these numbers do not seem to be published. Women’s associations and counseling centers (*Centres d’écoute*) share recorded complaints with the public, but these centers have come into existence only in very recent years.<sup>34</sup> Thus, only speculation is possible about the number of incidents reported to the police, the

extent to which police investigate, and the number of incidents that never leave the home. However, suggestions that police treat domestic abuse lightly come from many sources, including in the Moroccan media,<sup>35</sup> human rights reports by the U.S. State Department,<sup>36</sup> and reports from international NGOs.<sup>37</sup>

The Moroccan concept of shame or dishonor (*hshuma*) compounds social pressures on women. Moroccan families value privacy in personal affairs; airing one’s dirty laundry is considered disgraceful. A woman pressing charges against her husband thus confronts two social norms at once: family privacy and male authority. Doing so is generally considered unacceptable in Morocco.

Equally compelling is the stigma attached to breaking up marriage and family.<sup>38</sup> This stigma may stem from respect for the sanctity of marriage (as opposed to the well-being of those in it), or from the perception that what happens between a husband and wife is their business only.<sup>39</sup> The end result, though, is the same: numerous social pressures work to undermine legal protections against

domestic violence.

The Moroccan government has become aware of these challenges and has made some attempts to address them. In its report to the United Nations detailing steps it has taken to abide by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Moroccan government mentions the following:<sup>40</sup>

- Appointment of a “gender focal point” within the Criminal Investigation Directorate, which houses a special Domestic Violence Unit;
- Establishment of an exception to medical confidentiality in cases of violence between spouses and violence against women or children under 18 years of age;
- Subjection of crimes of domestic violence to stronger sentences than other assault charges, with even higher penalties for repeat offenses;

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- Adoption of an equality-based curriculum with the goal of eliminating violence against women, including incorporation of principles of equality and non-violence in school textbooks;
- Elaboration of a national strategy to eliminate violence against women, developed by the Ministry for the Status of Women, in partnership with the United Nations Population Fund, United Nations Development Program,<sup>41</sup> and United Nations Development Fund for Women.

### Domestic Violence Laws and Practices in Saudi Arabia

Following the practice of the Hanbali school of Islamic law, Saudi Arabia relies solely on *shari`a* text to address domestic violence. Chapter four, verse 34 of the Qu`ran actually appears at first reading to *condone* domestic violence:

Men are the maintainers of women because Allah has made some of them to excel others and because they spend out of their property; the good women are therefore obedient, guarding the unseen as Allah has guarded; and (as to) those on whose part you fear desertion, admonish them, and leave them alone in the sleeping-places and beat them; then if they obey you, do not seek a way against them.<sup>42</sup>

Read literally, this text appears to subjugate women to men's will and to authorize the use of violence against women. However, there is a surprising amount of interpretation involved in such a conclusion. To begin with, the word 'beat' (*daraba* in Arabic) can mean either 'to beat' or 'to leave.'<sup>43</sup> *Daraba* appears in the Qu`ran 16 times; in nine of those instances it clearly refers to departing or separating.<sup>44</sup> Why, then, is *daraba* in this instance so frequently translated as 'beat'? One explanation is that this interpretation arose in the historical context of ancient Arabia, and was solidified by centuries of male domination of society and tradition.<sup>45</sup> A related explanation is that during the time of the Prophet's revelation, his initial followers carried forth traditions from pre-Islamic times, such as physical abuse against

their wives, and fit the Prophet's teachings to match their culture.<sup>46</sup>

Regardless of the word's intended meaning, several

Qu`ranic verses compel believers to contain anger, resist violence, respect one another as equals, and treat spouses with love and tenderness.<sup>47</sup>

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The Prophet Muhammed, whom Muslims emulate because of his just and pious behavior, never hit any of his wives, and even scolded followers who did. Some scholars interpret verse 4:34 as a three-step anger management system designed to teach tribal Arab males to quell their anger, solving problems with their wives first through dialogue, then separation. Hitting is a last resort with many stipulations, the most noteworthy of which being to not cause harm.<sup>48</sup> Moreover, Sheik Ali Gomaa, Egypt's grand mufti, explains that "[i]n our modern context, hitting one's wife is totally inappropriate as society deems it hateful and it will only serve to sow more discord."<sup>49</sup> Given Islam's emphasis on harmony, it is indeed questionable that verse 4:34 sanctions physical abuse.

On the other hand, a number of Qu`ranic verses also contain text that appears to harshly discriminate against women. These apparent contradictions have led to multiple analyses and debates about the status of women in Islam.<sup>50</sup> Thus, when any scholar claims to prescribe behavior based on *shari`a*, he or she does so based on interpretation.

In the Saudi judicial system, *shari`a* courts govern personal status cases. Judges, trained only in *shari`a*, generally decide cases according to their interpretations of Hanbali *fiqh* without consideration for precedent;<sup>51</sup> as a result, judicial decisions are plagued by an unpredictability that frustrates even reform-resistant Saudis.<sup>52</sup> In other words, a victim of domestic violence cannot rely on knowledge of previous cases to decide how to

proceed. She may not even be sure which *shari`a* provisions will be applied in her case.

Several rules of evidence from the *shari`a* also impede women from pressing domestic violence charges. First, according to the *shari`a*, a woman's testimony carries only half the weight of a man's. Thus it may be in her best interest, if she is able, to find a man to press charges and speak on her behalf.<sup>53</sup> Second, the *shari`a* requires women to have male 'guardians' to act as chaperones and approve (or deny) decisions such as whether to seek medical care.<sup>54</sup> This chaperone is usually a father or husband, but can also be another male relative. This rule often impedes the collection of evidence, and the outcome of police reports and criminal trials can rest on a woman's access to a sympathetic male relative.

Despite these obstacles, Saudi Arabia has demonstrated a commitment to addressing women's and related justice issues in three ways. First, in 2004, the Kingdom established the first non-governmental human rights commission, the National Human Rights Association (NHRA).<sup>55</sup> The NHRA includes a panel that addresses women's rights. The association has begun accepting complaints from citizens, launched awareness campaigns, and compiled reports and recommendations for the government. However, it is not yet clear how the government responds to its efforts.

Second, in October 2007, Saudi Arabia announced sweeping reforms to its legal system.<sup>56</sup> Funded by USD 2 billion from the state, the new system will have three levels of courts (instead of the current two), a new Supreme Court, and specialized courts (criminal, family, commercial, etc). The latter reform is expected to help judges become specialists in one category of legal issues. In principle, the specialized family courts will enable judges to better understand the dynamics of domestic relations and women's concerns. The reforms, however, do not include new training for judges; they are still, essentially, clerics.

Third, Saudi Arabia, like Morocco, is a signatory to CEDAW. It too prepared a report in 2006 to demonstrate to the United Nations the steps it has taken to meet the convention's standards,<sup>57</sup> including steps to address violence against women. The report notes *shari`a's*

"rejection and prohibition of violence against women within the family" (albeit without citing a source) and charges the Ministry of Social Affairs—not the criminal justice system—with receiving and investigating complaints of "mental or physical abuse to women or children."<sup>58</sup> Social workers and psychologists are dispatched to "deal with cases of domestic violence."<sup>59</sup> Royal Order no. A/14 of April 2005 supports these efforts by offering family counseling and "advice on how to improve domestic life in order to preserve the substance and stability of the family."<sup>60</sup>

## CONCLUSION

Contrasting national values and approaches to *shari`a* implementation produce different responses to domestic violence in Morocco and Saudi Arabia. Morocco's campaign against domestic violence is explicitly based on its approach to *shari`a*. The Preamble to the 2004 *Moudawana* states that "doing justice to women, protecting children's rights and preserving men's dignity . . . adheres to Islam's tolerant ends and objectives, notably justice, equality, solidarity, *ijtihad* (juridical reasoning) and receptiveness to the spirit of our modern era and the requirements of progress and development."<sup>61</sup> This passage attests to the Moroccan acceptance of legal reasoning, and to the Code's basis in the philosophical foundations of Islam. *Ijtihad* is mentioned a second time in the Preamble when it notes that the King "insisted upon [Council members'] fidelity to the provisions of Sharia (religious law) and Islamic principles of tolerance, and encouraged the use of *ijtihad* (juridical reasoning) to deduce laws and precepts."<sup>62</sup> The Preamble text also confirms that reforms were developed "in accordance with certain provisions of the Malekite School."<sup>63</sup>

In contrast, Saudi Arabia has not codified its family law and relies on cleric-judges to decide domestic violence cases. Neither the police nor social workers have a mandate to prevent a husband from assaulting his wife. Saudi Arabia points to Hanbali *fiqh* as the explanation: this school of legal science does not employ *ijtihad* to update the law. The state relies on Qu'ranic verse 4:34 for guidance. However, the state chooses to

implement the strictest of many interpretations. This government policy has raised significant barriers to women seeking protection from violence at home.

National values, as expressed in a country's constitution, also have a significant impact on its response to domestic violence. The Moroccan constitution expresses an appreciation for democracy by establishing universal suffrage and a balance of power between the Parliament and the King's executive branch. In addition, the Moroccan constitution guarantees individual rights such as freedom of speech. As a result, Morocco has a relatively open political environment where public discourse on controversial topics is vibrant and dynamic. This greater political openness is evident in its response to domestic violence. For example, when King Muhammad VI initially proposed the updated *Moudawana*, proponents on both sides of the debate took to the streets in protest and published opinion articles in the media.<sup>64</sup> The government did not clamp down on the debate or insist that only the King's opinion was legitimate. To the contrary, dissenting opinions were permitted.

On the other hand, the Saudi Arabian Basic Law prioritizes tradition and social stability. To this end, it confers sweeping powers on the King over each branch of government. The order that the King establishes, based on Islam, is seen as paramount to community well being. The Basic Law prohibits the exercise of freedoms with the potential to upset the order, such as the freedoms of association and of the media.<sup>65</sup> As the Basic Law explains in Article 5,<sup>66</sup> history and religion legitimate the established order, and the established order is necessary to maintaining a happy and pious society.

Saudi Arabia's emphasis on tradition and social stability are evident in its response to domestic violence. The country does not explicitly criminalize domestic violence; encouraging women to leave abusive husbands would challenge traditional power structures. In addition, many concrete details are noticeably missing from its 2006 report to the UN. The report does not mention legal consequences for batterers, shelters for women fleeing violence, or requirements for police action. Such tools likely do not exist, because they are perceived as having the potential to disrupt the social order by breaking up the home. What matters most is the preservation of the family unit. This is how the Kingdom seeks to best serve the needs of women and all citizens.

As this study has attempted to demonstrate, in the cases of Morocco and Saudi Arabia, national values and approaches to *shari'a* interpretation ultimately determine each nation's openness to social change. Morocco's relative openness to societal change is ultimately reflected in the high priority it places on combating domestic violence. Despite the resulting confrontation with cultural and religious norms, the Kingdom is comfortable challenging what it views as a societal poison. Saudi Arabia is also taking progressive measures, but at a much slower pace. How Saudi Arabia progresses in this domain going forward will likely depend on how much it embraces change in all aspects of Saudi life.

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



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- <sup>17</sup> Although most sources refer to the judiciary as independent, the Saudi embassy web site (<http://www.saudiembassy.net/Country/Government/Gov.asp>) states that the King is "at the top of the legal system."
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<sup>35</sup> Chaoui. Numerous articles have appeared in the Moroccan media supporting this assumption, among them publications such as *Aujourd'hui Le Maroc*, *Telquel*, *Jeune Afrique*, et al.

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## Who is the Real Tariq Ramadan?

*Christopher DeVito*

### INTRODUCTION

Anyone following the debate about Islam in Europe over the last decade has undoubtedly heard of Tariq Ramadan. They have also surely heard the question: 'who is the real Tariq Ramadan?' His detractors have described him as 'a wolf in sheep's clothing.' Those who see promise in the project he has undertaken have called him a Muslim Martin Luther. Popular accounts, portray him as either the head of a fifth column intent on transforming Europe into Eurabia, or someone whose effort to establish an authentically European Islam offers the promise of heading off impending cultural strife. In these respects he has become a symbol for people's hopes and fears. He is a bogeyman for those who see Europe's Muslims as a threat to the continent's enlightenment and Christian heritage. To others he is a symbol of hope; a hope that Muslims can one day

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**To some, Tariq Ramadan poses a threat, not so much due to anything he had said or done, but rather because of his pedigree. He is the grandson of Hassan al-Banna, the founder of the Muslim Brotherhood.**

fully assume their rightful place in European cultural and civic life without watering down their faith. So the question remains: who is Tariq Ramadan? The purpose of what follows will be to explore the thought of Tariq Ramadan, his status as a symbol of both European Islam and Muslims, and how what he represents may fit within a liberal political order. The exploration of political liberalism aligns closely to the conception of political philosopher John Rawls, along with an interpretation of Rawls offered by Andrew F. March as applied to Ramadan and his project.

### IDEAS OF TARIQ RAMADAN

Tariq Ramadan was born and educated in Geneva, Switzerland. His father, Said Ramadan, had immigrated there and opened the Islamic Center in 1961.<sup>1</sup> Tariq received his master's and doctoral degrees from the University of Geneva where he specialized in both continental European philosophy and Islam.<sup>2</sup> In 1992 he moved to Lyon, France where he quickly became an influential figure amongst Muslim activists.<sup>3</sup> From Lyon he moved to Leicester, England in 1996.<sup>4</sup> This simple chronology sounds somewhat unremarkable, and maybe Tariq Ramadan would be so, if it weren't for his lineage. To some, Tariq Ramadan poses a threat, not so much due to anything he has said or

done, but rather because of his pedigree. He is the grandson of Hassan al-Banna, the founder of the Muslim Brotherhood.<sup>5</sup> His father, Said, was also a formidable figure in the world of twentieth century political Islam. Ramadan's brother, Hani, is a well-known contemporary fundamentalist. These connections have cast a shadow over the image of a refined, yet pious, European Muslim that Tariq Ramadan has sought to project.

Yet his biography can only tell us so much. More importantly, we must ask: what does Tariq Ramadan stand for? What does Tariq Ramadan the thinker propose? What are his goals? How does he want us to perceive him? The answer seems to be that Ramadan is pursuing a rather simple yet undoubtedly challenging mission. He is laying the framework for an authentically European and Muslim identity. In his own words:

The aim is to protect the Muslim identity and religious practice, to recognize the western constitutional structure, to become involved as a citizen at the social level, and to live with true loyalty to the country to which one belongs.<sup>6</sup>

This vision brings with it a host of questions. What would a European or Western Islam look like? How will this Islam be created? What demands can citizenship in a liberal society reasonably place on faith groups?

To begin with, we must take a look at the religious worldview of Tariq Ramadan. First and foremost, Ramadan claims to employ a 'classical methodology' in terms of religious interpretation. For many conservative Muslims, this is the root of his appeal, an appeal of which Ramadan is acutely aware. His 'classical methodology' rests upon a rigorous engagement with the traditional sources: the Qur'an, the Sunna, and the methods of the traditional *ulama*.<sup>7</sup> Yet this methodology also exists within a modern interpretation of Islam. In Ramadan's 2004 book, *Western Muslims and the Future of Islam*, he identifies six major tendencies in modern Islamic thought. Included amongst these is a tendency he labels *salafi* reformist, his religious and intellectual home.<sup>8</sup> According to Ramadan *salafi* reformism is an approach to Islam that seeks to bypass the

traditional schools of Islamic jurisprudence<sup>9</sup> while staying true to the "purpose and intentions of the law (*shari'a*)."<sup>10</sup>

Ramadan's approach to the *shari'a* is relatively flexible. This flexibility is derived from the fact that, "the *shari'a* teaches us to integrate everything that is not against an established principle and to consider it as our own."<sup>11</sup> It is with this fundamental adaptability in mind that Ramadan uses the legal concepts of *maslaha*, *ijtihad*, and *fatwa*. Taken in combination, they serve as tools used to understand the traditional sources of the Qu'ran and the Sunna.<sup>12</sup> He uses these traditional tools in service of harmonizing Islamic norms with modern Western life. These tools are meant to help Muslims determine what is within the public good (*maslaha*) and where appropriate adjustment is needed by using independent reasoning, *ijtihad*, and legal opinion, *fatwa*. It is Ramadan's hope that these traditional tools can help carve out an integrated and genuinely Islamic future for Muslims in the West.<sup>13</sup>

While Ramadan seeks to use traditional legal tools, principles, methodologies and sources, he does not necessarily align closely to traditional Islamic modes of thinking about the world. This is most notable in what Andrew March has dubbed Ramadan's "political geography of Islam."<sup>14</sup> It is here that Ramadan throws out some traditional Islamic concepts he believes are no longer applicable. These concepts are the standard binary division of the world into *dar al-harb* (the abode of war) and *dar al-Islam* (the abode of Islam). Ramadan claims he can do so because these ideas are human, they were erected contextually, and the rights-based experience of Muslims in the modern West does not fit into either of these categories. Ramadan is essentially

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making a claim that—because Muslims in the West are afforded the rights granted to their fellow residents and citizens—there is a need for a new conception of this type of religio-political domain. It ought to be distinct from the classical, and to many modern observers antagonistic, binary division. Ramadan believes that the foundation of this commitment lies in the contractual nature of the relationship between Muslims and their adopted societies. Since Muslim immigrant communities are given relatively secure lives in the West, they are obliged to abide by the laws that these societies set forth. Because of this Ramadan proposes a new abode, the *dar al-shahada*, or the “abode of witness.”<sup>15</sup>

So to what are modern Western Muslims to bear witness? In one sense they are to witness the fundamental tenets of their faith, the belief that ‘there is no God but God, and Muhammad is his Messenger.’ This concept allows for the affirmation of Muslim identity within the West and, according to thinkers like Olivier Roy, amounts to “a theory of the legitimacy and practice of minority Islam.”<sup>16</sup> In a broader sense the purpose of bearing witness is not affirmation of a sectarian identity, but to offer testimony to the universal Islamic values of justice and equality.<sup>17</sup> In this respect, Ramadan has offered an understanding of Muslim minority status that affirms the value of traditional faith while affirming the duty of the Muslim community towards their fellow citizens.

