IRAQ AND THE THEORY OF BASE POLITICS:
COOLEY, INSTITUTIONALISM AND CULTURE

A Dissertation
submitted to the Faculty of the
Graduate School of Arts and Sciences
of Georgetown University
in partial fulfillment of the requirements for the
degree of
Master of Arts
in Security Studies

By

Jaffar Al-Rikabi, B.A

Washington, DC
April 16, 2010
Copyright 2010 by Jaffar Al-Rikabi

All Rights Reserved
IRAQ AND THE THEORY OF BASE POLITICS:
COOLEY, INSTITUTIONALISM AND CULTURE

Jaffar Al-Rikabi, B.A.
Thesis Adviser: Karl Mueller, Ph.D.

ABSTRACT

This thesis presents a critique of Alexander Cooley’s base politics theory by testing it against the recently concluded US-Iraq Pact, comprising the Status-of-Forces Agreement (SOFA) and the Strategic Framework Agreement (SFA). A cursory look at Cooley’s predictions for the U.S. military presence in Iraq in the conclusion of his book encourages a misleading verification of his institutional model for understanding when and why bilateral military basing agreements become accepted, politicized, or challenged by host countries. An in-depth account of the Iraq case study combined with a critical examination of Cooley’s theory will show much merit for an institutional approach, but find it insufficient. Alternative theories, which Cooley is quick to dismiss, will enrich our understanding and posit important implications for U.S. policy-makers. In particular, I argue that accounting for the role of political culture, misperceptions and the impact of individual leaders in international politics is critical, despite the reluctance of many international relations scholars in the field to do so.
The research and writing of this thesis
is dedicated to the many great professors, policy-makers, family and friends who helped
and advised along the way.
I am grateful for your support and encouragement.

Many thanks,
JAFFAR AL-RIKABI
# Table of Contents

**Chapter 1: Introduction**

The Structure of the Argument ................................. 1

**Chapter 2: Cooley’s Theory and Predictions for Iraq**

What Cooley’s Theory Predicts for Iraq .......................... 8

What Actually Took Place in Iraq .............................. 10

**Chapter 3: The Evolving Legal Framework for Foreign Troops in Iraq**

US Prerogatives as Occupier ....................................... 15

US Prerogatives 2004-08 ............................................. 16

US Prerogatives under the SOFA ................................. 19

**Chapter 4: Institutional Dynamics and U.S.-Iraqi Negotiations**

Iraq’s Decision-Making Processes: Maliki and Consensus-Building ............................................. 25

U.S. Institutional Dynamics and its Effects on Negotiations ......................................................... 33

Re-Assessing Cooley’s Institutional Dynamics ................................................................. 36

**Chapter 5: Cultural Dynamics and U.S.-Iraqi Negotiations**

Najaf, the Shi’a and Political Involvement ................................................................. 39

Suspicion of the West ................................................ 45
Chapter 1: Introduction

“The crime and misery of Haditha...is a terrible crime where women and children were eliminated”

PM Nouri al-Maliki

On November 19 2005, twenty four Iraqi men, women and children, including sisters Aisha and Zainab Younis Salim aged three and four and Abdullah Walid aged four, were killed by a group of United States Marines in Haditha, a city in the western Iraqi province of Anbar. The horrific nature of the incident, its cover-up – the massacre did not become public until Time magazine ran a story about it in March 2006 – and the way in which the investigations were eventually handled by the Naval Criminal Investigation Service (NCIS) provoked a torrent of criticism worldwide, with some describing it as “Iraq’s Mai Lai,” and inspired British director Nick Broomfield’s 2007 drama film Battle for Haditha. The tragedy in Haditha provoked serious questions regarding US Rules of Engagement, and in Iraq, of calls for Iraqis to have legal jurisdiction over US forces who commit serious crimes on or off duty. On June 2, 2006, John Dickerson and Dahlia Lithwick writing in Slate magazine supported such calls, arguing:

“The United States wants to encourage the fledgling Iraqi institution of democracy, right? That's why we wanted Saddam tried in Iraq, and through the Iraqi judicial system—both to build up its legitimacy and to give Iraqis the sense of ownership that comes with having control over the legal process. Why, then, shouldn't we also turn over our own soldiers who were involved in either the Haditha massacre or any of the other possible massacres for trial under the Iraqi justice system?”

