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Incredible Dialogues: Religious Dialogue as a Means of Counter- Terrorism in Yemen

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Summary

In 2002, Yemen, a country known to have been a breeding ground for al-Qaeda members, initiated a project to use dialogue as a means to alter the ways of suspected militant Islamists held in the state's prisons. The project received international attention for its bold attempt to use their common reference to Islamic law as a peaceful means for the state to impact the militants. However, the actual implementation of the strategy was steeped in arbitrary arrests, indefinite detentions, torture and other violations of human rights. Furthermore, it was unclear what the charges against the detainees were and what impact the dialogue sessions had. The project was discontinued in 2005.

This paper examines the Yemeni experience of dialogues with Islamists it concludes that, though such a strategy might be a useful means for counter-terrorism, an environment for genuine dialogues cannot be established without taking into account wider issues of the state's legitimacy vis-à-vis its citizens.

About Ane Skov Birk

Ane Skov Birk has lived and worked in several Arab countries since 2005, including Yemen where she studied the language in 2005 before returning to do further research in 2008. She holds a BA in Arabic and Political Science from University of Copenhagen, Denmark, and an MA in Islamic Law from SOAS, London. She is currently finishing a master in Middle Eastern Studies at University of Copenhagen.

Incredible Dialogues: Religious Dialogue as a Means of Counter- Terrorism in Yemen.

Introduction

Radical Islamism has been the talk of the day for many years now. However, despite the ideological basis of the violence until recently most official efforts to counter radical Islamism have been focused on limiting actions instead of ideas.

In 2002, Yemen, a country known to have been a breeding ground for “al-Qaeda” members, went in a different direction. The state initiated a project to hold dialogues with imprisoned Islamists to convert them from a radical, militant understanding of Islam to a moderate and peaceful understanding. These dialogues were based on a common reference to Islam and Islamic law as the ultimate source of truth and legitimacy. Between 2002 and 2005, 364 suspects were released under the project in three separate rounds after allegedly having changed their radical beliefs and renounced violence. Similar efforts have been initiated in a number of other countries not least the neighboring Saudi Arabia. Therefore it is important to examine the Yemeni experience to see what can be learned from their approach.

The Yemeni dialogue project has received positive international attention and its leader, Judge Hamud al-Hitar was invited to give presentations at counter-terrorism departments in London and Cairo. However, the dialogue project was discontinued after an incident in 2005, when two former detainees who had been released under the project, were found fighting against American forces in Iraq.¹ This discovery severely undermined

1 Johnson, Gregory, “-Yemen’s Passive Role in the War on Terrorism”, *Terrorism Monitor*, Vol. IV, iss. 4, (2006), pp. 7-9.

the claims made by al-Hitar that all participants had denounced the use of violence. It also did not help the project's image that al-Hitar did not unambiguously denounce the actions of the two men.

Moreover, some of the detainees released under the project have expressed that they did not actually change their ideas and that no genuine exchange of opinions amounting to dialogue did actually take place. In addition to this, Yemen has over the last year witnessed a new wave of violent attacks led by a number of former detainees which suggests that the dialogue did not succeed in converting their views on the use of violence. This situation raises serious questions about the success rate of the Yemeni project and more broadly about the degree to which a state can rely on religious dialogue to counter radical Islamism. Despite Judge al-Hitar's claims to the opposite, it seems that the dialogue project did not succeed in attaining its aim of countering radical Islamism in Yemen.

When discussing the results of the dialogue project, first of all, it is essential to define what the aims of the project actually were. Judge Hamud al-Hitar has given several interviews in which he comments on the project and its aims. In his rhetoric, the dialogue project was presented as a policy aimed to facilitate the detainees' release and re-integration into society.² He described the project as based on the perception that "ideas can only be opposed by ideas and dialogue is the preferable way to solve ideological problems."³ It was pointed out in a newspaper belonging to the ruling GPC-party that the dialogue approach was instigated and condoned by the president, who "rather than abandoning [the suspects] in prison for a long period, [...] decided to challenge their beliefs by entering them into a debate with moderates."⁴

2 Mahmud, Ibrahim, "al-Yaman: tajruba farida li-muwajjaha tatarruf al-shabab ... bi-l-hiwar wa-l-tacahhud bi-cadam al-inzilaq mujaddidan", al-Hayat, (London), 30 September 2003.