Aside from simple affirmation of Muslim identity, it is important that we look at how Ramadan conceives Muslim identity in the West. For Ramadan the most important aspect of this identity is faith. This is a faith characterized by knowledge and understanding of the traditional sources. But it is also contingent on “a choice based on freedom”<sup>18</sup> and, as such, appears somewhat Lockean. According to Ramadan this faith will manifest itself not simply in the heart of

the believer but in his or her deeds as well. This manifestation is a concern for justice that does not shield the Muslim community from criticism. Ramadan seems to imply that Muslims who forgo their ethical obligations towards non-Muslims are deserving of censure. For Ramadan, it is important that Muslims seeking an Islamic identity keep in mind that their principal allegiance is not towards the *umma* but towards justice. This means that fellow Muslims in the West, and elsewhere, cannot be immune from criticism by their co-religionists because of a sense of sectarian loyalty. Part and parcel of this is the idea that Muslims living in the West owe civic allegiance to their states of residence and to their fellow citizens.<sup>19</sup> Again, this is based on a traditional religio-legal injunction to obey all

contractual obligations. It is also based on the demand that Muslims seek to abide by the universal commitment to justice demanded by their faith.

Moving beyond issues of identity, Ramadan is most interested in establishing an ethic of citizenship for Western Muslims. In his words, the call to civic activism is not based on a desire to advance the narrow interests of particular Muslim communities, but is based on “the universal message of Islam that should move Muslims’ civic conscience to promote justice, right, and goodness everywhere.”<sup>20</sup> Ramadan demonstrates concern about a strictly communitarian approach

to civic engagement, rejecting calls for a ‘Muslim-interest-based’ approach. Instead, he insists that it is the duty of Muslims to pursue principle rather than interest. Furthermore, he portrays an interest-based approach to civic engagement as responsible for the ghettoization of Muslim communities in the West.<sup>21</sup>

Additionally, Ramadan’s call for active citizenship envisions that Muslim communities will represent the conscience of the ‘global south’ in their civic endeavors. In this respect, Ramadan

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offers a fairly conventional, though Islamically-flavored, Third Worldism replete with attacks on globalization, neo-liberalism, and an international economic system he believes is an assault on the world's poor. He goes so far as to characterize the prevailing economic order as a *dar al-harb* (abode of war), though he offers only a skeletal notion of how to address the system's inequities. For Muslims, escaping the system is impossible, but fundamental obligations to pay *zakat* and to avoid *riba* (variously defined as usury or interest) are of utmost importance.<sup>22</sup> Surprisingly, in *Western Muslims*, he offers no commentary on the increasingly complex, popular, and lucrative field of Islamic finance. One would expect at least a cursory discussion of these developments as they are increasingly important, accessible globally, and much of the current innovation is centered in Western financial capitals.

#### TARIQ RAMADAN AS INTERLOCUTOR BETWEEN MUSLIMS AND THE WEST?

What is clear is that despite conservative views on social issues and left-wing views on international and economic issues, Ramadan has sought to present himself as an appropriate interlocutor between Muslims and the Western state and society. He is a supporter of inter-religious dialogue<sup>23</sup>, as demonstrated by his participation in the first ever Muslim Catholic dialogue at the Vatican in November 2008<sup>24</sup>, and he does his best to come across as an acceptable moderate. Yet he has managed to arouse extreme hostility amongst his critics, along with suspicion and fear on the part of several Western nations. An example of this governmental hostility occurred in 2004 when the Department of Homeland Security barred Ramadan from entry into the United States. Initially the US government claimed that Ramadan was connected to terrorism, only to drop the charge while maintaining that he was a threat to national security. The result of this incident was that he was forced to cede a position that had been offered to him by the University of Notre Dame.<sup>25</sup> Yet, he has not always provoked such anxieties. Following the publication of his first book, *To Be a European Muslim*, he was something of a poster-child for Muslim integration. The book was even

praised by Daniel Pipes, a controversial American author and political commentator.<sup>26</sup> So what is the current controversy about?

As mentioned above, this is to some extent reflective of unease about Ramadan's biography in a world intensely focused on the threat of Islamic radicalism. This anxiety has been exacerbated by the rapid growth of Europe's Muslim population. For some this is about what they see as an approach to Muslim life in the West that is incompatible with the prevailing value system. This is particularly true in regard to women's issues such as the *hijab* and certain elements of *shari'a* sanctioned punishment. Others see duplicity in his public persona and lurking danger in a religious and intellectual worldview they believe helps justify radicalism.<sup>27</sup> He is often accused of double speak, of hiding his true views when it serves his attempt to appear moderate. He has also been accused of anti-Semitism and of justifying the most regressive aspects of *shari'a*-based punishment. In order to discern Ramadan's views from the hysteria surrounding him, let us examine some of the incidents that have raised the greatest outcry.

One of these incidents arose in 2003 when Ramadan publicly criticized a group of Jewish-French intellectuals for supporting the Iraq war. He went on to state that they had failed to support universal values instead of instinctually siding with Israel's interests. Ramadan also claimed that worries, expressed by some of the group, about anti-Semitism in France were overblown.<sup>28</sup> These assertions led to counter-charges from several of the accused that Ramadan was himself an anti-Semite. While Ramadan may have been unfair in attributing ethnic or religious motives to the men that he accused (in fact, one was not even Jewish), the labeling of Ramadan as an anti-Semite is inconsistent with numerous public statements and positions. Ramadan has posted prominently on his website several letters that he has signed encouraging improved dialogue between Jews and Muslims.<sup>29</sup>

Related to this accusation of anti-Semitism is concern that Ramadan has failed to condemn violence employed by Palestinians in their struggle with Israel. Again, this charge is in part based on Ramadan's familial history and his

relationships. People often refer to Hassan al-Banna's support of revolutionary violence in Palestine, and Ramadan's praise of al-Banna. Similarly, guilt is cast upon Ramadan because of the relationship he has maintained with Yusef Qaradawi. Qaradawi is an influential cleric associated with the Muslim Brotherhood, who has justified the use of violence in the context of Palestinian resistance. Again, charges against Ramadan in this regard are based on association. His more honest critics, Paul Berman among them, acknowledge the role his social network plays in their skepticism. Writing in *The New Republic*, Berman asserts that "the problem lies in the terrible fact that Ramadan's personal milieu... [is] the milieu that bears the principal responsibility for generating the modern theoretical justification for religious suicide-terrorism."<sup>30</sup> As usual, the charge is that Ramadan has displayed a Janus-faced duplicity: "The first message condemns terrorism. The second message lavishes praise on the theoreticians of terrorism."<sup>31</sup>

Ramadan's statements have drawn similar charges in the realm of women's issues. The best-known example of what has been deemed double talk on this issue occurred during a debate with then French Interior Minister Nicholas Sarkozy. During the debate, Sarkozy confronted Ramadan with his brother's support for the punishment of death by stoning for women who have committed adultery. Sarkozy asked him if he agreed with his brother, to which Ramadan replied that he believed there should be a moratorium placed on the practice so that a consensus could be reached amongst Muslims.<sup>32</sup> There are numerous conflicting interpretations of the significance of this exchange. For thinkers like Berman this is proof of Ramadan's dissembling. It was a "Qutbian moment"<sup>33</sup> where either political concern trumped morality or, more ominously, he revealed himself as a radical. Others have interpreted it very differently. In Olivier Roy's mind, what is happening here is actually indicative of the process of secularization occurring within European Islam. According to Roy, Ramadan is establishing a situation in which "the norm (stoning) is not abolished, but it is not practiced...the moratorium affects the public

space without touching dogma."<sup>34</sup> For Roy, this is the essence of secularization.

The irony in this situation was that—by demanding Ramadan personally renounce an element of religious dogma—the official representative of the supposedly secular French state, Sarkozy, eagerly stepped into the very territory that a strict separation of church and state is supposed to cordon off: the domain of personal and communal religious beliefs. During this exchange, Ramadan, the religious conservative, seemingly acted in a more secular fashion than his secular antagonist. Perhaps Ramadan did so in an attempt to straddle the fence, to preserve his status as an interlocutor with secular society while simultaneously preserving his authenticity with religious conservatives. To the degree that this is true, it would be accurate to describe Ramadan as immensely self-serving. However, the fact remains that Ramadan's formulation does its best to maintain the secular status quo. He effectively pledges to respect the domains of secular French law—no women will be stoned for adultery—while leaving the religious validity of this injunction in the hands of religious thinkers and leaders. The answer Ramadan offered may be unsatisfying but he certainly does not make the claim that an understanding of religious law can trump civil law.

## TARIQ RAMADAN AND POLITICAL LIBERALISM

What is the answer then? Do these exchanges reveal something about the core of Tariq Ramadan? Or is the real question about 'what is the place of (possibly illiberal) religion in a liberal society?' In the case of Tariq Ramadan, the question can be put thusly: "(w)hat constitutes a loyal affirmation of citizenship, and what positions cross boundaries of reasonableness?"<sup>35</sup> In relating these questions to the thought of Tariq Ramadan, it is important that we consider what constitutes a liberal society and the place of religious communities within them.

In Europe, liberalism often amounts to more than strict political liberalism. What is expected of people is that they will also subscribe to what political philosophers call "comprehensive



liberalism.”<sup>36</sup> Andrew F. March describes this as a system that values rational autonomy, critical scrutiny of tradition, skepticism, and experimentation. Comprehensive liberals “make truth claims for these values and do not seek to disguise their incompatibility with ways of life based on...deference to established authority.”<sup>37</sup> Parallel to this is John Rawls’ much narrower concept of “political liberalism.” As an organizing principle, Rawlsian political liberalism seeks only to elucidate the means by which a reasonable public order can be established in a world of divergent conceptions regarding the ultimate nature of truth.<sup>38</sup> The principle goals of political

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liberalism lie in freedom from coercion in belief and equal access to the rights and benefits of citizenship in a liberal society. The modern western world, particularly Europe, includes both comprehensive and political

liberals. Part of the reason that there has been such a backlash against Tariq Ramadan is that he clearly is not what one would call a ‘comprehensive liberal.’ This does not mean that his project is incompatible with the broader agenda of political liberalism as it has manifested itself in the West.

What then can a political liberal demand of believers, and does Ramadan’s project meet these demands? For both Rawls and March, liberal societies can make fundamental demands about justice and citizenship.<sup>39</sup> The liberal notion of justice apportions rights equally amongst citizens, a fact that is an issue when these rights conflict with the religious worldviews of orthodox Muslims living within liberal societies.<sup>40</sup> Citizenship in turn requires that loyalty be to the state that one lives in, again an issue for some Muslims convinced of the importance of the

classical division of the world into *dar al-harb* and *dar al-Islam*. The question according to March, should be “is (Ramadan) endorsing the liberal terms of social cooperation on principled grounds or not?”<sup>41</sup> For critics, and Paul Berman would likely fall into this category, the concern seems to be that Ramadan’s endorsement of the civic compact for Muslims in the West is predicated on their community’s relatively small size.<sup>42</sup> The charge is that the commitment to the liberal order is, at best, ephemeral, and would fade if demographic ascendancy were to be gained.

Ultimately at issue here is the relative weakness of political liberalism in its ability to elicit a firm commitment to the prevailing liberal order. This is because political liberalism, in its attempt to ensure civic unity, is highly elastic.<sup>43</sup> This elasticity is an essential reason that political liberalism has proven adept at ensuring a reliable civil peace, but it can be stretched thin. Problems can occur when citizens’ “deepest beliefs do not provide them with a full justification for liberal institutions.”<sup>44</sup> For our purposes, we must ask if Tariq Ramadan is offering a full justification for liberal institutions. Of additional relevance is the question of whether he is offering an Islamically-convincing justification.

In light of these questions, it is important to look at Ramadan’s prescriptions in three areas: *shari’a*, the concept of *dar al-shahada*, and notions of contractual obligation. In regards to *shari’a*, Olivier Roy’s observation regarding Ramadan’s approach provides useful insight. While Ramadan is not willing to discard classical methodology, he does recognize the difference between religious and temporal authority and has shown that he is more than willing to submit to the latter. Building upon this *de facto* acknowledgment of the prevailing secular order, Ramadan’s redefinition of the political geography of Islam seems to make an argument for the acceptability of Muslim minority status in the West on principled religious grounds. Lastly, by invoking the demand that Muslims obey their contractual obligations, he is taking a stab at religiously legitimizing adherence to western social contracts. It is in this last attempt that Ramadan comes up short. Could basing solidarity with one’s fellow citizens on something as legalistic and dry as a contractual obligation,

even if it be religiously based, convince traditionally-minded Muslims that bonds of citizenship are more important than bonds of faith with Muslims elsewhere?<sup>45</sup> While Ramadan has connected notions of citizenship to those of justice, it is clear that the demands of justice know no boundaries.

For elements of Europe's Muslim minority, the circumstances of their lives in Europe, geopolitical conflict in the wider world, and a sense that the West in general has conspired to oppress Muslims, have all contributed to a sense of grievance and demands for justice that have at points spilled past the lines of acceptable activity. Some of these instances, like the murder of Theo Van Gogh by a disaffected Muslim youth on the streets of Amsterdam, amount to an indistinguishable combination of political and religious fanaticism with run-of-the-mill criminality. Other manifestations of grievance and the demand for justice take the form of organizations that explicitly reject the liberal political order, such as *Hizb ut-Tahrir*, which stake claims to substantial membership on European soil. While Ramadan may make an earnest attempt at imbuing the notion of a contractual obligation to the extant political order with religious significance, it amounts to fairly weak tea.

## CONCLUSION

It does seem that much of the criticism of Ramadan is based on a combination of 'guilt by association' and discomfort with his truly conservative understanding of Islam. It is true that Ramadan is a religious conservative and that his approach to Islam fails to affirm many of the values that some believe constitute the essence of the modern West. Whether these values are women's equality, gay rights, or scientific rationalism, the real issue is whether or not his principles contribute something valuable to the

cause of Muslim integration within western liberal democracies. What we need to ask is, 'can Tariq Ramadan convey a convincing argument to European Muslims that pushes them towards full civic engagement?' If he can, he must be able to do so in a fashion that leaves the core characteristics of a liberal European society intact. This will mean a respectful acknowledgment of the rights and preeminence of Europe's comprehensive liberals, while prodding the continent towards a more thorough and genuine acceptance of a liberal political order that remains neutral towards conceptions of the ultimate nature of the good. In so doing, Ramadan would help secure a better existence for his co-religionists in Europe while helping the people of Europe achieve a more perfect political and social order.

Though the debate is muddled, for many it has come down to the competing liberal values of religious liberty and absolute equality. These are not the terms on which a reliable social peace can be settled. We must be more pragmatic. As long as Ramadan does not seek to undermine absolute equality under the law, and can reliably convince conservative Muslims that there is a role for them as citizens in Europe, his contributions may prove invaluable. Nevertheless, it is important that leaders in the West not turn to Ramadan as the principle interlocutor with their respective Muslim communities. It is the liberal state's duty to stay neutral towards conceptions of the good. It should also stay neutral towards conceptions of religious authenticity.

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

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- <sup>27</sup> Paul Berman takes particular issue with the idea of *salafi reformism*, seeing in this mode of modern Islamic thought the roots of al-Qaeda.
- <sup>28</sup> Berman, 17.
- <sup>29</sup> <http://www.tariqramadan.com/spip.php?article1369>.
- <sup>30</sup> Berman, 23.
- <sup>31</sup> Ibid., 24.
- <sup>32</sup> Ibid., 26. It would seem that in this instance Ramadan is indeed paying deference to classical methodology and the legal principle of *ijma*.
- <sup>33</sup> Ibid., 27.
- <sup>34</sup> Roy, 44-45.
- <sup>35</sup> March, 400.
- <sup>36</sup> Ibid., 402.

<sup>37</sup> Ibid., 401

<sup>38</sup> Ibid., 402.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid., 403.

<sup>42</sup> Ibid., 404.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid., 405.

<sup>45</sup> This being said, the same dilemma exists with literally minded members of any faith group in liberal democratic societies.



## The Israeli Citizenship Model: The Role of Pluralism and Particularism in Drawing the Boundaries of the Israeli Polity

*Benedetta Berti*

### INTRODUCTION

This article examines the Israeli citizenship discourse, emphasizing the influence of Israel's historical experience, societal composition and constitutive values. The first section provides the theoretical foundation of the essay, describing the Israeli citizenship model, stressing its complex nature, and explaining how three alternative models of citizenship—liberal, republican, and ethno-nationalist—co-exist and interact in the Israeli polity.

The existence of multiple, and at times divergent, notions of citizenship reflects the internal tensions between competing core values of the state, such as pluralism and democracy on the one hand and ethno-nationalism and particularism on the other. The second section analyzes the current normative framework concerning Israeli nationality law, highlighting the dynamics described in the introductory section. Finally, the article applies these theoretical and normative frameworks to a specific case study in which the notions of citizenship described above clash. This particular

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case study looks at the current family reunification policy vis-à-vis spouses of citizens coming from the West Bank and Gaza—emphasizing how positive political steps are needed to accommodate the disparate values and imperatives in Israeli citizenship discourse.

### WHICH CITIZENSHIP MODEL FOR ISRAEL?

The citizenship discourse in any given society is influenced by a plurality of factors, such as: a country's history, its juridical traditions, nation-building objectives, and societal composition.<sup>1</sup> Furthermore, the citizenship model and discourse adopted in a particular country are also intrinsically related to internal conceptions of collective identification. They embody a specific cultural self-representation, a sense of nationhood and community, and a particularistic ethnos.<sup>2</sup>

As Gershon Shafir<sup>3</sup> points out, because of this inherent complexity and given the multiple factors that shape a country's citizenship discourse, the final narrative is hardly ever monolithic. It often consists of alternative notions that co-exist and—at times—clash. This is particularly true in the Israeli case, where the tensions among alternative citizenship conceptions are modeled after the internal clashes between conflicting constitutive values, such as ethnic identity and particularism versus pluralism and democracy. As Shafir further explains, “the tension between the exclusionary impetus of frontier society and the inclusionary impetus of civil society (...) has expressed itself in a

hierarchical and fragmented citizenship structure.<sup>4</sup> In other words, different core values connected with Israel's historical experience shape the state's view of citizenship—enabling three models to co-exist: liberal, republican, and ethno-nationalist.

The republican ideal of citizenship, focused on the notion of public good and common will, on active and direct participation in the public sphere as the key duty of citizens, on the praise of civic virtues, and on citizen mobilization,<sup>5</sup> was the predominant model in the *Yishuv*<sup>6</sup> period and in the early years of the State of Israel. Accordingly, the republican idea of citizenship served two main functions. First, during Israel's emergence as a "frontier society," when a zone of contact/conflict arose between different societal groups,<sup>7</sup> the concept of citizenship was used to draw community boundaries and create an internal and cohesive community vis-à-vis the "others." Secondly, the republican ethnos was used internally, in the nation-building process, to mobilize citizens around the ideal of common good and the moral purpose of Zionism. It also served to promote direct participation in the polity through the national myth of the early *Chalutzim* (pioneers)—a narrative that emphasized values such as collective solidarity, patriotism, and labor as a means of individual/collective emancipation.

