

POMEPS
STUDIES

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The Politics of Post-Conflict Reconstruction

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The Project on Middle East Political Science

The Project on Middle East Political Science (POMEPS) is a collaborative network that aims to increase the impact of political scientists specializing in the study of the Middle East in the public sphere and in the academic community. POMEPS, directed by Marc Lynch, is based at the Institute for Middle East Studies at the George Washington University and is supported by Carnegie Corporation of New York and the Henry Luce Foundation. For more information, see <http://www.pomeps.org>.

Reconstruction following the devastating wars and state failure which followed the Arab uprisings of 2011 has become an increasingly pressing issue. In Iraq, the liberation of territories from the Islamic State came at great human and infrastructural cost. In Syria, the reconquest of territories by the regime of Bashar al-Asad has been accompanied by international discussions of modest steps towards reconstruction, after a war which generated more the half of the world's refugees and internally displaced whilst sowing devastation across much of the country. Yemen has endured the near complete destruction of its infrastructure and economy, leaving much of the population at risk of starvation and disease. Libya is devastated by its multiple conflicts and the successive disintegration of what is left of its institutional structures. While none of these wars has yet fully ended, international and expert attention is increasingly focused on the impending challenges of reconstruction, repatriation and reconciliation.

It is difficult to exaggerate the extent of the destruction which these wars have left behind. These wars have unfolded across multiple levels. Millions of people have been dispossessed from their homes, driven into exile at home or abroad. Infrastructure has been devastated, with many cities and towns utterly destroyed. National economies have evolved into local war economies. State and local institutions have been fundamentally reshaped. Communal polarization around sectarian or political identities has progressed to extreme levels. Entire communities have been severely impoverished as health and educational attainments plummet. And the individual trauma suffered by tens of millions of people afflicted by conflict and violence will have enduring psychological and developmental effects.

The reconstruction now being discussed is not just about physical or economic rebuilding. Reconstruction can never be separated from politics, and the looming choices will rarely be driven only by humanitarian or economic needs. Reconstruction will take place across a range of political contexts, from the brutally fierce restoration of the Syrian regime to the corrupt, and the sectarian and inefficient Iraqi system to the nearly nonexistent states of Libya and Yemen. External and local actors alike will get rich or be frozen out, accumulate social power or face marginalization. Amnesties could restore war criminals to positions of power, or transitional justice institutions could lead to their political exclusion. Across the region, the forms and modalities of reconstruction will shape a new political status quo with long lasting implications.

In January 2018, POMEPS and the Carnegie Middle East Center convened a workshop in Beirut to discuss original research from a wide range of cases on the politics of post-conflict reconstruction. Workshop participants made no assumptions either that conflict had ended or that reconstruction would imminently begin. Rather they aimed to explore the interlinkages between reconstruction, reconciliation and repatriation focusing on regional examples. Some of the cases presented involved ongoing conflicts, the winding down of which could be seen flickering on the horizon. Others involved conflicts which ended decades ago, such as Algeria's and Lebanon's civil wars, allowing for a historical perspective. The research featured in this collection focuses on very different dimensions of post-conflict situations, from the contestation of memory to the physical rebuilding of cities in rubble.

Several key themes and questions emerged from the discussions:

The Politics of Reconstruction

Reconstruction is itself a loaded term, one which might smuggle in a wide range of veiled assumptions. Some might infer that reconstruction meant a rebuilding of the status quo ante, something which might be neither normatively desirable nor politically possible. In some cases, as in the Gaza mechanism discussed by Stefanini, policies labeled as reconstruction can actually be a vehicle for sustaining and perpetuating structures of domination. Saudi and UAE humanitarian assistance in Yemen can be seen as an effort to sustain support for the broader military effort.

Others might see the push to begin thinking about reconstruction as a political drive to force an end to any viable support for the conflict itself. American and European discussions, for instance, about how they might “win” the reconstruction of Syria could be a face-saving way to move on from more than a half decade of attempting to win through war. The Asad regime, certainly, views calls for reconstruction as a way of signaling the end of conflict and the beginning of his international rehabilitation.

Some might also see a focus on reconstruction as a way to avoid dealing with the difficult issues of responsibility, especially in contexts such as Syria where the key party to the conflict has been signaled out for forced population transfers and for crimes against humanity. A focus on physical rebuilding in such context implies that any justice mechanism, including transitional justice or the articulation of shared memories can and will take a back seat to the economic opportunities and political gambits which define post-conflict. Critically, such a focus is likely to undermine international norms of accountability and justice and will serve to reward those accused of such crimes. While many Syrians and outside actors alike call for “just and inclusive reconstruction,” the realities are likely to be anything but.

Reconstruction in places like Syria are especially complicated by the questions of how assistance can be given to a regime that was in large part responsible for the country’s devastation and has been implicated in war crimes. International actors today are struggling with whether and how to support reconstruction for Syrian communities whilst ensuring that this does not end up privileging political supporters of the regime. Standing aside from reconstruction efforts in Syria may avoid offering support to the Asad regime, but at the cost of perpetuating Syrian suffering and ceding post-war influence to other actors. There are no clear positions yet on the institutional mechanisms through which reconstruction funding may be provided, what new institutions and oversight mechanisms are needed and what existing institutions within the different countries need to be rebuilt or simply reshaped.

What needs to be reconstructed?

Discussion of reconstruction often begins from economic needs assessment and templates derived from international best practices, rather than through engagement with the affected individuals or with the actual realities on the ground especially in the aftermath of civil conflict. In fact, reconstruction will be deeply intertwined with the reconfiguration of power relations in these societies emerging from conflict.

The physical reconstruction needs are staggering. The United Nations Special Envoy has estimated the cost of rebuilding Syria at \$250 billion but some estimates go as high as \$1 trillion. In Yemen, the ongoing war has brought more than a third of the population to the brink of starvation while the World Bank has assessed the cost of physical rebuilding at some \$40 billion. In Libya, reconstruction actually means building new state institutions and reconciling the country's disparate social groups. Even if such levels of funding prove to be available, however, there is no simple economic fix for these shattered societies.

The political and societal dimensions of reconstruction are as critical as they are often overlooked. Civil war and mass atrocity have left behind traumatized populations and deeply divided societies. Before economies can be rebuilt or political institutions revitalized, these societies will need to come to grips with the scale and magnitude of these legacies of violence. As the essays by Parry and O'Driscoll demonstrate in Iraq, the trauma inflicted by the Islamic State and the damage done to the social fabric of the country will take decades to undo.

Who will pay for reconstruction?

With little consensus amongst the international community on how to end these different conflicts, and a considerable turning inwards as pressure grows on elected governments to invest within and not outside their countries, the question of where this funding will come from looms large. Neither Russia nor Iran are able or willing to provide the levels of financing needed to rebuild what they were complicit in destroying in Syria. While China recently pledged over \$20 billion in Arab development assistance, it is unlikely and probably unable to provide what is needed. European and American assistance, if forthcoming at all, would be tied to international financial institutions such as the IMF and World Bank. The Trump Administration has indicated little support for large-scale American economic assistance to rebuilding Middle Eastern states. Only the Gulf states have the financial resources to fund large scale reconstruction, but they are parties to the wars in Syria, Yemen and Libya and cannot offer non-political reconstruction assistance.

Refugee return and repatriation

Refugee repatriation and the return of the internally displaced to their homes of origin will be a central challenge for any post conflict reconstruction plan. Guarantees for safety and security aside, the nature of the conflicts in the region mean that any sustainable peace needs to take into account the needs of displaced populations and refugees in any post conflict scenario. These include international guarantees of physical safety and access to basic services. For Syrians, who make up more than 50 percent of refugees and internally displaced world-wide, the challenges of return are compounded by the survival of Bashar al Asad and his regime who were responsible for their displacement in the first place. In the absence of a wide-scale political settlements, there are few guarantees that their return to Syria and to their areas of origin will not expose them to retribution or revenge.

Refugee return will also likely vary from one country to the other and from one region to the other within the different countries. It will depend on conditions in the areas of origin and on the nature of

the political bargain that ends the conflict and the willingness of the ruling elite to allow populations it may consider politically hostile at best, to come back to the country or to move back to areas of interest. Return may well mean secondary displacement, as refugees are unable to return to destroyed homes or to prove their ownership of confiscated property.

In Syria, the regime is putting in place multilevel obstacles to refugee return including laws that may dispossess them of their properties, security vetting mechanisms that mean mainly women, children and the elderly amongst those willing to return may be allowed to do so and the extension of the military conscription law that will see every male between the ages of 18 and 42 join the military or pay hefty fines beyond their economic means. At the same time, the regime, with the help of Russians is beginning to set up camps ostensibly to house returning refugees and some of the internally displaced. This is taking place as they work to link refugee return to international support for rebuilding Syria.

This approach of setting up refugee camps within Syria may not entice people back voluntarily in large numbers. Refugee camps in a context where reconstruction needs, especially for housing are massive, land is being appropriated and rebuilding will likely privilege regions that supported the regime throughout the previous years of conflict implies a long-term displacement crisis with the need for continued support from the international community. As happened in Iraq, where actual efforts to address the post-civil conflict needs faltered at best, this also means that Syrians are unlikely go back to their areas of origin anytime soon.

Can there be justice, or even memory?

What is also troubling for Syrians, Iraqis, Libyans and Yemenis among others is the absence of any mechanisms for transitional justice or political accountability. The question of whether justice or rebuilding should come first is important in all countries moving out of conflict. Should rebuilding states be encouraged to defer historical reckoning or transitional justice in the name of preserving fragile new stability? Or should they insist on some basic justice measures and if so at what level of the command chain? The lack of accountability and justice mechanisms played a key trigger in the uprisings to begin with, and in a post conflict situation this absence is particularly worrying. In the short run it may encourage individuals acts of vengeance and in the long run it will likely undermine the sustainability of any settlement.

For countries in the Middle East, there is little historical precedent to suggest that there will be any justice forthcoming. Few Arab states, other than democratizing Tunisia and – to some extent – Morocco, have opted for meaningful transitional justice. Iraq's efforts to hold regime officials to account after the fall of Saddam Hussein rapidly degenerated into sectarian vendettas. The lessons of countries such as Lebanon and Algeria, discussed in this collection by Haugbolle and Ghanem-Yazbek, point towards amnesia and impunity rather than memory and justice. But the large scale efforts over the last seven years to preserve evidence of war crimes in Syria points to the possibility that such amnesia and forgetting may no longer be possible.

The essays which follow offer no single answer to these questions, or any easy path forward. Together, however, they offer rich and challenging comparative and theoretical perspective on the difficult issues facing those now turning to the demands of reconstruction in the Middle East.

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Seeing Like a State-builder: Replication of Donor Reconstruction Dilemmas in Syria

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Since the start of the Syrian war, the United States and several allies channeled significant political assistance to local governance structures in opposition-held areas.¹ In a context in which nearly every other component of Western donors' Syria policy was contested, provision of local governance or civilian "stabilization" aid for opposition local councils emerged as a rare point of steady support among policymakers.² These programs were initially intended to bolster the potential success of a high-level political transition and reconstruction effort in a hypothesized "day after" Assad. As that objective grew less realistic over the years, donors at least hoped they could help preserve moderate civilian actors' relevance in governance arrangements at the local level.³

Civilian support to the Syrian opposition presented an unusual paradigm for foreign interveners in two important ways. First, since the end of the Cold War, the post-conflict reconstruction and statebuilding imperative has taken on renewed salience for Western powers; by the time Syria's uprising began in 2011, donors had notched two decades of experience in the suite of interventions often described as the "liberal statebuilding" model.⁴ Scholars and practitioners alike had accumulated myriad lessons from externally-assisted statebuilding projects on multiple continents. And yet Syria represented a divergent model from these "traditional" statebuilding and reconstruction endeavors, because it was in service of the opposition's statebuilding aspirations. Donors aimed to assist local counterparts in a liberal *counter*-state-building project.⁵

Second, donors directed assistance to local councils after their areas were militarily "liberated" from the Syrian regime— at least temporarily— but not after the overall conflict had concluded, as is the case in traditional reconstruction campaigns. Donors hoped their localized projects would pave the way for capable, accountable governing processes in a broader hypothesized

"transitional governing body" that would emerge after Assad's fall. Thus, unlike many other post-conflict reconstruction and statebuilding interventions, arising after a battlefield victory or peace negotiation, support to the opposition local councils is best understood as *localized and anticipatory* reconstruction.⁶

In two crucial domains, Western donors' local political assistance in opposition Syria differed starkly from prior interventions: the counter-state-building objective, and the localized, pre-emptive scope of the reconstruction effort. Yet despite these two divergent factors, this paper argues that greatest theme of the Western political assistance to opposition local councils is striking *continuity*. In many ways, the dilemmas embodied in donor civilian assistance to opposition councils replicated the same tensions inherent to earlier "traditional" reconstruction and statebuilding efforts. Several recurrent tensions that were present in earlier interventions— legitimacy dilemmas, capacity dilemmas, and coordination problems-- were transposed to this new Syrian context almost wholesale. Finally, the paper looks forward to how these dilemmas are already shaping the politics of reconstruction in the next phase of the conflict. In particular, this latest phase underscores another way in which the tensions of previous reconstruction and statebuilding endeavors are being replicated in Syria: despite Western donors' focus on political and civilian factors in shaping the viability of opposition enclaves, ultimately, security and military primacy are determining the conflict's trajectory.

Replications of Dilemmas

Donor support to opposition local governance structures over the years faced several recurrent tensions that represented a replication—even exacerbation—of other externally assisted liberal statebuilding and reconstruction projects over previous years.

Legitimacy Dilemmas

U.S. and allied support to opposition governance structures was largely guided by the overall “theory of change” that by assisting local civilian administrations deliver services for their population, these councils would accrue popular support and legitimacy that would enable them to be seen as a viable governing entity compared with the regime.⁷ By 2014, armed extremist groups such as ISIS and al-Nusra had emerged as both major antagonists in the conflict, and oftentimes as service-providers to these same communities; thus donors re-framed their local programs as a means to enable moderate local councils, rather than extremists, to maintain support from their local populations.

This logic of supporting service delivery as a means of accruing legitimacy mirrors a dominant practice in the state-building model from the past two decades, wherein the international community endeavors to address fragile state capacity deficits as a means of augmenting popular support for the state government. But as in “traditional” statebuilding projects, legitimacy-based donor approaches in Syria generated several tensions in practice. First, while the underlying logic is compelling, comparative evidence indicates that improving service delivery is rarely the most important factor to improve popular perceptions of government legitimacy: considerations of how services are provided, and perceptions of fairness, often have more sway.⁸ This proved particularly salient in the Syrian opposition context: interviews and independent monitoring reports note that, “Service provision was only one driver of support for local governing bodies – and often not the primary one.”⁹ Other key factors shaping local support included whether the specific council’s practices were inclusive and participatory, the extent to which it was seen as a symbol of the revolution and a reminder of revolutionary ideals, and whether local council members were perceived as embedded within the local community.¹⁰ Further, as the Syrian conflict evolved, the presence of armed extremist actors further complicated the straightforward logic of helping civilian councils win popular support. Various civilian councils chose to both

compete with and, by turns, pragmatically *cooperate* with armed actors to fill service gaps or ensure security.¹¹ Further, many civilian councils themselves—the locus of the “liberal” statebuilding project— were increasingly infiltrated by “illiberal” elements representing various armed groups.

Legitimacy-related dilemmas were even more pronounced in donor attempts to foster linkages between an array of local councils on the ground and the nominal higher-order opposition bodies outside of Syria. Donors hoped that ultimately, their assistance would help these exiled umbrella groups (to include, at various times, the Syrian Opposition Coalition and its Assistance Coordination Unit, the National Coalition for Syrian Revolutionary and Opposition Forces, the Syrian Interim Government) and gain support in the eyes of the war-ravaged population. Donors also wished that their assistance could induce cooperation between the “bottom-up” and “top-down” components of the famously fragmented opposition. Yet here, tensions abounded. Interviews illustrate the challenges of trying to assist an externally based body— “these people jetting around to conferences in Turkey” in the words of one Syrian observer— to accrue legitimacy in the eyes of a population literally under fire in Syria.¹² Local councils themselves, as frontline distributors of aid, also had limited appetite to be “coordinated” from the outside. As external opposition representatives attended various iterations of talks in Geneva, and later Astana and Sochi, it also remained largely unclear how the priorities and grievances of local councils were to be channeled into Syria-wide negotiations.¹³

Capacity Dilemmas

A related animating assumption of Western donor programming was that by improving opposition local councils’ technical *capacity*, their effectiveness and thus popular legitimacy would also improve. Capacity building efforts were also intended to make local councils more prepared to serve within the hypothesized post-Assad Syrian governing framework. This approach replicates another dominant component of the liberal statebuilding

model, which identifies state weakness as a primary problem, for which “capacity development” is the crucial solution.¹⁴

Yet here again, the Syrian intervention mirrored many pronounced problems of the “traditional” reconstruction and statebuilding efforts. First, capacity building was dominated by episodic trainings (generally held in Turkey because of security constraints), accommodating limited numbers of participants and divorced from local conditions.¹⁵ While these sessions represented a welcome respite from the conflict and opportunity for “laptop shopping” in the words of some activists, it effected less clear impact on the durable capacity building of local councils.¹⁶ Second, despite empirical evidence that “power and politics are central to how services are delivered”¹⁷— particularly in heavily contested contexts like Syria— trainings generally focused on a technocratic conception of capacity. They were often mirror-imaged on donor-facing NGO project management skills—in the words of one observer, “building capacity to fill out donor paperwork”— rather than capabilities more relevant to Syrian local political and social order.¹⁸ Other trainings focused on teaching local councils “stakeholder analysis and negotiation” skills that, as time wore on, seemed increasingly misplaced: as one implementer noted, “If you are a Syrian on year six of this conflict, if you have managed to continue existing, you are probably pretty f**** good at deploying the negotiation skills and the ‘stakeholder analysis’ you need.”¹⁹

In addition, critiques of foreign-driven capacity building often bemoan these projects’ overemphasis on individual units (such as councils), rather than building up systemic capacity: “capacity development is typically approached as a modular exercise, assuming micro-capacities naturally aggregate up to build better systems.”²⁰ Here again, donors’ programs in Syria embodied an even more exaggerated version of this problem, because the broader governance “system” into which local councils were meant to ultimately integrate was manifestly unclear. Local councils operated in absence of a recognized governmental structure, and had largely tenuous links to overarching opposition

structures. Donors themselves supported a variety of different local council procedures and theories of how local councils should ultimately fit into any future broader decentralization framework.²¹

Coordination dilemmas

Finally, support to the Syrian opposition reflected an even more pronounced version of the “coordination problem” that bedevils many traditional statebuilding and reconstruction endeavors.²² Unlike previous engagements, where donor programming typically clusters in the capital city, support to Syrian opposition necessarily was managed remotely from neighboring countries of Turkey, Jordan, Iraq and— to some degree— Lebanon. The U.S. aimed to address these challenges by standing up the Syria Transition Assistance Response Team hub in Turkey and the Syria Southern Assistance Platform in Jordan, broader coordination remained a challenge, as a multitude of donors had to interface with disparate local councils on the inside, through several layers of intermediaries.

Donor haste also exacerbated “coherence dilemmas.”²³ Few if any within the U.S. government had predicted the Arab uprisings before December 2010. When the Syrian protests emerged in emerged 2011, the international community rushed to provide assistance to any and all nascent local governance entities so that there would be some proto-structures ready for a hypothesized “day after Assad.” The (mis)assumption that Assad could fall precipitously compounded this sense of haste.²⁴ Donor aid agencies faced several worst-case scenarios in administering politically-savvy local programs: they had had limited interface with local stakeholders before the war, as even previous aid projects had to be administered through Assad’s apparatus. Many admitted openly that they lacked familiarity with their local Syrian opposition counterparts, and viewed aid projects as a way to gain better knowledge.²⁵ As a result, reports surfaced of overlapping and competing local councils in some areas, undermining the efficient provision of assistance and confounding accountability mechanisms. The disparate budgets and accountability lines of different Western donors— and

sometimes different agencies within the same national governments— further compounded these challenges, as did the outsize role played by non-Western donors in supporting the opposition.

Donors aimed to address this coordination challenge through channeling aid through nominally higher level bodies, such as the Syrian Coalition, the Syrian Interim Government, and an array of provincial councils. But as local councils remained the frontline distributors of aid, and had minimal incentive to be “supervised” by putatively higher-level bodies, these coordination attempts largely stalled. Even more fundamentally, the donor community lacked a shared understanding of what political end state all of these governance projects were intended to be building towards. Donors and projects offered varying interpretations of the specifics and desirability of Law 107, the decentralization law, and disparate notions about local councils ideal-type procedures and processes. A “chaotic aid environment” ensued.²⁶

Legacies of Donor Dilemmas: Post-Conflict Reconstruction in Syria and Beyond

With the benefit of hindsight, it’s clear that the tensions within donor assistance to the Syrian counter-statebuilding endeavor directly replicated the contradictions inherent to previous “traditional” reconstruction and statebuilding interventions. But explaining this phenomenon is a further puzzle. Why did donor pathologies replicate previous engagements, despite the logic of intervention that was diametrically opposed to prior ones?

In part, the answer lies in the urgency Western powers felt to marshal fast support for the civilian opposition. In developing a conceptual frame for their endeavor in 2011 and 2012, donors likely found it more expedient to reach for off-the-shelf, earlier paradigms of liberal statebuilding and reconstruction, than to interrogate potential alternatives. Scholarship and practitioner experience within the field of *rebel governance*, a more appropriate fit for the Syrian opposition project, was only beginning to proliferate in 2011, and study of *external*

liberal support to rebel governance and statebuilding was a further conceptual bridge. In parallel, as donors faced abundant challenges to actually launch aid programs in opposition-held Syria, they enjoyed limited bandwidth to dig into a deep rethinking of modes of assistance delivery. But in making these initial choices, Western interveners replicated yet another of the most-frequently-cited cautionary tales in the literature on previous reconstruction interventions: the need to avoid one-size-fits all templates for intervention and instead develop “more strategic, more context-sensitive efforts.”²⁷

Looking ahead, these dilemmas will further evolve as the war transitions to another grueling phase. In contrast to the anticipatory, localized reconstruction that donor support to the opposition embodied over the past seven years, Western powers now face a shrinking map. Meanwhile, the Assad regime has its own broader reconstruction project underway, that contrasts starkly with the liberal statebuilding objectives espoused by Western donors.²⁸

Yet this new period will still likely encompass replication of previous donor dilemmas. The newest stage of the Syrian war is testament to one of the critical lessons of previous reconstruction and statebuilding endeavors: the primacy of security factors in determining political trajectories.²⁹ In Syria over the past seven years, Western project managers attempted to build counter-state capacity and legitimacy through development and governance programs, paired with highly limited Western military support.³⁰ Yet armed actors— the regime, its foreign backers, and armed extremist groups— increasingly shape conflict outcomes, and civilian programs and stakeholders have woefully limited leverage. In the southern de-escalation zone, practitioners cited governance progress among the Deraa provincial council and affiliated local councils—but it has likely been erased by the recent offensive by the Assad regime and its backers. Throughout the northwest, as the regime has consolidated military control through so-called “reconciliation” agreements, previous progress in assisting local councils to become more democratic and capable is being expunged as these councils are forcibly disbanded. In

northeast Syria, even the imperfect political arrangement of a Kurdish-led SDF government is contingent on continued Western military backing, which U.S. President Trump has cast into doubt. In short, donor support to the Syrian opposition project was, and continues to be, undermined by the *sine qua non* of statebuilding: clearly defined stateness, underpinned by a monopoly on the use of force.

Looking ahead, lessons from Western political support Syrian opposition local councils offer broader relevance for post-conflict reconstruction efforts of the future. Globally, the paradigm of a clear-cut national transition from war

to peace has become less salient over the past decade. Civil wars are lasting longer—with a remarkable median length of 19 years as of 2010— and reconstruction efforts do not await a clean “day after.”³¹ In “forever war” cases such as Afghanistan and Iraq, Western donors have already pivoted from a “post-conflict-reconstruction” framing of their efforts, to undertaking localized reconstruction and stabilization initiatives in permissive or “liberated” areas. Foreign interveners would do well to recall that even in the new and divergent paradigms of the global future conflict environment, the tensions and contradictions underpinning their efforts remain remarkably consistent.

Endnotes

- ¹ This paper draws upon fieldwork and some findings identified in a longer forthcoming Carnegie Endowment for International Peace paper, “Dilemmas of Stabilization Assistance: The Case of Syria.”
- ² Reflecting the fluidity of programs operating in the wartime Syrian context and the inconsistency in donor terminology, this paper uses the terms “stabilization programs,” “local governance programs,” and “local political programs” interchangeably, while recognizing that more stable environments, these programs would generally differ. Throughout the conflict, donors used a variety of terms to describe the programs studied here, including political transition, local governance, or stabilization. This paper does not encompass justice sector and policing programs. The scope of programs examined here largely corresponds to the US government’s newly-codified definition of stabilization-- “a political endeavor involving an integrated civilian-military process to create conditions where locally legitimate authorities and systems can peaceably manage conflict--” although they were not always labeled as such. U.S. Department of Defense, U.S. Department of State, and US Agency for International Development, “Stabilization Assistance Review: A Framework for Maximizing the Effectiveness of U.S. Government Efforts to Stabilize Conflict-Affected Areas” (Washington, 2018).
- ³ Author interviews with Western officials, Washington, Beirut, Istanbul, Amman, December 2017—March 2018.
- ⁴ For discussion of why the post-conflict statebuilding project accelerated after 1989, see Roland Paris and Timothy D. Sisk, *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations* (Taylor & Francis, 2008), Chapter 1.
- ⁵ Rarely, if ever, since the conclusion of the Cold War had the U.S. attempted an analogous initiative. During the Cold War, U.S. support to mujahideen resistance and “liberated areas” in Soviet-occupied Afghanistan during the 1980s is known for its military components, but also included donor support to “shuras” to facilitate equitable distribution of aid, with some governance-related aspects. See Lynn Carter and Kerry Connor, “A Preliminary Investigation of Contemporary Afghan Councils” (Peshawar, Pakistan: Agency Coordinating Body for Afghan Relief (ACBAR), April 1989). \u00A0A Preliminary Investigation of Contemporary Afghan Councils \u00221 (Peshawar, Pakistan: Agency Coordinating Body for Afghan Relief (ACBAR)
- ⁶ This study focuses on donor programs with the declared *political* objective of creating the structures for interim local governance entities, rather than donor-designated *humanitarian* assistance allocated on a needs-only basis. However, in practice, the activities entailed often overlapped.
- ⁷ “Legitimacy” is a contested and complex concept. In the donor interventions described in this paper, the operative definition mirrored that of Paris and Sisk, *The Dilemmas of Statebuilding*, p 15: “Legitimacy derives from a belief among a state’s people that public institutions possess a rightful authority to govern.”
- ⁸ Nixon, Hamish, and Richard Mallett, *Service delivery, public perceptions and state legitimacy: findings from the Secure Livelihoods Research Forum*. London: Secure Livelihoods Research Forum, June 2017.
- ⁹ USAID/START Independent Monitoring Unit, *ICAM Community Profiles: Key Takeaways*, May 2016.
- ¹⁰ Author interviews, Syrian stakeholders, Amman and Istanbul, February 2018.
- ¹¹ Author interviews, Syrian stakeholders, Istanbul, February 2018; see also Sam Heller, “Keeping the Lights On in Rebel Idlib,” *The Century Foundation*, November 11, 2016, <https://tcf.org/content/report/keeping-lights-rebel-idlib/>.
- ¹² Author interview, Syrian civil society representative 1, Washington, January 2018.
- ¹³ Author interview, former Western official, Washington, December 2017; Syrian stakeholder, Amman, April 2018.
- ¹⁴ See, for example, Ashraf Ghani and Clare Lockhart, *Fixing Failed States: A Framework for Rebuilding a Fractured World*, 1 edition (Oxford; New York: Oxford University Press, 2009). “properties”: {“custom”: “See, for example, Ashraf Ghani and Clare Lockhart, (\\i}Fixing Failed States: A Framework for Rebuilding a Fractured World}, 1 edition (Oxford; New York: Oxford University Press, 2009
- ¹⁵ Author interviews, Beirut and Istanbul, February 2018. See also Justin Vela, “Holding Civil Society Workshops While Syria Burns,” *Foreign Policy* (blog), October 12, 2012, <https://foreignpolicy.com/2012/10/10/holding-civil-society-workshops-while-syria-burns/>.
- ¹⁶ “Laptop shopping”—quote from author interview with Syrian activist, Washington, January 2018.

