

Institution: Durham University
Unit of Assessment: Politics and International Studies
Title of case study: British Justice with reference to the Gulf Monarchies
<p>1. Summary of the impact</p> <p>Drawing from his extensive research on the politics of the United Arab Emirates, Christopher Davidson provided a key expert witness report in Britain's longest running extradition case, resulting in a significant legal impact for the United Kingdom. The resulting judgement in the case has subsequently become a point of reference for disputes over extradition law in a number of other countries, indicating international reach. Davidson's evidence was considered as crucial to the outcome of the case, with key beneficiaries including persons under threat of extradition to countries with records of human rights abuses, as well as human rights organisations seeking to advance consideration of human rights in international extradition agreements.</p>
<p>2. Underpinning research</p> <p>Christopher Davidson joined the School of Government and International Affairs in September 2006 and is currently a Reader.</p> <p>The research underpinning Davidson's expert witness reports focused on the political process, human rights regimes, and judicial system in the Gulf monarchies, and especially the United Arab Emirates. Most of this research was conducted in the UAE itself, with hundreds of interviews having been conducted with government officials, academics, NGO employees, journalists, and other civil society actors. Archives, public records, and a large number of NGO reports and other documents were also consulted in the UAE.</p> <p>The research culminated in three single authored books published in 2005, 2008 and 2009. The first of these (R1) was an exploration of the history, politics and economics of the United Arab Emirates, which argued that a complex ruling bargain had developed between the traditional monarchies which ruled the Emirates and who controlled the vast oil reserves, and the citizens. Oil wealth was used to shore up systems of privilege and distribution, while cultural heritages were sagely exploited to mobilise populations in support of monarchical claims to legitimacy. Going beyond conventional rentier theory, Davidson exposed the political conflicts and weakness which resulted from this model. Specifically, he documented the tight government control of civil society groups, and the power of the ruling family and its allies in co-opting or restricting those who sought to challenge their dominance, including human rights organisations and activists. His second book (R2), focused on the UAE's second-largest emirate of Dubai and deepened the critique, featuring extensive discussion of the emirate's political process, its judicial system, and its human rights record. Other controversial subjects discussed included money laundering, prostitution, the funding of terrorism, and gun-running. The book outlined the way in which Emirati legal processes are manipulated to repress dissident voices and contain opposition, subordinating judicial process to the interests of the ruling family and its friends. The third volume (R3) focused on the UAE's largest and wealthiest emirate of Abu Dhabi and featured chapters on the emirate's ruling family, its dominance of the UAE's federal government and judicial system, and the UAE's overall human rights record. Crucially for this case study, it developed a direct critique of legal systems which subordinated non-nationals to nationals, effectively depriving the former of legal "rights" through systems of informal manipulation. Further research, published in significant Area Studies journals, developed some of these themes in greater detail. R4 examined the political system more closely, assessing the potential for substantive political reform in the UAE in the content of regional discourses about democratization, the introduction of electoral politics, and succession. The tight grip on absolute power by the ruling family within the wealthiest Emirate (Abu Dhabi) was examined in R6, with Davidson arguing that there was little likelihood that this would be surrendered through the processes of succession. Finally, R5 provides an example of Davidson's work on the maintenance of international and internal security for the Emirates. These publications have established him as a premier analyst of the Arab Gulf countries, offering a clear and informed critique of the structures and weaknesses of judicial and political processes.</p>
<p>3. References to the research</p> <p>R1. Christopher Davidson, <i>The United Arab Emirates: A Study in Survival</i> (London and Boulder, Co.: Lynne Rienner, 2005) Google Scholar 114 citations</p>

Impact case study (REF3b)

- R2.** Christopher Davidson. *Abu Dhabi: Oil and Beyond* (New York: Columbia University Press, 2009) Google Scholar 43 citations
- R3.** Christopher Davidson. *Dubai: Vulnerability of Success* (New York: Columbia University Press, 2008) Google Scholar 120 citations
- R4.** Christopher Davidson. 'The United Arab Emirates: Prospects for Political Reform' in *Brown Journal of World Affairs*, Vol. 15, No. 2, 2009
<http://www.bjwa.org/article.php?id=Ms4KqyQuxQ36sSV8pQuA1ZMousC046N7i7Z0n6N6>
- R5.** Christopher Davidson. 'Dubai: The Security Dimensions of the Region's Premier Free Port' in *Middle East Policy*, Vol. 15, No. 2, 2008
DOI: 10.1111/j.1475-4967.2008.00354.x
- R6.** Christopher Davidson, 'After Sheikh Zayed: the Politics of Succession in Abu Dhabi and the United Arab Emirates', in *Middle East Policy* Vol. 13, No. 1, 2006.
<http://onlinelibrary.wiley.com/doi/10.1111/j.1475-4967.2006.00237.x/abstract>

