

Statement Submitted to the Committee on Foreign Affairs’ Subcommittee on International Organizations, Human Rights, and Oversight

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On November 26, 2007, the Bush Administration announced that a joint declaration of principles had been endorsed by President of the United States of America, George W. Bush, and Iraqi Prime Minister, Nouri Kamel Al-Maliki. As envisioned by the Bush Administration the United States’ future relationship with Iraq includes a range of entangling measures, foremost of which is the pledge to defend Iraq from internal and external security threats. Article 2 of the Declaration of Principles is quite specific insisting that U.S. Forces will support, “the Republic of Iraq in its efforts to combat all terrorist groups, at the forefront of which is Al-Qaeda, Saddamists, and all other outlaw groups regardless of affiliation, and destroy their logistical networks and their sources of finance, and defeat and uproot them from Iraq.”

The joint declaration will also reportedly lead to a status of forces agreement (SOFA) between the government of the United States and the government of Iraq. This agreement will not only replace the existing Security Council mandate authorizing the current presence of the U.S.-led multinational forces in Iraq. It will also define the U.S. military’s role inside Iraq in ways that are normally agreed only within the framework of mutual defense treaties.

It is therefore the opinion of this witness that the Committee should recommend that the House and the Senate resist any proposed arrangement that commits American military power to any long-term presence in Iraq without a mutual defense treaty in place, if that is the aim of the American people. Whatever course of action the Bush Administration decides to follow in Iraq, it should not attempt to make policy on the sly. Nor should the Bush administration pretend that a major U.S. defense commitment, internal and external to Iraq, is a matter for resolution inside a SOFA. Instead, the Bush Administration should explain its true strategic aims and work with the Congress, because that is how successful, long-term security policy is made.

Setting aside the commercial arrangements that bring to mind the British Empire’s attempts to extract economic benefit from a weak Iraqi state after World War I, there are a number of problems with the Joint Declaration of

Principles that merit the Committee's attention. Chief among them is the notion that a SOFA should be used to determine the conditions for the use of American military power together with the stated commitment of the United States to support the Republic of Iraq in defending Iraq's "democratic system" and, by implication its government, against internal and external threats. The use of a SOFA to define a military mission for U.S. forces for internal defense of the Iraqi government is a significant break with established practice because SOFAs normally do not address the use of American military power against external or internal threats to the governments that host the permanent presence of the U.S. Armed Forces. These issues are normally addressed in mutual defense treaties.

Instead, SOFAs are incorporated into the larger security framework of such treaties. For instance, the SOFA that defines the relationship of U.S. Forces stationed in Korea to the Republic of Korea is contained inside article IV of the mutual defense treaty between the United States of America and the Republic of Korea, signed on October 1, 1953. This is because SOFAs actually deal with the routine administrative and legal issues that shape the U.S. military's conduct of day-to-day business inside the host country. These activities are wide ranging and involve actions such as the notification of the host country of the entry and exit of U.S. forces along with the transportation into or out of the host country of individual items belonging to U.S. service members (i.e. automobiles), legal claims and susceptibility to income and sales taxes. In places like Korea, Germany or Japan where U.S. forces are permanently stationed, SOFAs also address matters such as the delivery of mail, environmental impact concerns, recreation and banking facilities.

In Germany, Korea, and Japan, SOFAs deal first and foremost with the issues of civil and criminal jurisdiction over U.S. service members to ensure that the Department of Defense protects, to the maximum extent possible, the rights of soldiers, sailors, airmen or Marines who may be subject to criminal trial by foreign courts or imprisonment in foreign jails. Once again, there is no language in these SOFAs that determine the legal framework for the use of American military power to defend the host governments against internal or external threats.