- ¹⁷ Denney, Lisa and Richard Mallet, *Service Delivery and State Capacity: findings from the Secure Livelihoods Research Forum*. London: Secure Livelihoods Research Forum, June 2017, 24.
- ¹⁸ Author interview, non-governmental organization official, Beirut, February 2018.
- ¹⁹ Author interview, non-governmental organization official, Beirut, February 2018.
- ²⁰ Denney and Mallet, 27.
- ²¹ Author interviews, Istanbul and Amman, February 2018.
- ²² Roland Paris, "Understanding the 'Coordination Problem' in Postwar Statebuilding," in *The Dilemmas of Statebuilding*, 2009.
- ²³ Paris and Sisk, *The Dilemmas of Statebuilding*, 305.
- ²⁴ Mona Yacoubian cites US government officials who saw Assad as a "dead man walking" who would be out of power by Christmas 2013. Mona Yacoubian, "Critical Junctures in United States Policy toward Syria: An Assessment of the Counterfactuals," Simon-Skjoldt Center for the Prevention of Genocide Series of Occasional Papers (U.S. Holocaust Museum, August 2017), <https://www.ushmm.org/confront-genocide/syria/syria-research>.
- ²⁵ Author interviews, Washington, January and June 2018.
- ²⁶ Kheder Khaddour, "Local Wars and the Chance for Decentralized Peace in Syria," March 28, 2017, <http://carnegie-mec.org/2017/03/28/local-wars-and-chance-for-decentralized-peace-in-syria-pub-68369>.
- ²⁷ Charles T. Call and Vanessa Wyeth, *Building States to Build Peace* (Boulder: Lynne Rienner Pub, 2008), 365.
- ²⁸ Heydemann, Steven. (2018). *Reconstructing Authoritarianism: The Politics and Political Economy of Postconflict Reconstruction in Syria*. POMEPS Studies 30: The Politics of Post-Conflict Reconstruction.
- ²⁹ For discussion of consensus of primacy of security, see, for example, Charles T. Call and Vanessa Wyeth, *Building States to Build Peace* (Boulder: Lynne Rienner Pub, 2008), 14.
- ³⁰ Significant scholarly and policy ink has been devoted to the question of *whether* the U.S. and its allies should have invented more forcefully militarily in Syria at various junctures, the complex tradeoffs at play at various junctures, and whether that would have led to a "better" outcome. Engagement on that question is beyond the scope of this paper; I merely note that the military-related support was limited.
- ³¹ Median length of civil wars was down to "only" 14 years in 2014, but this decrease was almost entirely due to the emergence of several new civil wars in the Arab Spring. See James Fearon, "Civil War & the Current International System," *Daedalus* 146, no. 4 (October 1, 2017): 18–32, https://doi.org/10.1162/DAED_a_00456.

Reconstructing Authoritarianism: The Politics and Political Economy of Postconflict Reconstruction in Syria

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Policy and academic debates about Syria and other war-torn countries in the Middle East routinely invoke the concept of reconstruction. In the literature on conflict resolution and development, post-conflict reconstruction is regularly defined in terms of transformation.¹ The aim of post-conflict reconstruction is not to return war-torn societies and states to their pre-war conditions, but to make use of the space that violent conflict is presumed to create to put in place institutions, norms, and practices that address the causes of violence and provide a basis for effective governance and sustainable peace. This includes transforming frameworks of economic governance so that conditions of economic “normalcy” can be established—conditions that differ from those that operate during conflict. In this literature, reconstruction succeeds by “transforming post-conflict countries into functioning states that can offer their citizens basic public services.”² We know reconstruction is working when “the main features of an economy no longer stem from the war but from the normal conditions of the economy.”³

No one imagines that these transformations are fast, or easy. There is wide recognition among scholars and practitioners of the enormous variation that exists among countries exiting conflict, and of the daunting challenges that post-conflict reconstruction confronts. There is little naiveté among specialists about the many ways in which post-conflict reconstruction can go wrong. Yet the underlying assumption that successful reconstruction requires the transformation of pre-war systems of governance, political economies, and social norms remains central to the worldviews of both practitioners and scholars. So too does the assumption that the political economies that emerge during violent conflict are abnormal and impede the functioning of “normal” post-conflict economies that are essential to the success of reconstruction.

How helpful are these assumptions in explaining the politics and political economy of reconstruction in a case like Syria, which appears to be entering the end stages of an exceptionally brutal and destructive civil war? I argue that they are of limited value, and can actively distort policy and academic analysis alike. Defining post-conflict reconstruction in terms of transformation tells us relatively little about how it is understood and will be pursued by the Assad regime. Moreover, the benchmarks or indicators for assessing the success of reconstruction suggested by this literature offer little insight into the effectiveness with which the Assad regime is advancing its own, very different, conception of how to rebuild Syria’s political economy.

To assess the experience and likely trajectory of the Syrian case – and perhaps other, similar cases, including Libya and Yemen – will require a different understanding of what reconstruction is and how it operates. Efforts to rebuild the country are taking shape as critical pieces in a larger strategy of *authoritarian reconstruction*. This strategy has three interconnected aims: to restore the regime’s capacity to extract resources from an economy fragmented by violence; reassert its authority over the economic networks that constitute core elements of the regime’s ruling coalition; and reestablish the regime’s sovereignty over all of pre-2011 Syria, in part through the reconstruction of a fractured national market.

This understanding of post-conflict reconstruction as a process of authoritarian reconstruction does not ignore the extent to which conflict has reconfigured Syria’s political economy, or that reconstruction will require the adaptation of pre-war modes of economic governance to post-conflict realities. Yet it begins from the observation that everything the regime does to advance post-conflict reconstruction is intended not to put in place the kind of “inclusive social contract” that has come to be seen as the

preferred outcome of reconstruction processes,⁴ but to reinforce and reassert its authority over economic activity, both formal and informal, and revitalize and renew the predatory coalitions and bargains on which the regime has historically depended.

The approach suggested here builds on my ongoing research into the political economy of civil wars in the Middle East. It builds on, but challenges, the emergent literature on conflict economics, rebel governance, and post-conflict reconstruction (often situated as a subfield of development studies). These studies have tended to conceptualize wartime political economies in terms of the intentions and incentives that shape the behavior of state elites, both during conflict and in the post-conflict period.⁵ They tend to define civil war as marking the collapse of pre-war economic institutions, norms, and practices.

My argument instead highlights the high degree of *continuity* that is evident in frameworks of economic governance from pre-war to wartime periods in predatory, corrupt authoritarian regimes such as Syria's. Indeed, I would argue that continuity in modes of economic governance, rather than rupture or breakdown, is the defining feature of the wartime economic order that has become consolidated in Syria since 2011.

In highlighting the importance of continuity in the economic norms and practices that shape Syria's political economy, I do not mean to minimize the extent to which the country's economy has been affected by almost a decade of violent conflict. What was once a national market has been shattered. Industrial, manufacturing, and agricultural sectors have collapsed, and will take years to rebuild. The war has also caused a reshuffling within the business elite, and reshaped to some extent the social ecology of economic inclusion and marginalization. My use of the term continuity does not imply, therefore, that nothing changed. What have been stable, however, are the underlying norms and practices that structure economic behavior. Syria's political economy was, and remains, corrupt, predatory, and personalistic. It was, and remains, anchored in transactional networks of economic exchange

that cross political, sectarian, and geographic lines—and cross conflict boundaries and national borders, as well. The structure of these networks has changed. The goods and services that move through them have changed. Their composition has changed. Yet the fundamental principles on which Syria's economy operates have not changed. War did not, as much of civil war literature assumes, cause a break between a pre-conflict economy defined in terms of “normalcy,” and a conflict economy defined as exceptional in its characteristics.⁶

State Legacies, Wartime Economic Orders, and Post-Conflict Reconstruction⁷

Civil wars are typically understood to mark the breakdown of state authority over contested territory, and bring about both political and economic fragmentation and the displacement of state institutions by insurgent or rebel actors. Recent research has made significant progress in challenging the notion that civil war produces political and economic chaos and the collapse of order. Scholars have emphasized the complex ways in which state authorities and non-state challengers interact even in the midst of conflict.⁸ In addition, the extent to which states extend their authority across territory before conflict has been linked to the capacity of rebel groups to build governance systems during conflict.⁹ The view of states as neutral actors in the context of ethnic conflict between non-state actors has been sharply and persuasively critiqued.¹⁰ These literatures treat conflict economies as a separate species, zones where “normal” economic practices are suspended and violence-centered economies with “features unique to civil war” take hold.¹¹ In contrast to state-based economies guided by policies designed to spur economic growth and improve social development, civil war economies are viewed as distinctive in the extent to which they lack rule of law, accountability, and transparency.

Syria's experience of civil war challenges theories that view violent conflict as causing a rupture in economic governance. Wartime economic orders in Syria exhibit significant continuity with pre-war economic practices. They also display striking similarity across regime- and

opposition-held areas of the country. To be sure, there are notable differences between the wartime economic orders that have emerged in areas under the control of the Assad regime and those in rebel-held territories—including territories that the regime has now retaken from the opposition. Perhaps most important, the Assad regime continues to benefit from its standing as the recognized sovereign authority in Syria, with all of the opportunities and benefits this confers.¹² In many important respects, however, civil war in Syria amplified and expanded the predatory, illicit, and corrupt economic logics and practices that were commonplace before 2011. These legacy effects flowing from the political economy of Syria under both Assad regimes highlight the extent to which wartime economic orders are influenced by and sustain pre-war economic practices.

The central flaw in arguments that view peacetime and wartime economic orders as exhibiting sharply distinctive logics and practices lies in their characterization of pre-war conditions in terms resembling those of the advanced capitalist economies of the West, where the rule of law functions, formal institutions of economic governance are relevant, and elements of accountability are present. These attributes are far less meaningful, however, for understanding the pre-war political economies of Syria, or of other repressive authoritarian regimes, or of weak and failing states that have the highest probability of experiencing violent conflict.¹³

Instead, pre-war Syria can best be defined as a corrupt, predatory, crony capitalist political economy with low accountability and transparency, and weak rule of law.¹⁴ The political requirements of regime survival trumped concerns with economic and social development.¹⁵ State elites engaged routinely in illicit practices to enrich themselves at public expense. Criminal economic networks were tightly integrated into, and operated as prominent features of, state-regime-business relations among both civilian elites and the Syrian military, which itself was a powerful economic actor.¹⁶ Economic policy, anchored in long-term mistrust of the private sector by the regime and Ba`ath Party, was designed to make private economic

activity legible to, controllable by, and subject to the intervention of state authorities.

These economic practices had significant implications for the organization of wartime economic orders post-2011. From 2011 onward, these skills and knowledge facilitated clandestine strategies of popular mobilization for anti-regime protests.¹⁷ They proved highly adaptive in the development of insurgent funding networks that linked armed opposition groups in Syria to sympathetic governments and populations in other parts of the Middle East, notably the Gulf Cooperation Council states. Further, these same attributes contributed to the emergence of fragmented, highly localized economic orders across opposition-held areas of Syria. From 2011-2015, the retreat of the regime from large parts of the country gave rise to highly localized wartime economic orders that lacked formal frameworks of regulation or governance.¹⁸ The Syrian state remained a presence in many opposition-held areas where it continued to pay some public sector salaries.¹⁹ It was almost entirely absent, however, as a source of economic regulation, predation, coercion, and taxation. Where the regime had previously exerted significant influence over how local markets were organized, the armed groups that controlled various “free areas” were often predatory and exploitative, but cared little about regulation of local markets, how local economic activities were organized, and who could enter the market to engage in specific economic activities—all aspects of economic governance the Assad regime controlled more tightly.

With few exceptions, armed groups devoted little attention to economic governance beyond assuring that their own economic requirements were met.²⁰ In some instances, battalion commanders preferred to outsource economic governance to civilian counterparts in local councils and civil society organizations to avoid navigating fraught and complex matters among civilian populations, like the distribution of humanitarian assistance or the adjudication of economic disputes.²¹ The result was the rapid emergence of virtually unregulated markets, essentially economic free zones, especially in the areas adjacent to the Turkish

border. The absence of the state and the regime created space for large numbers of new economic actors to emerge not tethered to regime patronage or crony networks and thus able to develop small-scale businesses not linked to the regime. In opposition areas, wartime conditions tended to reinforce the privileged position of regime-connected local elites who could leverage their networks to manage access to goods and markets beyond the boundaries of an armed group's control.

These features of wartime economic orders in opposition-held areas had their counterparts in regime territory. Similar elements of fragmentation, the absence of central authority, and the consolidation of increasingly autonomous economic networks were present in areas nominally held by the regime, but governed in fact by local militias led by *de facto* warlords. In these areas, as well, with formal economic activity ground to a halt, the coercive and predatory economic norms and practices that defined the regime's pre-uprising mode of economic governance were well suited for the purpose of extracting resources from populations. Predation, coercion, and corruption, it turns out, are scalable, dispersed, and can function effectively both through more tightly-coupled predatory networks—such as the pre-war networks dominated by the inner circles of the Assad regime—and through the more fragmented, loosely-coupled, and dispersed predatory networks that developed in regime-held areas as the civil war ground on. As one analyst noted in 2016, “the regime's force structure today is not entirely different from that of opposition militias As the once totalitarian Syrian central state atrophies, its constituent parts — be they sectarian, rentierist, or simple brutes — have gained a stunning degree of political and economic independence from Damascus.”²²

At times, moreover, the similarity of economic practices among regime and opposition factions facilitated cooperation and coordination among them, despite their status as adversaries. The informal, often clandestine and networked character of Syria's pre-war economy enabled communications flows, and eased bargaining and negotiations among adversaries and competitors that

mitigated the economic effects of war in some areas, at least temporarily.²³

What the civil war has produced, therefore, across regime- and opposition-held areas, are *parallel political economies* that are constituted by highly localized and fragmented wartime economic orders, loosely knit together through network ties among individual actors, with economic links that extend in haphazard ways across both conflict lines and state borders. Perhaps most important, while they are organized around the predatory and coercive economic norms and practices that were in widespread use in pre-war Syria, these wartime orders have thrived as a result of their autonomy from the regime and have exploited conflict conditions to enrich themselves on a scale that was not possible during peacetime. Conflict has expanded the scope and scale of predatory activities, and the understanding among regime loyalists that the conflict represented a short-term opportunity to accumulate wealth has no doubt contributed to the escalation of predatory activity in regime-held and recaptured areas.

Wartime Economic Orders: Implications for Post-Conflict Reconstruction

The economic legacies of a corrupt predatory regime were evident in how wartime economic orders came to be constructed. In turn, the organization of wartime economic orders—the continuity they have exhibited in the norms and practices of economic actors in both regime and opposition-held areas—can be expected to ease the post-conflict reconstruction of authoritarianism by the Assad regime.²⁴

Post-conflict reconstruction will begin from the presence of these autonomous, fragmented, and largely self-reliant wartime economic orders. Yet we should not exaggerate the extent of this challenge. Loyalists are less likely to resist the reassertion of regime authority than they are to use this process to strike deals and establish bargains with Damascus that will preserve the wealth they accumulated during wartime and validate their standing as local power brokers who act on the regime's behalf. Reconstruction,

for them, offers a promising opportunity to put looted wealth to new uses, to launder it and legalize it through participation in regime-sanctioned reconstruction projects.

Since September 2015, the Assad regime has re-taken large swaths of territory, including the vast majority of what the French termed “La Syrie utile,” useful Syria—the western spine of the country encompassing all of its major urban centers. As the regime has gained ground, it has also worked to advance a process of post-conflict reconstruction, not simply of the war-ravaged economy, but of the regime’s sovereignty and authority over all of pre-2011 Syria. For the regime, these two elements of reconstruction are inextricably linked: economic reconstruction is first and foremost an instrument for the reassertion of the regime’s authority and sovereignty. The extent to which economic reconstruction will serve this end is the principal criterion guiding the politics and political economy of post-conflict reconstruction.

In keeping with this sense of reconstruction as a jealously guarded preserve of the regime, in early December 2017 “the government met to discuss what it has called the National Development Programme for Post-War Syria (NDP).” According to one report, “[u]nder the NDP, some 200 local experts are working in 12 separate working groups. . . . to provide a vision for the future of Syria ‘that will be presented to the citizens, investors and the international community so that they can all contribute to the reconstruction of Syria.’”²⁵ Moreover, with Russian support, the regime has successfully fended off Western attempts to link reconstruction funds to progress on a meaningful political transition. It has moved to prevent reconstruction funds from entering areas under its control through non-regime managed channels. It has also imposed broad restrictions regulating the in-country operations of the UN and international NGOs, affirming that only the Assad regime, as Syria’s sovereign authority, is empowered to oversee reconstruction programs.

The regime is not waiting, however, for the NDP to complete its work to make use of reconstruction to

reassert its authority and sovereignty. It has vowed to offer reconstruction contracts only to governments that have supported it during the civil war: Russia, Iran, and China are the principal beneficiaries of regime contracts to date. It has established regulatory and legal frameworks that privilege leading economic actors linked to the regime, expanded the authority of public sector agencies to invest in “public-private partnerships,” and consolidated the regime’s control over all reconstruction-related activities.²⁶

These legal and regulatory frameworks provide the regime with the tools to reward supporters and punish opponents—among whom it includes not just active supporters of the opposition, but large segments of Syria’s pre-2011 population that happened to reside in areas that fell under opposition control—and to engage in demographic engineering to create what Bashar al-Assad described as a “healthier, more homogenous society.”²⁷ The regime has also exploited existing and new property rights laws to seize land and housing on a massive scale.²⁸ It has expropriated neighborhoods of Damascus and Hama that were known as pro-opposition areas and largely destroyed during the war.²⁹ It is also expropriating property of displaced persons it suspects as having supported the opposition. Properties seized are being offered to regime cronies (and, allegedly, to Iranian citizens) for redevelopment projects, some of which are being characterized as rivaling Beirut’s notorious Solidaire project in scale. The state bank is funding large reconstruction efforts, including, notably, the demolition and rebuilding of the Basateen al-Razi neighborhood of Damascus. They are designed not only to reward cronies and rebuild damaged infrastructure, but to prevent the return of displaced citizens whose loyalty the regime views as suspect.³⁰

Even as the Assad regime consolidates its legal and regulatory control over post-conflict reconstruction, however, Syria’s wartime economic orders pose intractable challenges to its use of reconstruction to reimpose and affirm its authority and sovereignty. The obstacles do not stem from the need to undo alternative systems of economic governance built by opposition forces. Because

opposition groups reproduced the regime's predatory and corrupt economic norms and practices in the areas they controlled, and continued to rely on personalistic networks of economic exchange, the regime's ability to reimpose its authority faces fewer obstacles than might otherwise be the case. Nonetheless, the wartime transformation of Syria's political economy has thrown up significant roadblocks to the regime's control over the post-conflict economy that the regime is struggling to navigate.

Four such obstacles have already begun to take shape, each linked to the reimposition of regime authority over distinct sets of economic actors. The first concerns balancing the economic ambitions and interests of newly-empowered regime cronies—economic elites who rose to prominence through wartime economic activities on behalf of the regime—against its interest in persuading established cronies and business actors who left during the war to return to Syria, repatriate their capital and restore business operations disrupted by war.³¹ Already, there is evidence that new business elites are pushing back against regime outreach to established business elites who left Syria.³²

The second obstacle is associated with the challenge of regaining regime control over loyalist forces that represent the *de facto* authority in large areas of Syria that are nominally controlled by the regime. Local warlords and their militias have exploited conflict to consolidate their economic authority in many parts of the country. They have used criminal, predatory tactics to legalize their control over real estate, dominate smuggling networks, run protection rackets to extort from local businesses, and police local economies to ensure the exclusion of competitors, prevent displaced persons from returning, and marginalize local residents believed sympathetic to the opposition.

The capacity of warlords to sustain their economic autonomy should not be exaggerated. The Assad regime has shown that it is able to reign them in.³³ Yet each case in which the regime moves to do so inevitably requires negotiation and bargaining over the terms under which loyalist forces will concede their autonomy—with regime

coercion lurking not so far in the background as the ultimate bargaining chip. If we understand the Assad regime in general terms as a system of rule that rests on transactional loyalty and legitimacy sustained through a vast web of particularistic bargains, there are few structural obstacles to the regime's ability gradually and incrementally to knit together a loosely-coupled national framework of economic governance in which it occupies the peak position.

A third obstacle arises in the economic reintegration of formerly opposition-held areas. Where local markets have experienced an influx of new economic actors and patterns of unregulated production and exchange have taken hold, the regime has pursued coercive and punitive strategies. It has given virtually free reign to loyalist militias to loot homes and business and brutalize residents. It has discriminated against territories recovered from the opposition in its allocation of reconstruction funds.³⁴ Little progress has been made, and little visible effort seems to have been invested, in the reconstruction of basic services, schools, hospitals, power, and water. In some areas, such as eastern Aleppo, economic activity is slowing being restored. But the regime has not yet shown much inclination to reintegrate former opposition areas into a post-conflict national market, or to bring such areas under the regulatory and legal authority of the state. This is likely to unfold over the months and years ahead as the regime stabilizes its authority. However, its determination to exact a toll on areas that supported the uprising suggests that this will be a slow process and will come at a cost to remaining residents, and to refugees and IDPs from these areas.

Finally, the regime confronts the longer-term challenge of balancing the economic ambitions of its foreign patrons against its interest in asserting itself as sovereign over all of pre-2011 Syria. Officials in Iran and Russia have expressed a sense of entitlement to priority in the award of reconstruction contracts. Both governments pursue their economic interests in Syria on the presumption of impunity and autonomy, if not outright authority over the Assad regime. Iran, for example, has exploited its support for Assad to secure title for its nationals to property seized

by the regime. Mercenaries who fought in Iranian-backed militias have participated in looting and other forms of coercive, predatory activity but are rarely sanctioned.

To date, the Assad regime has shown little inclination to confront its patrons or their local forces. It has accepted the dilution of its sovereignty as the price of survival, and in its formal statements expresses gratitude for, along with a willingness to reward, its foreign backers. Whether this will continue, however, is questionable. To the extent that privileging foreign patrons is seen to undermine the regime's project of authoritarian reconstruction by appearing to erode legitimacy and sovereignty; imposes opportunity costs on regime cronies; works against the regime's efforts to lure expatriate Syrian business elites back to the country; and is seen by the West as a reason to continue its policy of not providing funds for reconstruction, the likelihood of increasing tensions between the Assad regime and its foreign patrons is very high.

Conclusion

Syria's experience stands in stark contrast to widely-held views of post-conflict reconstruction as a process that will, ideally, transform state, society, and economy, address grievances that led to war, forge an inclusive social contract, and establish economic normalcy in place of dysfunctional, abnormal, conflict-based economies. In the Syrian case, violent conflict did not lead to the breakdown of a pre-war political economy. Instead, violence caused the reconfiguration and dissemination of pre-war

economic norms and practices on all sides of a brutal conflict. Legacies of pre-war economic governance exerted substantial influence in how wartime economic orders became organized. Continuity, not rupture, has been the defining feature of Syria's wartime political economies.

The Assad regime has operationalized the post-conflict rebuilding of Syria's economy as a process of authoritarian reconstruction. It is exploiting reconstruction processes not for the transformative purposes hypothesized in the literature, but to reimpose its authority and assert its sovereignty over all pre-2011 Syria. The regime's likely military victory, combined with the many ways in which wartime economic orders exhibited continuity with Syria's pre-war political economy, have helped enable the regime's approach to post-conflict reconstruction. Even as conflict remains active, and large areas of the country are still outside of regime control, it is building an impressive architecture of laws, regulations, and informal practices to reimpose itself over those parts of Syria it claims to govern. While the regime certainly faces obstacles and challenges in pursuing its project of authoritarian reconstruction, it has put in place elements of a reconstruction architecture that are likely to serve it well. Over time the regime's approach seems likely to lead to a consolidated post-war political economy that will be similarly organized, if more repressive, more exclusionary, and comprised of transactional coalitions that include newly-enriched wartime profiteers and cronies, to the one over which it presided before the start of the uprising in 2011.

Endnotes

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- ² Desha Girod, *Explaining Post-Conflict Reconstruction* (Oxford University Press, 2015), p. 1.
- ³ Graham Brown, Arnim Langer, and Frances Stewart, "A Typology of Post-Conflict Environments." CRPD Working Paper No. 1, Centre for Research on Peace and Development, University of Leuven (September 2011), p. 7. <https://soc.kuleuven.be/web/files/12/80/wp01.pdf>.
- ⁴ Bruce Jones, Molly Elgin-Cossart, and Jane Esberg, "Pathways Out of Fragility: The Case for a Research Agenda on Inclusive Political Settlements in Fragile States." Center on International Cooperation, New York University (CIC), New York, UK (2012) 24 pp. See also "State Building in Post Conflict Countries." UN DESA Policy Brief No. 7 (September 2008).
- ⁵ Steven Heydemann, "Civil War, Economic Governance & State Reconstruction in the Arab Middle East." *Daedalus*, Vol 147, No. 1 (Winter 2018), pp. 48-63.
- ⁶ My thanks to the Project on Middle East Political Science and to participants in a workshop it sponsored with the Carnegie Endowment for International Peace Middle East Center in Beirut in January 2018 for comments and feedback that included the need for a clearer definition of continuity.