Davidson's books have been reviewed remarkably widely. *Dubai: Vulnerability of Success* was named a book of the year by both the *New Statesman* and the *London Evening Standard*, and was praised by reviews in the *New York Times*, the *Financial Times*, and several other newspapers for tackling sensitive issues more often hidden by the country's glittering reputation. The *Financial Times* described it as "an important contribution...charting a fascinating history of an obscure part of the Gulf" (20 October 2008) while the *New York Times* congratulated Davidson on his "courage" in evaluating Dubai's vulnerabilities. *Abu Dhabi: Oil and Beyond* was described by Middle East Policy Council as "measured", "successful and predictive" and by The Times Higher Education as "timely and thoughtful... compelling and at times concerning" (18 October 2009). *The United Arab Emirates: A Study in Survival* as described in the *International Journal of Middle East Studies* as "a welcome addition...well-presented and user-friendly" (Vol. 39, 2007). All three books received favourable reviews in a large number of academic journals (including the *International Journal of Middle Eastern Studies*, *International Affairs* and the *British Journal of Middle Eastern Studies*). They have also received media attention in the Gulf Arab states themselves, being reviewed in Arabic language publications such as *Al-Akhbar* and *Al-Khaleej* and English-language newspapers such as *The National* and *Gulf News*. They have also been reviewed in European publications such as H-Net (Germany) and *Talouselema* (Finland) and American outlets such as *The Los Angeles Times* and *Columbia Daily Spectator*.

4. Details of the impact

This recognised expertise led legal firms engaged in asylum cases to approach Davidson to act as an expert witness. Sections from his books (**R1**, **R2**, and **R3**) and information from the journal articles (**R4**, **R5** and **R6**) were included and updated in the expert witness reports provided by Davidson over the REF period. In one case of particular importance, Christopher Davidson provided three expert witness reports in 2009. This was Britain's longest running extradition case, and one which had far-reaching implications.

Mohammed Lodhi, a Pakistani national, was arrested in the UK in 2000 on an extradition warrant issued by the UAE for alleged drugs-related offences in Dubai. The High Court initially granted extradition and rejected a petition on human rights grounds. It agreed to a judicial review, the process by which the High Court can test that the exercise of public power on an individual is lawful. The review in 2009 was the first major test of the 2008 extradition treaty between the UK and UAE. Davidson was recruited as an expert witness by Lodhi's solicitors, Corker Binning, and his reports drew attention to the use of torture in the UAE and the risk that a person's race or nationality could prejudice the outcome of a trial in Dubai. He also highlighted a pre-existing dispute, between an UAE ruling family member and the defendant, which was likely to prevent a fair trial from taking place. Davidson's contributions included sections taken from his publications.

Impact case study (REF3b)

He expanded on this material by conducting fresh research, arguing that the details of the case demonstrated the UAE's lack of a human rights culture and the prospect that elite members of society could interfere in the judicial process.

Lodhi died of natural causes shortly after the review hearing but the Court decided to proceed with its judgment because of its significance. The judgement, issued in March 2010 (E1), quoted Davidson's references to a 'sheikhly dispute' and agreed it was possible that Lodhi had fallen victim to such a circumstance. Further paraphrasing Davidson's report, the judges added: 'The frequency and extent of the breaches [of a right not to be tortured] which has arisen for others involved in this case... have led us to the conclusion that they cannot sufficiently diminish the real risk... that were Mr Lodhi to be extradited to the UAE his [right not to be tortured] would be breached before trial, or during imprisonment after conviction.' The Court noted that Davidson's evidence was 'essentially unchallenged'. The Court then quashed the extradition order on the basis that Lodhi's Article 3 rights (protection from torture, inhuman and degrading treatment; the most significant rights enshrined in the ECHR) were in danger. Judgment was not appealed. Corker Binning described the case as 'an historic victory' and described Davidson's reports as 'an extremely important evidential plank'.