In the case of the Federal Republic of Germany, the 1949 North Atlantic Treaty that is the legal basis for the current SOFA with Germany has an exclusively external focus and does not contain language that could be construed as legitimating the use of American military power for the purpose of defending the German government against internal threats. Article 6 of the NATO Treaty specifically defines the term "armed attack" as an external attack and limits the allied response to territories within specific geographical limits. The Treaty states that NATO regards an armed attack as one:

“on the territory of any of the Parties in Europe or North America, on the territory of or on the Islands under the jurisdiction of any of the Parties in the North Atlantic area north of the Tropic of Cancer; on

the forces, vessels, or aircraft of any of the Parties, when in or over these territories or any other area in Europe in which occupation forces of any of the Parties were stationed on the date when the Treaty entered into force or the Mediterranean Sea or the North Atlantic area north of the Tropic of Cancer.”¹

What is notably absent from the NATO Treaty and the content of the existing status of forces agreements with Germany that flow from it is any reference to the use of U.S. military power inside or on the territory of Germany against internal enemies of the German government. In Germany (and Korea) where U.S. Forces are stationed, the governments are strong, legitimate and secure their own borders. This is yet another reason why the institutionalization of internal U.S. military intervention in Iraq’s domestic affairs moves the United States government into an entirely new international security role, one that is uncomfortably close to the security arrangements the Soviet Union imposed on the Warsaw Pact states.

In the 1955 Warsaw Treaty, article 8 expressed respect for the independence and sovereignty of its non-Soviet members, the treaty also acknowledged the international duty of its members including the Soviet Union to provide fraternal assistance in protecting the gains of socialism. The gains of socialism equated in Soviet Russian terms to the installation of puppet communist regimes in Central and Eastern Europe resulting from Soviet Russian occupation in 1945. Between 1953 and 1981, the Soviet armed forces provided fraternal assistance on several occasions in the form of massive military interventions to defeat open rebellions against Central-East Europe’s ruling communist parties.

In 1953, Soviet forces moved into Berlin to suppress opposition to the East German Communist government after Stalin’s death. In 1956, Soviet tank armies intervened to crush the Hungarian uprising that removed Hungary’s communist party from power. In 1968 the Soviet suppression of popular political dissent in the former Democratic Republic of Czechoslovakia resulted in the commitment of several hundred thousand Soviet and non-Soviet troops under Soviet command to occupy the country’s major cities. The action to crush the Czechoslovak people’s bid for independence from Moscow subsequently became known as the Brezhnev Doctrine. Leonid Brezhnev, the Soviet premier and communist party chief summed up the doctrine of the Warsaw Pact’s concept of limited sovereignty in the defense of socialism with the words, “What we have, we hold.”²

¹ The definition of the territories to which Article 5 applies was revised by Article 2 of the Protocol to the North Atlantic Treaty on the accession of Greece and Turkey signed on 22 October 1951. On January 16, 1963, the North Atlantic Council noted that insofar as the former Algerian Departments of France were concerned, the relevant clauses of this Treaty had become inapplicable as from July 3, 1962. The Treaty came into force on 24 August 1949, after the deposition of the ratifications of all signatory states.

² Jeffrey Simon, *Warsaw Pact: Problems of Command and Control*, (Boulder, CO: Westview Press, 1985)m pages 10, 50 and 51.

The Bush Administration's proposed commitment to defend Iraq's "democratic system," seems uncomfortably close to the Soviet notion of defending socialism. The fact that Iraq's claim to democracy is extremely tenuous makes this article in the Joint Declaration particularly disturbing because it contradicts America's historic fight for the self-determination of peoples in Europe, Asia, Africa, the Middle East and Latin America during the Cold War. Members should also recall that history is littered with examples of outside forces that intervened in the internal affairs of other states with the best of intentions, only to watch events spin out of control, and massive human tragedies result.³ This description would seem to fit contemporary Iraq.⁴

An open-ended American military pledge to defend the Iraqi government in Baghdad against internal enemies also has the practical, if surely unintended effect of strengthening alternative legitimacy inside Iraq; namely, Kurdish, Shi'a, and Sunni legitimacy. Moreover, staying in Iraq much longer has the potential to undermine American legitimacy among Americans — and U.S. allies. Collaterally, the use of American force inside Iraq also potentially undermines America's military presence in Afghanistan. In view of these points, it would make sense for congress to identify specific benchmarks of eroding legitimacy for the Iraqi government based on continued U.S. military involvement in Iraq's internal affairs.