3 al-Hitar, Hamid Bin cAbd al-Hamud, "al-Hiwar wa-atharuhu f mukafihat al-irhab - al-tajruba al-yamaniyya", report about the dialogue project. Presented in copy to the author. Undated, p. 14.

4 "Al-Yaman tunshir silahan jadidan li-muharaba al-qacida", al-Mu'tamar, (Sanaa) 15 December 2003.

Al-Hitar continuously stressed the necessity of mutual respect and acceptance between the dialoging parties as a basic condition for a genuine and fruitful dialogue. He said that "we assured them from the beginning that if you are right we will follow you and if we are right you must follow us."⁵ He held that the debates yielded genuine changes in the religious convictions of the detainees because of this mutual bond of acceptance and respect.⁶ These comments show that the dialogue project was based on an assumption that the challenge caused by radical Islamism was purely ideological and consequently, an ideological dialogue engaging with their conceptions of Islam would be the only way to put a stop to the challenge posed by these youths.

However, the timing of the project indicates that the reasons behind it had more to do with actions than with ideology. The Yemeni state has in previous years accepted jihadi interpretations of Islam and participated in jihadi fighting in Afghanistan.⁷ Throughout the 1980's, a large number of Yemenis - with the more or less open acceptance of the Yemeni state⁸ - travelled to Afghanistan to take part in the jihad against the Soviet-invasion in this fellow Muslim country.⁹ Here many developed links to what would later be known as the "al-Qaeda network". As the war in Afghanistan ended, many of these fighters returned to Yemen, where the president took advantage of their fighting experience and engaged them as allies against socialist secessionists in South-Yemen in a short civil war in 1994.¹⁰

Despite the long-term presence of radical Islamism in Yemen it was not until 2002 that a comprehensive policy including the dialogue project among other efforts, was drawn up to counter the violence of radical Islamists. The reasons behind this

5 Al-Shafici, Muhammad, "Abraz ta'ibi al-qacida fi-l-yaman: multazimun bi-nata'ij al-hiwar raghm cadam tanfid al-dawla bacad wucudiha", al-Sharq al-Awsat, (London), 14 March 2004.

6 Mahmud, "al-Yaman: tajruba farida".

7 Al-Jumhi, Sacid cAli cAbid, tanzim al-qacida - al-nasha', al-khalfia al-fikriyya, al-lmidad - al-Yaman namudhijan, (Sanaa, Future Studies Center, 2007), p. 291.

8 bid

9 Burke, Jason, "al-Qaeda", 3rd. Ed. (London: Penguin Books, 2007).

10 For an account of the civil war in 1994 see: Carapico, Sheila: Civil Society in Yemen, (Cambridge, Cambridge University Press, 1998).

change of policy are to be found in the increased danger of the violence related to radical Islamism occurring within Yemen.

Violence and the use of force has always been a part of Yemeni politics. The Imams who ruled Yemen until the 1962 revolution routinely held hostages from the major tribes to force the tribal leaders into compliance and the country has been marred by numerous tribal wars.¹¹ Through the 1990's a number of tribes used kidnappings of foreigners as a tool to put pressure on the government to provide them with schools, sanitation or other facilities. However, in the late 1990's, a change occurred in the nature of the political violence as it began to be more internationally connected and religiously motivated.

This development first became apparent in 1998 when a group of 16 tourists were kidnapped by non-Yemeni members of the Aden-Abyan-Army in an incident that led to the death of 4 of the hostages.¹² Furthermore, Yemen became the target of intense American interest in 2000 when a small group of men succeeded in an attack on the American destroyer USS Cole in the harbor of Aden leaving 17 American soldiers dead. Along with recurrent reports of the existence of "al-Qaeda" training camps in Yemen, these events cemented the country's reputation as a safe haven for Islamist terrorists.¹³

With the changed international circumstances after 11th September 2001 this reputation became in itself a danger to Yemen. There was a marked sense of anxiety within the Yemeni regime that they could be the next target on a Washington "hit-list" after the attack on Afghanistan in December 2001.¹⁴ This anxiety was expressed in several interviews by President Ali Abdallah Salih and in comments made by other top-

11 See Weir, Shelagh, *A Tribal Order*, (London: The British Museum Press, 2007).

12 The hostages were killed in a shoot-out between their kidnappers and security forces sent to free the hostages. The following investigations did not clarify by which side. Several of the kidnappers were also killed. Source: Glosemeyer, Glosemeyer, Iris: "Jemen: Mehr als ein Rückzugsgebiet für al-Qa'ida", DOI-FOCUS,10 (Deutsches Orient-Institut, Hamburg, 2003), 5-58.