- ⁷ This section is drawn in part from a paper in progress, “In the Shadow of the State: The Rise of Wartime Economic Orders and Economic Governance in Syria.”
- ⁸ Kimberly Marten, *Warlords: Strong-Arm Brokers in Weak States* (Ithaca, NY: Cornell University Press, 2012).
- ⁹ Zachariah C. Mampilly, *Rebel Rulers: Insurgent Governance and Civilian Life During War* (Ithaca, NY: Cornell University Press, 2011). Mampilly finds that Where state actors have invested most heavily in local governance, rebels are more likely to appropriate governance infrastructure for their own use.
- ¹⁰ Lars-Erik Cederman, Kristian Skrede Gleditsch, and Halvard Buhaug, *Inequality, Grievances, and Civil War* (New York: Cambridge University Press, 2013).
- ¹¹ Karen Ballentine and Jake Sherman, “Introduction,” in *The Political Economy of Armed Conflict: Beyond Greed and Grievance*, eds. Karen Ballentine and Jake Sherman (Boulder, CO: Lynne Rienner Publishers, 2003), p. 2.
- ¹² The effects of sovereignty in sustaining state actors during civil war is discussed in Nelson Kasfir, “Domestic Anarchy, Security Dilemmas, and Violent Predation: Causes of Failure,” in *When States Fail: Causes and Consequences*, ed. Robert I. Rotberg (Princeton, NJ: Princeton University Press, 2004), pp. 53-76.
- ¹³ William Reno, *Warlord Politics and African States* (Boulder, CO: Lynn Rienner Press, 1998).
- ¹⁴ Melani Cammett and Ishac Diwan, “The Roll-Back of the State and the Rise of Crony Capitalism,” *The Middle East Economies in Times of Transition* (Springer Publishers, 2016), pp. 63-98.
- ¹⁵ Steven Heydemann, *Upgrading Authoritarianism in the Arab World*. Saban Center for Middle East Policy, Analysis Paper No. 14 (Washington, D.C.: The Brookings Institution).
- ¹⁶ Bassam Haddad, *Business Networks in Syria: The Political Economy of Authoritarian Resilience* (Stanford, CA: Stanford University Press, 2012); Caroline Donati, “The Economics of Authoritarian Upgrading in Syria: Liberalization and the Reconfiguration of Economic Networks,” in *Middle East Authoritarianisms: Governance, Contestation, and Resilience in Syria and Iran* (Stanford, CA: Stanford University Press, 2013), pp. 35-60.
- ¹⁷ Reinoud Leenders and Steven Heydemann, “Popular Mobilization in Syria: Opportunity and Threat, and the Social Networks of the Early Risers,” *Mediterranean Politics*, 17:2 (July 2012), 139-159.
- ¹⁸ My insight into the political economies of rebel held areas in northern Syria draws on interviews conducted with Syrian traders conducted in Gaziantep, Turkey in June 2017.
- ¹⁹ Kheder Khaddour, “The Assad Regime’s Hold on the Syrian State.” Carnegie Endowment for International Peace, July 2015.
- ²⁰ The Islamic State was a significant exception to this general rule. It sought to impose a state-like approach to economic governance within its “Caliphate.” Other armed groups exhibited a wide range of approaches to economic governance, with some operating like “roving bandits” that treated the populations they controlled as objects of predation, to more benign approaches in which armed groups worked with civilians to build frameworks of governance to regulate economic activity in a relatively consistent and transparent fashion.
- ²¹ Interviews with battalion commanders, Gaziantep, Turkey, May 2014.
- ²² Tobias Schneider, “The Decay of the Syrian Regime is Much Worse than You Think.” War On The Rocks, August 31, 2016. <http://warontherocks.com/2016/08/the-decay-of-the-syrian-regime-is-much-worse-than-you-think/>.
- ²³ Interview, Qutaiba Idlibi, Washington, DC, August 19, 2016.
- ²⁴ On the Assad regime’s approach to reconstruction see Steven Heydemann, *Beyond Fragility: Syria and the Challenges of Reconstruction in Fierce States* (Washington, D.C.: Brookings Institution, June 2018). <https://www.brookings.edu/research/beyond-fragility-syria-and-the-challenges-of-reconstruction-in-fierce-states/>.
- ²⁵ *Syria Report*, “Syrian Government Announces Works on Long-Term Post-War Vision.” December 19, 2017.
- ²⁶ These laws and regulations include, most prominently, Presidential Decree 15 of May 2015 allowing state agencies to establish private investment companies; Law 5 of January 2016 regulating public-private partnerships (PPP) and creating a PPP Council headed by the prime minister; and Presidential Decree 66 of September 2012, authorizing the state to redevelop areas of informal and unauthorized homes. The latter has been used to demolish two neighborhoods of Damascus known as opposition strongholds and make them available for purchase and development by regime cronies, including Rami Maklaouf, Samir Foz, and others. In addition, the regime is using existing expropriation laws to seize ownership of property belonging to individuals suspected of support for or participation in the uprising, and exploiting the commercial codes and laws governing imports and exports to favor privileged business cronies of the regime. *Syria Report*, “Regime Crony Grabs Share in Controversial Damascus Development.” August 8, 2017.
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- ²⁸ *Syria Report*, “Government Planning to Expand Use of Expropriation Law.” January 10, 2017.
- ²⁹ Large-scale demolition in major urban centers began as early as 2012, where opposition areas were singled out for such activities, in violation of international law. See Human Rights Watch, “Razed to the Ground: Syria’s Unlawful Neighborhood Demolitions in 2012-2013.” January 30, 2014. <https://www.hrw.org/report/2014/01/30/razed-ground/syrias-unlawful-neighborhood-demolitions-2012-2013>.
- ³⁰ *Syria Direct*, “Urban Planning Project Obfuscates Demographic Shift Unfolding in Southwest Damascus, Says LCC Member.” January 21, 2016. <http://syriadirect.org/news/urban-planning-project-obfuscates-demographic-shift-unfolding-in-southwest-damascus-says-lcc-member/>. *Syria Report*, Funding by State Bank Confirms Importance of Mazzeh Project for Syrian Regime.” November 7, 2017.
- ³¹ In discussing the strategic decisions of business elites to stay in Syria during the war or to leave, one wealthy businessman from a prominent family, who had sided with the opposition, pointed out that “not all those who left were against the regime, and not all who stayed were with the regime.” Interview, Gaziantep, June 2017. See also Samer Abboud, “Social Change, Network Formation and Syria’s War Economies,” *Middle East Policy*, Vol. 24, No. 1 (Spring 2017), pp. 92-107.
- ³² *Syria Report*, “Regime Cronies Resist Government Attempts to Lure Back Investors into Syria.” February 27, 2017.
- ³³ Reinoud Leenders and Antonio Giustozzi, Outsourcing State Violence: The National Defence Force, ‘Stateness’ and Regime Resilience in the Syrian War,” *Mediterranean Politics*, 23:1 (2018), pp. 1-24, <https://doi.org/10.1080/13629395.2017.1385169>.
- ³⁴ *Syria Report*, “Government Money Goes to Pro-Regime Communities.” July 25, 2017.

Legal Pluralism and Justice in Iraq after ISIL

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Iraq's Fragmented Justice Landscape

Iraq announced the end of its military offensive against the Islamic State of Iraq and the Levant (ISIL) in December 2017. By this time, the actions of ISIL and the military campaign to dislodge the group had killed 30,000 civilians and wounded twice that number.¹ Thousands of women, girls, men and boys had been raped and kidnapped and more than 5 million persons displaced.² The intimacy and depravity of this violence created deep fractures within Iraqi communities. Towns retaken from ISIL have been characterised by assassinations, forced disappearances, and the looting and destruction of homes belonging to ISIL suspects³ as well as acts of revenge by tribal authorities and militias.⁴ Justice and accountability are critical not only for victims of ISIL atrocities, but also for those who lived under ISIL occupation, in order to distinguish those who committed violations from those who did not. This type of accounting is particularly important given that ISIL emerged following a perceived miscarriage of justice brought about by deBaathification reforms, discriminatory counterterrorism laws and brutal policing, each of which targeted the Sunni community.⁵

Now, ISIL affiliates face justice in disparate forums. The Iraqi Federal Government relies on a 2005 Anti-Terrorism Law to prosecute ISIL suspects, drawing little distinction between those who committed violent acts and those who performed ancillary roles for the group.⁶ Provincial councils have used their authority to pass governorate-level decrees: the provincial councils of Babylon and Salah al-Din, for example, both ordered the homes of ISIL suspects demolished and their extended families deported from the province.⁷ Some tribes have also enacted community punishments, such as in Al Qaim and al-Alam where tribal leaders ordered the destruction of the homes of accused ISIL supporters, without the possibility of pardon.⁸

This assortment of measures reveals a hyper-fragmented Iraqi state. Over the last fifteen years, Iraq has divided into

subnational units tied to distinct local, tribal, economic and political-party interests. Each of these subnational groups seeks some form of self-rule and self-protection.⁹ What this means for justice after ISIL is that the state, provincial authorities, community leaders, tribal leaders and armed groups each claim the right to punish ISIL suspects, and turn to different regulatory frameworks to do so: laws, courts, provincial decrees, tribal processes, religious (*shari'a*) laws or social norms, depending upon the actor.

This fractured justice landscape is not unique. As Frederic Wehrey's paper in this series also demonstrates, in many countries, the idea of a single, uniform legal system is obsolete, and multiple legal forms coexist and compete. Law, in this sense, encompasses a continuum of normative systems stretching from the clearest form of state law, to the vaguest form of informal social control.¹⁰ What each of these normative systems has in common – and what renders them 'legal' – is the capacity to generate rules, and to coerce or induce compliance to those rules, be it via legislatures, courts or police, or through shared social rules and customs.¹¹ These rules are not necessarily compatible. In fact, it is very common for them to clash. Sometimes these clashes can be reconciled. Sometimes they can be ignored. Sometimes they operate in a complementary fashion. But very often they remain in conflict, with serious social and political ramifications.¹²

This article explores two such mechanisms and what happens when they clash. The first is the security vetting of ISIL suspects, a process that Tamanaha categorizes as a 'functional normative (legal) system.'¹³ The second is the customary normative system of tribal law. Both mechanisms interact with and challenge the state framework in different ways, and this article seeks to understand the implications. If justice – a highly political arena where issues of power, resources and rights are at stake¹⁴ – remains the purview of subnational groups, what does this mean for the state, state-citizen relations and reconciliation?

Security Vetting and Collective Guilt

When Iraqi Security Forces drove ISIL fighters out of Iraqi territory, it triggered widespread displacement of those living under ISIL occupation. With ISIL eradicated and their areas declared safe, residents often wish to return; but before they can do so, they are subject to a vetting process that clears them of ISIL affiliation. The vetting process is managed by the Operations Command Center, a provincial government body responsible for local security matters. Typically, each applicant must be cleared by five different security authorities who operate under the Operations Command Center: National Security, Federal Police Intelligence, Local Police Intelligence, Iraq Security Forces Intelligence, and Governorate Operations. Each authority maintains its own computerized database with names of suspected ISIL affiliates. Should an applicant's name show up on one of these databases, they are refused permission to return and may also be arrested and detained pursuant to the Anti-Terrorism Law of 2005 (Law No. 13 of 2005).

Complicating the vetting process is role of non- or quasi-state armed groups. When ISIL took over large swathes of Iraqi territory in 2014, government forces collapsed and the security vacuum that emerged was quickly filled by an array of armed groups such as the Popular Mobilization Units (PMUs, known collectively as the Popular Mobilization Force, PMF, or *al-hashd ash-sha'abi*) and a variety of tribal and minority forces. The status of the PMF is ambiguous. It was recognized by Iraqi Parliament in November 2016 via a law that categorizes it as both an independent institution and part of the state, within the auspices of the Prime Minister's office.¹⁵ The PMF uses this ambiguity to maneuver between state and non-state actor, both cooperating and contesting the state as its interests dictate.¹⁶

In areas retaken from ISIL across Nineveh, Anbar and Salah al-Din, the PMUs operate checkpoints, carry out raids against ISIS sleeper cells, investigate criminal networks, and detain suspects. They often out-man and out-gun the Federal Police in areas of shared operation, which gives them significant influence over the vetting process and the return of displaced Iraqis.¹⁷ Due to this

prominence, PMUs are a key player within the Operations Command vetting syndicate and each PMU assesses applicants against its own database of ISIL suspects.¹⁸ Moreover, the Operations Command Centre frequently seeks advice not only from armed groups but also from tribal authorities or other local informants as to who is 'guilty' in the community.¹⁹ Then, once a person or family is identified as guilty, it is often left up to the PMU to enforce the punishment, be it property destruction, deportation, or even arrest and detention at (unlawful, non-state) facilities belonging to the PMUs or other armed groups.²⁰

The vetting process constructs an understanding of guilt that extends far beyond the individual. Although the vetting database contains the names of individuals, a prescription of guilt is made against the entire family – up to the fourth degree in some instances. This means that relatives as distant as a great uncle or first cousin may find themselves marked as an ISIL affiliate, no matter their own actions or their actual connection to the primary suspect. Moreover, the impression of collective guilt extends even beyond the family: vetting is usually only required for Sunni Arabs and Sunni Turkmen, while Shiite, Kurdish and ethno-religious minority communities do not typically face restrictions when they wish to return.²¹ Together, these measures have forced whole Sunni communities into protracted displacement, labeled with a sweeping indictment of 'ISIL families' and generating deep resentment towards a process they view as a tool for revenge, rather than justice.²²

Moreover, the PMF involvement in vetting exacerbates a sectarian narrative about victimhood. The events of 2003 and its aftermath have elevated the political relevance of sectarian identities in Iraq, such that sect-centric fears and ambitions have come to dominate people's political perceptions. This has led Iraqis to view themselves as part of sectarian collectives, and to speak of 'us' versus 'them' on sectarian terms.²³ In such a context, the identity of vetting actors matters deeply. When vetting is carried out by predominantly Shia actors against Sunni Arab communities in conditions that lack transparency and due process; when it is left to Shia PMUs to enforce negative vetting decisions and punishments against Sunni families;

and when the actors responsible for vetting stand accused of detaining, disappearing or executing (Sunni) ISIL suspects,²⁴ it reinforces a sectarian sense of victimhood and undermines prospects for justice.

At the same time that vetting generates a perception of Sunni victimhood, it also provides a stage for Shia PMUs to reiterate their own victimhood and redemption. In Iraq, both Sunni and Shia communities consider themselves to be the prime victim of the events, conflicts and changes of the past thirteen years.²⁵ Shia PMUs have developed a strong narrative online and offline that interprets the fight against ISIL through historical symbols that express reverence to Shiite heroes combating ISIL and help to consolidate a collective Iraqi Shiite identity whose existence is believed to be threatened by the violent extremism of ISIL.²⁶ This victimhood offers a powerful rationale to justify vengeance and demarcate who deserves to be punished and who redeemed. This dichotomy plays out in concrete ways in towns retaken from ISIL; in Salah al-Din, for example, it is common to see the abandoned homes of Sunni families scrawled with: 'Do not occupy – this home is reserved for a PMF martyr.'²⁷ These competing narratives of the deserving and non-deserving threaten the possibility of a unifying national narrative and create new fractures in Iraqi communities affected by ISIL-related violence.

Tribal Law, Justice and Reconciliation

Tribes are 'the oldest, most enduring and controversial social entity in the Middle East,' so flexible in form and function that they defy any meaningful attempt at definition.²⁸ Today, they are best understood as a rural-urban hybrid held together by kinship ties (real or fictitious), patron-client relationships and a set of shared customs.²⁹ One key element of tribes as a social entity is their role in administering justice. Tribal law provides remedies for all types of disputes involving harm to person, property or reputation, whether intentional or accidental. Tribal legal processes are built upon the principle that those who have suffered have the right to respond with equal violence, in order to restore the honour of– not the harmed individual– but the group.³⁰ The

group is referred to as *khamisa*– literally 'five' in Arabic– and includes all males descended from a common ancestor five generations back. If one member of the *khamisa* is the victim of a crime or serious insult, the honour of the entire group is violated. However, to mitigate against this system of revenge descending into frequent violence, tribal law also offers the *khamisa* an opportunity to restore its honor through a negotiated settlement (*sahl*) and payment of a tribute (*fasel*).

Tribal law exists alongside state law in Iraq and varies in influence depending upon the social mores and political culture of a particular area. Historically, the influence of tribal law has waxed and waned in opposition to the strength of the state: during times when the state is weak, tribal leaders and processes have stepped in to fill the gap, especially with respect to security and justice.³¹ In the wake of intense sectarian violence in Baghdad between 2005 and 2007, for example, when the state's security and justice apparatus had largely stopped functioning, tribal leaders and tribal law played a key role in adjudicating disputes between Sunni and Shia communities and obtaining justice for sectarian-related deaths.³²

In recent years, also, tribal leaders and tribal law have played a key role in mediating grievances generated by ISIL. In Tikrit, for example, the massacre of 1,700 unarmed Shiite soldiers at Camp Speicher triggered widespread anger against the Sunni community due to a perception that many Sunni residents were complicit in the executions.³³ Therefore, when the 400,000 Sunni Arab residents displaced by military operations sought to return, local authorities and tribal leadership feared that the PMF and Shia tribes would engage in largescale revenge killings.³⁴ Following days of negotiation, Sunni and Shia tribal leaders finally reached a joint agreement: both sides agreed to disavow violence (thus diminishing the possibility of revenge killings), establish a vetting process with national authorities to clear Sunni Arab residents who wished to return, refer any of their own guilty tribesman to the national vetting process, and commit to seeking justice through formal legal channels. The strength of tribal influence in Salah al Din meant that residents largely upheld this agreement and, since then, more than 390,000 IDPs have returned to Tikrit.³⁵

A similar process took place in Hawija, a predominantly Sunni Arab sub-district located southwest of Kirkuk that has been a hotspot for violence and conflict since 2003. Following the defeat of ISIL in the area, people who had lived under ISIL occupation but displaced during the military operation started to consider the prospect of returning. Tribal leaders recognized the high likelihood of revenge killings of ISIL collaborators or unattainable demands for 'blood money', both of which could set off new rounds of violence and instability.³⁶ As with Tikrit, tribal leaders from both sides – those who stood accused of complicity with ISIL and those who suffered violence – met regularly over a period of six months. Eventually, an agreement was reached with more than 100 Hawija tribal leaders. The tribal pact established that both sides would eschew tribal forms of retribution and revert instead to Iraq's formal legal system.³⁷ This meant banning collective punishment, prohibiting the expulsion of anyone who had not been convicted in a court of law, and recognising the authority of police and judicial authorities to identify and punish individuals linked to ISIL. Tribal leaders, for their part, would use their authority to disown members convicted by law of affiliation with ISIL.³⁸

The Tikrit and Hawija agreements were significant not only because they mitigated a possible descent into violence, but because tribal leaders recognized ISIL crimes as a matter for the state and not tribal law. There were several reasons for this shift. The Hawija agreement recognised that the scale and severity of ISIL atrocities was beyond the scope of traditional mechanisms since it would be impossible to collect evidence for each and every violation. Tribal leaders believed that permitting revenge killings on such shaky grounds would constitute a miscarriage of justice and almost certainly lead to further violence.

In addition, tribal leaders wished to preserve their role as agents of reconciliation. Iraq's large tribes include both Sunni and Shiite members and this offers tribal leaders a unique vantage from which to mediate, particularly since tribal law is neither political, religious nor sectarian, but draws instead on shared norms. Some tribal leaders (such as those who joined the Hawija pact) worried that using tribal law to punish offenders without procedural

justice would jeopardize this reconciliatory potential. There was also concern that enforcing the *khamisa unit of responsibility for ISIL crimes would play into the narrative of collective guilt and condemn hundreds of (innocent) families*.³⁹ By adapting tribal law to work alongside state law and delineate their different functions, then, the tribal pacts of Tikrit and Hawija were able to challenge the stereotypes that condemn whole tribes or the entire Sunni Arab community for the crimes of ISIL.⁴⁰

Resolving the Clashes of Legal Pluralism

The mechanisms of security vetting and tribal law reveal unexpected tensions and opportunities when it comes to justice post-ISIL. Both are hybrid mechanisms, comprised of a mix of state and non-state actors. This is typical of pluralistic societies, where the lines between state, local and non-state actors often blur,⁴¹ and security and justice actors exist 'along a spectrum between the state and the purely informal,⁴² partly regulated by, and partly independent of, larger political structures.⁴³ Typically, non-state legal processes are viewed as an attack upon the state's legitimacy, since they undermine the state and its monopoly on social control.⁴⁴ In Wehrey's paper in this series, for example, he highlights that in Libya, where weak 'official' policing bodies must cooperate with armed groups and tribal elders, the disarray of the judiciary combined with the normative strength of customary law rendered state processes ceremonial and symbolic.⁴⁵

On this basis, one might expect tribal law to undermine the state's legitimacy and state-led security vetting to uphold it. And yet in the two Iraqi case studies the opposite proved true: tribal law was less disruptive to state authority than security vetting. Both mechanisms clashed with the state. In both cases, the clash was in part about jurisdiction: tribal leaders defended their ability to deal with their own members, while PMUs used their strength to effectively take over responsibility for security in areas liberated from ISIL; and both mechanisms reflected competing narratives about the war and who was guilty and who redeemed. However, one key difference was the way in which the two mechanisms resolved these clashes.

The PMUs operated ostensibly as part of the state security vetting process. However, their superior strength, together with their control of checkpoints, meant that individual PMF units held sway over who was deemed guilty and who was allowed to return. Moreover, a weak Iraqi security force and related institutions meant that the government sometimes relied on PMUs to enforce punishments against ISIL affiliates. While criticisms of the vetting process extend far beyond the actions of the PMF, its specific role exacerbated perceptions that vetting was a punitive tool driven by sectarian bias. Moreover, PMUs were able to coopt key state functions and disrupt fundamental rights of Iraqi citizens – via property demolition and banishment from Iraqi territory – which undermined the government’s impartiality and role as an agent of reconciliation in the eyes of the Sunni community.

In Tikrit and Hawija, tribal law displayed an opposite trend. Ordinarily dismissive of state authority, here tribal leaders came to recognize state jurisdiction in the particular case of ISIL crimes. This countered sectarian narratives by attaching guilt to an individual rather than a collective and setting an evidentiary yardstick for punishment. It also separated the functions of punishment and reconciliation and recognized complementary roles for state and non-state actors as a way of resolving their competing approaches to justice.

This is not to suggest that vetting will always have this affect or that tribal justice will always recognize state authority. Quite the opposite: together, these two examples showcase the value of an empirical examination of legal systems to reveal the processual aspects of the formation of public authority, and how it takes place in day-to-day encounters.⁴⁶ In doing so, we can move beyond the obsession with what a justice system *should look like, to an empirical inquiry as to what it does look like.*⁴⁷ In some instances, a state legal system may function in such a way as to undermine state legitimacy and prospects for justice, whereas a non-state legal system may in reality uphold these very same prospects. Rather than prescribing a certain form of justice, the case studies highlight the importance of understanding how each system reconfigures power, resources and rights, and the type of narratives that underpin this reconfiguration.

The case studies also reinforce the importance of a bottom up approach to justice. One built upon locally accepted customs, norms and leadership, that is, and formed through a consensual process. For countries that have experienced identity-based conflict, such an approach creates space for victims and their communities to pursue justice on terms they consider valid, rather than those imposed top-down by the state; and, in doing so, allows a plurality of justice to emerge, and thus a more varied process of reconciliation.

Endnotes

- ¹ According to UN figures from January 2014 until August 2017, 29,470 civilians were killed and 54,111 injured; according to Iraq body count figures from January 2014 until October 2017, 66,737 civilians were killed.
- ² IOM Displacement Tracking Matrix
- ³ For example, see: Minority Rights Group International, *Iraq’s Displacement Crisis: Security and Protection* (March 2016) 23. See also: <http://www.niqash.org/en/articles/security/5070/>; <http://www.rferl.org/content/islamic-state-yazidi-militias-kurdish-region/27066780.html>; and <http://www.al-monitor.com/pulse/originals/2015/03/iraq-restorative-justice-revenge-sects-shiite-sunnis.html#ixzz4W7r21qE2>
- ⁴ USIP 2016 Justice and security needs in Iraq after ISIL
- ⁵ Stephen Wicken, “Iraq’s Sunnis in Crisis,” Middle East Security Report 2, Institute for the Study of War, May 2013, <http://www.understandingwar.org/sites/default/files/Wicken-Sunni-In-Iraq.pdf> (accessed on November 2, 2017); and Harith Hasan Al-Qarawee, “Iraq’s Sectarian Crisis: A Legacy of Exclusion,” Carnegie Endowment for International Peace (April 2014), http://carnegieendowment.org/files/iraq_sectarian_crisis.pdf (accessed on November 2, 2017).
- ⁶ https://www.washingtonpost.com/world/iraqs-rapid-fire-trials-send-alleged-isis-members--including-foreigners--to-the-gallows/2017/12/22/b65d903a-e598-11e7-9ec2-518810e7d44d_story.html?utm_term=.841b968e6556; <http://www.rudaw.net/english/middleeast/iraq/16122017>
- ⁷ <http://www.rudaw.net/arabic/middleeast/iraq/2607201614>; <https://www.hrw.org/news/2017/01/11/plight-those-related-isis-fighters>; for the original report on the Decree on Salah al-Din, see: <https://www.almadapress.com/Ar/news/75812/13-دعوى-الدين-يقدر-ترحيل-عوائل>
- ⁸ <http://www.nrttv.com/En/Details.aspx?Jimare=17487>; <http://www.gppi.net/publications/iraq-after-isil-tikrit/>
- ⁹ <http://www.mepc.org/journal/syrias-spillover-iraq-state-resilience>
- ¹⁰ Gordon R Woodman, ‘Ideological Combat and Social Observation: Recent Debate About Legal Pluralism’ (1998) 42 *Journal of Legal Pluralism* 21 at 45.