Furthermore, the use of Al-Qaeda as a brand name for any Arab rebelling against the U.S. military occupation is a tactic used repeatedly over the last five years by general officers and Administration spokesmen to persuade the American people that our soldiers, sailors, airmen and Marines confront an exclusively Al-Qaeda inspired rebellion. In fact, as General John Abizaid, former CENTCOM commander, pointed out in testimony, Al-Qaeda's adherents have never represented more than 3-5% of the armed resistance to U.S. Forces in Muslim Arab Iraq.⁵ In view of al Qaeda's specific mention in the Joint Declaration, it seems plausible that the Al-Qaeda brand name could be exploited in the future to commit U.S. Forces to suppress any Arab in Iraq who opposed the Iraqi government in Baghdad or the U.S. military presence.

The second area of the Joint Declaration where problems arise is the characterization of Iraq as a sovereign state. In fact, Iraq is neither a sovereign state nor a modern nation-state. A nation-state is defined as having an internal

³ Russian intervention to restore order in Poland during the last decade of the 18th Century is one example. French intervention in Mexico during the 1860s to support an unpopular government is another. American intervention in Vietnam destroyed millions of lives. Also, see Joseph L. Galloway, "Death Squads Undoing Surge's Progress," *Miami Herald*, January 29, 2008, page 1.

⁴ Charles J. Hanley, "American Airstrikes In Iraq Rise Above '06 Total," *Seattle Post-Intelligencer*, June 6, 2007. Four years into the war U.S. warplanes are dropping bombs at more than twice the rate of one year ago. Also, see Jeffrey Gettleman, "As U.S. Detains Iraqis, Families Plead for News," *New York Times*, March 7, 2004.

⁵ Amit R. Paley, "Iraqis Joining Insurgency Less For Cause Than Cash," *Washington Post*, 20 November 2007, page 1.

structure of political power that exercises a monopoly of control over the means of violence within its territory; as having the authority to enforce the distribution of goods, services and resources throughout the polity; and, as having a government that is the legitimate focus of national political identity. None of these conditions currently applies to the Maliki government. The truth is that the Maliki government would not survive the withdrawal of U.S. military power from Iraq.

The Maliki government enjoys tepid support from Iraq's Arab population and meets of necessity inside the Green Zone under heavy U.S. military security. Depending on the region, the Maliki government evokes a visceral response from Iraq's Arab population ranging from quiet disdain to armed hostility.⁶ Today, Iraq is dominated by militias of every kind and its central government wallows in corruption.

Khalid Jamal al-Qaisi, the deputy commander of one of the new, U.S. funded Sunni Arab militias in Baghdad proclaims, "We are an independent state; no police or army is allowed to come in."⁷ He and his contemporaries among the nearly 100,000 Sunni Arab Insurgents now on the Army payroll refuse to cooperate with Iraqi Army and police, claiming with considerable justification that they too are infiltrated by Shi'ite militias and riddled with sectarian bias.

For these reasons, any elected official contemplating the commitment of U.S. Forces to the survival of a government like Iraq's, a government that already confronts powerful, armed opposition inside its own borders, should recognize the damage that reliance on U.S. troops does to the legitimacy of Iraq's government. For this reason, the best strategy for the United States is to stay out

⁶ BBC "Monitoring International Reports" carries a translation from the USG Open Source Center of an interview on the situation in al-Anbar and Fallujah by Al-Arab al-Yawm, a Jordanian newspaper, with Dr. Tariq Khalaf Abdullah, head of al-Anbar Reconstruction Commission. Abdullah, from a strongly Sunni region, blames tensions between Sunnis and Shiites on the government of Prime Minister Nuri al-Maliki: "so long as there is a sectarian government in Iraq, it is highly likely that it will seek to divide the country." He blames terror attacks on nihilists and the Iranians: "**There are two types of occupation now in Iraq, the American and the Iranian... He doesn't seem to have a problem with people attacking Americans-- he refers to them as the "resistance."** But he complains about those who conduct random violence against Iraqis, implying that many are backed by Iran *and also by the United States!* **Moreover, he blames the Iranian presence and influence on the United States: "the United States was the main reason that helped Iran come into Iraq." He is clearly eager to get the US out of the towns and cities of al-Anbar Province, and thinks their presence provokes violence.** So to sum up, he dismisses the Iraqi government as "sectarian," sees Iraqi Shiites as cat's paws of Iran, wants the US out of his province, and blames the US for bringing Iran into it and well as for secretly backing death squads. And this is a Concerned Local Citizen with strong ties to the Awakening Council! Oh, yeah, the US is sitting pretty in Iraq now.

