

CHIBLI MALLAT

## *Bush II and democracy in the Mideast: anger and hope*

**F**or many people in the Middle East, finding solace in the results of the U.S. elections will appear counterintuitive, indeed outright provocative. Some of the following reflections are not for the passionate.

Not that I do not have a heavy grudge toward this administration, and this is a legitimately passionate reaction to a signal injustice: In February 2003, the Belgian Supreme Court gave an unprecedented victory to the victims of Sabra and Shatila whom I represented in their case against Ariel Sharon and those who have participated in the massacre. The Israeli government withdrew its ambassador from Belgium, amid a storm of threats and accusations against the victims, the Belgian judiciary and society, and Europe at large, while the trial was finally proceeding in a case where Sharon had been considered by an Israeli official commission of enquiry to be "personally responsible" for the massacre.

The U.S. government, through the personal, repeated intervention of both the Secretary of State and the Secretary of Defense, embarked on an open campaign to undermine the universal jurisdiction law on which the case was based. Under unprecedented pressure in the modern history of Belgium, the law was changed a first time in June. We saved the case, arguing that while the law as amended could terminate cases which could be brought in the country of the accused, this was not true for Sabra and Shatila victims, who did not have the right of return to Israel in the first place, let alone the right to bring a case before any court there. The U.S. was relentless. Both the

U.S. Secretary of State and the Secretary of Defense went back again to Belgium for another change of the law, which finally took place in the summer, the last action before Parliament went for recess. I do not know of another such retroactive law in the modern history of the West.

The present U.S. administration robbed Sabra and Shatila victims from their success in a characteristically non-violent action before justice. This was consistent with its policy of opposition to international justice, which is the one major alternative to war. Opposition to the International Court of Justice remains the most contentious point of European disagreement with the U.S., and jars with both the initial American enthusiasm to try internationally Saddam Hussein, Slobodan Milosevic, and the Khmers Rouges, and indeed its enthusiasm for the Court before the summer of 1998. Its attitude to international justice is the one greatest flaw of this administration, the gravest indeed in the U.S. fight against extremists killing scores of innocent people, in New York, Palestine-Israel, and elsewhere. It is a policy which the Bush administration will not reverse. And while I have my doubts that the Kerry administration would have rallied the courage that Bill Clinton showed in signing the Rome Treaty in December 2000, one can only decry the shortsightedness and moral failure of the U.S. government on issues of international justice, most pointedly the ICJ and the Sharon cases.

In sharp contrast to this grudge, I would still argue that the Bush administration has a far better position on the Middle East than what John Kerry had in store. This is

not because both are subservient to a false vision of Israel as a democracy, which it is not, but because the nuances in Bush's positions are significant. In the four major debates between the contenders, three between Kerry and Bush, and one between Cheney and Edwards, on one occasion only was there a demurrer on blind, unreversed support for Israel. This is when Cheney ventured, without even being solicited, that the U.S. administration supported two states side by side, an Israeli and a Palestinian one. This is the exact Arab and Palestinian 'official' position.

One can legitimately doubt that action will follow, but we should not confuse

### **|| Both Bush and Cheney will respond to democratic initiatives in the region**

the forest for the trees. Yaser Arafat's political retirement is long overdue, and I pray for him to recover health, so that he can bow out of the public scene and go home with the dignity associated with people who died believing in him. The problem is that like most if not all other Arab leaders, he does not have a 'normal' home. And while Sharon's rightful place is in jail, his failure is there for all to see: he has conceded defeat in Gaza, and an intelligent change of tactics by a new Palestinian leadership away from violence will ensure that the Palestinian state can happen as early as 2005, in accordance with both the Security Council two resolutions on the matter and the increasingly insistent policy of the Bush

administration. Even before Iraq, this is what President Bush included in the first policy declaration in the new mandate.

Beyond the issue of Israel-Palestine, the signal positive importance of Bush's second term is his conviction that the interests of America are now decided by the pursuit of democracy in the Middle East. This is a strategic change over the course of a full century of American policy in the region. No longer is stability depending on authoritarian regimes, especially in the Gulf, the rule. And while the Iraqi experience may be sobering, and would be enhanced by a declared U.S. readiness to pull out foreign troops to make more way for Iraqis to take over their destiny, advocates of non-violent change in the region will find a uniquely receptive ear at the White House, for the first time in living memory. It has already started in New York with our meeting with the G-8 leaders, including Secretary Colin Powell, as 'Arab society members' on September 24. It should continue in Morocco and elsewhere in the coming weeks. While the devil is in the details, and in the increased acknowledgment in the U.S. that Israel is not a democratic country under Western standards, for the first time in modern history is such a convergence possible at that level. Both Bush and Cheney will respond to democratic initiatives in each and every country in the region, and this opens unprecedented hopes for the Middle East, including in Palestine and Iraq. Let us engage them critically.

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