

# KAS INTERNATIONAL REPORTS

## ELECTIONS AND TRANSITIONS IN THE ISLAMIC WORLD



■ **The Role of Saudi Arabia and Iran During and After the Upheaval in the Arab World**

*Ellinor Zelno-Mahmalat*

■ **The Election of Hasan Rouhani as Seventh President of the Islamic Republic of Iran**

*Christian Funke*

■ **The Territorial Conflict between the Central Iraqi Government and the Kurdistan Regional Government**

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■ **The Historical Context of the 2013 Parliamentary Elections in Pakistan**

*Jakob Rösel /  
Pierre Gottschlich*

■ **Progress and Setbacks in Building the Rule of Law in South East Europe**

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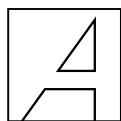
■ **Democracy Without Parties – The Philippines in the Patronage Trap**

*Peter Köppinger*





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## EDITORIAL

Dear Readers,

In June, Iran elected a new President. After two terms in office, Mahmoud Ahmadinejad was not permitted to stand again. On the face of it, the transfer of power took place in accordance with democratic principles: Ahmadinejad accepted the constitution or at least submitted to the will of the Guardian Council, which did not consider changing the constitution to his benefit. And his successor, Hasan Rouhani, is indeed the candidate who drew most of the votes. Furthermore, Rouhani had expressed some criticism of the status quo during the election campaign and announced changes, as Christian Funke illustrates by numerous examples in this issue.

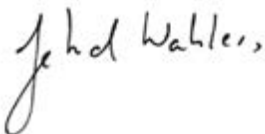
Elections were also recently held in another Muslim country. In May, parliamentary elections took place in Pakistan. In their article Jakob Rösel and Pierre Gottschlich highlight the following: "A democratically legitimate, civilian government took over following a full legislative period through largely free and fair elections for the first time since Pakistan's independence in 1947. Such a conventional, peaceful power shift under the rules of a parliamentary democracy is a completely new experience for Pakistan." Do the course the elections took in Iran and Pakistan and their results then mean that democratic conditions have become established in the two countries?

Presumably it is true that no one was prevented from casting their vote in Iran, and Rouhani was not the preferred choice of the Guardian Council. However, the candidates were handpicked by the regime. While some presidential candidates did voice criticism of the status quo, those potential candidates who were rightly known as reformers were not allowed to stand. The leaders of the "Green Movement" from 2009 are still under house arrest today.

Events in Egypt have demonstrated that it is too early to celebrate democratic progress when one election has proceeded successfully and in line with international standards. Last year, the Muslim Brotherhood came to power as a result of largely free and fair elections. In line with

the “winner takes all” principle, the immediate action the Muslim Brotherhood took was first and foremost aimed at shoring up its own power rather than addressing the country’s problems. The protection of minorities and tolerance towards dissenting ideas were no longer of importance. As the Muslim Brothers impinged as well on the interests of the military and the old power elite, their attempts to reshape the Egyptian state according to their religiously motivated political ideas failed. Today, Egypt is divided. There is serious unrest and it remains uncertain as to whether the country’s current course will lead to a democratic future.

In and of itself an examination of the course of the election campaign and the elections as well as the final official results does not provide much insight into the democratic development of a country. Other elements must be in place before one can speak of a democracy and a liberal state. People need freedom of association to form political parties and assert their rights without having to fear for their lives and liberty. Minorities need to be protected, because even if parties gain clear majorities through free elections they must always respect the rights and interests of those they defeated. Free media are necessary to monitor those in government and inform the public of their activities. Procedures of law and order must be available to guarantee civil rights and encourage businesses to engage in economic activity by providing minimum standards of legal security. Finally, safeguards must be in place to ensure that these rights do not merely exist on paper, but are enforceable as well. The Konrad-Adenauer-Stiftung is active in all areas involved in democracy and the rule of law. And we do not leave once the elections are over.



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## THE ROLE OF SAUDI ARABIA AND IRAN DURING AND AFTER THE UPHEAVAL IN THE ARAB WORLD

*Ellinor Zeino-Mahmalat*

The upheaval in the Arab world has challenged the traditional roles of the two leading powers in the Gulf, Saudi Arabia and Iran. Both nations must now reassess their relationships with regional actors (particularly with the Muslim Brotherhood and the Assad regime). For both nations, long-standing alliances are at stake (Egypt and Syria). While the upheaval in the Arab world holds both opportunities and risks for the Saudi regime, Iran, with the support of the Assad regime, is increasingly finding itself in quite a strategic quandary. Further developments in Syria, Egypt and even in Iraq and Bahrain will significantly define the future balance of power in Saudi Arabia and Iran.

At the same time, the traditionally authoritarian countries' partnerships with both democratically elected leadership, as in Tunisia, and socio-politically broken countries, such as Syria and Iraq, are proving to be rather volatile and difficult to calculate. Traditionally, Saudi Arabia and Iran have competed for leadership in the Gulf region and beyond. Their rivalry frequently emerges in regional trouble spots, just as is currently the case with the Syrian civil war. Egypt, Yemen, Bahrain and Syria, all of which have survived upheavals, form the core zone of the Saudi-Iranian rivalry. In the process, Saudi Arabia and Iran are also competing for interpretative sovereignty over regional upheavals. Both sides are anxious to re-frame the transformation processes in the Arab world to fit their own interests.



## CHANGES IN THE REGIONAL BALANCE OF POWER SINCE THE IRAQ WAR IN 2003

To gain an understanding of the political position of Saudi Arabia and especially Iran in the region, we must go back at least to the Iraq War, beginning in 2003 and Iraq's reorganisation after the 2004 national elections.

The 2003 Iraq War, which saw dictator Saddam Hussein overthrown, represented an historic turning point for Saudi Arabia and Iran and constituted a dramatic realignment of their balance of power in the region. With the upheavals and transformations in the Arab world since 2011, even riots preceding the Iranian presidential election in 2009, both regimes are facing new political challenges both domestically and within the region as a whole.

**The 2003 Iraq War represented an historic turning point for Saudi Arabia and Iran and constituted a dramatic realignment of their balance of power in the region.**

The U.S.-led overthrow of the regime in Iraq in 2003 and the subsequent development of the first Shiite-led Iraqi government under President Nuri Al-Maliki shaped the assumption that Iran would gain power in the traditionally Sunni-led Arab world and shaped the idea of a "Shiite crescent"<sup>1</sup> that would politically, militarily and ideologically challenge the Sunni world. The rise of pro-Iranian powers was observed in the region between 2006 and 2010. The U.S.'s withdrawal from Iraq and the creation of a Shia-dominated Iraqi government, the resumption of Iran's uranium enrichment programme in February 2006, the regional consolidation of Hezbollah after its war with Israel in 2006 and Hamas' assumption of political control in the Gaza Strip – a Sunni group supported by Iran at the time – all strengthened Iran's influence and self-assurance in the region. The Saudi leadership viewed Iran's influence as especially dramatic. When a drastic increase in Iranian-Shia influence was feared after the 2005 Iraqi national elections, an embittered Saud Al-Faisal, Saudi Minister of Foreign Affairs, spoke of the fact that the U.S. handed Iraq to Iran.<sup>2</sup> From then on, Iran was seen in the Arabic Gulf

- 1 | The term "Shiite crescent" was first used by Jordanian King Abdullah in 2004 to describe pro-Iranian, Shiite powers' increased influence in the region. The caricature of the Shiite crescent includes Iran, Syria, Iraq and Lebanon.
- 2 | As Prince Saud Al-Faisal said in his speech before the U.S. Council on Foreign Relations in New York in September 2005.

states as a virtual, albeit unintended, profiteer of the Iraq War.<sup>3</sup>



Commemorating the victims of the "Green Movement": Brutal actions against protesters led to a considerable loss of respect for the Iranian political model. | Source: Wen Zhang, flickr (CC BY).

Iran's newly gained self-assurance given the regional developments in Iraq, Lebanon and Gaza that were beneficial to the Iranian regime was clouded in 2009 by the most fervid domestic protests in the Republic of Iran's existence. The Revolutionary Guard's brutal actions against protests by the "Green Movement" and the manipulation of the Iranian presidential elections both led to a considerable loss of respect for the Iranian political model by the citizens of neighbouring Arab countries. Though President Ahmadinejad was able to achieve significant popularity within some Arabic sectors of the population several years earlier with his anti-Israeli and pro-Palestinian plea, the Iranian political regime has since been discredited as a possible "export model" for the Islamic Arab world.<sup>4</sup>

3 | For more on the Saudi-Iranian rivalry in the Gulf see Ellinor Zeino-Mahmalat, "Saudi-Arabiens und Irans Regionalpolitik zwischen Ideologie und Pragmatismus", in: *GIGA Focus Nahost*, 1/2009, [http://giga-hamburg.de/dl/download.php?d=/content/publikationen/pdf/gf\\_nahost\\_0901.pdf](http://giga-hamburg.de/dl/download.php?d=/content/publikationen/pdf/gf_nahost_0901.pdf) (accessed 22 Jul 2013).

4 | According to polls by U.S. opinion poll center Zogby International.

Since 2011, the upheavals in the Arab world have sparked prolonged and still immeasurable socio-political transformation processes. As of now, only the losers, not the winners, of these processes have become apparent. The transformations may hold both opportunities as well as risks for the Saudi Gulf monarchy. If the Saudi regime was shocked by how quickly the U.S. abandoned its long-time ally in the case of Egypt's President Hosni Mubarak, it has only served to drive Saudi Arabia to support the Syrian freedom fighters' campaign against the Assad regime that much more vehemently. The Saudi royal family views the regime, which has been allied with Iran for over 30 years, as an uncomfortable neighbour. In the Saudi leadership's estimation, a new, Sunni, Islamic conservative state in Syria, independent of Iran, could be a valuable regional partner in the future.

**A Sunni, Islamic conservative state in Syria, independent of Iran, could be a valuable regional partner in the future.**

#### **THE REGIONAL DISTRIBUTION OF ROLES: SAUDI ARABIA AND IRAN AS EQUAL COMPETITORS?**

Saudi Arabia and Iran, both competing for regional dominance, were developing a traditional balance of power in the Gulf with Iraq in the middle geographically; this has faltered since the Iraqi regime was overthrown in 2003. Both states initially showed obvious similarities in terms of their global strategic and economic conditions. As the OPEC cartel's two largest oil producers with the world's largest proven oil reserves, both states have simultaneously developed into exemplary rentier states; resource rents from oil (and gas) cover more than 50 per cent of their public budgets. On the one hand, the high oil revenues, which are freely available to the regimes to a large extent, supply the states with a high degree of autonomy in domestic and foreign policy. On the other hand, they are existentially dependent on the international market for oil, on buyer countries, strategic allies and on continuous provisions for oil-financed welfare programmes, public jobs and multiple benefits generated domestically.

Fig. 1  
**Crude oil reserves worldwide (in million barrels)**

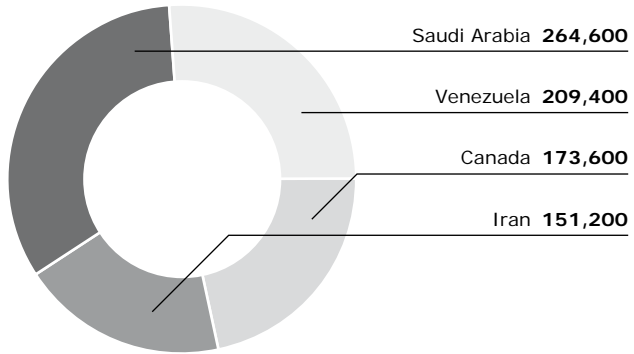


Fig. 2  
**Crude oil production worldwide (in million barrels)**

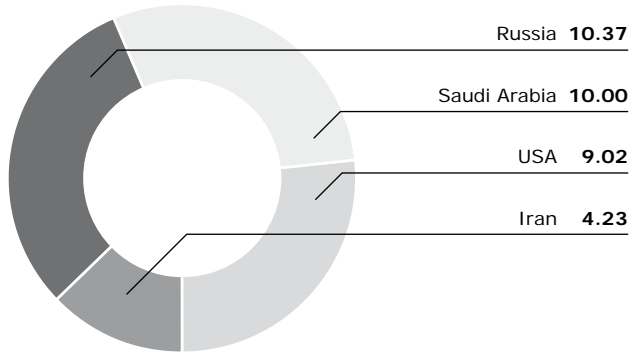
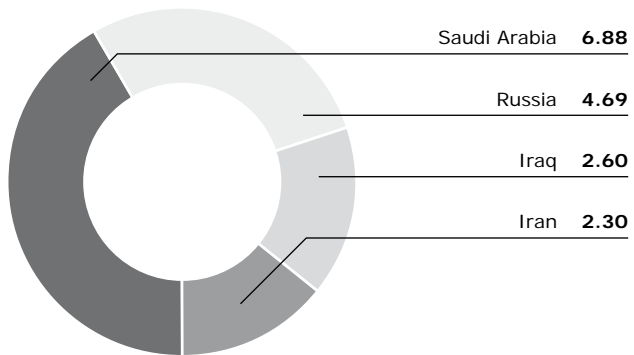


Fig. 3  
**Crude oil export worldwide (in million barrels)**



Source: CIA, "The World Factbook", as of 2013, numbers rounded.

The geostrategic circumstances alone allow for a clearly defined framework for action, yet fail to adequately define and understand both nations' domestic and foreign policy

strategies. Nationally constructed identities and an historically-expanded understanding of foreign policy roles aid in clarifying the motivation for domestic and foreign policies and identifying the creation of and changes to the definition of national interests.<sup>5</sup> Both Saudi Arabia and Iran define themselves as Islamic states whose actions are religiously motivated and justified. Even when both states act as the protector and leading power of the Sunni and Shia faiths, respectively, they claim at the same time they are representing and protecting the interests of the entire Muslim community (*ummah*) and are promoting Muslim unity across denominational and national borders.

The ideological basis for both states depends upon a reformed and state-defined political version of Islam. In terms of foreign policy this state-specified reform Islam manifests itself divergently when it comes to choosing allies, despite common religious-based political principles (solidarity with the Muslim community/*ummah* – particularly with the Palestinians, rejection of Zionist thought and the Israeli state in principle, rejection of Western values for their own communities).

**Following the Iranian Revolution in 1979, the erstwhile “twin pillars” of the U.S.’s security policy in the Middle East have evolved from friendly rivals to two of the region’s most vehemently ideological opponents.**

Following the Iranian Revolution in 1979, the erstwhile “twin pillars” of the U.S.’s security policy in the Middle East during the 1970s have evolved from friendly rivals to two of the region’s most vehemently ideological opponents.

The history of a long and violent unification process and the expansion of the Islamic faith across the Arabian Peninsula pre-dates the emergence of the modern Saudi Arabian state. The Saudi state’s “nation building” was understood to be a religious mission in that it served the broader theme of uniting the Muslim community.<sup>6</sup> All forms of denominational, tribal or provincial senses of belonging were denounced as sources of division and disintegration (*fitna*) in the rhetoric of the Saudi state.<sup>7</sup> Allegiance to the

5 | See Ellinor Zeino-Mahmalat, *Saudi Arabia's and Iran's Iraq Policies in the Post-Gulf War Era. Re-Thinking Foreign Policy Analysis in the Gulf at the Intersection of Power, Interests, and Ideas*, Hamburg University, 2012.

6 | See Neil Partrick, *Nationalism in the Gulf States*, American University of Sharjah, 2009, 6 et sqq.

7 | See Madawi Al-Rasheed, *A History of Saudi Arabia*, Cambridge University Press, 2002, 191.

country's leader was proclaimed a Muslim duty according to the discourse of national jurists (*ulama*). The ongoing protests within the country (e.g. in the heavily Shiite Eastern Province) were subsequently deemed disobedient and disruptive to the community.



Pilgrims in Mecca: The Saudi leadership views itself not only as the natural leader of the Muslim world, but also defender of Arab interests, particularly in the Gulf. | Source: A.K. Photography, flickr (CC BY-SA).

Alongside Saudi Arabia's emerging position as the cradle of Islam and Arab civilisation, as well as the guardian of both the holy cities of Mecca and Medina, the Saudi leadership views the country not only as the natural leader of the Muslim world and defender of the true faith, but also defender of regional and particularly Arab interests in the Gulf. This has manifested itself in several Saudi attempts and initiatives to gain influence in regional politics. Among them are, for example, Saudi King Abdullah's Arab-Israeli Peace Initiative in 2002 (then still the Crown Prince), the 2011 Saudi attempt at conciliation in Yemen or the deployment of Saudi and Emirati troops to Bahrain in 2012 to stabilise the Bahraini dynasty. The Arabian Peninsula's smaller neighbouring countries in particular are seen as Saudi Arabia's backyard, in that weaker states like Yemen or Bahrain are in some cases treated as Saudi provinces.<sup>8</sup>

8 | Cf. Bernard Haykel, "Saudi-Arabia and Qatar in a Time of Revolution", *CSIS Gulf Analysis Paper*, Feb 2013, Washington D.C., 5.

The Saudi demands for a religious and regional political leadership role have been challenged by the Iranian Republic, which feels a national sense of cultural and civilizational superiority. The Islamic Republic of Iran represents a counter-model to the Saudi monarchical government, deemed un-Islamic, and it has long boasted that it is the only state in the region that has undergone an "Islamic" revolution and successfully carried out the experiment of "Islamic democracy".<sup>9</sup> These feelings of being a great power and of Iranian superiority are simultaneously accompanied by a perceived victimisation and a long-standing experience of regional exclusion and vulnerability. This

external self-image has been energised by a combination of Persian nationalism, Shia Islam and revolutionary anti-imperialism. Iran's external self-image is thus not only a religious one, but is also grounded in nationalism. National independence, Islamic-defined justice and revolutionary resistance are considered guiding principles for foreign policy action and serve as principles of foreign policy alignment. The Iranian leadership's anti-imperialism and associated Third World rhetoric imply a foreign policy position that is anti-status-quo regarding overcoming the current regional and international order, which is seen as unjust. The ingrained and prevalent distrust found not only within the Iranian regime but also in Iranian society against foreign interference in the region<sup>10</sup> is currently manifesting itself in the Iranian

**The Iranian leadership's anti-imperialism and associated Third World rhetoric imply a foreign policy position that is anti-status-quo regarding overcoming the current regional and international order.**

9 | Johannes Reissner describes Iran's political system as a "hybrid system" with republican, partly democratic and theocratic elements. See Johannes Reissner, "Iran: Autokratischer Islamo-Nationalismus mit Erdölposter", in: Enno Harks and Friedemann Müller (eds.), *Petrostaaten. Außenpolitik im Zeichen von Öl*, Baden-Baden, Nomos-Verlag, 2007, 35-53, here: 38. The President and Parliament are democratically elected following prior assessment of the candidates by the Guardian Council, a kind of constitutional court. According to the principle of "Guardianship of the Highest Jurist" (*velayat-e faqih*), ultimate state power rests with the religious leader. The religious leader is chosen by the Assembly of Experts, a council comprised of 86 "virtuous and experienced" clerics elected by the people every eight years (following prior candidate assessment by the Guardian Council).

10 | Although Iran was never completely colonised, it has experienced long periods of recurrent foreign interference. In the 19<sup>th</sup> and 20<sup>th</sup> centuries, Iran (and Persia up until 1935) was forced to accept a series of treaties and concessions imposed by foreign countries, including the Tobacco Concession in 1890 and the oil concession in 1901, both imposed by Great Britain. ▶

regime's allegations of foreign conspiracy regarding the crisis in Syria or, along with the idea of the "Shiite crescent", the accusation that pro-Western powers are stirring up regional "Shia phobia".

**While the Arab world speaks mostly of "Arab" protests and the "Arab Spring", the Iranian regime describes the protests as a regional "Islamic awakening".** Differing perceptions and lines of argument regarding the upheavals in the Arab world have been pitted against one another since the outbreak of protests in 2011. While the

Arab world speaks mostly of "Arab" protests and the "Arab Spring", the Iranian regime describes the protests as a regional "Islamic awakening" or "Islamic revolutions".<sup>11</sup> At the same time, as circumstances require, the protests have been denounced by Saudi jurists loyal to the regime as a source of *fitna*. Iran is eager to describe the Arab protests as a "pan-Islamic revolution" inspired by the Iranian Revolution in 1979. With the exception of the protests in Syria, which have been denounced as a foreign controlled Western conspiracy, the Iranian regime has redefined the upheavals in the Arab world as an historic extension of their revolution.

#### **SCENES OF SAUDI-IRANIAN RIVALRY: EGYPT, YEMEN, BAHRAIN AND SYRIA**

The upheavals in the Arab world have altered Saudi Arabia's and Iran's geostrategic calculations in the region. Old conflict situations involving Saudi-Iranian rivalry (e.g. in Bahrain) have resurfaced since the revolutions and transformations in the Arab world began whilst regional alliances (above all with Egypt and Syria) are being renegotiated. In the process, despite the reciprocal inspiration and partly similar causes of the protests, each case must

In the 1940s, Iran faced a series of foreign occupation attempts by Great Britain and the Soviet Union. However, what has remained most clearly in the collective memory of the Iranian citizenry is the 1953 coup to overthrow the Iranian Mossadeq government, which was backed by the U.S. and Great Britain.

11 | For more on the Iranian perspective see Ali Adami and Najmieh Poursmaeili, "Saudi Arabia and Iran: the Islamic Awakening Case", in: *Iranian Review of Foreign Affairs*, No. 4, 2013, 16 Apr 2013, 153 et sqq., <http://www.isrjournals.ir/images/pdf/Ali%20Adami%20&%20Najmieh%20Poursmaeili.pdf> (accessed 22 Jul 2013). Adami und Poursmaeili argue that the Arabian upheavals weakened Saudi Arabia's status in the region.



be considered individually. Due to varying domestic political constraints and varying regional and foreign interests and types of influence, the Arab protest movements have led to various outcomes.

Over the course of the regional protest movements, Saudi Arabia has demonstrated strategic deftness in adapting to particular situations. In light of the developments in Egypt, the Saudi leadership is awaiting further developments but has already provided the new Egyptian transitional government with generous financial assistance. They initiated a controlled changeover in Yemen but have opted for active intervention in Syria and Bahrain. In contrast, Iran has morally supported the protests against secular and (partly) pro-Western regimes in Tunisia, Libya, Egypt and Bahrain. However, the riots in Syria have presented Iran with a political dilemma. In supporting the Syrian regime, Iran has gotten itself into a nearly irresolvable conflict. For both Saudi Arabia and Iran, regional political and ideological leadership in terms of active development of a regional balance of power is at stake during a time of critical regional upheaval.

**The riots in Syria have provided Iran with a political dilemma. In supporting the Syrian regime, Iran has gotten itself into an impossible conflict.**

#### **EGYPT: BETWEEN IRANIAN RAPPROCHEMENT AND ARAB "CO-OPERATIONAL DIVIDENDS"**

With regard to the further development of the political and ideological balance of power in the Middle East, Egypt's future position is questionable. The Egyptian leadership's political alignment may decidedly influence the region's political and ideological organisation as well as opportunities for Saudi-Iranian power projections.

#### **Saudi Arabia's recent exploration of its relationship with Egypt**

The Egyptian revolution and the Muslim Brotherhood's accession to power present a challenge for Saudi Arabia in two ways. First, the international Muslim Brotherhood is considered an ideological and power-political rival to Saudi state Wahhabist Islam. Second, the Saudi ruling dynasty fears a possible rapprochement between Egypt and Iran, or at the very least that the "Iran card" will be played

through a new Egyptian leadership that may possibly be more difficult to control or calculate.

The political ascension of the Muslim Brotherhood to the head of the government in Tunisia and (temporarily) in Egypt has been perceived by the Saudi ruling dynasty as well as other Gulf monarchies as a political, religious and ideological challenge. President Morsi's assumption of power in Egypt in June 2012 particularly alarmed the ruling families in Saudi Arabia, the United Arab Emirates and Kuwait. While Dubai's police chief, Dahi Khalfan Tamim,<sup>12</sup> evaluated the Muslim Brotherhood's network as an equal threat to the Gulf's security as Iran and its transnational Shia networks in July 2012, Prince Nayef, once Saudi Crown Prince and Minister of Interior who died last year, had labelled the Muslim Brotherhood as the "source of all problems in the Muslim world" as early as 2002.<sup>13</sup>

**During the 1990 Kuwait crisis, the Muslim Brotherhood place themselves on the side of Saddam Hussein. The Saudi leadership accused them of inciting citizens to oppose the government.**

At the same time, Saudi Arabia granted Egyptian members of the Muslim Brotherhood asylum for a long time under Nasser's repressive policies against the group in the 1950s and 1960s. The Muslim Brotherhood

first evolved into a serious political rival in the 1990s. During the 1990 Kuwait crisis, they positioned themselves on the side of Saddam Hussein. The Saudi leadership accused the Muslim Brotherhood of radicalising Saudi citizens and inciting them to oppose the government. This resulted in national campaigns against the Muslim Brotherhood along with a series of arrests and a ban on organisations close to them.<sup>14</sup>

12 | In July 2012, Dubai's police chief warned of the international Muslim Brotherhood and an international conspiracy to overthrow the governments of the Arab Gulf states. Vis-a-vis the new governments led by the Muslim Brotherhood he warned against crossing the "red line" in the Gulf states. See Andrew Torchia et al., "Dubai police chief warns of Muslim Brotherhood, Iran threat", Reuters, 26 Jul 2012, <http://reuters.com/article/2012/07/26/us-emirates-police-brotherhood-idUSBRE86P10420120726> (accessed 22 Jul 2013).

13 | See *Dawn.com*, "Nayef blames Ikhwan for Arab world's problems", 29 Nov 2002, <http://archives.dawn.com/2002/11/29/int12.htm> (accessed 22 Jul 2013).

14 | In the 1990s, many members of the Muslim Brotherhood affiliated themselves with the protest movement *al-Sahwa al-Islamiyah* (Islamic Awakening), which argued against foreign, non-Muslim troops being stationed on Saudi soil as a result •

This Saudi leadership's scepticism and even enmity towards the Muslim Brotherhood is based more on (power) politics than religion. The Muslim Brotherhood's idea<sup>15</sup> of establishing an Islamic state through democratic elections conflicts with the Saudi leadership's concept of an Islamic state based on a feudal hereditary monarchy. Today, the Muslim Brotherhood is the only serious organised political power in Saudi society with a power structure that the Saudi ruling dynasty cannot control. Throughout the current upheavals in the Arab world, the Gulf monarchies' scepticism regarding the Muslim Brotherhood has only increased. This has manifested itself in the Gulf states' concern regarding possible ideological and political influences on their own citizens by Arab migrant workers. After 2011, many visas for Egyptian and Tunisian workers in the Gulf were not extended.

**The Muslim Brotherhood is the only serious organised political power in Saudi society with a power structure that the Saudi ruling dynasty cannot control.**

Additionally, a lasting Egyptian-Iranian rapprochement or even an alliance between the two actors would be a considerable setback for the geostrategic and regional political balance of power in the Arab Gulf states. Especially after the painful alleged "loss" of Iraq, it is of great importance for the Arab Gulf monarchies that Egypt remains a stable and loyal power in the region.

Relations between President Morsi and Iran have been forming rather haltingly. Morsi had avoided overstepping the "red line" by normalising its relationship with Iran. President Morsi's regional policies during his short time in office can be described as Saudi-friendly realpolitik. Morsi's first foreign state visit took place in Saudi Arabia, where everything depended on securing desperately needed financial aid for Egypt. Egypt's financial reliance on the

of the Kuwait crisis. In 2011, several leading members of the Muslim Brotherhood supported the political reform movement in Saudi Arabia, as well as the petition to establish an independent council (*majlis ash-shurah*).

15 | However, the various Muslim Brotherhood groups in the Gulf states cannot be considered a solid bloc. Their agendas and relationship to particular leaders strongly vary between individual countries. See Lori Plotkin Boghardt, "The Muslim Brotherhood in the Gulf: Prospects for Agitation", in: *Policywatch* 2087, 10 Jun 2013, The Washington Institute, <http://washingtoninstitute.org/policy-analysis/view/the-muslim-brotherhood-in-the-gulf-prospects-for-agitation> (accessed 22 Jul 2013).

U.S. and the Arab Gulf states to be major lenders remains high. In addition, over one million Egyptians are working in the Gulf as guest workers. They generate considerable foreign exchange revenue and relieve the Egyptian job market at the same time.

When the Egyptian military council ousted President Morsi on 3 July and appointed the President of Egypt's Supreme Constitutional Court, Adly Mansour, as the new interim President, Saudi Arabia was the first Arab nation to offer its congratulations. King Abdullah congratulated the new interim president and praised the Egyptian military council's decision.<sup>16</sup> On 9 July, Saudi Arabia had already notified the new Egyptian leadership that they would provide an aid package of five billion U.S. dollars to boost the Egyptian economy.<sup>17</sup>

**Saudi leadership is hoping for a conservative government in Egypt without excessively progressive plans for domestic and foreign policy reform.**

On the one hand, all future Egyptian governments will be closely observed by Saudi Arabia regarding their position on Iran. On the other hand, the Saudi leadership is hoping for a conservative government in Egypt without excessively progressive plans for domestic and foreign policy reform. The only way future Egyptian leaders could return Egypt to its status as a trusted and predictable partner to the Saudi leadership is for them to clearly position themselves as a conservative, Arab and Sunni nation.

### **Opportunities for and boundaries of Egyptian-Iranian rapprochement**

While former Egyptian President Hosni Mubarak characterised Iran and its regional allies, Shia Lebanese Hezbollah and Sunni Palestinian Hamas, as a threat, Morsi's followers and supporters on the one hand have shown some degree of sympathy for Hezbollah and Hamas. In addition, no small number of Muslim Brotherhood supporters also seem to find inspiration from the Iranian Revolution of 1979.

16 | See "Saudi king congratulates Egypt's new interim president", *Al Arabiya*, 4 Jul 2013, <http://english.alarabiya.net/en/News/middle-east/2013/07/04/Saudi-king-congratulates-Egypt-new-interim-president.html> (accessed 22 Jul 2013).

17 | See "Saudi Arabia, UAE pledge \$8 billion to Egypt after coup", *PressTV*, 9 Jul 2013, <http://presstv.ir/detail/2013/07/09/313074/saudi-uae-to-shower-billions-on-egypt> (accessed 22 Jul 2013).

On the other hand, many Egyptians disapprove of a rapprochement with Iran on denominational and ideological grounds. Egyptian academics from Al-Azhar University and Salafist-oriented Egyptians have voiced scepticism and even enmity toward Iranian Shia Islam. In addition, Iran's support of the Syrian Al-Assad regime and the Iraqi Maliki government has enraged both Egyptian Islamists and secularists alike. The majority of Egyptians' feelings regarding Iran remain mixed. There is both a certain willingness to improve the relationship that has been frozen since 1979 and at the same time a widespread distrust of Shia Islam and its expansion in Egypt through Iran. Only approximately two per cent of Egyptians belong to the Shia faith. Nevertheless, a latent fear of Iranian Shia influence and proselytisation exists. Just how far this fear is ingrained was demonstrated by the Egyptian Ministry of Foreign Affairs when it imposed restrictions on Iranian tourists. Iranian tourists are barred from visiting many places in Egypt, including several Shia mosques. The inclusion of air traffic between Egypt and Iran that was announced in March 2013 and had been suspended for more than 30 years was suspended once again on the instruction of the Egyptian Minister for Tourism in April.

**Iranian tourists are barred from visiting many places in Egypt, including several Shia mosques.**

Ousted President Morsi's "rapprochement" was very hesitant and should be seen as a signal to the West. In the process, Egypt was able to claim it was independent of Western interests and was thus able to improve its bargaining position vis-à-vis the various political camps.<sup>18</sup> However, Morsi's visit to the Non-Aligned Movement Summit in Tehran in October 2012 – the first time an Egyptian president had visited Iran since 1979<sup>19</sup> – was more of an irritation for the Iranian hosts than a rapprochement with Tehran because of Morsi's clear position against the Syrian

18 | President Morsi would have been able to use a rapprochement with pro-Iranian powers to "buy back" conservative Gulf states to their side. This strategy did not seem so implausible given Egypt's long-time strategy of pitting the interests of the U.S. and the Soviet Union against each other during the Cold War.

19 | Iran had severed diplomatic ties with Egypt in 1979 after the Egypt-Israel Peace Treaty.

Assad regime.<sup>20</sup> Egypt's diplomatic embassy in Tehran has been closed since 1979 and remains so to this day.

Though the Iranian leadership denounced the Egyptian military council's overthrow of President Morsi on 3 July, they had also criticised Morsi's leadership of the government. A spokesman for the Minister of Foreign Affairs denounced the Egyptian military's intervention and spoke of interference and support from foreign powers. At the same time, he viewed this latest development in Egypt not as a regression for the "Islamic awakening", but rather as consequence of Morsi's inefficient government action. Alaeddin Boroujerdi, Chairman for the parliamentary committee for national security and foreign policy, warned that a dangerous division and polarisation in Egyptian society held a similar conflict potential to that of Syria and Iraq.<sup>21</sup>

#### **DEMOCRATIC MOVEMENTS IN YEMEN AND BAHRAIN: IN THE SHADOW OF SAUDI AND IRANIAN CLAIMS OF SUPREMACY**

Yemen and particularly Bahrain once again came to the fore in 2011 as the setting for the Saudi-Iranian pursuit of supremacy. While Yemen was able to agree on a new, externally mediated leadership deal relatively quickly following the outbreak of the Arab protests, Bahrain's social unrest and denominational tensions continued.