⁷ Sam Dagher, "Market Bombings: Baghdad Locals Want Security, Not Iraqi Police. The Monitor accompanied a high-level militia member on a walk through an area near Friday's bombing." *Christian Science Monitor*, 4 February 2008, page 3.

of Iraq's internal conflict until the conflict is resolved and a new, legitimate Iraqi leadership emerges without direct U.S. military support.⁸

This was the general strategy the United States followed in El Salvador, often cited as a case study in how the United States can defeat insurgencies. However, it was not the U.S. military that defeated the FMLN guerrillas, but the Salvadoran military under the control of its own government with U.S. encouragement and no more than fifty U.S. military advisors. Moreover, El Salvador was not simply a sovereign state, but El Salvadoran society was and is a single identity — an essential prerequisite for successful internal defense of a government struggling for survival and legitimacy.

These points notwithstanding, there are other considerations that merit the committee's attention. Iraq's borders are uncontrolled and for geographical reasons, they are likely to remain so. In view of the popular hostility among the Muslim Arabs to a permanent U.S. military presence in the region and Iraq's uncontrolled borders, U.S. Forces concentrated in large, fixed installations could be at severe risk. The possibility of a weapon of mass destruction (WMD) in the form of a low-yield nuclear weapon smuggled into the country and detonated in close proximity to a large U.S. installation like Balad Air Base where 30,000 U.S. troops and 7,000 contractors reside should not be excluded. Temporary U.S. military installations in Iraq have already presented radicalized elements in the region with an opportunity they would otherwise never have — to directly attack U.S. forces. The use of WMD against a more permanent U.S. base like Balad Air Base would probably constitute an immediate catalyst for larger, regional war.

Finally, it appears to many in the United States and in Iraq, that the true basis for the Administration's current approach is the popular narrative that Iraq has turned a strategic corner that suddenly in the space of a few months, after nearly five years of bloody conflict involving the massive loss of Arab life and property, new U.S. counterinsurgency tactics are working and Iraq's Muslim Arab population welcomes the presence of American military power as the guarantor of their future prosperity and freedom. Members must understand that this popular narrative is an illusion, one that is likely to vanish as quickly as it was created.

Iraq's bloody Civil War created a brief strategic opportunity for U.S. ground forces that a million additional U.S. troops could not. More than two year's of sectarian violence made the districts in and around Baghdad completely Sunni or Shi'ite, significantly reducing the violence and improving conditions for neighborhood businesses to operate. Where once there was one country called Iraq, there are now three emerging entities; one Kurdish, one Sunni and one Shi'ite. For the moment, this new strategic reality combined with huge cash

⁸ Chet Richards, *If We Can Keep It*, (World Security Institute's Center for Defense Information, 2008), pages 50-53.

payments to the Sunni insurgents and Muqtada al Sadr's self-imposed cease fire, not the much touted troop surge, explains the drop in U.S. casualties.

Officers with years of experience in Iraq warn that the "Great Awakening" could be transitory. "The Sunni insurgents are following a fight, bargain, subvert, fight approach to get what they want," said one colonel.⁹ And what the Sunni leaders want and what they are getting is both independence from the hated Shi'ite-dominated government with its ties to Tehran and money; lots of money.¹⁰ Meanwhile, the Sunni leaders who sit on the Awakening Councils are telling the Arab press that they defeated the American military that is leaving and paying reparations.¹¹

Terms like, "concerned citizens" or "voluntary Iraqi security forces" conceal the militant character of these heavily armed tribal and sectarian-based forces. Cash-based deals that support what is called the Sunni Arabs' 'great awakening' have little, if anything, to do with winning Arab "hearts and minds," or building democracy. The Sunni 'Awakening' is neither democratic nor permanent.¹² Some of the watersheds that congress might anticipate as warnings of renewed and reinvigorated conflict inside Iraq might, for example, include a gradual Sunni Arab turn against U.S. Forces, or when Moqtada al Sadr's 60,000 fighters "stand up" and resume attacks on U.S. Forces.

