

Will Iraq Finally End the Colonial Era?

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One of the most fascinating developments in the Middle East these days is the attempt by the US and Iraqi governments to negotiate an agreement defining the status of American troops in Iraq, including a target date for all US troops to leave by 2011. A critical issue still being negotiated is the liability and legal jurisdiction for American troops that stay in the country.

This is important not only in the narrow sense of the legal status of American troops in Iraq, but also for wider issues related to relations between major Western powers and weaker Arab countries. In many respects, this is a moment of historical clarification and adjustment in the wake of over a century in which Western powers moved their armies around the Arab world at will, making and breaking Arab countries and political leaderships in the Arab world and Iran.

The wider issue at stake beyond American soldiers in Iraq is the effective end of the colonial era mentality that put Western troops and officials above the law, and kept indigenous Arab and Iranian national interests subservient to the greater colonial dictates of powers like England, France and, today, the United States.

The agreement being hammered out has generated some fresh concern and open opposition from various Iraqi groups, including Muqtada al-Sadr's religious-nationalists, some of the Shiites in the ruling coalition, and even some Sunni groups who are generally seen to be keen on maintaining an American presence to protect them.

The complexity of sealing the agreement reflects these wider historical issues, but also the changing nature of the soldiering profession. The American armed forces now subcontract many noncombat duties to commercial companies, such as transport, food supplies, security for officials or other kinds of logistics. The current draft of the agreement says that private American security companies and other such contractors would be subject to the Iraqi legal system in criminal cases, a major Iraqi demand that the Americans seem to have accepted as inevitable.

On the other hand, American soldiers themselves would continue to be immune from the provisions of Iraqi justice, except in cases of serious or premeditated felonies committed when they were not on duty. The Iraqi government wants full legal jurisdiction over American troops, but the US resists this. A compromise is likely to be worked out.

Other tricky issues include the right of Iraqis to search imported American supplies, whether the Iraqi government would have the right to extend the American military presence in the country beyond 2011, and whether the US would have the right to form a committee to review suspected crimes of soldiers in order to determine if they should be tried in Iraqi courts.

These technicalities capture the bigger picture very nicely, and the Iraqis negotiating this matter should be encouraged to stand their ground and work out an agreement that sets a precedent for others in the Middle East or even around the world. The US invaded Iraq in

2003 with a view to launching a new political order in the Middle East in which indigenous democracies worked closely with the US and other allies to promote stability and security - worthy goals in the abstract, indeed, but flawed because of the inappropriate Anglo-American decision to achieve them through war.

Ironically, as the US prepares to start withdrawing from Iraq, it will leave behind a political and legal agreement with the Iraqi government that establishes new limits on the ability of American and other Western troops to move around the region at will and with total impunity.

How the legal jurisdiction issue is resolved in Iraq may help determine whether Western armies have total impunity to do anything they wish, cause tremendous and perhaps lasting damage throughout the Middle East, and then leave without any lasting consequences for them. In the colonial days, this was the case. Soldiers must not be above the law, but the politicians who sent them on their aggressive mission must also be held accountable somehow to decent standards of both law and morality.

Today, we need to find out if the colonial period has ended or not. If the US and Iraqi governments work out an agreement that allows American troops, subcontractors and modern mercenaries to remain above the law of the land in Iraq, we will all suffer for years to come. Americans and perhaps other Western powers will continue to undertake outrageous military adventures that leave the Middle East in much worse shape than it was before they attacked, including in such sectors as ethnic and sectarian strife, terrorism, proliferation of weapons of mass destruction, refugee flows, general security and economic stress.

Impunity is a bad idea, for children, petty criminals and corporate thieves as well as for countries and their armies.

*Rami G. Khouri is published twice weekly by **The Daily Star**.*