1 Cited in Aaron Glantz and Alla Hassan, “Multiply Haditha by Thousands,” Inter-Press News Service (June 2, 2006); retrieved online at: http://www.aaronglantz.com/060206.htm
2 Tim McGirk, “Collateral Damage or Civilian Massacre in Haditha?” Time Magazine (March 19, 2006); retrieved online at: http://www.time.com/time/world/article/0,8599,1174649,00.html
3 John Dickerson and Dahlia Lithwick, “Home Court Advantage: Let the Iraqis try the perpetrators of the Haditha massacre” Slate Magazine (Friday June 02, 2006); retrieved online at: http://slate.msn.com/id/2142896/
On February 21st 2007, a plane carrying Iraqi Vice-President Adil Abdul Mahdi from Ankara was refused entry into Baghdad International Airport. Mahdi’s pilot was reported to have been told by an American Staff Sergeant that Baghdad’s civilian airport was closed, was denied permission to land at a military airport, and so was forced to return to Ankara. The faux pas would not go without consequences, especially after Vice-President Mahdi learnt on arrival in Ankara that Baghdad’s civilian airport was in fact open. An understandably furious Mahdi wrote a letter addressed to Iraq’s President and Prime Minister Jalal Talabani and Nouri al-Maliki that was later leaked to the leading Lebanese-based Arab newspaper Al-Hayat. In the letter, Mahdi argued that the embarrassment was an epitome of a “problem we have often seen, namely the distribution of responsibilities between Iraq and America.” A lack of definition of powers and responsibilities between Iraq and the US, Mahdi continued, has “led to damaging cases of inability to investigate abuses, let alone to remedy them” – in seeming reference to the Haditha case and others. And without an agreement defining the distribution of powers, Mahdi predicted, the problem will only get worse. In order to prevent the repetition of the plane affair and others, Mahdi recommended that work on a SOFA which had thus far been carried out intermittently be made a “priority.”

On September 16th 2007, security contractors working for Blackwater Worldwide shot and killed seventeen Iraqi civilians in Nisour Square, Baghdad, while they were escorting a

---

4 I was reminded of the significance of this episode when interviewing Dr. Fareed Yasseen, Advisor to Iraqi Vice-President Adil Abdul Mahdi in Baghdad in the summer of 2009. Yasseen argued that incidents like this, as well as a prior one in which Americans had arrested and ‘roughed-up’ the son of Abdul Aziz al-Hakim, leader of the Islamic Supreme Council, Iraq (ISCI), Ammar al-Hakim (now its current head) seemingly unaware of who he was, started a ‘chain-reaction’ that instigated an Iraqi push at the highest levels of government to address the problem of an absence of a SOFA. Al-Hayat had reported the story and published extracts from Mahdi’s letter March 1st 2007.
convoy of State Department vehicles en route to a meeting in western Baghdad with officials from the United States Agency for International Development (USAID). The incident sparked more than five investigations, including a probe by the Federal Bureau of Investigation which found that “at least 14 of the shootings were unjustified and violated deadly-force rules in effect for security contractors in Iraq”\(^5\) and an Iraqi one that concluded that “the guards of Blackwater company have committed a criminal murder act and they have violated the combat environment rule to use force while there was no threat against them.”\(^6\) In response to the incident, the Iraqi government temporarily revoked Blackwater’s license in Iraq, and in the weeks that followed, Iraqi officials pressed American officials to terminate their contract with the Moyock N.C.-based company, and to allow Iraq to try those accused of crimes, amidst a surge of media stories connecting the company to more alleged crimes in other incidents across Baghdad.

When serious U.S.-Iraqi negotiations finally began in April 2008 for a document that would organize the presence of U.S. troops, and set out a joint vision for a long-term partnership between the two countries, tragic incidents like those in Haditha and Nisour Square, and embarrassing ones like the plane affair were at the back of the minds of Iraqi negotiators determined to recover ‘injured’ Iraqi sovereignty. The negotiations proved contentious and despite major U.S. concessions to Iraq, including a time-table stipulating the withdrawal of U.S. troops by 2012, the agreement nearly collapsed amidst attempts by rivals of PM Maliki to attack it as a means to undermine his credibility with provincial elections approaching.

