Arabian Peninsula Background Notes

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Some Thoughts on Rebuilding Yemen[1]

This spring marks a sad, sad anniversary of five years of war in Yemen without a solution in sight. A look at the front lines in 2015 shows a marked similarity with front lines in 2020. Neither of the principal combatants – Saudi Arabia supporting a questionable shell of a Yemeni government on one side and the Huthis on the other – have made much territorial progress and the battlefield situation is largely one of stalemate – at the continuing cost of the loss of thousands of lives. The implementation of an accord on al-Hudaydah has not fully materialized, and the political situation in the south has fragmented. The recent hope that an exchange of prisoners would lead to negotiations has seemed to dissipate in light of Huthi advances in al-Jawf toward Ma'rib and a "tit for tat" exchange broke out of Huthi missiles on Saudi cities and Saudi air strikes on Sanaa. There is little to be gained from continued fighting but still no end is discernible. Even more important than all of these considerations is the looming disaster of COVID-19 for Yemen.

Even if a comprehensive ceasefire takes place on the battlefields, there is virtually no hope that a single, unified Yemen could be reconstructed in the foreseeable future. There has been considerable talk of construction of a federal system but even this requires realistic negotiation and compromise by all parties. All parties would need to achieve their core objectives but do we know what these are? Would the Huthis, or specifically Ansar Allah, be amenable to withdrawing to the north, Sa'dah Province or more, if they can be assured of their autonomy? Who exactly are the Huthis? Would tribal and other elements of the Huthi-led alliance accept a political compromise, under either Huthi or central authority? Would Iran play a positive or negative role in a negotiated settlement? Does Iran matter?

The so-called "government" exists as little more than a fiction maintained by outside powers and its "army," a collection of militias. The question is not would 'Abd Rabuh Mansur Hadi accept a diminished role but ... would Saudi Arabia act to depose *inter alia* Hadi, 'Ali Muhsin al-Ahmar, and Tariq Salih

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in order to achieve a battlefield resolution and maintain some influence over broader Yemen? Would the nucleus of a "reconstituted" central government include greater and more equitable representation? Would there be scope for an expanded democratic role? Would the UAE be able and willing to unify southern groups? Would the east (Hadramawt and al-Mahrah) coalesce around a single, merged leadership?

When will war weariness take priority over sticking to rigid goals and principles? Tentative steps towards a negotiated end to the war must deepen if there is to be any resolution. But intractable differences and refusals to compromise on key issues might lead to perpetual divisions, either in terms of warfare, in the inability of major actors to reach satisfactory agreement among themselves, or in the inflexibility of external forces that have such a bearing on the Yemeni situation.

If in looking to a post-war arrangement, it should be remembered that existing states – particularly in the Arab world – are not necessarily permanent and immutable. Many states have enjoyed but a short history – and many of those were created simply by the exigencies of the colonial presence. A recent pertinent example is the birth of South Sudan. Nearly all states in the Arabian Peninsula share a common experience of having emerged very recently. In 1935, the British Foreign Office produced a memorandum entitled "The Seven Independent Arabian States."[2] The independent states in the peninsula still number seven. But of those described less than a century ago (Yemen, 'Asir, al-Hijaz, Najd, Kuwait, Jabal Shammar, and Jawf), only two still exist in similar form. And to those seven (although not necessarily independent) we could add Bahrain, Qatar, the Trucial States, Oman, and Aden and Protectorate. That gives a total of 12 states and 18 if the Trucial States are counted separately. Given this fluidity in "statehood," does the possibility exist of resolution through the recognition of smaller Yemeni political entities, i.e. mini-states, as an initial step in a staged process towards full unity?

A Confederal State?

As pointed out above, the foreseeable prospect of a unified Yemen is virtually nil. A unitary type of government, where the central government holds virtually all power (as in the United Kingdom, China, and most Arab states), is not feasible. But the implementation of a federal government, where power is shared between a central government and the governments of subordinate states (the United States, Switzerland), also seems unworkable in the near future. Yemen's better hope might be a confederal system, which involves a grouping of autonomous but not fully independent states that voluntarily band together, often with a restricted and often weak central authority. Confederation often becomes an initial step towards federation.