Even if it has lost prominence, due in part to the evolution of Israel from a frontier, state-dominated society in its formative liminal years to a more established, civil-society oriented democracy, the republican ideal of citizenship and its rhetoric is still present in contemporary Israeli society.<sup>8</sup> The major contribution of the republican citizenship model in contemporary Israel is the continuation of the ideal of citizenship as active participation and not just a 'bundle of rights.' This is best embodied, for instance, in the ethnos surrounding the military service:

[T]he emphasis on military service for the nation as the proof of inclusion in the body politic echoes a republican conception of citizenship, in which a connection is made between the commitment to make sacrifices for the

nation and the right to fair share in governing (...)<sup>9</sup>

However, the republican ethnos of the early period has been challenged by the growing impact of the liberal idea of citizenship. This second model of citizenship has been associated with the ongoing debate on the nature and character of the country as a Jewish and Democratic State.<sup>10</sup>

Since its formative years of the *Yishuv*, Israel conceived of and described itself as both a state for the Jewish people and as a democracy. This is clearly emphasized both in the rhetoric of Israel's early leaders and its constitutive documents, such as the Declaration of Independence,<sup>11</sup> which established—side-by-side—a state for the Jewish people and the principle of non-discrimination applicable to all citizens

irrespective of "religion, race, or sex."<sup>12</sup>

Therefore—at least at a theoretical level—there is little doubt that Israel's state-building process was indeed aimed at creating a Jewish,

democratic state and that the liberal notion of citizenship flourished in this context.

The liberal ideal stresses universal citizenship, grounded on the principles of generality, civic unity and cohesion, and equal treatment of all citizens under the law.<sup>13</sup> In this context, the basic conception of liberal citizenship as a bundle of rights, focused on individuals and on the private sphere, has been gaining increasing support in Israeli society—superimposing itself on the republican model. This has created internal tension between the universal character of citizenship rights under the liberal model—adopted in most liberal democracies—and the exclusivity and particularism of the republican

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model, rooted in the early formative period of the state.

Finally, in addition to these two citizenship models, the Israeli polity also encompasses an ethno-nationalist discourse and citizenship model. In fact, Israel is often mentioned as an exception to the contemporary tendency of modern democracies to distance themselves from maintaining a strong ethno-nationalist affiliation

**Similarly, the country has been identified as an “ethnocracy,” where a specific group attempts to assert and maintain disproportionate power, rights, and control, for the sake of cultural and religious homogeneity.**

in the elaboration of their citizenship discourse. Israel stands out in its continued insistence on a firm and explicit bond between

ethnically-based nationality and statehood. In declaring that Israel is the state of the Jewish people, what is in effect being claimed is one of the basic tenets held by classical theorists of nationalism: that a state ought to represent a nation.<sup>14</sup>

Numerous scholars, therefore, have identified Israel as an “ethnic democracy,” where the dominant ethnic group enjoys special collective rights, while the non-Jewish citizens are limited to individual rights.<sup>15</sup> Similarly, the country has been identified as an “ethnocracy,” where a specific group attempts to assert and maintain disproportionate power, rights, and control,<sup>16</sup> for the sake of cultural and religious homogeneity.<sup>17</sup> At the extreme of this spectrum, scholars have indicated that this strong affiliation with an ethnic group constitutes a structural impediment to the fulfillment of the premises of liberal democracy, calling the state an “imagined democracy.”<sup>18</sup>

The citizenship discourse associated with this characteristic of Israeli democracy is ethno-nationalist, where a common religious-ethnic-historical culture becomes the defining feature of membership in the political community.<sup>19</sup> An example of how this ethno-nationalist conception of the polity has shaped Israeli political and societal life is manifest in certain aspects of its

immigration policy. In fact, the core provision of the Israeli immigration law, the Law of Return, reflects a “perception of membership in the state which is not territorially bound or defined, but rather is based on a preexisting affiliation with the Jewish people, in its perception of that people as a ‘nation’.”<sup>20</sup> This premise leads to an unorthodox approach to immigration. The traditional hierarchical order that privileges native citizens over immigrants is nullified and a new immigrant is entitled to the very same status as a native citizen, in the name of cultural unity and shared nationhood. As a result, Israel became a country of immigrants<sup>21</sup> with a nationality law focused on emigration and on preserving strong ties with the larger ethnic community of reference.<sup>22</sup>

Together with an ethno-nationalist model of citizenship, Israel has also adopted a broader concept of group-differentiated citizenship, defined by Kymlicka as “the adoption of group-specific poly-ethnic, representation, or self-governing rights.”<sup>23</sup> The idea of differentiated group rights and duties is in fact another important aspect of the Israeli conception of citizenship. In Israel, the concept of citizenship, which is associated with guarantees of basic rights and freedom in accordance with liberal principles, is also qualified by the concept of nationality as ethnic identification (Jewish, Arab, Bedouin, Druze; or Jewish, Christian, Muslim).<sup>24</sup> In other words, all citizens enjoy a degree of equal rights, but these generic protections are also associated with specific rights and duties that are derived by the combination of their citizenship and ethnic nationality. This creates myriad different conceptions and narratives of citizenship and membership status, as well as a group-based conception of rights and duties.

For instance, the membership in an ethnic-religious community defines the rules of personal status and family law that are applicable to that citizen.<sup>25</sup> This is because the religious courts of the three main religious communities (Jewish, Muslim, Christian) are empowered by the Ministry of Religion to deal with family and personal status matters<sup>26</sup> and have personal jurisdiction over all members of their community—a legacy of the Ottoman *millet* system. An additional example of group-

differentiated duties is the obligation to serve in the army, which although mandatory for all Israeli citizens, is—according to an administrative practice— normally not enforced on Palestinian-Arab Israelis (while Druze and Bedouin men regularly serve in the army)<sup>27</sup>.

In sum, defining a single citizenship model for the State of Israel is extremely complex, as radically different notions of this concept are all accommodated in the citizenship discourse. Therefore republican, liberal, ethno-national, and even multicultural/group-based models of membership and belonging coexist in the Israeli national political discourse. This coexistence reflects the internal struggle between the universalist and pluralist nature of the Israeli state and its particularistic and exclusive tendencies. As the article will further articulate, this multiplicity of models both echoes and explains the internal tension between “Jewish and Democratic.”

#### NATIONALITY LAW IN ISRAEL: AN OVERVIEW

Israel’s citizenship policy is based on two main legislative acts: the Law of Return-5710 (1950),<sup>28</sup> and the Nationality Law-5712 (1952).<sup>29</sup>

##### The Law of Return

The Law of Return is a core legislative act that enshrines the right of all Jews to immigrate to Israel. It represents a constitutive principle recognized since the establishment of the State and embodied in the 1948 Declaration of Independence: “The State of Israel will be open for Jewish immigration and for the Ingathering of the Exiles.”<sup>30</sup> Accordingly, the Law of Return reflects an understanding of the State of Israel as a “trustee” in charge of administering a right that in fact pre-dates the birth of the state itself.<sup>31</sup> As eloquently put by former Israeli Prime Minister David Ben Gurion in his introduction of the Law of Return:

This law does not provide for the State to bestow the right to settle in Israel upon the Jew living abroad; it affirms that this right is inherent in him from the very fact of being a Jew...This right preceded the State; this right built the State...<sup>32</sup>

The concept of a pre-existing right of all Jews to immigrate to Israel is also entrenched in the semantics of the Jewish immigration discourse. In fact, the act of immigrating to Israel is not defined as “immigration”. The term used is *aliyah* or ascent; which, in connection with the idea of self-fulfillment, confers onto the act of immigration an additional layer of symbolic validation.

This specific understanding of the State as a “trustee,” together with the powerful evocative value of the concept of *aliyah*, lay at the core of the

Law of Return, which codified “ethnic” *ius sanguinis*<sup>33</sup> as the preferred mechanism to acquire citizenship.

Adopted in 1950, the Law of Return has an important place among Israel’s legislative acts. The State of Israel lacks a formal written Constitution, and in its place, it has a series of “Basic Laws,<sup>34</sup>” which provide a constitutional basis for the state. Although the Law of Return *per se* is not a basic law, it is commonly deemed to possess “constitutional implications,”<sup>35</sup> both because the legislative branch has shown extreme reluctance in considering amendments to this Law, and also because it reflects the founding ideology of Israel. Thus, it is likely to be given a prominent role in the future constitution.<sup>36</sup>

The main provision of the 1950 Law of Return states: “Every Jew has the right to come to this country as an *oleh*,<sup>37</sup>” and the only legitimate reason to deny this right is if the applicant “is engaged in an activity directed against the Jewish people; or is likely to endanger public health or the security of the State.” According to the provisions of the Law of Return, all *olim* immigrating to Israel will be granted an equal status to those who were born in the country.

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This legislative act creates obvious problems under a liberal citizenship model and the Israeli legislative branch did not ignore this contrast. Haim Cohn, who was attorney general in 1950, explained to the Constitution, Law and Justice Committee in the Knesset: “we do not wish to introduce discrimination between Jews and non-Jews in any other law. This is the only law to lay down special rights for a Jew because he is a Jew (...).”<sup>38</sup> Since the very outset, there were clear

**In a historic verdict for the State of Israel, the court ruled that—for the purpose of the population registry and the Law of Return—the government did not have the authority to determine a person’s national affiliation.**

internal tensions between the Law of Return and its ethno-national implications, and the equal rights principle that had shaped the

Israeli democracy since the Declaration of Independence.<sup>39</sup> This tension, although not fully resolved, was lessened however by the more comprehensive Nationality Law, passed in 1952, providing alternative means to acquire Israeli citizenship outside the venues provided by the Law of Return.

Additionally, the Law of Return was not only problematic vis-à-vis the regulation and recognition of non-Jewish immigration but it also left a wide degree of uncertainty around a number of problematic issues, such as: who is a Jew according to the Law of Return? And what would be the status of non-Jewish spouses of eligible Jews under the same law? The issue of establishing who is a Jew for the purpose of the Law of Return reached the Israeli Supreme Court in the *Shalit Case* (Benjamin Shalit v. Population Registry).<sup>40</sup> In 1967 Benjamin Shalit, married to a non-Jewish woman, attempted to register his two children (Israeli citizens by virtue of having born in Israel and having a Jewish father) in the Population Registry as Jewish nationals with no religion (‘nationality’ and ‘religion’ being two different categories in the population registry’s

records). The registry refused to recognize the children as Jewish nationals on the ground that the children’s mother was not Jewish.<sup>41</sup> The petitioner disputed this notion of Jewish nationality connected to a religious interpretation of Judaism, he argued in favor of a secular definition of membership based on self-identification, and he grounded the complaint under his right to freedom of conscience as guaranteed by Israel’s Declaration of Independence.

In a historic verdict for the State of Israel, the court ruled that—for the purpose of the population registry and the Law of Return—the government did not have the authority to determine a person’s national affiliation. Additionally, the court ruled that a *bona fide* statement of affiliation should be considered as proof of nationality. The case created enormous distress within Israeli society, emphasizing the conflicts between secular and religious citizens. It led the Knesset to amend the Law of Return, which tried to balance the secular and religious views on nationality.

As a response to the religious community’s plea to set the community boundaries according to religious Jewish law, the 1970 amendment provided more firm criteria, besides self-identification, to establish who qualified as Jewish under the Law of Return. But it also included new categories of people eligible to be granted the *oleh* status, in line with a more secular understanding of citizenship law.<sup>42</sup> The amendment, in fact, extends the Law of Return to:

(...) a child and a grandchild of a Jew, the spouse of a Jew, the spouse of a child of a Jew and the spouse of a grandchild of a Jew, except for a person who has been a Jew and has voluntarily changed his religion.<sup>43</sup>

Furthermore, the law specifies that “For the purposes of this Law, ‘Jew’ means a person who was born of a Jewish mother or has become converted to Judaism and who is not a member of another religion.”<sup>44</sup>

However, even if this amendment put an end to many controversies arising previously under

the Law of Return, it still left room for debate regarding what constitutes a valid conversion for the purpose of the Law of Return. This question, a corollary of the wider dilemma of defining who qualifies as a Jew, was also the object of judicial review in the *Shas Movement v. Director of Population Registry* (1989), and *Pesarro (Goldstein) v. Minister of Interior* (1995) decisions.<sup>45</sup> In the 1989 case, the court determined that for the purpose of the Law of Return, and also for immigration purposes, any certified conversion performed outside of Israel would be considered valid and would automatically entitle that individual to *oleh* rights.

In the 1995 case, the court did not rule on the merits and declined to order the population registry to register as a Jew a woman who had gone through a non-orthodox conversion while in Israel. But it did indicate that the Law of Return seemed to allow her to do so. This spurred a controversy led by the Orthodox Chief Rabbinate in Israel, which eventually ended with the recognition of the Rabbinate's monopoly on conversions in the country.<sup>46</sup> More recently, in March 2005, the court addressed again the issue of non-orthodox conversions in Israel, and ruled that individuals residing in the country and who undergo the non-orthodox conversion process in Israel, but who are able to perform the actual conversion ceremony abroad, will be recognized as Jews for immigration purposes.<sup>47</sup>

### The Nationality Law

Adopted in 1952, the Nationality Law regulates acquisition and loss of Israeli nationality. Israeli nationality is conferred through the Law of Return, analyzed above, and through birth, residence, and naturalization. These rules apply equally to Jewish and non-Jewish immigrants.<sup>48</sup> Nationality by birth is granted according to the *ius sanguinis* principle in three instances: first, to all children born in Israel to at least an Israeli parent; second, to children born outside of Israel—provided that at least one parent is a citizen by birth, naturalization, return, or residence and third, to people born in Israel without any nationality.

Nationality in the third instance, however, is granted only if the application is submitted when

the candidate is between 18 and 25 years of age, and if he/she has resided in the country five years prior to submitting the application.<sup>49</sup> This provision is the result of a 1980 amendment to the 1952 law. It solves one of the anomalies of the preceding regime, under which children born in Israel by one Israeli parent were granted citizenship through the law of return, rather than according a more general *ius sanguinis* principle. The 1980 amendment achieved the important outcome of standardizing the citizenship-by-birth acquisition process, eliminating religiously-based differences.<sup>50</sup>

Regarding citizenship by residence, in 1952 the nationality by residence provision was used to determine and regularize the

status of Arab Israelis. In particular, the law gave Israeli citizenship to all Palestinians who were registered in the population registry, who had been residing in Israel since the establishment of the state, and who were still an inhabitant of Israel at the time the law was passed as well as to all children born in Israel after the establishment of the state by parents who complied with the above-mentioned requirements.<sup>51</sup> The formulation of citizenship by residence, in these terms, was highly problematic. It left a number of Arab inhabitants of Israel *de facto* stateless, since they could not meet the requirements for citizenship, and their Palestinian citizenship had been terminated with the end of the British Mandate.<sup>52</sup> The 1980 amendment to the Nationality Law solved this situation first by granting nationality via residence to this category of people and extending it to their children and second by standardizing the acquisition of nationality through the *ius sanguinis* principle.<sup>53</sup>

With respect to nationality by naturalization, this form of citizenship is granted at the discretion of the Ministry of the Interior upon the fulfillment of certain requirements. The requirements include: three out of five years of continuous

**The 1980 amendment achieved the important outcome of standardizing the citizenship-by-birth acquisition process, eliminating religiously-based differences.**

residency prior to submitting the naturalization application; permanent residency status; intention to settle in Israel; and renunciation of previous nationalities (as opposed to those who naturalize under the Law of Return, and who are not required to denounce previous affiliations).<sup>54</sup> The Minister, at his discretion, can exempt candidates from complying with some of these criteria;<sup>55</sup> and—as a matter of policy<sup>56</sup>—this was generally done to naturalize spouses of Israeli citizens who could not use the Law of Return provision to

**Following the decision to grant citizenship status to Arab residents, the State was immediately confronted with the challenge of extending the same rights to the Arab minority that were available to all other citizens.**

acquire Israeli citizenship (i.e. spouses of non-Jewish citizens) and who did not meet all the requirements to obtain citizenship by naturalization. However, since 1996, the Minister of Interior has adopted an

“equalizer provision.” This makes it harder, in practice, to obtain citizenship for all spouses. It requires them to leave the country for six weeks after the marriage, re-enter on a temporary visa, and only then apply for permanent residency within Israel, thereby substantially delaying the initiation of the naturalization process.<sup>57</sup>

The second part of the Nationality Law discusses the conditions under which a citizen could lose Israeli nationality. In general, nationality is lost through a double procedure requiring both the formal renunciation of the individual and the acceptance of such renunciation by the Ministry of the Interior. In this sense, the right of expatriation is not absolute. Rather, it is a hybrid between the formulation of expatriation as an unconditional right of each individual and the older British doctrine of perpetual allegiance, which questioned the notion of voluntary expatriation/relinquishment of citizenship and stated that the allegiance between the citizen and state could not be severed unilaterally by the individual.<sup>58</sup> Naturalized

citizens, however, can lose their citizenship for numerous reasons, ranging from acts of disloyalty, to having acquired it through false claims. Finally, all citizens could have their citizenship revoked for committing certain grave acts of disloyalty against the state.<sup>59</sup>

## MINORITY RIGHTS AND THE NATIONALITY LAW: A CASE STUDY

This section discusses the nexus and interrelation between nationality law and minority rights through the lens of the Nationality and Entry into Israel Law, as this seems to be one of the main areas where the tensions between particularism and universalism, as well as the conflicts between different understandings of citizenship, manifest themselves. Accommodation of minority rights within Israel is also an important criterion by which to evaluate the Jewish and democratic nature of the state and to analyze the *de facto* enforcement of the *de jure* equality provision in the Israeli polity.

Israel does grant equal civil and political rights to all its citizens, at least at a formal level. However, the key challenge seems to be how to ensure that the *de jure* equality provision in the Israeli Basic Laws translates into *de facto* equality. Given the stratified nature of Israeli society, which seems to guarantee differential access to different ethnic groups within the Israeli polity and affirm ethno-national conceptions of citizenship, this question is all the more complex. The problem is compounded by the *de facto* exclusion of Arab minorities from both power-sharing arrangements and distribution of resources and wealth. In this sense, Jewish-Arab relations are the “acid test” in Israeli democracy.