---


These two documents offer a unique opportunity to test the recently advanced base politics theory by Alexander Cooley. In his book *Base Politics: Democratic Change and the U.S. Military Overseas* (Cornell University Press, 2008), Cooley draws on cases from Southern Europe and East Asia where the US negotiated basing contracts to explain “when and why bilateral military basing agreements become accepted, politicized, or challenged by host countries.”

The theory he goes on to develop can broadly be described as an “institutional” one. Cooley attributes shifts in host countries’ response to U.S. military bases to different stages in their institutional development: depending on whether countries are occupied, “client” or “independent” democratizers or “consolidated” democracies, their reactions to a US basing presence would differ accordingly.

In the closing chapter of his book, Cooley turns his attention to the future. Contrasting Iraq with Afghanistan, he notes how:

“…the regime [i.e. Iraq’s] potential fiscal autonomy, guaranteed oil production, and political independence from the United States are

---

7 For sake of brevity, I shall refer to the documents from here on as the SOFA and SFA. Copies of the two are available online on the website of the United States Forces – Iraq at: [http://www.usf-iraq.com/](http://www.usf-iraq.com/)
considerably greater than Afghanistan’s. Moreover, Iraq’s democratizing dynamics are significantly more intense than Afghanistan’s, given its sectarian party system, social mobilization, and competitive media.”

Thus, Cooley concludes:

“\textquote{The theory of base politics would have us predict that these internal political events will threaten a future permanent U.S. basing presence in Iraq, even one that is significantly reduced or concentrated within a few large military installations.}”

Given the publicized aspects of the negotiations – where Iraqis seemed to force upon a reluctant Bush administration a rigid timetable for the withdrawing of troops – Cooley’s analysis seems to be corroborated. Yet, such a passing judgment upon careful scrutiny will not stand, and it is the goal of this article to show to what extent and in what ways is Cooley’s theory validated by the Iraq case, and to what extent it is undermined.

Cooley’s prediction on Iraq, I shall proceed to argue, is actually misleading given the theory he sets out in his book. This is a minor criticism that I establish in chapter 2. The much more serious criticism I make however revolves around the institutional nature of his theory itself. Quite simply, it will be shown to be insufficient to explaining both key elements in the process of negotiations and its overall outcome: an extremely balanced agreement despite Iraq’s structurally inferior negotiating position and high dependence on the US for at least some of its security needs.

In order to come to a fuller understanding, I account for the impact of political culture – something Cooley all too easily dismisses as “indeterminate” – the repercussions of

\begin{itemize}
\item[9] Ibid., pg 269
\item[10] Ibid., pg. 261
\end{itemize}
misperceptions, and the role of key individuals, most importantly President Bush and Prime
Minister Nouri al-Maliki.

While bringing in alternative theories will diminish the parsimony of Cooley’s base
politics theory, I contend that failing to do so significantly reduces the explanatory power of his
analysis, and can result in dangerous expectations on the part of policy-makers applying his
model in order to anticipate possible outcomes of negotiations.

The Structure of the Argument

I proceed to build my case in eight chapters. I begin, in the next chapter, by
summarizing Cooley’s theory, outlining its predictions for Iraq, and summarizing the extent with
which the actual outcomes that occurred matched those predictions. The mixed results that will
emerge will require greater investigation. I advance to do this first by looking in chapter 3 at the
provisions within the agreement, comparing them to the prerogatives the U.S. enjoyed prior to
the inception of the SOFA. This will enable a clear understanding of the number and kinds of
concessions the U.S. had to make to satisfy Iraqi wishes.