Finally, adding mass in the form of more soldiers to fight an insurgency is not the path to success¹³ and cash payments to the enemy are always a temporary solution. In time, hatred for the foreign military presence overwhelms greed. If numbers of troops won insurgencies then Vietnam would be the 51st state today. Since the end of World War II no Western army has defeated an insurgency without the overwhelming majority of its soldiers coming from the host country. In fact, the very act of flooding the host country with foreign troops always guarantees that the occupied population will never support the foreign invader.

Finally, there is no incentive for the various Iraqi factions struggling for power to settle their differences as long as the American military behaves as a co-belligerent, manipulating factions with cash and violence in the country's internal

⁹ From the author's discussion with officers on leave from Iraq.

¹⁰ Sam Dagher, "Will 'Armloads' of US Cash Buy Tribal Loyalty? The US policy of paying Sunni Arab sheikhs for their allegiance could be risky," *The Christian Science Monitor*, 8 November 2007, page 1. Also, see Lauren Frayer, "US accidentally kills 9 Iraqi civilians," *Associated Press*, 3 February, 2008, 11:10 PM EST.

¹¹ Question: [Al-Arab al-Yawm] "Do you believe that the Americans will withdraw just like that without any resistance?" Answer: [Al-Abdallah] "I confirm 100 per cent that their withdrawal in itself is the result of the honorable national Iraqi resistance, which has been confronting them since the first day of the occupation to this day."

¹² "If there is no change in three months there will be war again. If the Americans think they can use us to crush al-Qa'ida and then push us to one side, they are mistaken" said Abu Marouf, the commander of 13,000 fighters who formerly fought the Americans. Patrick Cockburn, "If there is no change in three months, there will be war again," *The Independent*, 28 January 2008, page 1.

¹³ Simon Jenkins, "Fall Back, Men, Afghanistan Is a Nasty War We Can Never Win," *London Sunday Times*, 3 February 2008, page 1.

struggle for power. It is hard to imagine how the U.S. military would disengage from this role if it were pledged to an internal defense role as envisioned in the November 2007 declaration of principles.

The British military and political leadership reached similar conclusions about the futility of a continued British military presence in Ireland during the Irish insurgency against the British Army between 1917 and 1922 and opted to withdraw from Ireland as a result. Thus, counterinsurgency (COIN) is a fatally flawed concept because it encourages a self-defeating strategy in the pursuit of "victorious" tactics as seen in Iraq, in Ireland and in a host of other countries.

After World War I when the cost of maintaining British military control of Iraq in the face of a Sunni and Shiite Arab revolt approached the cost of Britain's national health budget, Sir Winston Churchill, then, a member of the government, made the following recommendation to the Prime Minister, David Lloyd George.

Winston S. Churchill to David Lloyd George
1 September 1922

I am deeply concerned about Iraq. The task you have given me is becoming really impossible... I think we should now put definitely, not only to Feisal but to the Constituent Assembly, the position that unless they beg us to stay and to stay on our own terms in regard to efficient control, we shall actually evacuate before the close of the financial year. I would put this issue in the most brutal way, and if they are not prepared to urge us to stay and to co-operate in every manner I would actually clear out. That at any rate would be a solution. Whether we should clear out of the country altogether or hold on to a portion of the Basra vilayet is a minor issue requiring a special study...

Surveying all the above, I think I must ask you for definite guidance at this stage as to what you wish and what you are prepared to do... At present we are paying eight millions a year for the privilege of living on an ungrateful volcano out of which we are in no circumstances to get anything worth having.

In summary, an American pledge to defend current or future Iraqi governments in Baghdad from internal threats is a volcano waiting to erupt. The American military establishment cannot juggle Iraq's multiple warring identities in perpetuity and as long as U.S. military power plays a significant role in Iraq's domestic affairs, no Iraqi government will be entirely legitimate.

Lastly, if the current U.S. occupation is converted to a permanent military presence with this mission, the unifying impact on Muslim Arabs across the Middle East could be profound. Millions of Sunni and Shi'ite Arabs, the vast

majority of which oppose a permanent U.S. military presence inside Iraq, may well set aside their differences to join forces in eliminating the hated foreign military presence and its associated puppet government. The consequences of this development for U.S. Forces and for the United States' international standing would be extremely negative. The Committee should recommend that the House and the Senate demand to review any proposed arrangement committing the American people to such a dangerous course of action.