

The Gulf Crisis Reassessed From an International Law Perspective

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Introduction

The dysfunctionality of the Gulf Crisis, pitting a coalition of four countries, Saudi Arabia, United Arab Emirates (UAE), Bahrain, and Egypt against tiny Qatar, is emblematic of the descent into multi-dimensional chaos, conflict, and coercion that afflicts much of the Middle East.

Qatar may be tiny, but it is wealthy and has chosen for itself a somewhat independent path, and for this reason has experienced the wrath of the more reactionary forces operative in the region and world. At the center of the dysfunction is the manipulation of the political discourse on terrorism, pointing accusing fingers without any regard for evidence or fabrication.

My text below seeks to put forward a dispassionate and objective analysis from the perspective of international law and diplomatic protocol of the so-called '13 Demands' directed at Qatar by the coalition almost a year ago.

Despite having its own internal problems and challenges, Qatar has provided a relatively open political space compared to the rest of the region, encouraging media and educational diversity, giving asylum to political exiles and refugees, and showing sympathy, although inconsistently, for the aspirations of the Arab masses.

This makes the Gulf Crisis a further setback for those seeking regional empowerment, sustainable development, and social, political, economic, cultural, and climate justice for the region as a whole.

The intrusion of Trumpian geopolitics, especially the escalating confrontation with Iran, aggravates the disorders and dangers posed by the conflict patterns and irresponsible allegations with regard to terrorism now playing out in the region.

I believe that by reflecting on the unreasonableness of the 13 Demands of the coalition it is possible to understand better the maladies affecting the entire region.

A Normative Evaluation of the Gulf Crisis

The Gulf Crisis erupted on June 5, 2017, when a Saudi Arabian led coalition of four countries broke diplomatic relations with Qatar and Saudi Arabia closed its sole land border to Saudi Arabia and refused to allow their national air spaces to be used by flights from or to Qatar.

[1]



The imposition of a blockade is generally regarded as an act of war in contemporary international law, which is also a violation of the UN Charter's prohibition of recourse to international force except in cases of self-defense against a prior armed attack. (UN Charter, Article 2(4), 51)

These unilateral moves were then given a more concrete form on June 22 in the shape of '13 Demands' that instructed Qatar to comply within ten days, or face indefinite isolation.

There followed failed attempts by Kuwait to mediate. From the start the leadership of Qatar expressed its immediate willingness for dialogue as the correct way to resolve the Gulf Crisis; as well, the United States and several principal countries in Europe urged a diplomatic resolution of the dispute as being in the interest of the Gulf region and the Middle East generally.

In this paper the 13 Demands of the Saudi coalition (Saudi Arabia, United Arab Emirates, Bahrain, and Egypt) are considered *from the perspective of international law (including the UN Charter), the protocols of international diplomacy, and the framework of cooperation associated with the GCC framework.* ([GCC = Gulf Cooperation Council](#)).

The paper analyzes these normative dimensions of international relations with special attention to the specific context associated with Qatar and the Coalition. This analysis is supplemented by a consideration of whether there are grounds for making some adjustments in Qatari policy based on its affinities with other states that are member of the GCC, including a large number of shared policy goals.

From the outset, it seemed as if all sides in the conflict, at least outwardly, favored a prompt resolution of the crisis, but how this could be achieved given the sovereignty concerns of Qatar remains elusive 8 months later.

The formidable obstacles to normalization are evident from the nature of the 13 Demands of the Coalition and Qatar's unshakable resolve to defend its independence and uphold its sovereign rights.

Attention is also given as to whether Coalition grievances have some policy merit if treated as a matter of 'reasonableness' within the GCC framework even if the 13 Demands do not make the case that Qatar should change its behavior because its policies have been violating international law.

Are there ways for the government of Qatar to alter its policies to satisfy the Coalition without sacrificing its fundamental identity as a fully sovereign state and member of the United Nations in good standing?

In this regard, the internal values and expectations of the GCC with respect to the degree to which diversity of public order internal to the state is permissible and the extent to which domestic and foreign policy of a GCC member state needs to avoid causing impacts on the security of other GCC members are relevant considerations.

The 2014 Gulf Crisis

It seems important to realize that tensions between GCC members and Qatar have been present since the time of the GCC's formation (1981), but for reasons of internal cohesion these disagreements were for years kept below the surface. However, as these underlying tensions greatly intensified after the Arab Spring of 2011 it became increasingly difficult to maintain confidentiality as to policy differences.

These differences climaxed as a result of the regional growth of influence of the Muslim Brotherhood (MB), which was regarded as a serious threat by the Coalition states while being viewed rather more favorably by Qatar.