In chapters 4, 5, 6 and 7, I undertake the task of extensive analysis of this outcome and
the nature of the negotiation process that preceded it. By using process-tracing and by looking
at not only the institutional dynamics behind the Pact, but also the cultural ones, the impact of
misperceptions, and the role of key leaders, I am able to explain why it is that the negotiations
took the controversial character that they did, and why the outcomes in the end were
surprisingly balanced given Iraq’s heavy reliance on the U.S. and its structural weaknesses
compared to it. Looking at the Iraq case from these various prisms will enable a fuller critique of
Cooley’s institutional theory. For instance, it will be shown how in democratizing states so much of the political dynamics are shaped by ‘legitimacy contests’ embedded in rival claims and interpretations about the definition of the nation’s political culture and identity.

In chapter 8, I build on the theoretical findings of the previous chapters, and answer some criticisms of the Iraq study conducted here. Drawing on George Tsebelis’s theory of veto players, I suggest one possible re-formulation of the puzzle at hand. To conclude the theoretical discussion, I put forth six testable hypotheses that can inform future scholarly work on base politics.

Finally, by way of conclusion, I consider important policy lessons and implications drawn from the U.S. experience negotiating a SOFA with Iraq, and utilizing the theoretical insights my critique of Cooley will reveal.
Chapter 2: Cooley’s Theory and Predictions for Iraq

The most important contribution to the development of a theory of base politics is found in Alexander Cooley’s *Base Politics: Democratic Change and the U.S. Military Overseas*. Cooley sees base politics as a two-level game, ‘in which rulers use base-related issues and resources for their domestic political purposes but can also invoke domestic constraints in their negotiations with the sender.’ More specifically, Cooley sees two key interactions as shaping the contractual politics of basing agreements: the host regime’s dependence on the contract for its political survival and the credibility of the base host’s political institutions. The former ‘determines the degree of hierarchy or balance of terms within the basing contract,’ while the latter ‘determine[s] the agreement’s legitimacy, credibility and susceptibility to renegotiation.’

Cooley’s examination of these factors yields three general hypotheses:

**Hypothesis 1:** Authoritarian hosts will use bilateral basing agreements to extract private goods to further regime survival

*Corollary 1a:* Authoritarian regimes will honor basing agreements as long as the benefits that they derive from base-related private goods exceed their political costs.

*Corollary 1b:* Authoritarian regimes will contest basing agreements when the political costs of honoring the contract exceed the benefits that they derive from base-related private goods.

**Hypothesis 2:** If prevailing agreements were signed before a democratic transition, the new democratizing regimes and elites will politicize or contest bilateral contracts.

*Corollary 2a:* Democratizing elites and regimes dependent on the basing power (i.e., the sending nation) for political support will politicize contracts and demand negotiations but will stop short of abrogating or terminating the contract.

---

11 Alexander Cooley, *Base Politics* pg 11  
12 Ibid., pg 11  
13 Ibid., pg 23-24
**Corollary 2b:** Democratizing elites and regimes that do not depend on the basing power for political support are the most likely to abrogate or terminate the contract.

**Hypothesis 3:** Regimes and elites in consolidated democracies will honor prevailing contracts that were signed with a democratic government, regardless of their policy differences with the basing power.

**Corollary 3a:** Consolidated democracies will honor prevailing contracts, regardless of public opinion toward basing issues, social mobilization, or changes in the international security environment.

The following typology is advanced by Cooley to present the various dependence/credibility configurations and depicts four different political outcomes of the basing relationship:\(^{14}\):

<table>
<thead>
<tr>
<th>Regime’s political dependence on security contract</th>
<th>Politicized</th>
<th>Accepted</th>
</tr>
</thead>
<tbody>
<tr>
<td>HIGH</td>
<td>Client democratizers</td>
<td>Legal hierarchy or occupation</td>
</tr>
<tr>
<td></td>
<td>Client autocracies</td>
<td>Client autocracies</td>
</tr>
<tr>
<td>LOW</td>
<td>Independent autocracies</td>
<td>Consolidated democracy</td>
</tr>
<tr>
<td></td>
<td>Independent democratizers</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contractual credibility of political institutions</th>
<th>Contested</th>
<th>Indifferent</th>
</tr>
</thead>
<tbody>
<tr>
<td>LOW</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HIGH</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Figure 1.1.** Configurations of base politics within base hosts

\(^{14}\) *Ibid.*, pg 20
What Cooley’s theory predicts for Iraq:

In order to apply Cooley’s theory to the case of Iraq, it is important first to identify three key features that give it some of its unique characteristics:

First, Iraq is an example of a democratizing state, but it did not have any security agreements signed with the United States prior to its democratic transition from authoritarianism to electoral democracy. From President Bush’s declaration of the end to ‘major combat’ on May 2 2003 till January 1st 2009, US-led forces operated in Iraq without a SOFA – a legacy of America’s legal occupation status immediately after the war, and the unique transitioning phase the Iraqi political process undertook.\(^1\) Crucially, the process of negotiating a SOFA agreement only began after Iraq had undertaken several key steps on its democratic path. The first step was taken when the rule of the occupying Coalition Provisional Authority (CPA) gave way on June 28 2004 to the Iraqi Interim Government headed by Dr. Ayad Allawi. Allawi’s government set the stage for elections of a transitional assembly and a provisional elected government led by Dr. Ibrahim al-Jaafari which oversaw the drafting of a new permanent constitution for the country, ratified via a referendum on 15 October 2005. The new constitution laid the groundwork for a new round of national elections, which saw the emergence of a full-term Iraqi ‘government of national unity,’ under the leadership of incumbent Prime Minister Nouri al-Maliki. Thus, when negotiated, the U.S.-Iraq Pact had the kind of democratic legitimacy lacking in those the US signed with authoritarian leaders such as Franco in Spain and Marcos in the Philippines.

\(^1\) However, as will be discussed, Multi-National Forces (MNF) operated under the framework provided by “Order 17” issued by the Coalition Provisional Authority (CPA): a permissive document that was heavily hierarchical in favor of sender states.
Second, looking at Cooley’s configurations of base politics cited above, Iraq can be seen to be a particular type of democratizing state: arguably a “client democratizer.” Yet, Cooley in his conclusion seems to imply otherwise when he refers to Iraq’s “potential fiscal autonomy, guaranteed oil production,” and greater political independence compared to Afghanistan. For the period of this study, I argue this is not convincing. While Iraq in the long-term has indeed the potential to emerge as a regional power on its own right (utilizing its educated population, and profiting from religious and cultural tourism, agricultural exports such as dates, as well as its substantial oil resource which Cooley refers to), in the short-term the country has relied very heavily on US support for its security and stability. The U.S. has exercised substantial influence with regard to the politics of the country, as a legacy of its toppling of Saddam’s regime, and owing to the leverage its military presence provides, as well as its extensive ties to the Iraqi political elite. Iraqi politicians in turn recognize the importance of U.S. support in Iraq’s development of its nascent democracy, economic and reconstruction assistance, the return of the country to a normal status in the international community, and in several other areas.¹⁶

Thus, we can see that Iraq most closely fits Corollary 2a from Cooley’s hypotheses, which to cite it again, predicts:

“Democratizing elites and regimes dependent on the basing power (i.e., the sending nation) for political support will politicize contracts and demand negotiations but will stop short of abrogating or terminating the contract.”¹⁷

The third peculiarity about the Iraq case is that the US was negotiating a SOFA at a time when its troops were still involved in active combat. The stakes were high then, not only for

---

¹⁶ That the US has exercised significant influence, beyond the norm of the average embassy, is something both US and Iraqi officials widely acknowledged during interviews I conducted in researching for this paper. The huge embassy structure is a symbolic reflection of this reality.

¹⁷ Alexander Cooley, *Base Politics* pg 23
Iraqis keen to prove their democratic legitimacy and political independence, but also for Americans determined that their troops are provided the maximum protection and their military leaders given the greatest operational freedom possible.

Applying Cooley’s theory, we would expect the following scenarios to play out in the Iraq case:

- **Outcome 1:** A contract legitimizing the presence of US troops on Iraqi soil is accepted by the Iraqi political elite due to the high dependence on the US for security and regime survival;

- **Outcome 2:** Iraq's high dependence on the contract with the US results in a highly hierarchic nature of the terms within the basing contract (in favor of the sender, the US);

- **Outcome 3:** The process of negotiation and ratification of the contract is a highly politicized and contested one, in which the regime (and in particular, Prime Minister Maliki) attempts to extract as much concessions as possible (economic aid; political and/or security guarantees) to further party/regime survival;

- **Outcome 4:** The SOFA’s ratification marks the beginning, not the end, of the politicization of the U.S. presence, with likelihood of demands for renegotiation and further concessions.