The highest priority of Saudi Arabia's policy regarding Yemen was to put an end to the protests and riots in its neighbouring country as quickly as possible. Saudi Arabia has historically had a very close relationship with various Yemeni political and tribal actors. At the same time, the Saudi leadership has long accused Iran of sheltering Yemeni insurgents.

20 | President Morsi deliberately did not view his trip to Iran, which only lasted a few hours, as a state visit and consequently did not meet with the leader of the Iranian Revolution, Ayatollah Khamenei. He also avoided discussing taking up diplomatic relations with Iran.

21 | For more on Iran's official comments regarding Morsi's overthrow, see "Iran on Egypt: Range of Reactions", *The Iran Primer*, United States Institute of Peace (USIP), 10 Jul 2013, <http://iranprimer.usip.org/blog/2013/jul/10/iran-egypt-range-reactions> (accessed 22 Jul 2013).

In March 2011, the Gulf Cooperation Council presented a plan for a peaceful transition of power in Yemen at the request of Saudi Arabia. In November 2011, then acting Yemeni President Ali Abdullah Saleh signed an agreement to transfer power to Vice President Abd Rabbo Mansour Hadi. In return, Saleh was granted amnesty. When social protests broke out in Bahrain in February 2011, the Saudi leadership attempted to dissociate the causes and the character of the protests from the other civil disturbances in the Arab world. The Bahraini and Sunni Arab leadership in the Gulf persistently presented a narrative of the "Bahraini exception", painting Bahrain as an "isolated" and "special case". According to this theory, the Bahraini protests were not a part of the Arab world's (legitimate) reform movements; rather they were a part of a sectarian movement with a religious agenda agitated by Iran. Both the Saudi regime and Saudi Islamists argued the theory that Iran was inciting Bahraini Shiites to fight the ruling house in order to promote religious divisions for its own interests. The social protests for political reform were portrayed as sectarianism, terrorism, national betrayal and Iranian interference. The Bahraini opposition was thus denied a place in the Arab world's protest and democratic movements. The Bahraini state had fuelled anti-Shia emotions among its 40 per cent Sunni population for years and had previously been able to successfully prevent cross-denominational opposition movements.

In March 2011, Saudi Arabia and the United Arab Emirates sent 2,000 soldiers to Bahrain at the request of the Bahraini leadership as part of the Gulf Cooperation Council's Peninsula Shield Force in order to protect Bahrain's royal family. The Bahraini royal family's retention of power forced by the military is a further element of Saudi Arabia's traditional status quo politics in the region.

Like the Saudi leadership, the Iranian regime also attempted to interpret the protests in Bahrain in a way to further their own interests. The Iranian leadership considered the protests to be a natural reaction to the illegal

Al-Khalifa regime. The Iranian Deputy Foreign Minister, Hossein Amir-Abdollahian, characterised the Bahraini protests as a legitimate call for human rights and civil liberties

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and viewed it as a continuation of the Iranian Revolution of 1979.<sup>22</sup> Iranian hard-liner and editor of the Iranian newspaper *Kayhan*, Hossein Shariatmadari, had already caused a furore in 2007 by stating that Bahrain was historically seen as an Iranian province. In doing so, he confirmed the fears of neighbouring Gulf states regarding Iran's claims to power in the region. Every allegation regarding Iranian influence on the conflict in Bahrain was denied by the Iranian leadership.<sup>23</sup>



Protests against Ali Abdullah Saleh in New York in May, 2011: In November 2011, the president signed an agreement to transfer power to Vice President Abd Rabbo Mansour Hadi. | Source: André-Pierre du Plessis, flickr (CC BY).

## **SYRIA: FROM PLAYER TO PLAYING FIELD OF REGIONAL IDEAS OF ORDER**

With the unexpected outbreak of political protests in Syria and the Syrian regime's brutal actions against its own people, the Arab protest and democratic movements took a new and dramatic turn. In the meantime, through various types of foreign intervention, support of various groups and international mediation attempts, Syria has transformed

22 | See "Bahrain situation different had Iran interfered", Mehrnews.com, 26 Jan 2013, <http://old.mehrnews.com/en/newsdetail.aspx?NewsID=1800424> (accessed 22 Jul 2013).

23 | See "Bahrain rejects anti-Iranian claims on its media", Mehrnews.com, 25 Jan 2013, <http://old.mehrnews.com/en/newsdetail.aspx?NewsID=1799760> (accessed 22 Jul 2013).



itself from an important and capable player into a new regional political playing field. The Syrian crisis is in danger of becoming a protracted proxy war between Saudi Arabia and Iran. To date, two blocs have stood in opposition to each other: the pro-Assad front with Iran, Russia, China, Lebanon and Iraq on one side and the anti-Assad camp with the U.S., Europe, Saudi Arabia, Qatar and Turkey as its main actors. Iran's support of various and even terrorist forces such as the brutal Shabiha militias or Saudi Arabia's tolerance of Salafist militant fighters may not be manageable in the long-term and may unleash unintended forces.

### **Saudi Arabia's Syria policy**

At first glance it appears contradictory that the Saudi leadership has placed itself on the side of the Syrian opposition and, in doing so, on the side of the democracy and freedom movements. However, for the Saudi leadership, the secular-Shia Assad regime, which was closely allied with Iran, has long been a regional source of irritation.<sup>24</sup> Even though Saudi Arabia has traditionally played the role of guarantor of the regional status quo and normally only interferes in order to ensure the continuance of the regional balance of power, the Saudi leadership positioned itself against the Assad regime relatively early. Together with Qatar, Saudi Arabia was the first Arab country to recall its ambassador from Damascus in mid-2011. Within the Arab League, Saudi Arabia and Qatar led the opposition to the Assad regime. Only Iraq and Lebanon's Hezbollah remain behind Assad. Saudi Arabia is an important supporter of the "Friends of Syria" group and, together with Qatar, is the main provider of financial and military assistance for the Syrian opposition. However, it is problematic that

**For the Saudi leadership, the secular-Shia Assad regime, which was closely allied with Iran, has long been a regional source of irritation.**

24 | Saudi-Syrian relations deteriorated considerably after the assassination of Saudi-Lebanese businessman Rafiq Hariri in February 2005, the planning of which the Syrian regime allegedly participated in. The relationship reached its lowest point after the 34-day war between Israel and Hezbollah in 2006. In light of Hezbollah's successful opposition, President Bashar Al-Assad characterised the pro-Western Arab leaders as "half men" (*nisaf rijjal*), a serious insult in tribally-shaped Arabic social classes. Even the state visits initiated between 2009 and 2010 could not bridge the ideological and personal divides between Saudi Arabia and Syria, though they did calm the tempers of both heads of state.

thousands of Sunni jihadists have remained in Syria and are pursuing their own objectives. While Qatar supports the Syrian Muslim Brotherhood, much to the Saudi leadership's chagrin, Saudi Arabia seems to have aligned itself ideologically with the Salafist opposition in Syria. It would be in Saudi Arabia's interest to remove the secular-Shia Baath regime, to weaken Iran and the Lebanese Hezbollah and to prevent the Syrian Muslim Brotherhood from taking power. However, lasting support of Salafist forces and those aligned with Al-Qaeda would be an incredibly dangerous strategy for the Saudi leadership to follow. Saudi jihadist militants in Afghanistan, supported by the Saudi leadership in the 1980s, later turned against the Saudi regime as radicalised repatriates.

### **Iran's Syria policy: strategic provisions for a post-Assad era?**

Iran's Syria policy is considerably more complicated and proactive. For Iran, the fate of their most important strategic alliance in the Arab world is tied to that of the Assad regime. The fall of the Assad regime would represent a severe loss of regional power for Iran. To that effect, the Iranian leadership is determined to back the Syrian regime by all available means.

Syria is a logistic hub for the Iranian Republic to exert influence on Lebanon and Palestine. The Assad regime has granted important access to its major ally, Iran, including to the Lebanese Hezbollah and the Palestinian Islamic Jihad

**Syria is an important element of Iran's deterrence strategy vis-à-vis possible military strikes by the U.S. and Israel. Both regimes also feature strong ideological similarities.**

and has provided logistic support for the movement of militants, weapons and money through Syrian territory. In addition, Syria is an important element of Iran's deterrence strategy vis-à-vis possible military strikes by the U.S. and Israel. Despite their seemingly conflicting ideological orientations, with a secular socialist Baath ideology on one side and a strict Islamic and Persian nationalist republic on the other, the Syrian and Iranian regimes also feature strong ideological similarities, amongst others an ideological enmity toward Israel and its American allies. That both regimes belong to the Shia religion in a broader sense plays no decisive role in their functional political alliance.

Since the Republic of Iran was founded over 30 years ago, the Syrian-Iranian alliance has proved a stable one. Former President Hafiz Al-Assad supported the young Iranian Republic during its eight-year war with Iraq in the 1980s. In return, Iran supported the suppression of the Syrian Muslim Brotherhood's Sunni Islamic insurgencies in Hama in 1982. Countless bilateral accords in the industrial, military and energy policy sectors underpin Syrian-Iranian co-operation. In 2006, a Syrian-Iranian military accord was agreed upon in the form of a pact of mutual assistance.<sup>25</sup>

The Iranian leadership's goal in the current conflict is to keep the Assad regime in power for as long as possible. Ali Akbar Velayati, foreign affairs advisor to revolutionary leader Khamenei, described Syria as a "golden ring of opposition". Iran does not seem willing to give up this golden counterbalance.<sup>26</sup> Additionally, in January 2013, Velayati stated that every attack on Syria was an attack on Iran. At the same time, Iran is cognisant that the Assad regime will hardly endure in its current form. Thus Iran could aim to support an "Alawite rump state"<sup>27</sup> in Damascus and several other strategic regions, which would then perform these logistic functions for Iran in the future. In addition, the Iranian leadership is anxious to install allied groups and institutions in Syria that could outlast the Assad regime. In doing so, Iran is already looking ahead to a post-Assad era in order to guarantee extensive protection of its interests, even in a post-Assad regime.<sup>28</sup>

**Iran is cognisant that the Assad regime will hardly endure in its current form. Thus Iran could aim to support an "Alawite rump state" in Damascus.**

25 | For more on the 30-year-old Syrian-Iranian alliance see Jubin M. Goodarzi, "Syria and Iran: Alliance Cooperation in a Changing Regional Environment", in: *Ortadoğu Etütleri*, Vol. 4, No. 2, Jan 2013, Center for Middle Eastern Strategic Studies (ORSAM), 31-54, [http://orsam.org.tr/en/enUploads/Article/Files/201331\\_makale2.pdf](http://orsam.org.tr/en/enUploads/Article/Files/201331_makale2.pdf) (accessed 22 Jul 2013).

26 | See "West seeks to break resistance chain by targeting Syria", *PressTV*, 4 Sep 2012, <http://presstv.com/detail/2012/09/04/259810/west-targets-syria-to-stifle-resistance> (accessed 22 Jul 2013).

27 | See Will Fulton et al., *Iranian Strategy in Syria*, May 2013, Institute for the Study of War (ISW) / American Enterprise Institute (AEI). Fulton et al. consider the region around Damascus, Homs and parts of the coast as a possible Iranian sphere of influence in the future.

28 | By supporting various groups active in Syria, such as the paramilitary Shabiha militia or the Lebanese Hezbollah, Iran is seeking to maintain a certain level of influence, even after the possible collapse of the Assad regime. At the same •

Iran has a presence in Syria through various military items and has offered Syrian security institutions training and guidance, as well as military equipment. At the same time, according to U.S. allegations, not only is the Iranian Revolutionary Guards' special unit on site, the Quds Brigade, a unit trained for foreign military actions, but so are the Iranian Revolutionary Guards' ground forces. The ground troops are technically responsible for Iranian domestic security and conventional operations. The presence of high-ranking commanders of the Iranian ground forces in Syria thus demonstrates a new dimension of Iranian intervention.<sup>29</sup> According to Syrian allegations, 48 members of the Iranian Revolutionary Guards were apprehended by Syrian insurgents in August 2012.

**Iran views the Syrian opposition movement not as a part of the "Islamic awakening" in the region, but rather as an illegal movement manipulated by foreign forces.**

However, the Iranian leadership believes that, above all else, it is foreign powers in Syria that are fuelling the conflict by arming the insurgents. In contrast to the other

Arab protest movements, Iran views the Syrian opposition movement not as a part of the "Islamic awakening" in the region, but rather as an illegal movement manipulated by foreign forces. In light of the infiltration of countless external jihadist and Al-Qaeda-friendly forces in Syria, Iran has described the Assad regime's actions as a legitimate fight against terrorists and foreign destabilisation attempts. Iran argues that the causes of the Syrian crisis are interference and manipulation by international and regional forces that are using the current regional situation to topple the Assad regime.

Nevertheless, the Iranian leadership made a strategic calculation in warning the Syrian regime to temper their previous brutal and violent actions against the opposition forces. Iranian Minister of Foreign Affairs Ali Akbar Salehi has insisted on entering into a dialogue with the "peaceful part" of the opposition. The Iranian leadership has also suggested that a new "transitional government" be formed by the Assad regime and the "peaceful opposition". In the process, Iran has continually stressed that only a domestic

time, the Shiite quarter of Damascus, Sayyeda Zeinab, is a strategic location for Iran to be able to further influence pro-Shia and pro-Iranian forces in Syria. See *ibid*.

29 | For more on Iran's military strategy in Syria see *ibid*.

Syrian solution, and not a solution implemented by a foreign military, should be undertaken.<sup>30</sup>

### **CONCLUSION: CONTINUATION OF TRADITIONAL STRATEGIES FOR SECURING REGIME CONTROL?**

After Iraq, Syria has now been thrown into the spotlight of a regional proxy war in which regional claims to power, competing ideological political models and revived and manipulated religious divisions have come to the fore. At the same time, this conflict is not only about the realignment of a purely physical balance of power in the region, but also about securing interpretative sovereignty over current events.

#### **Battle for interpretative sovereignty**

Just as the Arab population's protest movements, previously non-religious affairs purely directed at political freedom and social equality have now been utilised by advancing Islamic actors for themselves, the existing national regimes are also re-framing the protest and democracy movements to fit their own interests. As required, Iran describes the social movements either as an "Islamic" awakening inspired by the Iranian Revolution (Tunisia, Egypt) or as an insurgency manipulated by foreign actors (Syria). In the same manner, the Saudi leadership has characterised the protest movements either as illegitimate "disobedience" towards the ruling houses and a division in the Muslim community (protests in Saudi Arabia) or as Iranian Shia manipulation attempts (Bahrain). In the case of Egypt, the Saudi royal family initially stood by President Hosni Mubarak.<sup>31</sup> Only when the national uprisings became too popular and began to enjoy widespread support from the Arab people was the Egyptian revolution re-framed as "legitimate".<sup>32</sup>

30 | See "Iran Calls for Syrian Dialogue With Opposition", *The Iran Primer*, USIP, 7 May 2013, <http://iranprimer.usip.org/blog/2013/may/07/iran-calls-syrian-dialogue-opposition> (accessed 22 Jul 2013).

31 | At the end of January 2011, Saudi King Abdullah was continuing to express support for President Mubarak.

32 | While a vast majority of conservative Saudi Wahhabists are convinced that rebellion against unjust rulers itself is forbidden in Islam, Saudi Facebook and Twitter users almost all stood behind the Egyptian protests.

Yet the danger of an unintended backlash still stands with the national attempts to interpret the situation. Fuelling denominational fears in their own populations may prove counter-productive for social cohesion in the long-term and overlooks their citizens' real needs. Above all, the Saudi ruling family must confront the social challenges in its Shia-dominated Eastern Province.

The Arab Gulf states and Iran accuse one another of fuelling denominational divisions. Iran sees itself as the victim of an internationally fuelled "Shia phobia". An alleged Sunni-Shia dividing line contrasts with the Iranian leadership's claim of Islamic universalism. However, Iran's Syria policy has undermined its opportunity to play the part of a pan-Islamic role model for the Arab population. In the upheavals in the Arab world the people found their own voice and have no need of any state-controlled of a fair, Islamic political model. In contrast, the Arab rulers in the Gulf see Iran as a culprit who is attempting to incite their Shia population groups to rise up against their regimes. The level of fear among the national regimes of Iran's political and ideological influence on public opinion remains high.

**In the upheavals in the Arab world the people found their own voice and they have no need of any national interpretation of a fair, Islamic political model.**

### **National provisions**

Even before the start of the "Arab Spring", the Arab states have already understood that the real threat to their established regimes comes from the centre of their societies. However, despite massive upheaval in the Arab world, the Gulf states have held onto their traditional strategy for securing their leadership: increasing the welfare programme while simultaneously repressing extensive political demands. The Saudi royal family announced an increase in public expenditure for unemployment and a pay rise for the civil service amounting to approximately 170 billion U.S. dollars. The 15 per cent pay rise for Saudi state employees, who make up 80 per cent of the working population, would increase the culture of state dependence and undermine the state's privatisation strategy. The increasing unemployment rate due to population growth<sup>33</sup> and simultaneous high material demand, a society that is

33 | The official unemployment rate is ten per cent, but for Saudis between the ages of 20 and 24, the rate is 40 per cent.

increasingly younger and a free exchange of ideas through a flourishing internet culture that can scarcely be controlled any longer<sup>34</sup> have formed a dangerous political mixture for the Saudi regime.

In terms of regional politics too, the Gulf states have so far clung to their traditional strategies. The rather rhetorical prospect of membership for the conservative monarchies of Jordan and Morocco in the Gulf Cooperation Council, the increase in financial assistance to Bahrain, Oman, Jordan and Egypt<sup>35</sup> or the weapons imports agreed with the U.S. in 2011 demonstrate that there has been no considerable change in mentality by the political leadership. Just how long these traditional state responses to political and social challenges will suffice remains to be seen.

This article was completed on 22 June 2013.

34 | Saudi Arabia has the largest Twitter community in the MENA region and the second-largest Facebook community (in absolute figures) after Egypt. See Khaled El Ahmed, "Facebook Users in Arab Countries", Discover Digital Arabia, <http://ddarabia.com/infograph/facebook-users-in-arab-countries> (accessed 22 Jul 2013).

35 | Saudi Arabia and Qatar have pledged 2.4 billion U.S. dollars in aid to Jordan. The Gulf Cooperation Council nations had already provided Bahrain and Oman with 20 billion U.S. dollars in aid.



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## THE ELECTION OF HASAN ROUHANI AS SEVENTH PRESIDENT OF THE ISLAMIC REPUBLIC OF IRAN

*Christian Funke*

Just a few weeks ago, most commentators in Iran and abroad were united in their belief that the Iranian elections would produce no real surprises. The 2009 elections seemed to have demonstrated the lack of scope for political dissent in Iran, and it was generally felt that a reformer who was not part of the establishment would have little or no chance of securing an election victory. One editorial in the *Washington Post* a day before the election even went so far as to predict “Mr. Rouhani, who has emerged as the default candidate of Iran’s reformists, will not be allowed to win”,<sup>1</sup> and the Washington paper was not alone in this belief. Many people in Iran shared the view expressed in the international press that the election would be won by a representative of the conservative camp. In Iran, it was Rouhani’s lack of popularity and the impossibility of clearly defining him as a reformer that contributed to a general sense of indifference towards him until shortly before the election.

So although his election as the seventh president of the Islamic Republic of Iran and successor to Mahmoud Ahmadinejad was not initially greeted with great enthusiasm by large sections of the press, there was at least a sense of cautious optimism. Writing in the *Foreign Policy*, Vali Nasr notes how the “reformist candidate” Rouhani defied the odds and achieved a surprise victory just when the world

1 | “Iran votes Friday on a president, but the ballot is quite limited”, *The Washington Post*, 12 Jun 2013, [http://articles.washingtonpost.com/2013-06-12/opinions/39923306\\_1](http://articles.washingtonpost.com/2013-06-12/opinions/39923306_1) (accessed 4 Jul 2013).



had given up hope of any meaningful change in Iran. He comments that there is now cause for cautious optimism that broad popular support for Rouhani at the polls will translate into concessions at the international negotiating table, but that it is still Ayatollah Khamenei, Iran's religious leader, who is likely to have the last word.<sup>2</sup> Rainer Hermann, writing in the *Frankfurter Allgemeine Zeitung*, makes a similar point: "Four years ago it was still possible to manipulate the results of a presidential election to ensure that the hardliner Ahmadinejad would be re-elected. This time it was clear after the first round that the only reformist candidate was the clear victor: Hasan Rouhani."<sup>3</sup>

A frequent question being asked in the vast majority of responses to the election is not first and foremost how the result might affect the internal situation in Iran, but how it might affect Iran's nuclear programme. A common thread during this and earlier elections, and one that continues to run through many analyses even after this election, is the tension between an allegedly powerless president and an all-powerful religious leader – although these attributes are interchangeable. Many consider the views of the supposedly reformist Rouhani to be in direct conflict with Khamenei's conservative interests. Khamenei represents and is head of the existing system, while Rouhani is seen as a reformer at a time of tension between the Supreme Leader and the people, as though he himself has never been a part of the Islamic Republic's political structure.

When the results were announced and Rouhani was declared the victor with 50.7 per cent of the vote,<sup>4</sup> the streets of Tehran filled with thousands of people who celebrated into the night. On 15 June 2013, the fourth anniversary of the mass protests of 2009, pictures began to circulate in

2 | Cf. Vali Nasr, "Regime Change Obama Can Believe In", *Foreign Policy*, 15 Jun 2013, [http://foreignpolicy.com/articles/2013/06/16/regime\\_change\\_iran\\_nuclear\\_weapons\\_deal](http://foreignpolicy.com/articles/2013/06/16/regime_change_iran_nuclear_weapons_deal) (accessed 4 Jul 2013).

3 | Rainer Hermann, "Eine Chance für den Iran", *Frankfurter Allgemeine Zeitung*, 15 Jun 2013, <http://faz.net/aktuell/politik/-12223882.html> (accessed 4 Jul 2013).

4 | With a turnout of 72.7 per cent. Cf. Vezārat-e Kešvar, "Gozāreš-e nahāyī-ye yāzdahomīn-e dōre-ye enteḥābāt-e riyāsāt-e ḡomhūrī" (final result of the eleventh presidential elections), <http://moi.ir/Portal/Home/ShowPage.aspx?Object=News&ID=ab52b9a8-e2a6-41e4-bbcc-15665125a6b2> (accessed 4 Jul 2013).

the social media and the main news channels of the Persian-speaking diaspora (e.g. *BBC Farsi*, *Voice of America*, *Radio Farda*) for the first time since the last mass protests of 14 February 2011, showing large public gatherings with people dressed in green, and also this time in purple. It is very revealing to examine their publicly-expressed statements, materially and verbally. Some were shouting that they had finally got back the votes that had been stolen from them four years earlier,<sup>5</sup> while in a reversal of the chant often heard in 2009, "death to the dictator" (*marg bar dīktātōr*), some were shouting "thanks to the dictator" (*dīktātōr, tašakkor*).<sup>6</sup> Green was being replaced by purple, the campaign colour chosen by Rouhani's camp. One photo shows a placard proclaiming "We miss Neda" (*ġā-ye Nedā ħālī*) in the midst of the victory celebrations.<sup>7</sup> The name of Neda Agha-Soltan, who was killed during the 2009 protests and became a symbol of the Green Movement, was written in red. This is the way the names of the martyrs of the Iran-Iraq War are normally written on state-sanctioned street signs, posters and other printed materials. Chants of "Mousavi" and "yā Hoṣeyn, Mīr-Hoṣeyn" could also be heard among the crowd.<sup>8</sup> An impartial observer could easily get the impression that, four years after the bloody repression of the 2009 election protests, there has now been a dramatic change and that the Green Movement has gained significant ground.

**In a reversal of the chant often heard in 2009, "death to the dictator", some were shouting "thanks to the dictator".**

5 | Cf. Facebook, 15 Jul 2013, <http://fb.com/photo.php?v=577669015617049> (accessed 15 Jul 2013); cf. Facebook, <http://fb.com/IranElectionNews> (accessed 15 Jul 2013); cf. eyewitness account of 16 Jun 2013.

6 | Cf. eyewitness account of 20 Jun 2013. See also: Zahra Hosseini, "Iranians count on president-elect Rohani to bring change", Reuters, 16 Jun 2013, <http://reuters.com/article/2013/06/16/us-iran-election-idUSBRE95C1E120130616> (accessed 4 Jul 2013).

7 | Can be seen on the Google Plus site of the conservative blogger Ahmad Zolalams, "šaraf dārand īnā?" (Do these [people] have honor?). See also: Smallmedia, "Iranian Conservative Bloggers: And the winner is...", <http://storify.com/smallmedia/iranian-conservative-bloggers-and-the-winner-is> (accessed 4 Jul 2013).

8 | I.e.: Facebook, 16 Jun 2013, <http://fb.com/photo.php?v=618334931510417> (accessed 4 Jul 2013); Facebook, 15 Jun 2013, <http://fb.com/photo.php?v=646877958660305> (accessed 4 Jul 2013). Here can also be heard "pīrūz-e enteḥābāt ġonbeš-e sabz-e īrān" (Iran's Green Movement is the real winner of the elections).



Rouhani at a press conference after his election victory: "I will not forget the promises I made." | Source: © Amir Kholousi, ISNA, rouhani.ir.

## A SHORT BIOGRAPHY

But who exactly is Hasan Rouhani<sup>9</sup> and why has his election victory triggered such a reaction? A short 30-minute documentary aired on Iranian television during the election campaign<sup>10</sup> gives some insight into how the presidential candidate sees himself. It shows pictures of a young man who took up his religious studies in 1960 at the age of twelve, qualified as a scholar of Islamic law in 1968 (*iğtihad*<sup>11</sup>) and then enrolled at the University of Tehran to study Judicial Law. In one interview, Rouhani said it was in 1961 that he first visited the Imam Khomeini in his house in Qom. That year proved to be a pivotal moment in the

- 9 | He was born with the family name Fereydūn, which is a reference to the mythical king of the same name. The name Rouhani (Rowḥānī) on the other hand points to the more "Islamic" meaning of "spiritual" or "clergyman".
- 10 | Cf. "Promotional video of Rohani praise Rafsanjani and shows Khamenei stand in nuclear issue doubtful!", YouTube, 4 Jun 2013 [http://youtu.be/9DNYZx\\_\\_yuc](http://youtu.be/9DNYZx__yuc) (accessed 4 Jul 2013).
- 11 | The process of reaching an independent verdict by a Shiite lawyer using reason (*'aql*) and the principles of law (*uṣūl al-fiqh*), is what distinguishes him as a *muğtaḥid* from the laity who are bound by the principle of emulation (*taqlīd*). However, very few *muğtaḥids* practice their own *iğtihad*, but follow a superior *marğa' at-taqlīd* (source of emulation), such as Khomeini's teacher Hoseyn Borujerdi, for example. Like most politically active clerics, Rouhani, as a *Hoğğato 'I-Eslām va 'I-Muslimīn*, ranks below the level of Ayatollah.

run-up to the Iranian Revolution, as it was then that the death of Ayatollah Seyyed Hoseyn Borujerdi thrust his pupil Khomeini into the political arena. The TV programme also showed various SAVAK<sup>12</sup> documents relating to Rouhani's activities in Iran. As a result he came across as a good speaker and later travelled to Neauphle-le-Château, where Khomeini lived in exile from 1978 to February 1979, and then on to various other European countries as a representative of the Revolution. The documentary also refers to people such as Mehdi Bazargan, Hasan Khomeini and Ayatollah Morteza Motahhari, with a view to portraying Rouhani as a revolutionary from the very beginning and positioning him close to the prime movers of the Revolution. It was therefore no surprise that the programme also focused heavily on the war years from 1980 to 1988. Like the Revolution itself, the "Sacred Defence" (*defā'-e moqaddas*) is an important part of the self-image of the Islamic Republic's elite and also a key element of the private and public culture of remembrance.<sup>13</sup> Rouhani held various military positions both during and after the war, including Commander of the Iran Air Defence Force (1985-1991) and Deputy to the Second in Command of the Joint Chiefs of Staff (1988-1989).<sup>14</sup> In 1990 he enrolled at the Glasgow Caledonian University where he received a doctorate in 1999.<sup>15</sup>

- 12 | Organisation of Intelligence and National Security (*Sāzmān-e Ettelā'āt va Amniyat-e Kešvar*), Iran's secret service from 1957 to 1979.
- 13 | Presidential candidate Saeed Jalili in particular, who lost a part of his right leg when serving as a *basiġ* volunteer during the Iran-Iraq War, attempted to set himself apart from his rivals by presenting himself as a "living martyr" during his campaign.
- 14 | His short official English biography from the *Center for Strategic Research* also mentions the following military positions: "Head of the Central Headquarters of *Khatam-ul-Anbia* Command Post, 1985-1987, Head of the Executive Committee of the High Council for War Support, 1986-1988, Member of the High Council for War Support, 1986-1988, Member of the Supreme Defence Council, 1983-1988." Cf. <http://csr.ir/departments.aspx?lng=en&abtid=09&&depid=106&&semid=283> (accessed 4 Jul 2013).
- 15 | In 1995 submitted a paper for his MPhil entitled "The Islamic Legislative Power with reference to the Iranian experience". The subject of his doctoral thesis was "The Flexibility of Shariah (Islamic Law), with reference to the Iranian experience". Cf. "GCU congratulates alumnus Hassan Rouhani on his election as the next President of Iran", 19 Jun 2013, <http://gcu.ac.uk/newsevents/news/article.php?id=59642> (accessed 4 Jul 2013).



The testimonial "I vote" (left) was posted by thousands of Iranians on Facebook. Ayatollah Khamenei (right) meanwhile said he will not tell anybody whom he will vote for. | Source: (left) Negar Mortazavi via Twitter, <http://pic.twitter.com/F5MCp5704F> (accessed 15 Jul 2013), (right) khamenei\_ir via Instagram, <http://instagram.com/p/aD1YQxrVbE> (accessed 15 Jul 2013).

Alongside his military and academic activities, Rouhani was also a member of the Iranian parliament from 1980 to 2000 and in 1991 was elected to the Expediency Discernment Council (*mağma'-e tašhīṣ-e mašleḥat-e neẓām*), known as the Expediency Council.<sup>16</sup> Since 1989 he has also been the personal representative of the Supreme Leader in the Supreme National Security Council (*šorā-ye 'ālī-ye amniyat-e mellī*). As Head of the Center for Strategic Research he is the official publisher of the periodicals *Rāhbord* (strategy),<sup>17</sup> *National Interests*, *Foreign Relations* and the *Iranian Review of Foreign Affairs*.<sup>18</sup> Rouhani became more widely known on the international stage when he was chosen as chief negotiator on Iran's nuclear programme and given the nickname "the diplomat sheikh".<sup>19</sup> He is also a member of the conservative Combatant Clergy Association (*ğāme'e-ye rowḥāniyyat-e mobārez*), with fellow members including Rafsanjani. This is not to be confused with the Association of Combatant Clerics (*mağma'-e rowḥāniyūn-e mobārez*), whose members include Khatami.

16 | Cf. n. 14.

17 | Cf. *Rāhbord*, Center for Strategic Research, <http://www.csr.ir/Center.aspx?Ing=en&abtid=08> (accessed 4 Jul 2013).

18 | Cf. n. 14.

19 | Cf. "Profile: Hassan Rouhani", *BBC*, 18 Jun 2013, <http://bbc.co.uk/news/world-middle-east-22886729> (accessed 4 Jul 2013).

Rouhani uses the various key moments in his story – from the beginnings of the Revolution to being a member of the political elite – to depict himself as a representative of the Islamic Republic’s traditional establishment who is well-connected to the military, the clergy and political decision-makers. As a politically active cleric who is less involved in the traditional religious duties of the mullahs (*‘ulamā’*), for whom the study of religious law and the execution of religious affairs are paramount, he is more akin to one of the “revolutionary clerics” who have increasingly emerged since the 1960s, who count Khamenei, Rafsanjani and Khatami amongst their numbers and who have formed a close symbiosis with the state.

### KEY MOMENTS IN THE ELECTION CAMPAIGN

In previous elections the successful candidates were always those who were able to present themselves as opponents of the establishment. To all intents and purposes, the establishment is a flexible entity that can be defined to suit the particular circumstances. In 2005, for example, Ahmadinejad was able to win a hard-fought election battle against Rafsanjani by making populist promises. He was quick to point out the class differences between himself, the pious son of a poor blacksmith, who still lived in a simple middle-class home, and Rafsanjani the former president and billionaire. A central pillar of Ahmadinejad’s success was his promise to break the power of the “thousand families”, who had controlled the country’s destiny for generations, and to honour “the original promises of the Revolution”.<sup>20</sup>

In the run-up to this year’s presidential elections, it was assumed there would be a switch of roles and Rafsanjani would take over as president, especially in light of the Ahmadinejad government’s economic failures and Rafsanjani’s public criticism of them. Some of Rafsanjani’s own family members contributed to this impression. When his daughter Faeze was given a prison sentence in 2011 for

20 | Cf. Ervand Abrahamian, *A History of Modern Iran*, Cambridge University, 2008, 193-194.

