



The Iraqi Parliament and the UN Security Council

Global Policy Forum

November 5, 2007

The Iraqi Council of Representatives has questioned the legality of the UN Security Council's mandate of the US-led Multinational Force in Iraq (MNF) and called for a withdrawal timetable. In a letter sent to Security Council members in April, a majority of Iraqi parliamentarians charged that the Iraqi cabinet has sent requests for mandate renewal without constitutionally-required consultation and ratification.

The UN Security Council has repeatedly affirmed that it mandates the MNF "at the request of the government of Iraq." The official Iraqi request letter, attached to Council renewal resolutions, and legally part of them, is a condition *sine qua non* in the renewal process.

In approaching another renewal for the year 2008, the Security Council must carefully consider the circumstances of an official Iraqi "request." If the Council renews without taking into account the wishes of the elected parliament, it could provoke a serious political and constitutional crisis in the country.

Iraq's Constitution and International Agreements

The Constitution of Iraq stipulates in Article 58, Section 4 that the Council of Ministers [the cabinet] must gain the ratification of the Council of Representatives [the parliament] for "international treaties and agreements." The text reads: "A law shall regulate the ratification of international treaties and agreements by a two-thirds majority of the members of the Council of Representatives." A majority of members of parliament have gone on record, affirming that the renewal of the MNF mandate is a matter covered by this constitutional provision. And the parliament has also passed a binding law to this effect.

One senior Iraqi lawmaker, when asked about such applicability, commented: "If we are asked to approve a trade agreement concerning olive oil, should we not have the right to pass on an agreement concerning the stationing of foreign military forces in our national soil?"

The Iraqi Cabinet Ignores Parliamentary Requests for Consultation (Autumn 2006)

During 2006, a number of leaders of parliamentary blocs had discussions with Prime Minister Nouri al-Maliki about the MNF renewal prospect, insisting that he consult with parliament prior to any renewal request, in the spirit of the constitution. They say that he promised to conform to their demand. But while the parliament was having its own discussions in October and early November in preparation for the renewal process, the government sent a request letter to the Security Council dated November 11, 2006 without submitting the request to parliamentary ratification or taking into account parliamentary concerns. The Council subsequently adopted Resolution 1723 renewing the MNF's mandate on November 28.

What Did the Parliament Want to Accomplish and What Did Its Actions Signify?

The Iraqi parliament has demanded ratification so as to raise issues about the legal status of the MNF, particularly the need for a timetable for withdrawal. Several parliamentarians told the press they wanted a timetable for a phased, negotiated withdrawal, not an immediate one. For them, the timetable symbolizes a clear (and relatively near-term) end to the MNF presence. Their call for withdrawal reflects the great majority of public opinion in Iraq, as shown in many opinion polls. (In August 2007, a widely-reported BBC/ABC poll found that 79% of Iraqis opposed "the presence of Coalition forces in Iraq," while 72% felt that "the presence of US forces in Iraq" was "making security in our country" worse.)

Parliamentarians' opposition to the cabinet's MNF policy reveals an important shift in Iraqi politics. A number of political blocs had united across the previous sectarian political divisions. Some Shi'a, Sunni, secular, and other blocs joined together in a new alliance. In the months ahead, this shift was to coalesce into two major new tendencies in the parliament – a majority (that we would call the "nationalist" tendency) and a minority (that we would call the sectarian or "separatist" tendency). [\[See Diagram of Political Affiliations and Alliances in the Iraqi Parliament\]](#).

The separatists would soon run the executive branch exclusively and all nationalist ministers would resign. With more than half its original base of support gone, the cabinet would soon lose much of its authority and capacity for legitimate action.

The Parliamentary Letter (April 2007)

In April 2007, Iraqi parliamentarians acted again on the mandate question. They prepared a letter, addressed to the UN Secretary General and to UN Security Council members (as well as other addressees), saying that the renewal request of the previous November had been "unconstitutional" and calling for a timetable for MNF withdrawal. Individually signed by a majority of members of parliament (144 out of a total of 275), the letter was delivered to Mr. Ashraf Qazi, the Special Representative of the Secretary General, who later assured the parliamentarians that he had forward it to the recipients in New York. Apparently though, the letter was never delivered to Security Council members. [See Letter from a Majority of Iraqi Parliament to Members of UN Security Council: [English](#) /[Arabic](#)].

New Law Requiring Mandate Approval by Parliament (May 2007)

On May 27, in its Session 32, the Iraqi parliament again took up the MNF renewal issue. A few days later, on June 5, with a majority vote, it passed a binding law reaffirming the constitutional requirements in the case – the cabinet must submit any future MNF renewal request to parliament for approval by a two-thirds majority.

Commenting on this parliamentary action, some at the UN have erroneously suggested that the law may not have come into force. The Iraqi constitution requires that if the executive branch does not agree with a text voted by parliament, the President may return it for amendment or further action. But the President did not return the resolution passed on June 5 to parliament. According to the Constitution, Article 70, Sections B and C, if a text is not returned, it becomes law after the passage of fifteen days. Nothing further is required and publication of the law in the Official Gazette is incumbent upon the President.

Current Request for Renewal (Autumn 2007)

In late September, the Iraqi foreign ministry announced that it was going to request another MNF mandate renewal, without any reference to parliamentary approval. In anticipation of this new stage in the conflict, parliamentarians again raised the issue informally with the cabinet. But it appears that the cabinet is going ahead as before, without parliamentary consent. Yet only with parliament's ratification, can such a request be legally presented on behalf of the Iraqi government to the Security Council.

At this time, many fresh concerns are influencing parliamentary opinion about the MNF, including the Blackwater killings, the intensified MNF air war, and the rising number of detainees in MNF custody. Parliament's commitment to a negotiated renewal mandate and a withdrawal timetable is stronger than ever.

If the Security Council accepts the Iraqi cabinet's request for an unqualified renewal, the Council will deepen the already serious constitutional and political crisis in Iraq. The Security Council would be well-advised to take into account the constitutional authority and political position of the Iraqi parliament and to seek a mandate renewal that would reflect the political realities in Iraq, including overwhelming public support for a timetable for MNF withdrawal. Only such realism can end the violence and prepare the country for reconciliation, towards a peaceful, democratic and fully-sovereign future.