Could a confederation of constituent statelets work in Yemen? Such an arrangement might be the only way to get autonomous or secessionist forces to agree. But this supposes that distrustful parties agree on a working relationship. An equally serious difficulty lies in getting interested external parties to agree to and abide by effective agreements. They need a "buy-in." For Saudi Arabia in particular, it might be a combination of "war weariness" and financial straits in pursuing an unwinnable war in a period of economic collapse, as well as recognition of Iran's capability to strike in the kingdom (this

may be an especially important concern for the UAE).

Historical examples of confederation and federation have not always been successful. Regionally, the best known case was that of the United Arab Republic. Although a union of Syria and Egypt, i.e. a confederation, on the surface, it was really a merger under the control of Nasir, i.e. a unitary state. It ended after three years with Syria's withdrawal.

Elsewhere, the Kingdom of Yugoslavia was established after World War I as a Southern Slav (hence the name Yugoslavia) confederation of former Austro-Hungarian Empire territories: Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia. After World War II, the Socialist Federal Republic of Yugoslavia was run by an entirely Communist national parliament with Tito as president-for-life. Yugoslavia eventually collapsed due to Tito's death, the growing impact of nationalism, the collapse of Communism, ethnic/linguistic/religious differences, and economic issues related to uneven development between the constituents.

The Union of Arab Emirates never got off the ground. The announcement of Britain's official withdrawal from the Gulf in 1968 led to an effort to create a viable independent state out of the nine small shaykhdoms: Bahrain, Qatar, and the seven Trucial States (Kuwait had achieved independence in 1961). Negotiations, however, broke down when first Bahrain (by far the most advanced of the nine states) and then Qatar (already receiving substantial oil income) decided they would claim independence on their own.

It may seem inappropriate to place Tanzania in the category of unsuccessful confederations but the union of Tanganyika and Zanzibar has essentially produced a state of Tanzania (ex-Tanganyika) and an autonomous constituent state of Zanzibar. It is, in some ways a federal state but Zanzibar is mostly autonomous with own leadership, cabinet, legislature, and legal system.

On the other hand, numerous successful federations might be noted. Despite continuing strains, Belgium and Canada are established federal systems based on linguistic differences. The European Union may be described as a cross between confederation and a federation. Switzerland, despite its official name of the Swiss Confederation, is a 12th century confederation of cantons that evolved into a federal system in the 19th century. The Gulf Cooperation Council may also be described as an alliance with elements of confederation. It is not a political union, although the idea of one has circulated and been promoted by Saudi Arabia. There are serious impediments to creating a political union, such as a confederal state: . Among them are: the predominant big brother role of Saudi Arabia; different circumstances and national characteristics of the member states, even though they are similar; the members jealous preservation of sovereignty; and inherent weaknesses in the process exposed by the boycott of Qatar by Saudi Arabia, the UAE, and Bahrain. Still, the GCC's achievements of cooperation and coordination below political level should be remembered, such as a customs union; common standards; free movement of citizens, labor, and capital; and development of cultural institutions. These took time to develop and were gradually instituted over some 40 years.

Malaysia is another case worthy of consideration, constituting a federation with a federal government that strengthened over the years.[3] The Federation of Malay States was established under British rule and independent Malaysia was created by the federation of the

9 Malay states with Sabah and Sarawak (Singapore left after two years). On the whole, these states displayed a number of common features that contributed to the successful experiment: Malay language, historical experience, and shared British colonialism. The result was a federal state with powers divided between the federal government and constituent states. The federal government handles foreign relations, defense, civil and criminal laws, finance, and trade. State governments are responsible for Islamic laws, agriculture, local government, and public works. There are also concurrent responsibilities involving public welfare, the protection of wildlife, sports and culture, and housing and heritage. On the largely symbolic level, a conference of rulers exists, consisting of sultans or governors for each constituent state who elect a king (who serves as head of state) from their midst; in practice a rotation of sultans for 5-year terms. More importantly for political life, there is also a functioning and elected federal parliament along with a prime minister (who serves as head of government).