“propaganda against the Islamic Republic”<sup>21</sup> there were growing rumours that Rafsanjani might stand for election, and the *éminence grise* suddenly became more prominent in the Iranian media. His new popularity was made possible by his alleged, albeit not publicly expressed, support<sup>22</sup> for the Green Movement in 2009 and beyond. In many discussions, Rafsanjani was seen as the nation’s great hope because, as the only surviving “founding father” of the Islamic Republic, he was familiar with the country’s internal power structure and as a pragmatist he recognised the need for reform. When Rafsanjani finally announced his candidature on 11 May, this seemed to confirm everyone’s expectations. However, ten days later, the Guardian Council (*šurā-ye negāhbān-e qānūn-e asāsī*) barred him from standing as a presidential candidate, an event which was interpreted by many Iranians as a sign that Khamenei wanted to push through one of his own preferred conservative candidates over whom he would have more influence.<sup>23</sup>

**In 2011 there were growing rumours that Rafsanjani might stand for election, and the *éminence grise* suddenly became more prominent in the Iranian media.**

But Rouhani also had to manage the balancing act between an irreproachable demonstration of loyalty to the Revolution on the one side and an expression of criticism that flirted with the limits of acceptability on the other, as became clear at certain points in his election campaign. Significantly, it was the more critical statements that found

21 | Six days after his daughter was convicted, Rafsanjani’s own website was also removed from the internet. Cf. “Iran schließt Internetseite von Ex-Präsident Rafsandschani”, *Zeit Online*, 30 Dec 2013, <http://zeit.de/politik/ausland/2011-12/iran-internet-rafsandschani> (accessed 4 Jul 2013).

22 | Cf. Muhammad Sahimi, “Rafsanjani’s Sermon, Split in the Leadership”, *Tehran Bureau*, 17 Jul 2009, <http://pbs.org/wgbh/pages/frontline/tehranbureau/2009/07/rafsanjanis-sermon-split-in-the-leadership.html> (accessed 15 Jul 2013).

23 | Until early February, Ali Larijani, Speaker of the Iranian parliament, was the likely presidential candidate and favourite of Chamenei. This changed when Ahmadinejad played a video in parliament which showed Larijani’s brother Fazel engaged in morally dubious business activities. This caused an uproar in parliament and resulted in a summons for Ahmadinejad. Yeganeh Torbati, “Ahmadinejad accuses Iran speaker’s family of corruption”, *Reuters*, 3 Feb 2013, <http://reuters.com/article/2013/02/03/us-iran-politics-idUSBRE9120DG20130203> (accessed 4 Jul 2013).

**Rouhani criticises the activities of the Iranian security apparatus in daily life and asks: "Why is everywhere a surveillance zone? Streets, universities, schools, centres... We have to break this climate of security!"**

their way onto his campaign website<sup>24</sup>.<sup>25</sup> Clips from a speech<sup>26</sup> given on 1 June show Rouhani's supporters chanting for the release of political prisoners. In his speech, Rouhani criticises the activities of the Iranian security apparatus in daily life and asks: "Why is everywhere a surveillance zone? Streets, universities, schools, centres... We have to break this climate of security!"<sup>27</sup> His supporters respond by repeating their calls for the release of political prisoners and chant "Praise be to Mousavi, welcome Rouhani" (*dorūd bar Mūsavī, salām bar Rowḥānī*) and "Long live Rouhani" (*Rowḥānī zende bād*). Rouhani went on to call for more peaceful and better lives with greater freedom, security, prosperity and dignity for the people of Iran. He told his supporters this was "in your hands" and urged them not to be discouraged and to participate in the elections. After the audience once again calls for him to join a coalition with Mohammad-Reza Aref,<sup>28</sup> he promises: "This year, 2013, will not be like 2009 (*emsāl, ya 'nī sāl-e '92, sāl-e '88 naḥwāhad šod*)."

On 13 May, Rouhani examined the issue of public surveillance (*fazā-ye amniyatī*) during an open discussion with students. A member of the audience was applauded when

24 | Cf. YouTube profile, [http://youtube.com/user/Rouhani Campaign](http://youtube.com/user/RouhaniCampaign) (accessed 4 Jul 2013).

25 | Of course statements and excerpts circulating in the social media can only serve as an indication, and indeed the role of the internet in protest movements is often overstated. Cf. Evgeny Mozorov, "Iran: Downside the 'Twitter Revolution'", *Dissent*, Herbst 2009, 10-14; Golnaz Esfandiari, "The Twitter Devolution", *Foreign Policy*, 7 Jul 2010, [http://foreignpolicy.com/articles/2010/06/07/the\\_twitter\\_revolution\\_that\\_wasnt](http://foreignpolicy.com/articles/2010/06/07/the_twitter_revolution_that_wasnt) (accessed 4 Jul 2013). Nevertheless, some statements circulating in the social media can be an important analytical tool as long as they are put into context and provide information on particular elements of the discourse.

26 | Cf. "Rouhani demands end to securitized atmosphere / youth affairs rep arrested", YouTube, 1 Jun 2013, [http://youtu.be/NBX\\_VGddTYM](http://youtu.be/NBX_VGddTYM) (accessed 4 Jul 2013).

27 | "Čerā hame ġā fazā-ye amniyatī bāšad? ḥiyābān, dānešgāh, madāres, marākez... fazā-ye amniyatī rā bāyad beškanīm!" Cf. speech from 1 Jun 2013, n. 26.

28 | Mohammad-Reza Aref, the only candidate who was unanimously considered to be a reformer, withdrew from the race on 11 June on the recommendation of Chatami and for the benefit of Rouhani. Cf. "Iran's Mohammad Reza Aref quits presidential race", *BBC*, 11 Jun 2013, <http://bbc.co.uk/news/world-middle-east-22851764> (accessed 4 Jul 2013).



he asked Rouhani what he planned to do in light of the house arrests of Mousavi and Karroubi. He replied that continuation of such a "rift" (*šekāf*) was not in "our interests" and that the upcoming elections would help to heal this rift. He said the new government also needed to create surveillance-free zones (*fažā-ye ġeyr-e amniyātī*). Rouhani added that within the space of one year the country could see the release not only of people held under house arrest but also of political activists who have been in prison since 2009.

During a discussion following a speech at the University of Tehran on 6 May,<sup>29</sup> Rouhani found himself being asked whether he considered the events after the 2009 elections to be a people's demonstration (*tažāhorāt-e mardomī*) or an insurrection (*fetne*)<sup>30</sup> that was imported from outside Iran's borders (*ke az ān sū-ye marž-hā vāred-e kešvar šod*). Rouhani gave a somewhat vague answer, saying the events were initially naturally-arising demonstrations by Iranians that people should participate in. He then remarked that in the course of an (unspecified) official meeting he had proposed a recount of 20 per cent of the votes and that the result should be applied to all the ballot boxes. But unfortunately this proposal attracted no support and in the meantime the demonstrations had continued, despite being declared illegal at the time. His comment that the issue of *fetne* arose before the elections with the

29 | Cf. „Rouhani's View on the Popular Protests after 2009 elections“, YouTube, 30 May 2013, <http://youtu.be/n0CluzrbPJK> (accessed 4 Jul 2013). This hall holds 750 people and was one-third full. After a speech which concentrated on the problems of the Ahmadinejad government, the audience was mainly interested in whether Rouhani – who was not particularly popular at the time – would withdraw his candidacy if Rafsanjani entered the race.

30 | The word *fetne* (arab. *fitna*) comes from the Koran, where it has connotations of "tribulation" or "temptation" and is associated with "loss of faith" or "aberration". In a political context, *fetne* has taken on the meaning of a religiously motivated civil war between Muslims. Cf. David B. Cook, "Fitna in early Islamic history", *Encyclopedia of Islam*, 3<sup>rd</sup> edition. So, for example, the early Islamic schism between Ali ibn Abi Talib and Muawijja is a *fetne* par excellence. The protests after the 2009 presidential elections were repeatedly described by officials as *fetne*, relegating the protestors to the ranks of heretics and enemies of the faith.

allegations made on TV by “certain gentlemen” during the election campaign triggered tumultuous applause.<sup>31</sup>

Rouhani’s campaign reached a high point with its use of the highly symbolic song “My Schoolmate” (*yār-e dabestānī-ye man*) by Feridun Forughi. This song was sung during the Revolution, given a new context and new popularity during the student protests of 1999 and widely banned after 2009. A video<sup>32</sup> shows an emotionally charged auditorium celebrating Rouhani’s entrance to the sounds of “My Schoolmate”. But once again there is clearly past evidence that Rouhani was an opponent of the student protests. On 15 July 1999 Elaine Sciolino of *The New York Times* wrote: “Hassan Rouhani [...] warned that protesters and rioters under arrest would be tried and punished for being ‘enemies of the state’ and ‘corrupt [sic] of the earth’ crimes [*mofsed fi ‘l- ‘arz*] that are punishable by death. Our revolution needs a thorough cleanup, and this will help advance the cause of the regime and the revolution,’ Mr. Rouhani told a huge crowd at Teheran University, which was also the scene of six days of student demonstrations.”<sup>33</sup>

**Old statements give evidence that Rouhani was an opponent of the student protests.**

On 4 June Rouhani attended the funeral of Ayatollah Seyyed Jalal od-Din Taheri (1926-2013),<sup>34</sup> the former Friday prayer leader<sup>35</sup> in Isfahan. Taheri resigned from his post in 2002 as a protest against the instrumentalisation of

31 | Here, Rouhani is referring to the famous TV debate between former candidates Ahmadinejad and Mousavi, in which Ahmadinejad threatened to reveal shocking information about Zahra Rahnavard, Mousavi’s wife and prominent supporter.

32 | For a music video and translated lyrics in English, cf. “An Iranian Revolutionary Song: My Schoolmate”, *Payvand*, <http://payvand.com/news/09/jun/1152.html> (accessed 4 Jul 2013). For Rouhani’s video cf. Facebook, <http://fb.com/photo.php?v=10151496252417947> (accessed 4 Jul 2013).

33 | Cf. Elaine Sciolino, “Turning Tables In Iran, Crowds Back Old Line”, *The New York Times*, 15 Jul 1999, <http://nytimes.com/1999/07/15/world/turning-tables-in-iran-crowds-back-old-line.html> (accessed 4 Jul 2013). See also “Iranian protesters face execution”, *IOL*, 14 Jul 1999, <http://iol.co.za/news/world/iranian-protesters-face-execution-1.5303> (accessed 4 Jul 2013).

34 | Cf. “Ayatollah Taheri”, <http://ataheri.ir> (accessed 15 Jul 2013).

35 | Friday prayer leader (*emām-ġom’e*) is an official appointment in the Islamic Republic.

religion for political ends<sup>36</sup> and in an open letter dated 30 June 2009 he declared the election of Ahmadinejad to be illegal.<sup>37</sup> During the funeral procession through the city the crowds chanted "Freedom" (*āzādī*), "Death to the dictator" (*marg bar diktātōr*)<sup>38</sup> and "Montazerī,<sup>39</sup> Taheri: the true clergymen!" (*rowḥānī-ye vāqe'ī: Montazerī, Ṭāherī*).<sup>40</sup> The impact of Rouhani's attendance at the funeral – a political issue in itself – was heightened still further by the fact that the funeral procession in Isfahan coincided with the official commemoration of Khomeini's death in Tehran, which was attended by all the other presidential candidates.

### THE REASONS BEHIND HIS SUCCESS

Rouhani's success is based on several factors. These include his reformist rhetoric and aesthetic that united with the cohesive support of the reform camp and the associated desire for change amongst the public. He was also able to benefit from internal and external factors for which Ahmadinejad was blamed. At the root of this was an attitude of expectation that was anticipating victory by the principlist camp.

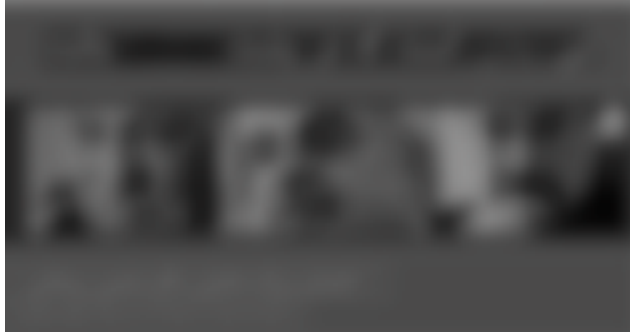
36 | Cf. "Video: Iranians chant 'down with the dictator' at funeral for top cleric", *Al Arabiya*, 5 Jun 2013, <http://english.alarabiya.net/en/News/middle-east/2013/06/05/Video-Iranians-chant-down-with-the-dictator-at-funeral-for-top-cleric.html> (accessed 4 Jul 2013).

37 | Cf. "Āyatollāh Ṭāherī: taṣaddī-ye moğaddad-e ra'īs-e dowlāt nā-mašru' va gāṣebāne ast" (The return to power of the head of state is usurpatory and illegal), *BBC Farsi*, 30 Jun 2009, [http://bbc.co.uk/persian/iran/2009/06/090630\\_mg\\_brief\\_election\\_taheri.shtml](http://bbc.co.uk/persian/iran/2009/06/090630_mg_brief_election_taheri.shtml) (accessed 4 Jul 2013).

38 | Cf. "Iran 4 June 2013 – 'Death to Dictator' chants at Ayatollah Taheri funeral procession in Isfahan", YouTube, 4 Jun 2013, <http://youtu.be/z8gpJQsYf1M> (accessed 4 Jul 2013).

39 | Grand Ayatollah Hoseyn-Ali Montazeri, Khomeini's designated successor, spoke out in 1988 against the mass executions of political prisoners and as a result was placed under house arrest. In 2009 Montazeri came out on the side of the demonstrators and issued a *fatwā* in response to questions from dissidents and his student Mohsen Kadivars in which he called the Supreme Leader illegitimate, claiming he was working with the government against religion and therefore people had a right to resist. Cf. Muhammad Sahimi, "Grand Ayatollah Montazeri's Fatwa", *Tehran Bureau*, 12 Jul 2009, <http://pbs.org/wgbh/pages/frontline/tehranbureau/2009/07/grand-ayatollah-montazeris-fatwa.html> (accessed 4 Jul 2013).

40 | Cf. YouTube, <http://youtu.be/-C9tdnTV0jo> (accessed 4 Jul 2013).



New "reform trinity": Rouhani's campaign twittered this picture in green and purple. The text refers to Ahmadinejad: "This is the spring that follows the winter." | Source: Twitter profile, Hasan Rouhani, <http://bit.ly/13euwpp> (accessed 4 Jul 2013).

After the withdrawal of Mohammed-Reza Aref on 11 June, Mohammad Khatami declared his support for Rouhani in a video that was broadcast via the social networks.<sup>41</sup> Along with Rafsanjani and many others,<sup>42</sup> two Grand Ayatollahs who were critical of the regime threw their support behind Rouhani: Asadollah Bayat-Zanjani, who refused the concept of *velāyat-e faqīh*,<sup>43</sup> and Yusuf Sanei,<sup>44</sup> who came out on the side of the protesters in 2009.<sup>45</sup> In this way, and in contrast to the other candidates, Rouhani managed to unite a broad range of supporters who gave legitimacy to his reform-oriented rhetoric. The videos and photos shown

41 | Cf. Facebook, 11 Jun 2013, <http://fb.com/photo.php?v=10151500045292947> (accessed 4 Jul 2013). Since 2009 it has been almost impossible for Khatami to appear in the traditional media, cf. Leyla Shirazi, "Iran's Presidential Elections: The Live Embers of a Democratic Opposition Glow", *Jadaliyya*, 14 Jul 2013, [http://jadaliyya.com/pages/index/12233/iran's-presidential-elections\\_the-live-embers-of-a](http://jadaliyya.com/pages/index/12233/iran's-presidential-elections_the-live-embers-of-a) (accessed 4 Jul 2013).

42 | Cf. "Iranian Reformist Groups, Figures Rally Around Rohani", *Payvand*, 13 Jun 2013, <http://payvand.com/news/13/jun/1081.html> (accessed 4 Jul 2013).

43 | *Velāyat-e faqīh* ("governance of the jurist") is Khamenei's political-religious concept and the basis of his rule in Iran. For Bayat-Zanjani cf. Neil MacFarquhar, "Clerics May Be Key to Outcome of Unrest", *The New York Times*, 17 Jun 2009, <http://nytimes.com/2009/06/18/world/middleeast/18clerics.html> (accessed 4 Jul 2013).

44 | Cf. "Prominent Iranian Ayatollah Yousef Sanei Slams Iranian Leadership over Handling of Protests", YouTube, 4 Sep 2009, <http://youtu.be/ceHREFzgp10> (accessed 4 Jul 2013).

45 | Cf. "Reformists say Rohani leading in polls", *Radio Zamaneh*, 13 Jun 2013, <http://archive.radiozamaneh.com/english/content/reformists-say-rohani-leading-polls> (accessed 4 Jul 2013).

during the election constantly emphasised Rouhani's proximity to Rafsanjani and Khatami.<sup>46</sup>

A clip from his election video provides an example of the issues covered by Rouhani. Against a background showing people on the streets of Iran, Rouhani says: "People are asking: Why does Qatar process and use more than twice as much of its natural gas reserves than we do while our people live in poverty? People are asking: Do we only have the right to participate and be respected in the weeks leading up to the elections? People are asking: Don't we have any civil rights? We are all Iranians, we are all citizens, we should all have the same civil rights, there is no difference. This party, that party, this idea, that idea... This is not compatible with our constitution and our human rights. People are asking: Do we have to answer to every person on the street? Who are these people in civilian dress [members of the security services (*lebās-šahšī*)]? People are asking: Do our children have to go to Europe and work in a petrol station in order to live normal lives? People are thirsting for transparency in this country. People are thirsting for integrity."<sup>47</sup>

With this, Rouhani addresses some of the reformists' central issues (*ḥaqq-e mošārekāt, ḥoquq-e šahrvandī*) while at the same time stressing national unity. And as was apparent

**Rouhani made use of the aesthetic of the "green" protest and thus particularly benefiting from the widespread rejection of Ahmadinejad.**

during the various stages of his election campaign, he is also making use of the aesthetic of the "green" protest and thus particularly benefiting from the widespread rejection of Ahmadinejad. Some of the main reasons for his success undoubtedly lie in the ambiguity of his statements that leave plenty of room for interpretation, along with the relative relaxation of the political climate that was apparent during the elections.

The first press conference after the elections made it clear how successful Rouhani had been at addressing people's concerns and awakening their hopes. A journalist thanked him for giving hope back to the nation and to journalists after eight difficult years. He replied that he had not given

46 | Cf. "Hassan Rouhani", <http://rouhani.ir> (accessed 4 Jul 2013).

47 | Cf. "Promotional video of Rohani praise Rafsanjani and shows Khamenei stand in nuclear issue doubtful!", YouTube, 4 Jun 2013, [http://youtu.be/9DNYZx\\_\\_yuc](http://youtu.be/9DNYZx__yuc) (accessed 4 Jul 2013).

hope back to the people but that people had given hope back to themselves.<sup>48</sup>

After successfully meeting people's expectations, Rouhani pointed to his life story to show that he also has the necessary experience to find solutions to the country's problems. He portrayed himself as a former successful negotiator who is in a position to find a diplomatic solution to the nuclear dispute and who understands and will focus on the country's current economic problems.<sup>49</sup> His experience seems all the stronger when he compares himself to Ahmadinejad. He blames Iran's economic woes on the latter's mismanagement (*sū'-e modīriyat*), but also on sanctions imposed by the West. In doing so, he is contradicting the oft-repeated statements in the quasi-state media that the sanctions have only had a marginal effect on the Iranian economy.

**Rouhani's campaign slogan reveals startling parallels to the U.S. elections in 2008. Obama's campaign focus on "Hope" and "Change" really captured the mood of the times.**

Rouhani's campaign slogan "Government of management and hope" (*dowlat-e tadbīr va omīd*) reveals startling parallels to the U.S. elections in 2008. After what proved for many Americans to be two terms of disillusionment under George W. Bush, Obama's campaign focus on "Hope" and "Change" truly captured the mood of the times. Of course these parallels hold a certain irony, as the Iranian elections were still filled with negative comparisons to the United States, which various official bodies accused of demonstrating democratic failings.<sup>50</sup>

48 | Cf. "Part 2/2 of new Iranian president Hasan Rohani press conference obn Monday 17 June", YouTube, 17 Jun 2013, <http://youtu.be/LmVKaU1WY3E> (accessed 4 Jul 2013).

49 | For example in a TV debate on 27 May 2013, in which he also criticised Iranian state television. Cf. "Full video of Hojatoleslam Rohani TV campaign including attack on Iranian TV", YouTube, 27 May 2013, <http://youtu.be/SXLPEhJBnS8> (accessed 4 Jul 2013); Arash Karami, "Iranian Candidate Gives Surprising Contentious TV Interview", *Iran Pulse*, 28 May 2013, <http://iranpulse.al-monitor.com/index.php/2013/05/2099/iranian-candidate-gives-surprising-contentious-tv-interview> (accessed 4 Jul 2013); "Iran presidential rivals attack nuclear negotiator Jalili in TV debate", YouTube, 8 Jun 2013, <http://youtu.be/2hQKAR7Iz0w> (accessed 4 Jul 2013).

50 | In this respect, official bodies and media have always used the model that has existed since the Revolution, whereby Islam in general and the "Islamic Revolution" in particular have been viewed as the precursors of an anti-hegemonist, anti-imperialist socio-cultural freedom fight. Even this criticism displays the purely formal understanding of •

Here, whether deliberately or not, Rouhani found himself moving closer to the Supreme Leader. Five days before the Iranian presidential elections, on the anniversary of the 15<sup>th</sup> Khordad (5 June 1963), Khamenei gave an address in Qom. It is noteworthy that he evoked national unity and mentions the word “nation” (*mellat*) 92 times. He added: “Since the Revolution we have had 30 or more elections; which of these have not been free? What other countries hold elections that are freer than those of Iran?”<sup>51</sup> And on 12 June Khamenei tweeted: “My first recommendation is that you participate with passion at the ballot box, it is possible that some do not want to support the Islamic system, but it is your country that you want to support.”<sup>52</sup>

The admission that there are some people who reject the Islamic Republic as a political system constitutes a significant change from the kind of atmosphere that was prevalent during earlier “planned elections”, which was a direct result not only of the events of 2009, but also of the exclusion of Rafsanjani and Ahmadinejad’s close ally, Esfandiar Rahim Mashaei. The importance of opening up and reviving the political sphere in this way shortly before the election can certainly not be overstated.

It is interesting to take a look at *Kayhan*, the daily newspaper which is controlled by the Supreme Leader’s office. In an editorial piece, controversial managing editor Hoseyn Shariatmadari suggested Rouhani had been recognised by the Guardian Council and followed the same laws. But he went on to say that those who believed he could bring about some kind of great change were deluding themselves, as the Supreme Leader was still the main source of those laws. He claimed Rouhani won because he is a cleric who is genuinely respected by the people and who was able to profit from the quarrelling in the principlist camp. He also stated his belief that the economic situation had diverted people’s attention away from the

**Editor Hoseyn Shariatmadari claimed Rouhani won because he is a cleric who is genuinely respected by the people and who was able to profit from the quarrelling in the principlist camp.**

democracy on the part of the Iranian leadership that goes against the implied equation of democracy with the rule of law and respect for human rights that is normal in the USA and Europe.

51 | Cf. Ali Khamenei, <http://farsi.khamenei.ir/speech-content?id=21890> (accessed 4 Jul 2013).

52 | Twitter profile, 12 Jun 2013, [http://twitter.com/khamenei\\_ir/status/344721096437817344](http://twitter.com/khamenei_ir/status/344721096437817344) (accessed 4 Jul 2013).

government's successes in other areas.<sup>53</sup> Other unattributed commentary pieces suggest the high turnout was a sign that the people place a great deal of trust in the system and a clear demolition of the arguments put forward by the Green Movement.<sup>54</sup> As Rouhani stressed in an interview on state television before the election, he personally would have no problem working with both principlists (*uṣulgarāyān*) and reformers (*eṣlaḥtalab*), but he did have a problem with extremists (*efrāṭiyūn*). These words will no doubt be ringing in the ears of those considered to be the losers in the election when it comes to the redistribution of power.

### SUMMARY AND OUTLOOK

The reactions of the national and international press, the demonstrations of support on the street and a positive reaction on the currency markets<sup>55</sup> are all evidence that there is a degree of trust and an easing of tensions within the country. However, it must not be forgotten that the political sphere has always been opened up to a limited extent in the run-up to elections. Elections in Iran have

always been used as a means of balancing out the power of the established political elite.<sup>56</sup>

**The high turnout can also be seen as a sign the Iranians have a strong desire to participate in the political process.**

In this respect, the high turnout can also be seen as something of a double-edged sword, for as much as it is been touted as evidence

of the legitimacy of a disputed political system, it is also a sign the Iranians have a strong desire to participate in the political process, even if only to a very limited extent. This

53 | Cf. Hossein Shariatmadari, "Hamrāhān-e nāhamrāh", *Kayhan*, 17 Jun 2013, 2.

54 | Cf. *ibid.*, 2-3; see also *World Journal of Economics*, <http://den.ir/~4raaw> (accessed 4 Jul 2013).

55 | Cf. "Kāheš-e 10 dar-ṣadī-ye qeymat-e dolār yek hafte pas az e'lām-e natāyeġ-e enteḥābāt" (10 per cent fall in the dollar exchange rate one week after the election results were announced), *Radio Farda*, 20 Jun 2013, <http://radiofarda.com/content/b22-iranian-rial-climbs-ten-percent-new-president/25023319.html> (accessed 4 Jul 2013); "Dolār dar bāzār-e āzād-e īrān be marz-e se hezār tūmān soqūṭ kard" (The dollar has dropped to close to three thousand Toman on the free Iranian market), *Radio Farda*, 23 Jun 2013, <http://radiofarda.com/content/b22-dollar-price-fell-down/25025322.html> (accessed 4 Jul 2013).

56 | Cf. Farideh Farhi, "The Tenth Presidential Elections and Their Aftermath", in: Negin Nabavi (ed.), *Iran: From Theocracy to the Green Movement*, New York, 2012, 3-15, here: 4-5.



development suggests there is a complex political dynamic at play in the country which is in stark contrast to the commonly-held view that the Islamic Republic is enmeshed in some kind of fundamentalist gerontocracy. However, we cannot ignore the fact that the political process supports a limited and elite form of discourse that excludes almost all forms of opposition. As a result, democratic institutions and laws tend to take a back seat in favour of compromises by the elite. Therefore, the statements Rouhani made during the election campaign, his orientation towards a civil rights discourse and his open criticism of the security apparatus should be primarily understood as criticism of the enforcement of unquestioned claims to power. Even if this appeals to the people, it is always directed to competing factions within the elite of the Islamic Republic of Iran. In this regard, it implies a change of style rather than a paradigm shift in fundamental questions.

The most surprising result of this election is that Rouhani and his campaign have, at least temporarily, been able to reconcile large numbers of the Iranian people with the country's leadership, just four years after the bloody conflict between people and state, and in doing so have been able to overcome the crisis surrounding the Islamic Republic's legitimacy for the time being. The acceptance of actors classified as part of the Green Movement,<sup>57</sup> the emphasis on healing rifts and the signal from Khamenei that now is the time to put "Iran" first may even result in Mousavi, Karroubi and some of their supporters eventually being released from house arrest or prison. However, the price of this may be having to subordinate themselves to the "pragmatic" camp, and the state's leadership in particular, for the sake of "national unity".

**The price of Mousavi being released from house arrest or prison may be having to subordinate to the "pragmatic" camp for the sake of "national unity".**

If this were to happen, a new political reality could emerge where toned-down criticism of the regime and a monopolisation by the state could ultimately result in the status quo actually being reinforced. It is likely there will be some relaxation in the area of state control over the public

57 | Even Mousavi's daughters congratulated Rouhani on his election victory. Cf. Mir Hossein Mousavi, "Mir Hossein Mousavi's Daughters Congratulate the Newly Elected President of Iran", Facebook, 16 Jun 2013, <http://fb.com/photo.php?fbid=10151635254204454> (accessed 4 Jul 2013).

domain, even if these changes prove to be largely cosmetic. But the key here is that all changes should be seen to come from the country's leaders, be accepted by all the recognised political camps and not be perceived in any way as some kind of reaction to "illegitimate insurrection". This would cause the questioning of the political system that came to a head during the 2009 protests to become less prevalent.<sup>58</sup>

**The Islamic Republic's leadership has significantly expanded its channels of communication and internet activity since the protests of 2009.**

One final consequence of this will be the reinforcement of Khamenei's somewhat diminished authority. It is also important to note that the Islamic Republic's leadership has significantly expanded its channels of communication and internet activity since the protests of 2009. These days it is very adept at taking advantage of the full range of social media, as its Twitter,<sup>59</sup> Facebook,<sup>60</sup> and Instagram<sup>61</sup> profiles clearly show. The Iranian leadership is also likely to profit from Rouhani's election victory when it comes to the crippling sanctions imposed on Iran and the threat of an Israeli military attack against its nuclear programme, both of which are the result of failure to make any progress in negotiations with the EU, the five veto powers at the UN and Germany (EU-5+1). The chances of a breakthrough in the EU-5+1 negotiations are very much dependent on the willingness of the EU-3 (Germany, France and Great Britain) and the USA to offer a solution that will allow the Iranian leadership to save face. In his first press conference, Rouhani made repeated references to the national rights and national honour that would need to be respected and maintained as part of Iran's relations with the international community.

58 | Kaveh Adel produced a cartoon that eloquently sums this up, "Political Cartoon: 'Shades of Change' By Kaveh Adel Iranian American Cartoonist", 21 Jun 2013, <http://kavehadel.com/blog/2013/06/political-cartoon-shades-of-change-by-kaveh-adel-iranian-american-cartoonist> (accessed 4 Jul 2013).

59 | Cf. Twitter profiles of Rouhani, Rafsanjani and Khamenei: [http://twitter.com/HassanRouhani\\_](http://twitter.com/HassanRouhani_), <http://twitter.com/rouhani92>, <http://twitter.com/HassanRouhani>, <http://twitter.com/hashemi1392>, [http://twitter.com/khamenei\\_ir](http://twitter.com/khamenei_ir) (accessed 4 Jul 2013).

60 | Cf. Facebook profiles of Khamenei and Rouhani: <http://fb.com/www.Khamenei.ir>; <http://fb.com/Dr.Rowhani> (accessed 4 Jul 2013).

61 | Cf. Instagram profile of Khamenei: [http://instagram.com/khamenei\\_ir](http://instagram.com/khamenei_ir) (accessed 4 Jul 2013).

So once again we are witnessing the ever-changing cycle between reform and principlism. At this stage, Rouhani is not able to offer long-term political solutions to pressing social issues, nor can he guarantee an end to inflation and depression. However, the Islamic Republic, which has basically been in a perpetual state of emergency since its inception, has at least been able to demonstrate once again that it is not only capable of displaying a degree of political flexibility but is also capable of surviving.

This article was completed on 24 June 2013.



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## THE TERRITORIAL CONFLICT BETWEEN THE CENTRAL IRAQI GOVERNMENT AND THE KURDISTAN REGIONAL GOVERNMENT

*Awat Asadi*

Ten years ago, on 9 April 2003, live TV pictures documented an act symbolising the collapse of a dictatorship. Using an armoured recovery vehicle, the soldiers of a brigade of the 3<sup>rd</sup> Infantry Division of the U.S. Army toppled a six metre bronze statue of Saddam Hussein. In December 2011 U.S. troops left the country. Yet, all these years later, the political situation in Iraq remains unstable. Although the level of violence has decreased in relative terms, the situation has been exacerbated even further by increasing power struggles. The Kurdish issue has been and remains particularly controversial. The matter has been increasingly affecting development and restructuring processes in the country in many areas.