13 Ibid, p. 33.

14 Johnson, "Yemen's Passiv Role"; and "Yemen – The Rule of Law Sidelined in the Name of Security", report published by Amnesty International, September 2003. AI Index: MDE 31/006/2003.

officials¹⁵ and it functioned as a powerful incentive for the rapid development of effective counter-terrorism efforts that would convince Washington to perceive the Yemeni regime not as a security threat but as part of the solution in the "War on Terror". At the backdrop of increased danger of attacks from both radical Islamists and international forces, it seems obvious that the underlying cause for the wish to counter radical Islamism was not a concern about the beliefs of these Islamists, but about their violent actions and the consequences that this would have.

Most scholarly works and official definitions of terrorism stress the communicational aspect of terrorism in that it is a form of violence that is not targeted against its immediate victims but against a wider public. Donohue, in her paper, furthermore stresses the intimate relationship between terrorism as carried out by non-state actors and counter-terrorism which is the realm of state actors. She argues that "there is a close relationship between the types of actions taken by state and non-state actors. Both incorporate violence, fear and a broader audience. As well as being purposive, political and (although denied by both sides) affects non-combatants."¹⁶

Thus it is impossible to separate rhetoric from actions when analysing terrorist activities and the radical organisations who apply this strategy. Likewise, there is a communicative aspect of counter-terrorism which again makes it impossible to separate rhetoric from actions when analyzing these efforts. This means that an analysis of a dialogue effort cannot – as advocated by al-Hitar – be limited to the purely ideological deliberations but must necessarily include the context of interactions between the two parties through physical actions. Furthermore, this logic must be applied to both sides of the dialogues. Consequently, an analysis of the dialogue project must address the physical actions as well as the rhetoric of

15 See Johnson, "Yemen's Passive Role"; and "Taqrir al-lajna al-khasa al-mukallafa bi-taqsi al-haqa'iq hawla hadith al-mudammira Kul Uktubir 2000 wa ahdath 11 sibtimbir 2001", eds. Rajah Sacad Hanish and Salim Bin T alib, report submitted to the Yemeni parliament (Majlis al-Nuwab), 24 September 2002.

16 Donohue, Laura K., "Terrorism and Counter-Terrorism Discourse", *Global Anti-Terrorism Law and Policy*, eds. Ramraj, Hor and Roach, (Cambridge: Cambridge University Press, 2005), p. 35.

both the alleged Islamist radicals and the state. The following two sections will provide a presentation of the two parties in turn.

The Detainees

The detainees involved in the dialogue project in Yemen were generally not among the big ideologues of any Islamist movements. Indeed, according to some human rights activists some had been detained not for their own involvement with Islamist groups but merely to put pressure on suspected family members to hand themselves over.¹⁷ The detainees were kept under tight surveillance during and after their release and their identities were never made public. These circumstances make it difficult to give a comprehensive characteristic of the group of Islamists who took part in the Yemeni dialogue project and it allowed an element of denial for the state should any of the detainees resort to violent acts after their release. Some prominent figures later spoke about the project to the BBC¹⁸ and to the Yemeni press but their comments are not enough to provide a comprehensive picture of the composition of the group of radicals involved in the project. Al-Hitar described the participants as belonging to different jihadist groups including al-Qaeda, al-Jihad and al-hijrah wa-l-takfir.¹⁹ Beyond a wish to create an Islamic state and the acceptance of violence as a means to reach this goal, the groups mentioned by Al-Hitar have very differing ideologies when it comes to defining the desired Islamic state and to the strategies of changing societies towards the achievements of this goal.²⁰ However, these differences have been the object of numerous other studies and will therefore not be elaborated upon in this article. According to a report published by a special committee under the Yemeni parliament in 2002, at least 104 detainees were held in state

17 Interview with Khaled al-Ansi, Sanaa, July 2008.

18 "Yemen, Using Islam to fight Terror", Crossing Continents, BBC Radio 4 program, broadcast 13 October 2005 at 11.05.