**What actually took place in Iraq?**

Briefly, a series of events unfolded as part of the negotiation and ratification process of the contract, whose outcome in sum was:
1. The contract being passed in the Iraqi legislature i.e. **Outcome 1 is realized.**\(^{18}\)

2. A contract that is remarkably balanced given the structural inferiority of the Iraqi state vis-à-vis the United States, and the high dependence of the former on the latter i.e. **Outcome 2 NOT realized.**

3. The process of negotiation and ratification is indeed highly politicized, in ways partly similar and partly very different to that predicted i.e. **Outcome 3 partly realized.**\(^{19}\)

4. Mixed evidence for the likelihood of further politicization of the U.S. presence, with some indicators pointing in this direction, and many others to the contrary i.e. **Outcome 4 uncertain to be realized.**\(^{20}\)

An in-depth analysis of the negotiation and ratification processes that resulted in the final agreement will enable us to account for what Cooley’s theory successfully captures, and to explain what it is missing. I proceed to do this in two ways.

First, I will conduct a detailed analysis of the legal documents that framed the evolving relationship between the United States and Iraq, and examine prior working drafts of the SOFA and SFA and compare them to the final versions approved.\(^{21}\) This will provide a detailed understanding of the prerogatives the United States initially enjoyed and wanted to preserve, and pinpoint where exactly and to what extent it had to concede to Iraqi wishes in order for the two sides to reach compromise.

---

\(^{18}\) Although whether the Pact’s passing in the legislature is due to the Iraqi state/regime’s “high dependence” on the US is disputable. See chapter 6 for discussion on perceptions.

\(^{19}\) How similar and how different will be explained and analyzed in chapter 4.

\(^{20}\) I make some comments on the future implementation of the SODA in chapter 9.

\(^{21}\) While the SOFA and SFA were made public, I gained privy access to earlier working drafts during fieldwork conducted in Iraq in the summer of 2009; the veracity of the extracts and notes I took on these drafts was confirmed to me during interviews with both US and Iraqi senior officials involved in the negotiations.
Second, in conjunction with textual analysis of the documents, I provide a comprehensive review of the US-Iraqi negotiation process, comparing American and Iraqi objectives, examining the obstacles each faced domestically, and both faced internationally, and contrasting retrospective views of the Pact by American and Iraqi officials who either were directly involved in its drafting and ratification or who monitored the process as it unfolded from close proximity. Doing so provides the “context” needed to understand the documents analyzed, illuminating the differing pressures each side face, and the different perceptions, values and norms involved.
Chapter 3: The Evolving Legal Framework for Foreign Troops in Iraq

US Prerogatives as Occupier

On April 21st 2003, the US-led Multi-National Forces (MNF) created the Coalition Provisional Authority (CPA) to act as a caretaker administration in Iraq until the creation of a democratically elected civilian government. On May 22nd 2003, the CPA gained its legal mandate with UN Security Council Resolution 1483 granting the MNF “occupying powers” whilst stressing “the right of the Iraqi people freely to determine their own political future and control their own natural resources.” Drawing on this, the CPA led by L. Paul Bremer issued on June 27th 2003 Order 17: ‘Status of the Coalition, Foreign Liaison Missions, Their Personnel and Contractors.’

The order, composed of only seven chapters affirmed that:

“Recalling that under international law occupying powers, including their forces, personnel, property and equipment, funds and assets, are not subject to the laws or jurisdiction of the occupied territory.”

Subsequently, Order 17 went on to give full immunity to the CPA, Coalition Forces, Foreign Liaison Missions and Contractors, granting exclusive jurisdiction to their “Parent States.”

The Order did not define the mission of the troops or civilians operating under the CPA, or limit its ability to arrest and detain Iraqis. It did not specify the number or location of the installations that would be utilized. It did not specify property rights. In short, the four-page document

---


contained very little of the kind of provisions that normally guide the presence of “visiting forces.”