- ¹¹ Sally Falk Moore, 'Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study' (1973) 7 *Law & Society Review* 719.
- ¹² John Griffiths, 'What is Legal Pluralism?' (1986) 24 *Journal of Legal Pluralism and Unofficial Law* 1 at 38.
- ¹³ Understanding legal pluralism, p401
- ¹⁴ Understanding legal pluralism, p399
- ¹⁵ Albrecht et al (2011) Non-state customary Actors in Justice Sec Reform, p5
- ¹⁶ <https://www.moj.gov.iq/view.2899/>
- ¹⁷ <https://thedefensepost.com/2018/01/29/iraq-shia-militia-leaders-election/>
- ¹⁸ The majority of IDPs originate from three governorates: Ninewa (56% of the total IDP population) Anbar (16%) and Salah ad-Din (14%). The remaining 14% originate from a variety of other governorates. The majority of IDPs have also returned to these governorates, although at varying rates: the majority have returned to Anbar (49% of the total returned IDP population) followed by Ninewa (21%) and Salah ad-Din (17%). The remaining 13% have returned to a variety of other governorates. See: <http://iraqdtm.iom.int/>
- ¹⁹ https://amnestyfr.cdn.prismic.io/amnestyfr%2F3b39c08d-d269-4d92-ad0c-8379c95d788e_mde1449622016english.pdf; <http://www.gppi.net/publications/iraq-after-isis-qayyara/{Peace}, 2017 #26>
- ²⁰ UNHCR, UNHCR Position on Returns to Iraq, 14 November 2016, <http://www.refworld.org/docid/58299e694.html>, para. 28.
- ²¹ UNHCR, UNHCR Position on Returns to Iraq, 14 November 2016, <http://www.refworld.org/docid/58299e694.html>, para. 21.
- ²² https://amnestyfr.cdn.prismic.io/amnestyfr%2F3b39c08d-d269-4d92-ad0c-8379c95d788e_mde1449622016english.pdf
- ²³ Fanar Hadad 2016 Competing Victimhoods in a Sectarian Landscape - Maydan
- ²⁴ For example, see: <https://www.hrw.org/video-photos/video/2018/02/08/video-kurdish-forces-executed-dozens-suspected-isis-fighters-iraq>; <https://www.hrw.org/news/2016/12/18/iraq-executions-government-backed-militia>; <https://www.hrw.org/news/2017/09/28/iraq-investigate-abuses-hawija-operation>; <http://www.middleeasteye.net/news/shia-militias-accused-torturing-sunni-civilians-near-fallujah-1366057542>
- ²⁵ Fanar Hadad 2016 Competing Victimhoods in a Sectarian Landscape - Maydan
- ²⁶ Al Raqi and Jiwani 2017 Mediated conflict_ Shiite heroes combating ISIS
- ²⁷ To add source and clarify exact language in Arabic
- ²⁸ Faleh A. Jabar, "Sheikhs and Ideologues: Deconstruction and Reconstruction of Tribes under the Patrimonial Totalitarianism in Iraq, 1968-1998," in *Tribes and Power: Nationalism and Ethnicity in the Middle East*, eds. Faleh A. Jabar and Hosham Dawod (London: Saqi 2003), 69-109. Also, Amatzia Baram, "Neo-Tribalism in Iraq: Saddam Hussein's Tribal Politics 1991-1996," *International Journal of Middle East Studies* 29, 1 (February 1997): 1-31.
- ²⁹ Patricio Asfura-Heim, "Tribal Strategies and Their Impact on Legal Pluralism in Iraq," Center for Naval Analyses paper (September 2008), <http://fundforfallenallies.org/sites/fundforfallenallies.org/files/library/Tribal%20Strategies%20and%20Their%20Impact%20on%20Legal%20Pluralism%20in%20Iraq.pdf>.
- ³⁰ Patricio Asfura-Heim, "Tribal Customary Law and Legal Pluralism in Al Anbar, Iraq," in *Customary Justice*, ed. Isser, 239-279; Carroll, "Tribal Law"; and Sulayman N. Khalaf, "Settlement of Violence in Bedouin Society," *Ethnology* 29, 3 (July 1990): 225-242.
- ³¹ Baram, "Neo Tribalism in Iraq"; Jabar, "Sheikhs and Ideologues"; and Katherine Blue Carroll, "Tribal Law and Reconciliation in the New Iraq," *Middle East Journal* 65, 1 (Winter 2011): 11-29.
- ³² Katherine Blue Carroll, 'Tribal Law and Reconciliation in the New Iraq' (2011) 65 *Middle East Journal*, II.
- ³³ Viola Gienga, 'In the Shadow of a Massacre, a Peaceful Return in Iraq, Part II,' at: <https://www.usip.org/publications/2015/07/shadow-massacre-peaceful-return-iraq-part-ii>
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- ³⁵ <https://www.usip.org/publications/2018/02/stabilize-iraq-after-isis-help-iraqis-reconcile>
- ³⁶ <https://www.usip.org/publications/2017/02/how-foster-peace-iraq-after-isis>
- ³⁷ <https://www.usip.org/publications/2017/06/iraqi-tribes-sharpen-legal-tools-root-out-isis>
- ³⁸ <https://www.usip.org/publications/2017/02/how-foster-peace-iraq-after-isis>
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- ⁴³ Lund, C. (2007a) 'Twilight Institutions: An Introduction', in C. Lund (ed.) *Twilight Institutions: Public Authority and Local Politics in Africa*, pp. 1–12. Oxford: Blackwell) at 2.
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- ⁴⁵ Frederic Wehrey, 'Libya's Policing Sector: The Dilemmas of Hybridity and Security Pluralism,' POMEPS Studies 30: *The Politics of Post-Conflict Reconstruction*.
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- ⁴⁷ Isser, D.H. (2012) 'The Problem with Problematising Legal Pluralism', in B. Tamanaha et al. (eds) *Legal Pluralism and Development. Scholars and Practitioners in Dialogue*, pp. 237–47. New York: Cambridge University Press, at 244.

Physical and Societal (Re)construction in Nineveh post Islamic State

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The Nineveh province of Iraq, a northern governorate which includes Mosul, suffered enormously from the summer 2014 conquest by the Islamic State (IS) and its subsequent recapture by the Iraqi military and a U.S.-led international coalition. Significant post-conflict reconstruction efforts will be needed to grapple with the scale and scope of the damage across multiple levels. However, a broader definition of reconstruction than the conventional understanding underlying international policy making is needed in order to avoid repeating old mistakes. Rather than focusing simply on physical rebuilding, or the reconstruction of political institutions and public services, reconstruction must also take into account the societal rebuilding which needs to take place. This in turn requires attention to the issue of militias and their ties to political parties and ethnic groups – and the full participation of the people of the province in the process by which reconstruction policies are determined and implemented.

Nineveh, located in northern Iraq along the borderline between Sunni Arab and Kurdish dominated areas, is an area where ethnic groups have long needed to interact for trade, access, services, governance, and land ownership. The multiple grievances connected to IS, such as crimes carried out by individuals, justice, collective guilt, etc., are only a part of what needs to be overcome in order to prevent future conflict. My research in Iraq between 2016 and 2017, including interviews with members of the Nineveh Provincial Council (NPC), the national government, residents of Nineveh, and local and international NGO workers, suggests the need for a *societal* understanding of reconstruction. The reconstruction of shared space is an important factor, but the addressing of grievances and mistrust needs to happen alongside physical reconstruction.

Reconstruction needs to be depoliticised and must address both the physical and societal needs of citizens. But

viewing reconstruction as an inherently political process means that policy and analysis must take into account the political power dynamics at play between members of the NPC, as well as between the Kurdish Regional Government (KRG) and the NPC, the KRG and Baghdad, and Baghdad and the NPC. The competition for control between these actors, or the act of preventing others from gaining control, or benefiting from reconstruction of areas that they control, is the greatest obstacle to reconstruction in Nineveh, as the process becomes politicised and the best interests of the population are not taken into account. A social understanding of reconstruction can help to bridge the divide between the politicisation of the process and the technical aspects of physical rebuilding.

Reconstruction or Construction

Reconstruction cannot simply rebuild structures which existed prior to IS' conquest of large swathes of Iraqi territory. There were a number of factors that facilitated the rapid rise of IS and the ease in which it gained control of the area. In my interviews, Nineveh residents consistently referred to Nouri al-Maliki's (Prime Minister between 2006-2014) centralisation policies as leading to considerable alienation. Much of the local population came to feel that they had little stake in Iraq as an entity (O'Driscoll, 2017). This marginalisation was reproduced at the provincial level, with politics controlled by a select group, which was frequently accused of corruption by both Baghdad and the local population.

The security sector faced particularly severe challenges. Maliki's aim for control over all security institutions changed its very fabric, with the result being the population seeing the army as foreign, and accusations of corruption and theft. For example, during interviews with local residents in 2016 many recounted incidents of the Iraqi Security Forces (ISF) abusing the locals, detaining people under false accusations, and looting local

businesses (O'Driscoll, 2016a). Maliki's restructuring of the ISF under his control culminated in the security forces (with little connection to the city) fleeing in the face of 800 IS fighters in the summer of 2014, leading to the loss of the city and the declaration of the caliphate (O'Driscoll, 2016a).

There are a number of lessons that can be taken from the pre-IS period in order to ensure past failures are not reproduced. Firstly, processes that limit political control at the provincial level should not be reconstructed. Additionally, local voices also need to be heard and decentralisation should not be only to the province, but also within, to the districts and sub-districts. Governance in Nineveh (and across Iraq) also needs to become more transparent and accountable to the people, as corruption has long affected the process. Secondly, security cannot feel imposed from Baghdad and must have a strong sense of local ownership, whilst still operating within the national system. Finally, the competition over the disputed territories negatively impacts the province; focus needs to move away from ownership and control and towards the development of these long-neglected territories. In short, reconstruction which simply restores these problematic practices will likely lead to the resurgence of old problems.

Reconciliation

Reconciliation is probably one of the hardest issues to address in Nineveh, given the scope and nature of the atrocities on all sides. Establishing legal processes viewed as fair and impartial is critical, and communities need to agree to only seeking justice through the courts, rather than taking it into their own hands and thus potentially continuing the cycle of violence. Therefore – although time is rapidly running out for this initiative – a regional system to bring guilty parties to justice in a transparent and fair manner needs to be established, which will also strengthen and support the process of regional governance. Reports of endemic abuses of the judicial process risk severely undermining the prospect of overcoming these divides and blocking progress towards societal reconstruction.

Although a clear differentiation of the level of participation within IS by those found guilty should be formed, there is no need for an amnesty for guilty parties if they tell the truth, as was the case in South Africa and Chile, as IS has been territorially defeated – it is not a 'voluntary' power handover (Van Zyl, 1999). There is however, as highlighted by Haugbolle (2018), the need for truth and a narrative of what has happened in order to create a common history and allow for the process of moving forward to begin. Part of this involves guilty parties being brought to justice, another part is creating an understanding of what led people to support or join IS, particularly those that did not necessarily do so by choice. Finally, documenting the various stories (narrated from different ethnic standpoints) regarding the recent events allows the communities to understand that they are not the only ones that have suffered (Gibson, 2004).

Additionally, notions of collective guilt from the other communities towards Sunni Arabs must be countered, as this not only hinders reconciliation, but also wider governance. There is a common misconception within the minority communities of Nineveh – as voiced on numerous occasions in interviews between 2016-2017 – that the majority of Sunnis are complicit in the actions of IS and that they have not suffered as a community. The suffering of Sunnis should not be denied and should be included in the shared narrative of truth to strengthen the process of reconciliation (O'Driscoll, 2016a).

Physical (Re)construction

The slow reconstruction of parts of Nineveh and the initial slow return of IDPs, followed by the increase of IDPs returning to non-reconstructed and dangerous ruins, does nothing to counter the previous alienation of some of these communities (Barbarani, 2018). The financial constraints are obviously significant, even following the investment promised in the recent Kuwait conference (Mostafa, 2018), but the ignoring of the basic needs of whole communities, and preventing NGOs from acting, does nothing to help heal the society.¹ The sense that neither Baghdad nor Erbil want to spend money on areas they may lose control of

remains. Simplifying the return process (for more see Parry, 2018) and increasing efforts to rebuild homes and communities is intrinsic to building a much-needed form of civic nationalism where Iraq is defined by common citizenship, and liberty and equality take precedence over religious or ethnic identity.

Corruption has also traditionally hindered reconstruction in Iraq and it is imperative that this is addressed in Nineveh (Dodge, 2013; Le Billon, 2005; Looney, 2008). Transparency is key. It is important that it is clearly demonstrated how much money is given to each smaller government unit and that they answer to the NPC (and their voters) who in turn report to Baghdad.² Moreover, subcontracting full contracts needs to be made illegal, as this has long been a method in Iraq to pass contracts from one group to another in processes of cronyism and clientelism, which negatively impacts both politics and the reconstruction process. There needs to be an independent oversight to the awarding of contracts including an audit to ensure the work is carried out. Moreover, the contracts should be performance-based with staggered payments to guarantee quality and efficiency (O'Driscoll, 2016a).

As argued by Sharp (2018) space is incredibly important and construction itself can be a violent process that reinforces divides. It is therefore important that (re) construction takes place with a clear plan of how the space will be occupied and how it can be utilised to bring all communities together. The reconstruction of Mosul needs to ensure that all communities maintain a strong link to, and a sense of ownership of, it. Mosul is an important hub with education, hospitals, services, markets, and public space for those from all over Nineveh Province. From a governance perspective, it is important that Mosul city becomes a political sphere where minorities can negotiate their grievances with Sunnis and each other. Through minorities actively participating in power sharing within Nineveh Province, they would be more likely to form alliances with each other in governance and negotiations for legislation (Erk & Anderson, 2009). These alliances could potentially counteract some of the key issues the minorities have with each other by preventing zero-sum-

game negotiations against one another, which would thus enhance reconstruction. However, these dynamics depend significantly on elections and who gains power.

2018 Elections

The competition between Baghdad and Erbil for control of the disputed territories and the votes of the minorities living there has traditionally hampered the development – and to a certain extent the security – of these areas, as this competition has revolved around winning over minority politicians, rather than winning over the population by providing for their needs. For instance, in my interviews in 2016 with Yazidis in particular (but also Christians and Shabaks) there were accusations that both Baghdad and Erbil were attempting to physically control the territory without taking responsibility for delivering services and developing the area. This is further exacerbated by the internal issues between the communities (particularly Shabak, Yazidi, and Christian) over whether they should become part of the Kurdistan Region of Iraq (KRI) or not (Fitzherbert, 2015; Salloum, 2016).

Elections in Nineveh are critical, as the province has been denied this right under IS' rule and the population have been let down significantly by their politicians who have largely focused on maintaining power and gaining finances and influence, rather than governing in the interest of the needs of the population. The former governor was dismissed on corruption charges and the current governor has been suspended on corruption charges (Aldroub, 2017). The political system in Nineveh is clearly not working and needs to be reformed, and the people need to be given the chance to decide who leads this change. New political actors have emerged during, and since the fall of, IS' reign and they need to be given the opportunity to represent their communities and drive the new political era in Nineveh and the broad process of reconstruction as presented in this paper. For this reason the up-coming local elections, currently scheduled for December 2018, are extremely important, as they will decide the local actors who will push forward with reconstruction and give more local legitimacy to the process (Sattar, 2017).

The recent parliamentary election, or more precisely the current government formation process, is also important for Nineveh, as it will decide the direction Iraq takes. If Haider al-Abadi manages to form the government and remain as Prime Minister he may finally be able to deliver on his promises for political reform and decentralisation, both of which are imperative for Nineveh.³ However, in the parliamentary elections, political division in Nineveh may ultimately cost the province, as a combined list from Nineveh would have given it much more power in negotiations for the future and reconstruction of the province. Particularly, as there are no clear winners in the election and there will be much political manoeuvring in order to create alliances for the ultimate prize of the premiership.⁴ Nonetheless, the fact that Abadi's list won the most votes in Nineveh is a huge positive for the province and for societal reconstruction at both a national and provincial level, as it demonstrates a clear move away from the sectarianism that IS, and even previous governments, represented, and a move towards civic nationalism.

Emerging Issues

The rise of ethnic and religious militias to fight against IS in Nineveh has reinforced divisions that need to be bridged if a more comprehensive approach to reconstruction is to take place. There is little trust between communities in Nineveh, and between them and Baghdad or Erbil, or between Baghdad and Erbil. This halts (re)construction, as competition over power takes precedence. Considering the traumas – including mass slaughter, kidnapping, slavery, and rape – inflicted on the minority groups of Nineveh, the notion of continuing to “govern” together with Sunni Arabs in a local administration is hard to accept for many. This is especially so since their communities constitute an overall minority to the Sunni Arabs living in Nineveh.

This mistrust has led to calls for the creation of new provinces in Tal Afar where Turkmen form the majority, in Sinjar where Yazidis form the majority, and from Christians in the Nineveh Plain (Bassem, 2016). In interviews with members of these groups in 2016

they argued that having their own province would be the only way of protecting their rights and protecting them from any future emergence of extremist groups. However, the creation of these provinces ignores issues of interdependence, denies the importance of inter-ethnic tolerance and aims to avoid the necessity of overcoming differences and past grievances. The social and political segregation does nothing to advance the reconstruction of the region and ignores the fact that these micro communities actually rely on each other on a macro level. The wider Nineveh province provides a shared political arena in which issues can be addressed, resolved and overcome, and provides an important economic, social, and educational base in Mosul. Any creation of these micro provinces would only entrench divisions and competition for land and resources (O'Driscoll & van Zoonen, 2016). This is especially dangerous given the fact that these communities have recently mobilised into various armed factions, which increases the likelihood of the situation leading to a zero-sum game for control of the area (O'Driscoll, 2016b).

Conclusion

In order to overcome the significant negative impact of IS, and also the dynamics that facilitated its rapid rise, reconstruction needs to be redefined to go beyond physical rebuilding and the reconstruction of political institutions and public services, to include the rebuilding of society. Once formed, the new government needs to focus on this broader understanding, and the makeup of the NPC needs to be based on these principles following the provincial elections later this year. It is imperative that the new government demonstrates to the people of Nineveh, and the rest of Iraq, the value it places in rebuilding the society, whilst it is important that the NPC moves beyond competition, and new politicians who have begun to emerge are given the chance to lead a depoliticised physical and societal reconstruction process.

Thus, reconstruction in Nineveh is not a simple process, as it is closely connected to the internal and national political dynamics, reconciliation, security, justice, and competition

on multiple levels. Therefore, in order for reconstruction to be successful it needs to connect all these elements in one package. However, it is important that past failures – particularly those that contributed to the rapid rise of IS – are not reproduced and rather that new processes that encourage unity and levels of political autonomy are created. The reality of ignoring the reconstruction of Nineveh will have a lasting impact on the sense of belonging of those from Nineveh in Iraq and the fostering of any sort of Iraqi unity or civic nationalism, which will only act to reinforce the divisions that have consistently led to internal conflict since 2003. Failure to use the gains made from the significant defeat of IS, and the resulting emergence of the roots of civic nationalism, for the type of complex reconstruction proposed in this paper will only continue the cyclical process in Iraq of grievances being addressed through violence.

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Endnotes

¹ In interviews with INGO workers in 2017 many voiced difficulties in gaining permission to access these communities.

² In interviews with NPC members there were countless accusations of corruption.

³ Abadi became Prime Minister in 2014 despite the fact that Maliki won the election, as a result (alongside the focus of defeating IS) Abadi did not have enough power to implement his reforms.

⁴ With 329 seats in the parliament 165 are needed to form a majority government. However, the highest number of seats won was 54 by the Saairun Alliance (Sadr), followed by 47 by Fatah Alliance (Amiri), and 42 by Nasr Alliance (Abadi).

Postwar Reconciliation and Fragile Peace in Algeria

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In December 1991, Algeria held its first set of multi-party legislative elections since the country became independent in 1962. The Front Islamique du Salut (Islamic Salvation Front, FIS) garnered 47 percent of the vote share in the first round of the electoral contest, soundly defeating the ruling party, the Front de Libération Nationale (National Liberation Front, FLN). The military stepped in and cancelled the second round of the election due to fears that the Islamists would achieve an even larger majority and gain control of the national government. The ensuing confrontation developed into a decade-long war between the Algerian military regime, along with state-sponsored militias, and Islamist insurgency.

The contentious 1991 Algerian elections, the widespread violence that followed, and the broader implications of these events have been widely discussed by academics and policymakers. The “Black Decade” is often described as a watershed political moment for the region. In this memo, we explore the lasting effects of the war on the postwar Algerian society. We argue that the civil war and the subsequent government-controlled peace process severely limited prospects for democratization in two ways. First, the government succeeded in splitting the moderate Islamists from the radical jihadists. Subsequently, it effectively co-opted the moderates into creating a façade of democracy. Second, the nature of post-conflict political reconstruction produced grievances that persist to this day. While amnesties granted by the government towards the end of the war helped ending violence, the reconciliation measures were criticized by many Algerians as well as international actors. This is because they were deemed to have denied justice to victims. As a result, the peace process failed to generate true stability in the country. Perhaps our story provides a partial explanation to why the Algerian democratization attempts have followed a diverging path from its neighbors, Morocco and Tunisia.

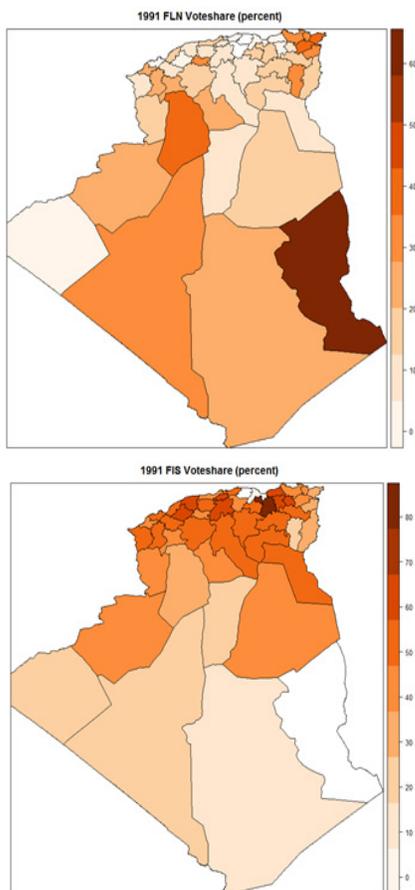


Figure 1: 1991 Voteshare of FLN and FIS

Violence Peaks

The FLN has formed the core of the military and socialist regime since the Algerian state was established in 1962 following a prolonged struggle for independence from the French. Algeria experienced almost three decades of uninterrupted single-party rule before any serious threats to regime continuity emerged. A series of economic initiatives to promote fiscal liberalization were implemented in the 1980s, and not long after, a drop in oil prices in 1986 reduced government revenues substantially. These developments led to widespread economic crisis and high unemployment, and frustrated citizens took to the streets throughout the country in 1988 to rally against

government corruption and economic mismanagement (Richards and Waterbury, 1990). In response, the regime implemented political reforms, beginning with a new constitution in February 1989. New elections were announced in which multiple parties would be allowed to compete, including political opposition groups.

The first set of free, local elections in Algeria took place in June 1990. The Islamist FIS, which had formed less than a year before and become a rallying point for disaffected middle-class and urban voters, defeated the FLN, with 54 percent of the votes cast. The FIS also gained control of 32 of the 48 wilayas (provinces) and 853 of the 1,551 communes (municipalities) in Algeria. In response, the military government engaged in political maneuverings, redrawing district lines with the goal of giving their preferred candidates an upper hand in the upcoming parliamentary vote. The FIS proved adept at handling local administrations in the interim between the local and national elections (Volpi 2003). In the first round of the parliamentary contest in December 1991, the FIS won again by a landslide, gaining almost half of the votes nationwide. The FIS also garnered twice as many votes as the FLN and won 188 of the 430 parliamentary seats outright.

The Algerian army, which could not tolerate the prospect of an Islamist party coming into power, forced the resignation of President Chadli Benjedid. The national parliament and communal and municipal assemblies were also dissolved, and the second round of the legislative elections, originally scheduled for January 1992, was cancelled. The FIS was outlawed in February 1992, and many FIS supporters and leaders were arrested and sent to internment camps in the Sahara. A state of emergency was imposed, and all legislative and executive powers were transferred to a junta of senior military officers.

This authoritarian reversion triggered widespread backlash, but protests were met with even more severe regime repression. The ensuing confrontation between several fractured Islamist insurgent groups and the military regime developed into a prolonged and bloody guerrilla war. The violence spread throughout Algeria and continued through 1999, persisting to a lesser extent until

2002. During this period of intense civil conflict, about 1.5 million Algerians had to flee their homes. Between 100,000-200,000 Algerians were killed, and tens of thousands disappeared.

Reconciliation Process

Abdelaziz Bouteflika, the former foreign minister under Houari Boumediene from 1963 to 1979, ran unopposed in the 1999 presidential elections. The center of his platform was to bring peace to the country: "I am prepared to die for [peace]," declared Bouteflika during his campaign.¹ Upon his victory, Bouteflika promptly began the national reconciliation process and introduced the Civil Harmony Law, a peace initiative granting amnesty to individual rebels who voluntarily gave up their arms and renounced violence.² Many militia groups, such as the AIS, also collectively gave up arms and received amnesty.

In September 2005, a national referendum endorsed the Charter for Peace and National Reconciliation that expanded the essential components of the Civil Harmony Law. It gave partial compensations to victims and their families. The Charter further exonerated insurgents who made a full confession of their wrongdoings, including those who may be implicated in killings, massacres, rape, and bombing attacks. Moreover, it halted any legal actions against rebels who had fled the country and been convicted in absentia. However, the Charter excluded Islam from the political arena and banned anyone who had taken up arms from political life; this way, the Charter effectively banned former FIS members from participating in postwar politics. For instance, when a former FIS member attempted to form a new political party, the government refused to approve its registration.

Though not explicitly stated, the Charter reinforced the *de facto exemption of state agents and restricted any criticism of military actions during the civil war. It was also made illegal to criticize the Charter itself. In particular, the government discouraged any public discussions or sit-ins regarding approximately 15,000 "disappeared" Algerians, as well as the role of security forces in the disappearance.*

Aftermath

The reconciliation measures helped ending the decade-long bloody civil war, and Algerians today returned to somewhat normal lives without a state of emergency.³ The country's international standing also improved, especially since Algeria took part in the war against terror after 9/11 as a Western ally. However, rather than generating long-term stability in the country, the reconciliation measures have produced lasting grievances as President Bouteflika and his government promoted amnesia and neglect of the war victims. We analyze two important consequences produced by the government-controlled peace process.

First, national reconciliation failed to yield true resolution because the government avoided establishing the truth and holding involved parties responsible for committing grave human rights violations. While commitment to ending violence was commendable, reconciliation required more than charters, referenda, and decrees, all generated unilaterally by state officials. No formal inquiries occurred to prosecute crimes committed against the citizens. Systematic reforms to change existing state institutions never took place, and multi-party negotiations to alleviate underlying grievances were absent. Blanket immunity given to all government armed forces further reinforced feelings of resentment among citizens who already held grudges against the regime.

To this day, the government never initiated investigations into war crimes, particularly regarding its own role in killings, tortures, and disappearances. The state refused to release any records about tens of thousands of disappeared Algerians, most of whom were taken by security forces and never seen again.⁴ More recently, in 2006, the government unilaterally passed a decree that would jail and fine anyone who speaks or write about the disappearances in relation to the state officials "who had honorably served Algeria." Rather than informing the population of the truth, the regime was keen on forcing Algerians to move on.

Human rights activists also heavily criticized Algeria's reconciliation policy, which was viewed as "impunity in

the name of reconciliation" for human rights violations and other acts treated as crimes under international law.⁵ Together with growing socioeconomic grievances in Algeria as a result of falling oil prices and lacking state responsiveness, true reconciliation of the war damages appear ever more important today.

Second, the peace process has largely prevented the growth of independent, moderate Islamist movements, which have operated as main contenders against various secular dictatorships in the region. The current moderate Islamist parties are not only co-opted by the regime but also compete with each other for more state resources or personal ambitions (rather than due to true ideological differences). Their fragmentation has contributed to the decrease in their standing to the disenchanting Algerian public. The lack of coordination among the groups works to greatly benefit the ruling regime that strives to divide and rule without allowing the rise of a credible opposition.

Whereas the Islamist divisions date back to the pre-civil war era, the lines became more distinct during the black decade and postwar period. A few years into the civil strife, ideological differences had fragmented the Islamists, both Jihadists and moderates, into those that broadly aimed to (1) produce reforms under the status quo FLN-rule, (2) overthrow the existing regime, and (3) establish a Salafi Islamic state.⁶ Among the extremists, they operated in numerous armed groups, most notably the *Mouvement pour un État Islamique* (MEI), *Groupe Islamique Armé* (GIA), and *Armée Islamique du Salut* (AIS), the armed wing of the FIS. The groups did not work together with each other during the reconciliation process, either. In 1997, the AIS negotiated with the military to end its armed campaign. Other groups also held separate talks with the army rather than collectively. However, the GIA, which became more radicalized during the war, continued fighting; the group itself suffered from internal disputes that led to the creation of various splinter groups.