19 Mahmud, "al-Yaman: tajruba farida".

20 Ibrahim, Saad Eddin: "Anatomy of Egypt's Militant Islamic Groups: Methodological Note and Preliminary Findings", International Journal of Middle East Studies, 12:4 (1980), pp. 423-53.

detention under suspicion of involvement in the bombing of the USS Cole in 2000 or of "belonging to al-Qaeda."²¹

The accusation of involvement in the USS Cole bombing is a specific criminal accusation which clearly justifies detention if it can be proved. However, "belonging to al-Qaeda" is a rather vague accusation as it does not relate to any specific article in the Penal Code and it is not accompanied by any precise definition of what "al-Qaeda" is. Moreover, as mentioned above, the state had earlier accepted and even encouraged participation in the Afghani Jihad in the 1980's. Yet by 2002, participation in the Afghani jihad had become more or less equivalent to "belonging to al-Qaeda". Indeed, both Judge al-Hitar and President Salih often simply referred to the vast group of suspects as "the returnees from Afghanistan."²²

This severely undermined the legal justification for the detentions. Furthermore, the leader of the Political Security Organisation confirmed the weak legal justification for the detentions by stating that "there is positive evidence against some of them and merely suspicions against some others."²³ This served to shed doubt on the actual involvement of these detainees in the alleged crimes.

The State

As for the role of the state in the dialogue project it was represented by the dialogue committee headed by Judge Hamud al-Hitar. The project was construed in the public almost solely by al-Hitar despite continuous claims that the dialogue committee was comprised of a handful of the most respected Islamic scholars in Yemen. During the research for this article it was not possible to meet any other member of the dialogue committee and rumour has it that these members kept changing and none of them ever took active part in the dialogues due to differences between them and al-Hitar over the strategies applied.

21 "Taqir al-lajna al-khasa", report to Yemeni Parliament.

22 Mahmud, "al-Yaman: tajruba farida".

23 "Taqir al-lajna al-khasa", report to Yemeni Parliament, p. 9.

As mentioned above, the picture al-Hitar painted of the project was one of an approach based on mutual respect and acceptance. According to al-Hitar, the content of the dialogues focused on a number of goals²⁴ of which the most often cited was the rejection of violence, respect for the rights of non-Muslims (Dhimmi), protection of foreign interests when these were protected by treaties or agreements sanctioned by the president (Wali al-Amr) and finally respect for the constitution and laws of the country.²⁵ The dialogues were carried out as sessions where the dialogue committee met several times with small groups of five to seven detainees at a time to engage in serious debates over religious questions based on a common reference to the Quran and the Sunna as the fundamental sources of Islamic law.²⁶ By the end of the dialogues and as a condition for their release, the detainees signed a declaration that they would from then on now commit themselves to the above mentioned goals.²⁷

By using terms from classical Islamic law al-Hitar tried to argue for the legitimacy of the Yemeni state in the eyes of Islamists. Compliance with international law and protection of foreign citizens was coined as the rights of Dhimmi's, and respect for domestic legislation was argued by reference to the obedience due to the ruler (Wali al-Amr) in some schools of Islamic law. These arguments all aim to underpin acceptance of the legitimacy of the Yemeni state as a legislative institution and thus acceptance of the legitimacy of the legislation and constitution themselves.

The laws that al-Hitar demanded acceptance of generally complied with international human rights standards. Yemen has signed and ratified a long list of international human rights treaties and has also written significant rights and protections for the citizens into domestic legislation. Safeguards against arbitrary arrest and detention are thus written into both the Yemeni Constitution and the Yemeni Criminal Procedure Code.

24 al-Hitar, "al-Hiwar wa-atharuhu", pp. 16-17.

25 See Al-Shafici, "Ra'is lajna al-hiwar"; and al-Hitar, "al-Hiwar wa-atharuhu".

26 Al-Shafici, "Ra'is lajna al-hiwar".

27 Mahmud, "al-Yaman: tajriba farida".

According to Yemeni law, arrest can only happen with a warrant from a competent authority or if an individual is caught in a criminal act. The arrested party must be informed about the charges against him and he must be put in front of a judge within 24 hours. Immediately after the arrest, he has the right to inform a person of his own choice and the next of kin should also be informed every time there are developments in the case. Use of torture and inhumane treatment is specifically banned and the detainee should be informed of his rights and given access to a lawyer. Furthermore, legal supervision of correction facilities should be carried out by the office of the Public Prosecutor. Both the Public Prosecutor and the prison personnel can be punished with imprisonment if illegal detentions occur.