### THE ORIGIN OF THE CONFLICT

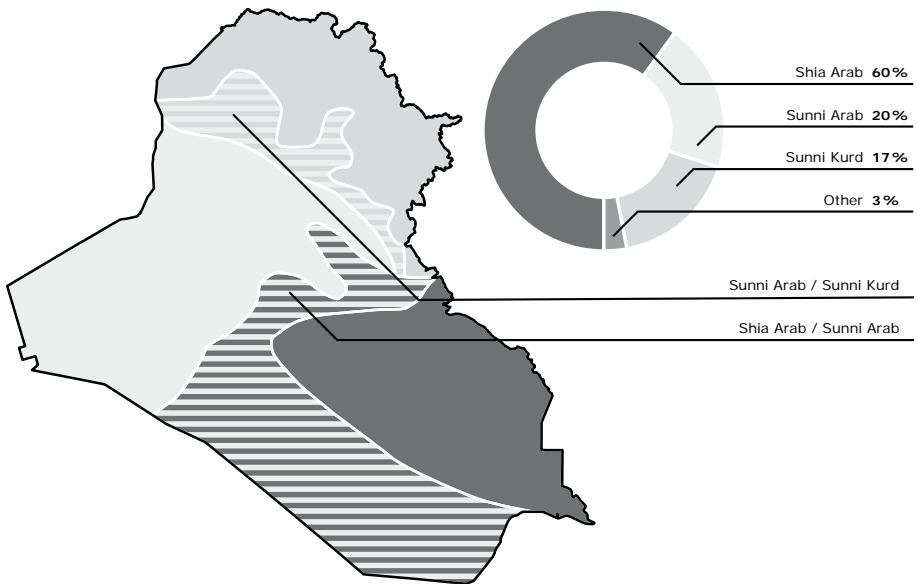
The territorial disputes between Iraqi governments and the ethnic Kurds living in the north and northeast of the country (Fig. 1) go back a long way. During the past few decades, these frequently resulted in crises and violent clashes with devastating consequences. Directly after the First World War, this conflict ran its course from 1919 to 1925. During this period, the political landscape in the region underwent a fundamental change. In Paris, the site of the peace negotiations between the victorious powers and the vanquished, the Allies agreed right from the start of the consultations to separate Armenia, Syria, Mesopotamia, Kurdistan, Palestine and Arabia from the Ottoman

Empire. Promises were given to the affected peoples that the development and sovereignty of the respective countries would be realised by means of League of Nations mandates.

In spite of this favourable international constellation, the efforts of Kurdish activists to establish a nation state failed. After the breakup of the Ottoman Empire, the state of Iraq was created; however, its northern borders went far beyond their geographic, historic and ethnic-cultural boundaries[.] – and this is precisely what brought about the problems that this state has with its Kurdish population.

Fig. 1

### Religious and ethnic groups in Iraq



Source: Own presentation based on "Religious and ethnic groups in Iraq", schematic, *BBC News*.

There are multiple and virtually identical historic definitions of Iraq as a geographic entity. It consists of the natural alluvial plain landscape in the Gulf, starting at the seaport of Basra and extending towards the north and northeast. The north-western boundary forms a line between the present-day central Iraqi towns of Hit and Takrit; in the west, this landscape is bordered by the Syrian desert, in

the east by the Tigris and the foothills of the Pushti-Kuh, and in the northeast by the Jabal Hamrin. This area represents a unit, which used to be referred to by the twin names of Sumer and Akkad in former times.<sup>1</sup>

Before the First World War, the area was under Ottoman rule, comprising the two vilayets (large provinces) of Basra and Baghdad in terms of administration. During the war, the UK brought the two vilayets under its control. The fate of the northern areas of the Baghdad vilayet remained unresolved. In the course of the Ottoman constitutional reform in 1878, the vilayet of Mosul with a majority Kurdish population had been established there. After the war, the status of this vilayet under international law turned into a bone of contention between the UK and Turkey. This dispute was subsequently decided in favour of the UK when the Council of the League of Nations on 16 December 1925 agreed on awarding the disputed vilayet to the British mandate territory (i.e. the Kingdom of Iraq) subject to a small number of conditions, which included an extension of the term of the mandate and willingness to take into account the wishes of the Kurds.<sup>2</sup> These wishes were not defined in any great detail. They were subsequently declared to have been fulfilled with references to the recognition of the Kurdish language and the employment of Kurds in state organisations and institutions.

The Commission of the League of Nations had previously considered the geography of these areas extensively in a report for the purpose of examining the Mosul issue. In this report, it concluded that the climatic and topographic features and the history of the name "Iraq" confirmed that the disputed territory, i.e. the vilayet of Mosul, never constituted part of Iraq, nor that it had been a part of Anatolia, as Turkey depicted it. The Commission members also stated that Iraq and the disputed territory unequivocally consisted of three parts that had to be clearly distinguished: Arab Iraq, Jazira and Kurdistan.<sup>3</sup> The League of Nations

1 | See Maximilian Streck, *Die alte Landschaft Babylonien nach den arabischen Geographen. I. Teil*, Leiden, 1900, 1.

2 | See Société des Nations, *Journal Officiel*, Vol. 7, No. 2., Feb 1926, 187-93.

3 | League of Nations, "Question of the Frontier between Turkey and Iraq, Report submitted to the Council by the Commission instituted by the Council Resolution of September 30<sup>th</sup>, 1924", C. 400. M. 147, Geneva, 1925, 25-29, 56 and 86.

report further stated: "If the ethnic argument alone had to be taken into account, the necessary conclusion would be that an independent Kurdish State should be created [...]."<sup>4</sup> The northern borders of the Iraqi state can therefore be attributed to the category of "artificial borders" from a typological perspective. The border was drawn without consideration of the ethnic-cultural and geographic-territorial circumstances, which has been adding fuel to a conflict situation until the present day.

## KURDISTAN AS PART OF THE KINGDOM OF IRAQ

Although the Arabs gained a relatively extensive territory thanks to the clever political manoeuvring of the British, they could not actually foresee who they were acquiring as neighbours to the north: an ethnic group that saw no reason to submit quietly to rule by a neighbouring people. King Faisal I, who had already made a point of not using the term "Kurd" or "Kurds" in his coronation speech on 23 August 1921 in Baghdad,<sup>5</sup> also avoided the word "Arabs" in his speech before the Iraqi parliament on the occasion of the formation of the seventh Iraqi cabinet on 26 July 1925 – a full six months before the decision by the League of Nations. Instead, he spoke of "our nation" (six times) and of northern "territories", "boundaries" and "districts". He stressed "the defence of Iraq's unity" and that any ideas likely to cause a split among the Iraqis would be cracked down on.<sup>6</sup> The King took pains to afford the Kurds within the future borders of his state appropriate attention by avoiding emphasising any ethnic-nationalist character for his kingdom.

**The Arabs could not actually foresee who they were acquiring as neighbours to the north: an ethnic group that saw no reason to submit quietly to rule by a neighbouring people.**

Iraq devised plans for the future based on the given situation, taking into account various possible scenarios. One of the first consequences of incorporating the vilayet of Mosul into Iraq was that this consolidated the new British administrative divisions. In the Ottoman era, the vilayet of Mosul consisted of three sanjaks: Mosul, Kirkuk and Sulaymaniyah. The city of Kirkuk, which formed the centre of

4 | Ibid., 57.

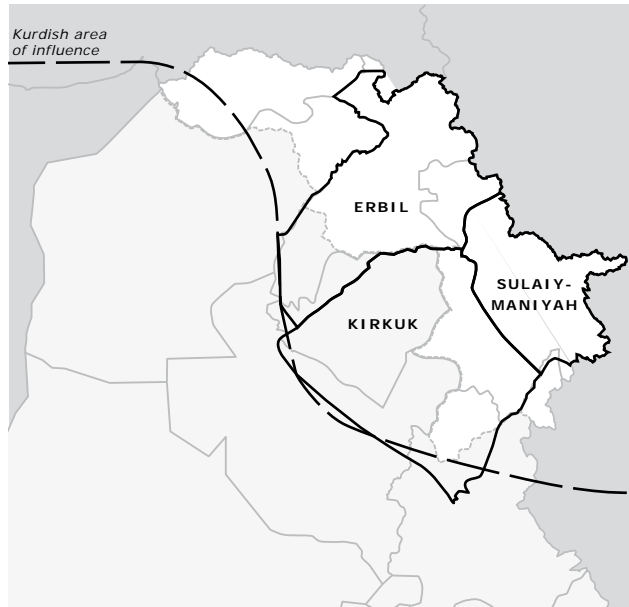
5 | See speech by King Faisal I in: Abdul-Razzaq Al-Hasani, *The History of the Iraqi Cabinets (Arabic)*, 7<sup>th</sup> ext. edition, Vol. 1, Bagdad, 1988, 66-68.

6 | The text is available in full in: *ibid.*, Vol. 2, 8-11.

the vilayet of Sharazur prior to 1878, was divided by the British back in 1918. They split off four to five qaza (districts) (Rawanduz, Erbil, Koy Sanjaq, Salahiya and Raniya) to form Erbil.

Fig. 2

**The administrative boundaries of the northern parts of Iraq with possible boundaries of the Directorate of Education for Kurdistan (Kirkuk, Erbil and Sulaymaniyah)**



Source: Own presentation.

In 1925, the year of the decision by the League of Nations, there were signs of a positive development insofar as the Ministry for Education divided the country into five Directorates of Education. The Directorate of Education for Kurdistan was based in the city of Kirkuk, and its territory included Erbil and Sulaymaniyah.<sup>7</sup> The officials in charge in Baghdad arrived at this acknowledgement of the geography and identity of those territories beyond the Hamrin Mountains, and particularly Kirkuk and its surrounding area, without any coercion (Fig. 2). This is remarkable for

7 | Middle Euphrates: based in Hilla, comprised Karbala, an-Najaf and ad-Diwaniya. Basra came under an-Nasiriya, Alemara. Diyala, Kut, al-Ramadi were combined under Baghdad. Mosul was a separate directorate.



two reasons: On the one hand, because it illustrates how these areas were identified as well as named along ethnographic lines in Baghdad at that time. On the other hand, this event represented a symbolic act, which highlighted the authority of the newly founded kingdom with a message: Kurdistan is becoming part of Iraq and its identity is being recognised.

But Kurdish integration into the new state never reached a satisfactory level. This was mainly due to the politics conducted by the elitist governing class, which was predominantly of Arab origin and Sunni. There were thus a significant number of actors in the new state whose aims did not coincide with furthering development and integration for all citizens with their different languages and religious affiliations. This is illustrated by the example of the education sector. The architect of policy in this area refused to establish teacher training colleges in the Arab-Shiite town of Hilla and in the city of Mosul, where large parts of the population were Christian, to prevent the other ethnic groups from taking advantage of such an education – and the Shiites and Christians were specifically referred to in this connection.<sup>8</sup> No such institution of higher education was set up in Kurdistan either.

Shortly afterwards, matters took a turn that proved to be calamitous for the Kurds. The start of oil production at Baba Gurgur near Kirkuk in 1927 set off a critical phase during which circumstances pushed matters continuously in a negative direction in the medium and long term. Those in power were increasingly motivated by economic interests and they proceeded to remove Kurds from the key roles in Kirkuk.<sup>9</sup> That time also saw the first signs of a policy of state-controlled creeping Arabisation in certain parts of the

8 | See the memoirs of the architect of this policy Sati' al-Husari, which were published in 1967 in Beirut. This man was a confidant of King Faisal I. Al-Husari had already supported Faisal during his time in Syria. Neither Faisal nor al-Husari were native Iraqis.

9 | This becomes obvious upon examining the appointments to the office of provincial governor in Kirkuk province: During the 37 years of the monarchy, this position was awarded to only five persons of Kurdish origin for just seven years, despite the predominance of Kurds amongst the population in the province. See also: Jabbar Kadder, *Contemporary Kurdish Matters: Kirkuk – Al-Anfal – The Kurds and Turkey* (Arabic), 2006, 45.

province. This took place during the times of the monarchy until 1958. After the proclamation of the republic, this policy was pursued much more forcefully.



Damaged Iraqi T-55 tank in 1991: Despite great losses in the Second Persian Gulf War, Baghdad remained unyielding in its negotiations with the Kurdish side. | Source: United States Marine Corps.

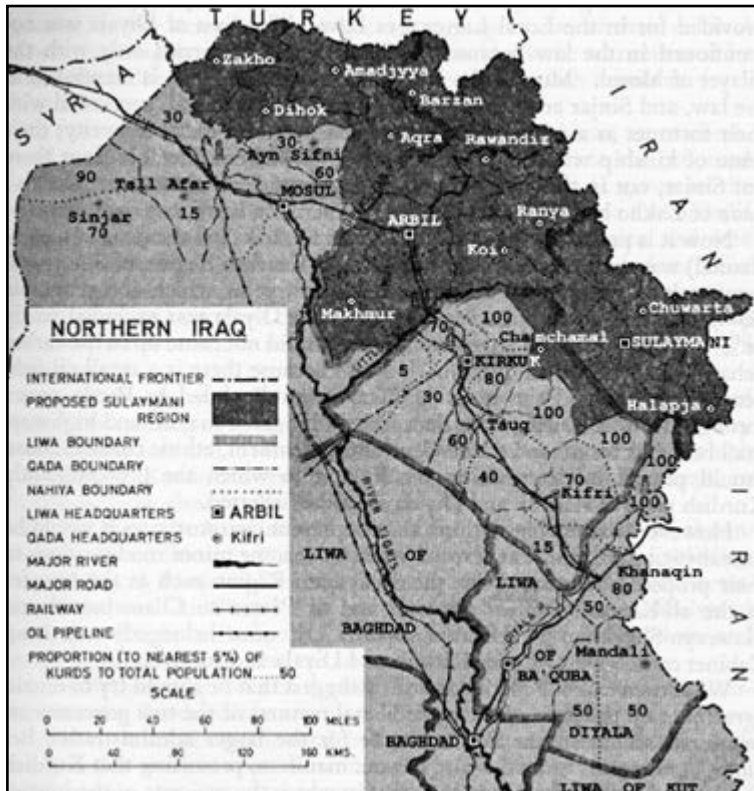
### **THE TERRITORIAL DISPUTE BETWEEN 1958 AND 2003**

After the July coup by the so-called Free Officers of 1958, Kurdish teachers submitted a memorandum to the authorities, in which they applied for the re-establishment of the directorate for education for Kurdistan in order to further education. The Commander of the Second Iraqi Division stationed in Kirkuk, Nadhim Tabaqjali, who was known for his radical Arab nationalist leanings, rejected this application and called attention to the “dangers of a geographic determination” contained in the memorandum of the Kurdish teachers in a memorandum to the military intelligence services on 9 September 1958. He pointed out that the “incorporation of Kirkuk province into the Kurdish Directorate of Education [...] masks the desire to control the oil”. This clear change of course by some officials in Iraq increasingly became something of a state doctrine where the Kurdish issue was concerned.

The euphoria following the fall of the monarchy in July 1958, which entailed remarkable constitutional changes, did not even last three years. The constitution recognised the dual ethnic structure of Iraq. But the whole of Iraq was simultaneously defined as part of the Arab fatherland. In September 1961, further armed hostilities broke out between the rebellious Kurds and the central government.

Fig. 3

### The region in 1967



Source: C. J. Edmonds, "The Kurdish War in Iraq: A Plan for Peace", in: *The Journal of the Royal Central Asian Society* (now: *The Royal Society of Asian Affairs*), Vol. LIV, London, 1967, 10-23, 17 (revised by Erik Prüter), used in: Awat Asadi, *Der Kurdistan-Irak-Konflikt*, Verlag Hans Schiler, Berlin, 2007, 201.

While the two Generals Arif I and Arif II were in power (February 1963 to July 1968), the government side showed some willingness to allow the Kurds a degree of self-administration. But their plan excluded Kirkuk, Khanaqin

and Sinjar and the surrounding area from the proposed autonomous region. They even avoided use of the term Kurdistan for the region.

In July 1968, several generals, who felt committed to Arab nationalist ideals, took power under the leadership of General al-Bakr, paving the way for the Arab Socialist Baath Party to take over. This new Iraqi leadership concluded a peace agreement with the Kurdish side led by Mustafa Barzani in March 1970. According to this agreement, Kurdish autonomy was to be implemented in 1974. But the political discussions and negotiations during that year ultimately failed because of the Kirkuk issue, as the Baath government was not willing to accept integration of this province into the Kurdish autonomous region. It seems that Baghdad considered no price too high to prevent that. The Iraqi government settled its differences with the Shah of Iran, who was providing generous military aid to the Kurds, and accepted the redrawing of the border in the Shatt al-Arab in line with Iranian wishes in the so-called Algiers Accord of 1975. This agreement would, however, not survive the fall of the Shah for any length of time. Because one of the main objectives of the war Saddam Hussein waged against Iran (1980-1988) was to annul the above-mentioned border agreement. This First Persian Gulf War entailed heavy losses; it was followed in 1990 by the Second Persian Gulf War, which brought even greater losses. Despite these colossal, self-initiated conflicts, the central government in Baghdad remained unyielding in its negotiations with the Kurdish side. Particularly where the Kirkuk issue was concerned, the government's attitude became ever more entrenched.<sup>10</sup>

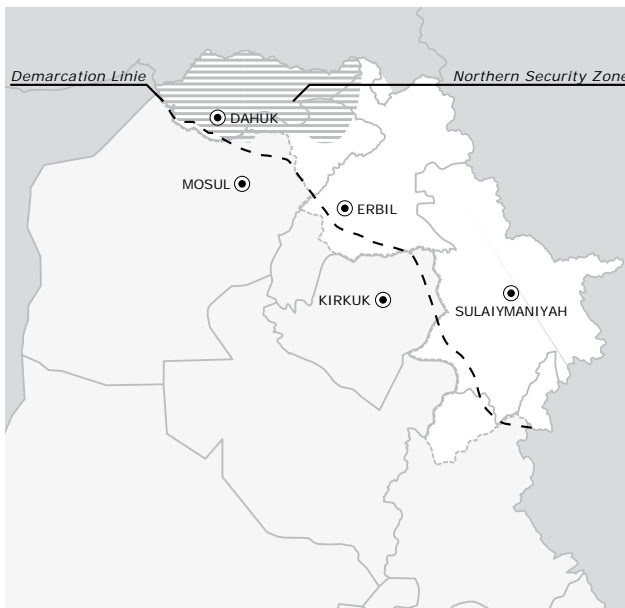
The definitive territorial demarcation of the autonomous region of Kurdistan has thus always been one of the main issues under dispute in negotiations between the Kurdistan leadership and the Iraqi government. The territory

10 | This attitude is illustrated by a rather odd statement on Kirkuk made by a high-ranking Iraqi politician. Tariq Aziz, the former Iraqi Vice President, advised the Kurdish negotiating team in blunt terms in 1991 as follows: "We know that this is a Kurdish area; but we are only granting you [the Kurds] one right in relation to it, namely that of weeping when you cross this area." Nouri Talabany, *The Kirkuk region and the attempts to change its national reality* (Arabic), 2<sup>nd</sup> edition, s.l., 1999, 18.

governments were willing to recognise as Kurdistan always fell short of the expectations held by the Kurdish side, particularly after 1963. One should not neglect to mention that a policy of Arabisation was pursued on a large scale in some areas of Kurdistan from as early as 1970, particularly in Kirkuk province. The most drastic measure in this connection was performed in January 1976, when the Baathist rulers issued decisions through the so-called "Revolutionary Command Council" that reduced the territory of Kirkuk province from 19,543 km<sup>2</sup> to 7,559 km<sup>2</sup> by assigning three districts of this province – with majority Kurd populations – to the neighbouring provinces. The policy of Arabisation was pursued even more fervently in subsequent years until 2003.

Fig. 4

**The demarcation line**



Source: Own presentation, based on "Kurdistan – 1995", Global Security.org, <http://globalsecurity.org/military/world/war/kurdistan-maps.htm> (accessed 23 Jul 2013).

After the Second Persian Gulf War, Iraq experienced revolts by the Kurds in Kurdistan and by the Shiites in the south of the country. By October 1991 at the latest, the disputed territory was effectively split off, with a demarcation line

established along the north-eastern part of Iraq (Fig. 4). Until the fall of the regime on 9 April 2003, there had been no sign that Baghdad was considering altering its course in the border dispute with the Kurds.

### THE BORDER CONFLICT AFTER 2003

From its inception up until 2003, all tentative approaches to resolve the Kurdish issue stalled and did not progress from violent confrontation. However, the armed hostilities since 1991 had reconfigured the balance of power to produce a situation where a centralist state was no longer feasible in Iraq. This meant that things would take a different turn after a new upheaval. And this did indeed occur subsequent to the fall of the regime. The new functionaries in Baghdad read the signs of the times and – albeit in part reluctantly – embarked on a path towards federalisation of the political system in order to heal the wounds inflicted by the monopolisation of power by the Sunni Arabs since the early days of the state and take into account the changed circumstances relating to the Kurdish issue.

It seems that after the regime had been brought down by allied troops led by the USA on 9 April 2003 the new actors in Baghdad considered the peace process a prerequisite to resolving the Kurdish conflict. One cannot be certain as to whether this change in direction was due to a well-thought-out decision made by a majority of Arab Iraqis on the basis of a cost and benefit analysis or a hasty decision taken in stormy times. Initially, a peaceful transformation of the Kurdistan-Iraq conflict took place, which represented the beginning of a fundamental change.

**Initially, a peaceful transformation of the Kurdistan-Iraq conflict took place, which represented the beginning of a fundamental change.**

During the post-Saddam era, the border dispute became a matter dealt with by the provisional constitution on 4 March 2004. The provisions of Article 53 A of the interim constitution<sup>11</sup> indicate that the “military demarcation” of 19 March 2003 determined the respective official areas of influence of the conflicting parties, Iraq and the Kurdistan Region. The article states: “The Kurdistan Regional Government is

11 | See the full text of the provisional constitution: The Coalition Provisional Authority (CPA), <http://iraqcoalition.org/arabic/government/TAL-arabic.html> (accessed 18 Jul 2013).

recognized as the official government of the territories that were administered by the government on 19 March 2003 in the governorates of Dohuk, Arbil, Sulaimaniya, Kirkuk, Diyala and Neneveh. The term 'Kurdistan Regional Government' shall refer to the Kurdistan National Assembly, the Kurdistan Council of Ministers, and the regional judicial authority in the Kurdistan region."<sup>12</sup> This decision was made at a time when the Iraqi army had long been disbanded and, unlike the leadership in Kurdistan, the new officials in power in the Iraqi capital, who were of Arab ethnicity, had no armed forces to maintain rule over the affected areas, i.e. the zones now set forth under the law.

The definition of the official zones of influence of the conflicting parties did not take into account either the old provincial boundaries of the country or the natural geography, the historic arguments or the ethnic makeup of the population; instead, it was based exclusively on the status at the time before the allies had started military action against Saddam Hussein's regime. The date of 9/10 April 2003 would have suited Kurdish interests better, because from that time onwards virtually all areas claimed by the Kurds were firmly under their control and allied troops did not enter these areas until later.

## **TOWARDS CONSTITUTIONAL CONFLICT RESOLUTION**

The course of action for resolving the territorial conflicts between the government side in Baghdad and the Kurds is enshrined in Article 58, the most extensive article of the transitional law. The provisions of this article consist of three basic parts.<sup>13</sup> In the first part (A), the Iraqi Transitional Government and the responsible authorities are called upon to take measures to remedy the injustice caused by the previous regime's practices. This unjust policy is described in the article, which states that it manifested "in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals" and "forcing migration" as well as "settling individuals alien to the region" etc. According to the provisions, there will be restoration, compensation as well as partly voluntary repatriation.

12 | Ibid.

13 | See *ibid.*

**In view of the trauma of the Saddam-Baath rule, the Kurds probably brushed over the past as a gesture of goodwill to facilitate the shaping of the joint future and a new start.**

The article refers exclusively to the policy of “oppression” of the former regime without any mention of earlier governments. This is in contrast to the origins of the conflict and to the events of contemporary history, as the Kurdistan issue is older than the Iraqi state. Presumably, the Kurdish negotiating team did not insist that the historic background to the Kurdistan-Iraq conflict be addressed explicitly in the Iraqi constitution. In view of the trauma of the Saddam-Baath rule, the Kurds probably brushed over the past as a gesture of goodwill to facilitate the shaping of the joint future and a new start.

Paragraph B of Article 58, which refers to the provincial boundaries of the country, states: “The previous regime also manipulated and changed administrative boundaries for political ends. The Presidency Council of the Iraqi Transitional Government shall make recommendations to the National Assembly on remedying these unjust changes in the permanent constitution. In the event the Presidency Council is unable to agree unanimously on a set of recommendations, it shall unanimously appoint a neutral arbitrator to examine the issue and make recommendations. In the event the Presidency Council is unable to agree on an arbitrator, it shall request the Secretary General of the United Nations to appoint a distinguished international person to be the arbitrator.”<sup>14</sup>

The changes made to provincial boundaries by the Saddam Hussein dictatorship were not reversed – contrary to all statements pertaining to “remedying these unjust changes”. Other arrangements are being considered for them, namely submitting recommendations to the National Assembly. That would also mean the populations of the affected areas would be kept entirely excluded from decision-making processes, exactly as was the case in the past when the presidential decisions on moving the boundaries were made.

If “recommendations to the National Assembly” means the Iraqi parliament would vote on the acceptance or rejection of the recommendations, this would not bode well for the disadvantaged side, i.e. the population of Kurdistan or the

14 | Ibid.



Kurds. As the Kurds make up a minority of the country's population as a whole, it is highly unlikely that they could ever achieve a majority in the Iraqi National Assembly. Even if voting in Iraq were to take place in a single constituency, as was the case during the 2005 elections, the Kurds would be unlikely to win more than 25 per cent of the seats. Accordingly, the Kurds need to rely on support from the Arab side to realise their interests.

Another problem for the Kurdish side arises from the provisions of a different article, namely Article 53 Paragraph B, which states that the boundaries of the 18 provinces would remain without change during the transitional period.<sup>15</sup> The main purpose of this paragraph is to prevent any moves towards a referendum by statutory means. Considering these provisions, it is important to begin now to investigate the mechanisms that would be involved in "arbitration" by a representative of the United Nations. Will the proceeding follow the same course as the resolution of the conflict between the UK and Turkey in the case of the vilayet of Mosul or will the opposing parties make a decision on the matter at a later date?

The wording of Paragraph C of Article 58 is as follows: "The permanent resolution of disputed territories, including Kirkuk, shall be deferred until after these measures are completed, a fair and transparent census has been conducted and the permanent consti-

**A referendum will not be conducted until all the previously mentioned measures have been completed, i.e. until "normalisation" has taken place and the provincial boundaries have been settled.**

tution has been ratified. This resolution shall be consistent with the principle of justice, taking into account the will of the people of those territories."<sup>16</sup> This paragraph illustrates that a potential referendum will take place later than anticipated. A referendum will not be conducted until all the previously mentioned measures have been completed, i.e. until "normalisation" has taken place and the provincial boundaries have been settled. One can assume the wording "consistent with the principle of justice" will cause controversy in the future. Because any future decision can be objected to simply by making reference to this principle. There also remains the question on how to deal with the referendum in the first place. This applies in particular to

15 | Cf. *ibid.*

16 | *Ibid.*

Kirkuk province. Will voting take place in a single constituency throughout the province or in several constituencies? Would a subsequent split be acceptable or not?

Article 58 was adopted with some additions to the “permanent” constitution, which was voted on by a referendum on 14 October 2005. Article 140 states that the executive authority shall undertake the necessary steps to complete the implementation of the requirements of all subparagraphs of Article 58 of the Transitional Administrative Law. It further stipulates that the responsibility placed upon the executive branch of the Iraqi Transitional Government stipulated in Article 58 of the Transitional Administrative Law would be extended and continue to apply to the executive authority elected in accordance with the Constitution so that it would be accomplished in full. The article also specifies the steps to be taken: “[...] (normalisation and census and concludes with a referendum in Kirkuk and other disputed territories to determine the will of their citizens), by a date not to exceed the 31<sup>st</sup> of December 2007”.<sup>17</sup>

Specifying a deadline for the completion of all measures (even if this may have been done on the insistence of the Kurdish side) was in actual fact a mistake or a miscalculation in terms of feasibility. This was a mistake because the capabilities and options of the new leaders at the helm in Iraq had been overestimated. The necessary substructure was not in place. People had hardly bargained for the unexpected detours and obstacles they would face along the way and that were very difficult to overcome. The new wave of violence, which cost dozens of lives every day in many parts of the country, even generated fears that the entire Iraqi state would go into a slow terminal decline. In addition, the great majority of those in positions of authority in Iraq did not have the political will to implement this article.<sup>18</sup>

**The new wave of violence, which cost dozens of lives every day in many parts of the country, even generated fears that the entire Iraqi state would go into a slow terminal decline.**

17 | The full text of the Iraqi constitution: Iraqi National Assembly, <http://parliament.iq/manshurat/dastoreng.pdf> (accessed 18 Jul 2013).

18 | “... fatally for the Kurds, it was staffed at all levels by bureaucrats who were increasingly hostile to Kurdish designs on Kirkuk” was how Liam Anderson and Gareth Stansfield described a further dilemma for the Kurds. Liam Anderson and Gareth Stansfield, *Crisis in Kirkuk. The Ethnopolitics of Conflict and Compromise*, Philadelphia, 2009, 169.

## **THE GOVERNMENT PROGRAMME OF MALIKI'S FIRST CABINET**

The Iraqi Prime Minister Nuri al-Maliki drew upon the negative experiences made by his predecessor Ibrahim Jaafari as political lessons, and began by making concessions to the Kurds. In May 2006, the newly elected head of government took up the cause of implementing Article 140. In item 22 of its government agenda, the cabinet undertook to implement Article 140 of the constitution, which is based on Article 58 of the interim constitution. The steps to be implemented in the three phases were specified: "normalization and census and a referendum in Kirkuk and other disputed territories." The programme further stated that after its formation the government would undertake the steps necessary for the normalisation measures, "including the reintegration into Kirkuk province of the districts and sub-districts that belonged to it originally." In the same agenda item, three dates were set for the implementation of the three phases. 29 March 2007 was specified for the first phase. The census phase was to start on 31 July 2007, and the last phase – the referendum – was then to take place no later than 15 November 2007.

But this did not mean that Maliki was correct in everything he was planning. It was questionable as to whether the reintegration of the severed districts of Kirkuk is and remains part of his remit under the constitution. Article 58 B states that these matters are the responsibility of the Presidency Council. In fact, Maliki did not take any discernible action to pave the way for the reintegration of the severed districts into Kirkuk, contrary to his programme objective. He could at least have motivated his parliamentary party to submit a corresponding bill in the National Assembly, but he did not.

It was not until much later that Maliki himself addressed the matter in public. French TV stations and RMC conducted an interview with the Iraqi head of government in April 2009. Early on in the interview, Maliki refuted the allegation made by the Kurdish side that he was not enamoured with Article 140, and he pointed out that it was he who had set up the committee for the implementation of Article 140 and funded it with 600 million U.S. dollars. Maliki continued:

"I told them [the Kurds] that this article will never produce solutions because it is worded in such a way that it will not end in a clear outcome."<sup>19</sup> In his interview, Maliki proposed the following approach: "First: the determination of boundaries; secondly, normalisation of the solutions for the inherited problems as well as restitution of rights to people from whom they had been withdrawn."<sup>20</sup> Only then, said Maliki, should a census and a referendum take place.

In fact, the deadlines for the implementation of Article 140 passed without the government having presented any tangible results. As early as 31 December 2007, an expert commission on Article 140 appointed by the Council of Ministers had submitted its recommendations relating to the problems concerning the provincial boundaries. The contents of this report have not yet come to light. Nor have the reports submitted by UNAMI (United Nations Assistance Mission for Iraq) so far, the objectives of which included bridging the gap between the opposing points of view of the conflicting parties, been able to make any great impact as things stand.

### THE NEW CHALLENGES

A significant number of the opponents of Article 140, including many Arab Sunnis and the Shiites under as-Sadr, had boycotted the first free parliamentary elections in January 2005 as well as the entire political process and had not been involved in the wording of the permanent constitution.<sup>21</sup> However, these forces did take part in the Decem-

19 | See excerpts from the interview on the official website of the Iraqi government: Republic of Iraq, The Committee for the Implementation of Article 140 of the Constitution of Irak, <http://com140.com/paper.php?source=akbar&mlf=interpage&sid=240> (accessed 18 Jul 2013).

20 | Ibid.

21 | Anderson and Stansfield wrote the following in this context: "Implementing 140 according to the specified time line would have required the dedicated cooperation of all entities involved in the process, and the problem for the Kurds was that even those factions that were not adamantly opposed to 140 had few incentives to devote the necessary time and resources to implementing a procedure that remained deeply unpopular among the broader Arab population in Iraq. It was a classic no-win situation for most Arab politicians involved in the process (including Prime Minister al-Maliki), and so the easiest option was to do nothing." Anderson and Stansfield, n. 18, 171-72.

ber 2005 elections, and they entered the Iraqi National Assembly in remarkable numbers. The tide had thus turned yet again. The ranks of those in Iraq opposed to this article increased rapidly. First signs of this trend reaching a peak appeared back in January 2008, i.e. just a few days after the deadline for the implementation of Article 140 had elapsed. Encouraged by the obvious determination of this strong movement, some 150 representatives of the Iraqi National Assembly signed a communique at the beginning of 2008, which called for this article to be rescinded.

An account of the progress made on the implementation of the provisions of Article 58 of the interim constitution (respectively Article 140 of the permanent constitution) by June 2008 makes for sobering reading.