While the Union of Arab Emirates never took root, the United Arab Emirates (UAE) endures, moving from confederation to federation. Formed in 1971 at British withdrawal, it consisted initially of six of the seven Trucial States, with Ra's al-Khaymah joining a few months later. The UAE was created as a confederation with leadership vested in a council of rulers and each emirate retaining control over essential functions such as finance and defense. The presidency went to Abu Dhabi as the largest and richest state while the vice-presidency was allocated to Dubai as the second largest and second richest state. Abu Dhabi instituted a federal government in addition to its own emirate government. Its wealth and power allowed it to extend federal authority to the four smaller emirates in areas such as education. Dubai, and to a lesser extent Sharjah, initially resisted and retained control over most administrative functions. Military forces remained under individual emirates' control. It took several crises of leadership and bickering to bring the emirates closer together. Eventually the armed forces were unified and the federal government assumed increasing authority throughout the UAE. Much of the early success of the UAE could be ascribed to the personal actions and leadership of President Shaykh Zayid b. Sultan, thus illustrating the importance in such an arrangement of competent, visionary, and respected leadership.

The institution of a confederal system in Yemen depends on the satisfactory resolution of a number of conflicting requirements. First, there must be a reasonable assurance of territorial integrity and political autonomy for all the principal parties. This needs to be accompanied by agreement on where territorial boundaries should be located. Getting individual constituent states on board would depend on the Huthis agreeing to withdraw from much of their occupied territories in return for autonomy in the north. It would mean the reconfiguration of the existing "internationally recognized government" in central Yemen and transforming it into a neutral, caretaker, and mainly technocratic administration.

Something resembling a national conference would need to be convened, perhaps along the lines of the National Dialogue Conference but with more broad-based representation. While somewhat ad hoc in nature, its deliberations would be used to determine the structure of a permanent

apparatus for the central administration, including determining the type of administrative structure and guidelines for leadership and participation. National consultations would be repeated on the constituent state level. Another requirement is the building of a consensus among southerners on confederal autonomy, as well as the merger of competing forces into a unified political entity. A revenue-sharing scheme for oil and gas income would have to be devised and decision reached on a formula for revenue-sharing: should there be an equal division proceeds between the confederal states or distribution on a per capita basis?

There must be impartial central institutions, with commitments achieved through a constitutional framework, even if framed as only an interim agreement: such a framework would embody the preliminary agreements reached and confirm the legitimacy of a central coordinating authority. Some sort of an executive council is a necessity, composed of representatives of all constituent states and ideally elected representatives throughout Yemen. There would be a head of state even if there was no single head of government. This individual should be an eminent notable, universally respected, and above the fray; perhaps a Qadi 'Abd al-Rahman al-Iryani for the 21st century?

The central authority could have a rotating presidency, as in Malaysia or the European Union, whose role would be principally to preside over a council of ministers equally apportioned from the four regions. At worst, particular ministries could be allocated to particular regions, as is the case in Lebanon. At a minimum, a core of effective "national" ministries, covering such functions as foreign affairs, finance, and oil, are a necessity. Their ministers would either be apportioned among regions or might rotate at 1-2 year intervals and ministry employees, as true civil servants, could be drawn from all regions. Minimal social services and defense ministries would exist at the national level but operational responsibilities would fall to the regions. The constituent states would be responsible for their own social services and the local level of defense while national ministries would coordinate resources, national financing, and international aid. The emergence of stable constituent states would depend upon responsible – and responsive – leadership. These states would create their own executive and regional governments.

In order for such a scheme to work, there must be at least some participation by the citizenry at a level below that of the elites that have dominated Yemeni politics since the 1960s or more. Elected representative assemblies would be encouraged for each region; a government for the central region would of necessity be reorganized and include such an assembly. Popular participation may be initially dependent on selection by corporative bodies (such as representation by tribes, merchants, graduates, and so forth).