However, in practice these rights were grossly violated in relation to the detainees involved in the dialogue program. According to a special committee under the Yemeni parliament who visited the detainees in 2002, all detainees had by then been held for between 2 months and 2 years. None had been officially charged and none had seen a lawyer.²⁸ These findings were supported by a report from Amnesty International.²⁹ This report also stated that arrests were usually carried out at or near the detainee's home,³⁰ indicating they were not caught in any criminal act, and no warrant was presented.³¹ Both reports are potentially biased since they were written explicitly aiming to investigate and challenge the State's human rights record in the case. However, it is telling that none of the high officials and prison personnel interviewed by the parliamentary committee seriously challenge the grim picture painted by the detainees.

A representative of the Political Security Organisation, the authority immediately in charge of the detainees and which refers to the Ministry of Interior confirmed to the parliamentary committee that the detainees held had never been informed about their legal rights.³² Some detainees said they had been

28 "Taqrir al-lajna al-khasa", report to Yemeni Parliament.

29 "Yemen – The Rule of Law Sideline in the Name of Security", report published by Amnesty International, September 2003. AI Index: MDE 31/006/2003.

30 Ibid., p. 4.

31 Ibid.,

32 Ibid., p. 9.

informed about their right to legal assistance by American investigators who had been present while investigations were carried out by Yemeni staff. However, of these individuals, all had waived their right to meet a lawyer after the Yemeni investigators had advised them to do so.³³ In cases where the arrests had not been witnessed by family members, it had often taken the family months to track the whereabouts of their relatives. In one case regarding, Salih Manac al-Najar, who was arrested on 18 October 2001, his family only learned of his whereabouts when someone informed them that he had accidentally seen Salih handcuffed on a flight to Aden.³⁴

Some detainees furthermore complained of torture including beatings with electric wires, having their hands and legs shackled, being abused, insulted and receiving threats that their female family members would be arrested if they did not confess to the accusations made against them.³⁵ Incidents were also reported of blindfolding, solitary confinement in a small cell with very little ventilation, and without regular access to toilets and drinking water.³⁶

Thus, gross violations of the detainees' rights occurred. It was this situation of the clear sidelining of the rule of law which provided the context for the dialogue project.

There were several indicators that the authorities were aware of the violations of detainees' rights to protection against arbitrary arrests and other ill-treatment, indeed they openly condoned it. Al-Hitar referred to it only indirectly when he explained that the detainees who were released under the project were only the ones "whom there was no criminal charge against whereas the ones involved in a criminal case would be put in front of a judge" (italics added).³⁷

Other officials were more direct in acknowledging and justifying the breach of law, by reference to the immediate danger that Yemen faced. In the report published by the parliamentary

33 Ibid., p. 13.

34 "Rule of Law Sidelined", Amnesty International, p. 7.

35 "Taqrir al-lajna al-khasa", report to Yemeni Parliament, p. 13.

36 "Rule of Law Sidelined", Amnesty International, p. 7.

37 Mahmud, "al-Yaman: tajriba farida".

committee on the conditions of the detainees, several top-officials stressed the "special circumstances" as a direct justification for breaking the laws.

The leader of the Political Security Organization claimed that the release of the 104 detainees covered by the report would create "many problems" for the country³⁸ and openly stated that "the (detention) period prescribed by the laws and the constitution was exceeded in regards to their detention because of the political and international circumstances."³⁹ He furthermore confirmed the weak legal justification for the detentions by stating that "there is positive evidence against some of them and merely suspicions against some others."⁴⁰

The head of the counter-terrorism department of the criminal investigation bureau of the police force, Rizq al-Jaufi commented directly that "I consider that literal application of the law expresses ignorance of the law."⁴¹ This clearly expresses his lack of respect for citizen rights that is stipulated in Yemeni legislation. The minister of interior, Rashid al-cAlimi also openly condoned the long detentions without charges by saying: "in relation to the legal period of their detention we decided to exceed this law but we consider the detention of the likes of such individuals to be beneficial for us and for them in order to prevent them from the foolishness (hamaqat) they were about to commit."⁴²

These examples indicate that there was official condoning of the sidelining of laws which allowed the violations to take place in an environment of complete impunity for the responsible authorities.⁴³

38 "Taqrir al-lajna al-khasa", report to Yemeni Parliament, p. 8.

39 Ibid., p. 10.

40 Ibid., p. 9.

41 "Taqrir al-lajna al-khasa", report to Yemeni Parliament. p. 12.

42 Ibid., p. 4.

43 "Rule of Law Sidelined", Amnesty International.