It was hardly a secret that this rise of the Brotherhood was perceived as a hostile and potentially dangerous development by several GCC countries, and especially UAE and Saudi Arabia, as well as Bahrain.

In this regard, Qatar's sympathy for the Arab uprisings and its relatively positive relationship with the Muslim Brotherhood struck a raw nerve in relations within the GCC, raising serious questions about the workability of the GCC as a collaborative alliance in the future. This discord broke into the open in March 2014 when Bahrain, Saudi Arabia, and UAE withdrew their ambassadors from its capital, Doha, in an obviously coordinated move.

In response, Qatar sought dialogue and reconciliation, and decided to leave its ambassadors in place rather than engage in reciprocal withdrawal. The Emir, Sheik Tamim, took a diplomatic initiative by seeking reconciliation in the course of several meetings with King Abdullah in Riyadh.

The Qatar position in response was articulated at the time by the then Minister of Foreign Affairs, Khaled bin Mohammed Al-Attiyah, who stressed early in the 2014 crisis that Qatar would not compromise with respect to its insistence on 'independence' for itself and other GCC members and in relation to showing support for peoples in the region seeking 'self-determination, justice, and freedom.' [Interview, *Al-Arabiya*, 5 March 2014]

Such a position, especially after the MB did better than expected in elections, especially in Egypt, sharpened the tensions with the Saudi-led Gulf monarchies being determined to do all in their power to promote counter-revolution in the region to the extent of criminalizing the MB as a terrorist organization.

Qatar's refusal to go along with such aggressive moves prompted the rupture in relations, but only temporarily.

With the encouragement of the non-aligned GCC members, Kuwait and Oman, a GCC Summit took place in November 2014 that agreed to the Riyadh Supplemental Agreement that reaffirmed the GCC norms of non-interference and avoidance of behavior that poses a threat to the political stability of other members.

GCC diplomatic relations were restored, and this first Gulf Crisis unrealistically viewed as having been resolved. The GCC was widely praised for surmounting its internal differences, and recognizing the strength of its fraternal bonds. Some optimistic commentators viewed this closing of ranks as a sign that the GCC had attained 'maturity,' but in retrospect the conflict was not overcome or compromised, but swept under the rug for the moment.

The Riyadh Supplemental Agreement, although not a public document, apparently contains contradictory principles that allow both sides to find support for their positions. The Coalition can take heart from the commitment of participating governments not to adopt policies and engage in behavior that threatens other GCC members. Qatar can feel vindicated by the recognition and affirmation of the sovereign rights of GCC members.

Despite the formal resolution of the 2014 crisis it was evident even at the time that UAE, in particular, continued to be deeply opposed to what it regarded as Qatar's positive relations with and public support for the MB.

It was this rift as filtered through later developments, especially the sectarian and regional geopolitical opposition of the Coalition to Iran even in the face of difference of policy nuance among Coalition members. The Coalition is not monolithic. Nevertheless, certain tendencies are evident.

After 2014, Iran replaced the MB as the main adversary of the Coalition, while Qatar for entirely different reasons found itself in an economic and political position that demanded a level of cooperation with Iran, centered on the world's largest natural gas field being shared by the two countries.

The Onset of the 2017 Crisis

While the American president, Donald Trump, was in Saudi Arabia for a formal state visit in May 2017, there were strong accusations directed at Qatar as funder and supporter of terrorism, not doing its part in the struggle against terrorism in the Middle East, views that were blandly endorsed by Trump without any plausible grounding in evidence.



Following Trump's departure, the Coalition hostile to Qatar was formed with the same GCC alignment of Bahrain, Saudi Arabia, and the UAE as antagonists and Kuwait and Oman as non-aligned.

A major difference from 2014 was that the GCC initiative this time included the participation of Sisi's Egypt, the new leader who had in 2013 overthrown the MB elected government and who received major economic assistance from GCC governments.

On 6 June 2017 the anti-Qatar coalition announced intention to confront Qatar because of alleged support of terrorism throughout the Middle East.

This declaration included the announcement that diplomatic relations would be suspended

and Qatar's land border with Saudi Arabia would be closed, air space blocked; in addition, 19,000 Qatari individuals given two weeks to leave Coalition countries, and 11,300 Coalitional nationals living in Qatar were ordered to return home or face serious penalties, an unusual example of 'forced repatriation.'

Unlike 2014, Qatar withdrew its ambassadors from the three coalition members plus Egypt.

