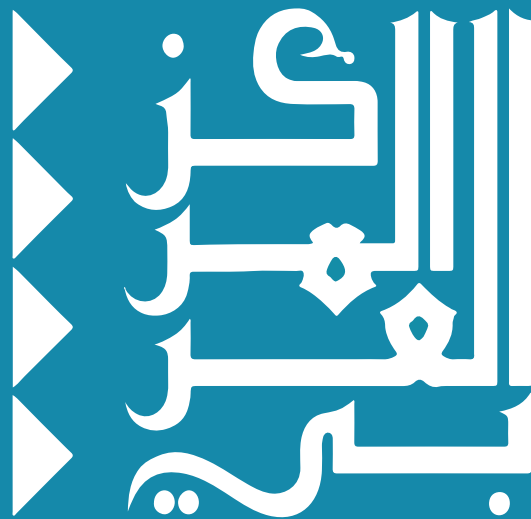


# The Realities and Challenges of a New US SOFA with Iraq

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Negotiations are underway between Washington and Baghdad over a US military presence in Iraq after the defeat of the so-called Islamic State of Iraq and the Levant (ISIL). Both the Trump Administration and the government of Prime Minister Haider al-Abadi desire such a presence—through a new Status of Forces Agreement (SOFA)—to stabilize the country in the aftermath of the ISIL defeat and to continue to train the Iraqi Army.

But although US military personnel will be officially designated as “advisers,” their presence is likely to stoke opposition from nationalist-minded Iraqis as well as Shia militia groups tied to Iran. Historically, the presence of foreign troops in Iraq has been a lightning rod; even though there is appreciation among many Iraqis for the United States in helping to defeat ISIL, this favorable attitude can dissipate quickly, especially if a US soldier commits a crime that becomes highly publicized in the country. And while there seems to be support in Congress for a limited US military training role in Iraq post-ISIL, such support could dissipate quickly if a number of American troops are killed.

### **Parameters of the Agreement**

Negotiations on the US troop presence in Iraq post-ISIL began this past spring and have yet to be concluded. However, according to press reports, a few details have emerged. One unnamed US official said that Secretary of Defense James Mattis has been in talks with Iraqi officials on “what the long-term US presence would look like.” This same official

said American troops would be stationed inside existing Iraqi military bases in the Mosul area and along the border with Syria. As to the number of US troops, he stated that it is likely to remain around the same level as present (estimated at 7,000) and “maybe a little more.”

Because an agreement between the American and Iraqi governments has not been finalized, and many other issues—such as health care and the Russia probe—have dominated the news, Congress has not given much attention to the issue of a continued US troop presence in Iraq. So far, there has been little controversy because of the small number of casualties (12) sustained by the US military in Operation Inherent Resolve against ISIL; in addition, the strategy of US troops in Iraq playing a support and advisory role seems to have worked. Moreover, there seems to be bipartisan support in Congress for a continued military presence to help stabilize Iraq post-ISIL. In March 2017, a group of prominent lawmakers, including Senators Bob Corker (R-Tennessee) and Ben Cardin (D-Maryland)—the chairman and ranking member of the Senate Foreign Relations Committee, respectively—as well as Senator Jack Reed (D-Rhode Island), the ranking member of the Senate Armed Services Committee, sent a letter to Trump urging him to help rebuild Iraq. Although the letter did not specifically mention a continued troop presence there, it urged Trump to “continue supporting Iraq’s security forces so that they can partner with US forces on counterterrorism.” This letter implied a continued US troop presence in Iraq.

### Trump's Views on the Iraq Conflict

During his presidential campaign, Donald Trump frequently lambasted the Iraq war of 2003, describing it as a “disaster” that should have never been fought. Some of his detractors pointed out that he had actually supported the war in 2003; nevertheless, and despite his denials, he used his supposed opposition as a cudgel against his Republican Party rivals, particularly the former governor of Florida, Jeb Bush, who gave conflicting answers on whether he supported his brother's (George W. Bush's) decision to launch the war. Trump knew that most Americans had come to view that war as a mistake and he successfully capitalized on that sentiment.