Criticism of the State's Role

For the participating detainees, and for many observers, it was this image of the laws being sidelined that was the most remarkable aspect of the dialogue project and which overshadowed the aspects of religious debates. The detainees themselves considered their lengthy detention to be in breach of the Constitution, Yemeni laws and expressed that they found the "lack of respect among the officials of the security services for the Constitution and the laws strange."⁴⁴

Several observers argue that there can be no mutual respect when the dialogue partners do not have equal status and conditions.⁴⁵ The fact that the suspects were kept in prison while the dialogue committee represented the state which was responsible for their detention, ruled out any kind of reciprocity and thus any genuine dialogue.

Furthermore, in the process the detainees were made to implicitly condone the government's actions. The detainees' release was based on them signing a statement to declare their commitment to the results of the dialogue.⁴⁶ Lawyer and human rights activist, Khalid al-Ansi has pointed out that although this statement was formulated as a promise of future commitment, it also implicitly conveyed a confession of guilt of not earlier having been committed to these principles. Thus, the detainees' signatures could appear as an affirmation that the state apparatus had been right in maintaining the detentions which would therefore relieve the state of any moral obligation to pay compensation.⁴⁷ By construing the detainees as dangerous terrorists whose actions were based on "erroneous views" that would harm the country,⁴⁸ the dialogue project could be presented as a benevolent way for the government

44 "Taqrir al-lajna al-khasa", report to Yemeni Parliament, p. 14.

45 Opinion expressed in interviews carried out in Sanaa in 2008 by the author with Khaled al-Ansi, executive director of HOOD on 13 July, cAbd al-Salam Razaz, general secretary of political party Union of Popular Forces on 14 July, Abd Allah Ali Sabri, master student specializing in Islamist movements in Yemen on 15 July, Sultan Aqhali, professor of political sociology at Sanaa University on 15 July and Muhammad Bashir, professor of law at Sanaa University on 23 July.

46 Mahmud, "al-Yaman: tajriba farida".

47 Opinion expressed by Khaled al-Ansi in interview with the author, July 2008.

48 Mahmud, "al-Yaman: tajriba farida".

to extend a helping hand and offer a second chance to youths who had been misled, and thus avert focus from the coercive element of the strategy.

However, a fundamental problem was that there was very limited evidence that the detainees were in fact guilty of the acts they were detained for. Several detainees expressed they had never been extremists in the first place, but their views had turned anti-government after they had been held for extended periods of time based on very weak evidence and in some cases as hostages for their brothers or other family members to turn themselves in.⁴⁹

A Precarious Balance

Due to the domestic and international political situation in 2002, the Yemeni state felt an urgent need to act against radical Islamism. This need arose from a perceived danger to the state partly from the militants themselves, and partly from the possibility of an American led war on Yemen if the state failed to act against these militants.

That these dangers were ever able to build up can be seen as an expression of the Yemeni state's strain on resources and lack of power to control its borders and territory against the flow of potential terrorists.⁵⁰ Yemen scores lowest in the Arab region on almost any development indicator and the economy was particularly badly affected in 1990 when hundreds of thousands of Yemeni migrant workers were expelled from Saudi Arabia and Kuwait after Yemen did not vote for the UN resolution to invade Iraq. The two attacks in the harbor of Aden in 2000 and 2002 dealt a further blow to the economy as plans for a new free-trade zone in Aden to provide income fell through due to souring insurance prices.⁵¹

49 Quoted in interview with lawyer, Khaled al-Ansi from HOOD.

50 See Glosemeyer "Rückzugsgebiet"; Johnson, Gregory, *Terrorism Focus*, vol. 3, iss. 14 July 2005 - vol. 5, iss. 21, June 2008, (The Jamestown Foundation, 2005-2008).

51 "Yemen: Coping with Terrorism and Violence in a Fragile State", International Crisis Group, ICG Middle East Report, no 8, (Amman/Brussels), 8 January 2003.

Furthermore, the government has never been able to exert its power over the entire territory. In large areas of the North and East, the state relies largely on local tribal structures for governance. Indeed, the tribes often compose a parallel legal system to that of the state institutions and the tribes thus have ambiguous interest in the extension of state power.⁵² The many kidnappings in the 1990's show that the tribes do not shy away from using extra-legal measures to put pressure on the government. Tribes have also used their territorial semi-sovereignty to extend protection to individuals who were wanted by the state authorities. In 2002, local tribes in Ma'rib, al-Jawf and Shibwa extended their protection to al-Qaeda leader Salim Sinan al-Harithi and tried to negotiate a deal between him and the government before he was eventually killed by an American drone.⁵³ This example shows that there was some support in the population for the militant Islamists.