The nature of the reconciliation process thus helps to explain the persistence of extremist movements, such as *Al Qaeda* in the Islamic Maghreb (AQIM). Though they have shifted

its focus away from Algeria toward the more vulnerable countries in West Africa over time, the Black Decade still weighs heavily in Algeria as the government forces and Jihadist militants still clash occasionally, especially in the South. For instance, during the 2014 presidential elections, AQIM ambushed and killed 15 Algeria soldiers returning from voting in Tizi Ouzou. The same year, a French tourist was kidnapped and killed by another militant group linked to Daesh. It is unlikely that militant groups will become extinct in Algeria anytime soon.

Algeria's moderate Islamist parties and their leaders are more divided and ineffective than ever, with even the most prominent groups have suffered multiple internal disputes. For instance, the former leader of Ennahda, Abdallah Djballah, left the party due to disagreements over the party support for Bouteflika; he went on to form another party, El-Islah. Moreover, at every election, different Islamist coalitions appear and disappear. In 2012, Ennahda, El-Islah, and Hamas formed an opposition coalition called the Green Alliance, only to fall apart shortly. A similar attempt took place before the 2017 legislative elections without much success. Such a lack of coordination across parties severely limits the potential for Islamist success in Algeria. Moreover, although parties like Hamas have left the pro-government alliance and declared itself as the "opposition" since 2012, the Algerian public has lost hopes in the moderate Islamist parties to rise up as true contenders against the regime.

Endnotes

- ¹ *Al-Ahram*, August 1999.
- ² Rebels who had committed serious crimes, such as killing, rape, or bombing, were to be excluded. However, no substantial investigations took place, and even those who were proven to have committed these crimes were eligible for light sentences (Tlemcen 2008).
- ³ Its 19-year-old state of emergency was lifted in 2011.
- ⁴ Human Rights Watch, "State-sponsored disappearances in Algeria," 1998.
- ⁵ Human Rights Watch, "The Proposed Charter for Peace and National Reconciliation of August 15, 2005," 2005.
- ⁶ The military is also reported to have infiltrated the Islamist groups and caused their fracture.

The nature of the postwar reconstruction in Algeria thus helps to explain several important aspects of its political condition today. The ceasefire and end to violence has achieved a certain level of stability, but the enforced amnesia about the violence has prevented any deeper reckoning with societal or political problems. The co-optation and weakening of moderate Islamist parties has largely neutered them as potential challengers, while non-Islamist parties have struggled to gain any traction. Radical jihadist groups have taken advantage of the political stagnation, maintaining low level violent challenge.

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Algeria's Peace Process: Spoilers, Failures and Successes

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From 1991 to 2001, Algeria witnessed a brutal civil war which came to be known as the “black decade.” The demands of reconstruction were daunting in the wake of an estimated 150,000 victims, 7000 disappeared, one million internally displaced and \$20 billion of material damages. One key dimension of post-conflict reconstruction was political dialogue, involving reconciliation and to rebuild a functional political system.

The dialogue between the regime and the Islamist insurgents started as early as 1994, but no meaningful agreement was reached. The failure of these efforts was in part due to the presence of two constant spoilers, the Armed Islamic Group (GIA) and the regime's hardliners called the “eradicators”. However, from 1997 onward, the peacebuilding process took a successful turn, as a part of the Islamist insurgency unilaterally declared a ceasefire and the government engaged in de-engagement and rehabilitation policies. This allowed for an end to the bloodshed and the rehabilitation of 15,000 former fighters into society¹.

This essay analyses President Liamine Zeroual's two peacebuilding attempts between 1994 and 1995 and the spoilers responsible for its failure. It then discusses the continuation of peacebuilding process under President Abdelaziz Bouteflika. It argues that in the Algerian case there was a clear issue of spoiling coming from within the regime and from part of the Islamists. These spoling strategies had a direct and permanent impact on the actor's behavior on the ground as well as on the peacebuilding process.

Algeria's Black Decade

Algeria lived under a single-party system for almost three decades. The development plans put in place in the 1970s had been a failure. Declining oil prices had eroded financial capacities of the Algerian state and its ability to provide price support, jobs, food, medicine and housing distribution.² Blatant social inequalities were increasingly

intolerable, especially for youth. As a result, on October 5th, 1988 hundreds of thousands of youth took over the streets in Algiers and in other major cities, attacking the State's symbols and offices. To restore order, the army intervened and shot on sight. The official death toll stood at 176 while unofficial estimates stood at 500. The violence broke the social contract between the people and the leadership, as the regime lost what remained of its credibility³.

To rehabilitate the regime in the eyes of its citizens, then-President Chadli Benjdid decided to engage in dramatic political reforms⁴. The February 23, 1989 new constitution introduced fundamental changes: references to socialism were abolished, private property was guaranteed, the state's monopoly on foreign trade was ended, and more importantly a law on associations and the multiparty system was promulgated on February 25, 1989. Between July 5th and July 31, 1989, the Ministry of Interior approved fifty political parties.⁵

The most popular party was the Islamic Salvation Front (FIS), with its leader Abassi Madani, his number 2, Ali Belhadj and its main publications *El-Munkid* [the Savior], and *El Furkan* [the Revelation]. The FIS was a heterogeneous grouping composed of radical Islamists, some Algerian-Afghan veterans, the urban classes that were traditionally conservative and a sizeable number of disenfranchised youth. With the support of this diverse constituency, the FIS won the local elections in June 1990 as well as the first round of the legislative elections of December 1991⁶. The second round, scheduled for January 1992, never took place. The military interrupted the electoral process and took effective control of the country. They ousted then-President Chadli Bendjedid, banned the FIS and jailed thousands of its sympathizers⁷. In the meantime, the extremist faction of the FIS issued a call to jihadism, and a plethora of jihadist groups emerged throughout the country to fight what they called *dawlet El Tagut* [the impious state].

Peace Initiatives: Between the “Eradicator” and the GIA’s Spoiling

After almost three years of conflict, the Algerian regime started considering the possibility of dialogue with the Islamists as defeating them on the ground proved more difficult than expected in part due to the role of spoilers. According to Stedman, spoilers are defined as “leaders and parties who believe that peace emerging from negotiations threatens their power, worldview, and interest and use violence to undermine attempts to achieve it.”⁸ In Algeria, two main spoilers were present to undermine or marginalize each conciliatory measure. The first spoiler was the “eradicator” wing within the regime’s hardliners who opposed any rapprochement or negotiation with the Islamists. The second spoiler was the Armed Islamic Group (GIA), the most prominent and dangerous jihadist group in the Algerian landscape.

At first, the Algerian regime did not want to negotiate, believing that the FIS would capitulate. After almost three years of violence, the authorities tried to engage in dialogue with the creation in late 1993 of the National Dialogue Commission and National Reconciliation Conference. The attempt proved to be a non-starter, as the FIS was excluded from the National Dialogue. A second attempt came with the appointment in January 1994 of General Liamine Zeroual as President – by the High Council of State (HCE) which had been set up on January 14, 1992, to run the country. This new leadership was more realistic about the strength of the Islamist insurgency on the ground, and the newly elected President showed his intention to negotiate with all political forces including the Islamists.

At the same time as the Algerian regime began these tentative moves towards dialogue, the GIA succeeded in uniting several jihadist groups from all over the territory under the leadership of his national *emir* [chief] Sherif Gousmi and had some 10,000 men fighting under its banner. The GIA was proclaimed in May 1994 the only legal framework for *Jihad* in Algeria and decided on the “three No”: “No dialogue, No truce, and No reconciliation.” The jihadist group was able to “free” several provinces around the coastal strip of the *Mitidja* as well as in the interior of the country.

It is in those circumstances that the regime opened lines of communication with the FIS, even as its leader Abassi Madani was finalizing the establishment of the FIS military wing the Islamic Salvation Army (AIS). Madani agreed on opening a dialogue with the regime and in October 1994, Zeroual ordered the release of hundreds of Islamist prisoners – including Madani and Belhadj who were put under house arrest.

The first spoiler to Zeroual’s attempt came from within, by a group of regime hardliners that would be known as the “Eradicators.”⁹ The constituency of the Eradicators was small, yet politically and economically powerful, with support at the top of the state. They had the political, economic and military resources to spoil any peace initiative¹⁰. They were against any rapprochement, dialogue or negotiation with any Islamist. They were partisans of the “tout sécuritaire” [all-out security] and hence the use of repression was their way to deal with political Islam and the Islamist insurgency. For them, eradication of the Islamist was the solution. The Eradicators spoiled Zeroual’s peace initiative by mobilizing opposition against it (marches, demonstrations, media attacks...etc.). They also spoke publicly against the initiative. When for instance, Zeroual decided to free FIS leaders, both General Lamari and Reda Malek criticized the move, the latter calling it “a major unilateral concession” that “was placing the Republic to a death sentence.”¹¹

Another reconciliation initiative was launched by major political parties, including the banned FIS, between January 8 to 13, 1995 in Rome. For the participants of Sant’ Egidio, peace was only possible through a genuine national dialogue that would involve every party including the FIS. The parties jointly called for their total rejection of violence, the cessation of attacks against civilians and public assets, the withdrawal of the military from the political arena and their ending of indiscriminate violence and extrajudicial killings.

The Eradicators wing of the regime would substantially contribute to destroying the Sant’ Egidio platform initiative. While the Sant’ Egidio platform represented a high proportion of the Algerian electorate, it did not represent the regime at all that rejected the platform in its totality. In fact, Zeroual with its two failed peace initiatives had no

other choice but to reject the platform even if the platform was in line with his reconciliatory approach. With its consecutive failures, Zeroual lost his political capital. He wanted to hold presidential elections and increase the regime's legitimacy in the eyes of Algerians. To do so, he needed to give in to the Eradicators' demand for more latitude in military interventions to engage with rebels. Consequently, the peace process drive was destroyed.

The second broad spectrum of spoilers were the Islamists. The FIS also played a double game which undermined reconciliation efforts. The authorities interrupted the negotiation when the security forces discovered a letter written by Ali Belhadj with the GIA emir, Sherif Gousmi during his capture. Belhadj's letter was calling the GIA to "strike the enemy in his strong points and terrorize him by resorting to the laws of Sharia."¹² As a result, in November 1994, the government announced the failure of the peace initiative and charged the FIS for its "bad faith." In his speech to announce the failure of negotiations, President Zeroual declared "Instead of working to stop the violence as they [the FIS] pledged to do, they tried to consolidate extremism and encourage violence. They only have a dictatorial view about democracy."¹³

The GIA was a complete spoiler in the sense that it refused any negotiations throughout the entire conflict and continued its extreme violence even when the group had nothing to benefit from. For the GIA, there was "no truce, no negotiation, and no dialogue." Throughout the conflict, the GIA proved to be a tenacious total spoiler to any reconciliatory measure as its objective was to overthrow the "apostate regime" and to establish an Islamic State. While for the FIS/AIS negotiations with some elements of the regime (except the Eradicators) were possible, for the GIA it was unimaginable. The GIA's radical stance was defined from the beginning of its inception. In a fatwa launched as early as December 2, 1992, the GIA emir [leader], Abdelhak Layada, declared: "The Algerian leaders are without exception, infidels. Their ministers, their soldiers, and their supporters and all those working with them, under their orders, or helping them, and all those who accept their authority or who remain silent to their actions are also infidels apart from the faith."¹⁴

Unsurprisingly, then, in 1995 the GIA rejected Zeroual's peace attempts as well as the Sant' Egidio platform. GIA's then-emir, Djamel Zitouni published a letter explaining that the GIA "denies all these talks [...] and unholy meetings"¹⁵. The group conducted a violent campaign against the Saint' Egidio platform accusing both the FIS and its military wing, the AIS of being "jihad traders" and announced in El Hayat newspaper: "As they have not put an end to their unholy spirit and their corruption on earth, it is our duty to fight them [...], and hence, we tell our brothers that our fight against the AIS is a duty."¹⁶ The GIA gave a month notice to the FIS/AIS members "to repent" and return to the "way of God" before starting its purge. Assassinations started in April 1995, killing some 140 FIS figures including Muhammed Said and Abdul Razzaq Radjam.

The GIA engaged in a terrible campaign of killing against civilians as well, spoiling the peace process and undermining at the same time the FIS/AIS and their supposed capacity to rally the numerous fronts of jihad in the country. In a highly competitive environment, the GIA wanted to show its domination for the monopoly of jihadism and discredit at the same time the FIS/AIS by showing that it had no hold of any kind on the armed struggle in the country. As such it was less valuable for the authorities to negotiate with it.

From the Clemency Law to the National Reconciliation

Why did these spoilers lose their ability to block national reconciliation and political reconstruction? Bolstered by the presidential victory in 1995, the political and military establishment decided to pursue its all-out repression and intensify its military operations. However, as part of the regime itself (the Eradicators) opposed the Sant' Egidio initiative, it decided to return to the constitutional approach and came up with a new reconciliation policy. That would be the Rahma [Clemency] law in which the "misguided of the Nation" were called to lay down their weapons and reintegrate society under certain conditions.

While offering a way out to many Islamist insurgents as some 2000 were disarmed between 1995-96, the regime continued its military operations and hence kept pressuring

the rest of the jihadist groups on the ground.¹⁷ At the same time, the Army opened secret lines of communication with the AIS leader Madani Mezrag who wanted to distance itself from the GIA's extreme violence. Mezrag was also realistic about the FIS capabilities in finding a resolution to the crisis and about the status of his organization. The AIS was weakened on the ground as it was fighting on two fronts, against the security forces, and against the GIA.

It is under these circumstances that General Lamari (himself an Eradicators) and Mezrag started negotiations for a ceasefire. Mezrag declared that "Jihad was about to be buried by its sons" and it was a priority for him to stop the bloodshed even if that meant laying down weapons. Mezrag was charismatic enough to convince some 7 000 fighters among them 800 from the GIA to lay down their weapons¹⁸. The charismatic leadership of Mezrag and the policies of the regime with more conciliatory measures beginning with the Rahma law were two important variables that weighed heavily in ending the violence.

The 1997 unilateral ceasefire represented a turning point in the history of the Algerian conflict. It was the beginning of a long disengagement and rehabilitation process.

Demobilization and Disarmament

With the election of President Bouteflika in 1999, a Civil Concord Law was introduced. It was an extension of Zeroual's Clemency law. The Civil Law was approved on September 16, 1999, by a margin of 98.6 percent. The law had a limited time frame and lasted until January 13, 2000. In theory, the law granted conditional amnesty to former fighters who laid down their weapons. Former jihadists were eligible for amnesty only under certain conditions such as not having been involved in massacre, rape or in setting off bombs in public spaces. For jihadists who committed the cited crimes, they were eligible for reduced prison sentences. However, in practice, because of the lack of evidence and the high number of involved fighters, the law pardoned all armed fighters who voluntarily surrendered and who simply denied having participated in the prohibited acts. No investigation was conducted to authenticate their claims.

To continue this effort, in 2005, the Charter for Peace and National Reconciliation was adopted to "transcend the national tragedy once and for all" and put an end to "the great *fitna* [civil strife] that struck Algeria." The Law contained the same measures as the Civil Harmony law in addition to the exemption from prosecution of members of the security forces and the pro-government militias. Central to the charter was the idea that all Algerians were all victims of the war. There was no winner and no loser, and it is for this reason that trials for both sides (security forces and repentant) were avoided. Also, the law aimed to encourage and sustain the demobilization of those who were still to be convinced of laying down their weapons. The law provided financial compensation for the victims of the war including the families of missing persons and parents of former jihadists. Similarly, members of the security forces involved in human rights violations were given immunity. Also, those "responsible for the instrumentalization of religion that led to the national tragedy" such as the FIS members were forbidden from engaging in any political activities¹⁹.

Fundamental to the success of the Disengagement policy, has been the work with former jihadists that gave legitimacy to the process. Indeed, former fighters were given a voice, and they were given a chance to speak on national television about their experience in armed groups, the reasons for their engagement and their defection. Their involvement and their calls for the cessation of violence and reconciliation helped in giving the peace process an additional layer of legitimacy. It also helped in raising awareness about violent radicalization and its consequences, in preventing potential at-risk individuals from joining the fight, inspiring some for leaving it and convincing other to renounce it for good.

Also, many leading Islamist figures such as former FIS leaders Rabah Kébir and Anouar Haddam or former AIS emir like Mustapha Kertali endorsed the reconciliation policy and aided in its success by making regular calls to jihadists still in the hideouts to surrender and return to their communities and society. The presence of such figures cannot be underestimated as they were seen as legitimate and had enough credibility to convince

people. In addition, former fighters were offered protection because of their fear of retaliation from families of victims or other jihadist groups. In some cases, the state provided them with arms to protect themselves and their relatives. This was not enough to prevent retaliation. Repentant were also offered medical and psychological support to cope with their trauma as many of them had Post Traumatic Stress Disorder (PTSD).

The socio-economic reintegration of former armed members was a critical issue that the regime had to tackle. Financial compensation was given to a broad category called “victims of the national tragedy” that included both families of the victims and the missing and families of the perpetrators of crimes. Members of armed groups who were victims of state violence were compensated (up to \$15000 according to a 2008 fieldwork research). Repentant were also rehabilitated in society through entrepreneurial activities. Social enterprises, industries, and public companies helped in that regard, and former fighters were offered new professional opportunities for those who were unemployed before their engagement in jihadist groups, and other were reintegrated in their previous positions.

Vocational rehabilitation was crucial to their reintegration into society. According to several interviews made by the author of these lines with former jihadists in Algiers in 2008 in the framework of a Ph.D. thesis, vocational rehabilitation provided “repentant” with a sense of belonging and purpose, a meaning in life and a sense of pride and dignity as well as a sense of citizenship²⁰. Moreover, their professional rehabilitation provided them with material as well as psychological incentives. Financial compensation and job opportunities were intended to deter economic hardships and recidivism. This also helped in asphyxiating the Jihadi networks as the governmental initiatives deprived the jihadists of their potential recruitment pool by offering them not only a way out of jihadism but also an alternative.

These financial compensations were possible due to the increase in oil revenues. The latter not only allowed President Bouteflika to have leverage in convincing Islamists and other political figures but also in investing

heavily in development after understanding that the military solution alone is not enough. The financial manna was used to calm social tensions by meeting the needs of the population regarding housing, jobs, health, infrastructures, etc. Also, the state established a youth recruitment policy to offer youth better professional opportunities. Wali (prefects) all over the national territory had the task of setting up an “a private status multiservice cooperative,” required to gather unemployed youth and integrate them into economic activity (security guards, caretakers, plumbers, etc.). Localities were also ordered to take care of the integration of young graduates. In addition to the military, which absorbed the workforce, agreements with public companies such as SOTROUJ (road works), or DHW (hydraulic) were put to the benefit of young graduates (nearly 150,000 jobs were created between 1994 and 1996)²¹. By doing so, the State not only regained the trust of its populations, but it also helped in depriving local jihadist groups’ form their local manpower.

Conclusion

The Algerian experience is not an ideal template or program, and the reconciliation policy is imperfect as it failed in addressing the roots of the country’s violence and in providing justice to the families of the victims of terrorism²². However, it is safe to say that this peacebuilding approach contributed greatly in ending the conflict, in returning to peace and stability after a bloody “black decade.” We can draw several lessons from the Algerian experience:

First, it is essential for governments to open lines of communications with their opponents when the latter are willing to discuss and negotiate (here, the AIS). However, when dealing with total spoilers (here the GIA), the use of violence might be the only possibility. The GIA could not be accommodated into the peace process, and hence coercion was the only way to defeat it and reduce its capabilities to undermine the peace process. Security measure and the continued repression of the security forces were a key factor in ending the GIA’s violence and fostering peacebuilding.

Second, the offering of peaceful political participation to the Islamists by the Algerian government since 1995 offered an alternative for them to abandon violence. In addition, the participation of Islamists in the political system led to a greater professionalization of their parties (i.e., with the Movement for Society and Peace MSP). Not only that many Islamists became members of parties, but they also learned about the management of State affairs. The party's cadres started to socialize with members of other parties and reached for new political partnerships. Opening avenues for peaceful political expression are crucial. People from the whole religious spectrum should

have a non-violent space in the political arena and be socialized into the rules of Democratic competition.

Finally, financial inducement was also crucial to rehabilitating former fighters into society and the socio-economic measures that the Algerian government took to target poverty, unemployment, and housing issues were crucial in assisting the peace process and reducing the conflict. The economic measures were coupled with political ones and the coming back to the constitutional process in 1995 helped in giving legitimacy to the regime and in resolving the conflict.

Endnotes

- ¹ RFI news desk, Algérie : dix ans après la charte, où en est la réconciliation? [Algeria : Ten years after the Charter, Where the Reconciliation Stands] *RFI*, September 29, 2015, <http://www.rfi.fr/afrrique/20150929-dix-ans-charte-reconciliation-algerie-disparus-paix-victimes>
- ² This was also the time of the impoverishment of the popular classes and the atomization of the middle class. The population growth – with the birth rate at 3 percent, an increase from 8.5 million inhabitants in 1962 to 26.6 million inhabitants in 1993 – and a rapid urbanization (almost 50 percent in 1988), hampered the social development strategy at all levels. Unemployment was close to 30 percent, living conditions were deteriorating and a real process of “ghettofication” commenced. In Stora Benjamin, *Histoire de l'Algérie depuis l'indépendance*, Paris: La Découverte, 2006, 64.
- ³ Yahia Zoubir, “The Painful Transition from Authoritarianism in Algeria”, *Arab Studies Quarterly*, Vol. 15, n° 3, 1993, 82-115.
- ⁴ For these reforms, Chadli surrounded himself by reformists composed of lawyers, academics, civil servants, representatives of the army and newspaper editors, led by Mouloud Hamrouche.
- ⁵ Mortimer Robert, Islam and Multiparty Politics in Algeria, *Middle East Journal*, Vol. 45, n° 4, 1991, 575-593.
- ⁶ During these elections, the FIS proved its strong social capital and secured 188 out of 232 seats in Parliament.
- ⁷ The violence and repression of the security apparatuses – from the elections’ cancellation in January 1992 onwards – contributed greatly to the radicalization of thousands of people especially youth. The state opened *El Muhtashadat* (prisons) in the South of the country where some 40, 000 FIS supporters, sympathizers and many others who were not even involved with the Islamist movement were detained. Extrajudicial killings, arrests and disappearances were also practiced. Some 7,000 people are believed to have disappeared and the fight against terror was atrocious as showed by the 16,930 jihadists that are believed to have been eliminated by the security forces throughout the conflict. Civilians would be caught hostage of this war and violence against them reached its pic with the massacres of the summer 1997.
- ⁸ Stephen Stedman, “Spoiler Problems in Peace Processes,” *International Security*, Vol. 22, No. 2, 5.
- ⁹ The “Eradicators” were individuals who used to be former officers in the French Army and who held after the independence of Algeria in 1962 top positions in the Algerian military. Among the most famous Eradicators were the Chief of staff of the army, General Mohammed Lamari and Prime minister Redha Malek.
- ¹⁰ In addition to their political, economic and military power, the eradicators had the support of France that did not want to see Algeria turned into an Islamic Republic, Iran style in the South of its shores. Brian Riedy, “Spoiling in Algeria and the Collapse of the FIS: An Analysis of Algeria’s Spoiler Problem”, 1994-1995, E-PARCC, Syracuse University.
- ¹¹ Christian Hoche, Les Premiers Pas [The First steps], *L'express*, September 22, 1994. https://www.lexpress.fr/informations/les-premiers-pas_599568.html
- ¹² Zerrouky Hassan, *La nébuleuse islamiste en France et en Algérie*, France : Éditions 1, 2002, 171.
- ¹³ Françoise Germain-Robin, Le président Zéroual annonce des élections en 1995 [President Zeroual Announces Elections in 1995], *L'Humanité*, November 1, 1994. <https://www.humanite.fr/node/90280>
- ¹⁴ *El Wasat* (London), n° 138, 19 September 1994.
- ¹⁵ Tawil Kamil, *el haraka el islamiya el moussallaha fi el djazair. Mina el inkad ila el djama'a* [Le mouvement islamiste armé en Algérie. Du FIS au GIA], Beyrouth: Dar Enahar, 1998, 608.
- ¹⁶ Tawil, 1998, 608.
- ¹⁷ Martinez. Les enjeux des négociations entre l' AIS et l'armée, *Politique étrangère*, n°4 - 1997. 499-510. http://www.persee.fr/doc/polit_0032-342x_1997_num_62_4_4691
- ¹⁸ It should be noted that throughout the conflict, the AIS fighters took their orders from Mezrag and not from the FIS political leaders. Omar Ashour, *The De-Radicalization of Jihadists: Transforming Armed Islamist Movements*, Routledge, 2009, 59.
- ¹⁹ It should be said that Significant criticism within civil society raised against the charter. For instance, the families of victims and missing parents disagreed on being associated with the families of perpetrators under the category “victims of the national tragedy;” they created associations, called for the refusal of what they called the “law of impunity” and for the establishment of truth. The lack of dialogue led to a greater suspicion towards the authorities that were perceived as in need of “burying the files” and starting with a clean slate. To put an end to these critics, the government invoked the referendum as the ultimate proof of people's will in favor of the solution.
- ²⁰ Dalia Ghanem-Yazbeck, A life after Jihadism. November 17, 2017, *Carnegie Middle East Center*. Available on: <https://carnegie-mec.org/diwan/74708>
- ²¹ In Martinez Luis, *La guerre civile en Algérie*, Paris : Karthala, 1998, 275.
- ²² Dalia Ghanem-Yazbeck, Algeria on the Verge: What Seventeen Years of Bouteflika Have Achieved, April 28, 2016, *Carnegie Middle East Center*. Available on <http://carnegie-mec.org/2016/04/28/algeria-on-verge-what-seventeen-years-of-bouteflika-have-achieved-pub-63438>

Lebanon and the fog of reconstruction

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The Man with the Golden Shoes [al-rajel du al-na'l al-dabi] (2000) is a documentary by the late Syrian director Omar Amiraley. The film provides a portrait of the former Prime Minister and architect of Lebanon's post-war "reconstruction," Rafik Hariri. It opens with a clip of a 10-story building in downtown Beirut collapsing from an explosion. The building's ruin is not by conflict but reconstruction, the planned detonation of dynamite at the structure's foundation. A large cloud of dust rises from the collapsed building and the screen is engulfed in the fog of reconstruction. In Lebanon, the fogs of war and reconstruction have at times been difficult to distinguish.

In this paper, I am not suggesting that a certain type of sociopolitical and economic, as well as material, rebuilding did not occur in Lebanon in the 1990s following the end of the Civil War. The vast reconstruction led by, and formed around, the urban development corporation Solidere in downtown Beirut that eventually followed the signing of the Ta'if Peace Accords *did* mark a new era in the country. Indeed, the Solidere project is described by the architect Bernard Khoury in typical hyperbolic fashion as, "the largest real estate adventure on the planet at the time."¹ It certainly was in the 1990s the single largest real estate corporation in the Middle East and formed the core of the national reconstruction project for Lebanon. But, I argue, this process was neither a clean break from the dynamics of the Civil War nor an attempt to rebuild a social contract to establish a post-war phase.