Since the creation of the State of Israel itself, citizenship status of the Arab minority in Israel has been a prominent issue. At the end of the 1948 War, the new government immediately granted citizenship to the Arab inhabitants who found themselves in Israel after the war (about 160,000) and later established a mechanism to regularize other residents through the 1952 Nationality Law provision, as explained in the previous section.<sup>60</sup> Peled notes that the option of denying citizenship status on the basis of a strict ethno-nationalistic principle (which would have made Israel similar

to South Africa's *Herrenvolk*) was never perceived as a legitimate option and contradictory to Israel's early commitment to democracy and equality.<sup>61</sup> On the other hand, a strictly liberal understanding of citizenship, which would have prevented the development of a preferential immigration right for the Jewish people, was also to be perceived at odds with both Zionist ideology and the historical experience that led to the establishment of the State of Israel. Therefore, the adopted model was a compromise between these two views, an attempt to reconcile universalism and particularism.

Following the decision to grant citizenship status to Arab residents, the State was immediately confronted with the challenge of extending the same rights to the Arab minority that were available to all other citizens. In this sense, Ben Gurion first stressed the need to extend political rights to the "new citizens" in the first 1949 elections, declaring: "We must not begin with national discrimination."<sup>62</sup>

However, until 1966, a major obstacle persisted for Arab citizens seeking to exercise their rights and freedoms as well as achieve *de facto* equality. Following the 1945 Defense Emergency Regulations<sup>63</sup>—a measure imposed by the security situation in the country and incompatible with a liberal understanding of citizenship—Arab citizens were subject to a separate military administration. In 1966, in a major equalizing step, the military government was dismantled and both Jewish and non-Jewish citizens became subject to the same administrative-civilian law. The following year, with the 1967 war and the subsequent inclusion of East Jerusalem and the Golan Heights under Israeli civilian law, Arab residents of those areas became eligible to apply for Israeli citizenship through naturalization. In practice this was often difficult to do, as it was perceived by the same Arab community as an act of "treason" and a repudiation of the Palestinian cause.<sup>64</sup>

At the same time, Arab Israelis began in the late 1960s to bring the first constitutional challenges to the ethno-national understanding of

citizenship that had become so predominant in the country. In 1965, the petitioners in *Yeredor v. Chairman of the Central Elections Committee*<sup>65</sup>, members of the Arab socialist group *al-Ard*, protested against the Central Election Committee's refusal to register them as candidates in the parliamentary elections. The Committee did so on the grounds that the Ministry of Defense had declared *al-Ard* an illegal group due to its non-acceptance of Israel's territorial integrity and its right to exist as a state.<sup>66</sup> On that occasion, the court held that the Committee had the authority to disqualify parties advocating for the dissolution of the state and that the disqualification of the list was valid "for the reason that this candidates list is an illegal association since its promoters

negate the integrity and very existence of the State of Israel."<sup>67</sup> This principle was upheld in 1985 in *Moshe Neiman et al. v. Chairman of the Central Elections Committee*, although in that case the court did not uphold the disqualification of a Jewish (Kach) and an Arab political group (Progressive List for Peace), arguing that such disqualifications are only valid when the existence of the list threatens the survival of the state or its democratic character.<sup>68</sup>

Currently, the laws on political participation are regulated in the Basic Law, by the regulation of the Knesset passed in 1950. Specifically, the 1985 7A Amendment to the law<sup>69</sup> forbids participation to those opposing the Jewish character of state, its democratic nature, or to those who openly incite racism. This appears to be a compromise to uphold both the liberal-democratic model of the state and its ethno-nationalist character. But the law has been criticized by Arab Israelis for reducing their political rights, including their right to challenge the Jewish character of the state. This debate is particularly relevant in the context of the ongoing debate on the future Israeli Constitution. Several Arab Israeli groups have proposed alternative notions of the "Jewish and Democratic model," *de*

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*facto* articulating an alternative conceptualization of the notion of citizenship.

For instance, the main center for the protection of the rights of Arab citizens in Israel, the Adalah Center—the Legal Center for Rights of the Arab minority in Israel—has put forward a draft democratic constitution asking to redefine Israel as a “democratic bi-lingual and multi-cultural State,” and to renounce the Jewish and Democratic paradigm.<sup>70</sup> Similarly, the National Committee for the Heads of the Arab Local Authorities in Israel has argued for the abolition of policies that grant privileges to the majority ethnic group and to recognize the Palestinian citizens as an indigenous minority with self-government rights.<sup>71</sup> Other sectors of the Arab Israeli population have not challenged the Jewish-Democratic existing model per se. For instance, an April 2007 poll by the Israel Democracy Institute revealed that 75 percent of the Arab minority would not oppose the Jewish and democratic model in the upcoming constitution, as long as it came together with an equal rights provision to protect minorities.<sup>72</sup>

This perspective is particularly significant. It recognizes that the proliferation of multiple notions of “citizen” and the Jewish character of the state are not per se obstacles towards achieving *de facto* equality. Yet it demonstrates a desire that the State provide a political answer to the problem by taking positive steps to reduce the equality gap that exists among its citizens.

In describing the citizenship status of minority groups within Israel, with all the *de facto* limitations and the *de jure* procedural differences discussed above, it is also worth mentioning that Arab citizens of Israel have a set of rights and duties derived from their minority status. They are enshrined in accommodation (poly-ethnic) and self-government rights.<sup>73</sup> Within the accommodation system for minority groups, rights include but are not limited to: linguistic rights, the right to preserve the minority language and culture through the maintenance of a separate educational system, and the rights to religious freedom and to maintain a separate court system for personal status matters.<sup>74</sup> Self-government rights—with the exception of the exercise of jurisdiction by religious courts—are not as well

developed in the collective form and minorities have often criticized this as an obstacle to the achievement of a truly liberal and multi-cultural system.

However, this particular problem is not exclusive to the Israeli polity. Devising a framework under which minority and group rights are reconciled with the need to promote and preserve political unity and societal cohesion represents an immensely complicated challenge for any multi-ethnic state. In

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this sense, the assumption that only an ‘identity neutral’ state can provide effective minority and self-government rights and ensure adequate legal protection for its minorities is not thoroughly proven.

On the contrary, effective minority rights protection often stems from rejecting ‘color-blind approaches’ and by acknowledging, promoting, and protecting the different cultural, ethnic, and religious identities within a given society. Applying this framework to the State of Israel would suggest that, instead of ‘weakening’ the Jewish nature of the State, it would be more effective to strengthen the special rights and status of existing minority groups (which would not alter the predominantly Jewish identity of the overwhelming majority of its citizens) as well as improve the *de facto* equality of all of its citizens. Similarly, in the Israeli case, it could very well be that other factors—such as the existence of an armed conflict and the persistence of substantial security threats to the State—have impaired the concrete achievement of autonomy and minority rights far more than the Jewish identity of the state. That said, there are cases in which the democratic imperatives of the state and the liberal understanding of citizenship come under intense distress. One such example is the current family

reunification policy of Arab Israelis. This policy touches on that same intersection between minority rights and citizenship discourse, further testing the Israeli system's ability to uphold its liberal premises.

Between 1967 and 2002, the common practice regarding family reunifications of Arab Israelis with spouses residing in the areas of Gaza and the West Bank was to allow the Israeli spouse to file (and in most cases obtain) a permit to bring the non-Israeli spouse to live in Israel.<sup>75</sup> However, following the March 31, 2002 suicide attack in Haifa carried out by Hamas member Shadi Tubasim—who had succeeded in entering Israel through the family reunification program for Arab Israelis and residents—the Interior Ministry temporarily stopped all pending reunification requests.<sup>76</sup>

The temporary freeze was then followed by the approval of the Nationality and Entry into Israel (Temporary Order) Law, (5763 – 2003),<sup>77</sup> which prohibited inhabitants of these areas from obtaining a residence permit to stay in Israel, thus preventing family reunification between Israeli citizens and their spouses. Although the law was dictated by legitimate security concerns and written in 'color blind' terms, the practical effect of this provision was to impinge upon the family rights of one particular group of citizens and contradict the classic liberal understanding of citizenship rights. The law did, however, allow exceptions. For instance, it allowed exceptional temporary residency permits for work or health reasons or to prevent the separation of a child under the age of twelve from his/her parents (provided that the parents were legally in Israel).

This legislative initiative was designed as a temporary measure to be valid for a one-year period. The government could renew these measures for security purposes provided it had reviewed the law and its effects. The Nationality and Entry into Israel Law was renewed in July 2004<sup>78</sup> and again in July 2005 when the Knesset reconfirmed the extension of the law for an

additional period. The Knesset did, however, make a series of amendments. It allowed special permits for spouses of Israeli citizens (female spouses over 25 years of age and male spouses over 35 years of age),<sup>79</sup> and for children under 14 years of age,<sup>80</sup> and reiterated the possibility of obtaining special temporary permits for work and health reasons. Currently, the law—amended to extend the freeze to citizens of enemy states—has been reapproved and extended until July 2009.<sup>81</sup>

The Nationality and Entry into Israel Law has been at the center of an intense debate within Israeli society. It has been perceived as a discriminatory law that disproportionately affects Arab

Israelis by limiting their citizenship rights as well as their basic civil liberties. This has been the argument of the Adalah Center. The Center has challenged the constitutionality of the Law, filing a complaint in August 2003 in which it argued that: the law violated basic international human rights standards as well as the constitutionally protected right to family and equality; it was discriminatory in its nature; and it was a disproportionate measure adopted in the name of security.<sup>82</sup>

The Supreme Court delivered its opinion in May 2006 and dismissed the petition (by a vote of 6-5). It did so on the grounds that the law does not violate a constitutional right (since citizens have no constitutional right for their spouses to immigrate to Israel), especially considering the state of war between the area and Israel and the security needs of the state (Vice-President Cheshin and Justices Grunis and Naor).<sup>83</sup> Justice Adiel and Justice Rivlin concurred in upholding the law, but added that the provision does violate the right to family, although "the violation of the constitutional right is proportionate," given the security circumstances.<sup>84</sup> Justice Levy also upheld the law, but added: "If changes are not made, the law will be unlikely to satisfy judicial scrutiny in the future."<sup>85</sup> The minority opinion, delivered by

**Although the law was dictated by legitimate security concerns and written in "color blind" terms, the practical effect of this provision was to impinge upon the family rights of one particular group of citizens and contradict the classic liberal understanding of citizenship rights.**

Justice Barak, on the other hand, found that the law violated Article 2 and 4 of the Basic Law: Human Dignity and Liberty (right to family life and right to equality) and that although appropriate in its scope—based upon legitimate security concerns—the law failed to meet all the proportionality requirements.<sup>86</sup>

The debate over the Nationality and Entry into Israel Law did not however end with this judgment. Adalah filed another petition to the Supreme Court in June 2007, demanding the cancellation of the Citizenship and Entry into Israel Law, in its amended version.<sup>87</sup> Following the petition, the Supreme Court—in May 2008—issued an *order nisi* giving the State 60 days to explain why the law should not be struck down as unconstitutional.<sup>88</sup> The government submitted the reply in August 2008,<sup>89</sup> but the controversy over the freeze on family reunification has not yet been settled.

The internal disagreements over the scope of the Nationality and Entry into Israel Law reveal the difficulties that Israel faces vis-à-vis adhering to its constitutive equality provision and liberal citizenship principles in the face of ongoing political/security threats and the government's supreme responsibility to protect its citizens. In this sense, the Supreme Court's judicial scrutiny could offer a venue by which the Court could push the State to modify the controversial law and restrike a balance in favor of all Israel's citizens.

## CONCLUSION

The Israeli citizenship discourse is a fragmented one. It is composed of diverging notions of citizenship that maximize different

values and imply radically different *Weltanschauungs*. On the one hand, the liberal citizenship model—with its universal, general, and egalitarian underpinnings—has been integrated into the Israeli citizenship discourse and the country's normative framework via the equality clause of the Basic Law: Dignity and Freedom and by the state's commitment to democracy and equal rights. On the other hand, the liberal discourse—although crucial—is not the only applicable citizenship model. The republican model of active participation and mobilization, rather than as a simple bundle of individual rights, is still an important component of the Israeli discourse on citizenship and political membership. Furthermore, the predominant ethno-nationalist ethos, as symbolized by laws such as the Law of Return, continues to shape the ideological and normative understanding of Israeli citizenship.

The analysis of the evolution of the Nationality Law in Israel and the case study on the status and rights of Arab Israelis demonstrate how the above-mentioned citizenship models continue to shape and influence the current legal framework, which continuously attempts to accommodate these diverging conceptions and needs. Often, this framework places pragmatic needs and flexibility above internal coherence and consistency.

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

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- <sup>4</sup> *Ibid.*, 56.
- <sup>5</sup> Cass R. Sunstein, "Beyond the Republican Revival," *Yale Law Journal*, 98 (1988).
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- <sup>11</sup> In the former, one reads: "The State of Israel will be open for Jewish immigration and for the Ingathering of the Exiles; it will *foster the development of the country for the benefit of all its inhabitants*; it will be based on *freedom, justice and peace* as envisaged by the prophets of Israel; it will ensure complete *equality of social and political rights* to all its *inhabitants irrespective of religion, race or sex*; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the *Charter of the United Nations.*"
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- <sup>17</sup> Weil, 19.
- <sup>18</sup> Oren Yiftachel, "The Shrinking Space of Citizenship: Ethnocratic Politics in Israel," *Middle East Report*, 223 (2002), 39.



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- <sup>20</sup> Shachar, 235.
- <sup>21</sup> Estimates relate that between 1948 and 1995, approximately 2.4 million people immigrated to Israel, with the two major immigration peaks in the early years of the State (1948 through the late 1950s), and between 1990-95, when about 700,000 people arrived from the Soviet Union. See Gabriel Lipshitz, *Country on the Move: Migration to and within Israel, 1948-1995* (Dordrecht, ND: Kluwer Academic Publisher, 1998), 2-3. To understand to what an extent Israel can be defined as a country of immigrants, one could look at the fact that in 1996 around 38 percent of the population of Israel was foreign-born. This means that one in every three citizens was an immigrant. This data is even more significant if we think that the United States Census Bureau indicated that in 1997 only one every ten US citizens was foreign-born. See Shachar.
- <sup>22</sup> Weil, 33.
- <sup>23</sup> Will Kymlicka, "Multicultural Citizenship," in Gershon Shafir, ed., *The Citizenship Debate* (Minneapolis, MN: University of Minnesota Press, 1998), 167.
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- <sup>25</sup> Orit Ichilov, *Political Learning and Citizenship Education under Conflict: the Political socialization of Israeli and Palestinian Youngsters* (London and New York: Routledge, 2004), 96.
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- <sup>33</sup> *Ius Sanguinis* policy determines that citizenship status is granted not in virtue of one's place of birth (*ius solis*) but on the basis of the citizenship status of one's parents.
- <sup>34</sup> There is an ongoing debate on the status of these basic laws vis-à-vis other legislative acts; the laws, however, seem to lack a true "constitutional status" as they don't automatically trump later in time legislation, and they can be repealed and/or amended by the Knesset.
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<sup>36</sup> Ibid.

<sup>37</sup> *Oleh* is a Jewish Immigrant who has made *aliyah* to Israel.

<sup>38</sup> In Yfaat Weiss, "The Golem and its Creator, or How the Jewish Nation-State Became Multiethnic," in Daniel Levy, Yfaat Weiss *Challenging Ethnic Citizenship: German and Israeli Perspectives on Immigration* (New York, Oxford, Berghahn Books, 2002), 83.

<sup>39</sup> In the former, one reads: "The State of Israel will be open for Jewish immigration and for the \ Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations."

<sup>40</sup> Pnina Lahav, "Judgment in Jerusalem, Chief Justice Simon Agranat and the Zionist Century," (Berkeley: University of California Press, 1997), 197-220  
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<sup>41</sup> Judaism is matrilineal in its transmission of membership; hence the child of a Jewish father and a non-Jewish mother, according to the Orthodox interpretation of Judaism, is not considered Jewish according to the Jewish laws (*halakha*).

<sup>42</sup> Law of Return (Amendment No. 2) 5730-1970, <<http://www.knesset.gov.il/laws/special/eng/return.htm>> (accessed May 1, 2007).

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Shachar, 246-49.

<sup>46</sup> The authority of the three main branches of Judaism—reformed, conservative, and orthodox—to perform conversions is recognized *outside* of Israel. On the contrary, within the country, the Orthodox movement has the *de facto* supremacy on regulating all personal status matters, and, therefore, any conversion performed outside the mainstream orthodox system will not be recognized as valid.

<sup>47</sup> Israeli High Court Approves Conversions Done Abroad, *Jerusalem Post*, March 31, 2005, <[http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/convert1.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/convert1.html)> (accessed May 2, 2007).

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<sup>51</sup> Nationality Law, 5712-1952, 3 (a)-3 (b).

<sup>52</sup> Shachar, 250.

<sup>53</sup> Ibid.

<sup>54</sup> Nationality Law, 5(a): (a) A person of full age, not being an Israel national, may obtain Israel nationality by naturalisation if: (1) he is in Israel; and (2) he has been in Israel for three years out of five years preceding the day of the submission of his application; and (3) he is entitled to reside in Israel permanently; and (4) he has settled, or intends to settle, in Israel, and (5) he has some knowledge of the Hebrew language, and (6) he has renounced his prior nationality or has proved that he will cease to be a foreign national upon becoming an Israel national.

<sup>55</sup> Ministry of Foreign Affairs, "Acquisition of Israeli Nationality."

<sup>56</sup> This is however granted by article 6(d) of the Nationality Law:

d) The Minister of the Interior may exempt an applicant from all or any of the requirements of section 5 (a) (1), (2), (5) and (6) if there exists in his opinion a special reason justifying such exemption.

<sup>57</sup> Shachar, 255-256.

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(a) An Israeli citizen who unlawfully exited Israel to one of the countries listed in Article 2A of the Prevention of Infiltration Law, 1954, (Lebanon, Syria, Egypt, Trans-Jordan, Saudi Arabia, Iraq, Yemen or any part of "Eretz Yisrael" outside of Israel) or who acquired citizenship of any of these states, will be perceived as having relinquished their Israeli citizenship and it will be revoked as of the day of their exit; The revocation of the Israeli citizenship of a person in accordance with this article, revokes the Israeli citizenship of their minor child who is not a resident of Israel as well.