These actions met with strong Qatari objections, although coupled with an offer of dialogue and advocacy of a political solution. Qatar's initiative did not lead to a favorable response from the Coalition membership. In fact, the Gulf Crisis was actually aggravated when the Coalition tabled its 13 Demands with an ultimatum demanding compliance within ten days.

It should be pointed out that this unilateralism by the Coalition, especially on the part of countries with many shared interests, common undertakings, and overlapping relationships, is directly opposed to the letter and spirit of Article 2(3) of the United Nations Charter:

"All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered."

Here, the Coalition made no effort whatsoever to resolve the crisis peacefully, either by way of a call for diplomacy prior to taking coercive steps or through agreeing to mediation in the immediate aftermath of the crisis. Instead, these Coalition's coercive moves caused harm to both the public interest of the state of Qatar and to private citizens of Qatar whose professional and personal lives were disrupted in serious ways that constituted violations of international human rights standards.

13 'Demands' of Bahrain, Saudi Arabia and the UAE

The explicit focus of the 2017 crisis shifted its main attention to the campaign against terrorism, with a background allegation that Qatar had been funding and supporting terrorism in the Arab world for many years, and was thus an outlier in the GCC context.

There were two dubious major assumptions accompanying the Coalition demands:

(1) That the MB is correctly identified as a 'terrorist organization;'

(2) That the members of the GCC Coalition, despite their own extensive funding of radical madrassas throughout the Muslim world, were less guilty than Qatar, of nurturing the terrorist threat in the Gulf and throughout the Middle East.

In this respect, playing 'the terrorist card' by the Coalition obscured the extent to which *the real explanation of the crisis had little to do with suppressing terrorism and much to do with confronting Iran*, and thus disciplining Qatar in reaction to its disproportionate influence in the region, and controlling the terrorist discourse in a manner that corresponded with their strategy of considering as 'terrorist' any political movement that challenged in any way the legitimacy of Islamic dynastic rule.

It is highly relevant that Qatar also is governed by dynastic monarchy, but in a manner that is far more consonant with international law than are its Coalition neighbors.

Qatar is also more tolerant of diversity and dissent internally than other Coalition member, but faces serious human rights challenges with respect to its non-Qatari residents who comprise the majority of the population.

The 13 Demands are set forth in a document released on June 6, 2017, giving a formal character to the Coalition's disregard of international law and diplomatic protocol in its undertaking to control Qatar's domestic and foreign policy.

These demands can be examined from the perspective of international law and international human rights standards. It should be observed that the 13 Demands are not presented in a reasoned way or with any attempt to be reconciled with either international law or diplomatic relations between sovereign states, especially here, where the relations are especially close given the juridical and practical collaborative activities of members of the GCC.

As earlier comments make clear, there were clear tensions associated with Qatar's perceived support for the Muslim Brotherhood, especially in Egypt, and its relative openness on issues of freedom of expression, which included criticism of Coalition countries.

What follows is brief commentary from the perspectives of international law and international diplomacy on each of the 13 Demands:

1. Curb diplomatic ties with Iran and close its diplomatic missions there. Expel members of Iran's Revolutionary Guards and cut off any joint military cooperation with Iran. Only trade and commerce with Iran that complies with US and international sanctions will be permitted.

This primary demand may be the most important political item on the list of 13, but it has no foundation in international law. Qatar as a sovereign state has complete freedom to establish whatever relationship it chooses to have with Iran.

From a diplomatic perspective this 'demand' can be interpreted as a request from the closely aligned states that constitute the Coalition, but if so construed, it is an occasion for discussion, and policy coordination, not coercive threats and actions.

As for the obligations associated with sanctions, there is no legal reason for Qatar to implement U.S. sanctions imposed on Iran. Qatar does have a limited obligation to uphold UN sanctions, but the Coalition has no standing, except possibly within a UN setting, to raise such an issue.

2. Sever all ties to "terrorist organisations", specifically the Muslim Brotherhood, Islamic State, al-Qaida and Lebanon's Hezbollah. Formally declare those entities as terrorist groups.

Formulating this request in the form of a 'demand' seems an inappropriate intrusion on a matter within the sovereign discretion of Qatar. As with the first demand, the call for severance of ties with the MB and Hezbollah are of great importance to the Coalition, but this is a political matter to be discussed either within the GCC or some other forum. For the Islamic State and al-Qaida there is little disagreement about their character as a 'terrorist organization,' but for the MB and Hezbollah the assessment is more contested, and thus a demand that they be "formally declared" as a terrorist organization is inappropriate from

perspectives of international law and international diplomacy.