The post-Ta'if reconstruction of Lebanon focused around downtown Beirut, and its transformation into an urban development corporation (Solidere), was aimed at building a socio-political and economic order organized around luxury real estate and the service industry. This reconstruction produced an order that continued certain forms of conflict between former militia leaders and political-economic figures, such as the Rafik Hariri, in new forms. More, it sustained the extraction of social wealth.

Many of the country's contemporary failures, for instance, in affordable housing, infrastructure, waste management, urban governance and open space, as well as the vast accumulation of debt, can be traced to the battles over and within the reconstruction.

Reconstruction of the built environment is often tied to the end of war and the start of a post-conflict period but this link maybe misplaced. Reconstruction can also result in violence, displacement and social discord that is more commonly associated with the built environment's destruction. As many of the papers in this series assert, we need a deeper understanding of what reconstruction consists of, its processes and its complex relationship to conflict that is generally understood to simply supersede.

To disrupt the link between reconstruction and post-war periods, I provide an account of Lebanon's reconstruction that highlights the "sediments" of the Civil War in it. I do so by tracing the start of this processes within the Civil War and not - as is normally the case - in the post-Ta'if era and the inauguration of Solidere. The reconstruction that was implemented in the 1990s can be traced back to 1977. If we are attentive to the broader historical horizon of the reconstruction we can understand how it was responsible for not only the extensive destruction of the built environment but also for the continuation of certain types of conflict and extraction of social wealth.

To comprehend how reconstruction can be violent and tied to conflict, it is integral to recognize that war is not only about the destruction of the built environment. Construction and the control of mobility, in particular within urban areas, can be utilized to impose violence on others. Buildings and infrastructure, and the spatial networks they form, can be central to social relations and an integral part of socio-political and economic identity. How reconstruction processes organize urban space can often be part of ongoing conflicts rather than a break from

them. The choice, means and method by which particular infrastructure, housing, government and financial institutions, were reconstituted and reconstructed was of profound economic and sociopolitical importance to competing factions both within and outside Lebanon. For example, the enclaved Beirut that emerged in the Civil War years was not only a result of the destruction of the built environment but also its re-formulation through construction during wartime. Militias used the provision of basic urban services as a strategy of control and intimidation of both their “own” population and “others” (Yahya 1995: 107).

The various militias endeavored to literally construct their respective sectarian enclaves.

The destruction and displacement that occurred in and around the center of Beirut was followed by the extensive construction and reformulation of urban space in the city’s peripheries. The war produced dramatic changes to the urban geography of Lebanon and Beirut’s role as the socioeconomic and political metropole was replaced by no less than ten militia controlled cantons built around several newly constructed ports along the Lebanese coast (Trablousi 2007: 232). Militias also shifted rural populations into the city to facilitate the acquisition of a religiously homogenous area (Yahya 1995: 110). The construction sector was one of the few sectors of the economy that continued to expand during the Civil War. A World Bank report notes that before the Civil War, in 1974, construction represented US\$141 million, an estimated four percent of GDP, by 1988 this had grown to US\$328 million, representing 10 percent of GDP (1991: 3). The absence of government supervision meant that developers were keen to exploit land over the permitted or appropriate legal restrictions (Eddé 1997: 116). General construction and land assembly, as well as the sub-division of land, were active in the war years (World Bank 1993: 34).

The Lebanese Civil War certainly entailed the destruction of the built environment but simultaneously it produced a certain type of (military) urbanization. Not only were regions and neighborhoods turned into sectarian enclaves

but windows were replaced with wood, wooden doors replaced with steel, neighbors replaced with strangers and open streets transformed into fortified compounds. The war, scholars and architects have noted, produced an urban project that killed the prospect of an open and plural city, one I contend has continued to the present day (Yassin 2010; Verdeil 2001). As Bernard Khoury told me, “I compare Beirut to an extremely crowded room full of people that turn their back to each other, packed with solitary islands, all these building are very solitary, they do not communicate with one another.”²

In addition to the Civil War producing a socially antagonistic – even violent - urbanization, the reconstruction that began in earnest following the end of the “War of Liberation” and the signing of Ta’if Agreement was not a clean break from the conflict period. The Ta’if Accord was a Saudi-Syrian agreement, overseen by the United States, that placed Lebanon firmly under Syrian occupation but finally ended fifteen years of war. The deal constructed around the Accord was that Syria would allow Rafik Hariri to lead the economy and reconstruction process, while the Syrians remained in control of security and foreign policy posts (Foreign Affairs, Interior, Defense and Information) (Denoeux and Springborg 1998). Rafik Hariri and his reconstruction project (the center piece of which was Solidere) played a central role in the United States and Saudi Arabia allowing, and even facilitating, Syrian military hegemony in Lebanon through the Accord. The Ta’if Accord was not a final and definitive resolution to the civil war but rather a pact to - temporarily and precariously - halt direct conflict. The reconstruction, meanwhile, was a means through which many conflicts continued.

The sediments of the Civil War were embedded in the reconstruction and in certain ways the reconstruction was the extension of conflict through the construction and re-formulation of the built environment. One of the very first large scale infrastructure projects to be undertaken was the construction of a trench around the Beirut Central District (BCD) to secure the territory of the area for its transformation into a corporation. Solidere was created as a distinct entity enclosed from the rest of the

city expressing perhaps the continuation of the military urbanization of the Civil War. The preparations made for its formation entailed the extensive destruction of the very BCD it was tasked with “reconstructing.”

It was not only the physical form of Solidere that was embedded within the logic of the Civil War. The reconstruction process became an important means through which public resources were redistributed to former militia leaders and other power brokers in Lebanon. Solidere formed an important part of continuing socio-political and economic conflict within Lebanon and an alternative institutional space for financial flows to be directed toward patronage networks constituted by socio-political, religious and economic elites.

The complexity of the Lebanese Civil Wars meant that at several moments when open conflict had halted, the inhabitants and even the government thought that the Civil War was over and the reconstruction phase could begin, only for conflict to start again. The reconstruction process that began after Ta’if, and placed Solidere and the BCD at its center, was the third significant attempt to begin rebuilding. The reconstruction phase that began in 1991 cannot be understood independently of the multiple previous attempts to rebuild during Lebanon’s civil conflict, most notably in 1977 and then in 1983.

I identify 1977 as the pivotal year because this is when a Beirut Central District Plan (1977-1986) formed following the declaration of a ceasefire. This plan, building on preexisting legal frameworks, introduced the general provisional laws for the financing of real estate companies that would form the basis for Solidere in 1991 (Kabbani 1992: 8). The 1977 reconstruction also put in place the Council for Development and Reconstruction (CDR). The CDR was given extensive powers for planning, financing (including borrowing and lending powers), execution and supervision of all reconstruction programs (World Bank 1991). It also created the plan and legal framework for the formation of a private real estate company, that resulted in the formation of Solidere and its ability to acquire ownership of the entire BCD area. Formed by Prime Minister Salim al-Huss, under a Sarkis Presidency

struggling for power and legitimacy, the CDR and its reconstruction was expected to act rapidly to consolidate the halt in fighting and solidify the presidency of Sarkis (backed by the Syrians). The Israeli invasion of southern Lebanon in 1978 and the escalation of fighting between Christian militias and Syrian forces shelved the plans for reconstruction in this period, however.

In 1983, a halt to the fighting meant that once again the reconstruction plans, and even implementation, started again. Amin Gémayel issued a new set of plans. This included a series of plans created by Dar al-Handassa (DAR) in 1983 and 1986 commissioned by Hariri’s corporation Oger Liban and funded by him. These involved a plan for the redevelopment of the northern littoral between Beirut and Jounieh (the Linor project). This was a region Gémayel wanted to assert his authority on due to its strategic importance (Eddé 1997: 105). But more significantly these plans by DAR were critical to the formation of Solidere and the Hariri-led “reconstruction.” Gémayel it seems was also cognizant of Hariri’s designs on the downtown area and attempted to dilute the focus of the reconstruction on this area (Eddé 1997: 107).

Charbel Nahas, former Minister of Telecommunications, who worked with Oger Liban during this period, related to me in an interview, how Hariri requested that he and his students from the newly established Lebanese University assist in the formation of plans to clear the rubble in and around downtown Beirut.³ Charbel stated that he convinced Hariri, Amin Gemayel and the Minister of Public Work’s Pierre el-Khoury to launch a new survey of the downtown area based on the 1977 plan. The subsequent study showed that the buildings had deteriorated significantly mainly due to neglect rather than the direct impact of fighting. In 1983, Oger Liban undertook an extensive demolition of the downtown area in the name of reconstructing damaged buildings. Many have documented how the most extensive destruction of downtown Beirut did not occur in contexts of open conflict but rather in periods of peace in the name of “reconstruction,” specifically in 1983, 1986 and then finally in 1992. Oger Liban is accused of destroying many significant buildings in the downtown area (including Souk al-Nouriyeh, Souk

Sursuq and parts of Saifi) during its “clear up” operations (Makdisi 1997; Salam 1994; Schmid 2002).

By the end of 1983, the Civil War had flared up once again and included the infamous bombing of the US Embassy and the US Marine headquarters. The increased tension in Lebanon between competing factions in this period and internationally also coincided with Hariri taking a more public and forceful role in attempts to halt the open conflict of the Civil War.⁴ This period also marked a turning point in the plans for the downtown area. Nahas, who worked for Oger Liban at the time, said by 1984 the return of conflict created a different “logic in people’s relation to the city.”⁵ “In 1984 it was absolutely different,” Nahas explained, “no one was in the mind of coming back... it was a much more ambitious approach that needed to be put in place to justify the re-centralization of the city.” In 1986, Oger Liban published a new alternative Master Plan for the Beirut Central District (BCD) that for the first time introduced an up-market private development and joint-stock corporation for the entire BCD that we are familiar with today. Nahas stated that he “diverged very seriously” with these plans for downtown Beirut.

The third set of plans for downtown Beirut that would result in the establishment of the joint-stock corporation Solidere in 1994 would have to wait, however, until the “War of Liberation” (*harb al-tahrir*) ended. The so-called “War of Liberation” was one of the most brutal episodes of the Civil War. This conflict killed an estimated 1,000 civilians, resulted in mass displacement and extensive destruction in and around Beirut. An IMF report, for example, notes how the Lebanese economy had shown much flexibility and resilience during the civil war years but that “1990 was possibly the worst year for the economy since the conflict began” (1991: 5). It noted that, “Unlike in 1982, the conflict was centered in East Beirut and the surrounding areas, where there is a heavy concentration of industrial and financial activity” (5). The “War of Liberation,” however, would prove to be the final major open conflict of the Civil War. The geopolitical climate with the end of the Cold War, global expansion of American power, Syria’s participation in the UN-led operation to liberate Kuwait from Iraqi occupation and

Iranian power in remission, meant the start of Ta’if Era could begin in earnest by the start of 1991.

As soon as the open conflict halted a rapid political, legal and economic mobilization occurred for the reconstruction effort led by Hariri. Indeed, Hariri moved so fast the World Bank even called for the reconstruction plans to be slowed (World Bank 1992). In the period of 1991-1994 a heated public debate concentrated on the plans proposed for Beirut and the scheme to turn the entire Beirut central district into a real estate corporation. In the summer of 1991 a new master plan, paid for by Hariri, was launched by DAR led by the prominent Lebanese architect Henri Eddé and became known as the Eddé plan. Alongside the master plan, the CDR agreed to a new \$6.9 million study for Lebanon, funded by the Hariri Foundation, and created by the American engineering firm Betchel Group and DAR. This plan culminated in the *Horizon 2000 for the Reconstruction and Development of Lebanon* that envisaged a US\$12 billion national reconstruction and that placed what would become Solidere at its center. The Eddé plan caused enough public opposition for the plan for BCD to be reformulated. Henri Eddé resigned over what he stated was his own naivety regarding Hariri’s intentions and his ambitions to protect his client, “qui était l’Etat” (Eddé 1997: 126). A new master plan and Solidere was officially incorporated on the 15th May 1994 and two months later was inaugurated under highly controversial circumstances related to the legality of its formation (Law 117/91) and corruption. Alongside Solidere, two more large real estate corporations – Linord and Elisar - were launched in the 1990s through Law 117/91. These projects have largely been forgotten about, however, as they were never initiated due to lack of funding and entanglement in political disputes.

The rise of Hariri and his Solidere project was remarkable in a violent and fractured Lebanese context. Hariri’s Solidere led-reconstruction project produced a new economic order focused on luxury real estate that was part of a complex shift of resources and social power into the hands of factions connected to Hariri. As a number of scholars have detailed, the Solidere led-reconstruction process was part of an intricate set of flows of rents created

through compensation, Treasury Bills, high interest rates, tax avoidance and real estate speculation.⁶ Lebanon's sovereign debt by the end of the 1990s would be among the highest in the world, with much of this debt owned by Lebanese banks either owned directly or associated with Hariri.⁷ The "reconstruction" was central to the ability of Hariri to accumulate social power in a highly fractured and often violent social context. Solidere and the broader reconstruction that was pivoted around it, was an integral part of the profound accumulation and concentration of social power that Hariri had established in Lebanon by the early 1990s. As Paul Salem (1998) noted, "Never has one individual wielded such a combination of public and private power in modern Lebanon as has Rafiq Hariri" (21).

The formation of Solidere and with it the Second Lebanese Republic was also a violent process. Saree Makdisi (1997) details how the election of Hariri in 1992 was followed by the strengthening of the "repressive apparatuses of the state" (697). Old censorship laws previously ignored were now enforced; the death penalty was brought back for political and civil crimes; the widespread allegations of torture and abuse of prisoners in Lebanese jails; and since 1993 a ban placed on streets protests of any kind. In 1996, a military curfew was placed on Beirut and other cities to prevent a planned strike planned by the General Labour Confederation; Hariri notably declared that, "we will not allow the government to be toppled from the street" (cited in Makdisi 1997: 698). Lebanon under Hariri, Makdisi argues, "witnessed both an astonishing increase in the activities of repressive state apparatuses as well as an increase in the state's role in those forms of public planning that – as opposed to health care, education, and low-income housing – are calculated either to yield immediate private profits or to improve the infrastructural conditions for the generation of private profits" (698).

Solidere was also directly associated with violence. Bahij Tabbara who created the legal framework for Solidere stressed that the real estate corporation is not an ordinary business, "the concept was to force the tenants and land owners to form a stock exchange company against the value of their share, it was a kind of expropriation but it was not a real expropriation. But the tenants were

forced into a company."⁸ Many of property right holders supported the creation of Solidere, as property rights over the years had become fragmented into thousands of different claims. But many other property owners did not agree with the formation of Solidere and were often violently dispossessed of their claims.

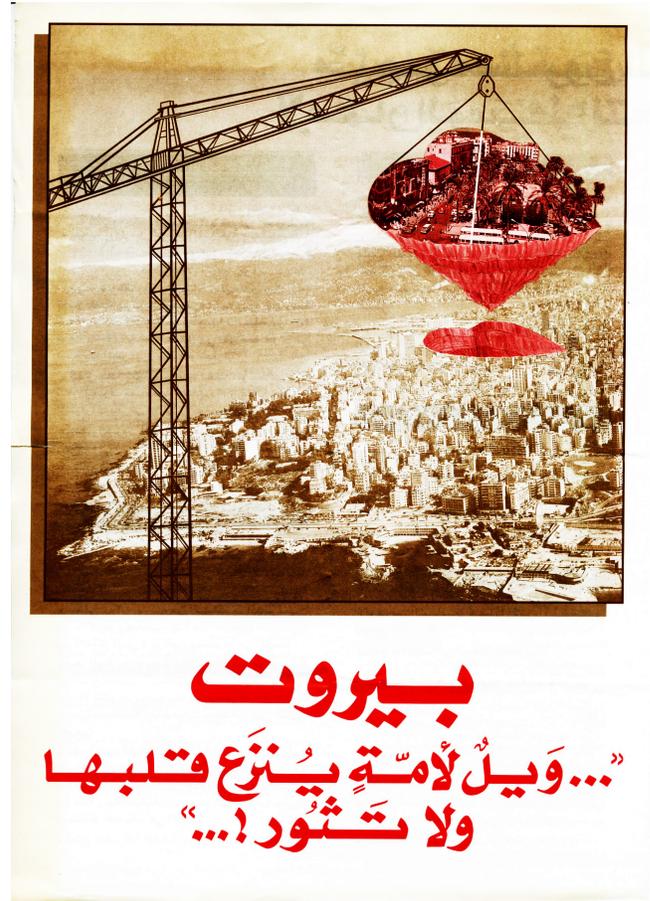


Image 1: A poster by the Association of Owners Rights in the Beirut Central District that reads "Woe to a nation that rips out its heart and does not revolt!" Circa 1993. Source: Archives of The Arab Center for Architecture (ACA). Copyright: The Association of Owners Rights in the Beirut Central District. Used with permission.

The Association of Owners Rights in the Beirut Central District formed and campaigned against the actions of Solidere (See Image One). Not only, as noted above, in preparation for the creation of Solidere result in the large-scale destruction of much of the BCD (rather than active conflict). In 1996, a building in Wadi Abu Jamil (plot 999 Mina el Hosn) collapsed, killing 15 people who

were squatting in the building and seriously injuring eight others. Much of the media at the time accused Solidere of weakening the foundations of the building but no one was prosecuted (Wakim 2002; Tarraf 2014). Makdisi notes that when this family of squatters were killed, “many people’s worst fears were confirmed: there would literally be no space in the revitalized and gentrified cosmopolitan city center for such destitute and “undesirable” migrants” (1997: 700).

As Solidere was formed, and the broader reconstruction in Lebanon that was organized around it, it has continued to be a source of intense tension within the country. As Najib Hourani (2011) has argued Solidere is part of “illiberal and antic cosmopolitan forces” and illustrates how the reconstruction process has been utilized by Lebanese elites “to turn reconstruction to the reproduction of the their own nation-fragmenting power” (159). As many people in Beirut lament, there has not been any space for the Lebanese themselves in the newly constructed downtown area. As the Lebanese poet Youssef Bazzi writing for the Solidere sponsored journal *Portal 9*, for instance, stated:

When I take the Fouad Chehab Ring Road from Hamra to Achrafieh, I realize that people cross back and forth from East to West Beirut and bypass that island, the city center, isolated from traffic and the arteries of daily business, society, and economy. It is an island, or in the tradition of the Commonwealth, a fenced plot and an exclusive social club, for the recreation and leisure of the elite (2012: 12-13).

Now the fog of reconstruction has receded, it is all too clear how the reconstruction in Lebanon was never aimed at rebuilding a social contract or establishing a post-conflict era rather it was part of an accumulation of social power by one faction over others. The reconstruction was one that often resulted in violence against the built environment and its inhabitants through the destruction of construction. Reconstruction is not, necessarily, the mark of a post-war era. It too can be part of conflict by competing groups and result in socio-political and economic violence against civilian populations. The lesson of the Lebanese reconstruction is that rebuilding can

be play a central part in sustaining conflict rather than creating a new social contract to work toward efforts to sustain peace. The link between reconstruction and post-conflict eras should not be automatically assumed but rather understood as something that needs to be forged.

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- ³ Nahas, Charbel. Former Minister of Telecommunications and former employee of Oger Liban. Recorded interview with author. Beirut, Lebanon. July 18, 2016.
- ⁴ Hariri took a prominent public role in the failed National Dialogue peace talks in Geneva at the end of 1983 and again in Lausanne in 1984.
- ⁵ Nahas, Charbel. Former Minister of Telecommunications and former employee of Oger Liban. Recorded interview with author. Beirut, Lebanon. July 18, 2016.
- ⁶ For detailed accounts of how Hariri and his associates organized the reconstruction around a set of rents, compensation and sovereign debt see Baumann 2012, 2017; Becherer 2005, 2016; Makarem 2014; Leenders 2007; Sakr-Tierney 2017;
- ⁷ Jad Chaaban has produced important research mapping the control of the banking sector, he notes that from 2006-2015, Saad Hariri has made US\$108 million from the public debt. See <http://erf.org.eg/publications/ive-got-the-power-mapping-connections-between-lebanons-banking-sector-and-the-ruling-class/>, accessed June 1, 2018.
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Libya's Policing Sector: The Dilemmas of Hybridity and Security Pluralism

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Restoring and reforming the policing sector has long been regarded as one of the critical tasks of post-conflict reconstruction, essential for service delivery, the promotion of the rule-of-law, and the protection of elected institutions. Yet it is beset with multiple challenges for international donors: the formal police, depending on their status pre-conflict, may have fragmented amidst communal and factional conflict; they may be outgunned by more powerful non- and sub-state actors who have yet to demobilize; they may have committed human rights abuses.² Libya offers intriguing insights into the form of post-conflict policing best suited to the challenges of reconstruction in today's Middle East.

Scholars of post-conflict policing increasingly argue that outside assistance focused solely on state-centric policing actors discounts the everyday impact of the *informal* security sector, which may in some cases be more responsive to the public's needs.³ As noted by a recent study conducted by the United Kingdom's Department for International Development (DFID), "the dominant focus on state providers of security also overlooks the existence of alternative forms of security provision."⁴ Acknowledging the power of these alternate providers, the so-called hybrid model, as explained by Mark Sedra, envisions "co-governance arrangements between state and non-state authority," recognizing that the "Weberian state is out of place in most settings."⁵

This paper draws on extensive interviews conducted with Libyan security actors from 2015 to 2017 to apply the models of hybridity and "security pluralism," to analyzing Libya's policing sector. After a brief survey of the decrepit state of MOI policing forces, it discusses how a number of informal actors—namely, militias, tribal leaders, and Salafist armed groups—are making their presence felt in local policing processes. It concludes by arguing that hybridity is inevitable over near and medium term,

though international donors must proceed carefully to avoid exacerbating the risks and perils inherent in this arrangement.

The hybrid framework for security governance seems particularly apt for Libya, where Qadhafi's 42-year reign and experiment in "statelessness" left formal institutions impoverished. Policing bodies were especially hollow. Long neglected under Qadhafi in favor of security brigades commanded by the dictator's sons, the intelligence apparatus, and the revolutionary committees, Libya's national policing suffered further deterioration during the country's post-2011 collapse. Successive efforts by Libya's transitional authorities, assisted by outside states, to reform the police have largely failed. This was partially due to scattershot international initiatives but also political fractures on the Libyan side and especially, the distortions of Libya's rent-based oil economy which incentivized a culture of predation and plunder by armed groups.⁶ The result has been a political and factional contest for control of policing bodies and access to state funds, resulting in the creation of parallel policing bodies, typified by the Supreme Security Committees in 2012, to perform policing duties under the nominal authority of the Ministry of Interior (MOI).

With the fracturing of the country into warring factional blocs in 2014 (the "Dignity-Dawn" split) the political contest for control of police intensified.⁷ In tandem, the growth of subnational armed formations tied to towns, neighborhoods, or religious groups has vastly eclipsed the power of the uniformed police. Judicial processes have ceased to function, and customary tribal law has filled the vacuum. The net result of this disorder has been a situation in which weak "official" policing bodies must coordinate and cooperate with informal security actors, namely, powerful armed groups and social authorities such as tribal elders.⁸

Ministry of Interior Police Forces: Ill Equipped and Fractured

Ministry of Interior forces across Libya suffer from an array of afflictions: national political conflict; shortfalls in equipment and training; poor administration, procurement, and resource management; challenges from local armed groups and criminals, to name a few.⁹ Interviews with policing officials reveal that the most pressing shortfalls are in the areas of security communications technology (partly a legacy of the Qadhafi era when such equipment went to the intelligence service), body armor, forensics and laboratories, and armored vehicles. Libya also lacks sufficient in-country police training facilities.¹⁰

Adding to this is an incapacitated judicial and penal system, competition between different policing units for funds and equipment, blurred lines of authority, and the creeping dominance of military bodies in policing. Processes for personnel appointments and promotions are sometimes non-transparent and based on personal and tribal patronage. Mechanisms for apportioning responsibility to units are similarly opaque, often through task-specific “contracts” or direct cash payments to armed groups.¹¹ Policing functions with low political or economic stakes operate with greater autonomy and less political interference—these include the municipal police or *baladiya* (who deal with such matters as the certification of restaurant hygiene) and traffic police.¹²

At the municipal level, MOI policing capabilities reside within Security Directorates that include criminal investigation (CID), emergency or first response forces (*quwwat najda*), and other functions. MOI police across the country operate on the basis of a number of Qadhafi-era laws, combined with more recent decrees such as Article 179 of the draft constitution.¹³ At least in theory, the MOI in Tripoli appoints the heads of local Security Directorates across the country—the MOI website lists 57 Security Directorates across the country subject to its authority.

The reality on the ground is much different. At the national level, security sectors are split between two competing

blocs, each claiming legitimacy and sovereignty: the House of Representatives (HOR) and the Libyan National Army (LNA) in the east and the Government of National Accord (GNA) in Tripoli. Well over half of these directorates are outside Tripoli’s control and under the nominal oversight of the eastern HOR bloc. Security Directorates under eastern control appear to derive their authority from Resolution 705 issued by the Undersecretary of the Interior of the Libyan Interim Government (the Bayda-based government) in the summer of 2017.¹⁴ Such resolutions, however, are often vague making effective oversight by legislative, judicial, and executive authorities almost meaningless.

Hybridity at Work in Libya

Despite the common portrayal of Libya as a Hobbesian free-for-all, there are pockets of effective security governance in certain towns and regions. In particular, municipalities with a degree of social homogeneity (along tribal and ethno-linguistic lines) have managed to affect limited success in policing through hybrid security arrangements. Here, usually under the umbrella of an elected municipal council, MOI police coordinate, often uneasily, with other security actors. These include armed groups that have been “deputized” by political authorities with legal cover. Often, however, these groups are deeply involved in smuggling and other illicit activities and their provision of security amounts to little more than a protection racket. These arrangements have deep roots in post-revolutionary Libya, in structures such as the “security coordination rooms,” which were set up in 2012 and 2013 by successive Tripoli governments and whose whose overall record has been mixed. Overlaying this cooperation between formal and informal forces is the continuing influence of traditional norms as a framework for settling disputes. The resolution of crimes through customary law (*urf*) and social mediators (*hukama*) continues to be prevalent across the country, even if the majority of Libyans in recent polling express a preference for formal state mechanisms.¹⁵

The dilemmas of hybridity are starkest in the capital of Tripoli. Here, security is ostensibly maintained through

coordination between the official Tripoli Security Directorate and a number of armed groups who hold sway over various neighborhoods—all of which are notionally tied to the Ministry of Interior under the Government of National Accord. Increasingly, this arrangement is delineated both geographically and in function. In theory, the Tripoli Security Directorate can patrol all over Tripoli, but it must often inform the reigning militia of a particular neighborhood of any actions it takes—and, because of its weakness, it cannot undertake armed actions such as SWAT-type raids on drug dens, deferring instead to the militias, especially a Salafi-leaning militia called the Special Deterrence Force.¹⁶

The limitations of this arrangement are obvious. First, the police are no more than checkpoint police—visible to the casual observer to be sure, but lacking real authority to enforce the writ of the state on serious offenses. More importantly, to this is the growth of the militia-turned police into what scholar Wolfram Lacher has termed “cartels” who control the city’s shadow economy and exert substantial political leverage over the Government of National Accord.¹⁷ The arrangement carries additional risks because of the presence of powerful Salafist militias who exploit their policing narrative to conduct attacks on Libya’s Sufi heritage, which they deem heretical, and various other “un-Islamic” offenses (described at length below).