(b) The Minister of Interior is authorized to revoke the Israeli citizenship of a person who has committed an act, which constitutes of breach of trust of the State of Israel.

(c) The Minister of Interior is authorized to revoke the Israeli citizenship of a person if it has been proved to his satisfaction that the citizenship was granted based on false facts; the Minister of Interior is authorized to determine that the revocation of citizenship will apply to the minor child of that person.

(d) Revoking Israeli citizenship in accordance with sub section (b) and (c) will be executed by a prior notice from the Minister of Interior as of the date determined by the Minister of Interior in the citizenship revocation notification.

<sup>60</sup> Yoav Peled, "Ethnic Democracy and the Legal Construction of Citizenship: Arab Citizens of the Jewish State," *The American Political Science Review*, 86 (2) (1992), 435.

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<sup>64</sup> *Ibid*, 50-51.

<sup>65</sup> E.A. 1/65, *Yeredor v. Chairman of the Central Elections Committee for the Sixth Knesset* 19P.D. (3) 365. (Quoted in *Moshe Neiman Et Al. v. Chairman Of The Central Elections Committee or The Eleventh Knesset*, Israeli Supreme Court Sitting as a Court of Election Appeals, May 15, 1985).

<sup>66</sup> Peled, 436.

<sup>67</sup> *Yeredor v. Chairman of the Central Elections Committee for the Sixth Knesset*.

<sup>68</sup> *Moshe Neiman et Al. V. Chairman Of The Central Elections Committee*.

<sup>69</sup> *Basic Law: the Knesset-1950*, Amendment of Section 7A, 1985,

7A.) A candidates' list shall not participate in elections to the Knesset if its objects or actions, expressly or by implication, include one of the following:

(1) negation of the existence of the State of Israel as the state of the Jewish people;

(2) negation of the democratic character of the State;

(3) incitement to racism. <[http://www.knesset.gov.il/laws/special/eng/basic2\\_eng.htm](http://www.knesset.gov.il/laws/special/eng/basic2_eng.htm)> (accessed April 29, 2007).

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- <sup>77</sup> Proposed Nationality and Entry into Israel (Temporary Order) Law, 5763 – 2003, June 4, 2003.
- <sup>78</sup> "Family unification and child registration in East Jerusalem," *B'Tselem*.
- <sup>79</sup> The Nationality and Entry Into Israel Law (Temporary Order) (Amendment) 2005, passed by the Knesset on 27 July 2005. 3. Permit for Spouses – Notwithstanding the provisions of Article 2, the Interior Minister may, at his discretion, approve an application of a resident of the region to receive a permit to stay in Israel from the regional commander - (1) regarding a [male] resident of the region who is over thirty-five years old – in order to prevent his separation from his [female] spouse who is lawfully staying in Israel; (2) regarding a [female] resident of the region who is over twenty-five years old – in order to prevent her separation from her [male] spouse who is lawfully staying in Israel;
- <sup>80</sup> 3A. Permit for Children – Notwithstanding the provisions of Article 2, the Interior Minister may, at his discretion– (1) grant a resident of the region who is under fourteen years old a permit to reside in Israel in order to prevent his separation from a parent who has custody of him and who is lawfully staying in Israel; (2) approve an application for a permit to stay in Israel to be granted by the regional commander to a resident of the region who is a minor and who is over fourteen years old, in order to prevent his separation from a parent who has custody of him and who is lawfully staying in Israel and provided that such a permit shall not be renewed if the minor does not live in Israel on a regular basis.
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Citizenship Law Banning Family Unification: Law Prevents Palestinian Citizens of Israel from Being Connected to the Palestinian People and Members of the Arab Nation”

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## Interview with Robert Baer, Author of *The Devil We Know: Dealing with the New Iranian Superpower*

Michael Mylrea

The ongoing showdown with Iran is one of the greatest US foreign policy challenges of this century. Iran's ambition to become the region's superpower has been bolstered by its large oil and gas supply, Shiites gaining control in Iraq, Hezbollah—an Iranian proxy army—fighting Israel to a standstill, and, its defiant move to become a nuclear power. Bold messages from Iran, such as that it will retaliate against the West and its allies if they try to impede its rise to power, are challenging to interpret.



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Few people have more experience interpreting Iranian actions, than Mr. Robert Baer. Drawing on his knowledge and sources inside Iran, Baer, known as one of the best field operatives in CIA history, spent his twenty-year CIA career in the region. Mr. Baer is considered a top authority on the Middle East and regularly writes for a number of major publications. Mr.

**I've spent years running the Iranian opposition. We know about exile groups—they're not to be trusted. The ones in this country and even the ones in Iran that talk to Americans aren't to be trusted because they've been pre-selected.**

Baer is the author of two *New York Times* bestsellers: *Sleeping with the Devil: How Washington Sold Our Soul for Saudi Crude*<sup>1</sup> and *See No Evil: The True Story of a Ground Soldier in the CIA's War on Terrorism*,<sup>2</sup> which was the basis for the acclaimed film *Syriana*.<sup>3</sup> In his most recent book, *The Devil We Know: Dealing with the New Iranian Superpower*,<sup>4</sup> Mr. Baer meets with key Middle

Eastern players—everyone from an Iranian Ayatollah to top Hezbollah leaders to the head of Israel's internal security—painting a picture of Iran in stark opposition to that of the mainstream media. Mr. Baer joins *al Nakhlah* for a conversation to illuminate and unravel the complexities of the current situation in the Middle East, offering his firsthand insight from over 30 years of working in the region.

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 US POLICY AND IRAN
 

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**In your book you mention that there is another side of Iran not covered in mainstream media that is difficult for US policy makers to understand. What are some of the major misunderstandings? Through what lens should policy makers view Iran?**

Let me preface the question by saying I can't cite my sources, because I've got national security [complications]. But I picked some of the sources because I know they're right. So what I've done is I've taken a look at Iran's national security policy, which I've narrowed down to the periphery of the country. So that's my bias. I look and see when the Iranians were killing the Americans and when they stopped. So I'm not looking at Iran the country. I've spent years running the Iranian opposition. We know about exile groups—they're not to be trusted. The ones in this country and even the ones in Iran that talk to Americans aren't to be trusted because they've been pre-selected.

So, I look at the guys actually on the front lines, who are seeking to establish what I call an empire by proxy, and those are the heads I want to get into—what do they accomplish and what do they want? They want an empire by proxy. They look at Lebanon and say, "It's ours for the taking." They look at Syria and say, "The Alawites cannot get along without us. That's good." And then they look at the Palestinians, Hamas, the Islamic Jihad and say, "These guys need a brain. They don't have one on their own, and we're going to provide that brain." And "hey guys, if you blow yourselves up in a restaurant in Tel Aviv, that's not going to get you anything, but if you get some strategic rockets, you're really going to have something."

So I see this mentality, this Iranian plan spreading through the Middle East. What's so difficult for us is that we're not talking about a sovereign nation occupying sovereign territory.

We're talking about proxies. We're talking about smart guys with a plan, and those are the Iranians. It's been a fairly consistent core group that's carried out this foreign policy. They're not public but we know their names; we know who they are. Khomeini the spiritual leader, he's been a part of this going way back to the fights within the family, and he had a much more rational, coherent policy. We're so distracted by guys like Ahmadinejad who have no power over the security services or the military that we've missed Iran's core rationality. We've also missed the transformation because Iran wasn't always rational. I mean, Khomeini really thought that he could spread an Islamic revolution, with him at the head, as opposed to letting an Arab proxy do it.

**We're so distracted by guys like Ahmadinejad who have no power over the security services or the military that we've missed Iran's core rationality. We've also missed the transformation because Iran wasn't always rational.**

**Did we miss signs from Iran because we weren't listening to the right people or because we weren't talking?**

You know the problem is that the policy makers tend to be driven by *The New York Times*, *The Washington Post*, and by institutes or Israeli politics. If you're dealing with Iran today, you have to listen to the Israelis because the Israelis have a voice in American politics. Their survival is a part of our core national interest. So if they say we're in trouble because of a nuclear bomb, American politicians have to put the argument in those terms; they have no choice. It's like global warming: until the United Nations and 2,000 scientists said there's global warming, we dismissed it. They still dismiss it. But we can't dismiss an Israeli politician saying, "Hey, if you don't do something about the bomb we're [in a whole lot of trouble]." And that's the reality and feeling in Washington.

**If that is the feeling in Washington, what is the feeling in Tel Aviv toward Iran getting a nuclear weapon? What is the feeling in Tehran? What are you hearing from your sources? What's next?**

The worst-case scenario for the Israelis would be if Hezbollah were to be given a nuclear warhead and they made some horrible blackmail on Israel, and Hezbollah fired this thing. Secondly, there is the possibility that Iran could obtain nuclear warheads and put them on rockets, but they'd have to test them, and this would become known. There's a feeling among people who follow Iran that the Iranians aren't suicidal. Alright, they're going to get one or two bombs, or ten bombs, but is it worth it if the Israelis and the Americans and Europe and probably even Russia and China come down on you to this degree? The answer is no. But what they want to do is poke us in the eye enough to get our attention, which is not easy to do. What Iran is really saying is that we're essentially partners in Iraq; we don't want a Sunni extremist government in control of Baghdad. We don't want Afghanistan in a civil war. We want to be treated as a power in the Gulf and you're ignoring us and imposing pre-conditions. We're a very proud people with a long history.

**In your recent book, you mention that, "we're facing a crisis with Iran that will make the sub-prime crisis look like a walk in the park." Can you explain this in a way that would provide insight and direction for future US foreign policy decision-makers on Iran?**

The fact is that every day there's the potential for an accident or action that could put us in a war with Iran. And the Iranians, I think, if you look at Lebanon, if you look at their capability with rockets, they could take out Saudi Arabia's oil facilities. So let's say with Obama in the White

House, the economy's [faltering], and we are in the beginning of a depression, and suddenly oil hits \$200 a barrel--and it would, if we took 17 million barrels off the markets--and if we're not in a depression by next year, \$10 for a gallon of gas will put us into a depression. At those prices we're going to forget about the sub-prime crisis because people won't get food delivered to their grocery stores.

This doesn't mean that Iran is going to send its army into Saudi Arabia and take the country, it just means that they have this enormous deterrent capability, much as the Chinese or the Russians did with their nuclear weapons; we could not afford to invade Russia or China once they got nuclear weapons. Iran's equivalent of a nuclear weapon is to take out the Gulf's oil facilities. Granted, it would be mutual destruction on both sides, but they will use it. I'm quite certain of that.

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**What actions have Gulf countries taken to mitigate this risk? You mentioned the United Arab Emirates building a canal around the Straits of Hormuz and there's also potentially a pipeline in the works to avoid passing through Iran. Will those measures mitigate the risk of Iran controlling their oil supply?**

Ultimately no, because it's too expensive right now; no one has the money for that. But it's not going to work because the Iranians could simply take out Abqaiq which produces 67 million barrels of Saudi oil per day. They could also take out Ras Tenura. The Gulf is a very small place and rocket batteries are very easy to hide; you can't take them out immediately. So the best thing they could do is to appease the Iranians in the hope that we don't [irk] them in a big way.

**And are they doing that now?**

All the time. In statement after statement, they are saying we are not a part of the American-Israeli war on Iran. If a war happens, it's not our idea. We're not going to give over-flight permission for Israeli aircraft. They reassure the



Iranians almost every day. A new basing agreement in Iraq specifically states that we will not use Iraq to launch an attack on Iran. The Iranians insisted on that provision before they would let the legislators go ahead with this in the cabinet. This is what our embassy is saying as well—Iran had a determining influence on this base agreement and the primary condition was that our troops couldn't use Iraq to attack Iran.

So you've got all the Arabs backing away from a weakened United States, you can't do anything about Iran short of full-fledged invasion, you know if you put a million troops in uniform and send them to Iran no one's going to stand for that in this country, and there's nothing the Israelis can do, so it's a Mexican stand-off if you like. It leaves Iran as the decisive, pre-eminent power in the Gulf, after the United States.

### **How much control does Iran currently have over Iraq? How obligated are the Shia Iraqi to Iran?**

You're going to get into a huge argument on that today. A member of the Quds force was arrested recently, and he was turned over to the Iraqis and was released. The Iraqis will tell you that it was the Iranians who got him released. The Iraqi Sunni intelligence people say that no one makes a decision inside the cabinet without going to Tehran. They will also tell you that it was the Iranians who allowed the deployment of the Iraqi army into Basra and Karbala and other places and Sadr City simply because they want to keep a lid on Iraq for obvious reasons. And my bias is stronger than that of most people and I always fall back on our Ambassador, Ryan Crocker, who said it's the Iranians who held up the base agreement, it's the Iranians who demanded these provisions (and got them by the

**The Iraqi Sunni intelligence people say that no one makes a decision inside the cabinet without going to Tehran. They will also tell you that it was the Iranians who allowed the deployment of the Iraqi army into Basra and Karbala.**

way) and that's our ambassador, so I'll leave the last word with him.

### **How will Iran's power structure change if the US withdraws troops from Iraq?**

I think the Iranians are going to demand neutrality at the very least from whatever Iraqi government succeeds when we leave. They will

not allow any hostile power to set up base there, which includes the United States, or Israel or Sunni radicals. I think they will encourage trade. I think they will encourage a voting bloc in OPEC between Iraq and Iran. Iran does not want a heavy-handed presence in Iraq; they do not want to invade nor put troops there. The Iranians, in this quest for empire, have never imposed

Persian culture anywhere they went. I mean you won't even see the Iranian embassy in Beirut because that's not what they're about.

### **How does Iran overcome the Sunni-Shia divisions in its quest for power?**

Iran crushes the Sunni. Any time a Sunni radical sticks its head up it crushes them. It's done that in Iran, it'll do it in Iraq. The Iranians will arm anyone they want to go in and crush them. What scares the Iranians most is to have an unstable state in Iraq—they've got Afghanistan and Pakistan on the other side and they don't want a crazy regime in any of those states. From a CIA perspective, if you want to raise all hell in the Middle East you would encourage this.

**What scares the Iranians most is to have an unstable state in Iraq—they've got Afghanistan and Pakistan on the other side and they don't want a crazy regime in any of those states.**

**What's going on in the minds of the Sunni country leaders? What does this mean for the Sunni countries of the region? How do you think they're going to react?**

They're terrified. I was in Pakistan this year and I talked to a Pakistani intelligence officer who used to meet Bin Laden. And I asked, "Was it all worth it, this war in Afghanistan in the 70s and 80s?" And he said, "Well not really because Iran won. Iran beat the Sunnis. We fought the war, but it was the Iranians who won influence," which is really an empire by proxy. Iran won, and so the Saudis are terrified. Why shouldn't Saudi Arabia break up? It's an artificial country; it was created in the 1920s and 1930s. Who's to say it won't be divided between Jeddah, the Hejaz, and Eastern Saudi Arabia? It could very easily break up, and who's going to stop Iran, now that it has a predominant influence over the Shia in Iraq, from inciting the Shia in the Eastern province? I mean they sit all along the rim of the Gulf. These divisions, we don't think about them.

I just did a book tour, and the people that really praised my book were the Washington set who have been following this for years, in the Pentagon in particular, and people in the Middle East. The Sunni Arabs in particular were bitter about the book because it shows them as incompetent. I said well you are incompetent. They said right, but we don't like it. And for the rest of the country, it's all very esoteric.

**You also made similar statements along the lines of Iraq and Pakistan also breaking up—can you touch on that?**

You see Baghdad as falling more and more to the Shia. I think they want the city and I think they have the demographics to take the city. The Kurds are just never going to go back to where they were. They don't want to be part of an Arab Sunni Iraq or an Arab Shia Iraq. They just don't want to go back...they've got oil, and they're up in those mountains. There's no central

government in Baghdad that could force them out or re-take the Kurdish northeast. And I think Pakistan is breaking up. You know people who really know the country talk about the breakup of Pakistan. I'm not a Pakistani expert but groups affiliated with Al Qaeda are in the major cities—they're in Islamabad and Lahore. It's not just the tribal areas. And now the Pashtuns are so [angry]. They're furious that Islamabad has an alliance with the United States; they're getting bombed.

It's just moving more and more to an unmanageable country that was made up as well too, that was made up in four provinces—five, if you include Kashmir. So these countries are not that far from the edge.

**So if the coup in Iraq would have worked the idea was to keep the Sunni regime in place, no invasion—you know, sunshine and lollypops.**

**When you were in the CIA your plan to overthrow Saddam was abruptly curtailed by the US government. Your job was put on the line; you were called an outlaw, a maverick. But do you think it would have been successful? And, if so, what would Iraq look like today?**

If this coup that I was involved in 1995 had been genuine, and you just don't know until you actually pull the trigger, that's the nature of overthrowing governments. So if it had worked, the idea was to keep the Sunni regime in place and that would have been the military. So you bring in a general—that's a tall order—who controls the country—what I like to call a Saddam Light, someone you can talk to, someone that we could have immediately rushed in, recognized and armed against an Iranian threat and restored some sort of civil society to Iraq—that would have been the ideal. I mean, we had five generals in place. Whether they would have run for it the day the coup started I have no idea, but they all had solid records: they had not killed Kurds and they were not part of Saddam's family.

On the other hand, people try to cast me as some kind of opponent of [Anthony] Lake. What happened on that issue was that the head of the Near Eastern division, a guy named Steve Richter, sent none of the memos to Lake. So Lake heard about this whole thing by way of the Kurds and a

couple of other people. And he said, "What in God's name is going on here, why didn't I know about any of this?" And that's when someone from his office called the FBI and the CIA. This thing could have been stopped very easily in the beginning had Lake known about it. Or he could have supported it. So it was just raging incompetence in the US government. I mean how you could have a coup ready in Iraq and not tell the National Security Advisor. I don't know—but that wasn't my problem. So if the coup in Iraq would have worked, the idea was to keep the Sunni regime in place, no invasion—you know, sunshine and lollypops.

**Do you feel that US intelligence has a good read on Iran? What are the indicators to look at when assessing Iran?**

Well, I think the people who follow Iran from day to day understand it as well as I do, or many of them better than I do. There are just certain inroads into Iran that are unknown to the general public. So when they say that Iran has suspended its nuclear weapons program, I tend to believe them. The problem is that the dialogue about Iran is at such a superficial level—it's about weapons of mass destruction. How many good books are there on Iran? When you think about it, you've got five or six. We just don't pay attention to it. I mean there's been no good academic book on Iran since Nikki Keddie, and she's dated. An important related book is *The Shia Revival* by Vali Nasr.