However, Trump also stated that, once in Iraq, the US military should have never left. His comments were designed for two reasons: 1) he wanted to blame then President Barack Obama for withdrawing US troops, claiming that this withdrawal caused the rise of ISIL; and 2) he wanted to show the American people that US sacrifices should result in some economic gain for the United States, by also stating that “we should have taken the oil.” It did not matter to Trump that this latter comment, which made him sound like a European imperialist of the early 20<sup>th</sup> century, was received very poorly in Iraq. It was also contrary to international law.

Trump's conflicting views on the Iraq war and its aftermath have a direct bearing on his current policies concerning the retention of American soldiers in Iraq post-ISIL. He often wants to show that he is anti-Obama and in this

case, he shares the general Republican Party's critique that Obama was so eager to withdraw troops from Iraq that he did not try hard enough to keep a small force there. At the time, the Obama Administration claimed that it wanted to keep a residual military presence in Iraq, but because the Iraqi government was not willing to give US troops immunity from prosecution for possible crimes—a standard demand of the US military operating overseas—it was compelled to withdraw all troops.

After ISIL swept northern Iraq from Syria and occupied the area down to the outskirts of Baghdad, Obama then felt obliged to gradually return US troops to Iraq who by September 2016 numbered around 5,000 soldiers. The United States also had to retrain the Iraq national army because of the force's dismal performance against ISIL that summer.

Trump wants to avoid what the Obama Administration went through in 2014 if another terrorist insurgency, by a group like ISIL, reemerges in Iraq. In other words, despite his desire to avoid Middle East quagmires, he does not want to be in the position of pulling out all troops from Iraq and then feeling compelled to reinsert them down the road.

Trump's , including Defense Secretary James Mattis, who was a Marine combat commander in Iraq in an earlier position, also seem to want to avoid such a scenario and believe in the efficacy of keeping a residual force in Iraq to help stabilize the country and continue the training of the Iraqi Army. Trump has

designated Mattis to lead the negotiations over a continued US troop presence in Iraq.

### **Controversy within Iraq**

On the Iraqi side of the equation, there is support from Prime Minister Haider al-Abadi and his political allies for a continued US troop presence. This is despite the fact that his predecessor Nouri al-Maliki, who is from the same Shi'a Dawa Party, was not able to come to agreement with the Obama Administration over a new SOFA, though one had been concluded with the Bush Administration in 2008. However, because of controversies associated with a SOFA (such as immunity for US troops), there is speculation that the likely deal between the United States and Iraq will probably be an executive agreement, as opposed to a formal SOFA, because the latter would have to be submitted to the Iraqi parliament, and Abadi—and the Pentagon—do not want to run the risk of a SOFA being defeated by Iraqi legislators. Even though some of Abadi's political allies see the merits of a continued US military presence in the country, once the issue gets to parliament, there would likely be pressure on its members to demonstrate their nationalist *bona fides* and criticize the deal.

Given past controversies over a SOFA (and the one concluded between Maliki and Bush was long and protracted), the question arises: why would Abadi even want to enter into an executive agreement? First, Abadi probably sees it as shoring up the national army and Iraqi Special Forces, and this serves to help the power

of the central government. Although Iraqi Special Forces performed well in the fighting against ISIL in Mosul, and the performance of the regular Iraqi Army has improved, the latter still needs more training to be an effective force and Abadi likely sees the American role as crucial in this endeavor.

Second, Abadi probably sees US forces also as a hedge against a possible new Sunni insurgency emerging in northern and western Iraq. Although ISIL may be on its last legs in Iraq and Syria, the Syrian civil war continues to rage and there is always the chance of a spillover from that conflict back into Iraq. Moreover, Abadi has enormous tasks ahead in rebuilding heavily damaged Iraqi cities and in convincing Arab Sunnis in Iraq that the central government is not their enemy and will be more accommodating to them. But if the rebuilding process is slower than expected and Abadi's Shi'a allies remain adamant about not giving the Sunnis a significant share of power, it is not inconceivable that another Sunni insurgency could emerge. Abadi may believe a US troop presence could be a deterrent to this possibility.