Even after the involvement of the UN, hardly any headway had been made in bridging the gap between Baghdad and Erbil, as well as between those involved in the conflict at a local level, sufficiently to facilitate a dialogue

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that would produce tangible results in the long term. Matters were exacerbated by the fact that not all persons in authority showed themselves to be entirely reliable. Many even made great efforts to defer the provisions of this course of action for a settlement or to deactivate them altogether. This is illustrated by the events of 22 July 2008, the day that saw the will of the majority of the Iraqi people being expressed. On this day, the Iraqi parliament passed a bill on the holding of provincial elections. The election bill included a section on "multi-ethnic" Kirkuk province, according to which the future provincial parliament of Kirkuk was to represent the three major sections of the population in the province (Kurds, Arabs and Turkmen) in equal numbers. Each of these was to receive 32 of the seats. The remaining four per cent were to be assigned to the minority Christians and Mandaeans. That would have resulted in the Kurds losing their majority in the provincial government as they would have dropped from 26 to 15 seats. There was no comparable section in the bill for the other multi-ethnic provinces of the country, such as Mosul, Salahaddin, Diyala as well as Baghdad.

The Kurdish representatives did not attend the vote; nor did the representatives of the Supreme Council for Islamic Revolution of Iraq (SCIRI), headed by Al-Hakim, and the two representatives of the Iraqi Communist Party. Supported by his Vice President Adel Abdul-Mahdi, President Jalal Talabani used his veto for the first time and sent the bill back to the chamber.

**A considerable number among the Shiites were not willing to ensure the political support that the Kurds expected from them. The alliance was purely a means to "secure power".**

22 July 2008 was also the day on which a rift appeared in the alliance between the Shiites and the Kurds. A considerable number among the Shiites were not willing to ensure

the political support that the Kurds expected from them. This was because the hopes of those who had entered into the Kurdish-Shia alliance continued to look to a pro-Kurdish future in Kirkuk, in contrast to the intentions of those who had obviously regarded the alliance with the Kurdish parliamentary party purely as a means to "secure power".<sup>22</sup>

A few days after the July event, there were first signs of military tension in Diyala between the new Iraqi armed forces and the Kurdish military units stationed there. This escalation, which was only narrowly defused by the withdrawal of the latter from the area, illustrated that the central government saw itself in a position to begin curtailing the military presence of the Kurds outside the region of Kurdistan and possibly end it altogether. Shortly before the regional elections in the Kurdish areas of Iraq, the Iraqi Prime Minister even called the conflict involving the ethnic

22 | This applies first and foremost to the up-and-coming al-Da'wa party. On 12 Nov 2012, Sami al-Askari, a spokesman for the State of Law Coalition headed by Maliki, gave an interview to a programme of the TV channel *al-Sumaria*, in which he made the following stark statement: "Talk of a Shiite-Kurdish alliance is a lie. There are some Shiites who are under an illusion as regards this alliance. It did exist during opposition times, but ended after the fall of the old regime." *al-Sumaria*, <http://www.alsumarianews.com/ar/iraq-politics-news/-1-51031.html> (accessed 18 Jul 2013). Al-Askari was in fact not alone with this statement. A week later, another politician of the Maliki coalition confirmed this assessment in the newspaper *Asharq Al-Awsat* published in London (19 Nov 2012). Such statements also provide irrefutable proof that at least one influential faction on the Shiite side wishes to treat the Kurds in a similar manner to the previous regime.

groups “one of the most dangerous problems that the Iraqi government is dealing with”.<sup>23</sup>

The head of government had not paid a visit to the region of Kurdistan since he had taken office. This finally happened at the beginning of August 2009, at the instigation of President Talabani. Masoud Barzani had just been confirmed in his role as Kurdistan’s President with 70 per cent of the votes in the regional elections. Maliki and Barzani had avoided meeting for an entire year. In spite of all the economic and political interdependencies and all the warm words spoken during the Maliki visit, at least at the joint press conference where the Iraqi head of government affirmed his commitment to the constitution, the rivalries and discrepancies persisted.

The first census in 22 years to be carried out in Iraq was postponed in August 2009. The Baghdad newspaper *Al-Sabah* quoted the Iraqi Minister of Planning Ali Baban as saying that although the technical prerequisites were in place, “apprehensions and reservations due to the political development in Kirkuk and Mosul caused us to postpone [the census]”.<sup>24</sup> Many Arabs and Turkmen opposed a census on the grounds that the regional Kurdistan administration had settled 400,000 Kurds [sic!] in Kirkuk.

The incipient demographic changes in favour of the Kurds from 2004, particularly after the return of many displaced persons and refugees, led to accusations by a number of Arab movements in Iraq that the Kurds were engaged in a Kurdistanisation of the region. The Arabs tend to neglect the fact that a policy of Arabisation had been practiced in these areas for some 75 years (1928-2003).<sup>25</sup>

Postponing the census produced further complications not long afterwards. This came to light during the debate in October 2009 about the impending parliamentary elections

23 | “Maliki: Verhältnis mit Kurden als Gefahr für den Irak”, *Die Presse*, 24 Jul 2009.

24 | “Volkszählung verschoben”, *Hamburger Abendblatt*, 18 Aug 2009.

25 | Since the start of oil production in the Baba Gurgur fields of Kirkuk in 1927, there was a gradual Arabisation of these areas, whose population was not originally Arab. This policy was effectively continued at different levels of intensity until the fall of the Saddam Hussein regime in 2003.

scheduled for January 2010, when a dispute broke out among the parliamentary parties about registered voters and statistics in Iraq. Until new elections, hardly any progress was made in line with Article 58 B and C in the political arena. There were not even signs of coming anywhere near completion of the first phase of the course of action to settle the conflict, i.e. normalisation.

Amongst all these correlated circumstances there was one further new aspect affecting the country's innumerable conflicts. The remit of the Article 140 Committee had come to include central and southern Iraq. Those areas too had experienced politically motivated shifts in provincial boundaries, probably against the interests of the Shiite majority in Iraq. The idea that this interplay of circum-

**Unlike the presence of Sunnis in the area of Kirkuk, that of the Shiite Arabs is much more recent and very probably linked closely to the waves of state-controlled Arabisation measures.**

stances favoured mainly the realisation of Shiite interests is plausible on account of the following three factors: First, a substantial majority of the Arab Sunnis remained disengaged from the political process in 2005, and their involvement in the process to devise the

new constitution was therefore very limited.<sup>26</sup> Secondly, unlike the presence of Sunnis in the area of Kirkuk, that of the Shiite Arabs is much more recent and very probably linked closely to the waves of state-controlled Arabisation measures. This suggests that this group would have been the first to be affected by any repatriation of newcomers. Thirdly, one cannot rule out the possibility that the creation of the new provinces in the Baath era had been to support the Sunnis and that the Shiite side had attempted to consider and accept changes in the provincial boundaries only if they would actually be able to benefit from them.

## THE 2010 ELECTIONS

Just under seven years on from the fall of the regime, voters went to the polls again on 7 March 2010. The main reason this had become necessary was a major rift in the

26 | The composition of the 55-strong constitutional committee reflected the presence of the parties in parliament. The United Iraqi Alliance comprising the Shiite blocks sent 28 members, the Kurdistan Alliance 15. Only two Arab Sunni representatives made it onto the committee, which also included the only representative of the Turkmen Front in the National Assembly. *Anderson and Stansfield, n. 18, 134.*



Shiite block. The secular al-Iraqiya list, a Shiite-Sunni alliance led by former Prime Minister Iyad Allawi, became the strongest force with 91 of a total of 325 seats. The "State of Law Coalition" of the incumbent Shiite Prime Minister Nuri al-Maliki gained 89 seats. The other Islamist Shiite coalition, the National Iraqi Alliance (NIA), gained 70 seats, and the Kurds won 57 seats in total.

As had been expected, no one group that had been elected to the Assembly was capable of forming a government by itself. The country experienced yet another serious crisis. The breakthrough came thanks to a remarkable political initiative by the Kurdistan leadership, which resulted in the so-called Erbil Agreement, which was signed by all main political movements of the country. The Iraqi National Assembly subsequently convened on 11 November 2010 and elected Osama Al-Nujaifi (from the al-Iraqiya list) the new Speaker of Parliament. Jalal Talabani and Nuri al-Maliki were confirmed in their respective posts of President and Head of Government. The two Shiite blocks had united in the meantime.

With the elections the balance of power had shifted. The practical purposes of the most important elements of the Erbil Agreement were to facilitate a national partnership in government and to initiate crucial and fundamental political and economic reforms. However, these intentions and plans would not be followed by any substantive policies for a long time.

The political process subsequently experienced some detrimental developments. A few days after the last U.S. troops left Iraq, the Iraqi Vice President Tariq al-Hashimi (an Arab Sunni) was accused in Baghdad of having been involved in terrorist activities and in attacks on members of the security forces as well as on Shiite pilgrims. Al-Hashimi found refuge in Kurdistan. Since that time, the quantitative mismatch between the parliamentary party headed by Maliki and al-Iraqiya was so great that the political process threatened to completely break down once again.

The government crisis since the start of 2012, ostensibly triggered by the failure to implement the Erbil Agreement satisfactorily, deepened steadily. It did not take very long

**Barzani's speech on the occasion of the Kurdish New Year's celebrations 2012 marked the official end of the Kurdish reticence and the start of open criticism of the government of Nuri al-Maliki.**

before a more critical note entered the relationship with the leadership of Kurdistan. Barzani's speech on the occasion of the Kurdish New Year's celebrations on 20 March 2012 marked the official end of the Kurdish reticence and the start of open criticism of the government of Nuri al-Maliki. Barzani, generally known for his restraint, voiced some embittered criticism of the Baghdad government and referred to a referendum on Kurdistan's independence in the absence of change more openly than ever before. The Kurdish politician expressed his disappointment with the way power was being monopolised in Baghdad by "a small number of people" and summarised the conflict with Baghdad in two points: The Arab-Kurdish partnership had become meaningless as the constitution was being infringed continuously, and agreements were not being adhered to.

Masoud Barzani began by referring to the conflict relating to Kirkuk and other disputed territories: "They keep evading, while we show greatest flexibility and patience." The region's President further stated it was impossible for the Kurds to give up pursuing the settlement of this issue "because this matter is more than a question of principle to us". In his speech, Barzani went on to criticise the fact that the central government had not provided funding for the Peshmerga units for over five years and to affirm the legality of the oil contracts of the regional government with the foreign companies.

Asked for his response to these serious allegations, Nuri al-Maliki said at a press conference that Barzani's explanations had represented his personal opinion and that the solutions would be arrived at on the basis of the constitution: "Those who deviate from the constitution resort to such problems and provocations." Baghdad and Erbil have been accusing each other of breaches of the constitution for some time,<sup>27</sup> exacerbating the political crisis even further.

27 | Well-respected politicians such as Iyad Allawi also accuse Nuri al-Maliki not only of failures in the realisation of the reforms but also of breaches of the constitution. According to the constitution, the appointment of ministers or their deputies, their political advisers and chief executives, leaders of the military divisions as well as heads of security authorities is ▶

## MILITARY ASPECTS TO THE CONFRONTATIONS

The tensions between Erbil and Baghdad did not remain purely rhetorical, but spilt over into military planning – relatively unobtrusively in the beginning, but obviously and disconcertingly later on. On 25 May 2012, the Presidency announced in Kurdistan that Iraqi

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units had assumed positions at several points along the demarcation line and that their guns were pointing in the direction of Kurdistan. Nuri al-Maliki went one step further when he announced the setting up of the Tigris Operations Command (TOC) by the Ministry of Defence on 3 July 2012. Moreover, the TOC was headed by a general from Saddam Hussein's time in power. This command was to have control over all security forces in Diyala and Kirkuk.<sup>28</sup> The Kurdish side categorically rejected this decision by the head of government as he had ignored the preceding agreements with the Kurdistan leadership. When the first TOC soldiers and tanks approached the disputed territories in the southern areas of Kirkuk the Kurdish side realised the seriousness of the situation and responded by strengthening their presence in the area. This left the armed forces of the two sides opposing each other at relative close quarters – a situation comparable to that in former times before the fall of the regime in 2003. This undoubtedly stepped up the escalation of the confrontation.

There are many unanswered questions in connection with the strengthening of the Iraqi military presence south of Kirkuk. Was it all intended as a show of strength whereby the central government sought to warn the regional government in Kurdistan convincingly of the consequences should Erbil follow through with its threat of destroying the country's unity with a referendum in Kurdistan? Will such troop movements remain first and foremost timely defensive measures for a different eventuality, namely for countering potential attempts by Kurdish forces to establish military control in the disputed territories?

to be subject to confirmation by the parliament, for instance. But that was not the case, complained Maliki's main rival Iyad Allawi in an interview with *Asharq Al-Awsat* on 2 Sep 2012.

28 | On 31 Oct 2012, an order was issued to the effect that this should also include Salahaddin.

There are many indications that the use of force is an option which is not being entirely discounted, at least by al-Maliki's government. The head of government is rumoured to have requested supplies of weapons during a visit to Russia, which can be used in mountainous and desert areas.<sup>29</sup> In Iraq, mountains are located exclusively in Kurdish areas. The leader of the Kurds, Masoud Barzani, has also hinted that he has received similar intelligence about a meeting of the military leadership from a "trusted and reliable source". When a general suggested to the head of government that he could chase the Kurds from Salahaddin at his request, Maliki responded by saying: "Just wait until we receive F16 planes from America, then you'll see what I shall do."<sup>30</sup> However, Maliki denied any such intentions to President Talabani.<sup>31</sup>

**In Iraq no other turn of phrase carries as much authority and generates as much resonance as an appeal to the country's unity.**

The fog has not yet lifted, mainly because the troop movements towards Kirkuk – whatever the pretext may be – are eliciting justified doubt on the Kurdish side. The issue is that the head of government gives in to the temptation on certain occasions to use such activities to incite people in "Arab" Iraq against the Kurds<sup>32</sup> by attempting to discredit them as enemies of the constitution and separatists. In Iraq, as in many other multi-ethnic states, no other turn of phrase carries as much authority and generates as much resonance as an appeal to the country's unity. Maliki will enter the history books as the first high-ranking Iraqi official to have spoken of a potential "Arab-Kurd war" in

29 | See Tariq al-Hashimi, "Arms trade with Russia... Why now?" (Arabic), *Asharq Al-Awsat*, 25 Oct 2012, <http://www.aawsat.com/leader.asp?section=3&issueno=12385&article=701246> (accessed 26 Jul 2013).

30 | See Masoud Barzanis Interview in *al-Mada* of 27 Nov 2012.

31 | From the text of the interview of the *al Arabiya* channel with Jalal Talabani of 14 May 2012, Iraqi President, <http://iraqi.presidency.net> (accessed 18 Jul 2013).

32 | At the very time that the crisis was going on, 16 factions and groupings in Kirkuk announced a type of united front entitled "Joint Arab Meeting" in order to enter the next provincial elections with a joint list. This alliance has three basic principles: Besides the unity of Iraq, Kirkuk is Arab, and it may not be subordinated to any region. See *al-Sumaria*, <http://www.alsumarianews.com/ar/1/52855/news-details-.html> (accessed 18 Jul 2013).

a press meeting in the context of the confrontations with Kurdistan.<sup>33</sup>

Meanwhile, the TOC has not covered itself in glory with its deployments in its operational areas south of Kirkuk. On 23 April 2013, Iraqi units stormed a protest encampment of Sunni Arabs in the small town of Hawija, which had been in place for some time. There were 50 deaths and numerous people were injured. This dramatic development deepened the persistent rift between Maliki and many Sunni Arabs, most of whom had previously welcomed the establishment of the TOC in Kirkuk.

### **MALIKI'S EFFORTS TOWARDS CENTRALISATION**

The fact that Maliki succeeded in attracting the large number of votes he did (89 seats) during the last elections is worth a closer look. It appears that the search for modest politicians and the need to find new models for a leadership that is reasonably results-oriented have played a role in Maliki's election victory. He obviously managed to bring many groups among the Shiites on board. A further reason why Maliki should have been considered the man of the hour was the fact that many Iraqis were looking for stability and believed that only a centralised, tightly controlled state was capable of leading the way into a new era.

According to Maliki's philosophy, Iraq needs rigid internal control to ensure stability and so the country can assert the leading position in the region due to it. Within the country, Maliki, who is trying to make his mark by promoting a course aiming at an Iraqi nation state, is intent on consolidating his political system of authoritarianism. Serving this objective has become the task of his parliamentary party in the National Assembly and of virtually the entire Shiite block with the exception of the Sadrists. Maliki has no interest in decentralisation of the country, which may otherwise easily get out of control. By the beginning of his second term in office at the latest, he began maintaining

33 | See his statements at a meeting with the Kuwaiti press. "Nuri al-Maliki: We do not want an exception made on our behalf for a single dinar from Kuwait; we are determined to pay the remainder of the 13 billion U.S. dollars in restitution", *al Rai*, <http://alraimedia.com/Article.aspx?id=398173> (accessed 18 Jul 2013).

a totally new stance. In his opinion, former times, which required a certain degree of tolerance because of his political and military weaknesses, are coming to an end. His interpretation of the situation seems to be that the sovereignty of a state can be undermined by federalism such as that enforced on the ground by the Kurds.

**Baghdad must ensure Erbil will not crash through the barriers of state sovereignty. The Kurdistan leadership, for its part, are not at all happy when they have to bow to Baghdad's wishes.**

In view of such developments it is only natural that considerable differences arise between the central and regional governments. Baghdad must ensure Erbil will not crash through the barriers of state sovereignty. The Kurdistan leadership, for its part, are not at all happy when they have to bow to Baghdad's wishes. Particularly as the constituent state of Kurdistan has developed a dynamic of its own over the past two decades that is virtually irreversible.

The fact that the Kurds consider centralism the embodiment of all evil is due to the memories of thousands of destroyed villages and tens of thousands of victims under Saddam Hussein's central rule. Nobody knows when the last mass graves of Kurds from 1987/1988 may be found. But neither should one ignore the fact that the Kurds are convinced they not only played an important part in establishing the new Iraqi state, but also made great sacrifices and struggled for decades to build their institutions and structures; there is no doubt they will not give up control over all this willingly.

During his time in power, Saddam Hussein discovered the limits to what he could achieve in a country of conditional stability without going under himself – without the U.S.-led invasion by the allies Saddam Hussein would have remained in power to the present day. In the post-Saddam era, the Baghdad government can help shape the country's fate, but not centralise it totally as Maliki is promising.

Centralisation is not universally popular with voters in Iraq as the third provincial elections in mid-April in twelve mainly Shiite provinces showed, during which 14 candidates were assassinated. The desired rule of law and security is nowhere near as well established as it seemed. While Maliki's "State of Law coalition" emerged victorious

in eight provinces, it also suffered clear losses. His followers in parliament are no longer safe in the knowledge that they continue to call the shots in Iraq.



Regional Government President Barzani meets U.S. Secretary of Defense Panetta in 2011: the Kurds are convinced they played an important part in establishing the new Iraqi state. | Source: Jacob N. Bailey, U.S. Air Force.

After the escalation of the crisis involving his political opponents, above all the Arab Sunnis and the Kurds (mainly due to deliberating over the national budget), ministers abandoned the head of government in Baghdad in droves. A change seemed to be in the air and Maliki did not miss the opportunity to attempt to arrive at an arrangement with the Kurds. After having received a high-ranking delegation from Erbil in Baghdad, he accepted an invitation to visit Erbil on 9 June. The talks he conducted there served mainly to normalise the relationship. At the joint press conference with Masoud Barzani, the subject of Article 140 was addressed amongst other things. Without entering into an actual commitment, Maliki presented a roadmap for settling the matter; however, just like the government programme of 2006, it will be difficult to realise. In connection with settling the conflict of the disputed territories, Maliki reminded listeners it would be necessary to conduct a census. His government was "ready and determined to reach the census phase by the end of the year" to settle this question. The Prime Minister made reference to the President's bill for determining the provincial boundaries,

which had already been submitted to the National Assembly, and called upon the Assembly to pass this bill.<sup>34</sup>

## CONCLUSION

After the initial euphoria following the fall of the dictatorship, the Kurdistan-Iraq conflict appears to have entered reality. The country may have been successful in passing the constitution, but it is nowhere near settling its conflicts. The issues in dispute have multiplied and so have the number of conflicts and risks as well as the intensity of potential hostilities. The clashes of opposing interests produce a negative mood, which opens up wide scope for misinterpretation and mistrust.

The fact that the government of Nuri al-Maliki has set up the Committee for the Implementation of Article 140 was an important step, but it was not followed by an equally significant second step. The President's bill, with which he proposes the reversal of changes made to the provincial boundaries by the so-called Baathist presidential decisions, might provide a breakthrough given the right circumstances, although the approval of such a bill in the current Iraqi National Assembly is hardly likely as things stand. Because there are numerous movements in Iraq which have established their influence specifically in response to Article 140, but which are not followers of one particular camp.

**The practices of the notorious Arabisation policy of Saddam Hussein are no longer approved by the people now holding political power in Iraq.**

This stance of a considerable number of political movements is met with deep mistrust on the part of the Kurds. It is the case that the practices of the notorious Arabisation policy of Saddam Hussein are no longer approved by the people now holding political power in Iraq as they now work alongside Kurds in the control centres of power in many cases. But their unwillingness to totally reverse the results of the inhumane Arabisation policy arouses scepticism on the Kurdish side.

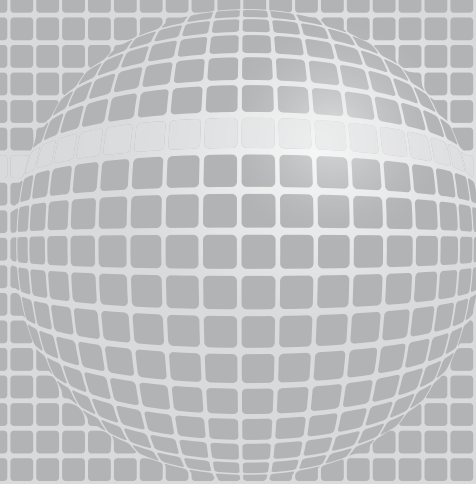
34 | Cf. "Barzani and Maliki after a conference in Erbil: We agreed on solving the problems in line with the constitution", *Asharq Al-Awsat*, 10 Jun 2013, <http://aawsat.com/details.asp?article=731940> (accessed 18 Jul 2013).



Be that as it may, one must remember that while Article 140 has the potential of going some way to mitigate the long-lasting damage done over the last 75 years it will hardly be possible to correct it totally. The experiences from the years following the fall of the regime have proved that there has been an imbalance between the political benefits of the provisions of Article 140 and their practicability. In other words: it seems the politicians failed to tackle the issue seriously and engaged in wishful thinking without putting sufficient thought into feasibility. Reality did and does not match the intentions by any means. Conflict resolution requires constant adaptation and innovation, and the opposing parties are called upon not to weaken in their endeavours. Even though the Kurdistan leadership continues steadfastly to consider Article 140 the only feasible way forward, it needs to make strenuous efforts to devise new tactics and ideas for its realisation.

Resolving the territorial problems, which are pitting the central government and the regional government in Iraq against one another, is a complex and lengthy process of transformation from violent conflict to enduring peace. Once the agreements, namely the provisions defined in Article 58 of the provisional constitution, are properly implemented sometime in the future, the "Kurdistan-Iraq rapprochement" will surely be considered a landmark event in the Middle East. A grave crisis will then have been overcome in a civilised manner in the country of the so-called "cradle of civilisation".

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# THE HISTORICAL CONTEXT OF THE 2013 PARLIAMENTARY ELECTIONS IN PAKISTAN

*Jakob Rösel / Pierre Gottschlich*

Pakistan held parliamentary elections on 11 May 2013, representing nothing short of a substantial turning point in this crisis-ridden country's history: A democratically legitimate, civilian government took over following a full legislative period through largely free and fair elections for the first time since Pakistan's independence in 1947. Such a conventional, peaceful power shift under the rules of a parliamentary democracy is a completely new experience for Pakistan, one that brings with it great hope for the future. The significance of this singular event is made particularly clear in the historical context of this artificial, rump and crisis state.

## ARTIFICIAL AND RUMP STATE

Everything is illuminated by history. This holds true as well for the current conflicts and threats in and around Pakistan. A summary of this unexpected state's peculiarities is revealing: Pakistan is the world's first great secessionist state, arising from the first great act of decolonisation – British-ruled India's independence in 1947. Yet this secessionist state began under rather unfavourable conditions. It consisted of two regional portions separated by 1,500 kilometres of newly established India and was largely rejected by the populations of newly demarcated "West Pakistan" and "East Pakistan" (East Bengal, later Bangladesh).<sup>1</sup>



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1 | David Gilmartin, *Empire and Islam: Punjab and the Making of Pakistan*, London, 1988, 189-224.

The unpopular state began under authoritarian rule, initially by its founder, Muhammad Ali Jinnah, together with Muslim League politicians who had fled India with him. They referred to themselves as pilgrims (Muhajir), a sentimental reminder of Mohammed's followers when he migrated to Medina. Beginning in the 1950s, the Muhajir entered into a governance contract with the Punjabi elite – industry and business moguls, the military, Muslim League politicians and officials from the populous Pakistani province of Punjab. Today, however, a "Punjabistan" has developed out of the "Muhajiristan" part of Pakistan, which hides behind the primary Pakistani idea of providing a "home country for all Muslims of South Asia". From the start, 55 per cent of the population – or the overall majority – living in East Pakistan had been second-class citizens. In the eyes of the Muhajir (eight per cent) and the Punjabis (56 per cent of the West Pakistani population), they are not considered Bengali Muslims, but rather Muslim Bengalis – and are therefore religiously and politically unreliable. This has legitimised the

**The first Pakistani constitution was adopted in 1956. It granted the West and the East 150 seats each in the national parliament and secured a political stalemate.**

dual Muhajir-Punjabi elite's refusal to adopt the constitution and has thus prevented general and confidential national elections. The West's civil servant and military elite fear the

Bengali Awami League ("People's League") will win the election. The first Pakistani constitution was adopted in 1956. It granted the West and the East 150 seats each in the national parliament, and in doing so secured a political stalemate and elevated the western military and civil servants to become arbiters and king-makers. By 1958, the army was no longer content with this role. General Ayub Khan staged a coup and took power. The military was unable to do anything so long as the capital, Karachi, was situated on the coast of the Arabian Sea. They established a new capital, Islamabad ("Place of Islam"), on the northern edge of Punjab. This was where Pakistan was most vulnerable, where the army recruited 75 per cent of its soldiers and where the British had established the largest military base and most important railway junctions during the colonial period on geostrategic and organisational grounds.<sup>2</sup>

2 | Ayesha Jalal, *The State of Martial Rule: The Origins of Pakistan's Political Economy of Defence*, Lahore, 1999, 136-276; Ayesha Siddiqa, *Military Inc.: Inside Pakistan's Military Economy*, London, 2007, 214-216.

Fig. 1  
Pakistan



**In terms of its containment policy vis-à-vis the Soviet Union, the USA sought to supplement the existing NATO pact in Central, South and South-East Asia with a CENTO and SEATO pact.**

This political, ethnic and military realignment was promoted by the geostrategic constraints of the Cold War. In terms of its containment policy vis-à-vis the Soviet Union, the USA

sought to supplement the existing NATO pact in Central, South and South-East Asia with a CENTO and SEATO pact. The Korean War caused them to speed up their efforts. But independent India taxed the Truman and Eisenhower governments' patience. India's first Prime Minister and Minister of External Affairs, Jawaharlal Nehru, insisted upon a "middle way" between the two Cold War factions. Long before the 1958 military coup, Ayub Khan, then Minister of Defence, along with leading Punjabi members of the military and Muhajir civil servants, all dissatisfied with the Muslim League's corrupt government, recognised the opportunities for Pakistan's development, its strategic placement and its military arising from Nehru's refusal to join the western alliance. Pakistani and American interests converged. Military, technological, diplomatic and economic co-operation with the USA rescued the artificial state and paved the way to a functional alliance, which to this day remains intractable, largely unpredictable and becoming increasingly autonomous.

Through the military pact with Pakistan, the USA was able to close a gap in its containment policy. From then on, they consolidated, rehabilitated and reconstructed the often politically or economically bankrupt Pakistani state and experimented with a new strategy befitting the Cold War – the balance of power through "offshore balancing". They believed they could weaken or indoctrinate unruly India with a minimum of political and strategic risks. The strategic co-operation has been good for the military and good for Pakistan – according to the opinion of the Muhajir officials and Punjabi soldiers. Muslim League politicians came to be seen as corrupt and were de-legitimised – not least because the national general elections continued to be suspended. It is hardly any wonder that the same civil servants and soldiers and the USA, who had received prior notification, embraced Ayub Khan's military coup in 1958. At the beginning of the 1970s, the military began to withdraw from command after holding the first free and equal national general elections. This decision allowed the East Pakistani Awami League to win the election and, with

Indian military support during the Indo-Pakistani War of 1971, ultimately led to the secession of the eastern region and the creation of Bangladesh.

It is for this reason that the West Pakistani rump state finally faced bankruptcy. Eastern secession took the bulk of income from taxation with it. The military was discredited by its ignominious defeat by India. A significant number of the troops was captured by India as prisoners of war. Not least, Pakistan's legendary origins and sham existence disintegrated: that regardless of language and origin of its citizens it was a nation of equals and the home of all Muslims of South Asia. But every catastrophe provides opportunities. However, Zulfikar Ali Bhutto, Ayub Khan's former Minister of Foreign Affairs, founder of a new political party, the Pakistan People's Party (PPP) and now the clear winner of the elections in the West, took only limited advantage of these opportunities. In 1973, his PPP government adopted Pakistan's first genuinely democratic parliamentary constitution. Power lay in the hands of the prime minister, in this case Z. A. Bhutto. He attempted to bring the traumatised military under democratic control. Since then, the government has appointed a Chief of Army Staff (COAS). Bhutto decided to appoint the inconspicuous Zia ul-Haq. He opened up the bankrupt state to new financiers and export opportunities with the help of the Saudi royal family. But that carried its own political price. Bhutto made small political concessions to Sunni fundamentalists in exchange for Saudi Arabia supporting orthodoxy, madrasas and building mosques. This first stirring democratic interlude following the state's collapse lasted only five years. In 1977, Bhutto's Chief of Army Staff rose up against his commander-in-chief. Zia ul-Haq made every effort to have the populist prime minister sentenced to death by a military tribunal after a coup. Only when Bhutto was executed in 1979 did the military feel secure.<sup>3</sup>

### **MILITARY AND NUCLEAR STATE**

It was this renewed military dictatorship beginning in 1977 that ultimately created the framework which transformed the artificial state into a military and nuclear state. It was

3 | Jakob Rösel, *Pakistan: Kunststaat, Militärstaat und Krisenstaat*, Berlin, 2011, 3-31.

Zia ul-Haq who introduced the Islamisation, ethnicisation and militarisation of the political system that persists to this day. In doing so he hoped he would be able to legitimise and consolidate his position of power. However, these processes have careened out of control and reinforce each other – even now. This transformation was heavily promoted by Zia’s willingness to confront the Soviet invasion of Afghanistan in 1979 with a fundamentalist jihad controlled by the army and intelligence corps. In the process, Afghanistan, the Afghan-Pakistani border region and parts of the Pashtuns who dominated both sides ultimately became an enduring internal and external security issue.

Islamisation – the introduction of Sharia law, an intensification of blasphemy laws, religious concessions regarding economic practices (e.g. through Islamic banking) and a new Islamic social insurance contribution (*zakat*) – was intended to legitimise the military regime. In order to do this, Zia relied on the previously insignificant fundamentalist party Jamaat-e-Islami (Islamic Party, JI). Though this Islamic cadre organisation never became a party of the masses, from then on it did influence and radicalise the other religious reform organisations. First of all the JI gained access to the universities and state media. More importantly, the JI established ties with the armed forces and the ever-expanding intelligence corps, Inter-Services Intelligence (ISI). A growing culture of intolerance developed. Militant Sunni fundamentalist organisations now took greater action against heretics and religious minorities. The Shiites in particular, probably 20 per cent of the population, have experienced increasingly bloody attacks on their mosques.<sup>4</sup>

**The regional electorate of the Bhutto family and the PPP in the southern Sindh province has always resented the Muhajir for effectively “taking over” Karachi after gaining independence.**

This Islamisation was partially connected with an ethnicisation – Zia’s and the intelligence corps’ willingness to play the “ethnic card”, beginning with the Sindhis. The regional electorate of the Bhutto family and the PPP in the southern Sindh province has always resented the Muhajir for effectively “taking over” Karachi after gaining independence. After Karachi lost its capital status to Islamabad, the Sindhi elite attempted to reclaim control over the

4 | Anita M. Weiss (ed.), *Islamic Reassertion in Pakistan: The Application of Islamic Laws in a Modern State*, Lahore/Karachi/Islamabad, 1987.



unique and large port and industrial city. Meanwhile, the Urdu-speaking Muhajir youth, the educational elite, had radicalised. They fought for unobstructed admission to the province's universities, campaigning against quotas and particularly against the upgraded status of the provincial language, Sindhi, promoted by the PPP. This conflict not only saw ethnic groups pitted against one another, but languages as well: Urdu, elevated to the national language by Jinnah, brought over from Delhi and northern India against the centuries-old literary language of Sindhi. Ultimately, with support from the intelligence corps, a militant Muhajir student organisation was formed. The Muhajir's first ethnic party, the Muhajir Qaumi Movement (MQM), emerged from this group in 1984. From then on, the PPP and the Sindhi majority have seen the autonomy movement in their own province politically blocked, discretely exploited by the military. After Zia's death in 1988, the MQM was permitted to play king-maker within the party democracy once again allowed by the military – until the next coup in 1999.<sup>5</sup>

Zia and his intelligence corps also contributed to increased ethnic and tribal conflicts in the border regions of Balochistan and Pashunistan. Balochistan was one of the expanded and consolidated princely states as determined by the colonial power – the tenuous, mediaeval Khanate of Kalat. The Khan and his more than three dozen tribes had no interest in Pakistan. The enormous, deserted region was added to the new state in 1948 by means of a military operation – since then, Balochistan has expanded to fill nearly half of the territory but only makes up five per cent of Pakistan's population. The less modern tribal elites dreamt of a "Great Balochistan". It would stretch from the South East of Iran and Hormuz to the Indus. Under Bhutto an uprising took place that was brutally crushed by Pakistan's military and the Shah of Iran's air force. Zia, the military and the intelligence corps now handled the region as if it was an occupied zone and pitted individual tribes and tribal federations against each other.<sup>6</sup>

**Balochistan was one of the expanded and consolidated princely states as determined by the colonial power – the tenuous, mediaeval Khanate of Kalat.**

5 | Jakob Rösel, "Die Mohajir in Karachi, Pakistan", in: Katharina Inhetveen (ed.), *Flucht als Politik: Berichte von fünf Kontinenten*, Cologne, 2006, 125-162.