**If the literature does not answer our questions, then why don't we talk with Iran? How do Iranians feel about Obama? Do they take him seriously when he talks about dialogue?**

I think there's an interpretation that the Iranians loosened up on the basing agreement because of Obama's win. I think they see a coincidence of things going their way. I mean,

we're committed to leave Iraq; they beat George W. Bush in a sense because he wanted to keep bases. So I think that's a good thing.

**So if we talk to Iran, how do we know we can believe them?**

You have to do it piece by piece. You've got to figure out what their minimum demands are and what ours are, and they have to slow down their re-arming of Hezbollah. They can't resort to

terrorism. I got an email from somebody in the Pentagon. He was quite certain that the Iranians were behind those attacks in Yemen in September. Without any evidence, I just pass on something like that. With Iran I've got to see the evidence in black and white. I can't take that from newspaper stuff or comments by exiles.

**The more aggressive we are in the Southern Tier of the Soviet Union, the more aggressive we are on Russia or on whatever front—Venezuela, the more likely they are to arm our enemies, which would be Iran.**

## PIPELINE POLITICS

**How does Iran use its large supply of oil and gas to control politics in the region? What role do neighboring countries play in this balance of power?**

I've heard about Iran taking oil to the Emirates for refining and for sale. The Iranians can't refine it, so they pretty much have to take it out in ships and send it down. I know about this because I follow the oil industry. People talk about vast discounts off the Dubai plats—essentially stealing the oil. A discount I recently heard about was \$18 off Dubai plats which is a huge amount of money off the market price. So, oil is still being stolen right and left. Plus there's a criminal element in Iran that would take advantage of this as well. Iran is a very complicated country. It's not a totalitarian dictatorship; they've got crooks and narcotics gangs and people making money off of oil. And what better place, just as the Americans made money off Iraq, for Iranians to make money there as well.

**In *The Devil We Know*, you mention that there's an emerging alliance between Iran and Russia that will lead to a stranglehold on Gulf and Caspian oil and gas exports, potentially affecting half of the world's trade in oil. Can you talk about the great game to acquire fossil fuels in the Middle East? How will this play out? And more specifically, what pragmatic options are on the table for US policy-makers?**

Well, it's a simple calculation of Moscow. They're saying, "You [messed] with us in Georgia by extending NATO so we're going to arm Iran. We're going to keep the nuclear issue from going to the UN. You go anywhere in the Southern tier and try to undercut us, and we're going to arm Iran." They don't have to do it directly: they can do it through Moldova, they can do it through the Ukraine, or through any place that makes arms. And we're essentially going to put the Iranians in a position where they are not only going to be hostile to you, but they are going to be armed enough to deter your attack.

This is classic balance of power politics. The Chinese are the same way—they go to Iran and say, "We'll arm you, but you sell us oil. We'll have this alliance." Now, of course this recession has thrown everything up in the air, and the leverage of oil has completely fallen back to what it was—back to 2004 at least. But that doesn't keep these sorts of alliances up in the air. And the more aggressive we are in the Southern Tier of the Soviet Union, the more aggressive we are on Russia or on whatever front—Venezuela, the more likely they are to arm our enemies, which would be Iran.

How much longer can we afford to stay in the Middle East? How much longer can we afford to have two armies in Afghanistan and Iraq? We need some help. We could probably keep our carrier troops there; that's not too expensive. But we need help. And if I were going to go for help from anybody, it would be Iran.

**If we misunderstand Iranian power, it's a lot more likely there's going to be an accident and we're going to go to war with them.**

## US POLICY IN SOUTHWEST ASIA

**What about the argument that we started the war so we have to finish it?**

It sounds like a gang fight. We've been dissed; we can't live in the 'hood as long as we're dissed. I'd say we got out of Vietnam—and who even noticed? Yeah, it was unpleasant for a year, for our allies, but in terms of national security it didn't affect us at all, we just went on. I mean, Vietnam's our best ally now. So you declare victory and get out, both in Afghanistan and Iraq.

**What are some of the emerging threats facing American allies on which we're missing the signals?**

The CIA report that came out last week about China rising—that's about the economy. What I deal with is the Iranian threat, and the fact that it's not a linear power like we're used to. It's not a Second World War, where they defeated the Axis Powers. They've carried on this war so cheaply

for so long, and we're missing all this and we're looking at traditional powers like China because the Chinese have a large army, and they've got a missile force, they've got an Air Force, they've got a nuclear bomb, but the

chances of us ever going to war with China are not very good—one of us is going to back down, or come to an accommodation. But if we misunderstand Iranian power, it's a lot more likely there's going to be an accident and we're going to go to war with them.

**Could you say the same about Hezbollah?**

They're the only guys that beat the Israelis, you know. And they placed their king, Hassan Nasrallah, as the only guy to ever beat the Israelis on the field of battle. They've had their clocks cleaned for so long, and the Arabs are just tired of it. Whether they like his ideology or his being a Shia or anything else, they overlook it and look at

him as a military commander, and that's really given the Iranians a boost. They intend to benefit from this by securing the same sort of victory in Iraq as they did in Lebanon.

If Iran were to have veto power over the government in Iraq, and to make a cohesive military force, the Middle East would be that much closer to changing, and that much closer to destroying Israel. What the Israelis are saying to us is that they think the Iraq War is a fiasco empowering Iran, you've got to do something about Iran right now, and we're not talking just about nuclear weapons. We cannot afford for them to become a strategic threat, looming on our Northern border, maybe one day in Egypt and Jordan. It's a catastrophe for the Israelis. And we have ignored this for so long.

### **Do you foresee Israel responding with military action against Iran?**

It depends on how much we mess up Iraq. If we pull out of Iraq, and it becomes an Iranian entity, like Lebanon, and Jordan starts to go the same way, the Israelis may think, "Let's do it." It's a Hail Mary pass, but let's see if we can push Iran into some sort of revolution, or at least take out their strategic weapons, or at least drag the US into a confrontation with Iran and let the Americans do it. If we get out of Afghanistan and Iraq and the Iranian power spreads, like it threatens to do, then we're really in trouble. Then how do you get the Americans engaged?

**If we pull out of Iraq, and it becomes an Iranian entity, like Lebanon, and Jordan starts to go the same way, the Israelis may think, "Let's do it." It's a Hail Mary pass but let's see if we can push Iran into some sort of revolution, or at least take out their strategic weapons, or at least drag the US into a confrontation with Iran and let the Americans do it.**

### **What's Iran's plan to continue what you call its "unshakable belief in its right to empire," and what will the reaction be from the rest of the region?**

I think we're going to see a Sunni defeat. I think that the Iranians are going to be into a position to strong-arm Saudi Arabia. I think that the United States will leave Iraq and that we're going to leave Saudi Arabia to a large degree at the mercy of Iran, and if Iran wants to effectively co-administer Mecca, they'll get away with it.

### **What was one thing you encountered in your travels to Tehran and interviews with Hezbollah that stood out as something that people would never believe?**

One thing I'll never forget is going and seeing the aftermath of a suicide bomber. They took this kid, and not only did they get him in a van full of explosives, but to drive through the front door of a base and strike devastating blow to the Israelis. The Israelis couldn't imagine this happening; it was the beginning of the end for them. And the Marine bombing, the embassy bombing—the fact that they could keep the details of these operations secret for so many years—it's not because of our incompetence; they just know how to keep a secret. I mean don't you find it shocking that this happened in 1983 and no one in the family came forward? No political leader came forward to claim credit for it. They've kept the secret for 25 years now. I thought it was a telling turn in history, that they can do this and they can keep their plans secret. It's always a wonder how different the Iranians are from the Arabs.

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

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Anna Wolf, Fletcher MALD 2010, transcribed this interview from an audio recording made by the author.



## Interview with Mr. Gabe Kadell, Refugee Relocation Specialist: “New Faces in a Different Land”

*Michael Mylrea*

War refugees have many faces and stories that the media tends to miss. While the news focuses on images of conflict and violence, it glosses over the fate of refugees who are forced to flee and start their lives over in completely foreign lands. Fearing the threat of violence, millions of Iraqis were forced or chose to flee from their homes to Jordan and Syria.

Following an international and domestic outcry condemning the displacement of over four million Iraqis due to the 2003 war, the United States Department of State has agreed to bring tens of thousands of Iraqis to the US over the next three to four years. Having played an integral role in this effort, Mr. Gabe Kadell, a graduate of the Denver University Graduate School of International Studies, an Arabist, and refugee relocation specialist joins *al Nakhlah* to illuminate the other face of war through his experience working with war refugees.



*Michael Mylrea is a recent MALD graduate of the Fletcher School of Law and Diplomacy at Tufts, where he is Co-Editor-in-Chief of al Nakhlah. Mr. Mylrea is a research director for oil and gas at a private think-tank and conducts research at MIT Lincoln Lab.*

Mr. Kadell works as a refugee relocation specialist for the African Community Center, a refugee resettlement agency in Denver, Colorado. Mr. Kadell’s primary responsibilities are to find employment for and relocate refugees, primarily from Somalia and Iraq. But moving to a new country and culture provide a challenging and rewarding day in the life of war that is often not seen on the news.

### **What different programs exist to relocate Iraqi refugees?**

One is the Match Grant program, geared more for those with a stronger educational background and English-speaking ability, as they are expected to find employment and become self-sufficient within four months. Under Match Grant, the recipients receive a set amount of money for four months (about \$1200) and their case managers are expected to provide or ‘match’ in value the amount of cash assistance the Match Grant recipient receives through donations such as computers, furniture, volunteer hours, etc.

The other program is called the CARES program, which stands for Colorado Alliance for Refugee Empowerment and Success. Under the CARES program, refugees are strongly encouraged to find employment within four months of arrival, but they can still receive up to eight months of cash assistance if they are unable to secure a job during the first four months.

## What happens if they cannot find a job?

As an incentive, recipients of the CARES program can continue to receive their CARES cash assistance in addition to paychecks from work during the first four months, but following the fourth month, if they have found a job, then they only receive the income from work and the cash assistance will end. If they do not find employment after eight months (in the CARES program) or four months (in the Match Grant program), then they must apply for TANF (Temporary Assistance for Needy Families), which is also referred to as welfare. However, TANF is only eligible for those with children, and others who are married or single and do not have children do not qualify.

For those that do not qualify for TANF, they often move in with friends or family, and receive assistance looking for jobs and filling out applications from a department with the Denver Office of Economic Development created solely to help unemployed refugees who have been in the United States longer than eight months.

## What other services are offered?

Other primary services offered to refugees through the resettlement agency include case management, English instruction, and a two week cultural orientation session to educate new arrivals about basic laws and customs in the United States. In addition, refugees are provided a furnished apartment with some kitchen utensils and toiletries. Case managers are responsible for filling out applications for social security cards, accompanying new arrivals to the refugee clinic to get immunizations and medical check-ups, applying for food stamps and Medicaid, and referring adults to free English as a Second Language program at a local school. There is someone who is responsible for registering the children for school and the employment

specialists refer all adults to a two week training program called WorkStyles which focuses on finding and securing employment in the United States through instruction on how to fill out a resume, interview strategies and basic work etiquette.

Another program where employment specialists refer refugees is called the Work Intensive Skills Camp (WISC) where a group of four teachers have their students simulate basic job skills performed in a hotel or restaurant such as how to stack a housekeeping cart, how to operate a cash register, how to provide good customer service, how to file documents in alphabetical order, how to fold sheets, and how to accomplish assigned tasks as a team.

## What kind of skills and background do most of the refugees come with?

**The Iraqis comprise a very diverse group of people with exceptional talents and abilities to eventually lead a very successful life in the United States.**

Most of the Iraqis I have interacted with have had some work experience and some of them have had post-secondary education. The profiles of the Iraqis I have interacted with are very diverse. One woman worked in the analysis and quality control department of a Baghdad brewery for over fifteen years, in addition to doing water analysis at a water treatment plant

for a couple of years. Another gentleman was the chairman of the Baghdad City Council and owned a restaurant in the Green Zone prior to his arrival in Denver, Colorado. There is a man who worked as an accountant for the Ministry of Housing and another who was a construction foreman for a large construction company in Baghdad. Recently, the U.S. government created a process to expedite issuing visas for Iraqis and also Afghans who have acted as interpreters for the U.S. Military. They fall into a different category under the name of Special Immigrant Visa (SIVs) as they only receive six months of financial assistance.

Many of the SIVs have a lot of professional work experience and often have security experience as well. The list goes on for the variety of occupations and professions people had before



they came to the United States. The Iraqis comprise a very diverse group of people with exceptional talents and abilities to eventually lead a very successful life in the United States.

**What kind of matrix do you have to measure successful relocation of refugees? What are some of the challenges?**

Reaching success or even a modest standard of living in the United States presents many difficulties that all refugees face upon arrival in the United States. The first and greatest challenge is the language barrier. Although many Iraqis speak some English, most do not have a high enough level of English to do the kind of work they did in Iraq as they do not have the adequate vocabulary or understanding of the nuances of American English.

Another major barrier is that certificates, degrees and licenses from foreign countries are not recognized in the United States, which means that the people with professional training abroad must undergo their training again in America.

Another major setback many Iraqi refugees face upon their arrival in the United States is the low-quality housing offered to them and the never-ending frustrations with Medicaid and food stamps.

Many of the apartments where they are resettled are in lower-income neighborhoods that are not very safe at night, the landlords are often very inattentive, and sometimes the rooms are infested with bedbugs and sometimes cockroaches. Of course, some are placed in nicer neighborhoods with better quality housing, but given the limited budget of the agency, most of the apartments are not very nice. Refugees and other residents on food stamps have also been forced to wait longer than usual for their food stamps due to an inefficient computer program that consistently makes errors processing personal information and due to a seriously understaffed department in the Denver Office of Human

Services. With Medicaid there are only certain hospitals and clinics in the area that accept Medicaid and they are often overcrowded and understaffed.

**How do refugees respond to the employment demands placed upon them and how well do they adjust to life in America?**

Upon describing the basic setting a newly arrived Iraqi refugee experiences in their first few months in the United States, one can understand the high levels of anxiety and frustration they feel as they try to start their lives from scratch. Given the stress and uncertainty that the Iraqi refugees face, it is still very difficult to work with them.

**The first year in America is always a time for adjustment and presents the greatest challenges, but they usually establish strong friendships with other Iraqis in the area and within the local Middle Eastern community.**

Many of them refuse any kind of work involving washing dishes, moving carts at a grocery store, or doing housekeeping in a hotel. While these jobs are very unglamorous and the pay is low, they do provide vital work experience, a better understanding of the work environment in the United States, and an opportunity to

improve one's English through daily interaction with Americans.

I generally find that during the first few months after arrival many of the Iraqis turn down most of the entry-level job opportunities that I suggest, but as their eight months and end of cash assistance approaches they usually become more open-minded to most kinds of entry-level work. I should stress that I do not only search for jobs in hotels and restaurants, but I also contact schools, hospitals, daycares, post ads on Craig's list, attend job fairs, and post their résumés on a job board for all people living in the state. The first year in America is always a time for adjustment and presents the greatest challenges, but they usually establish strong friendships with other Iraqis in the area and within the local Middle Eastern community.

**Do some refugees have feelings of resentment that a US-led war in Iraq forced them to leave their country? Do they plan on returning?**

While trying to find employment for the Iraqis has been very challenging and oftentimes frustrating, I have really enjoyed speaking with them and learning about their lives in Iraq. One thing I have gathered through conversations is that some feel their lives were not bad prior to the 2003 United States invasion. As one Assyrian-Christian man remarked, "Life was good under Saddam as long as you were not involved in politics. We had electricity, sewage and running water, Muslims and Christians associated with each other without problems, and we had parties and other social events without fear of violence or sectarian killings." During dinner at his apartment a couple of months ago, he showed me a photo album of his wedding in Baghdad from two years ago. In every picture, there were family members and friends, both Muslim and Christian, and in each of them he pointed to at least one person that had been murdered because of the violence. The population of Christians in Iraq before 2003 numbered approximately one million while today there are less than 50,000. Many Iraqi refugees point out that their lives in America are much more difficult and confusing than in Iraq.

One woman remarked that, "finding a job did not require filling out applications with confusing questions accompanied by a long and tedious interview. We just needed to knock on doors and if we had adequate credentials then we would be hired." Most recently, I spoke to a Kurdish gentleman from As-Sulaymaniyah in the northern part of Iraq densely populated with Kurds, and he said that since his recent wedding a couple of months ago things have dramatically improved in Iraq, especially the hot zones that have consistently received media attention like Baqouba, Fallujah, and Ramadi. I asked him if he foresees himself moving

back and he replied: "I am happy with how Iraq is turning out, but America is the greatest country on earth where I can live a much easier life and not worry about my safety."

I imagine that the Iraqi refugees all have their own opinions regarding the U.S. invasion; some lived decent lives, and others belonging to opposition ethnic groups and outspoken critics of Saddam's regime lived in constant fear. If Iraq retains a semblance of safety and stability, I would imagine that some Iraqi refugees will return to reunite with their families, while others

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will become a part of the large established Iraqi communities such as in Dearborn, Michigan and San Diego, California. As new members of America, the Iraqi refugees will eventually find their way and lead prosperous lives as America still is the land of opportunity and people from all over the world find ways to thrive within our borders. It is just sad that America had

to attack and devastate a nation based on unsubstantiated evidence.

**Are they optimistic about the future of Iraq?**

Among the Iraqi refugees I have interacted with, some believe that Iraq has a promising future, but they still remain skeptical as there is a lot of foreign interference from non-state actors, like terrorists from places such as Saudi Arabia, Yemen and Pakistan, and state actors like Iran. I have not received a complete vote of confidence from any of them about an optimistic or pessimistic view of Iraq's future. Time will have to tell.

**Many Iraqi refugees point out that their lives in America are much more difficult and confusing than in Iraq.**

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**What about those who have family in Iraq?**

For those who still have family in Iraq, they react like any caring family member who has been separated from loved ones, and do everything in their power to try and reunite. An immigration lawyer provides pro-bono services bi-weekly at our organization and there are always Iraqis there in addition to other refugees from all over the

world who desperately wish to bring their family members to the United States.