During and after the Afghan war in the 1980's militant jihadis were treated like heroes and in the 1994 civil war they had actively been engaged as allies of the government. By 2002, some were expressing indignation that the government had now turned its back on its former allies.⁵⁴

This reality meant that though an urgent need was felt both to take action against an internal threat and to prove to the American administration that Yemen could be counted on as an ally in the "War on Terror", the government did not have the power to effectively crush all militant networks in Yemen and they could not afford to alienate Islamist sentiments among the tribes. They therefore had to walk a precarious balance between these opposing interests.

Bearing in mind these various constraints on the government, it seems fair to assume that the dialogue project was designed as a way to balance the need to appear tough in the "War on Terror" with a need to appease and accommodate the wishes of a tribal population with some Islamist sympathies.

52 Weir, Shelagh, *A Tribal Order*, (London: The British Museum Press, 2007), pp. 309-312.

53 "Yemen: Coping with Terrorism", ICG, p. 20.

54 "Der Richter und der Fanatiker" Film, 2005.

However, by condoning gross violations of the detainees' rights, the regime adopted a rather "fluid" approach to law which departed markedly from a rights-based criminal law approach as prescribed by the Constitution and Criminal Procedures Code. This "fluidity" was most clearly expressed by Rizq al-Jaufi's comment that "literal application of the law expresses ignorance of the law" and it was criticized by both detainees and observers as a factor which severely undermined the legitimacy of the dialogue approach project.

Conclusion

One of the greatest challenges to the success of the Yemeni dialogue project seems to lie in the lack of legitimacy of the dialogue committee and the state it represented. A fundamental flaw in the construction of the project is that it was never aimed to genuinely engage in mutual dialogue but more to build a platform for a state-monologue from where the state could persuade and convert the individuals who held "erroneous views".

In al-Hitar's definition of dialogue which provided the starting point for the dialogue project, the two parties have equal standing and engage in an honest deliberation of viewpoints in order to try and convince each other. In practice, there was no such equality despite the rhetoric of mutual respect. On the contrary, the committee represented the state by virtue of being set up by the president personally, whereas the participants on the other side of the dialogue were detainees deprived of their constitutional rights and completely at the mercy of the state's security apparatus. This fundamental inequality of the parties involved undermined the concept of dialogue as defined by al-Hitar's because the state comes across more as an enforcer of a particular world view than as a dialogue partner.

Under these conditions, the possibility of a true dialogue with genuine mutual exchange of ideas was undermined from the beginning. By not respecting its own laws the state as an institution directly undermined its own legitimacy and credibility as a dialogue partner and thus its chances of winning over people's convictions through the dialogue project. In this

situation, the concept of religious dialogue as promoted by al-Hitar is not applicable.

The state was aiming at a specific outcome where a certain moderate understanding of Islam would be accepted. But in al-Hitar's definition of dialogue the process implies that "if you are right we will follow you and if we are right you must follow us." This means that his rhetoric opened up for the possibility of failure in achieving this outcome. This however, was not an option the state could afford as the costs of not converting the Islamists would have been too great for the entire country. Therefore, al-Hitar's rhetorical approach of honest dialogue between mutually respecting counterparts was never allowed to function freely and independently. Rather, it was constantly encapsulated in a broader strategy of hard security measures which provided more tangible protection. Therefore, the dialogue approach as promoted by al-Hitar cannot be said to have been truly implemented in Yemen. Instead the notion of dialogue was co-opted into a wider approach of repressive actions. Unfortunately, the rhetoric and aims of these two approaches are mutually opposed and thus served to undermine each other's legitimacy. In contrast, the Saudi dialogue efforts which are better funded and more comprehensively incorporated into the Kingdom's general policies seem to be able to yield more convincing results.⁵⁵

In Yemen however, the inclusion of a dialogue element seems to not only have failed in truly converting the detainees who went through it but it has also contributed to dividing and thus weakening the Yemeni counter-terrorism strategy because of missing credibility for the state party represented by the dialogue committee.

⁵⁵ Boucek, Christopher, "Saudi Arabia's 'Soft' Counterterrorism Strategy: Prevention, Rehabilitation and Aftercare", Carnegie Papers, No. 97, (2008).

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