In eastern Libya, hybridity has been present as well through security relationships between tribes, MOI police, and local armed groups. In Benghazi, the latter were especially evident in the form of neighborhood vigilantes and urban paramilitaries, known in the local idiom as “support forces” (*al-quwwat al-musanada*). The support forces were formed just prior to and after the start of General Khalifa Hiftar’s Dignity campaign in 2014; by some counts, these militias comprised over 80 percent of Dignity-aligned military units at the height of fighting. In the aftermath of Benghazi’s war, they have increasingly taken over neighborhood policing functions, with some being folded under the MOI or, more often, under the authority of the General Command of Hiftar’s LNA.

One such support force, the Majuri Protection Force, based in the central Benghazi neighborhood of Majuri, consisted of 200 personnel, mostly civilian young men along with some police and army officers, according to a key figure in the group. With many of its members hailing from the Awaqir tribe, the unit played a crucial role in combat during Operation Dignity, and then shifted to policing, both in Majuri and beyond, in areas like Sabri and Benghazi University in Gharyounis. In doing so, it coordinated via an “operations room” with the LNA and the uniformed police, along with another support force from the Bu Hdeima neighborhood.¹⁸ In July of 2017, the Majuri Protection Forces announced the handing over of its headquarters to the Libyan National Army’s “anti-terrorism unit”¹⁹ While this is likely an attempt by Hiftar and the General Command to assert greater control over these local paramilitaries, whether it really diminishes their power is unclear.

This latter process highlights another trend of hybridity in the Hiftar-controlled east: tribal and communal conflicts over policing. In practice this has also been reflected in competition within and between Ministry of Defense (MOD) and Ministry of Interior bodies, and a creeping militarization of policing, whereby MOD bodies such as the Special Forces challenge the MOI police. Often done on the basis of “counterterrorism,” this militarization reflects the complex personal and tribal rivalries that permeate the various security bodies. Clashes between the Special Forces—specifically the 21st Battalion (also known as the Zawiyah Martyrs’ Brigade) and the Benghazi Criminal Investigation Department (CID) recently led to the resignation of the chief of the CID.

As shown from other cases in the Arab world, dominance of MOD actors in internal security perpetuates the longstanding lower status of MOI policing actors—which makes itself felt in poor training, equipment, and facilities—and encourages bribe-taking and corruption by police officers. It is also leading to the non-transparency of security sector data, rules and regulations, and performance reports.²⁰

Norms Based Policing: The Growing Strength of Salafi Policing Actors

One trend of hybridization that is common across the country is the dominance of Salafi-leaning armed groups in local policing. While theoretically eschewing political involvement on the basis of their doctrine of so-called “quietism,” Libyan Salafists had a longtime presence in the policing sector under Qadhafi who saw them as a useful counterweight to more politically active Islamists like the Libyan Islamic Fighting Group (LIFG) and the Muslim Brotherhood. Salafi policing actors gradually reemerged in the wake of the 2011 revolution, focusing first on attacks on the rival Sufi sect and then on combatting the flood of narcotics and alcohol into the country. In western Libya, they are epitomized most starkly by the aforementioned Special Deterrence Force, based at Tripoli’s Mitiga airport, and are increasingly present in other western towns. In the central town of Sirte, recently liberated from the Islamic State, a Salafi brigade with a narrow tribal composition, the 604th Brigade, has taken over policing functions.

In eastern Libya, many Salafis joined General Hiftar’s Dignity campaign, either via existing LNA units or newer, hybridized formations comprised of civilian fighters and uniformed officers. Still others joined an exclusively Salafi militia, the Tawhid Brigade, which was renamed the 210 Mechanized Infantry Brigade after the death of its commander. As of late 2017, the 210 Brigade was a major policing actor throughout Benghazi and the oil crescent though by 2018 it had reportedly been broken up and dispersed.²¹ Among Libyans across the country, the Salafis are a source of unease. While some laud them for tackling crimes like drug trafficking, many citizens have decried their increasingly aggressive ideological attacks, exemplified by the closure of Sufi mosques and attacks on Sufi shrines, the confiscation of books they deem heretical, and the well-reported closure of an “Earth Day” celebration at Benghazi University, which they accused of being “Masonic.”²²

Conclusion

The overall picture of policing in Libya remains grim

and is torn between two extremes. On the one hand, citizens face a state of endemic instability, criminality and the rule of militias, and on the other, a militarization of policing, marked by a return to Qadhafi-era strictures over civil liberties. Overlaying all of this is intense political competition for policing bodies, between the GNA and the eastern bloc, and the growing influence of Salafi armed groups in norms-based policing.

Recognizing this deficit, international organizations and donors have made reforming and professionalizing the policing sector an especially urgent imperative.²³ But hybridity and “security pluralism” are likely to continue to dominate Libya’s security sector landscape. The dilemma facing international actors is how to harness the beneficial aspects of this trend, particularly community mediators, while mitigating its risks. Those risks and shortcomings are many. One critic of the hybrid model, drawing from fieldwork in Liberia, has pointed out the contested legitimacy among community-level providers and has critiqued hybrid theorists for their reliance on essentialist and fictively “organic” conceptions of local security actors.²⁴ In Libya, this critique bears noting, especially in the case of the often-inflated notion of tribes as discrete and autonomous political actors and the preference of Libyans for state provision of policing and justice over tribes.²⁵ In some cases, the tribes’ notion of justice has come into conflict with the formal judicial sector as exemplified by the Benghazi CID’s demand that tribal elders cease their protection of “outlaws.”²⁶ Added to this peril is the growth of Salafi policing formations and the enmeshment of militia-turned police bodies in smuggling activities and their plunder of state resources.²⁷

Mindful of these dilemmas, international actors should pursue a two-track process that regularizes and professionalizes the uniformed policing sector while at the same time promoting greater accountability, rule-of-law, and transparency among informal, community-level actors. The ultimate goal is not the complete abandonment of the Weberian model but an interim arrangement that accommodates the realities of the state’s truncated sovereignty on the ground.²⁸

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Marshalling Order in Yemen: How Reconstruction Will Make or Break the Post-War Order

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With Yemen's civil war rapidly approaching the five-year mark, talk among international policymakers has turned to questions of the post-conflict order, despite the absence of any clear prospects for the war's resolution. There is broad consensus that building buy-in to whatever political arrangement ends the war will require a reconstruction (or, given the pre-war limitations of Yemen's infrastructure, construction) project akin to a Marshall Plan for Yemen.

Since the late 1990s, there has been broad acceptance in peacebuilding and development circles that there is a correlation between per-capita income and civil strife.¹ Around 44 per cent of countries that have recently experienced civil strife return to war, the World Bank estimates, in part because of failures to address economic grievances.

The idea of focusing on building state legitimacy has gained currency in thinktank and policymaking circles. In May 2015 Sultan Barakat, who is now the director of the University of York's Post-war Reconstruction and Development Unit, argued that restoring legitimacy and rebuilding Yemen were "two sides of the same coin."² Farea al-Muslimi, the chairman of the cofounder of the Sana'a Center for Strategic Studies, first coined the idea of a "Marshall Plan for Yemen" to address the legitimacy deficit. The term was later used by both then-prime minister of Yemen Khaled Bahah³ and members of the Saudi-led coalition that intervened in Yemen in the hope of restoring Hadi to power in March of 2015. In April 2015 Riyadh announced the "Salman Developmental Project for Yemen."⁴

And indeed, Yemen's 2011 uprising against the regime of former president Ali Abdullah Saleh, unrest during the transitional period of 2012-2014, and the September 2014 coup against Saleh's successor Abd Rabbu Mansour Hadi were all driven – in part at least - by a crisis in state

legitimacy, as was the civil war. A key determinant in weakening legitimacy was the failure of the state to provide basic services and infrastructure.

Given the consequences of the current war there are clear incentives for regional and international stakeholders to invest in rebuilding Yemen. The World Bank has led efforts to create a framework plan for reconstruction, predicated on the thesis that, while recovery and reconstruction efforts are vital for Yemen's population, it is equally important for regional security.

Yet a reconstruction project for Yemen cannot simply seek to restore the status quo ante. There is no viable state to reconstruct. Running through much of the international discussion of Yemen's reconstruction is an ongoing disconnect from the realities on the ground, a deeply ingrained assumption that needs assessments can be conducted remotely, without consultation with the local communities among whom donors hope to foster perceptions of legitimacy for the post-conflict political order and with whom they hope future governments will build a new social contract

Planning for reconstruction

The potential cost of such a reconstruction program is likely to be phenomenally high. In internal literature seen by the author, the World Bank estimates that Yemen's reconstruction needs are around \$30bn, of which almost \$17bn would be needed for the first year of implementation.

In December 2017 *Arab News* reported that Saudi Arabia was taking the lead in the planning process for a \$10bn reconstruction fund for Yemen.⁵ Officials in Riyadh have purportedly been working on plans for reconstruction since the announcement of the Salman project. Senior

UAE officials have also publicly discussed their own development plan for post-conflict Yemen. The World Bank, meanwhile, has been working on a “blueprint” for reconstruction and recovery that ties together the humanitarian response to the crisis with plans for governance capacity building and infrastructure funds. The Bank has been conducting its work in cooperation with other multilateral organizations including the United Nations Development Program (UNDP) and major donor nations including the US and UK.

Most planning to date would appear to be based on a number of unrealistic assumptions about the political economy context in which such a program would take place. For instance:

that past external funding bottlenecks will be resolved

- that Yemen’s Gulf neighbors will be able and willing to provide the bulk of the funds required for reconstruction, and will not be tempted to politicize the distribution of these funds
- that post-conflict governance will be implemented by a competent central government, most likely based in Sana’a, and that planning and development institutions will be centralized as before the war
- that past institutional issues including weak capacity, corruption and a political culture of placing factional interests over the Yemeni population as a whole will not feature as markedly in the past

If the past is a guide to future endeavors, the prospects for a successful reconstruction program are dim. Pledges made by the Gulf states to Yemen between 2006 and 2014 were largely directed towards ‘signature’ projects like power plants, ports and airport infrastructure, that would rely heavily on non-Yemeni contractors and the country’s economic elite, and would not deliver tangible benefits to ordinary citizens in the short term. Capacity issues plagued the planning ministry, an issue compounded by infighting within the country’s political class.

The \$10bn figure floated by Saudi Arabia is notable for its familiarity, both as a sum and as a strategic tactic for demonstrating “support” for Yemen which long predates the current war. In 2006, a group of donors pledged \$4.7bn in development assistance to Yemen, of which, by the end of 2010, less than 10% had been dispersed despite Yemen’s status as a growing counterterrorism priority for donor nations. During talks in the UK between the newly-constituted “Friends of Yemen” in 2010, donors including the Gulf states, the US and UK all promised to work to ensure a package of around \$6bn was delivered. Then, in September 2012, following the previous year’s Arab Spring uprising in Yemen, a new set of pledges were made totaling \$7.9bn (a figure that would rise to \$8.1bn by the following March, while estimates of total commitments would later be given of a figure as high as \$12bn). But by the time of the Houthi-Saleh coup of September 2014, less than 20% of funds had been dispersed and those that had were largely made up of a \$1bn soft loan from Saudi Arabia to the Central Bank of Yemen, and pre-existing commitments from Western donors.

State Capacity

In the 2000s, donors blamed the lack of fund dispersal on weak Yemeni government capacity, a lack of Yemeni political will to implement projects, and fears over corruption leading to stringent conditions from Gulf states on the funds they had promised. To circumvent these issues, the donor countries along with the World Bank created a “Mutual Accountability Framework” and sponsored the creation of a new body, the Executive Bureau, to ensure the conditions of the framework, which promised speedy delivery of funds in exchange for tangible developments in Yemeni government budget management, planning, job creation, governance, rule of law and service delivery. Yet internal politicking held up the creation of the new bureau and ultimately left the new body hamstrung from the start (the Yemeni planning ministry successfully lobbied to prevent the bureau from becoming a project implementer, arguing that this would lead to the creation of parallel institutions and weaken

overall state capacity). Once the bureau had been formed, the pace of dispersal and delivery did not increase appreciably.

There was, at least, a functioning Yemeni government during the transitional period. Since early 2015, when president Hadi fled from Houthi house arrest before the Saudi-led coalition intervened on his behalf, the country's institutions have simultaneously fractured and eroded. The Houthi-Saleh alliance became the de facto authority in Sana'a, with the Houthis developing a growing stranglehold over state institutions including the ministries of planning, health, water, electricity and education. This coalition fractured further following a schism in December 2017 that ended with the Houthis killing Saleh. Hadi meanwhile began to reconstitute his government between Riyadh and Aden, with very little actual institutional capacity below the minister level.

Often, the pledges read more like a wish list than a serious plan for reconstruction. Government attempts at planning for reconstruction and development were heavily influenced by past reports, with documents provided to external counterparts "carrying the heavy whiff of copy-paste" from pre-war plans, in the words of a Western official involved in consultations with the Yemeni government. Houthi-run ministries meanwhile have largely been reduced to their bare bones by unpaid salaries, a lack of work to do (little development planning has taken place in Sana'a) and the oppressive role played by departmental Houthi "supervisors". International organizations like the World Bank have largely based post-conflict reconstruction planning on satellite imagery, reporting from the few local institutions that continue to function (like the Social Development Fund) and pre-war development plans for major infrastructure programs of the kind the Gulf states backed before and during the transition.

De facto power meanwhile has fractured well beyond the frontlines between Houthi-controlled territory and that under the nominal aegis of the Hadi government. Mareb governorate is largely autonomous, with the governor

Sultan al-Aradah using revenues generated from local oil and gas sales to pay for local administration, and treating the local branch of the Central Bank of Yemen as his treasury rather than one node in a national-level network. Southern governorates are run with varying degrees of autonomy, with southern secessionist groups backed by the UAE a dominant player in security provision. These groups have regularly clashed with the Hadi government, leading to an all-out battle for control of Aden, Yemen's temporary capital, in January of 2018. Mukalla city, which is run by a senior UAE-backed military official, also acts as an effectively autonomous entity.

There is growing consensus that any post-conflict governance system will have to recognize and encompass the de facto authority of local groups. And indeed, if a post-conflict system of governance is to be considered legitimate by a plurality of Yemenis, it cannot ignore the role of Yemenis' needs. Yet thus far most planning has – in no small part due to the constraints caused by the war – been based on a 10,000-foot assessment of needs. Given the past behavior of Yemen's political elites, who during the transitional period largely focused on zero-sum "beggar-thy-neighbor" tactics within the unity government that caused the collapse of services, security and governance, it is hard to believe that the new post-conflict elite will prioritize, in the event of a mediated resolution to the conflict, rapid restoration of services and improvements in governance.

Western policymakers would appear to assume that the Gulf states, Saudi Arabia and the UAE in particular, will underwrite much of the cost of reconstruction. Yet given past issues with dispersal, the deep involvement of both countries in Yemen's politics, which is likely to remain a feature of the post-conflict landscape, and budgetary constraints at home, this is by no means a given. And if funds are dispersed, project implementation may become deeply politicized (a recent Saudi humanitarian plan was described by humanitarian officials as an "invade Hodeidah plan", on the basis that the proposal was largely designed to prove the crucial port of Hodeidah could be attacked without disruption to the supply of humanitarian aid).

If the assumptions outlined above cannot be overturned, there is considerable risk that, rather than helping usher in peace, reconstruction planning for Yemen could in fact help precipitate future conflict, by being so inherently flawed that it produces no notable benefits for the Yemeni population at large.

But the plan can be salvaged by a commitment to deeply decentralized aid delivery based on hyper-local needs assessments conducted in concert with local bodies including councils, tribes and other parties. Such an approach would be human resource intensive, and would mark a break from practices favored by donor nations, but could mark the difference between making or breaking the post-war order.

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Thinking about Legality: What Memory Studies Can Contribute to Transitional Justice

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A vast, interdisciplinary literature has examined the ways in which post-conflict societies deal with the past. Not all parts of this literature communicate equally well with each other, however. Scales of analysis vary, as do methodological and theoretical assumptions. There is a particular disconnect between law-driven writings on transitional justice, where international politics dominates, and anthropology-driven work on social/collective/historical memory ‘from below.’ In this short memo, I draw on my previous work on Lebanon to analyze how proponents of critical debate about Lebanon’s wartime past envision justice and reconstruction. I argue that studies of formal political processes should engage with the ways in which post-war societies deal with the past and think about justice and legality. This is because cultural work involves political and ideological interpretations that relate directly to law and ethics. By taking the intricacies of memory work seriously as part of the legal-political spectrum, we may be able to arrive at a broader understanding of transitional justice.

While Lebanon has long been seen as ‘post-war’ society transitioning from war to peace in its drawn-out post-war phase since 1990, the absence of war trials in Lebanon have meant that academics rarely analyze Lebanon in relation to transitional justice. This has something to do with definitions. For most scholars, transitional justice is enacted at a point of political transition from more repressive to less repressive forms of governance, or at the point of transition from war to peace (Sriram 2007). At the same time, transitional justice refers both to judicial and non-judicial means of addressing past crimes. Non-judicial measures include debate, art, and other forms of cultural representation of the kind that have flourished in Lebanon. Because this necessary cultural work has not been connected to judicial measures such as criminal prosecutions, truth commissions or reports, or reparations programs led by a ‘transitioning’ Lebanese state, memory makers have tended to view transitional justice as a future-oriented scenario where memory becomes a tool for transition.

The academic literature on the Special Tribunal for Lebanon is mainly couched in the politics of international law. International law experts have analyzed the status of the registry, the rights of suspects and accused, the trial in absentia feature, the regulation of the conduct of counsel, and other legal issues (Alamuddine et al 2014). Others focus on innovations in the STL and compare it with other mixed courts. From a Lebanese point of view, Knudsen (2012), Mugraby (2008), and Blanford (2008) have analyzed the politicization of the STL and the way it contributed to the divide between the “March 14” and the “March 8” coalitions after 2005. Mugraby (2008) highlights how the architects of the STL deliberately delinked it from a longer struggle for justice and why this was problematic. Instead, he argues for a general form of universal jurisdiction through a combination of Lebanese judicial reform and the creation of an international human rights tribunal with the right of appeal from local courts.

Ethnographic studies of memory culture in Lebanon have given us a deep textured understanding of the production of such discourses on memory. By zooming in on the memory makers that dominate the discursive space, memory studies allow us to appreciate, sociologically, the logic of different approaches to the problematic of the past. That is great, but it should not stop scholars from also being critical of the voices that they analyze. I have suggested a number of issues that should be raised in the spirit of sympathetic criticism. I have stressed that the politics of memory and atonement in Lebanon presents a case where the nation state has left the task of addressing difficult questions about mass violence in the recent past to cultural producers and activists. Atonement, which can be political work, is thus transformed into cultural work in a public sphere of cultural production and consumption that too often fails to reach the less educated, less internationally oriented parts of the Lebanese population (Haugbolle 2010: 228-237). That is one level of critique. Another level is the question of whether a wholesale social

revolution through memory work is at all realistic. If not, promoting ‘memory culture’ risks becoming a distraction from other kinds of political work to change the status quo (Haugbolle 2012).

Even though they focus on cultural production, most studies address the politics surrounding memory of the war. Some adopt the memory makers’ wholesale critique of the Lebanese political class and its silencing of the past. They also embrace the supposedly cathartic potentials of memory culture, not just in terms of the healing effect of truth telling for war-scarred individuals, but equally for society and the body politics. In that sense, memory culture is prescriptive of a particular memory politics that would, for most of its proponents— memory makers and memory scholars alike – involve abandoning or reforming consociationalism; trials against former warlords-cum-current politicians; a reformed history curriculum that addresses the civil war more directly; more monuments; and a truth report – or a combination of some of these elements. All of this would bring about not just increased awareness about Lebanon’s wartime past, but something like a social and political revolution. Justice would create transition.

Memory culture and memory makers in Lebanon

The Lebanese Civil War, 1975-1990, was one of the most devastating conflicts of the late 20th century, leaving more than 100,000 dead from a population of three and a half million, and displacing more than two thirds of the Lebanese population. The Ta’if Accord that ended the war in 1989 failed to resolve or even address the key conflicts from the war, such as the sectarian division of power in Lebanon, the Palestinian refugee issue, the presence of Syrian forces on Lebanese soil, and Hizbollah’s status as an armed militia outside the state. Official policies promoted forgetfulness and a spirit of moving on rather than dwelling on, and dealing with, the past. Members of the political class, most of whom had taken part in the war and, in many instances, were responsible for well-documented war crimes, had no interest in remembrance. They conveniently dealt with the legal dimension by engineering a law of general amnesty in 1994. The political order of

post-war Lebanon, therefore, rests on the unwritten rule that legal reckoning with political violence is impossible. As a result, civil society rather than the state has taken the lead in promoting attempts to debate the war’s legacies.

The one partial exception to this pattern has been the Special Tribunal for Lebanon (STL) set up to hold trials for the people accused of carrying out the attack of 14 February 2005, which killed 22 people, including the former prime minister of Lebanon, Rafiq Hariri. However, it is a very limited and incomplete aberration, in that it only refers to crimes committed in 2005, and thirteen years later has failed to bring any individuals to trial. The designers of the STL never intended it to achieve transitional justice, however, nor to engage the ethical questions of war and memory. The STL did not establish any connection to the many existing civil society initiatives of artists, activists and academics, and other ‘memory makers’ who have vigilantly pushed for a culture of active remembrance,

Although the war ended 28 years ago, the question of civil war memory is still acute for many Lebanese, who continue to debate the war and create public commemoration. The killing of Hariri in 2005, the 2006 war between Hizbollah and Israel, and continued political instability in the country since then, have only added to the sense among many Lebanese that war and political violence are endemic to their body politic. As times goes by, the relevance of talking about the civil war can seem to some Lebanese less urgent that addressing current problems such as the Syrian refugee situation since 2011. At the same time, the civil war has remained an important topic for artists and activists who see the seemingly endemic disease of recurrent violence as a structural problem for which the appropriate medicine has to be national awareness of the past and active remembering through campaigns. They include relatives of the thousands of the kidnapped and disappeared during the war, filmmakers, journalists, and artists, as well as NGOs dedicated to discussing war memory.

A case in point are the couple Monika Borgmann and Lokman Slim, who since 2005 have run the documentation and research centre UMAM with a focus on war memory. For them, the Lebanese civil war has continued through

other means in the sense that the periodic rounds of violent conflict plaguing Lebanon since 1990 all relate to conflicts left unresolved since the Civil War (UMAM D&R 2018). Remembering, analyzing and understanding mass violence in Lebanon through public events and exhibitions at their centre in the southern suburbs of Beirut, therefore, is not just an academic exercise for these memory makers. For them, and for many Lebanese engaged in promoting remembrance of the war, it is an urgent task directly linked to political reform, reconciliation and legality. In other words, there is a link between memory work and transitional justice, even if analysts rarely make the connection.

The STL and the push for legality

Ever since the first campaigns and cultural work on memory began in the early 1990s, legal reckoning has been an explicit or implicit goal for memory makers. The novelist Elias Khoury, for instance, wrote important plays and novels about the war and edited the cultural pages of the newspaper al-Nahar, where war memory became a recurrent theme. People like Khoury and the historian Amal Makarem, who organized a large public conference on memory in post-conflict societies in 2001, had hoped that their work would shine so much light on the crimes that current leaders committed during the war that, ultimately, a reawakened Lebanese people would confront the warlords and call for change. Political change could include a truth report, an international commission, or perhaps tribunals (Haugbolle 2010: 64-95). This would, so they hoped, alter the post-war formula of *“la ghalib, la mahglub”* (“no victor, no vanquished”) that allowed political leaders from the war to be integrated into the post-war system, and at the same time established a status quo between Lebanon’s sects, enshrined in the Ta’if Agreement.

As a case in point, Amal Makarem’s 2001 conference and the book that followed from it was called “Memory for the Future” (Makarem 2002). Makarem and others wanted their work to start a social process, which could pave the way for reconciliation rather than the state of ‘cold war’ between sects and groups that characterizes Lebanon today, according to them. There were many positions

in the debate, and some, like the sociologist Antoine Messara, defended the political model of power sharing, while many others argued for total reform along secular lines. But for all of them, a critical, public engagement with the past would eventually open the population’s eyes to the culpability of their leaders and the necessity of a transitional process either to reform the consociational system, or to bring it down altogether. In this scenario, transitional justice does not bring about reconciliation. Rather, memory work would forge national reconciliation, which in turn would become the necessary stepping-stone towards transitional justice.

Whereas the amnesty law effectively took criminal prosecution off the table, both state and society embraced reconciliation as a national goal after the war. Reconciliation became part of the official as well as the critical civil society vocabulary from the early 1990s. Reconciliation was already a stated goal in the 1980s, when the UN and the Arab League tried to mediate and push for peace building initiatives. Similar to the picture of Syria today that Frances Brown describes in her memo here, outside intervention in the Lebanese Civil War was a mixed bag of military support for militias or the state, diplomatic intervention and peacekeeping missions, humanitarian aid, and from the mid-1980s also support for physical reconstruction and social reconciliation. When civil society re-constituted itself in the 1990s, many groups and individuals from the wartime peace movement adopted a new logic of memory work that began to be in vogue internationally. In the age of liberal peace in the early 1990, creating awareness of conflicts in the past became one of the ways for civil society and its international sponsors to stimulate transition to democracy.

Memory and Reconstruction

The Lebanese state ignored or actively counter-acted such discussion about the war. Instead, it sought to address the legacy of the war as set of practical challenges related to physical reconstruction, security sector reform, and repatriation and compensation under a Ministry of the Displaced. As Deen Sharp argues in his memo, the

Lebanese state's ideological focus on reconstruction of the state and the nation through reconstruction of the built environment covered over a political economy that favored the political class.

Civil society groups – ranging from relatives of disappeared and kidnapped to groups of artists, journalists, activists and writers concerned about the lack of public memorialization of the war - felt that a public debate about the war, and hence a process of 'truth telling' and dealing with the past was missing. They argued that this 'state-sponsored amnesia' - embodied by the reconstruction process of Rafiq Hariri that Deen Sharp analyzes - was a conscious policy by the elites of the new regime after the war, which integrated a number of former militia leaders who had no interest whatsoever in delving into the past. Instead, reconstruction became a vehicle of reconstituting the sectarian state in the guise of a neoliberal political economy overseen by an ostensibly reconciled political class. This pattern has continued and only been reinforced by the reconstruction of the parts of Lebanese that were destroyed in the 2006 war between Israel and Hizbollah.

The STL did not address political violence during the war, but still represents the most important attempt to alter the legal-political order of post-Ta'if Lebanon. Established in 2009 to investigate and prosecute the assassination of the former Prime Minister in February 2005, the Special Tribunal is a mixed court based in The Hague. It brings together international and Lebanese judges, and applies Lebanese criminal law. The enactment of the Tribunal's Statute through the UNSCR 1757 from 2007 caused heavy political debate between pro-Hariri and pro-Syria supporters in Lebanon about its legitimacy. Given the disagreement between political parties in Lebanon over the tribunal, it is unlikely that the STL can live up to its promise to deliver justice. The Tribunal indicted members of Hizbollah, but because of Hizbollah's power of and influence, no one in Lebanon, and certainly not the state itself, will arrest them.