3. Shut down al-Jazeera and its affiliate stations.



Such a demand is in flagrant violation of the right of freedom of expression as embodied in authoritative international law treaties and part of customary international law relating to human rights. In effect, Qatar is put under pressure to commit such a violation. It is especially objectionable as *al-Jazeera* and its affiliates conform to high standards of journalistic professionalism, and do not open their media outlets to hostile propaganda or hate speech. Demand (3) contravenes Articles 18 & 19 of the Universal Declaration of Human Rights.

4. Shut down news outlets that Qatar funds, directly and indirectly, including Arabi21, Rassd, Al-Araby Al-Jadeed and Middle East Eye.

The same legal rationale applies as set forth in response to Demand (3). Further, here there is an attempted interference with Qatar's support for high quality media elsewhere that is a public good, giving the peoples of the Middle East and elsewhere exposure to alternative viewpoints on the main public issues of the day.

5. Immediately terminate the Turkish military presence in Qatar and end any joint military cooperation with Turkey inside Qatar.

This demand attempt to intervene in the internal security arrangements of Qatar, and as such challenges its sovereign rights on a matter of prime national concern. It is an attempted violation of the central norms of peaceful relations, as set forth in the influential *Declaration on Principles of International Law Concerning Friendly Relation and Co-Operation Among States in Accordance with the Charter of the United Nations*, GA Resolution 2625, 1970, especially principles b-e, stressing sovereignty and non-intervention.

If Turkey was somehow posing an existential threat to Coalition countries, then a diplomatic appeal to a fellow GCC member might be a reasonable initiative. As matters now stand Turkey has a diplomatic presence in all Coalition members, except Egypt where relations are kept at the level of Charges d'Affaires. There is some friction between Turkey and the UAE on various issues, and so tensions exist, including in relation to resolving the Gulf Crisis. On its face, Demand (5) is entirely unreasonable from both the perspective of international law and normal diplomacy.

6. Stop all means of funding for individuals, groups or organisations that have been designated as terrorists by Saudi Arabia, the UAE, Egypt, Bahrain, the US and other countries.

This may be the most extraordinarily inappropriate demand of all for two reasons. First, it

removes from Qatar's discretion the designation of "individuals, groups or organisations" that are deemed to be "terrorists." This is an unacceptable intrusion on Qatar's sovereign rights. And by including the United States it moves the source of Coalition grievance outside the framework of both the GCC and the Coalition. Egypt is also not a member of the GCC but at least a member of the Coalition.

It seems obvious that the effort here is to brand as terrorists those individuals and organizations associated with the MB and Hezbollah as directly targeted in Demand (2).

7. Hand over "terrorist figures" and wanted individuals from Saudi Arabia, the UAE, Egypt and Bahrain to their countries of origin. Freeze their assets, and provide any desired information about their residency, movements and finances.

Demand (7) suffers from the same deficiencies as (6) plus the added indignity of such vague and inflammatory designations as "'terrorist figures' and 'wanted individuals.'" Such a demand could be formulated in acceptable diplomatic language as pertaining to those who had been convicted of crimes by courts in the Coalition, and were subject to extradition following formal requests made to the Government of Qatar.

Extradition would not be available if the person requested was convicted of 'political crimes' or if the trial process was not in accord with international standards, or if no extradition treaty or practice exists.

8. End interference in sovereign countries' internal affairs. Stop granting citizenship to wanted nationals from Saudi Arabia, the UAE, Egypt and Bahrain. Revoke Qatari citizenship for existing nationals where such citizenship violates those countries' laws.

Again as in Demand (7), the demanded action is a clear interference with core sovereign rights pertaining to the grant and withdrawal of citizenship of the State of Qatar, and as such an attempted violation of the norm prohibiting intervention. It seeks such a crude disregard of Qatari sovereignty as to constitute a grave diplomatic insult, which is a breach of protocol, especially inappropriate for countries supposedly collaborating on the basis of shared interests and common values within the GCC framework.

9. Stop all contacts with the political opposition in Saudi Arabia, the UAE, Egypt and Bahrain. Hand over all files detailing Qatar's prior contacts with and support for those opposition groups.

As with Demand (8) to make such a demand public is to breach diplomatic protocol, as well as to express in this context of threat and insult issues that are within the sphere of Qatar's internal security policies and practices. If the context were different, it might be that Coalition could make confidential requests to Doha institutions and officials for cooperation with respect to specific individuals deemed dangerous to one or more GCC member states, and even to Egypt. It might also be observed that reliable reports by the BBC and elsewhere that the UAE was holding a Qatari prince captive as a possible replacement for the Emir of Qatar. Such reports make this demand particularly objectionable and hypocritical.