6 | Martin Axmann, *Back to the Future: The Khanate of Kalat and the Genesis of Baloch Nationalism 1915-1955*, Oxford/New York, 2008.

**The militarisation of Pakistan originated with the Soviet Union's invasion of Afghanistan in 1979. It provided the Zia regime, which had largely been discredited with regard to foreign affairs, with a second chance overnight.**

Yet the riskiest policy was that of ethnic reevaluation or division in the border regions with Afghanistan. This coincided with the Islamisation and militarisation of the Pakistani state. The militarisation originated with the Soviet Union's invasion of Afghanistan in 1979. For the Zia regime, which had largely been discredited regarding foreign affairs, this provided a second chance overnight. By declaring himself a defender of freedom, elevating Pakistan to a front-line state and organising an anti-Soviet jihad, Zia gained international esteem, unlimited economic and military aid and access to nuclear technology. The jihad and this external support accelerated Pakistan's fundamentalist, ethnic, political and military transformation. Zia, his intelligence corps and the JI, along with the Reagan government, the CIA and the "House of Saud" all agreed that the jihad could not be organised as a conventional popular uprising. Because of the invasion, Tajiks, Uzbeks and Turkmen predominantly fled west to Iran and mainly Pashtuns predominantly fled east to Pakistan. The kingdom of Kabul, later Afghanistan, arduously formed and fortified in the 19th century, had been founded by Pashtun tribes and primarily relied upon Pashtuns. The Pashtuns have lived on both sides of the newer North West border since British colonial rulers placed their border (the Durand Line) directly in the middle of the Pashtun territories for strategic purposes.<sup>7</sup>

Due to the flow of millions of refugees since 1980, more Pashtuns live in the Pakistani North-West Frontier Province (NWFP, Khyber Pakhtunkhwa since 2010) than in Afghanistan. All those involved in the situation wanted to guarantee that the anti-Soviet jihad came from Pakistan because under no circumstances could it be controlled by Ayatollah Khomeini's fundamentalist Shiite Iran. The insurgency had to be fundamentalist Sunni in order to counter Iran. In addition, members of the state-supported population – the Pashtuns – should dominate this jihad. Zia's now rehabilitated regime was able to secure sufficient support for this undertaking in order to advance not only the jihad but also the Islamisation and militarisation of his

7 | Stephen Rittenberg, "Continuities in Borderland Politics", in: Ainslie T. Embree (ed.), *Pakistan's Western Borderlands*, Karachi, 1979, 67-84.

own state. Zia forced the Reagan administration to delegate financial assistance and arms for the jihad to his military and intelligence corps for the purpose of secrecy. The USA was systematically refused insight into arms and funds distribution. It had meanwhile become clear that the Zia regime was not only providing the mujahideen with funds and arms according to his preferences, but was also providing these to their own military, particularly with regards to their own atomic research. In the process, American and Saudi Arabian support not only advanced fundamentalist Sunni jihad, but it also financed Pakistan's Islamisation, military expansion and nuclear research. The Pakistani military regime illegally purchased nuclear technology from the West and the logic of the Cold War compelled the Reagan administration and the CIA to systematically overlook these schemes or, if necessary, to deny them. By the time Zia died in 1988, Pakistan was already in possession of nuclear weapons, albeit unofficially.<sup>8</sup> At the same time, Zia achieved what Ayub Khan initiated: He had elevated all three branches of the military to Pakistan's most important economic factor – the nearly inscrutable network of military business (“milbus”) had transformed Pakistan's military apparatus into a large corporation.<sup>9</sup>

**American and Saudi Arabian support not only advanced fundamentalist Sunni jihad, but it also financed Pakistan's Islamisation.**

## CHAOS AND CRISIS STATE

The withdrawal of Soviet troops from Afghanistan, and combined with the death of Zia ul-Haq in 1988, triggered a shock in the military and in loyalty to the regime. It was conceivable that after a re-democratisation, strategic indifference and demands would take the place of American financial assistance and support. Meanwhile, the USA looked towards Moscow and Gorbachev's policies of Glasnost and Perestroika. A pseudo-democratic manipulation of the constitution by Zia helped the unguided military out of the crisis. Zia had reinstated the constitution in 1985 in order to assuage the USA, while simultaneously adding an 8<sup>th</sup> amendment (Art. 58-2b) that radically redefined

8 | Adrian Levy and Catherine Scott-Clark, *Deception: Pakistan, the United States and the Global Nuclear Weapons Conspiracy*, London, 2007, 51-116.

9 | Ayesha Siddiqi, n. 2.

the constitution. Because of this article, decisive power no longer lay in the hands of the prime minister but instead in the hands of the president. He could dismiss the prime minister, the government, provincial governors and constitutional court judges without giving any reason and could install an interim government for the purpose of holding new elections. Naturally Zia ul-Haq himself, Army Chief and incumbent Chief Martial Law Administrator, became president in 1985. When Zia died in 1988, the military endorsed Ghulam Ishaq Khan for the office of the presidency, a man they trusted, a Zia loyalist and a high-ranking civil servant. The army was then able to withdraw from open political involvement for more than ten years and allowed a second phase of superficial two-party democracy. From 1988 to 1999, power alternated between the hands of the PPP, under the leadership of Benazir Bhutto, daughter of executed former prime minister and president,

**Since 1988, the Muhajir party has led a shadow war with gang warfare against their urban ethnic opponents and they brought the port and economic life of this essential Pakistani metropolis to a standstill.**

Zulfikar Ali Bhutto, and the Muslim League's successor organisation, the Pakistan Muslim League, Nawaz (PML-N), under the leadership of the industrial magnate Nawaz Sharif, of Punjab. However, each of these governments was removed from office by the president before the end of their terms. New elections followed each of the interim governments. In doing so, the MQM, once supported by the military, ended up deciding most of the governance. Meanwhile, any control had slipped out of this youth and Muhajir party's hands. Since 1988, they have transformed Karachi into a battlefield. They led a shadow war with gang warfare against their urban ethnic opponents – Pashtuns, Sindhis and Punjabis – and they brought the port and economic life of this essential Pakistani metropolis to a standstill. The military ultimately interfered, dividing and weakening this erstwhile youth organisation turned gang with the help of death squads and an MQM split.<sup>10</sup>

But the end of the democratic decade was drawing near. The winner of the 1997 election, the self-confident head of the victorious PML-N, Nawaz Sharif, now had a two-thirds majority at his disposal in parliament. He then struck down the 8<sup>th</sup> constitutional amendment – and added a 13<sup>th</sup> amendment. Now that dictatorial authority had been

10 | Ann Frotscher, *Banden- und Bürgerkrieg in Karachi*, Baden-Baden, 2005.

removed from the office of the president, the military lost the opportunity to indirectly monitor the government through a president of its trust. It was now only a matter of time before the military openly regained power. History repeated itself, first as a tragedy, then as a farce. Z. A. Bhutto had appointed the unsuspecting Zia ul-Haq as Chief of Army Staff in the 1970s and now Nawaz Sharif promoted the jovial Pervez Musharraf to the post. However, Musharraf immediately began plotting an armed assault on Indian Kashmir, known as the Kargil War, behind the prime minister's back. After Sharif's attempt to remove the unfaithful Musharraf from his post, the military led a coup in 1999. At the very least, Nawaz Sharif retained his head. He was exiled to Saudi Arabia; Sharif's rival, Benazir Bhutto, fled to London. Pervez Musharraf now appointed himself "Chief Executive of Pakistan" and, under American pressure just as with Zia, strove to re-democratise his regime. But this was only possible with the reinstatement of those very presidential powers Nawaz Sharif had already abolished. Thus Musharraf implemented an equivalent constitutional amendment and appointed himself president.

**Musharraf, under American pressure, strove to re-democratise his regime. But this is only possible with the presidential powers his predecessor had abolished.**

After 11 September 2001, Pakistan was once again abruptly placed at the centre of American geostrategy after years of indifference. The day after the terrorist attacks in New York and Washington, the U.S. government made it unmistakably clear to Musharraf that he must make a decision: "You are either 100 per cent with us or against us [...] There is no grey area."<sup>11</sup> The impending fall of the Taliban regime in Afghanistan, the likely manhunt for escaped Taliban and Al-Qaeda warriors and the USA's possible long-term involvement in the neighbouring state of Afghanistan – all of this must have posed enormous difficulties for the so far sedate, self-styled "Father of Pakistan". These political and ideological conflicts and costs could not compensate for the upcoming renewed financial assistance. Though they repeatedly saved the state from financial bankruptcy, the long-term American intervention triggered resistance and conflict that undermined the stability and functioning of the state and society. Most notably the North West, which

11 | Quoted from: Owen Bennett Jones, *Pakistan: Eye of the Storm*, New Haven/London, 2002, 2.

had always been an unchecked and uncontrollable border region, developed to become the epicentre of a fundamental insurgency and terrorism that reached nearly all of the state's regions, levels and institutions. The first victim of this situation between a rock and a hard place, between American intervention and broad and not only fundamentalist reaction was Pervez Musharraf himself. Six years after Pakistan's second reevaluation to become a front-line state against Afghanistan, the weakened president and Chief of Army Staff could no longer hold on. He gambled away the military's support and was forced to retire from his army post in 2007. Without the support of the military, he was not able to weather Pakistan's enduring crisis as president for very long. Barely one year later in September 2008, Musharraf was replaced by a civilian politician through democratic elections: the widower of the murdered Benazir Bhutto, the notoriously corrupt "Mister 10 Per Cent", Asif Ali Zardari.<sup>12</sup>

And so for now the third and final phase of the superficial democratisation has begun. There is very little that is new. A power struggle has continued since 2008 between

**The parallelogram of forces in the power struggle that has continued since 2008 was completed with the weakening of Musharraf's active chief constitutional judge, Iftikhar Chaudhry, and the military, who have so far been bidding their time.**

the governing coalition of the PPP and the publicly despised President Zardari and the PML-N, still dominated by Nawaz Sharif. The parallelogram of forces was completed with the weakening of Musharraf's active chief constitutional judge, Iftikhar Chaudhry, and the military, who have so far been bidding their time – represented since 2007 by the new incumbent Chief of Army Staff, Ashfaq Parvez Kayani. This power struggle within the confines of Islamabad however appears increasingly irrelevant compared to the conflicts, terrorist attacks and organisations that have meanwhile been emanating from the border regions, affecting the entire country at all levels of society.

The anti-Soviet jihad has left Pakistan with weapons, drugs and fundamentalism problems. In the border regions, among the Pashtun population and especially in the enormous refugee cities cropping up, these problems and their inherent new behavioural ideals, violent economies and

12 | Ian Talbot, *Pakistan: A Modern History*, London, 2009, 287-439.

criminal organisations took root in a particular way. Pashtun networks and migrants distributed weapons, drugs and Islamic ideals to and in all the large cities, especially Karachi. From the beginning, the Muhajir insurgency here has been more like an ethnic civil war against Pashtun slums, mafias, transportation businesses, drug and arms traffickers for control of the city and the port. The invasion and rule of the Taliban in Afghanistan initiated by the military and the Bhutto government in 1994 and supported by Saudi Arabia and the USA has increased the problems at the border. The Taliban movement is in no way solely comprised of radicalised Afghan-Pashtun refugees. Thousands of Pakistani young people living in the border region, mainly Pashtuns, are affiliated with the movement.<sup>13</sup>

This impenetrable, enormous and traditionally anarchic zone has ultimately become a problem. Geostrategic ambitions alongside knowledge of their military weaknesses suggested that the British in the North West region should set up a particular arrangement. The border was shifted far to the West across the Indus at the mountain ridge. It thus drifted into the territory of the Pashtun mountain tribes, which no empire had ever stably conquered in 2,000 years. And the British Empire had no wish to do so. Instead it created a concentrated military area between the Indus and the artificial "Durand Line" along with an extraterritorial buffer – the North-West Frontier Province (NWFP, Khyber Pakhtunkhwa since 2010), making Peshawar its capital and from there it controlled the Khyber Pass and the crucial Indus crossing at Attock. Beyond the Indus plain, in the mountains, autonomous tribal areas were established. Since 1947 they have been known as the Federally Administered Tribal Areas (FATA). They were expanded further northwards through the Provincially Administered Tribal Areas (PATA). The two dozen mountain and warrior tribes in this autonomous zone governed themselves along the lines of self-regulated anarchy. The chiefs received pensions, weapons for their militias, trade rights, grazing rights and access to the bazaars in the Indus Valley. However, to counter attacks and uprisings they are threatened with an embargo on

**Two dozen mountain and warrior tribes governed themselves along the lines of self-regulated anarchy. They received pensions, weapons, trade rights and grazing rights.**

13 | Ahmed Rashid, *Taliban: Islam, Oil and the New Great Game in Central Asia*, London/New York, 2002.

“water and salt”, starvation and costly punitive expeditions at the end in which every field and settlement will be burned down.<sup>14</sup>

**The tribal chiefs now had to stand their ground on both sides against drugs and arms handlers, transnational terrorist organisations like Al-Qaeda and soon against the Taliban.**

The Afghanistan War destroyed this 80-year-old balance and protection arrangement. Refugee cities developed in the FATA. The Pakistani military, ISI and JI used them to organise the jihad. A new “Internationale” of fundamentalism has emerged; mujahideen from several Arabian countries have arrived. Heroin factories here also help the insurgents finance their jihad via Karachi. The tribal chiefs now had to stand their ground on both sides against drugs and arms handlers, transnational terrorist organisations like Al-Qaeda and soon against the Taliban. The FATA has become more internationalised, with emerging internet cafés, arms factories, state-of-the-art housing covered by clay walls and with helipads. All of this took place in an inaccessible mountain region the size of Switzerland with a population of more than four million. It was only natural that the toppled Taliban and their international clientèle would flee to this protected area at the end of 2001. They were able to first intimidate and kill the old chiefs undisturbed, then undercut the tribal gatherings, finally taking over power either directly or indirectly.<sup>15</sup>

The Taliban have reorganised themselves. Given the complexity of the alliances, interests and identities at play, the distinction cultivated by the Pakistani military between the “Pakistani” and “Afghan” Taliban is merely a conceptual gimmick. It serves only to cover up a problem that has become more urgent for the military and the civilian government since 2008: The fall of the Pakistani-promoted Taliban regime and the continuing American warfare both in Afghanistan as well as on the border have led to challenges for the government and the military – domestic, religious and strategic problems. Musharraf, the military and the PPP government are considered by many conservatives and religious authorities to be traitors to their country and to Islam. This has heightened fundamentalism

14 | Ainslie T. Embree, “Pakistan’s Imperial Legacy”, in: Ainslie T. Embree (ed.), *Pakistan’s Western Borderlands*, Karachi, 1979, 24-40.

15 | Imtiaz Gul, *The Most Dangerous Place: Pakistan’s Lawless Frontier*, London, 2010, 11-146.



and has increasingly been used to justify attacks not only on religious minorities and the USA, but also on the military and the intelligence corps, the last functioning guarantors of the crisis-ridden state and nuclear power. But the strategic dimension is crucial: A "Greater Afghanistan", a "Pashtunistan" reaching to the Indus would be the end of Pakistan's artificial and military state. The following applied and continues to apply for the government, the military and the Punjabi elite: Pakistan is secure so long as the Pashtuns are represented at the highest levels of the military and the state and so long as pro-Pakistan Pashtuns rule in Kabul. Co-optation secures the loyalty of the crucial Khyber Pakhtunkhwa province. Only pro-Pakistan leadership in Kabul can ensure cross-border Pashtun fraternisation for the purpose of a "Greater Afghanistan/Pashtunistan" does not happen and that Pakistan's arch-enemy, India, receives no strategic or economic access to Afghanistan. Pakistan's military insists upon "strategic depth" in Central Asia against India.

**Pakistan is secure so long as the Pashtuns are represented at the highest levels of the military and the state and so long as pro-Pakistan Pashtuns rule in Kabul.**

Of course the policy on Afghanistan remains exclusively under the army's control. Long before Barack Obama took office in 2008, the military had already considered Afghanistan's situation after the withdrawal of U.S. troops and after western-supported Afghan President Hamid Karzai's term of office ended. The Pakistani military has always argued that the "Afghan Taliban" will have to participate in the future government in Kabul. These party supporters must be protected, yet this is not opined to be the case for the "Pakistani Taliban". As long as their violence was directed at Christians, Hindus, Shiites and heretics this was feasible. But now that they have begun attacking the Sufi majority's holy shrines and the fundamentalists in the northern part of the Khyber Pakhtunkhwa wish to establish a theocratic Sharia state, the military can no longer simply stand by. The military apparatus has been under threat and their existence has been jeopardised at least since intelligence corps offices and military installations (with their nuclear weapons) themselves have been attacked.<sup>16</sup>

16 | Matthew J. Nelson, "Pakistan in 2009: Tackling the Taliban", in: *Asian Survey 2010*, Vol. 50, No. 1, 112-126; Christine C. Fair, "Pakistan in 2010: Flooding, Governmental Inefficiency, and Continued Insurgency", in: *Asian Survey 2011*, Vol. 51, No. 1, 97-110.

The Pakistani military is now once again engaged, if hesitantly, in the southern part of the FATA, knowing well they can no longer fully depend on the loyalty of all of their Pashtun soldiers. Above all the military has depended on U.S. drone attacks – against which it has subsequently protested in order to save face. For more than eleven years, U.S. intervention has landed the Pakistani military and intelligence corps in an intractable moral and practical dilemma. Due to strategic anticipation of the future, they

**The Taliban receive information from the inside, from soldiers, police informants or intelligence corps factions. The complex of violence stems from the border and reaches across the entire country and to India, Kashmir, Mumbai and Delhi.**

do not wish to take action against terrorism directed against Kabul and the USA, but they have hesitated too long concerning terrorism directed at Pakistan. Defensive action is only taken when Pakistan itself has been attacked. But these attacks indicate that the perpetrators – the Taliban or related organisations – receive information from the inside, from soldiers, police informants or intelligence corps factions. The complex of violence stems from the border and reaches across the entire country and to India, Kashmir, Mumbai and Delhi. The organisations responsible for the assassinations and terror attacks have been propagating themselves, continually reforming and, above all, in many cases they have freed themselves from the erstwhile control of the army, the intelligence corps or the JI.

The Afghanistan conflict is not all that began 30 years ago; it was accompanied by the introduction of Sunni fundamentalism. At the same time, Zia began the Islamisation, ethnicisation and militarisation of the artificial state of Pakistan. The consequences of these developments culminated on the eve of the historic 2013 parliamentary election: Islamisation has uncontrollably and broadly led to radicalisation in the form of fundamentalisation and selectively Talibanisation. Fundamentalist terrorism is not only directed at minorities, but increasingly at majority faiths – at pilgrimage shrines and holy sites. The ethnicisation of politics has proved to be permanent in the case of the Sindh and Karachi. In the metropolitan area of Karachi with its 20 million inhabitants, nearly ten per cent of the national population, a war of ethnic, criminal cartels and political “machines” has arisen since the suppression of the Muhajir uprising: Muhajir versus Pashtuns versus Sindhis. The entire conflict has been moulded by ethnic party

schemes and objective alliances between the MQM, the PPP and the PML-N. In Balochistan, fear of losing power, of resource conflicts with Islamabad over the distribution of natural gas revenues, fear of rival tribes and calls for secession have led to a shadow war. It has been carried out through abductions, bombings and death squads and has destabilised a geostrategic zone the size of Great Britain. Militarisation remains: Under Zia ul-Haq it accelerated as a complete phenomenon, economically, socially and politically. The militarisation has manifested itself in a military industrial complex; it appears to be a globally present parallel society and alternative world; it openly influences nearly every foreign policy decision-making process and, more concealed, many domestic ones.

**Ethnicisation and Islamisation have culminated in a new kind of terrorism. The violence once fuelled and tolerated by the military is now directed toward society and the state.**

A new phase has certainly been reached through the transition from a military state to a crisis state; ethnicisation and Islamisation have culminated in a kind of terrorism that weakened and divided the previous military and intelligence regime and that is continually involved in new conflicts. The violence once fuelled and tolerated by the military is now directed toward society and the state.

## **FRAMEWORK OF THE 2013 PARLIAMENTARY ELECTIONS**

Given Pakistan's historical troubles and current conflict situation as outlined above, it is remarkable that in 2013, for the first time the basic criterion for a democratically composed society was finally realised: the normal, peaceful change of power through free elections. It was the first time a civilian government survived an entire legislative period and faced the Pakistani electorate at the end of its term.

It had already become apparent in the run-up to the election that the era of Pervez Musharraf in Pakistan was finally over. In a spectacular move, the former military ruler returned from exile in Dubai in March 2013. He had already founded his own party in 2010, the All Pakistan Muslim League (APML), and intended to run in the upcoming parliamentary elections himself. It was for this purpose that Musharraf applied for candidacy in no fewer than four constituencies. However, all four petitions were rejected

by the Election Commission of Pakistan (ECP). This rejection was supported by the vast majority of the Pakistani population; according to a representative poll by Gallup Pakistan, nearly two-thirds of those polled approved of the ECP's decision.<sup>17</sup> The former president had very little residual support from the population. And even worse, Musharraf was formally charged for offences committed during his time in office and was placed under house arrest. His party ultimately won only 54,617 votes in the election, receiving only a single seat in parliament. Musharraf's personal future seems to lie more in a Pakistani courtroom than in national politics.

Other actors fought for power, notably the government coalition's ruling party, the PPP, and the largest opposition party, the PML-N. The PPP could not rely on President Asif Ali Zardari's charisma because, though he hails from their own party, he is extremely unpopular;<sup>18</sup> rather, they presented the fresh face of his son, 24-year-old party leader Bilawal Bhutto Zardari, who intended to inherit the political legacies of his executed grandfather, Zulfikar Ali Bhutto, and his assassinated mother, Benazir Bhutto. Since the 18<sup>th</sup> constitutional amendment in 2010, the PML-N was once again able to position their unchallenged party leader, Nawaz Sharif, as a candidate for prime minister. Through this constitutional amendment, which above all increased the rights of the provinces and therefore fostered decentralisation, and which all in all moved Pakistan's previously semi-presidential political system closer to a declared parliamentary system, the two-term limit for prime ministers was abolished.<sup>19</sup> Thus Sharif could now run for re-election

17 | *Opinion Poll: Rejection of Pervez Musharraf's Electoral Papers*, Gilani Research Foundation/Gallup Pakistan, press release, Islamabad, 2 May 2013. 2,641 men and women were polled in every Pakistani province. The exact question was: "Former President Pervez Musharraf submitted papers from four constituencies to contest elections. Recently, the Election Commission of Pakistan rejected papers from all four constituencies. Do you support or oppose this decision of ECP?" Answers: "Support" 64 per cent, "Oppose" 27 per cent, "Don't Know/No Response" nine per cent.

18 | According to a poll, 83 per cent of Pakistanis hold a negative opinion of their president. Riaz Hassan, "Pakistan Elections 2013: Some Countdown Reflections", *ISAS Brief*, No. 278, 10 May 2013, 1.

19 | Philipp Kauppert, "Niederlage für die Regierung, Sieg für die Demokratie: Zu den Parlamentswahlen in Pakistan", *Perspektive FES Pakistan*, May 2013, Islamabad/Berlin, 2013, 7.

after his two disreputable and fairly unsuccessful terms from 1990 to 1993 and 1997 to 1999.

The particular importance of both of these Pakistani people's parties, the PPP and PML-N, can be partially explained by the distinctive features of the electoral system. Based on the Westminster model of earlier British colonial rule, elections in Pakistan run on a simple majority voting system in single-member constituencies. Direct mandates exist in accordance with the first-past-the-post principle, in which it makes no difference whether a candidate leads in their constituency by one vote or ten thousand. Such an electoral system favours large parties and occasionally leads to drastic distortion effects and, at least in theory, reliably leads to a two-party system. The first-past-the-post system thus provides an advantage for the PPP and PML-N and systematically weakens smaller parties. In addition, of the 342 parliamentary seats, only 272 are awarded in free elections. The remaining 70 seats are distributed as a mandated quota for women (60 seats) and representatives of religious minorities (ten seats) in accordance with the electoral results of every party with a share of more than five per cent of the vote, which only serves to further marginalise smaller parties. Once established, it can often be very difficult to break down the established dominance of a two-party system.

It had already become apparent in the run-up to the 2013 elections that a third party could succeed in seriously calling the leadership role of the PPP/PML-N into question. Opinion polls revealed that the Pakistan

**The Pakistan Tehreek-e-Insaf, led by the enigmatic Imran Khan, had a definite chance of perhaps becoming the strongest faction and possibly even securing the prime ministership.**

Tehreek-e-Insaf (Pakistan Movement for Justice, PTI), led by the enigmatic Imran Khan, had a definite chance of perhaps becoming the strongest faction and possibly even securing the prime ministership. Imran Khan is a national hero in Pakistan. As team captain he led the Pakistani national cricket team to their first and so far only world cup title in 1992. This link between celebrity culture and politics is in no way unusual in South Asia and Imran Khan succeeded in profiting from his immense popularity as a sportsman. With his promise of a "new Pakistan" he made himself a symbol of a new urban middle class that has had enough of the establishment politics and the political

parties of industrial magnates, large landowners and feudal lords in Punjab and Sindh, perceived to be hopelessly corrupt. Imran Khan's outsider status became an advantage.<sup>20</sup> At the same time, Khan, who comes from the Niazi tribe, promised the Pashtuns a new approach to solving the issues of violence and terrorism in the North West and criticised American drone strikes in the mainstream media. But after a serious fall during the election campaign that left him severely injured, Imran Khan was forced to follow the polls from his bedside.

**The Tehrik-i-Taliban Pakistan have so far had little interest in political involvement. They have withdrawn an offer to engage in a dialogue and have instead attempted to undermine the parliamentary elections through attacks.**

Both Nawaz Sharif and Imran Khan announced early on in their campaigns that, should they win, they would undertake peace negotiations with the Pakistani Taliban. However, extremists affiliated with the Tehrik-i-Taliban Pakistan (Taliban Movement of Pakistan, TTP) have so far had little interest in such political involvement. They have withdrawn their February 2013 offer to engage in a dialogue with the government and, through attacks, have instead attempted to undermine the parliamentary elections, which they have declared to be "un-Islamic". The comparatively secular parties in particular have been targeted; the TTP has expressly warned the Pakistani people about participating in PPP, Awami National Party (ANP) and Muttahida Qaumi Movement (United National Movement, MQM<sup>21</sup>) rallies.<sup>22</sup> Due to security concerns the PPP withdrew almost entirely from the public campaign and mainly communicated through video messages from its young party leader. But the ANP, mainly active in Khyber Pakhtunkhwa, and the MQM in Karachi were affected most. Bombings were carried out at their campaign offices and a number of their volunteers were killed.<sup>23</sup> Parliamentary candidate Sadiq Zaman Khattak (ANP) was shot in Karachi on 2 May 2013, which led to a temporary voting suspension in his constituency

20 | Shahid Javed Burki, "Pakistan Goes to Polls: Imran Khan's Tumble and the Youth Surge", *ISAS Brief*, No. 277, 8 May 2013, 1-4.

21 | Until 1997 Mohajir Qaumi Movement (Muhajir People's Movement).

22 | Ronny Heine, "Pakistan hat gewählt – und für einen politischen Wechsel gestimmt", *KAS-Länderbericht*, 13 May 2013, Islamabad, 2013, 1-2, [http://kas.de/wf/doc/kas\\_34357-1522-1-30.pdf](http://kas.de/wf/doc/kas_34357-1522-1-30.pdf) (accessed 23 Jul 2013).

23 | Kauppert, n. 19, 6.

(NA-254, Karachi XVI) and necessitated a total of three by-elections.<sup>24</sup> The precarious security situation in the run-up to the elections forced the military to run through various intervention scenarios as a part of an “integrated security arrangement” in the event of an outright escalation of violence.<sup>25</sup> In addition, explicit threats against polling places caused hopes of a high voter turnout to fade away.<sup>26</sup> However, both fears proved not to be true; the military was not forced to intervene and voters were undeterred. At 55.02 per cent, voter turnout even reached a new record high. Though the Election Commission’s official figures lay below those made in the initial euphoric estimates of a voter turnout of over 60 per cent, they still present clear evidence that once again significant progress has been made in democratising Pakistan.



A PML-N billboard: The party received 125 of the 272 seats, significant gains compared to 2008. | Source: Omer Wazir, flickr (CC BY-SA).

- 24 | Kristof W. Duwaerts, “Die Wahlen in Pakistan – ein Rückblick”, HSS Politischer Sonderbericht Pakistan, 15 May 2013, Islamabad/Munich, 2013, 2-3.
- 25 | Bibhu Prasad Routray, “Poll Position: Securing Pakistan’s Elections”, in: *Jane’s Intelligence Review*, 05/2013, 38-43.
- 26 | According to a representative poll by Gallup Pakistan, fear of riots and violence was the main reason non-voters in Pakistan would abstain from voting. In answer to the question, “If there is no chance of you going to vote, what are your reasons?”, 29 per cent of respondents replied with, “Threat of riots”. *Opinion Poll: Election Day*, Gilani Research Foundation/ Gallup Pakistan, press release, Islamabad, 7 May 2013.

In 2013, a total of more than 84 million people registered to vote. Of those, over 46 million eventually did cast their vote. Voter participation increased not only at the national level, but in every province as well. However, this must be qualified: Voter participation refers solely to voters registered prior to the election and by no means to every eligible voter. In the province of Sindh and in Balochistan fewer people registered to vote than in the last national parliamentary election five years ago. In addition, compared to 2008, fewer people actually went to the polls in Balochistan. Despite significantly higher participation by women, a significant gender imbalance remains: Registered voters still tend to be men rather than women. In the FATA twice as many men registered to vote than did women.<sup>27</sup> Reports have come from both the FATA and the provinces of Khyber Pakhtunkhwa and Balochistan that women have partly systematically been prevented from exercising their voting rights, for example by not being allowed entrance to polling stations.<sup>28</sup>

Table 1  
**Voter Registration and Participation,  
2008 and 2013 by Comparison<sup>29</sup>**

	Registered	Voters	Turnout (in %)	Registered	Voters	Turnout (in %)
	2008			2013		
Punjab	44,500,257	21,442,088	48	48,890,007	28,760,265	60
Sindh	19,506,473	8,612,336	44	17,862,681	9,782,599	54
Khyber Pakht.	10,661,212	3,576,523	34	12,268,406	5,476,001	45
Balochistan	4,365,274	1,367,001	31	3,173,819	1,300,628	43
FATA	1,280,365	397,593	31	1,386,228	508,013	36
Islamabad	482,801	241,531	50	626,383	389,976	62
total	80,796,382	35,637,072	44	84,207,524	46,217,482	55

27 | Cf. Election Commission of Pakistan (ECP), <http://ecp.gov.pk/VoterStats.aspx> (accessed 23 Jul 2013).

28 | Kauppert, n. 19, 4.

29 | Cf. ECP, n. 27.



