

Ahmad Al-Chalabi & his Case against Jordan

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On 3rd August 1989, the Economic Security Commission (a body constituted when Martial Law was proclaimed) issued a decision merging “Petra Bank” with “Bank of Jordan & the Gulf”, dissolving both Banks’ Board of Directors and appointing a unified Managing Commission for both Banks. Dr. Ahmad Al-Chalabi, the Chief Administrator of Petra Bank (if not practically the only administrator) since its founding in 1977 until the date this decision was issued, was appointed a member of that Commission. Within four days of passing this decision, Dr. Al-Chalabi left Jordan (on 7th August 1989) and has never returned since. In the intervening years, the case has been referred to the Military Court, which has issued its decision on 9th February 1992, in absentia, convicting Al-Chalabi of embezzlement, breach of trust and fraud, and sentenced him to 22 years of imprisonment with hard labour, along with monetary fines totaling around US\$28.5 Million.

Ever since that sentence was passed, the media war between the Jordanian Government and Ahmad Al-Chalabi went in full swing, escalating at times and de-escalating most of the times: Ahmad Al-Chalabi attacks Jordan and accuses it of various political accusations, especially its alliance with Saddam Hussein, and its providing him with military materiel during the Iraq-Iran War, in breach of the hitherto US imposed embargo. While Jordan would raise the issue of his extradition on grounds that he is a fugitive criminal, according to Jordanian Laws. Apparently, Ahmad Al-Chalabi did not wish to cross certain lines he had demarked, or were demarked for him vis-à-vis Jordan; and likewise successive Jordanian Governments were not very keen or serious in their attempts to have him extradited, and / or were even unable to compel others to extradite him. Hence, it would seem that there is no near end for all these outcries, especially in the aftermath of Ahmad Al-Chalabi’s filing of a civil claim before a District of Columbia Court against Jordan (in its capacity both as State & Government), along

with the Central Bank, Dr. Mohammad Said Al-Nabulsi, the Central Bank's former Governor, and Mr. Mudar Badran, the former Prime Minister.

It is to be noted that this case was filed by Al-Chalabi in his personal capacity and by each of Petra Bank – Jordan and Petra Bank – Washington, on account and on the assumption that both Banks' "unified" Management was illegally appointed, and accordingly, was named as a co-defendant. In other words, Al-Chalabi still regards himself as the sole legitimate representative of those two Banks. It is also noteworthy to point out that the cases filed are of civil nature, not criminal, despite the fact that the co-defendants have, in Al-Chalabi's view, committed crimes against him; chief among them was attempting to kidnap him and hand him over to Saddam Hussein to torture and kill him. Accordingly, Al-Chalabi is claiming monetary compensation equal to triple the damages he establishes.

In his Claim, Al-Chalabi narrates and lays down his family's impeccable reputation, and its colourful history in the political and economic domains. Mention is made of his grandfather, Abd Al-Hussein, who was a Minister in Iraq and of his father, Abdulhadi, who was Deputy Speaker of the Upper House. Also mentioned is his family's moving to Lebanon in the aftermath of the 1958 coup, and of his arrival to Jordan in 1977, where he founded Petra Bank, which soon became the no. 2 Bank in Jordan, owed in the main to his own personal efforts and good management, until it was taken over by the Central Bank on 3rd August 1989, by invoking martial decrees. According to Al-Chalabi, this taking over had nothing to do with the law or safeguarding Jordan's national economy, but was driven by political motives and facilitated by the full and total cooperation between Jordanian authorities and Saddam, especially in the sphere of Jordan's arms procurement for Iraq during the Iraq-Iran War in spite of the US imposed embargo. And due to Al-Chalabi's uncovering the above, in addition to him opposing Saddam and exposing his crimes against humanity, including his killing of tens of thousands of Iraqis, a conspiracy was hatched between Saddam and Jordan, whereby he was to be destroyed financially and his good reputation smeared, and kidnapped and handed over to Iraq. As a result of this, Petra Bank in Amman was taken over by military force, and subsequently its subsidiary in Washington was also taken over. As for the two States' conspiracy to kidnap him, it was foiled since Al-Chalabi knew of it prior to its actual commission, and left Jordan on 7th August 1989 and never returned.

This is the core of Ahmad Al-Chalabi's claim, which he repeated on numerous occasions in his Statement of Claim. A thorough perusing of the Claim would give the false impression of a helpless lamb faced by two rapacious predators, namely, Jordan and Iraq, with their respective armies, military and various security systems wanting to assault him. Yet, in spite of the odds stacked against him, he manages to escape despite the fact that for over 10 years he was residing in one of these States, which, practically speaking, never barred this lamb from leaving, and probably even facilitated his escape.

Away from issues of law and facts, the Claim is emotionally charged indeed, and might prompt anyone, not only the light hearted, to sympathize and even weep; in fact, one could even state that had Saddam Hussein personally had the chance to read it before his toppling, he would have sympathized with him and wished to avenge from Jordan and Jordanian officials (then), for what had befallen this honest and patriotic person.

In one aspect, the Claim did not miss out hitting on the cord of sectarianism in Iraq between the Shi'a majority and the Sunni minority. The Sunni sect was favoured by Saddam Hussein and the ruling Ba'ath Party, something rejected by Al-Chalabi, just as he announces nowadays his rejection and denunciation of US attempts at favouring the Sunnis over the Shi'as and downplaying the interests of the Shi'a majority.