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



## Notions of Islam and the West in the US-Libyan Relationship: An Historical Perspective

*Farah Bushashia*

### INTRODUCTION

"Oh my God, they found me, I don't know how, but they found me," frantically sputters Dr. Emmett "Doc" Brown, the eccentric inventor of the time machine car in Robert Zemeckis' highly successful 1985 film *Back to the Future*, "[It's] the Libyans!"<sup>1</sup> As Alan Silvestri's background music crescendos, the camera cuts to a Volkswagen bus slowly and sinisterly weaving down a well-manicured, deserted backroad toward the empty Twin Pines Mall parking lot where at 1:15 AM the Doctor and his young protégé Marty tinker with the plutonium-powered time machine. Suddenly the hat-covered head of an unnamed, swarthy, machine-gun-wielding Libyan emerges from the roof of the careening bus as unintelligible, crazed Arabic words vaguely including 'Allah' pass between him and the

**How did an otherwise obscure Third World country previously ruled by a pliant monarch come to constitute a major enemy of the powerful United States for over twenty years, notwithstanding the paradoxical portrayal of its terrorists as both incompetent and threats to national security?**

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driver, presumably verifying that the white-haired man in the lab coat and yellow rubber gloves is indeed the same Doc Brown who took their plutonium and provided them with an atomic bomb consisting of little more than pinball machine parts! After an inordinate number of shots, Doc Brown is taken for dead and Marty hops into the time machine car under hot pursuit from the Libyans who cannot manage to eliminate the unarmed witness as they screechingly circle around the JC Penney department store, cursing both the "damn Soviet gun" and the "damn German car."<sup>2</sup> Finally, Marty achieves the critical speed for time travel and in the bright flash of light the Libyans lose control of the Volkswagen and dramatically crash into a Fox Photo booth promising one-hour photograph development to suburban Californian families.

How did Libyans come to occupy the position of archetypal terrorist in this 1985 film typecasting them as unreasonable, unskilled and unable to defeat ordinary American citizens against a backdrop of contrasting suburban order and calm unfazed by foreign objects and people? How did an otherwise obscure Third World country previously ruled by a pliant monarch come to constitute a major enemy of the powerful United

States for over twenty years, notwithstanding the paradoxical portrayal of its terrorists as both incompetent and threats to national security? What factors were behind the US casting of Libyan Leader Muammar al-Qadhafi in the following successive roles: ingénue junior military officer turned head of state; ideologically-driven pariah bent on shaking up the international system by any means possible including terrorism; dangerous and unstable “Mad Dog of the Middle East”<sup>3</sup> requiring armed response; globally-shunned despot seeking nuclear and chemical weapons willy-nilly as his country’s economy and infrastructure, not to mention citizenry, crumbled; and, most recently, elder statesman having seen the light and wanting to play nicely in the international arena with only occasional recourse to diatribe and unsavory allies? If Libyans were to make a cameo in a movie now, would it be as Western-dressed Libyan intelligence agents tipping off the White House Situation Room in perfect English on a sleek cell phone as to Osama Bin Laden’s whereabouts in the spirit of thwarting common enemy Al Qaeda in the Global War on Terror?

As the above metamorphosis in US-Libyan relations suggests, the idea of an overarching Islam versus the West civilizational divide or a cultural bias as the primary driver of relations with Libya would be difficult to substantiate. Stepping back and considering Libya as an Arab and Islamic country, and taking a panorama of US relations with other Islamic countries, clearly religious affiliation and civilizational identity do not hinder political alliances. For example, the United States has been a staunch ally of the archconservative, antidemocratic guardians of Islam, the Kingdom of Saudi Arabia, since its inception, and enjoys mostly stable relations with the Jordanian and Egyptian client states as well. Until the 1979 revolution, Iran numbered as a close ally of the United States. Saddam Hussein of Iraq rode the

roller coaster of overlapping and then divergent interests until finally he was forcibly removed from power in 2003. Pervez Musharaff of Pakistan constituted another example of support, albeit fickle, for an Islamic head of state.

Yet despite the chiefly interest-driven relations with Islamic polities, a cultural bias exists, selectively manifest during times of strife, more latent during times of cooperation, and varying across countries. Media and public opinion reveal such a bias, as do films. But, to what extent are biased views primordial, held by the majority of Americans based on inherent perceptions of Islamic civilization, or instrumental, stirred up by foreign policy elites and fanned via the media to justify certain policies? And as for the lately eminent notion of civilizational divide, is this something pundits proffer as an oversimplified heuristic to understand world affairs at a particular time and place, or does it evoke a fundamental, ever-present viewpoint only now taking the front burner as international relations primarily take place in the majority-Muslim-inhabited Third World given the denouement of the Cold War? Under what circumstances has a major world religion, Islam, leapt to the forefront of international political problems, and what accounts for the vastly differing treatment of its leaders and followers over time?

This paper seeks to explore cultural bias in the context of changing political relations between the United States and the Islamic state of Libya. Periodization of the relationship will be undertaken to illuminate amplification or downplaying of cultural differences in light of particular political circumstances, as well as to address the above questions of an essentialized civilizational divide. Although Libya as such did not exist before its independence in 1951, the paper will look at the initial Libyan-American encounter as it occurred under a different balance of power and prior conception of Islam. The monarchy under King Idris will also be covered as an era of near

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clientelism in relations, quite unlike the following decades of Qadhafi's rule, which will be treated in the rest of the paper. So, the main focus will be when and under what circumstances do relations ebb and flow with Libya and how do these fluxes relate to cultural bias.

### US-LIBYAN RELATIONS PRIOR TO QADHAFI'S 1969 COUP

A balance of power favoring Tripoli and a more worldly impression of Islam comprise the chief differences of early nineteenth century US-Libyan relations. At this point in time, the United States lacked the resources to outfit a navy strong enough to withstand the Barbary Pirates primarily associated with Morocco, Algiers, Tunis and Tripoli, and Congress could not afford to pay continually the tribute demanded. Prior to resorting to armed conflict, Thomas Jefferson and John Jay had gone to London to negotiate with the Tripolitanian Ambassador who offered that, "[i]t was written in their Koran that all nations which had not acknowledged the Prophet were sinners, whom it was the right and duty of the faithful to plunder and enslave; and that every mussulman that was slain in this warfare was sure to go to paradise...and that the Devil aided his countrymen in these expeditions, for they were almost always successful."<sup>4</sup> Thus, Tripoli was a force to be reckoned with: indeed the US victory in the first Barbary War was proudly memorialized in the famous Marine Corp Hymn opening with, "from the halls of Montezuma to the shores of Tripoli."<sup>5</sup> Despite the Tripolitanian Ambassador's Islamically-construed justification for exercise of worldly power, the US policy driver was avoiding the tribute and did not excessively dwell on the Muslim nature of the adversary, and in addition it was contemporarily commonplace to speak of God and the Devil.

It is interesting to note that these Islamic Barbary States had a connotation of places of mundane pleasure and lacked any fundamentalist or ascetic imagery of today. The Barbary Coast became a word describing, "a part of a city that is

notorious for gambling dens and brothels and saloons and riotous nightlife"<sup>6</sup> (later applied to raucous San Francisco during the 1848 California Gold Rush). One could imagine puritanical New Englanders expressing indignation at the bawdy lifestyles of the pirates and the North African regencies with their harems and comfort in milking advantages conferred by worldly power. What this suggests rather than a civilizational divide is common cross-civilizational perception conditioned by power realities. In other words, the decadence associated with a later-phase civilization is generally rejected on moral grounds by an earlier-phase civilization. For example, shortly after Qadhafi came to power in what some consider the first fundamentalist Islamic revolution in the region, the nightclubs and bars associated with Western presence were closed and, as an aside but indicative of the extent to

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which Western influence was actively routed, in 1970, twenty-five young men were arrested for "copying the Beatles in their queer appearance" as part of an initiative to combat "effeminate youth."<sup>7</sup> Yet instead of seeing Qadhafi's program as arising in response to feared Western encroachment, a Deputy CIA Director precluded the possibility of a worldview stemming from beyond one's primary civilization,

and informed Washington that these purification measures occurred, "presumably out of deference to Islamic fundamentalism,"<sup>8</sup> thereby essentializing something that was actually very much a product of the times.

Lastly with regard to this nineteenth century skirmish, some have cited it as the opening round of a long relationship of discord. However, although Tripoli possessed cultural continuity with present-day Libya, it was not the modern nation-state of today. Moreover, after the second Barbary War ended in 1816, a 165-year era of peace ensued until the 1981 Gulf of Sidra incident in which the United States shot down two Libyan fighter planes over a territorial conflict in the Mediterranean. Relations dulled to the point that the US Embassy in Tripoli was closed in 1882 due

to inactivity, as its main duties consisted of raising the American flag on Independence Day and on the anniversary of the Battle of New Orleans.<sup>9</sup> Therefore, the recent idea of ongoing, intractable conflict likely serves as an explanation for more contemporary clashes. For example, when Qadhafi's son recently wrote that, "Libyan schoolchildren learn that our first encounter came in 1800, when American warships entered our harbors to bombard Tripoli and Derna,"<sup>10</sup> he described more the Qadhafian narrative of Libyan national history. In fact, in the aftermath of the US attacks on Libya in 1986, Libya came out with postage stamps entitled "American Aggression," one of which contained a representation of the US *Philadelphia* ship sunk off the coast of Libya in 1803!<sup>11</sup> In addition, the title of a prominent American historian's book, *Libya and America: Two Centuries of Strife*,<sup>12</sup> speaks more to post-9/11 narratives than to history. Thus, history highlighting conflict gains traction in times of trouble and fades away during more stable times.

In sum, looking at the early encounter adds value to the analysis by suggesting that notions of Islam and the West, far from being static, are much informed by power realities, and that Islam itself has been cast differently from within and without over the years due to circumstance. The next US-Libyan situations to be examined will be World War II and the post-independence monarchy of King Idris. Prior to World War II, the United States had been remote from the Middle East, while European powers further colonized the declining Ottoman Empire. General points relevant to the following analysis are that the colonial experience led to defensive definitions of Islam by its overtaken adherents, that at the time of World War II the United States was seen by Middle Easterners as a non-European power with dissimilar designs on the region, and that the United States had relatively little knowledge and experience with the Middle East before embarking on its post-World-War-II leadership role there.

Given the complementary relationship between Hollywood and the US government during World War II, a synopsis of 1942 Hollywood B-movie *A Yank in Libya* reveals much about the way Libya figured into the American

outlook on the world at the time: earnest American correspondent "Mike" arrives in Libya and stumbles upon a Nazi German scheme to assist tribal leaders in a coup against the British occupiers; Mike purloins one of the guns imported by Nazis to add to the in-cave stockroom of the co-conspiring Sheikh (who, in a typical pre-modern rivalry, is the son of the British-friendly Sheikh) and leaves it off at the apartment of an attractive female British intelligence officer named Nancy, who also serves as the unrequited love interest of the British-friendly Sheikh who spares her from death when the gun is found in her apartment; Mike tries to warn the British Consul who brushes him off since the British have a coup of their own in the works; and, finally, Mike wins Nancy and the Nazi coup is thwarted, but not without seeing some belly dancing and meeting an American undercover agent from Brooklyn posing as a razor salesman to the bearded Muslims of Libya!<sup>13</sup> Salient to note are the stereotypes of Arab culture, the sense that history is acting upon rather than at the behest of Libya, and the image of Americans as bumbling onto an international stage full of danger and intrigue by the more duplicitous and less-principled Europeans.

**In his study of virtually every Hollywood film made portraying Arabs, Shaheen finds Arabs dehumanized and villainized in ninety-five percent of the films, a caricature remaining essentially unchanged through the myriad international events of the twentieth century.**

Further on the notion of cultural bias and following up on the previous citation of another of the very few films to address Libya, the work of Jack Shaheen regarding stereotyping of Arabs in American films lends veracity to the idea of an American cultural bias toward Arabs. In his study of virtually every Hollywood film made portraying Arabs, Shaheen finds Arabs dehumanized and villainized in ninety-five percent of the films, a caricature remaining essentially unchanged through the myriad

international events of the twentieth century.<sup>14</sup> Of what do these stereotypes consist? “Pause and visualize the reel Arab. What do you see? Black beard, headdress, dark sunglasses. In the background – a limousine, harem maidens, oil wells, camels. Or perhaps he is brandishing an automatic weapon, crazy hate in his eyes and Allah on his lips.”<sup>15</sup> The latter description applies particularly well to *Back to the Future!* Why have these stereotypes endured? According to Shaheen, the post-1948 violence and upheaval in the Middle East captured on television news reinforced stereotypes and “serve[d] as both a source and excuse” for filmmakers.<sup>16</sup> In addition, Shaheen notes the lack of civil society response, in terms of uncritical movie reviews, scarcely mobilized Arab-Americans, and weak to nonexistent Arab-American participation in the movie industry.

Shaheen’s argument buttresses the notion of an ingrained American cultural bias against Arabs, although it is worth considering to what extent the views of the few in Hollywood influence the many Americans. Yet regardless of whether the bias is initially held by many or few Americans, the bias is not rejected in public discourse by those Americans digesting the stereotypes. So another question to be explored later will be why Americans are so predisposed to accepting these caricatures. As a final related point, despite Department of Defense collaboration with Hollywood at times, the Hollywood elite is sufficiently removed from the foreign policy elite to obviate the idea of an entirely instrumental cultural bias hammered down from above to suit policy exigencies, though the bias may certainly be reinforced from time to time. Furthermore, the exercise of speech freedoms by many Americans especially media members would make such a scenario difficult to achieve except during wartime or conditions where conception of the national interest are closely and uniformly shared by journalists and policy makers. One caveat to this would be government-planted disinformation, which will be addressed in the next section.

Returning to the project of setting the scene for the entrance of Qadhafi, let us review relevant postwar details. The Libyan trusteeship was

created pursuant to the 1945 Potsdam Conference to check Stalin’s North African ambitions, with Great Britain and America serving as trustees. A 1950 memo to Secretary of State Dean Acheson noted that “[o]ur prestige is probably higher in Libya than in any other part of the area because of U.S. support of Libyan independence.”<sup>17</sup> American backing of independence was tempered however by a realpolitik policy goal of maintaining military base rights considered essential in light of the Cold War. The trusteeship soon gave way to the Kingdom of Libya, led by King Idris who, reminiscent of the “good” sheikh of *A Yank in Libya*, had supported the Allies in World War II. Unlike Qadhafi, Idris saw working with Western powers as the best way to restore Muslim political position.

The US-Libyan relationship during this era mainly consisted of much-needed economic aid in exchange for base rights. Interestingly, Secretary Acheson lamented how major assistance the US provided to Libya, including decisive grain shipments during a severe drought, went unnoticed by the US press. Indeed much of the US-Libyan

**Indeed much of the US-Libyan relationship of this period lacked media attention, possibly due to the axiom of bad news selling more than good news, or to Libya’s obscurity.**

relationship of this period lacked media attention, possibly due to the axiom of bad news selling more than good news, or to Libya’s obscurity. Moving on from aid to base rights, a chief US diplomat in Tripoli attempted to essentialize the Libyan government’s position in 1954 as, “tantamount to blackmail and showing little change from [the] barbary pirate tradition,”<sup>18</sup> yet this was not entirely accurate as the base was a fait accompli and the aid was more a well-meaning palliative than a blackmail payment. In sum, prior to 1969, Libya figured as a key US ally in the Middle East, mitigating challenges posed by the Cold War, Nasserism, and anti-Israeli sentiment, as well as presenting the prospect of a



steady supply of oil given the exploration and development by American oil companies.

Germane from the foregoing are the inherent tensions of a US policy simultaneously advocating self-determination while carving out a sphere of military control to counter an external, non-Libyan threat, and that Islam is not intrinsically anti-Western as shown by religious leader Idris' cooperative stance which differed quite a bit from the eighteenth century Libyan Ambassador's comment that Islam enjoined enslaving non-believers. Also worth noting is the complete lack of issue with King Idris being an explicitly Muslim leader ruling under a legitimacy conferred by religious status, suggesting that Islamic credentials per se pose no problem, especially when coupled with satisfaction of geostrategic goals. Ultimately, the difficulty of upholding pro-Western policies in a pan-Arab environment, anachronistic foreign military bases, shifts in socioeconomic conditions due to newfound oil wealth, allegations of corruption and incompetence in the government, and incomplete ambit of the Eastern-Libyan-based Sanusi religious order, led to vulnerability and precipitated the 1969 coup.

### US-LIBYAN RELATIONS FROM QADHAFI'S 1969 COUP TO THE PRESENT

If graphed on an x-axis of time and a y-axis ranging from normal to worsening relations, US-Libyan affairs between 1969 and 2008 would resemble an asymmetrical Everest starting out at low elevation, steadily climbing until about 1980, steeply ascending until the sharp peak of armed attack in 1986, descending only minimally through the 1990s, plummeting down an escarpment toward normalcy in 2003, and then slowly approaching ground level thereafter. Six phases roughly correspond to the 'gradation' changes: the orientation period following the coup, gradual souring, full-on antagonism, backburner hostility, rehabilitated quasi-ally, and

uncertain non-enemy. This section will not look at every rock in the mountain. Instead, disproportionate emphasis will be placed on the earlier phases of the relationship due to continuity in Libyan rule, enduring themes of conflict, and Libyan isolation after 1986 as well as withdrawal of US Ambassadorial representation between 1972 and 2008. Finally, since Qadhafi has been king of the hill the entire period, factors affecting cultural bias and notions of civilizational divide will be more clear given one less variable to consider.

Riding on Nasser's coattails, Qadhafi came to power in 1969 also to promote "freedom, unity, and socialism," and stated that, "[t]he true cause of the revolution lay in the backward Arab life which reduced the Arab to an almost complete lack of affiliation with the twentieth century. It is by turning to the three slogans that the Arab world rediscovers [its] dignity and [its] place in history."<sup>19</sup> Significant to note are the perception of decline and the lack of immediately antagonistic tone toward the West. Policy orientation for the new regime

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centered on positive neutrality and non-alignment in the Cold War, armed support for the Palestinian cause, and sustenance for what were deemed freedom and liberation movements worldwide. Qadhafi presented a people's Islam as opposed to an establishment Islam, undertaking measures to nationalize *ulema* property, encouraging the masses to rebel against *ulema* authority and take over the mosques, and levying a state-organized religious tax to support *jihad* in Palestine. At a 1970 Islamic Conference, Qadhafi stated that, "we must correctly interpret Islam and the Quran ...Islam is a continuous revolution...[i]t is the mother of all ideologies."<sup>20</sup> These last Islam-related details are listed because they show the malleability of Islam and challenge any notion of a nativist return to an immutable Islam opposed to the West, although there is a fine line between cultural authenticity and xenophobia. Despite these audacious claims to transform Libya, Qadhafi was a junior military

officer of humble origin under the age of thirty with minimal exposure to international affairs, so from the outset pragmatism and polish were wanting.