## ELECTION RESULTS AND ANALYSIS

The elections were a triumph for the PML-N and Nawaz Sharif. According to the official results released by the Election Commission of Pakistan on 22 May 2013, the PML-N received 125 of the 272 seats put to the vote and in doing so made significant gains compared to 2008. In contrast, the PPP suffered huge losses and received only 31 seats, enough to remain the second-largest party. While the better part of the PML-N's seats came from Nawaz Sharif's native region, Punjab, the PML-N was also the only party to have been able to win at least one seat in all four provinces, in the tribal areas and in the capital of Islamabad. In Punjab, the PML-N was rewarded for its comparatively stable balance under the regional government of the party leader's younger brother, Shahbaz Sharif, during the past five years. The noticeable improvements in Punjab's infrastructure particularly garnered support for Nawaz Sharif.<sup>30</sup>



Supporters of the PTI: Imran Khan's party was not fully able to achieve its self-prescribed goals. | Source: Musti Mohsin, flickr (CC BY-ND).

The PPP was penalised for their collapse at the national level and was demoted to the level of a regional party in Sindh.<sup>31</sup> During the preceding legislative period, the PPP government did not succeed in effectively addressing Pakistan's four most urgent domestic issues (power outages, inflation, corruption and insurgent movements in the North West and in Balochistan). This demanding task now falls to designated Prime Minister Nawaz Sharif.<sup>32</sup> However, despite the future government leader's overwhelming mandate, he faces a complicated situation: The PPP remains the majority party in the Senate, the second house of the Pakistani parliament, and is expected to block the PML-N government's legislative agenda at least until 2015.<sup>33</sup> In addition, following the accompanying regional elections, widely differing coalitions will govern in the four provinces, which threatens to make reaching national consensus considerably more difficult.<sup>34</sup>

Imran Khan's PTI, which entered the election with high expectations, was not fully able to achieve its self-prescribed goals. Although it gained 28 seats after boycotting the election five years ago and has now achieved undisputed success, it continues to trail the unpopular PPP. In particular, Imran Khan himself has had to bid farewell to any notion of becoming the prime minister. The Muhajir party, MQM, has come in as the fourth-largest party with 18 seats, 16 of which are from their traditional stronghold of Karachi. In 2013, as in previous elections, the Islamic parties JI and Jamiat Ulema-e-Islam Fazal under the leadership of Fazal ur-Rahman (Assembly of Islamic Clergy, JUI-F) do not play a significant role at the national level with their 13 combined representatives. The JI boycotted the last elections, and the JIU-F was only able to make small gains in electoral popularity. In contrast, the secular ANP has suffered considerable losses, weakened not least by the large-scale violent attacks in the campaign, now holding only one seat.

31 | Christian Wagner, "Schwieriges Pakistan", *SWP Aktuell*, No. 30, May 2013, 2.

32 | Iftekhhar Ahmed Chowdhury, "The Reincarnation of Nawaz Sharif: Pakistan's Deepening Democracy", *ISAS Brief*, No. 279, 13 May 2013, 2.

33 | Duwaerts, n. 24, 3 et seq.

34 | Wagner, n. 31, 1.

Table 2  
**National Assembly Election Results by Province<sup>35</sup>**

Party	Seats	PJB	SIN	KPK	BLS	FATA	ISB
Pakistan Muslim League, Nawaz (PML-N)	125	117	1	4	1	1	1
Pakistan People's Party (PPP)	31	2	29	0	0	0	0
Pakistan Tehreek-e-Insaf (PTI)	28	8	1	17	0	1	1
Muttahida Qaumi Movement (MQM)	18	0	18	0	0	0	0
Jamiat-e Ulama-ye Islam, Fazal (JUI-F)	10	0	0	6	3	1	0
Pakistan Muslim League, Funct. (PML-F)	5	0	5	0	0	0	0
Jamaat-e Islami (JI)	3	0	0	3	0	0	0
Pakhtunkhwa Milli Awami Party (PMAP)	3	0	0	0	3	0	0
National People's Party (NPP)	2	0	2	0	0	0	0
Pakistan Muslim League, Qaid (PML-Q)	2	2	0	0	0	0	0
Awami National Party (ANP)	1	0	0	1	0	0	0
Balochistan National Party (BNP)	1	0	0	0	1	0	0
Qaumi Watan Party (QWP)	1	0	0	1	0	0	0
Pakistan Muslim League, Zia (PML-Z)	1	1	0	0	0	0	0
National Party (NP)	1	0	0	0	1	0	0
Awami Muslim League Pakistan (AMLPP)	1	1	0	0	0	0	0
Awami Jamhuri Ittehad Pakistan (AJIP)	1	0	0	1	0	0	0
All Pakistan Muslim League (APML)	1	0	0	1	0	0	0
Independents	28	16	1	1	4	6	0
altogether	263	147	57	35	13	9	2
By-election	3	1	1	0	0	1	0
Recount	5	0	3	0	0	2	0
total	272	148	61	35	14	12	2

35 | Cf. ECP (As of 22 May 2013). PJB = Punjab, SIN = Sindh, KPK = Khyber Pakhtunkhwa, BLS = Balochistan, FATA = Federally Administered Tribal Areas, ISB = Islamabad (Federal Capital).

Table 3  
**Votes, Percentages, Seats, Candidates<sup>36</sup>**

Party	Votes	Share (in %)	Seats	Candidates
PML-N	14,794,188	32.98	125	220
PTI	7,563,504	16.86	28	232
PPP	6,822,958	15.21	31	226
MQM	2,422,656	5.40	18	205
JUI-F	1,454,907	3.24	10	131
PML-Q	1,405,493	3.13	2	53
PML-F	1,007,761	2.25	5	28
JI	949,394	2.12	3	166
ANP	450,561	1.00	1	58
MDM <sup>37</sup>	359,589	0.80	0	87
PMAP	211,989	0.47	3	30
AMLP	93,051	0.21	1	16
BNP	64,070	0.14	1	12
NP	61,171	0.14	1	10
Other	1,424,527	3.18	6	642
altogether	39,085,819	87.13	235	2,116
Independents	5,773,494	12.87	28	2,361
total	44,859,313 <sup>38</sup>	100.00	263 <sup>39</sup>	4,477

Within the framework of a classic first-past-the-post system, both a party's total number of votes and national percentage of votes play only a secondary role. Nonetheless, in this respect the PML-N quite obviously emerged with an

36 | Cf. ebd.; Azam Khan, "Voting Positions: PTI Won More Popular Votes Than PPP", *The Express Tribune*, May 2012, 2013.

37 | Party alliance "Muttahida Deeni Mahaz" (union of various religious parties).

38 | Only counting valid votes and those already counted. Total number of votes cast: 46,217,482.

39 | Not counting recounts, nullifications and special elections.

outright victory. It is also noteworthy that the PTI was able to outperform the PPP in terms of the number of votes. Following these three parties, a much more considerable gap in the number of votes exists than in the number of seats. No other party comes remotely close to the three largest parties' mobilisation potential.

## CLASSIFICATION OF THE 2013 PARLIAMENTARY ELECTIONS

How can the election results be integrated into the analysis of the three overarching trends of Islamisation, ethnicisation and militarisation? Pakistan's Islamisation has proceeded despite this democratic progress. The elections have severely weakened secular and comparatively liberal parties, such as the PPP and the ANP. However, this has not resulted in the political dominance of radical Islamic parties. Nonetheless, conservative and decidedly religious parties, such as the PML-N and the PTI, have won the day. It must therefore be assumed that Nawaz Sharif will promptly make good on his promise to undertake peace negotiations with the Pakistani Taliban. Now, together with the especially influential province of Khyber Pakhtunkhwa and the long-time Islamic sympathiser Imran Khan (not without reason known as "Taliban Khan" or "mullah without a beard"<sup>40</sup>), the balance of power overall has considerably shifted in favour of religious and Islamic parties.

The election results also demonstrate the effects of the ethnicisation and regionalisation of Pakistani politics. No party, not even the PML-N, can count on a truly national following. Instead, clearly differentiated regional strongholds have developed, as demonstrated by the election results in the provinces: The PML-N is dominant in Punjab, as expected, and has won a formidable majority in both the national and regional elections. Overall the PPP has had considerable losses, though it was able to maintain its central power base in the rural regions of the Sindh province with relatively few problems despite its miserable election results. The cities in Sindh, especially Karachi, remain under the control of the Muhajir and their party, the MQM. Both parties, the

**Overall the PPP has had considerable losses, though it was able to maintain its central power base in the rural regions of the Sindh province with relatively few problems despite its miserable election results.**

40 | Routray, n. 25, 42.

PPP and the MQM, have formed a government coalition in Sindh following the provincial elections. However, in Khyber Pakhtunkhwa, the Pashtun Imran Khan's PTI has won the most seats by far in both the national elections and the provincial parliamentary elections, though it is unclear whether a PTI coalition will truly take control of the government at the provincial level. The situation in Balochistan is less clear-cut. Alongside a divided outcome in the national elections, the Pashtun party, the Pakhtunkhwa Milli Awami Party (Pashtun National People's Party, PMAP), narrowly won the most seats it has ever had in the regional parliament.<sup>41</sup> Overall this demonstrates a trend towards regionalisation in the Pakistani party system.<sup>42</sup> Also fitting is that more voters voted for candidates in the National Assembly elections who explicitly hailed from their own "community" than in 2008.<sup>43</sup>

While Islamisation and ethnicisation still remain determining factors in Pakistani politics, militarisation has somewhat declined and democratisation has emerged to a greater extent. In the run-up to the elections, the military embraced free elections more openly than ever before.<sup>44</sup> Together with the Election Commission of Pakistan (ECP), the army helped to ensure a largely trouble-free parliamentary election process and prevented the uncontrollable escalation of violence. The co-operation with the ECP in particular has been interpreted as a promising sign.<sup>45</sup> In contrast to his predecessors, Chief of Army Staff Ashfaq

**The military's popularity in Pakistan is currently at an all-time low. In addition, all the Generals' attention has been called to changing the army leadership later in 2013.**

Parvez Kayani publicly and symbolically cast his vote wearing his dress uniform and in doing so outwardly demonstrated the military leadership's support of the elections.<sup>46</sup> Hopefully, this commitment to democratisation will last. However, it should be borne in mind that the military's popularity in Pakistan is currently at an all-time low and support among the Pakistani population is far from what it has been in the past. In addition, all the Generals' attention has been called to changing the

41 | Kauppert, n. 19, 2 et seq.

42 | Wagner, n. 31, 1 et seq.

43 | Gilani Research Foundation/Gallup Pakistan, *Opinion Poll: Elections*, Pressemitteilung, Islamabad, 13 May 2013.

44 | Kauppert, n. 19, 1.

45 | Routray, n. 25, 40 et seq.

46 | Chowdhury, n. 32, 3.

army leadership later in 2013, along with modifying the current military doctrine in order to bring the focus away from Pakistan's rivalry with India and towards a concentration on the "internal enemy". As a result, a coup is rather unlikely to occur in the near future, even though Nawaz Sharif has won as the candidate with by far the worst relationship with the military, having already once been ousted from office. However, despite all appearances, should the army once again decide to seize power, it would likely first await the (foreseeable?) collapse of the civilian government in order to take up the not unfamiliar role of the "rescuer".<sup>47</sup>

### **OUTLOOK: CONFLICT CONTAINMENT OR PROSPECTS OF PEACE?**

Crises also provide opportunities. 2013 and 2014 represent both a turning point and an opportunity for internal and external de-escalation for Pakistan. Following this year's parliamentary elections, the presidential elections must also be held by the electoral college. In addition, Chief of Army Staff Kayani's term is ending, and Chief Justice Iftikhar Chaudhry is set to retire. Next year, the withdrawal of the American and allied military from Afghanistan will become a reality. Both may contribute to conflict containment. For the first time in Pakistan's history, a civilian government has survived its entire legislative period. With the recognisably strong election outcome behind them, the ruling PML-N may now be able to make up a stable government benefiting from a strong level of confidence against the intrigue of the ISI and a military in the midst of an upheaval. This could remove the desire of all the participants to promote ethnic emotions, interests and organisations in Karachi or Balochistan and Islamic terrorism in the nation as a whole. The allied withdrawal from Afghanistan may contribute to such restraint so long as Afghanistan and Pakistan agree on a partnership to control the border areas, the Pakistani Taliban and other terrorist networks. In the opinion of a number of observers in the region, a power sharing configuration with the Taliban in Kabul could be inevitable. Such a scenario remains entirely unsettled and the precise

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47 | Routray, n. 25, 43.

make-up of such a government in Afghanistan is very difficult to predict. With or without the participation of the Taliban, the new government in any case would have to assure Pakistan that fundamentalist terrorism across the border is no longer supported within their own borders, and furthermore would have to reach a consensus with regard to Pakistan's non-negotiable foreign policy priorities. Such a "partner" in Kabul may alleviate the Pakistani military's greatest fears of a power vacuum or a "Great Pashtunistan". Within the context of this recent domestic stability, Islamic terrorism in Pakistan could also be curbed, regardless of possible developments in Afghanistan.

The already noticeable mass protest against a Pakistani theocracy could then gain ground compared to anti-Americanism and to an appraisal of fundamentalism. Such conflict containment would contribute to internal and external peace with minorities and neighbouring states.



## PROGRESS AND SETBACKS IN BUILDING THE RULE OF LAW IN SOUTH EAST EUROPE

*Thorsten Geissler*

The eastward expansion of the European Union and the endeavours of South East European states to pursue European integration have generated enormous challenges for countries affected by these changes. In Moldova and in the former republics of Yugoslavia, a “three-pronged”<sup>1</sup> transformation was necessary: Beyond democratisation and the introduction of market economies which replaced a failed socialist planned economy, the process of state-building needed to be tackled. There were successful efforts to adopt democratic constitutions, to develop the institutions of democracy, and to thoroughly revise substantive and procedural law (albeit in varying scope and with varying quality). Given the conditions that prevailed at the time, all of this is *ipso facto* remarkable; the process of transformation was overshadowed by bloody wars across swathes of former Yugoslavia and Moldova. Moreover, the erstwhile elites of the region’s countries were able to establish themselves in new democratic institutions on the one hand and to exercise influence on societal developments through informal power structures on the other. For the most part, however, many of them wielded the power they retained to enrich themselves as national economies were privatised. A reckoning with the past within the framework of the rule of law never transpired. “Inter-societal reconciliation” was imagined not as a collision with truth, but as a process that would most probably materialise over time. Even the pursuit of justice for war crimes perpetrated during the “Yugoslav Wars” of the 1990s would have been neglected had the international community not become involved.



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1 | Claus Offe, “Capitalism by Democratic Design?: Democratic Theory Facing the Triple Transition in East Central Europe”, *Social Research*, 58, 4, 1991, 865-892.

**Bulgaria and Romania were admitted to the EU in 2007, but the European Commission had previously identified numerous deficiencies in their judicial systems.**

Notwithstanding all of the praise for the reforms implemented and for the progress made thus far, the inadequate development of the rule of law is patently clear. In the course of its evaluations for the accession and candidacy process the European Commission reached the same conclusion. Bulgaria and Romania, for instance, were admitted to the European Union on 1 January 2007, but the European Commission had previously identified numerous deficiencies in their judicial systems. Post-accession monitoring is still underway in both countries and an end of this mechanism is not in sight. In view of the lessons the EU has learned during past enlargements, its enlargement strategy has been modified to reflect a much more prominent role for the rule of law. According to the EU's current enlargement strategy, the rule of law must be placed "at the heart of the accession process".<sup>2</sup> The experience of watching political leaders' interest in continuing judicial reform subside after their respective countries had acquired EU membership no doubt contributed to this greater emphasis.<sup>3</sup>

## WIDESPREAD CORRUPTION

Widespread corruption is a central problem for the rule of law in every country in South East Europe. It enables infiltration "[...] into the public and private sector".<sup>4</sup> In Transparency International's annual Corruption Perceptions Index, Croatia earned 46 out of 100 possible points and came in 62<sup>nd</sup> place among the 174 countries that were analysed, and this was the best performance in the region. Romania and Bulgaria landed in 66<sup>th</sup> and 75<sup>th</sup> place, respectively. Kosovo (105<sup>th</sup>) and Albania (113<sup>th</sup>) rounded up the very bottom of the list in South East Europe.<sup>5</sup>

2 | European Commission, *Enlargement Strategy and Main Challenges 2012-2013*, Communication from the commission to the European Parliament and the Council, COM (2012) 600 final, Brussels, 2012, 4.

3 | Laura Ștefan and Cristian Ghinea, "The challenges of externally driven reforms", in: idem (eds.), *EU Approach to Justice Reform in Southeastern and Eastern Europe*, Centrul Român de Politici Europene, Bucharest, 2011, 9.

4 | European Commission, n. 2, 5.

5 | Transparency International, *Corruption Perceptions Index 2012*, Berlin, 2012.

There is nevertheless at least a moderately successful institutional approach to fighting corruption in the region. Romania, Croatia, Macedonia, Serbia, and Moldova among others belong to a small group of countries that have established specialised agencies.<sup>6</sup> The European Commission has repeatedly recognised the work of Romania's National Anti-Corruption Directorate.<sup>7</sup> The EU Commission's last progress report on Croatia before its accession to the EU on 1 July 2013 attested that the country possessed an adequate legal and institutional framework for combating corruption and organised crime.<sup>8</sup>



Imprisonment for Romania's former prime minister Nastase: it was a sign for the public that even politicians who were originally perceived as almighty could be held accountable for corrupt practices. | Source: ANTI.USL, flickr (CC BY).

In many countries in South East Europe, however, criminal prosecutions of corruption cases are inadequate, and there are frequent indications that public prosecutors remain at least partially exposed to political pressure. Nevertheless, the convictions and imprisonments of former prime ministers Adrian Nastase (Romania) and Ivo Sanader (Croatia) have sent a remarkable signal to the public that even politicians who once seemed omnipotent could be brought before a judge to account for corrupt behaviour.

6 | Ştefan and Ghinea, n. 3.

7 | Cf. European Commission, *Report from the Commission to the European Parliament and the Council on Progress in Romania under the Co-operation and Verification Mechanism*, COM (2013) 47 final, Brussels, 30 Jan 2013, 12, 5, [http://ec.europa.eu/cvm/docs/com\\_2013\\_47\\_en.pdf](http://ec.europa.eu/cvm/docs/com_2013_47_en.pdf) (accessed 19 Jul 2013).

8 | European Commission, *Monitoring Report on Croatia*, Communication from the Commission to the European Parliament and the Council, COM (2013) 171 final, Brussels, 26 Mar 2013, 7.

It is no surprise that measures to strengthen anti-corruption efforts encounter resistance from segments of the political establishment. Case in point: Romania founded the National Integrity Agency at the insistence of the European Commission in 2007 in order to uncover potential conflicts of interest, reveal incompatibilities of elected representatives or other elected officials and to review their financial disclosure statements. In 2010, sections of the law that govern the work of this agency were declared unconstitutional by the Constitutional Court of Romania. The decision was hailed by the parliamentary majority, which had been looking for an opportunity to restrict the agency's authority. Upon reviewing the new version of the law that had subsequently been passed by parliament, the European Commission arrived at the conclusion that it would complicate the examination, sanctioning, and confiscation of unlawfully acquired wealth and that it would prevent the use of deterrent sanctions in the fight against corruption.<sup>9</sup> Only the refusal of the president to sign the bill and a subsequent tug-of-war between the head of state, parliament, and constitutional court was enough to derail the attempt to undermine the authority of the integrity agency.<sup>10</sup>

**During the accession process, the European Commission urged the Croatian Commission for Conflicts of Interests to more faithfully execute its duties.**

In Croatia, a commission for conflicts of interest was established in 2003, but it handled very few cases in the first few years of its existence.<sup>11</sup> In the course of the accession process, the European Commission urged the Croatian Commission for Conflicts of Interests to more faithfully execute its duties. A newly elected commission assumed its responsibilities in February 2013 – whether it will work successfully remains to be seen. The commission is elected by parliament, as it would be in an established democracy, and yet in South East Europe there is a prevailing custom that office holders who occupy new posts remain loyal to those who elected them.

9 | European Commission, *Bericht der Kommission an das Europäische Parlament und den Rat über Rumäniens Fortschritte im Rahmen des Kooperations- und Kontrollverfahrens*, KOM (2010) 401 final, Brussels, 20 Jul 2010, 3 et seq.

10 | Laura Ștefan et al., *Conflicts of interest and incompatibilities in Eastern Europe. Romania, Croatia, Moldova*, Expert Forum, Bucharest, 2012, 7.

11 | *Ibid.*, 64.

In May 2012, a law was passed in Moldova that turned the government-controlled “Centre for Fighting Economic Crimes and Corruption” into a “National Anti-Corruption Centre” controlled by parliament. In order to fill the director’s position in the new agency, the judiciary committee in parliament organised a competitive application procedure. Although there were 22 applications, the man ultimately nominated for the job was the director of the predecessor agency. The chairman of the parliamentary group of one of the three coalition parties admitted publicly that the entire process had been a pro forma exercise – a political agreement had effectively decided who would occupy the post in advance.<sup>12</sup> Parliamentary control was abolished in May earlier this year, and control of the National Anti-Corruption Center has since reverted back to the government.

The argument that specialised institutions are no panaceas in the fight against corruption is for instance corroborated by the case of Kosovo, whose Anti-Corruption Council has yet to achieve any success since its founding in February 2012. Nevertheless, the director of the country’s Anti-Corruption Task Force was arrested on charges that he abused the powers of his office.<sup>13</sup> The European Union’s engagement in the fight against corruption has also failed to produce tangible results; the conclusion of the EU Court of Auditors’ assessment of the EULEX mission is sobering.<sup>14</sup>

**The director of Kosovo’s Anti-Corruption Task Force was arrested on charges that he abused the powers of his office.**

## UNDUE GOVERNMENTAL INFLUENCE

One important marker of the rule of law is the limitation of government power by the constitution, statutory law, parliamentary and judicial oversight, and by independent supervisory bodies. In the Rule of Law Index compiled by

12 | Cristina Buzovschi, “Înțelegeri politice înainte de numirea lui Chetraru. Streleț: ‘L-am votat cu sânge’” (Political agreement before the appointment of Chetraru. Streleț: “I voted with blood”), Unimedia, 19 Feb 2013, <http://uni.md/noXo> (accessed 19 Jul 2013).

13 | Freedom House, *Freedom in the World Report 2013. Kosovo*, <http://freedomhouse.org/report/freedom-world/2013/kosovo> (accessed 4 Jul 2013).

14 | European Court of Auditors (ECA), *European Union Assistance to Kosovo related to the Rule of Law*, Special Report No. 18/2012, Publications Office of the European Union, Luxembourg, 2012, 15-20.

the World Justice Project,<sup>15</sup> 97 countries were evaluated: Croatia landed in 36<sup>th</sup> place, scoring 0.61 on a 1.00 scale; Romania came in 39<sup>th</sup> (0.58); Bosnia and Herzegovina came in 54<sup>th</sup> (0.55); Macedonia, 59<sup>th</sup> (0.52); Bulgaria, 60<sup>th</sup> (0.51), Serbia, 67<sup>th</sup> (0.48), Albania, 71<sup>st</sup> (0.46), and Moldova in 77<sup>th</sup> (0.43). The numbers demonstrate on the one hand that there is considerable room for growth in the region; on the other hand, there are also vast differences within the region. Weakly developed parliamentary oversight of the government characterises all of the region's countries. Political parties are often led by a single person or by a small group of people, nonconformity often results in exclusion from the party, and movement between parties occurs frequently. In some cases, the government possesses legislative powers; in Romania, for instance, the government can push through a law by using its power to issue emergency ordinances (*ordonanta de urgenta*).

**In 2012, the Romanian government used emergency ordinances in an effort to restrict the power of the constitutional court and to change the law governing referendums in order to make it easier to remove the president from office.**

That such powers can lead to a *de facto* evisceration of the rule of law was made clear in the summer of 2012, when the Romanian government used emergency ordinances in an effort to restrict the power of the constitutional court and to change the law governing

referendums in order to make it easier to remove the president from office by eliminating the need for a minimum turnout at the requisite referendum on the dismissal of the president. Moreover, another emergency ordinance was issued to shift control of the official journal from the parliament to the government, apparently in an attempt to prevent unwanted decisions emanating from other constitutional bodies from going into effect – laws are technically invalid until they are published in the official journal. Because the powers of the constitutional court had been restricted – a decision that was declared unconstitutional only later – there was no way to challenge the constitutionality of parliamentary resolutions to dismiss the ombudsman or presidents of the Senate and of the Chamber of Deputies.

15 | Mark Agrast, Juan Carlos Botero, Joel Martinez, Alejandro Ponce and Christine S. Pratt, *WPJ Rule of Law Index 2012-2013*, The World Justice Project, Washington D.C., 2012-2013, [http://worldjusticeproject.org/sites/default/files/WPJ\\_Index\\_Report\\_2012.pdf](http://worldjusticeproject.org/sites/default/files/WPJ_Index_Report_2012.pdf) (accessed 19 Jul 2013).

Moreover, after the referendum on 29 July 2012 on the question of whether to remove the president from office, there were attempts to “correct” the number of eligible voters in order to prove that the required turnout of at least 50 per cent plus one had been met. In spite of enormous pressure – and in no small part because of pointed words from Brussels, Washington, and Berlin – the constitutional court was able to defend its role and protect the constitutional order from the assaults. And yet these events indicate that the sustainability of reforms to the rule of law in terms of institutional stability has not yet been secured. Moreover, it also became clear that the lack of loyal cooperation among various constitutional bodies represents a key issue in Romania’s institutional arrangement – a criticism that has also been voiced by the Venice Commission.<sup>16</sup>

**The lack of loyal cooperation among various constitutional bodies represents a key issue in Romania’s institutional arrangement.**

#### **URGENTLY REQUIRED JUDICIAL REFORMS**

The implementation of initiated judicial reforms remains imperative for the entire region, including countries that have already obtained EU membership. In its 2012-2013 enlargement strategy, the European Union maintained that candidate countries “must ensure that it [the judiciary] is independent, impartial [...] and capable of ensuring fair trials”.<sup>17</sup> With respect to these objectives, the results of the World Economic Forum’s *Global Competitiveness Report 2012-2013* are sobering.<sup>18</sup> In the report, representative entrepreneurs were asked, *inter alia*, about their perceptions of judicial independence in their own countries. Even the EU member countries Bulgaria and Romania only reached rank 102 and 114 for this indicator, respectively, out of 144 evaluated countries. Croatia arrived in 106<sup>th</sup>

16 | European Commission for Democracy through Law, “Opinion on the Compatibility with Constitutional Principles and the Rule of Law Actions taken by the Government and the Parliament of Romania in Respect of other State Institutions and on the Government Emergency Ordinance on Amendment to the Law No. 47/1992 Regarding the Organisation and Functioning of the Constitutional Court and on the Government Emergency Ordinance on Amending and Completing the Law No.3/2000 Regarding the Organisation of a Referendum of Romania”, CDL-AD (2012) 026, 18 Dec 2012, 15.

17 | European Commission, n. 2, 4.

18 | Klaus Schwab (ed.), *The Global Competitiveness Report 2012-2013*, World Economic Forum (WEF), Geneva, 2012.

place; the regional underperformers were Moldova (138<sup>th</sup>) and Albania (121<sup>st</sup>). Surprisingly, Bosnia and Herzegovina arrived in 78<sup>th</sup> place, but at the time of the research, there were many Western European, Central European, and American judges working in the country who (presumably) were unlikely to be subjected to political pressures.

In order to preserve the independence of the judiciary in the post-communist era, judges and public prosecutors in South East European countries formed self-governing bodies, some either as a single institution or as separate

bodies. The existence of these bodies was

**The Supreme Council of the Magistracy in Romania deserves special attention for its role in the political crisis in 2012, when it publicly denounced attempts to exercise control over public prosecutors.**

tied to the fear that executive or legislative branches would wield institutional influence to compromise the neutrality of the judiciary.<sup>19</sup> The contributions that helped bolster

the independence of these institutions and

the wider judicial system were duly recognised by the European Commission in 2012.<sup>20</sup> The Supreme Council of the Magistracy in Romania deserves special attention for its role in the political crisis in 2012, when it publicly and vehemently denounced attempts to exercise control over judges and public prosecutors. Nevertheless, experiences with self-governing bodies were not uniformly positive. The Supreme Council of the Magistracy in Moldova opposed measures that were designed to consolidate efforts to fight corruption and to preserve the professional integrity of the judiciary, even though experts from the Council of Europe both favorably reviewed the relevant Ministry of Justice bills and deemed them to generally be in conformity with European standards.<sup>21</sup>

The opacity and dearth of details concerning personnel decisions in such committees makes them vulnerable to recurrent criticism. In 2009, accusations of preferential

19 | Ștefan and Ghinea, n. 3, 15; Marko Kmezić, "Europeanization by Rule of Law Implementation in the Western Balkans: Adoption of International Legal Standards", contribution, Tag der Politikwissenschaft, Graz, 30 Nov 2012, [http://www.uni-graz.at/tpw\\_kmezic\\_paper.pdf](http://www.uni-graz.at/tpw_kmezic_paper.pdf) (accessed 20 May 2013).

20 | European Commission, n. 4.

21 | Ministerul Justiției al Republicii Moldova, "Consiliul Superior al Magistraturii se opune vehement adoptării inițiativelor anticorupție ale Ministerului Justiției", press release, 31 Jan 2013, <http://justice.gov.md/libview.php?id=1201> (accessed 4 Jul 2013).



treatment and corruption shook Bulgaria's Supreme Judicial Council. Citing two instances in which personnel decisions had been politically calculated, two of its members stepped down in 2011.<sup>22</sup> And in early 2013, the Supreme Judicial Council in Romania launched procedures to remove two members from office on highly dubious grounds; these procedures were later declared unconstitutional by the constitutional court.

Due to the poor organisation of courts, the defective code of procedure, and the lack of a tradition of out-of-court dispute settlements, courts in most of the region's countries are overwhelmed – this leads to excessively long proceedings. In Croatia, for instance, there is a backlog of civil cases, trade disputes, and enforcement proceedings. In its progress report in the fall of 2012, the European Commission alluded to the large backlog in Bosnia and Herzegovina.<sup>23</sup> A sizable share of the pending cases – 1.5 million in April 2012 (!) – are related to unpaid public utility bills, according to numbers provided by Freedom House.<sup>24</sup> Albania, too, was criticised by the European Commission for the extremely heavy workload of its courts, especially of at the supreme court and the constitutional court.<sup>25</sup> Of course, these realities are by no means confined to South East Europe. The European Commission for the Efficiency of Justice of the Council of Europe carried out a study for the European Commission which indicated that the average duration of civil, trade, administrative, and enforcement proceedings was shorter in Bulgaria than the EU average and in Romania it is still shorter than in consolidated democracies like France or Spain. And the ratios of pending cases per 100 inhabitants in Bulgaria and Romania is lower than the EU average.<sup>26</sup>

22 | Antoinette Primaratova, "Bulgaria Country Report", in: Ștefan and Ghinea (eds.), n. 3, 55.

23 | European Commission, *Bosnia and Herzegovina 2012 Progress Report*, Staff Working Document (2012) 335 final, 14.

24 | Freedom House, *Freedom in the World Report 2013. Bosnia and Herzegovina*, <http://freedomhouse.org/report/freedom-world/2013/bosnia-and-herzegovina> (accessed 4 Jul 2013).

25 | European Commission, *Albania 2012 Progress Report*, Staff Working Document (2012) 334 final, 13.

26 | European Commission for the Efficiency of Justice, *The functioning of judicial systems and the situation of the economy in the European Union Member States*, CEPEJ, Strasbourg, 15 Jan 2013.

## PROTECTION OF BASIC RIGHTS: THEORY AND PRACTICE

**Discriminatory attitudes towards disadvantaged groups are more pervasive than elsewhere in Europe. Political leaders often show scant willingness to stand up for minorities.**

Even though comprehensive sets of basic rights were enshrined in regional countries' constitutions, these rights are not always comprehensively respected, according to the European Union and human rights organisations. The European Commission has highlighted the recurrent persecution of ethnic and social minorities as a particular point of concern.<sup>27</sup> Indeed, discriminatory attitudes towards disadvantaged groups are not only much more pervasive than elsewhere in Europe, but political leaders themselves often show scant willingness to stand up for minorities. This mentality arises out of mistrust towards population groups who do not belong to the titular nation; the latter often question the loyalty of the former.<sup>28</sup>

The discrimination of ethnic minorities is a serious problem, particularly in parts of the former Yugoslavia. The European Commission has not found evidence of discrimination based on ethnic background in Bosnia or Herzegovina, but it has pointed out very significant problems pertaining to returnees.<sup>29</sup> Moreover, Freedom House has also found that members of certain ethnic groups who live outside of areas in which they comprise a majority group are disadvantaged when they look for work, search for an apartment, or seek to obtain welfare services provided by the government.<sup>30</sup> These observations concur with those made by the U.S. State Department,<sup>31</sup> the Committee on the Elimination of Racial Discrimination of the Council of Europe,<sup>32</sup> and the NGO Human Rights Watch.<sup>33</sup> Bosnia and Herzegovina's constitution, which is based on the Dayton

27 | European Commission, n. 4, 6.

28 | Will Kymlicka, "Western Political Theory and Ethnic Relations in Eastern Europe", in: idem and Magda Opalski (eds.), *Can Liberal Pluralism be Exported? Western Political Theory and Ethnic Relations in Eastern Europe*, 65 et seq.