In any case, our point of view here in Jordan is at total variance with Ahmad Al-Chalabi's, to an extent that there is not a single issue that could provide a common ground between the two stances. Neither Saddam Hussein nor Iraq had anything to do with what had befallen Petra Bank on 3rd August 1989, but rather the matter hinges on pure financial technicalities. In fact, what happened to Petra Bank in 1989 happened to other Banks and financial institutions in one way or another both before and after 1989, and until the present day. The Bank was suffering from grave financial crises that not only impacted the Bank but also had adverse impact on other financial institutions, and on the national economy as a whole. Petra Bank and its management were one of the primary reasons behind the economic crisis that hit Jordan in 1989, the magnitude of which the country never witnessed. This crisis coincided with a widespread speculation on the Dinar and the Dollar, which pushed the monetary market to the verge of collapse, where the Dollar value reached 900 Fils as opposed to its erstwhile value over a long period of time which ranged between around 270 and 320 Fils. After

much struggle, the Central Bank managed to fix two values for the Dollar: one for imports (around 780 Fils) and another for other transactions (around 600 Fils), and subsequently the exchange rate was fixed at a unified rate of (710 Fils) subject to the market's normal fluctuations. This has been the case for the past 13 years, i.e. the Jordanian Dinar has lost around 60% of its prevalent normal value prior to the 1989 crisis, with the resulting surge in prices that we still suffer from until the present day.

So as not to be carried away and driven by emotions away from scientific and rational considerations, we refer to a neutral technical opinion not connected to the Jordanian Government, the Central Bank or even to Mr. Ahmad Al-Chalabi, and that is the (independent) auditor, Arthur Anderson / Dajani and Ala' Al-Din; in its Report on the financial position of Petra Bank as of 2nd August 1989, the day Petra Bank was taken over by virtue of the decisions of the Economic Security Commission. The Report, which was polemically criticized by Al-Chalabi in his Claim, states (with much abridgement) the following:

1. The shareholders' equity deficit amounted to JD157.2 Million, with potential financial losses estimated at JD93.4 Million, bringing the total shareholders' equity deficit to JD250.6 Million. Accordingly, the Bank's ability to conduct its business as normal, and to provide the necessary financing.
2. There were entries not backed by any supporting documentation, and some barter transactions involving currencies with some Banks (around JD5.9 Million) without being entered or recorded in the Bank's records. In addition to bounced cheques in the amount of JD893,000 which were not entered in the relevant accounts, and other accounting errors involving some transactions in the amount of JD4.6 Million, and an increase in Petra Bank's equity in Petra Bank – Washington in the amount of JD1.8 Million without any supporting documentation.
3. There is a reduction in the value of the Bank's long-term investments in the amount of JD1.5 Million, and capital losses in some of the companies in which the Bank is a shareholder in the amount of JD515,000; in addition to the Bank selling properties without proper documentation.

4. In many instances, the Central Bank's pre-approval for credit facilities exceeding JD500,000 was not obtained; neither was the Central Bank's pre-approval obtained for property acquisition (in violation of the pertinent laws); also found was inaccurate and false financial information submitted to the Central Bank.

It is clear that Petra Bank's and Ahmad Al-Chalabi's case which started in 1989 has no end in sight. The Bank continues to enjoy corporate personality, albeit under liquidation, a status that has been dragging on for 14 years, and it seems is destined to continue for an unlimited number of years. My own conviction, which I had expressed on more than one occasion, is that the issue of this Bank should come to a close effectively and rapidly so that we could lay this file to rest both in Jordan and Washington once and for all. This could only come about through a bold and courageous decision and in full cooperation and coordination between the relevant authorities, as opposed to the mutual suspicion, skepticism and assumption of ill will and bad intention that had hitherto marred them. One such solution, for instance, could be achieved through selling what remained of the Bank's assets to a company even at a token of their real value, or transferring the Bank's assets to the Central Bank in return for setting off its debt vis-à-vis Petra Bank. These assets could even be written off and the Bank be wound up after 15 years of spadework. But for the Bank to remain incorporated under the pretext that there is a lawsuit here and a lawsuit there, is a classic case of time, effort and money wasting. In issuing such a decision, we should be cognizant, albeit for a while, that when it comes to States matters are not always assessed in terms of monetary gain, especially if some, not to say the bulk of it, is in the domain of potentiality.

With respect of Dr. Ahmad Al-Chalabi, the other component in the Petra Bank equation, we are also in dire need for a clear, bold and courageous decision: Either settling the matter amicably and restoring his rights and dignity through legal or other means; or by officially and openly declaring that he has the right to return to Jordan and be retried for both civil and criminal charges (as prescribed by the law), while giving him all the legal guarantees for his safety, and his right to file lawsuits in Jordan as he pleases and the right to retain lawyers, both Jordanian and non-Jordanian. Or, last but not least, seriously pursuing his extradition to Jordan on grounds of the charges leveled, and sentences passed, against him. Failing that, I believe

that our relationship with him shall continue to be strikingly similar to the one which exists between Tom and Jerry.

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