US Prerogatives 2004-8

On June 8th 2004, the UN Security Council issued Resolution 1546, welcoming the transfer of sovereignty from the CPA to the Iraqi Interim Government under Ayad Allawi and the end of occupation due June 30 2004. Referring to two letters annexed to the resolution by Dr. Ayad Allawi and Secretary of State Colin Powell, the Council noted:

“...that arrangements are being put in place to establish a security partnership between the sovereign Government of Iraq and the multinational force and to ensure coordination between the two...”

Prior to the resolution, in a meeting with Iraqi leaders in Baghdad, Bremer asked them to “raise any issue, except the SOFA,” explaining: “we’re not legally ready for it yet.” After British Ambassador Jeremy Greenstock raised the issue in New York, the euphemistic reference to it was made as cited above.

Importantly, on June 27 2004, just one day before sovereignty was transferred to Allawi’s government, the CPA issued a “revised” Order 17. Composed of twenty chapters, and running for sixteen pages included annexes, the revised order was a complete SOFA in all but

---

24 See Dieter Fleck (ed.) The Handbook of The Law of Visiting Forces Oxford University Press (July 2001)
25 United Nations Security Council Resolution 1546, adopted at its 4987th Meeting, June 08 2004; retrieve online at:
26 Interview with Dr. Fareed Yasseen
27 “Coalition Provisional Authority Order Number 17 (Revised) Status of the Coalition Provisional Authority, MNF – Iraq, Certain Missions and Personnel in Iraq” Coalition Provisional Authority (June 27, 2004); retrieved online at: http://www.iraqcoalition.org/regulations/20040627_CPAORD_17_Status_of_Coalition__Rev__with_Annex_A.pdf
name. That it was intended as such is clear not only from the general contents of the Order, but also more specifically the “effective period” for which it would come into force that it states as:

“This order shall enter into force on the date of signature. It shall remain in force for the duration of the mandate authorizing the MNF under UN Security Council…and shall not terminate until the departure of the final element of the MNF from Iraq, unless rescinded or amended by legislation duly enacted and having the force of law.”  

Drawing on Cooley’s organization of basing contracts under three issue headings, sections from the revised Order can be re-arranged in the following way:

**Issue 1: Basing Agreements & Facilities**

**On Installations and Territory:**
- U.S. “may use without cost” “headquarters, camps or other premises as may be necessary” (9:1.)
- U.S. “may use water, electricity and other public utilities and facilities free of charge, or, where this is not practicable, at the most favorable rate” (9:2)

**On Assets:**
- No prohibitions or limits set on the kind of military assets the U.S. can deploy on installations

**On Personnel:**
- U.S. enjoys “freedom of movement without delay throughout Iraq”; to “the extent practicable” it will “be coordinated with the Government” (7:1)
- US vehicles, vessels & aircraft “shall not be subject to registration, licensing or inspection” (7:2)

---

28 Order 17 (Revised) Section 20, pg 13  
29 Alexander Cooley, *Base Politics* pg 29-50  
30 The exact legal wording generally gives these prerogatives to the CPA, MNF, Foreign Liaison Missions, International Consultants and Contractors, but given their pre-dominantly American composition, and for sake of brevity, I refer to them as “U.S.”  
31 The first number before the colon refers to the section number, the number that follows to the paragraph number
- U.S. may “import, free of duty or other restrictions, & clear without inspection, license, authorization, other restrictions, taxes, customs duties, or any other charges” (8:2)
- “The speedy entry into and departure from Iraq,” of forces “shall be facilitated to the maximum extent practicable.” To aid this, U.S. is “exempt from passport and visa regulations and immigration inspection and restrictions as well as payment of any fees or charges on entering into or departing from Iraq.” (13)

**Issue 2: Matters of sovereignty**

**On Sovereign Status:**
- “While any areas on which such headquarters, camps or other premises are located remain Iraqi territory, they shall be inviolable and subject to the exclusive control and authority of the MNF” (9:1)

**On Use Rights:**
- No use rights limiting or placing conditions on base-related activities and operations are specified