The significance of the case is summed up by a partner in Corker Binning, who says in a letter dated 6 June 2012 (E2): '*The judgement was important in legal terms. This was for three principal reasons. First, to win an extradition case on human rights grounds is extremely rare.... Second, the judgement was – and remains – the only detailed legal analysis of the UAE's criminal justice system that exists in English law. Third, as this was the first extradition request made to the UK by the UAE, the judgement dented the (then) relatively new extradition treaty between the two countries.*'

The international reach of the judgement is reflected in its use as a reference point by other parties. Australians for Extradition Justice (AEJ), a group campaigning against ratification of an extradition treaty between Australia and UAE, cited the Lodhi judgment in 2010 in representations to the Australian government and in public statements (E3), arguing that the terms of the proposed treaty did not offer the protection that was afforded to Lodhi under the terms of the treaty between the UK and the UAE. Although the Australian government subsequently ratified the treaty, AEJ won an important concession, in that the treaty was modified to offer greater protection of human rights, along similar lines to the UK treaty. AEJ commented: "*The Australian Government ... tabled an important document in the Senate which must be used when considering extradition to the UAE. Publicising the Lodhi case was important in achieving this outcome, which will make it much harder to extradite somebody from Australia*" (E3).

In the USA, attorneys for Zack Shahin, a US citizen detained in Dubai since 2008 on disputed corruption charges, cited the details of the Lodhi case (E4) when they called on the Secretary of State, Hilary Clinton, to demand that the UAE review its procedures on how charges are filed against expatriates.

The Lodhi case was further cited by Amnesty International, in its 2010 campaigning publication 'Dangerous Deals' (E5), which drew attention to dangers of European countries relying on diplomatic assurances against the torture of people deported or extradited to countries that do not adhere to the same human rights agreements. The high profile and significance of the Lodhi case is also reflected in the extensive media coverage in the UK, for example the Financial Times and the BBC (E6 and E7 below).

The Lodhi case further served as a point of reference in a more recent case, a district judge denied a request from the UAE government for the extradition of Mr Yasir Afsar, a British-Pakistani expatriate, after considering a new expert evidence statement provided by Christopher Davidson on 4 February 2013. It is acknowledged here that the final judgement for this case was not issued until 15 August 2013, and is beyond the impact census date for this exercise. However the defendant's solicitors (Kaim Todner Associates) drew extensively on the previous case and Davidson's new evidence in presenting their arguments during the period January-July 2013 and a letter from these solicitors to Dr Davidson (E8), confirms the importance of Davidson's contribution, stating that the judge talked 'at great length about your [Davidson's] evidence and it was clear it was of great value in leading him to the conclusion that he did'. The judgement itself is presented

Impact case study (REF3b)

as E9 below, points 20,21,22 referring to the Lodhi case, points 22, 26 and 27 referring to Davidson's expert evidence statement).

5. Sources to corroborate the impact

E1. Judgement of the Court, *Lodhi v Secretary of State for the Home Department*, 19 March 2010. Available at <http://www.bailii.org/ew/cases/EWHC/Admin/2010/567.html>.

E2. Letter from Corker Binnings Solicitors, detailing Davidson's work on the Lodhi case and the impact of the Lodhi case on British extradition law, 6 June 2012.

E3. Press release issued by Australians for Extradition Justice, 19th August 2010.
http://australiansforextraditionjustice.com/yahoo_site_admin/assets/docs/AFEJ_Media_Release_19_August_2010.229183932.pdf

E4. Reuters 13th June 2012 'U.S. Legal Counsel to Zack Shahin Call on U.S. Secretary of State Hillary Clinton to Demand Investigation into Prosecution of all Expatriates held in the UAE.'<http://www.reuters.com/article/2012/06/13/idUS159732+13-Jun-2012+PRN20120613>

E5. *Dangerous Deals*, published by Amnesty International, April 2010.http://www.amnesty.org.uk/uploads/documents/doc_20299.pdf

E6. *Financial Times* 23rd March 2010 'London Court Rejects Extradition Request' by Simeon Kerr and Michael Peel.

E7. *BBC News* 19th March 2010 'Man Dies Before Winning UK's Longest Running Extradition Battle'
<http://news.bbc.co.uk/1/hi/uk/8576773.stm>.

E8. E-mail letter from Kaim Todner Solicitors Ltd to Christopher Davidson, detailing the judgement in extradition case of Mr Yasir Afsar. 19 August 2013.

E9. *Yasir Afsar Judgement*. In the Westminster Magistrates Court. The Government of the United Arab Emirates v Yasir Afsar. Available at
http://www.kaimtodner.com/news/2013/08/16/yasir_afsar_judgement.asp.