Universal acceptance of the requirements outlined above seem beyond reach at the moment. While a confederation of mini-states in Yemen leading to eventual federation may be a desirable, even somewhat ideal, goal, it is too premature to anticipate for such a post-war outcome. A more gradual, drawn-out, accommodationist path may bear better fruit.

A Subsidiarity Approach

Realistically speaking, considerations outlined above seem overly optimistic by far in the current Yemen climate. In lieu of a reconstruction of the failed Republic of

Yemen state or a replacement by a confederation, a logical alternative might be a subsidiarity approach.[4] The Oxford English Dictionary defines subsidiarity as "the principle that a central authority should have a subsidiary function, performing only those tasks which cannot be performed at a more local level." In political terms, it may be termed as the equivalent of decentralization.

Given an inability to reconstitute – or more aptly, create – an effective central government in the foreseeable future, a more effective approach might be to "accept the situation as is" and work with constraints. This would seem to align with what many or most Yemenis seem to desire: *la markaziyah*, i.e. decentralization. In other words, minimal government and minimal interference in daily life. By illustration, local development associations worked well in the 1970s, in large part because they were organized and run by the people, not by leaders and not by government, and also partly because President Ibrahim al-Hamdi let them keep *zakat* from their own areas.

The European Union provides an instance in which subsidiarity has been adopted. The principle was enshrined in the 1992 Treaty of Mastricht and formulated in the 2007 Treaty of Lisbon: "Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level."[5] Subsidiarity provides a reach beyond member states to regions and perhaps even local areas and provides for the redistribution of funds where needed for development, as signs alongside roads being constructed or repaired.

Perhaps the best example, though, for Yemen's future is the experience of Somalia, where the country disintegrated after the coup against Mohamed Siad Barre in 1991.[6] The ensuing violence, abetted by the appearance of the terrorist group Al Shabab, drove out Western nations and the UN, thus spelling the end of a central government. Subsequent attempts to recreate a national government foundered until 2012.

Incremental progress resulted in the formation of the Federal Government of Somalia that year following the adoption of a constitution. Six member states were included comprising 18 administrative districts. The United States recognized the government for first time in 22 years in 2013 and along with other Western powers established a diplomatic presence in Mogadishu in 2018. "After more than 20 years without central authority, the sharing of power, revenue, and resources is subject to considerable national debate. Many clans see a decentralized system of governance as the best way to share power among clans and sub-clans, but competition over power in Mogadishu remains a flashpoint. Federalism is enshrined in the 2012 provisional constitution, but the document is vague on how it should work."[7] Although the endeavor is very weak, it perhaps allows Somalia at least to be described as a fragile state rather than a failed state.

It should not be forgotten that the country is beset by continuing problems. "Untapped petroleum resources, among other issues, complicate revenue-sharing discussions, and the sector's legal and regulatory gaps are a potential source of conflict. Strains between the federal and state governments worsened in

2018, and concerns about possible interference by Mogadishu in upcoming state elections threatened to stoke tensions ahead of the scheduled 2020 polls."[8] Inter-state and state-federal government rivalries exist over territories, control of the armed forces, resource-sharing, and power-delegation. There has been no reconciliation between Somalia and Somaliland (which declared its independence in 1991) and serious problems continue between Somaliland and Puntland (presently a semi-autonomous region notionally loyal to the federal government in Mogadishu). Continuing violence is perpetuated by al-Shabab, other Islamist extremists, and clan militias, compounding the extreme poverty and corruption.

But at the same time, there are positive developments. There is at least a functioning central government in Mogadishu, one that is able to pay salaries in full. Government revenues have doubled. The latest National Development Plan focuses on political stabilization, rebuilding state institutions, improving economic resilience, and reducing poverty. "Somalia's diaspora is estimated to remit nearly twice the level of official development assistance and five times the level of humanitarian aid annually. Remittances account for about one-third of GDP, roughly equivalent to government revenues, and help to support livelihoods for an estimated 40 percent of the population. Remittances also help finance Somalia's large trade deficit, paying for a sizeable portion of imports."[9] Consultations resumed with the International Monetary Fund in an effort to end decades of payment arrears; this led to World Bank approval of its first grant to Somalia in 30 years in 2018. The EU agreed to channel an aid package to the Federal Government that same year. Furthermore, there seems to be a strong political will to implement reforms and to relieve the government of being the employer of last resort.