The inexperience of the junta complicated matters for Nixon administration policy makers unsure of how to receive the new regime. For the United States, chief concerns raised by the coup centered on the disposition of Wheelus Air Force base and the British bases, protection of nearly USD 5 million American investments in the Libyan oil industry, continued access to high-quality Libyan oil for European allies, any militant stance toward Israel, and general Arabist agitations including the overthrow of friendly conservative regimes like Saudi Arabia. A 1970 Department of State memorandum suggestively noted that the Libyan government may have renamed Wheelus “‘Ukba ibn Nafia’ after the 7<sup>th</sup> century Arab conqueror of North Africa (who also expelled the Christians from there).”<sup>21</sup> It is worth noting with regard to civilizational casting that the air force base is now named after a young girl who lived nearby and died from an American military accident. Qadhafi was not initially described as an Islamic threat, nor were his Islamizing measures on the radar screen, perhaps because the context in which the Islamizing measures were made did not threaten vital interests, as for example the 1979 Iranian Revolution would. The main menace posed by the new Libyan government was whether it would creep leftward toward the USSR, which was dealt with in a less panicky manner given National Security Advisor Henry Kissinger’s policy of détente. In the press, coverage largely addressed the fate of King Idris, American Jewish groups’ outcry against anti-Israel statements and possible arms deals with the French, and the evacuation of the Peace Corps; this news was a far cry from the sensational stories to come.

Although publicly the new government was recognized, measures to influence if not alter the regime were discussed. In a recently declassified “Paper on Possible Alternative Pressures on the Libyan Regime” addressed to Kissinger, four options were considered: enlist NATO allies to pressure the Libyan government to honor its commitment to military base leases (considered

impractical because European allies had more vital economic relations with Libya); economic pressures curtailing oil involvement (considered unfeasible because US oil companies would lose money and Libya had plenty of market for its oil); military display of force using the Sixth Fleet (unworkable because armed forces could not commit further than a show); and a fourth

blacked-out option likely detailing a covert countercoup, as the option is later referred to as some kind of political pressure.<sup>22</sup>

The point to make here with regard to

the overall analysis is that because the US lacked sufficient leverage to change the behavior of the regime using the first three pressure points, the levers of covert political pressure and discrediting the regime via media and public announcements became key tools; in other words, the nature of power in the relationship dictated both reliance on covert measures and the use of media to influence domestic and international public opinion of Libya as well as the regime’s view of itself. So, gaps in knowledge about happenings in Libya, instrumental use of media, and activated cultural bias, all against a backdrop of tumultuous events, account for much of the volume, variance, and venom in the media over the years, as admittedly does the person of Qadhafi himself. For this orientation period, however, the memorandum authors recommended a wait-and-see policy.

The relationship soon began to sour. Despite strains regarding delivery of F-5 planes and Arab politics, analysts within US Department of State noted that, “Qadaffi and his supporters are

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prepared to make one last effort to preserve a basically U.S./Western Europe orientation of Libyan society and its oil-based economy.”<sup>23</sup> Tensions over the US relationship with Israel and whether force was necessary to resolve the Arab-Israeli conflict constituted the major wedges, as illustrated by the following conversations between Qadhafi, Major Jallud and US Ambassador Palmer:

[Qadhafi] asked what is reason for this special US relationship with Israel...he could see no historical, geographical, religious or other rational basis for it. Thus, he must conclude, USG[US Government] doesn't like Arabs: 'Why does US hate Arabs?' he asked. He said that he learned in Cairo and elsewhere that other Arab leaders agree that the sole problem they have with USG is American commitment to Israel.<sup>24</sup>

Relevant to the general question of when and how notions of civilizational divide arise, Islamophobia was cited one year later as a last-ditch explanation for US policy:

Qadhafi asked why does USG adhere to its commitment to Israel... [since] U.S. interests in Arab world far outweigh its interests in Israel. He said he could not understand Washington's special tie to Tel Aviv: could there be a Jewish-Christian pact directed against Islam?... After firmly rejecting any suggestion of Islamophobia, I[Ambassador Palmer] said USG is committed to a just peace in the ME[Middle East]...(Jallud at this juncture remarked to Qadhafi that I earlier had told him that ME problem, like Viet Nam and Korea, could be resolved peacefully through negotiations; Qadhafi smiled agreement with Jallud's grimace of incredulity at this idea.)<sup>25</sup>

These conversations are quoted at length because they underline that the regime did not start out

anti-Western and the Islamophobia explanation was neither the first choice nor satisfactory, important to the civilizational divide strand, and that fundamental disagreement over the Arab-Israeli conflict more than any other interests drove tensions well into the future, including the explosive terrorism issue.

Though this paper does not seek to delve into the thorny topic of terrorism, comparing the 1978 and 2008 Libyan views of terrorism suggests that a common definition remains elusive, but that greater momentum to tackle terrorism as an international problem exists. In general, the chief differences center on: whether one views violence differently on 'wholesale' and 'retail' levels; what the contours, if any, of just use of force would constitute; how far chains of causality stretch; and how interrelated are events. At the first Arab-American People-to-People Dialogue Conference, which took place in Tripoli in 1978, Qadhafi commented that:

Foreign bases, nuclear weapons, starvation, economic warfare, naval fleets, hijacking of planes, the holding of hostages for ransom, and the killing of innocent people are all acts of terrorism. If we are serious in combating terrorism, we have to put all these deeds on one list and find the necessary solution for them. ...

[W]hen a Palestinian hijacks a plane to express his despair, the U.S. shakes the world by saying that this is terrorism and an end should be put to it. We are in agreement with the U.S., an end must be put to terrorism, but we should seek solutions to the underlying problems which have led to this kind of terrorism.<sup>26</sup>

And another quote, again given at length because it cuts to the quick of current issues, speaks to what Noam Chomsky would term 'National Security States,' policies of short-term pragmatism contravening principles, and the cultural bias against Arabs:

History has recorded the insult to the Americans by their mobilization of all their resources in the service of evil, reaction, backwardness, dictatorship, fascism and oppression. ...It seems that in view of Americans, human rights are applied only to some people. ...Oh, people of America – I cannot address you as friends because we were not friends, and we are not yet friends – I say: Oh American guests, after this review and all these explanations you should be able to understand whether or not we have aggressive intentions. You can also understand whether we are backward, or whether we have ideas.<sup>27</sup>

As concerns the present, although Qadhafi promptly condemned 9/11 and indeed was the first to report Bin Laden to Interpol in 1998, he still presents a different rationale: while terrorism

**Rapprochement analysis portraying Qadhafi as having seen the light or become rehabilitated imply that he came around to Western morality, but a more valid approach would be to identify a convergence in Islamic and Western morality and work toward a more universal view.**

constitutes a “horrible scourge” it is “a justifiable act for those who commit it... [which] is its danger;” and Bin Laden is problematic because of the “heresy” of his ideas such as the Caliphate.<sup>28</sup> Rapprochement analysis portraying Qadhafi as having seen the light or become rehabilitated imply that he came around to Western morality, but a more valid approach would be to identify a convergence in Islamic and Western morality and work toward a more universal view.

Moving back to the 1970s and on to a less emotive, convoluted issue, oil comprised another key contributor to spoiling relations. In 1970 Libya

became the first Middle Eastern or North African country to negotiate a raise in oil prices,<sup>29</sup> and in 1973, the year of the first oil embargo, Libyan oil was the second largest source of US oil imports. Media coverage of oil shocks illustrated greatly amplified cultural bias in light of a conflictual situation and non-systemic views of the global economy. For example, a histrionic 1973 *TIME* article entitled “The Arab World: Oil, Power, Violence” highlights the foregoing as well as notions of civilizational divide in citing the Crusades:

Suddenly the Arabs, 100 million strong, backward and neglected and abused for centuries, have begun to realize the proportions of the strategic weapon they hold in their hands. They have long complained of the money that Israel has received from the U.S. and Western Europe. Now they are receiving another sort of bonanza—a hundred times over. Their oil wealth is in the process of changing their history, bringing them a power they have not known since the time of the Crusades—a power that could be used for peaceful development or for violence and revenge.<sup>30</sup>

And the following extracts speak to how Libya became a top enemy of the US, to the evolution of Qadhafi’s image, and to how Arab nationalism takes on an essential character as seen by the use of the word “instincts” to describe its motivation:

The recent thrust toward Arab control of Middle Eastern oil began in 1970, and the man who started it all was the new, young (then 28) and hotheaded ruler of Libya, Colonel Muammar Gaddafi...[who was] [s]purred by the instincts of Arab nationalism and pride...[and is] handsome, devout, ardent, even fanatical.<sup>31</sup>

Qadhafi had earlier complained to Ambassador Palmer about media coverage, though he too essentializes American motivation for outcry over oil:

unwarranted attacks and criticisms of LARG [Libyan Arab Republic Government] and LARG personalities, including Qadhafi himself, appear in US media. He cited recent *TIME* magazine article, several reports in *New York Times* – ‘We seek our rights’ re oil, Qadhafi commented, ‘We are not irresponsible.’ – and article in *National Review*. These indicate American writers motivated by hatred and blindness vis-à-vis LARG.<sup>32</sup>

In sum, the way cultural bias appears in the media is conditioned by the degree of conflict in political relations, and citation of civilizational divide correlates with intractability of political conflict.

Now let us return to the question of why Americans are predisposed to accepting the cultural bias and intimations of civilizational divide toward Arabs in general and Libyans in particular. As earlier mentioned, factors such as turmoil in the Middle East and weak civil society presence of Arab-Americans contribute. Obviously, the bias is not monolithically held, as a Libyan government official noted to an American diplomat in 1970: “there are individual private Americans who understand and appreciate the Arab position... [yet they are] completely without influence in American society.”<sup>33</sup> For Europe, histories of the Crusades and perceptions of Muhammad as spreading religion via the sword held more sway than for the US, which did not directly share an acrimonious history with Muslims. In terms of policy, the US supported self-determination in the Middle East until previously discussed post-World-War-II strategic considerations made this unfeasible. Thus Islamic leaders threatened the stability of the international system rather than essentially proved troublesome, notwithstanding the cultural bias. Qadhafi, with his spreading of revolution and third world populism using Islamic symbols, caused American diplomats to worry about his

“proclamation of an Islamic state, his promotion of Islam as the religion of the ‘black man’ in Africa, and his spreading of Islamic ‘radicalism’ and ‘terrorism’ worldwide;” in fact, “Qadhafi’s Islamic campaign influenced US official perceptions of Islamic revivalism long before the Iranian Revolution.”<sup>34</sup> So, rival political pressures under the banner of Islam provoked: the combination of powerful acts associated with Islam, rather than Islam in itself or any history with Islam, colored perceptions.

Moreover, while political conditions incline Americans to accept this bias, the American educational treatment of Islam greatly exacerbates

**Islam has not been taught in relation to world history but rather with respect to the American political experience with Islam, namely through the Arab-Israeli conflict and Islamic leaders such as Khomeini, Qadhafi, and Assad**

matters, as in the 1970s “it was quite possible for a citizen of the United States to grow up, graduate from a major university, and pursue a career without knowing anything about Islam or the Muslim world.”<sup>35</sup> After the 1970s, more international education appeared in American schools, but, significantly,

“[m]ulticulturalists argued that the curriculum should include Islam and other world religions, not because world history does not make sense without them, but because Muslims and others now form significant groups within the American population.”<sup>36</sup> (And it is worth noting that even the imperfect project of multiculturalism faced opposition in the 1980s from those who wished a purely Western educational experience.) Following from this American-centric rationale, Islam has not been taught in relation to world history but rather with respect to the American political experience with Islam, namely through the Arab-Israeli conflict and Islamic leaders such as Khomeini, Qadhafi, and Assad. Not only does this affect how Islam is received, but also perpetuates a vicious cycle wherein biased media coverage of Arabs and Muslims is used in the classroom, and then students absorb these views and propagate them later. In addition, textbooks “portrayed Islam in light of the Arab nomadic society and the life of the Prophet of Islam while deliberately downplaying the Abrahamic legacy

in Islam” thereby “disconnecting Islam from the Judeo-Christian tradition;”<sup>37</sup> thus Islam is seen as an entity apart from Western civilization, which hinders student construction of the comprehensive, dynamic worldview needed to understand better international politics.

To pick up the policy thread, by the time President Reagan took office in 1981, the US and Libya had terminated diplomatic relations. The previous Carter administration had emphasized dealing with developing countries themselves rather than exclusively through the Cold War prism, and increased scrutiny over issues such as human rights and the environment. Consequently, emphasis shifted from Libya’s dealings with the USSR to Libya as a state-sponsor of terror and derailer of the peace process through its support of Palestinian rejectionist factions. Libyan terrorist activities had been noted from 1969 on, but Congress and the Executive had struggled in both the Nixon and Ford administrations over whether to designate Libya a terrorist state. Then as lately occurred with the rapprochement, the Executive leaned more toward interest-based politics whereas Congress, as representative of the people, was more responsive to public sentiment and interest groups. Therefore, given cultural bias, collective memory of contemporary events like oil shocks and terrorism, and paucity of knowledge of Libya apart from the demonized Qadhafi, the inertia of the political relationship rests at conflict.

Adding to this inertia, the Reagan administration sought to mold public opinion toward Libya via a disinformation campaign portraying, “Qaddafi the lunatic, Libya the Soviet proxy, Qaddafi the major source of international terrorism, and repressive Libya, all of which were also reflected increasingly in official statements from the U.S. government.”<sup>38</sup> Thus, President Reagan was able to conduct the first prime-time American military operation, to the tune of a seventy-six percent approval rating.<sup>39</sup> An article appearing in *TIME* shortly thereafter explaining the attacks entitled, “Gaddafi: Obsessed by a Ruthless, Messianic Vision,” connected his terrorism with Islam:

his messianic vision, like the turbans in which he wraps himself, does not camouflage his vicious methods and ruthless fanaticism. ...He has become the modern-day incarnation of the society of Assassins, which flourished from the 11<sup>th</sup> to 13<sup>th</sup> century in the Middle East...[he] regards himself not only as the last great hope of Pan-Islam but as the scourge of the West, which he fervently believes has humiliated the Arab world for centuries. It is a humiliation he intends to avenge.<sup>40</sup>

However, exercising the speech freedoms previously cited as counterbalancing entirely instrumental bias, American journalists published questioning articles, such as Bob Woodward’s “Gadhafi Secret Target of Secret US Deception Plan” appearing in the *Washington Post*.<sup>41</sup> In addition, Qadhafi had over the years targeted the American

people with open letters in newspapers and interviews, but as mentioned before regarding polish and pragmatism, these had little effect. After 1986, Libya withdrew from active

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antagonism into back-burner hostility, which simmered through the 1990s, in connection with Lockerbie, designation as a rogue state, and pursuit of weapons of mass destruction.

To briefly conclude this section and return to the focus on how cultural bias relates to political circumstances, it is interesting to note the shift in coverage of Qadhafi’s Islam in the press. For example, when Secretary of State Condoleezza Rice visited Libya in September 2008, the highest-

ranking US official to do so in 50 years, the focus changed to a more benign, exotic Islam: the Associated Press wrote that Rice made comments “following a traditional Muslim dinner – the evening meal that breaks the day’s fast during the holy month of Ramadan;”<sup>42</sup> and according to Reuters, “Gadhafi, wearing a white robe and a green brooch in the shape of Africa, did not shake hands with Rice but put his right hand over his heart. By Muslim tradition, men should avoid contact with females during the fasting time.”<sup>43</sup> To some extent, Qadhafi has reprised his earliest role as a ‘devout’ Muslim, still grating in terms of meeting with Russian leaders, pursuing authenticity to the point of pitching a Bedouin tent on the Champs-Élysées, speaking out against American oil activities, and generally attempting to remold the international system. On the other hand much has changed, such as shifting from support for PLO rejectionist factions to advocating a one-state solution, sanctions and failed socialism, and “revolutionary realpolitik”<sup>44</sup> motivating renunciation of WMDs. This section has attempted to highlight the variable of changing perceptions in the metamorphosis of Qadhafi. In sum, it would seem that cultural bias takes a derogatory turn in times of political conflict and reverts to a more benign Other approach in times of cooperation.

## CONCLUSION

In September 2006, the English National Opera together with Asian Dub Foundation released *Gadaffi: A Living Myth*, a spoken and rap opera set to raga, punk, dub and electronica played by the English National Orchestra and North African musicians. A review entitled “Muammar Mia, Here We Go at Last” offers an overall flavor: “Colonel Gaddafi swears vengeance against the West in a fiery aria set in the bombed-out ruins of Tripoli. Colonel Gaddafi

spars with Ronald Reagan in a searing duet at the UN General Assembly. Colonel Gaddafi sings a power ballad about women’s lib while his female bodyguards fan out around him Busby Berkley fishnets and feather boas.”<sup>45</sup> The opera’s conceptualizer, Steve Chandra Savale, also known as Chandrasonic, sought to move beyond, “all this ‘clash of civilizations’ rubbish” and put “a completely different spin on the whole thing.”<sup>46</sup> On the whole, the opera received lukewarm if not stingingly dreadful reviews, quite possibly due to the controversial subjects, but perhaps also owing to lyrics such as, “Only in the desert is there true union between me and myself,”<sup>47</sup> and “The power in the sand is the power in the land.”<sup>48</sup> Nevertheless, the opera represented a serious attempt, in the words of Scottish-born Muslim playwright Shah Khan, to “present a complex character and situation” and move beyond “simplistic” good versus evil ideas as “[m]usic by its very nature harmonises opposing themes”<sup>49</sup>

Although the above opera represents the British vision of Qadhafi, and not the hypothetical next American movie of Qadhafi mentioned in the introduction, it is revealing in that it reached for a more absurdist than clash-of-civilizations narrative to explain Qadhafi. What this suggests, and indeed what the glance at US-Libyan relations over the past two hundred years highlights, is that the notion of civilization divide constitutes yet another attempt, albeit oversimplified, to understand dynamic, interrelated history.

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

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- <sup>2</sup> *Ibid.*, car chase scene.
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- <sup>18</sup> *Ibid.*, 69.
- <sup>19</sup> Mahmoud G. ElWarfally, *Imagery and Ideology in U.S. Policy Toward Libya, 1969-1982* (Pittsburgh, PA: University of Pittsburgh Press, 1988), 44.
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<sup>47</sup> Ibid.

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