### **Iran's Possible Response**

On the other hand, a US troop presence, even in an advisory role, is likely to cause Abadi headaches with certain pro-Iran elements within his own Shi'a community. Pro-Iranian militias have criticized the American troop presence in Iraq and may get orders from Tehran in the near future to stage attacks against US forces, as they did for several years after the 2003 US-led invasion during which

hundreds of American service members were killed by IEDs (Improvised Explosive Devices) that were sent from Iran or by direct combat with these militias.

Iran opposed the American presence in Iraq since the 2003 invasion and continues to warn against stationing any American troops in the adjacent country. It would first have to weigh how the Trump Administration might respond to such attacks. Trump could use them as a way to scuttle the Joint Comprehensive Plan of Action (JCPOA) with Iran and perhaps strike the Islamic Republic itself or Iranian targets in the Gulf. Nonetheless, if Iran's relations with the United States continue to deteriorate, Tehran may conclude it has little to lose by indirectly supporting attacks on US forces in Iraq. Iran desires a friendly and pliant government in Iraq and probably sees a long-term American military presence there as working against those interests.

### **The Weight of Iraqi History and Other Contingencies**

It is one thing to ask Washington for military assistance when ISIL forces were at Baghdad's gates; it is quite another when the ISIL threat is gone.

Iraq's history since independence does not inspire confidence that the US troop presence in Iraq, even if limited and labeled as an advisory mission, will not become controversial. Foreign forces in Iraq have traditionally sparked opposition, going back to the establishment of the British mandate in Iraq in 1920, which

touched off a general revolt involving both Shi'a tribes and Sunni elements in the country, and which the British brutally suppressed. That this history was ingrained in the minds of nationalist-minded Iraqis was evident when one of insurgent groups, post-2003, took on the name, "The 1920s Revolution Brigades."

Although Iraq was the first of the mandate states to achieve nominal independence in 1932, the British still maintained army and air force bases in the country, which continued to anger Iraqi nationalists. And when the British attempted to establish a long-term military presence in the country, through the Treaty of Portsmouth in 1948, opposition was so intense that the treaty was never ratified by the Iraqi parliament.

It is not inconceivable that an incident could occur that would stir up the Iraqi population against a US troop presence. For example, if an American soldier were to get into a scuffle with, and shoot, an Iraqi civilian, and that soldier were to return to the United States for eventual trial, many Iraqis would see his removal from the country as an egregious miscarriage of justice. The recent decision by a US judge to overturn a life sentence for a Blackwater security guard who fired into a crowd in Baghdad in 2007, killing many civilians, does not convince Iraq's citizens believe that justice, in a future case, will be served if US troops are granted immunity.

In addition, if there emerges a new insurgency in Iraq and a number of US soldiers are killed,

support in Congress for the continued troop presence will likely dissipate quickly. With no end in sight for the conflict in Afghanistan, in which American soldiers are still dying, Congress and the American people will have no stomach for more US casualties in Iraq, especially since several thousand service members were killed there in the 2003-2011 period.

### **Recommendations for US Policy**

Although there are compelling reasons for keeping a residual US military presence in Iraq, the Trump Administration should rethink its plans given the potential for a backlash. Placing American troops in Iraq along the Syrian border makes sense as long as ISIL has a foothold in eastern Syria, but once ISIL is defeated there, the troops should be withdrawn. Also, placing US troops near Mosul would be problematic because of their proximity to the civilian population, and this could lead to an unintended incident. While the Iraqi population may expect some civilian casualties by US forces during the fight against ISIL, it is a different matter (and the reaction will be much more volatile) if a civilian is killed after ISIL is completely driven out of the country.

The United States should clearly emphasize to the Iraqi government and people that its advisory and training mission is limited and will not be of a long-term nature. The Iraqi government should also explain this mission and its duration to the Iraqi people to dispel any notions of a new occupation. Once American and Iraqi authorities believe the Iraqi national army can operate competently on its own, the US military training mission should be withdrawn.

What the Iraqi population keenly wants now is a restoration of normalcy, which would involve rebuilding the heavily damaged cities and the return of the internally displaced refugees to their homes. If the United States is seen to be helpful in these matters, that could go a long way toward improving its standing in the country and helping to shore up public support for the Abadi government, a key US ally. But all of this requires a substantial commitment of financial resources, and it is unclear if Trump and the Republican-led Congress are willing to invest heavily in Iraq.