Extrapolating Yemen's future trajectory on the pattern of Somalia may be the most realistic approach. This derives from the recognition that there are no viable political "state" entities anywhere in Yemen, while there are nodes of power or predominance. Any resolution to the battlefield morass must involve these nodes reaching agreement on basic principles, preeminently a ceasefire on the battlefield; a Huthi negotiated withdrawal to the north, and internationally guaranteed neutrality and functionality of a revamped but limited central government. The process must be negotiated and supervised by a standing committee composed of representatives selected from all parties. If a national leader is needed, he should be a figurehead only along the lines of al-Iryani a half century ago.

The central authority would be charged with carrying out necessary functions only, such as foreign affairs, the Central Bank, and identification and distribution of humanitarian aid. Hydrocarbon revenues might be paid into an external bank account and disbursed amongst all the parties (including the central administrative authority) according to an agreed-upon formula, under supervision by international observers. The UN is a logical choice and Western states may well be involved. But perhaps there might be a role for Kuwait and/or Oman, or even the wider Arab world (Tunisia, Morocco, Jordan), or beyond that to an even wider Islamic world (Malaysia, Indonesia). Looking to the Somalia example again: "The most promising approach might be for the African Union to convene the talks, ask an eminent statesperson to lead them and solicit technical assistance from a "group of

friends" that might include countries like Turkey, Ethiopia, Sweden and Switzerland – which have been at the forefront of efforts to encourage talks – as well as the European Union."[10]

It is essential to remember that there must be institution-building prior to state-building. Building effective institutions, however, is a gradual long-term process that must arise out of need more than planning. The immediate concern is to fulfill functions that must be absolutely addressed now. Remaining functions can be managed locally on an ad hoc basis as long as necessary. Do the constituents of a proto-confederal Yemen remain as de facto separate entities or can movement toward a de jure confederal state be realistically expected? Perhaps Yemen's development will travel somewhere between Somalia – dysfunctionally functional – and Malaysia or the UAE – confederation leading gradually to a federal state. For any system to work, it must be organized and supported with some externally administered or controlled allocation of resources, supervision, and international requirements. The future of Yemen is no more than speculation at this point. But logic suggests it must be on feasible if difficult first steps.

Notes:

1. This essay is adapted from remarks delivered at the "Conference on Post-war Yemen" held by the Tawakkol Karman Foundation in Istanbul, 7 March 2020.

2. British Library, India Office Records and Private Papers, L/P&S/18/B446, "The Seven Independent Arabian States," W.J. Childs, Foreign Office, May 1935.

3. This summary has been drawn from U.S. Congress, Congressional Research Service, *Malaysia: Background and U.S. Relations*, Report R43505 (18 May 2017); *The Star* (Malaysia), 2 November 2015, and the "Malaysia" entry on Wikipedia, accessed 4 March 2020.

4. I am grateful to Paul Dresch for suggesting this approach.

5. *Official Journal of the European Union*, C 306 1, 17 Dec. 2007; Treaty of Lisbon, Article 3b, para. 3.

6. The discussion of Somalia is drawn from: Ted Dagne, "Somalia: Current Conditions and Prospects for a Lasting Peace," U.S. Congress, Congressional Research Service (CRS), Report 7-5700, 31 August 2011; CRS, "Somalia," In Focus, 10 April 2019; International Crisis Group (ICG), "Averting War in Northern Somalia," Africa Briefing No. 141, 27 June 2018; ibid., "Somali-Somaliland: The Perils of Delaying New Talks," Africa Report No. 280, 12 July 2019; and Raj M. Desai, "Somalia's Path to Stability," Brookings blog, Future Development, 2 October 2019.

7. CRS, "Somalia."

8. CRS, "Somalia."

9. Desai, "Somalia's Path to Stability."

10. ICG, "Somali-Somaliland," p. ii.