

Saturday 21/5/2005

## **Jordan & Ahmad Al-Chalabi: Life has come full circle & the prophecy has come true**

By: Dr. Hamzah Ahmad Haddad (Former Minister of Justice)

It is clear that intensive efforts are underway for a near and quick solution to the turbulent relationship between Jordan and Dr. Ahmad Al-Chalabi, who recently became the Deputy Prime Minister for Financial and Economic Affairs in Iraq. In fact, since Dr. Al-Chalabi's departure from Jordan in August 1989, in the aftermath of what became known as the Petra Bank crisis, the media war in the form of mutual accusations has been in full swing, escalating at times and de-escalating most of the time. Throughout these 15 years I have maintained all along that such "war" was nothing more than an outcry from one side which is countered by another outcry from the other side, and that neither party sincerely means what he openly espouses and declares for a number of reasons and considerations that go beyond the scope of this article. One such outcry was Dr. Al-Chalabi's filing of a civil lawsuit in the United States on 11/8/2004 against Jordan, the Central Bank, and some former Jordanian officials. This was countered by Jordan demanding his extradition on account that he is – according to the Government's Official Spokesperson, Mrs. Asma Khader – "a wanted person who was convicted by a Jordanian Court of Law, and naturally Jordan welcomes enforcing the sentence passed against him". This was in reference to the sentence passed against him, in absentia, on 9<sup>th</sup> April 1992, by the State Security Court, convicting him of embezzlement, breach of trust and fraud. Consequently, he was sentenced to 22 years of imprisonment with temporary hard labour, along with various monetary fines totaling around US\$30 Million.

Following that, as usual, the dust of the storm settled until Dr. Al-Chalabi's appointment to the post of Iraqi Deputy Prime Minister forced the issue to resurface but in a manner not witnessed in the past 15 years. The man, who was referred to by the State Security Court as a "fugitive criminal", according to Jordanian Laws, now occupies an esteemed and exalted political and financial position in Iraq. In the current circumstances, Iraq is

indeed indispensable for Jordan, especially in matters financial. Likewise, neighbouring Jordan is indispensable for Iraq in many aspects due to the dictates of geo-politics. Hence, both countries find themselves in one political boat and are both expected to face the changes and the current and future unprecedented challenges in the Area. In light of the above, it was only natural that the equation be changed. In political life, there is no absolute and permanent enmity or friendship. Matters are relative, especially in international relations that are primarily governed by interests. Yesterday's enemy may become today's friend and vice versa, as is borne out daily. This is God's *modus operandi*, which can be neither changed nor amended.

Faced with these changes and realities, the matter is no longer connected with Dr. Al-Chalabi, a person criminally convicted by Jordan, but rather was transformed into a relationship between two States, Jordan and Iraq, whose relationship is governed first and foremost by interests away from theoretical and glittering slogans. Accordingly, it was not unusual for the Iraqi President, during his latest visit to Jordan, to raise and table Dr. Al-Chalabi file at the negotiating table. Similarly, it was not unusual for the Jordanian Prime Minister to announce openly that the matter (especially the legal aspects of it) has been referred to the relevant authorities for study and consideration. Also, in a newspaper interview with Dr. Al-Chalabi, he was quoted as expressly rejecting a Royal Amnesty as a solution, since an amnesty, according to him, means that he is still guilty. He calls for his re-trial before a civilian court in accordance with Jordanian Laws. Such overtures have reached the highest echelons of power in Jordan, whereby His Majesty the King announced that the Iraqi President had asked for a solution to this problem to the satisfaction of both Parties. The Government is currently embarked on assessing the financial and legal aspects of the case. All these are clear indications that a solution is in the offing; however, how is that possible in actual fact, where we are faced with a Court judgment for hard labour and fines against Dr. Al-Chalabi ?? This judgment could only be set aside in a number of ways, namely:

**First**, through Amnesty, and this is rejected by Dr. Al-Chalabi, who apparently means Special Amnesty, as opposed to General Amnesty; or

**Second**, through the enactment of a special Act for Dr. Al-Chalabi or for all those who were convicted with him, whereby the sentence is nullified and voided *ab initio*. Such special Act is rather difficult to enact on the one hand, and is destined to keep the crime on file, which entails that the charges could be re-pursued, irrespective of the statutes of limitations (time-barring clauses), and this may also be rejected by Dr. Al-Chalabi; or

**Third**, through the return of Dr. Al-Chalabi to Jordan to be re-tried for the criminal charges leveled against him before the same Court that had passed the sentence against him, or any other competent court. This entails his attending all the court hearings, and whereas the charges are criminal, he must be detained during the proceedings. Such a solution is *a priori* rejected by all parties concerned, namely, Jordan, Iraq and Al-Chalabi.

It would seem that the only way out available to the Government is to issue an Act for a General Amnesty that would annul the crime *ab initio*. Such an Act must make reference to the crimes Dr. Ahmad Al-Chalabi is accused of committing, namely, embezzlement, breach of trust and fraud, while it has always been the norm for General Amnesty Acts to exclude crimes of embezzlement from their operation (as was the case with Amnesty Acts passed in 1973, 1992 and 1999). In so far as Dr. Al-Chalabi's maintaining that amnesty means that he is guilty, and accordingly he rejects it, such is true with Special Amnesty but not General Amnesty. After such Law is passed, Dr. Al-Chalabi could come to Jordan and retain any number of lawyers he desires to file a civil lawsuit as he deems appropriate before the competent civil courts for a claim for damages, similar to the lawsuit he filed in the United States. In so doing, and notwithstanding the much ado about the statute of limitation (time-barring clauses), Dr. Al-Chalabi could lay out before the civil court the facts as he sees them. Then, the Court would determine whether or not Dr. Al-Chalabi has committed any or all of the civil wrongs claimed by the defence counsel. In other words, the Court shall determine, indirectly, whether or not Dr. Al-Chalabi is guilty of the charges and crimes he is accused of committing, or were attributed to him. Accordingly, and depending on its findings, the Court would either

award him damages or dismiss his claim. This would certainly satisfy Dr. Al-Chalabi's wishes of being tried in accordance with Jordanian Laws before a civil Court.

Finally, and this last paragraph necessarily falls in the domain of reminisces, I wish to point out that when the Petra Bank crisis was in full swing, a meeting was held at the Central Bank and was attended by Petra Bank's Management Committee to explore the rules of liquidation. I was one of the participants as I was then the Head of the Legal Department, and much of the discussion centered on Dr. Ahmad Al-Chalabi. When the meeting ended and as we were leaving the venue, the following (corridor talk) ensued when one of us smilingly said: "My fear is if one day Dr. Ahmad Al-Chalabi becomes Minister of Finance in Iraq at a time when one of us becomes the Minister of Finance in Jordan, whereby we would find ourselves compelled to receive Dr. Al-Chalabi at the airport during an official visit to Jordan, where courtesy conversation would ensue between the two, focusing mainly on Dr. Al-Chalabi's achievements at Petra Bank and the positive impact this had on Jordan's economy". Everybody laughed at this joke. When I recalled it recently I muttered that life has come full circle and the prophecy has come true, in its major and most important component.

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