Reconstruction in post-war Lebanon, although very different from Syria today, displays a similar pattern

of continuity of economic governance to the one Steven Heydemann describes in his memo. It has not reconstructed a Lebanon that existed before the war, but continued a transformation of neoliberal – and extremely dysfunctional– consociationalism. Like in Syria, the reconstruction process empowered the political economy undergirding the system in Lebanon. In addition, like in Syria, this structural change-so-things-can-stay-the-same was accompanied by an ideological super-structure of promises of national reconciliation. Reconstruction and reconciliation went hand in hand.

Lebanon's memory makers have sought to destabilize this ideology. Meanwhile, for academics writing about post-war Lebanon, memory production became a way of writing critically about reconstruction. In tandem with the emergence of a memory culture in Lebanon since the 1990s, a number of studies drawing on Lebanese cultural production and debate relating to memory have been published. As a result of field work carried out from the mid-1990s onwards, we now have studies of memorials and other forms of material memory culture (Haugbolle 2010; Khatib, 2010; Volk 2010, Maasri 2009), anthropological studies of oral history among younger and older generations (Kanafani 2011; Larkin 2012), and edited volumes covering various locales and perspectives on the ways in which the war has been remembered and forgotten (Mermier and Varin 2010; Choueri 2007), as well as a long list of journal articles and edited books. The academic literature dovetails with, and reflects on, a much larger literature about the war – ranging from memoirs to local histories, interviews and polemical books – published by Lebanese in French, Arabic and English (Haugbolle 2012). Memory scholars like myself have befriended and supported memory activists. All of the resulting studies start from the assumption that Lebanese civil society has managed to address the legacy of the Lebanese Civil War in the absence of any state-sponsored attempt to deal with the past. In that way, the academic literature tends to echo the activist narrative.

These critiques notwithstanding, the memory campaign undoubtedly has established itself as a pivotal discourse in

Lebanese cultural life, which has accentuated the idea that memory of the Lebanese Civil War should be addressed publicly in order to move the nation from trauma to a post-traumatic, post-conflict stage of development. At the same time, that idea has not translated significantly into political action. As of 2018, the Lebanese state has taken no significant steps towards implementing judicial transitional justice, and a recent survey from the International Center for Transitional Justice suggests that large parts of the Lebanese youth have a very limited and often politically skewed understanding of what happened during the civil war (ICTJ 2017). In that sense, there is much work to do, not least in getting Lebanon's political leaders interested in supporting a critical, national debate about the past.

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Normalizing the Siege: The ‘Gaza Reconstruction Mechanism’ and the Contradictions of Humanitarianism and Reconstruction

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In Gaza, the politics of post-war reconstruction raise critical issues about the logic of humanitarianism. This essay analyses the politics of the Gaza Reconstruction Mechanism (GRM), which was set up in 2014 as a temporary tripartite agreement between the Palestinian Authority, the Israeli government and the United Nations. Rather than advance the reconstruction of Gaza, the GRM has normalized the Israeli blockade. The GRM’s operational approach is driven by Israel’s security concerns rather than by genuine concern for the rebuilding of Palestinian lives. As well as legitimizing Israel’s hegemonic narrative, the GRM severely limited the entrance of “dual use” materials and turned the reconstruction process into another technique of domination.

Following Eyal Weizmann, I suggest that the “disengagement” and siege of Gaza constituted a shift in Israeli techniques of power and control, from direct physical occupation and settlement to “humanitarian management” from a distance. The Israeli logic of control and domination converged with the UN’s “neutral” humanitarian approach, which led to the GRM entrenching the siege on Gaza rather than supporting reconstruction. The failures of this UN brokered deal raises questions on the role of international actors in post-war reconstruction, the consequences of humanitarianism, and its relationship with structures of domination such as settler colonialism. Scholarship on the history of humanitarian intervention in the lives of Palestinians underscores this paradox of a humanitarianism, which never brought them closer to their national aspirations.¹

Humanitarian action towards Palestinians by certain international actors may be driven by well-intentioned concern to alleviate suffering. However, the political consequences of supposedly humanitarian relief can have unintended negative effects on the oppressed people

they seek to help. The collusion of humanitarianism with systems of domination is not unique to Palestine-Israel as sociologist Van Krieken suggests that the underlying logic of humanitarianism is an essential, if always contested, element of the colonial project.² Describing the efforts of humanitarians to make the injustices of empire and settler colonialism somewhat more bearable, he argues that an important feature of humanitarianism (during European settlement in Australia) is the extent to which it fitted with the settlers’ concerns, rather than challenging them in any way.³ It is my contention that the United Nations’ approach in the reconstruction mechanism in Gaza reproduced a similar dynamic.

“No prosperity, no development, no humanitarian crisis.”

Gaza came under Egyptian administration in 1948 after Israel expelled some 750,000 indigenous Palestinians. When Israel conquered the Gaza Strip in 1967, it imposed a military occupation and moved to expand its settlements in those areas. Israel’s evacuation of settlements from Gaza in 2005, while intensifying control over all points of entry, signaled Israel’s intention to abandon the area while still retaining control over the population. Today, approximately two thirds of Palestinians in the Gaza Strip are refugees who claim a right to return to their lands in present-day Israel.

Following the 2005 “disengagement plan,” Israel declared that the new regime “will be applied following a legal examination, taking into account the humanitarian situation and with the intention of preventing a humanitarian crisis.”⁴ In 2007, after Hamas took control of the Gaza Strip, Israel outlined to the High Court of Justice its policy that the law of belligerent occupation no longer applies in Gaza and, therefore, Israel bears only humanitarian duties toward its population.⁵

In order to prevent a complete collapse of the situation, Israeli officials also calculated a “humanitarian minimum”⁶ required to sustain the population. Following a legal battle, the Israeli government was forced to release the “red lines” document which outlined the minimum number of calories, estimated by Israel’s Health Ministry based on humanitarian standards, necessary to sustain the people of Gaza without falling below the level of the UN definition of hunger. Israeli academic Adi Ophir argues that the logic underpinning humanitarian assistance to Gaza is serving to “suspend the catastrophe,” which allows Israeli authorities to avoid “the creation of chronic disaster.”⁷ The overarching strategy for Gaza as one Israeli official put it was, “No prosperity, no development, no humanitarian crisis.”⁸ Humanitarianism was thus at the service of Israel’s colonial siege.

In a seminal piece, anthropologist Patrick Wolfe stated that “Settler colonizers come to stay: invasion is a structure not an event.”⁹ While settlers left the Gaza Strip, the structure of control they established has remained in place in a different form. The Israeli “disengagement” from Gaza points to a shift in techniques of domination, from physical occupation to management of the blockade.¹⁰ Israel’s siege, enforced with Egypt’s support, aims to discipline the local population (and Hamas) into submission while retaining the minimum necessary humanitarian concern to protect civilians’ lives. While the movement of goods and people in the West Bank is controlled through checkpoints, the Gaza Strip is regulated through what the Israeli military calls “humanitarian corridors.”¹¹ As argued by Yves Winter,¹² Israel’s technique of domination in Gaza is enforced through a “humanitarian siege,” in which humanitarianism is not a direct challenge to the siege but part of its functioning mechanism.

This builds on what political economist Sara Roy described as ‘de-development’.¹³ Over 60 percent of Gazans now survive through foreign humanitarian aid.¹⁴ In addition to the siege, in the last decade Gazans have faced multiple major military operations. Already in 2009, Israeli authorities were planning the reconstruction process in Gaza, amidst an ongoing cycle of violence, to

become another element in Israel’s politics of siege. “We are studying it,” Isaac Herzog, former Israeli minister of welfare and social affairs, said in a telephone interview with the *New York Times*, “The exact mechanism hasn’t been devised yet.” He added: “Israel helps fully on the humanitarian issue. Thereafter it’s a red line.”¹⁵

“Security:” protection of the settler colonizers

The Gaza Reconstruction Mechanism was established following the 2014 Gaza War, which has been described as one of the most destructive attacks on Gaza’s people and infrastructure. In the war 2,251 Palestinians and 71 Israelis were killed, more than 11,000 people were injured and about 500,000 Palestinians were internally displaced at the height of the 51-day war.¹⁶ According to the UN, nearly 170,000 homes were damaged or destroyed during the hostilities; at least 19,000 of them were uninhabitable (of which 12,576 home were totally destroyed).¹⁷ In response to this situation international governments and the UN invested in the creation of the Gaza Reconstruction Mechanism. Drafted between Israel, the UN, and the Palestinian Authority, the GRM’s official mandate is to:

enable the parties to: provide security assurances to the GoI [Government of Israel]; work at the scale required in the Gaza Strip; enable the PA [Palestinian Authority] to play the lead role in the reconstruction effort of the Gaza Strip and assure donors that any investments will be implemented without delay.¹⁸

The key operational approach driving this system is framed as “a mechanism to allow the entry into Gaza of large amounts of materials considered ‘dual-use’ for the purposes of reconstruction following the conflict in 2014.”¹⁹ The implication behind the term “dual-use” is that items which are primarily civilian in nature could also have military uses (building tunnels and rockets). In April 2017, after a prolonged legal battle, the Coordinator of Government Activities in the Territories (COGAT) published a list of what may be considered ‘dual-use’ materials. According to Israeli NGO Gisha,²⁰ the published list includes broad definitions of “categories” and not

“items,” which allows COGAT virtually total control over the materials permitted to enter. This has led to a widespread refusal of materials with over 2000 different type of “dual-use” items “rejected on every occasion they have been requested permission” through the GRM.²¹ These “dual-use” items include aggregate, steel bars, and cement – effectively all essential construction materials necessary to rebuild infrastructure.²²

Crucially, the GRM enshrines a veto power to the Israeli government over the materials permitted based on what is described as “legitimate security concerns.” The Israeli state justifies the siege and military operations in Gaza arguing it is an act of self-defense to preserve the nation’s security.²³ The UN (and the PA) have capitulated to Israel’s hegemonic security narrative,²⁴ effectively legitimizing the domination of the oppressor on the oppressed. Without denying any agency to the Palestinian Authority, it should be pointed out that the PA, which in many respects has become Israel’s occupation subcontractor, is seemingly presented as an equal player while in reality is hardly possible to expect it to manage the reconstruction process by remote control from Ramallah shielded from Israel’s ultimate authority. Ironically, as the GRM sought to limit the entrance of “dual-use” materials supposedly to hinder the construction of tunnels and advance the rebuilding, a 2012 study by Nicholas Pelham found that the tunnel expansion and its impact on the reconstruction process and local economy “precipitated a recovery that rapidly reversed much of Gaza’s earlier decline.”²⁵

The reconstruction system established with this humanitarian logic entrenches the domination of Palestinians. The reconstruction mechanism was proposed to reassure Israel through instituting a “neutral” apparatus that would inspect all materials entering the territory.²⁶ The operational approach of this apparatus is detailed in the Materials Monitoring Unit (MMU) Project Initiation Document agreed between the United Nations Special Coordinator for the Middle East Peace Process (UNSCO) and United Nations Office for Project Services (UNOPS).²⁷ The UNSCO and UNOPS are the two UN agencies mandated to oversee the implementation of the GRM.

The logic of humanitarian concern reproduced in the agreement is exemplified in the “Option Justification” provided in the MMU document.²⁸ The “Do nothing” option has been discounted because of the prediction that if selected “the humanitarian crisis will persist, economic recovery will be severely limited and the drivers causing conflict will worsen.”²⁹ Instead of “Do nothing,” the document states that the option that has been selected is the only one:

that will reduce the GoI security concerns of items being used for the ‘enhancement of military capabilities and terrorist capacities’ sufficiently enough to permit import approval of significant quantities of construction materials into Gaza.³⁰

Through this logic, an economy of the lesser evil emerges, with the UN assessing Palestinian needs merely on humanitarian terms, and presenting the framework selected as the only alternative to “Do nothing.” The pre-emptive logic of the humanitarian “lesser evil” is invoked to justify the use of a lesser violence (siege) to prevent a supposedly greater, projected one (renewed conflict).³¹ This agreement leads to the UN institutionalizing the Israeli siege in order to guarantee access of humanitarian aid. In this process, the UN continues to render Palestinians *bare* lives,³² falling into the trap of Israeli sovereign power that has disqualified the life of this population from political meaning.³³ The process does not pose the question of whether Gazans too have legitimate “security concerns” in regards to Israel’s occupation, siege and colonization of their lands.

Unsustainable reconstruction

The GRM has been criticized for being a “labyrinth of bureaucracy”³⁴ in regards to project selection and implementation. Palestinian families must go through a multi-step process of applications to the PA, the UN and at the end of the “labyrinth” looms COGAT’s veto power over all projects approvals. For instance, according to a Shelter Cluster update from November 2017 “500 households with available funding whose names were

submitted in September 2017 are still awaiting approval in the GRM after three months.”³⁵ Overall, UNSCO suggests there has been some relative progress in terms of actual homes rebuilt. From the 171,000 affected homes, about 61,086 needs repairs or require new construction.³⁶ As of May 2017, of the 17,800 homes that were totally destroyed or severely damaged 57 percent have been rebuilt.³⁷ Nonetheless, 38 percent³⁸ of the cement for the 2014 housing reconstruction caseload is still required. Meanwhile as of August 2017, 29,000 (over 5,500 families) of the 100,000 people displaced at the end of the conflict were still displaced.³⁹ In an update from June 2018, nearly four years since the conflict, “over a third of the homes that sustained some type of damage (some 59,000 out 171,000) are yet to be repaired.”⁴⁰ Estimate time for earliest reconstruction completion varies depending on the funds available, although no official end date has been given. Notably absent from the mechanism is also any mention of addressing the pre-2014 housing crisis.

The UN claims that the slow pace of the reconstruction is due to donors not fulfilling pledges made at the Cairo Conference in October 2014.⁴¹ As of July 31st, 2017, USD 1.851 billion of the support to Gaza announced at the Cairo Conference was disbursed, which puts the disbursement ratio at 53 percent.⁴² Various factors account for the unfulfilled pledges. Some donors certainly share the view of former spokesperson for Israel’s prime minister, Mark Regev: “We want to make sure that the rehabilitation of Gaza doesn’t turn into the rehabilitation of Hamas.”⁴³ At the same time, the slow reconstruction process along with possibility that investments may be destroyed (once again) in another war has discouraged Western donors.⁴⁴

Middle Eastern states’ donations have reflected the changing geopolitical situation: Qatar and Turkey have delivered the largest aid packages and are considered closer allies to Hamas than other states in the region, while more recently the United Arab Emirates has made overtures to provide aid.⁴⁵ However, as long as foreign donors continue to bear these costs, Israel faces no financial penalty for repetitive destruction.⁴⁶ Rather, it incentivizes Israel’s development of techniques of domination as a

resource.⁴⁷ One apt example is Israeli cement company Neshar reaping massive profits from the reconstruction process,⁴⁸ turning Gaza’s destruction into a fertile ground for “disaster capitalism.”⁴⁹ The ongoing process of “destroy and repair” feeds a variety of sectors and actors, invested in the “rehabilitation” of post-war Gaza, who Jasbir K. Puar suggests are “embedded in corporate economies of humanitarianism.”⁵⁰ This state of affairs seems likely to continue as the Israeli government recently proposed a plan to international donors for US\$1 billion toward Gaza’s reconstruction.⁵¹

Another key issue is that the GRM lacks local ownership since communities affected have not been given any stake or authority over the process. Notably, Gaza’s de-facto government and civil society have been excluded from taking part in the creation and implementation of the GRM. Further, Palestinians have to submit to GPS tracking systems, video cameras, as well as a centralized database (GRAMMS)⁵² of private information in order to receive materials, contributing to Israel’s control over the inhabitants of Gaza.⁵³ Some of these issues have led to Palestinian civil society groups calling on policy makers to pressure the UN to end the GRM and for donors to stop their funding.⁵⁴ Failing to take into consideration the main concerns of Palestinians, the UN announced in February 2018 that the system will continue and that along with the PA and Israel they are reviewing the GRM to improve “its functionality, transparency and predictability.”⁵⁵

Conclusions

Reconstruction is, at its core, a political rather than purely technical process.⁵⁶ No discussion of reconstruction should fail to take into account the specificity of the political context. The reconstruction of Palestinians’ homes is not just about materials and buildings but should be part of a wider political framework that seeks to *decolonize* Israel’s settler colonial project in Palestine. If a radical change to the status quo does not occur, “post-conflict” reconstruction will remain part of a “humanitarian attack”⁵⁷ on the people of Gaza. The short-term gains in housing normalize the existence of a siege that holds

almost 2 million Palestinians in carceral conditions. What is conceived as a temporary mechanism bears the risk of becoming a permanent arrangement, as has historically been the case with humanitarian intervention in the lives of Palestinians.

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Wartime Nonviolent Mass Protests and Post-Conflict Politics

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In violent conflicts, civilians are often depicted as mere victims of violence whose choices consist of fleeing, staying silent, or actively supporting one warring side or another, all in the pursuit of their primary objective, survival.¹ The basic drive for self-preservation seems so intuitive as to be an unassailable assumption in these contexts. And yet, reality easily defies such depictions. My research shows war often has the effect of galvanizing individuals toward nonviolent mass activism, and that mass activism can outlast the war to critically shape postwar politics. In this essay I study wartime dynamics to explore how the social legacies of war may affect post-conflict politics.

The ongoing war in Yemen has caused immense human suffering, with tens of thousands killed, mass displacement, and a near collapse of state institutions. Despite this trauma, ordinary Yemenis have filled the streets by the hundreds, thousands, and even tens of thousands in an unrelenting series of nonviolent mass protests since the onset of the war in March 2015. According to the Armed Conflict Location & Event Data, Yemen experienced 162 popular protests and riots between January 1, 2017, and May 1, 2018, alone.

The largest popular protests have been organized by the Houthis – who now control most of the capital, Sanaa – with messages centering on condemning the Saudi-led bombing campaign conducted in support of the internationally recognized and exiled government of Abdrabbuh Mansur Hadi.² Many who were not necessarily sympathetic to the Houthis appear to have joined the rallies to voice opposition to the air campaign.³ Many other protests, however, were grassroots events: Yemenis gathering to oppose al Qaeda presence in their town, express outrage over persistent power shortages caused by wartime instability, appeal to the United Nations to take greater action to end the war, slam the Houthis for their inability to provide fuel, call for the release of detained and disappeared individuals, and demand the secession of south Yemen.⁴

Such nonviolent mass action in the midst of conflict is not unique to Yemen. During the Liberian Civil War, female activists mobilized thousands of women from across the country to demand an end to the 14-year long conflict in a movement that is now widely credited as having propelled the warring sides to peace talks and bringing the war to a conclusion. Likewise, the Nepalese Civil War inspired major nonviolent reformist movements in the capital, culminating in massive demonstrations that forced the ruling monarchy's capitulation. In these and many other cases, people collectively used their "voice" amidst the war violence rather than simply flee or submit to a warring side.

The tactics used in these events, equally wide-ranging, have included demonstrations, marches, the issuing of statements, designating weekly days of civil disobedience, women's protests, gas station sit-ins, and the creation of mass street art. Conflict scholarship has largely missed the occurrence and significance of such wartime nonviolent social mobilization, focused as it is overwhelmingly on *violent* politics during conflict. Studies of post-conflict reconstruction have similarly missed the continuity of such nonviolent mass activism.

Political Apathy is a Peacetime Luxury

Why do ordinary people take extraordinary risks to raise their voices in the midst of conflict? After all, rational choice theory asserts collective action is costly and rational individuals should free ride on the efforts of others instead of participate in collective endeavors.⁵ If this logic holds in open societies in peacetime, individuals should experience the collective action dilemma far more acutely in autocratic contexts in wartime, when the cost of participation is not mere time and effort, but potentially severe repression.

They take such risks because war embodies the radicalization and intensification of politics such that ordinary citizens, by virtue of their presence in the

country at war, become almost inescapably embroiled in the politics of the war.⁶ Large-scale warfare permeates politics and society, becoming a part of life for many individuals and even a way of life for those living in areas of active conflict. The politicizing and mobilizing effects are not limited to areas of active conflict. War and war propaganda by both the state and its opponents dominate news headlines, and symbols of the warring parties— flags, songs, slogans, statues, and iconography— may proliferate in public spaces, above and beyond any such displays in times of peace.

In particular, by living with, and through, a civil war, people become further aware of the presence of political alternatives and the possibility of departures from the status quo. Citizens gain a sense of the vulnerability of the regime as well as the pervasiveness of discontent within society.⁷ Increased political awareness, in turn, motivates action: once politically *informed*, people are more likely to become politically *mobilized*. By capturing popular attention and imagination and becoming a center of civic discussion, war has the effect of collectively increasing ordinary people's political awareness and driving mass action.

Voice vs. Silence

Why, then, does war catalyze mass contentious politics in some places but not others? Assuming the potential benefits of successful popular protest are significant for participants, two factors make wartime nonviolent mass contention more likely.⁸ First, to take to the streets civilians must be able to locate temporal or geographical pockets of *perceived relative safety*, pockets that nonetheless allow for the visibility and relevance needed for effective nonviolent contention. Such permissible pockets may be sustained in areas free of active war fighting within the capital or other major towns, in territories controlled or protected by powerful local or international actors, or during credible ceasefire periods. Activism may still be risky, and yet, having been politically mobilized in the war, people are powerfully compelled by some combination of grievance, frustration, anger, and lingering hope to pursue radical

changes— so long as they can locate times and spaces of relative safety in which to do so.⁹ Perhaps the only instance in which we might observe masses of people taking extraordinarily high risks to protest amidst potentially massive and targeted violence against them is when they have reasons to believe radical change is imminently attainable. Otherwise, even politically mobilized citizens are unlikely to take to the streets if they anticipated direct repression.

Second, nonviolent popular contention is more likely where perceived space for action combines with a history of political liberalization or effective nonviolent contentious action in the conflict state, one that is salient in the people's collective memory. In these cases, such forms of contention will have become part of a "strong repertoire" — a form of contention that has "meaning in popular memory and continue to have purchase in popular politics."¹⁰ Even if circumstances had changed, earlier episodes of successful nonviolent contention can continue to drive the popular imagination, reinforcing the belief that the same forms of contention can once again be effective. In contrast, absent a positive historical precedent, or where national historical memory of nonviolent collective action features severe repression by regime forces, people are less likely to risk open protest in the dangerous wartime context.

Participation in mass action in wartime Yemen can be highly risky. Participants have been killed or detained by the state's security forces or by the Houthis at some of these events, while at others warplanes flew directly above the rallying crowds as part of the air campaign by the Saudi-led coalition. Nevertheless, there is little evidence that nonviolent mass contentious events are regular targets of attack by various belligerent groups. The Saudi-led coalition, for instance, has routinely bombed civilian infrastructure but has refrained from attacking masses of anti-Saudi protestors. The Houthis have detained or disappeared scores of opposition activists, but appears not to inflict violence on mass protests. Militant groups are active in the secessionist south, but nonviolent pro-secession events are generally not targets of armed attacks.

Nonviolent contentious gatherings, in fact, emerge in this analysis as an entrenched and even protected practice of mass politics within Yemeni society, even through a staggeringly destructive war.

Yemen, furthermore, has a recent history of political liberalization that enabled nonviolent mass action to become embedded in the society's contentious repertoire. The unification of North and South Yemen in 1990 opened a new chapter in which diverse political parties contested in several rounds of competitive elections. Though the democratic experiment proved short-lived as former President Ali Abdullah Saleh strengthened his grip on power after the 1994 north-south war, social forces pressing for democracy never retreated. In the decade leading up to the 2011 uprisings, political parties organized mass rallies around election campaigns, people founded new protest movements, and, despite serious pressures from the regime, the Yemeni press remained vibrant.¹¹

Even in Syria, where the regime of Bashar al Assad violently repressed the 2011 uprisings, Syrians have not been silent during the ongoing war. To the contrary, they have filled the streets in protest whenever opportunity—that is, pockets of perceived safety—presented itself. For instance, despite the war's devastating tolls thousands of Syrians took advantage of a brief ceasefire in March 2016 to stage the largest anti-regime demonstrations since war onset, using the slogan “The Revolution Continues” as if to suggest they were awaiting a break in the fighting to inundate the streets once again.¹² Likewise, against all odds Syrians have engaged in wartime protests in other *relatively* secure places, such as during other ceasefires; in territories under firm rebel control; under the protection of an “anti-government police;” and outside the UN offices in Damascus.¹³ As argued, people will continue to tolerate risks to engage in nonviolent contentious action so long as the certainty of repression is lifted, however minimally, temporarily, or tenuously. Syria's wartime protests, indeed, may be an indication that nonviolent mass activism has become a strong repertoire in Syria since 2011 *despite* the astoundingly violent repression on the part of the regime.

War, Mobilization, and Postwar Politics

While fascinating on its own, the rise of mass activism during conflict carries important implications for post-conflict politics. First, while wars end, civic activism does not. People are well aware that the transition from war to peace provides a rare window of opportunity for a major reconstitution of politics and society via changes in regimes, institutions, and policies. War termination also creates widespread expectations of a clear break from the past and the delivery of peace dividends. Where the war had fomented substantial nonviolent mass action, postwar political leaders can count on continued public scrutiny of their decisions and readiness on the part of citizens to continue to take to the streets to demand reforms. To ensure postwar stability and shore up popular support, leaders will thus be impelled to strategically and judiciously deliver concessions, be they in the form of increased political rights, greater political representation, or improved access to welfare. Having raised their voices during war, people will sustain their demands for a significant stake in politics in the war's aftermath.

Relatedly, where war has generated popular mobilization, it will also have created a new repertoire of contention as well as masses of people who are trained in its methods. In Yemen, the idea of taking to the streets, even under substantial risk, is now conventional, making it more than likely people will continue to use nonviolent protest in the post-conflict context to hold political elites to account. Even in Syria, the uprisings of 2011, though violently crushed, may have led many to believe in the viability of nonviolent popular contention whenever a political opening presents itself. *If* some political space for civic activism opens up in postwar Syria, we can expect Syrians to revive calls for fundamental change, calls postwar elites will be hard pressed to ignore.

War devastates, but ironically it can also motivate nonviolent mass action. In such cases, the upshot is that war may in fact have sown the seeds of later democratization.¹⁴ Political elites rarely, if ever, democratize for democracy's sake. Democratization, rather, is a strategy of elite power

maintenance – a series of reluctant concessions to the masses– in the face of persistent threats from below.¹⁵ In places such as Yemen where war has generated robust new social forces, postwar elites may be compelled to accommodate popular demands through measured pro-social concessions. The extent to which social forces will in fact be able to pressure postwar elites will depend to a significant degree on how conflict ends; negotiated endings typically open up far more political space for state-society bargaining than if one side wins a clear military victory. Either way, for scholars these various possibilities reinforce the importance of studying *wartime* social dynamics to understand *postwar* politics, as well as war’s diverging, and not merely its destructive, effects.

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