29 | European Commission, n. 23, 20.

30 | Freedom House, n. 24.

31 | U.S. Department of State, "Bosnia and Herzegovina 2012 Human Rights Report", <http://www.state.gov/documents/organization/204478.pdf> (accessed 4 Jul 2013).

32 | European Commission against Racism and Intolerance, *ECRI Report on Bosnia and Herzegovina*, CRI (2011) 2, Council of Europe, Strasbourg, 2011.

33 | Human Rights Watch, *Second Class Citizens. Discrimination Against Roma, Jews, and Other Minorities in Bosnia and Herzegovina*, s.l., 2012.

Agreement, restricts access to (and the distribution of) offices and elected positions in the three-member presidency and in the House of Peoples to Bosniaks, Serbs, and Croats. This represents a violation of the European Convention on Human Rights, according to a verdict of the European Court of Human Rights. Yet, a redistribution of power relationships between Bosniaks, Serbs, and Croats would entail political risk. For this reason, the reality that there is no political will to change the current constitutional arrangement cannot implicitly be construed as discrimination.<sup>34</sup> However, in order to remain on the path towards Europe, the country will have to implement the verdict of the court in Strasbourg.

In Macedonia, where large-scale inter-ethnic conflicts were largely absent in the wake of the Ohrid Agreement of 2001, the relationships between the slavic majority population and the Albanian minority remain tense. In March 2012, inter-ethnic unrest in Skopje and Tetovo left 14 injured.<sup>35</sup>

The state of the Roma population in many countries of the region is precarious. Examples of social discrimination abound. Amnesty International's *Amnesty Report 2013* on Serbia indicated that about 1,000 Roma were – on orders from the city government – expelled from their settlement in Belgrade in April 2012. When the European Commission offered to financially support the construction of new homes for the expelled Roma, Belgrade authorities proposed to build the homes in a remote part of town in order de facto to segregate the community along ethnic lines.<sup>36</sup> In Romania, the country with the largest number of Roma, the mayor of the northwestern town Baia Mare had already made headlines in 2011 when he ordered that a wall be built around an entire Roma community. In 2012, the same mayor decreed that 150 Roma be forcibly relocated to a contaminated area near a closed chemical

34 | International Crisis Group, *Bosnia's Gordian Knot: Constitutional Reform*, Europe Briefing No. 68, Sarajevo, Istanbul and Brussels, 12 Jul 2012, 1.

35 | Freedom House, *Freedom in the World Report 2013. Macedonia*, <http://freedomhouse.org/report/freedom-world/2013/macedonia> (accessed 4 Jul 2013).

36 | Amnesty International, *Amnesty Report 2013. The State of the World's Human Rights*, London, 2013, 228, [http://files.amnesty.org/air13/AmnestyInternational\\_AnnualReport2013\\_complete\\_en.pdf](http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf) (accessed 19 Jul 2013).

factory.<sup>37</sup> The social discrimination also results in an under-representation of Roma in constitutional bodies in South East Europe. In Romania, for instance, only two Roma are members of parliament.

Anti-Semitic attitudes are also widespread in South East Europe. Hostile remarks about Jews by politicians are tolerated and rarely have political consequences. When a leading Romanian politician denied the Holocaust, his party's chairman – far from asking him to resign – merely sent him to the Holocaust Museum in Washington, DC. Many Jewish communities lament the spread of anti-Semitic stereotypes and the ignoring of the Second World War era persecution of Jews by certain some segments of the local population.

Homophobia is also wide-spread in South East Europe, and LGTB individuals remain disadvantaged even in countries where comprehensive anti-discrimination laws have been passed. The European Commission has repeatedly

**In Moldova, the ban on discrimination based on sexual orientation was restricted to the workplace – and even this was rejected by the communists and the Orthodox Church.**

condemned the ban on "Gay Pride Parades" in Serbia; the parades are forbidden by law in the autonomous Gagauzia region in Moldova. Homophobic slurs made by politicians continue to go unpunished; *Amnesty Report 2013* report cites examples for instance in

Albania and Macedonia.<sup>38</sup> In Moldova, the ban on discrimination based on sexual orientation was restricted to the workplace – and even this was rejected by the communists and the Orthodox Church; the latter has called for the repeal of the anti-discrimination law.<sup>39</sup>

37 | Freedom House, *Freedom in the World Report 2013. Romania*, <http://freedomhouse.org/report/freedom-world/2013/romania> (accessed 4 Jul 2013).

38 | Amnesty International, n. 36, 20 and 165, [http://files.amnesty.org/air13/AmnestyInternational\\_AnnualReport2013\\_complete\\_en.pdf](http://files.amnesty.org/air13/AmnestyInternational_AnnualReport2013_complete_en.pdf) (accessed 19 Jul 2013).

39 | Sinodul Bisericii Ortodoxe din Moldova (synod of the orthodox church in the Republic of Moldova), "Adresarea Sinodului Bisericii Ortodoxe din Moldova către autoritățile de vârf ale țării, pentru modificarea Legii anti-discriminare", open letter to Nicolae Timofti, President of the Republic of Moldova, and others, Chișinău, 19 May 2013, <http://mitropolia.md/adresarea-sinodului-bisericii-ortodoxe-din-moldova> (accessed 4 Jul 2013).

Individuals with disabilities also experience discrimination, although the discrimination manifests itself not as much in specific instances as in the broader lack of infrastructure that would facilitate greater participation in public life. The problematic state of guarantees for the protection of human rights and minority rights necessitates robust institutions that are capable of wielding state power to demand and ensure the protection of these rights. Accordingly, the European Commission has stated that “[n]ational human rights institutions such as Ombudspersons often require significant strengthening, as does the law enforcement bodies’ handling of issues such as hate crimes and gender based violence”.<sup>40</sup> In this context, vacancies in these offices are particularly problematic. In Albania, the office of Ombudsman was vacant between March 2010 and December 2011 because the parties in parliament could not agree among themselves which candidate to nominate.<sup>41</sup> A similar position also remained vacant for some time in Bosnia and Herzegovina. In Romania, the ombudsman was dismissed by parliament in the summer of 2012, but his dismissal was not related to his work defending human and basic rights. Clearly, his dismissal was calculated to prevent him from contesting emergency ordinances issued by the government before the Constitutional Court in connection with the recall effort against President Basescu. The Venice Commission nevertheless recommended that the independence of the ombudsman in Romania be enhanced given his role regarding the protection of human rights.<sup>42</sup>

## CONCLUSION: LENDING SUPPORT THROUGH MONITORING

The present article only discusses a selection of issues and does not purport to be comprehensive. It depicts advances that would have been unimaginable without membership (or aspiration towards membership) in the European Union. At the same time, it demonstrates that the journey towards robust Western-style rule of law is nowhere near completion. One thing that must be kept in

**It must be kept in mind that one-size-fits-all solutions are not possible, as South East European countries for historical reasons do not share a common legal culture.**

40 | European Commission, n. 2, 5.

41 | U.S. Department of State, “Albania 2012 Human Rights Report”, <http://www.state.gov/documents/organization/204464.pdf> (accessed 4 Jul 2013).

42 | European Commission for Democracy through Law, n. 16, 17.

mind is that one-size-fits-all solutions are not possible, as South East European countries for historical reasons do not share a common legal culture. The question is whether there is sufficient political will in South East Europe to determinedly address the existing key problems.

As a result, support for the rule of law in this region should never confine itself to mere technical assistance. The region requires a commitment from the Western community of nations to support the initiated judicial reforms, inter alia through regular monitorings. To this end, it would be helpful to expand the use of the EU Justice Scoreboard, which was introduced this year, to candidate countries, as this first attempt to create a common standard for evaluating the performance of European legal systems is based on the fact that “[s]hortcomings in the national justice systems are [...] not only a problem for a particular Member State, but can affect the functioning of the Single Market and, more generally, the whole EU”.<sup>43</sup> However, because the scoreboard is confined to questions of a technical nature, an extensive legal monitoring programme including European Commission reports will be indispensable to efforts to produce sustainable reforms.

43 | European Commission, *The EU Justice Scoreboard. A Tool to Promote Effective Justice and Growth* (= Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of Regions), COM (2013) 160 final, Brussels, Mar 2013, 2.

# DEMOCRACY WITHOUT PARTIES

## THE PHILIPPINES IN THE PATRONAGE TRAP

*Peter Köppinger*

During the mid-term elections in the Philippines on 13 May 2013, as expected the presidential party candidates for the (Liberal Party) and their allied old patronage parties NP and NPC came out on top, thereby confirming the permanent loss of power by the previous presidential party, Lakas-Kampi. Once again, the electoral system offered the opportunity for candidature nearly exclusively to well-known personalities and wealthy families during the country-wide senatorial election. Similarly, the elections for the Lower House and local elections were dominated by political clans and dynasties. Vote-buying and controlled voting in polling stations turned the election into a farce in many ways.

Against a backdrop of patronage systems with close connections between economic and political power on all government levels inherited from colonial times, the central problems of the country – consolidated poverty in large parts of the population, entrenched and closed markets, daily violence, a non-functioning judicial system – have not been tackled effectively by the current president, who profiles himself as a reformer. The largest obstacle for the development and political implementation of reform perspectives is the lack of programme-orientated member parties as necessary actors in a functioning democracy. However, the population's growing frustration as well as the increasing levels of suffering under this system, reaching into the competing political dynasties faced with the enormous funds required for vote-buying and retaining power, offers hope of leading the country out of this impasse. In addition, this will require a modern party law,



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the successful creation of newly founded, genuinely democratic parties and constitutional reform.

### 2013 ELECTIONS – THE STARTING POSITION

On 13 May, nationwide communal and national parliamentary elections took place. Twelve of the 24 senators were elected for a six year term of office. 291 members achieved a seat at the House of Representatives (second chamber of the national parliament) for a three year term of office, 81 provincial governors (including the governor for the autonomous region for Muslim Mindanao), 1,634 city and municipal mayors as well as more than 15,000 local councillors also came into office. The president and vice-president, as well as twelve senators did not stand for election, as they had been elected in 2010.

In light of the over-powering position of the president in the Philippine presidential government system, the elections were only of limited significance for the country's political development. As the president may only be elected for a single six-year term, the media spotlight was occupied with the electoral performance of potential presidential candidates for 2016.

The current favourite for the presidential elections is the 70 year-old vice president Jejomar "Jojo" Binay, whose approval rates are even higher than those for the popular president, Benigno "Noynoy" Aquino. In 2010, Binay, allied with previous president Estrada, surprisingly won the election for vice president against the chairman of the Liberal Party, Mar Roxas, held independently from the presidential election. For the 2013 elections, he formed a coalition consisting of the previously influential in the 1980s but now hardly visible PDP-Laban party and former President Estrada's PMP which influential 86 year old senatorial president, Juan Ponce Enrile, has joined. Their United Nationalist Alliance (UNA) attempted to send as many promising candidates into the 2013 senatorial, parliamentary and communal elections as possible in preparation for Binay's forthcoming presidential candidature in 2016. This was supposed to create a counterbalance to President Aquino's alliance formed from the three traditional

**Binay's alliance was supposed to create a counterbalance to President Aquino's alliance formed from the three traditional parties – the NP, NPC and Liberal Party.**



parties – the NP, NPC and Liberal Party – which should on the other hand create a beneficial starting position for the as yet unknown Liberal Party's (or its allied parties') presidential candidate. As the popular President Aquino may not stand for election in 2016 and because his popularity is not automatically transferrable to a liberal presidential candidate due to the population's low regard for traditional patronage parties, such alliances of rich parties with well-functioning campaigning organisations are the most effective way to retain power.

### **IN THE PUBLIC EYE: TEAM "PINOY" VERSUS TEAM UNA AT THE SENATORIAL ELECTIONS**

With this complex background, it is understandable that the 2013 electoral campaign for the twelve senatorial posts was portrayed by the media as a fight between "Team UNA" and "Team Pinoy" (the president's nickname) first and foremost. Nine of the currently twelve elected senators belong to "Team Pinoy", while three of the UNA candidates were elected, including vice-president Binay's daughter and a son of former president Estrada. This sounds like a clear dominance by the president's alliance, but this should not be over-interpreted. After all, the president's Liberal Party was only able to get one of their three candidates through the president's nephew. Four of the nine winners from "Team Pinoy" are from the partners NP and NPC who only have loose relationships with the Liberal Party. Four are personalities from influential families who stood as independents or represent smaller party groups and who – faced by the political weight of the incumbent president – preferred to join his "Team" rather than vice-president Binay's.

As senators are elected nationally and the financial support for such an electoral campaign through their parties – which, with a population of 95 million, costs at least ten

**Due to a lack of party financing, only members of wealthy families or rich actors and celebrities are able to successfully compete for a senatorial seat.**

million Euros – is faced with a lack of paying members and only rudimentary party financing, only members of wealthy families or rich actors and celebrities are able to successfully compete for a senatorial seat. Twelve of the 16 senatorial candidates with the most votes belong to political dynasties or are rich, nationally known celebrities.

## RESULTS OF PARLIAMENTARY AND PROVINCIAL ELECTIONS IN COMPARISON TO 2007 AND 2010<sup>1</sup>

In the results for the parliamentary election, 107 of the successful candidates in single member precincts decided by a simple majority vote system were from the Liberal Party. The NPC and NP parties, which formed a coalition for the senatorial campaign, gained 40 and 19 directly elected members respectively for the House of Representatives. In contrast, only eight members of the UNA as well as 42 members of smaller parties or independents were elected.

Table 1  
**Number of members of House of Representatives elected in precincts, by party**

Party/Alliance	2007	2010	2013	
Lakas-Kampi CDM	105	107	13	Presidential party to 2010
Liberal Party (LP)	13	47	107	Presidential party after 2010
NPC	18	29	40	Alliance with LP on national level from 2013
NP	6	26	19	Alliance with LP on national level from 2013
PMP	1	6	0 (in UNA)	from 2013 part of UNA
PDP-Laban	3	2	0 (in UNA)	partly integrated with UNA from 2013
UNA	0	0	8	since 2012 Alliance of PMP and PDP-Laban – with exception of PDP Laban Party chairman Senator Pimentel
NUP	0	0	24	2010 founded by former LAKAS-KAMPI-representatives
Other small or local parties and independents			18	

1 | All figures stated here originate from the electoral results on the Commission on Elections website on 6 Jun 2013, <http://2013electionresults.comelec.gov.ph> (accessed 23 Jul 2013).

Besides the 229 direct mandates, up to 58 further MPs are elected to the House of Representatives via a nationwide party list according to the proportional system. These party lists may not be connected to the parties nominating candidates in the precincts and should represent sectors or marginalised population groups. 131 lists from more than 200 applicants were permitted and printed on the ballot papers. A maximum of three MPS can be voted on each list – independent of how many percentage points can be combined in one list. As in past years, leftist groups, regional groups and “one-topic parties” dominate this complex and chaotically organised system. This time the “Buhay” party list, supported by the charismatic Catholic movement which campaigns for the absolute protection of life and is against the liberalisation of marital rights and abortion, seems to have received the most votes. Even many weeks after the elections, the final results have still not been announced. In addition to the problem of numerous precincts not providing final binding results despite electronic vote counting, the whole counting process for the party list results is being blocked by several preliminary injunctions from the Supreme Court against decisions by the Commission on Elections to disqualify various party lists.

On the level of provincial governors, a similar picture to that of the House of Representatives can be seen (Table 2). During the mayoral elections for 122 cities and 1,512 municipalities, the results announced so far show that the Liberal Party gained 634 wins, 254 went to the NPC, 167 to the NP, 165 to the UNA including the PMP and LDP Laban, 114 to the NUP and only 41 to Lakas Kampi CMD.

Table 2

**Number of provincial governors elected by party**

Party/Alliance	2007	2010	2013	
Lakas-Kampi CDM	44	42	1	Presidential party to 2010
Liberal Party (LP)	9	10	36	Presidential party after 2010
NPC	10	11	14	Alliance with LP on national level from 2013
NP	0	9	8	Alliance with LP on national level from 2013

PMP	2	2	0	(in UNA)	from 2013 part of UNA
PDP-Laban	0	0	1		partly integrated with UNA from 2013
UNA	0	0	3		since 2012 Alliance of PMP and PDP-Laban – with exception of PDP Laban Party chairman Senator Pimentel
NUP	0	0	8		2010 founded by former LAKAS-KAMPI-representatives
Other small, local parties or independents	15	6	10		

### **CONFIRMATION OF THE PRESIDENT'S STRONG POSITION – NO POLITICAL CHANGES**

In evaluating these results, one must take into account that the candidates in the traditional Philippine parties, who – financed by one or a few rich patrons – are only active during the electoral campaigns, make party membership mainly dependent on who might provide the greatest personal advantages. This leads to elected representatives switching parties on a large scale, particularly in the House of Representatives – especially just after the presidential elections. Therefore, of the 107 MPs elected to the national parliament belonging to the former president's party, Lakas-Kampi-CMD, less than 30 were still members of the party at the end of the three year legislative period. In the months following the election, the others had moved to either the newly elected president's Liberal party or joined a newly founded party (the National Unity Party, NUP). This served as a coalition partner for the Liberal Party, after the new president made it clear that he would put his predecessor, who continued to control Lakas-Kampi, into jail for corruption and electoral fraud. The MPs financial dependency on the president is especially due to the direct financing of their "political projects" from the government budget (so-called "pork barrels"). These local projects for which an MP receives an average of one million Euros a year are highly significant for both re-election and the "refinancing" of the horrendous electoral campaign costs.

A similar picture of financial dependency on government means is found in a large majority of all provinces, cities and municipalities. These results display a comparable tendency: Celebrities who generally have good electoral potential for such local positions prefer to stand as a candidate for the “presidential party” or, at the latest, switch to that party after the election.

According to expectations, the senatorial, parliamentary and communal elections provided confirmation of the president’s strong position. However, this isn’t connected to big changes in the political scene or a stronger support for possible reform projects in the next three years. After all, the House of Representatives was firmly under the president’s control, and the senators elected for six years will continue to focus on their own thematic and personal interests. Apart from that, they will have started to adjust themselves to the next president – even if they belong to the president’s loose electoral alliance partially characterised by considerable tensions.



Vice President Jejomar Binay: The UNA was unable to attain their objective of creating a solid starting position for Jojo Binay’s presidential candidature in 2016 by demonstrating strength. | Source: © Rolex Dela Pena, epa, picture alliance.

The UNA was unable to attain their objective of consolidating the starting position for Jojo Binay’s presidential candidature in 2016 through displays of strength. One result of the election is the confirmation of the end of the “Lakas-Kampi era”, which had dominated political life in the Philippines since 1992 with a short interruption from 1998 to

2001, and its replacement by the Liberal Party. For 2016, a Lakas and Kampi revival, which have formally separated in the meantime, is not to be expected – especially since there are no strong presidential candidates amongst them. How the NUP, mainly recruited from former Lakas-Kampi politicians – who after all emerged from the elections with 24 MPs and eight provincial governors – will develop in the future remains to be seen.

In the 2013 communal elections – much more prevalent than in previous elections – the vote-buying and controlling votes by inspectors of the financiers declared as electoral observers became a decisive phenomenon in the majority of cities and municipalities. In many places one can no longer speak of free, secret elections.<sup>2</sup> The huge sums spent on vote buying – which in part were equivalent to the average monthly salary of a voter – have now become part of the voted representatives' debt, which can only be repaid through increasing corruption and abuse of the public funds entrusted to them.

#### CONDITION OF THE PARTIES AND PARTY SYSTEM IN THE PHILIPPINES

**In general, political parties are seen as groups of people who attempt to attain political power in elections – manipulated in various ways – and to use this power to enrich themselves or for personal benefit.**

• The term “political party” leaves a bad taste in people’s mouths in the Philippines. In general, political parties are seen as groups of people who attempt to attain political power in elections – manipulated in various ways – and to use this power to prosper themselves or for personal benefit. When looking at the internal constitutions of the large traditional parties, it is unavoidable to deny them the qualification as a democratic political party with regard to usual international standards:

- Neither the NP nor the oldest Philippine party (founded in 1907), nor the LP, the NCP, PMP, Lakas-Kampi, NUP nor PDP-Laban have paying members.
- With the exception of the LP which has announced necessary reforms and liberal economic policy in a four-page, very general party program, none of the parties have

2 | See for example “Comelec: Vote buying rampant”, *The Philippine Star*, 16 May 2013.

programmatic profiles. In the meantime, the PDP-Laban, too, founded in 1982 as a Christian-democratic party left of the middle and currently deeply divided in supporters of the populist vice-president Binay as party chairman, and the re-elected senator and son of former party founder Pimental as party president, has lost its former programmatic profile.

- None of these parties, with the exception of small groups within the Liberal Party carry out regular activities at a local or district level between electoral campaign periods.
- Moreover, policy-making and the nomination of candidates does not follow democratic principles in any of the parties. These are parties which – financed or dominated by a rich patron or rich clan – choose their local and national candidates for election according to two criteria: Is he or she a favourite of the patron or the group in charge? And does he or she have good chances of winning?

As a consequence of this situation in the dominant traditional parties in the Philippines, the party system cannot carry out its most important democratic functions: Neither the parties nor their candidates offer the voters political options regarding content for

**Neither offer the parties the voters political options regarding content for electoral decision making, nor are they an instrument for citizens to hold a dialogue with their elected representatives.**

electoral decision making, nor are they an instrument for interested citizens and party members to hold a dialogue with their elected representatives in between elections, to hold them accountable, or to influence current decisions being made in parliament and government on a local level. Besides, individual personalities numerous political and also active groups in civil society are unable to find partners in the political arena, whom they could use to effectively introduce their ideas into the political decision-making process.

For the overall political direction, this means that medium and long term reform concepts hardly have a chance of step-by-step implementation, as there aren't enough individuals and political actors who are independent of whether they remain in office or not – or in other words, political parties with programmatic profiles – who would pursue

such reform concepts on a long term basis. Furthermore, parties do not perform the function of cultivating and selecting qualified leaders. In addition, when choosing local candidates, patrons and clans at the head of parties at a national level usually ally with locally dominating families and clans in the respective cities and provinces in order to secure their money and influence so their candidate will be voted for.

The 2013 elections have shown that the Liberal party too, which likes to surround itself with the aura of a reform party, is not an exception to this system. So, for example in the autonomous region of Muslim Mindanao, where the president broke up the completely corrupt and lawless structures by implementing a transitional parliament and administration with reform-orientated Muslims in 2011/2012. However, during the May 2013 elections these reform groups were mostly bypassed and candidates from local political dynasties who were previously allied with President Gloria Macapagal Arroyo's administration were nominated instead.

#### **INCREASING LEVELS OF SUFFERING – BETWEEN RESIGNATION AND HOPE**

If political concepts and real solutions do not influence voting decisions, then only personalities remain. This provides rich families who dominate the economy in the provinces and cities of the country with the opportunity to invest in the elections using their well-known names and money to

dominate. In the 15<sup>th</sup> congress from 2010 to 2013, more than 70 per cent of the representatives were members of the 180 national or local political dynasties – more than ever before. Both during the senatorial elections in 2013, and the parallel local elections taking

place at the same time, the influence of political dynasties has been amplified, which has led to vehement, until now ineffective discussion amongst the media and civil society. In a much-acclaimed empirical study, the Director of the Policy Centre at the renowned Asian Institute of Management, Ron Mendoza, proved a statistically highly relevant connection between poverty and political dynasties: In provinces, cities and municipalities governed by

**During the senatorial elections in 2013 the influence of political dynasties has been amplified, which has led to vehement, until now ineffective discussion amongst the media and civil society.**



political dynasties (often a family nominates the provincial governor, the MP and the mayors in the most important cities and many further office bearers), the poverty rate is clearly higher than in other municipalities and regions. The poor vote for the representatives of these families, hoping for traditional patronage – help in emergency situations faced with the hardly existent state social system, improved health facilities, increasing and also higher sums for vote-buying before the elections which take place every three years. However, employment – and with it the voters' economic independency – is hardly created in the regions governed by political dynasties.<sup>3</sup>

At first glance, it seems that the vicious cycle of poverty, patronage systems and personalised elections without real political parties is impossible to halt in the foreseeable future.

**In many areas, not only one, but two, sometimes three political dynasties buy votes at an enormous expense and compete for the most sought-after political offices.**

However, things are percolating below the surface. In many areas, not only one, but two, sometimes three political dynasties buy votes at an enormous expense and compete for the most sought-after political offices since the introduction of automated vote counting has complicated the direct manipulation of results. The system is felt to be a cul-de-sac with no way out without fundamental change. This is the only explanation for the modern party law passed in February 2013 by the political dynasty-dominated House of Representatives with a large majority. This law made it a condition that political parties use internal democratic procedures for candidate selection, are obliged to maintain financial transparency and programmatic profiling, forbidding changing parties in the years after being elected and to weaken patronage funding by introducing government funding for political parties. Although the law was drafted in the senate where it also had a clear majority on the second and final third reading, the president removed it from the agenda. Faced with the general mood amongst the country's political elite, observers believe there are good chances the law will still get passed in coming years. In programme-orientated circles of the Liberal Party which have been overrun by opportunists and the reform-orientated parts of civil society who are close to it, there are growing fears that at the end of

3 | Ron Mendoza, "Inclusive growth", Policy Center, Asian Institute of Management, Manila, Feb 2013.

President Aquino's six-year term presidency, a successor only counting on populism will drag the country back to the cycle of open corruption and lawlessness, which President Aquino has declared to fight. In this connection, it should be noted that in the 2013 May elections, the first representative of a member-based programme party managed to get elected to the Lower House. Rufus Rodriguez, president of the Centrist-Democratic Party of the Philippines (CDP) founded at the start of 2012, won in his precinct, Cagayan d'Oro with around 80 per cent of the votes and will campaign for fundamental reforms of the party system and electoral law. There is a wide consensus amongst experts and the media, as well as in large parts of civil society, that this is absolutely necessary. This is the only way of preventing communal elections from degenerating into a farce.



Philippine voters at improvised voting boxes. The practice of vote-buying is rampant. | Source: © Rolex Dela Pena, epa, picture alliance.

A further signal that changes to the previous system may be possible in the near future, is the wording of a framework agreement for the creation of an autonomous region "Bangsamoro" in the Muslim area of Mindanao, agreed by the rebel organisation MILF and the Philippine government in October 2012.<sup>4</sup> The agreement explicitly states that the government in this autonomous region – in contrast to the

4 | Miriam Fischer and Atty Benedicto Bacani, "Fighting for Land and Identity – The Perpetual Struggle of the Indigenous Peoples in Southwest Mindanao", *KAS International Reports*, 7/2013, 12 Jul 2013, Konrad-Adenauer-Stiftung, <http://kas.de/wf/en/33.34965> (accessed 18 Jul 2013).

Philippine central government – will be formed on the basis of a “ministerial”, or parliamentary, system and that the electoral system should encourage the formation of genuine programme parties.

#### **WHAT WOULD NEED TO CHANGE IN ORDER TO MAKE DEMOCRACY WORK?**

Besides the introduction of a modern party law, many other reform steps are under discussion, which would be required to turn the oligarchy-dominated democratic façade<sup>5</sup> in the Philippines into a functioning democratic community: On the one hand it would be sensible to change the chaotic party list system for the disadvantaged “sectorial groups” for the House of Representatives elections into a generally proportional element, which would offer programme orientated member parties the opportunity to influence the House of Representatives and to integrate various groups of society at the same time by means of their own candidate lists independent of the domination of political dynasties in individual precincts. Secondly, the passing and subsequent implementation of a comprehensive competition law with a focus on the decartelisation and control of numerous national and local monopolies and cartels and the permanent opening up of local markets in particular which would make the abuse of linking political elected posts with economic interests considerably more difficult.

A revision of the very attractive remuneration and expenses regulations for political electoral posts and the abolition of directly funding projects of chosen MPs using public funds could strongly reduce the existing incentive to attain political office in order to achieve personal gain. After all, for many years now a number of Philippine experts and foreign observers have been demanding a stronger regionalisation of the centralised state structure and a transformation of the presidential system into a parliamentary one, which would only offer considerably better opportunities for an effective control of the executive, but would offer programme orientated parties more weight

**For many years now a number of Philippine experts and foreign observers have been demanding a transformation of the presidential system into a parliamentary one.**

5 | See Reynato Puno, respected former president of the Supreme Court in *Transcending our democratic mediocrity*, Konrad-Adenauer-Stiftung, Manila, 2010.

against the personalised interests of political families and clans. Realistically however, such far-reaching reforms – in particular if they require constitutional change, can only be achieved if a process of developing and strengthening genuine member-based programme parties of political actors has formed, and who follow such a political decision process in the middle term as well.

#### **WHERE WOULD THE MAJORITIES LIE IN REAL ELECTIONS?**

Even if the current situation of election results in the Philippines cannot be used as a gauge to evaluate the population's approval of politic concepts or a fundamental long term orientation, it is however possible to draw some conclusions on what the majorities would look like in the case of the development of political of political programme parties. The most relevant for this purpose are the results of the senatorial elections and – partially – the party lists, where the influences of vote-buying and patronage structures of local political dynasties do not play a dominant role.

The 2010 and 2013 election results show that both the social-democratically orientated "Akbayan" party and the left-socialist/communist "Baya Muna" have an election potential of ten to 20 per cent. The two senatorial candidates in both parties were able to achieve their respective results without belonging to any of the big, well-known families and without being a nationally known actor or celebrity. Moreover, they were also unable to invest hundreds of millions of Pesos in the national electoral campaign as most of the other senatorial candidates were able to do. In the party lists as well, where each voter must choose between more than one hundred mostly regional lists, one-topic lists or lists of professional organisations, they were able to attain places amongst the first five.

Against a background of strong cultural and linguistic diversity, the Philippines could play an important role in developing a system of programme parties as well as regional parties with a clear regional development agenda – similar to India. Signs of this can also be found in the 2010 and 2013 party list election results.

Faced with the continuously strong tie to religious values in the majority of the Philippine population (nearly 80 per cent of the population is catholic; besides this there are other strongly Christian communities as well as a value-bound and non-fundamentalist Muslim minority), it is probable that in a programme party system, one or more value-bound moderate parties would play an important role. Whether the liberal party with its more economically-liberal and anti-clerical approach can play this role or the newly founded Centrist Democratic Party of the Philippines (CDP) with its Christian and Muslim social doctrine orientated programme can grow into this role or whether other promising moderate programme parties will be founded in the coming years remains to be seen.

In previous years the reasons for the Philippines falling behind in terms of economic-social development in the dynamic region of Southeast Asia have often been discussed.

The country, which was number two behind Japan during the 1960s as regards economic power in Asia, is now far behind Korea, Taiwan, Malaysia, Thailand, and has now even been overtaken by Indonesia in terms of income per capita. Although growth rates have improved considerably in recent years in contrast to other countries in the region, this has not affected a decrease in unemployment and poverty. Today, 28 per cent of the rapidly growing population live below the poverty line – a number that has hardly changed since the end of the Marcos dictatorship in 1986.<sup>6</sup> Despite an improved standing in Transparency International 2012's ranking, the Philippines dropped down by two places in the World Bank's world-wide "Doing Business" overview and now ranks number 138 out of 183 countries.<sup>7</sup> Furthermore, in the world-wide *Global Tax Ranking* they fell to a rank of 143 out of 185 countries in 2012, after they were still ranked 135 out of 183 countries in 2011. With that, they now belong to the countries with the most expensive and complicated tax

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6 | Report for the National Statistics Office half-year press conference: *Philippine Daily Inquirer*, 23 Apr 2013.

7 | The World Bank, *Doing Business 2013. Smarter Regulations for Small and Medium-Size Enterprises*, Washington D.C., 2013, 3, <http://doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB13-full-report.pdf> (accessed 23 Jul 2013).

systems in the world.<sup>8</sup> The income distribution is the most unequal in the region.<sup>9</sup> In terms of foreign investment, the country is at the bottom end of the ASEAN community only ahead of Laos and Myanmar. At the same time, the Philippines is at the very top of international lists in terms of daily violence and widespread lawlessness.

There is a lot of evidence suggesting that the combination of persistent colonial patronage structures and a weak state controlled by oligarchic and political dynasties, strongly limited economic competition and the lack of a real political party system has led the country into a socio-economic and political cul-de-sac. After the awful experiences of the Marcos dictatorship, the path of fighting poverty and modernisation through an authoritarian but development-orientated regime is sealed. In other states in the region with multiple party systems – Indonesia, Thailand, Malaysia, Cambodia, recently Myanmar and now beginning in Singapore – the political parties and party systems may be lacking and weak in some ways, but none of these countries display a total breakdown with regards to function within a democratic system as in the Philippines. A democracy without parties cannot work. Only the development of a true, functioning party system can provide the Philippines with an opportunity to find its way out of the cul-de-sac.

This article was completed on 17 May 2013.

8 | Yahoo! News Philippines, 14 Dec 2012.

9 | See amongst others Cielito Habito, *Philippine Daily Inquirer*, 4 Mar 2013. Habito was a minister and high-ranking politician in the Philippine's economic planning authority.