10. Pay reparations and compensation for loss of life and other, financial losses caused by Qatar's policies in recent years. The sum will be determined in coordination with Qatar.

Demand (10) is on its face vague and unacceptable from the perspectives of international law and diplomacy. It is formulated as if "Qatar's policies in recent years" can be assumed

to be wrong and unlawful to such an extent as to justify a demand for “reparations and compensation.” This is not only an unlawful demand, it is irresponsibly asserted in a manner that any government would find to be insulting and totally unacceptable.

11. Consent to monthly audits for the first year after agreeing to the demands, then once per quarter during the second year. For the following 10 years, Qatar would be monitored annually for compliance.

As with the prior demand, Demand (11) seems such a departure from the canons of public diplomacy as to be inserted as a deliberate provocation on a fundamental matter of Qatar sovereign rights.

In effect, Demand (11) is seeking a humiliating public surrender of Qatar’s sovereignty, and a basic repudiation of the most fundamental standard of international diplomacy—the equality of sovereign states. Under no conditions, short of terms imposed on a defeated government after a war can such a requirement of “monthly audits” for a period of ten years be deemed reasonable or acceptable.

12. Align itself with the other Gulf and Arab countries militarily, politically, socially and economically, as well as on economic matters, in line with an agreement reached with Saudi Arabia in 2014.

Unlike other demands, especially Demands (9)-(11), Demand (12) on its face seems relatively unobjectionable, and can be understood as a mere call for greater collaboration. It can also be read as unacceptably putting Qatar in a subordinate position of ‘aligning itself’ on policy matters with Coalition and unspecified other “Arab countries” rather than seeking policy *coordination* on the basis of sovereign equality and mutual respect. To the extent that it uses coercive language, it is diplomatically unacceptable.

13. Agree to all the demands within 10 days Agree to all the demands within 10 days of it being submitted to Qatar, or the list becomes invalid.

Such an ultimatum is an unlawful challenge to the sovereign rights of Qatar and a serious breach of diplomatic protocol in relations between sovereign states, accentuated by common membership in the GCC. There is no rationale or justification given for this kind of hegemonic language or attempted control of Qatar’s *lawful* and *discretionary* policies and practices.

Although rendered invalid by its language if not accepted within ten days, its renewed assertion by the Coalition makes Demand (13) incoherent, and of ambiguous relevance to efforts to resolve the Gulf Crisis.

Conclusion

The analysis and appraisal of the 13 Demands from the perspective of international law and diplomatic protocol reaches *the conclusion that not one of the demands is reasonable, in accord with respect for the sovereignty of Qatar, and respectful of the proper canons of diplomacy governing relations among sovereign states that are based on equality and mutual respect.*

In summary, the 13 Demands are incompatible with the principles set forth in GA Res. 2625, referenced above, that sets forth the principles for lawful and friendly relations among sovereign states, as well as with Article 2 of the UN Charter.

Taken as a whole, the demands seem so incompatible with respect for Qatar as a sovereign state as to appear intended to isolate the country or even create an atmosphere that prepared the way for regime-changing coup.

Such a scenario, even if not executed, is incompatible with international law and the norms of friendly relations among states, especially, as here, among aligned states.

It might be useful at some point to make public use of this point-by-point analysis of the 13 Demands to underscore Qatar's strong and unassailable position in refusing to accede to these demands.

The fact that the Coalition has recently affirmed their insistence that Qatar accept the 13 Demands as the precondition for resolving the Gulf Crisis suggests the importance of a convincing set of explanations for Qatar's refusal to respond favorable to the 13 Demands either singly or collectively.

This seeming effort to compel Qatar to accept external pressures, including a demand of compliance with U.S. sanctions imposed on Iran sets a precedent that could work against the sovereignty of other GCC members in the future. The diplomatic posture with respect to Qatar seems to assert a collective right of GCC members to intervene in internal affairs of another member to a far greater extent that present super-national actors have ever in the past claimed.

It seems doubtful that the 13 Demands have any constructive role to play in a diplomacy of reconciliation among Gulf countries.

Indeed, it would seem that a necessary first step toward the initiation of a diplomacy of reconciliation would be for the Coalition to abandon any further reference to the 13 Demands as possessing any relevance whatsoever in shaping future relations between Qatar and the GCC and Coalition.

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Note

[1] The Gulf countries, in addition to Saudi Arabia, were the UAE and Bahrain; the fourth member of the Coalition was Egypt. This group of four is referred to as 'the Coalition' in this text.

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