**On Criminal Jurisdiction Procedures:**
- U.S. immune from Iraqi legal process; exclusive jurisdiction belongs to sending states; for Foreign Liaison Missions, this privilege ends with the CPA; by implication it continues for everyone else (2:1, 2:3, 2:5, 4:2-3).
- “Except where immunity has been waived” third-party claims “arising from or attributed to acts or omissions of CPA, MNF...shall be submitted & dealt with by the Sending State whose personnel...properties, activities or other assets are alleged to have caused the claimed damage”

**Issue 3: Bargains and Basing Agreements**

There are no specific quid pro quo ‘economic bargains’ specified in the Order, however the ‘political bargain’ and its security link is obvious, and is referred to in passing so as to justify
the assumed prerogatives: “in order to contribute to the security and stability that will enable the relief, recovery and development of Iraq.”  

 Compared to other agreements the U.S. has operated under, to describe the above provisions as “hierarchical” in favor of the sender-states would be an understatement. These prerogatives were indirectly reaffirmed in UN Security Council Resolutions 1637 (2005); 1723 (2006) and 1790 (2007).

US Prerogatives under the SOFA

When serious US-Iraqi negotiations began in April 2008, the U.S. submitted a first draft that was very similar to Order 17. Months of negotiations followed, involving a change of negotiators from both sides. The SOFA-SFA was the outcome. The first of the two, the focus of our discussion, ran for twenty-four pages, composed of thirty articles. We can compare it to Order 17 by arranging its provisions under the same three headlines as above:

**Issue 1: Basing Agreements & Facilities**

---

32 Nor is this situation unique since any economic or political bargains are often de-linked for political purposes. See Alexander Cooley, *Base Politics* pg 46-50

33 This becomes clear when we make the comparison to other arrangements, especially the NATO SOFA, but including more recent versions of the Japanese or Korean SOFAs. For these and other examples, see Dieter Fleck (ed.) *The Handbook of The Law of Visiting Forces* Oxford University Press (July 2001)

34 “Agreement Between the United States of America and the Republic of Iraq On the Withdrawal of United States Forces from Iraq and the Organization of Their Activities during Their Temporary Presence in Iraq” (December 14, 2008); retrieved online at: [http://www.usf-iraq.com/images/CGs_Messages/security_agreement.pdf](http://www.usf-iraq.com/images/CGs_Messages/security_agreement.pdf); in the proceeding quotes from the document, the first number before the colon refers to the Article number, the number that follows to the paragraph number
On Installations and Territory:
- U.S. to pay for “costs for services” [i.e. water, electricity etc.] “exclusively used by it” (5:4)
- “Upon the discovery of any historical or cultural site or finding any strategic resource in agreed facilities and areas, all works of construction...shall cease immediately and the Iraqi representatives at the Joint Committee shall be notified to determine appropriate steps in that regard.” (5:5)
- In the use of such facilities, as well as more generally, U.S. “reaffirms its commitment to respecting applicable Iraqi environmental laws, regulations, and standards” (8)

On Assets:
- U.S. defense equipment placed in agreed facilities “shall not be related, either directly or indirectly, to systems of weapons of mass destruction” (7)
- US to ensure “that no storage depots for explosives or munitions are near residential areas” (7)

On Personnel:
- U.S. “may enter, exit, and move within the territory of Iraq “for the purposes of implementing this Agreement” and according to “appropriate procedures and rules” set out by the JMOCC [Joint Military Operations Coordination Committee] created by the agreement (9:1)
- U.S. vehicles “shall display official Iraqi license plates to be agreed upon between the parties.” (18:1)
- U.S. may import, export, transport and use items “[f]or the exclusive purposes of implementing this Agreement...provided that the materials imported or brought in by them are not banned in Iraq as of the date this Agreement enters into force.” (15:1)
- Iraqis “have the right to inspect and verify the lists of names” of US members “entering and leaving Iraq directly through the agreed facilities and areas.”(14:2); based on security information, also have right to request US open their containers to verify their contents. (15:1)

**Issue 2: Matters of sovereignty**
On Sovereignty Status:
- “With full respect for the sovereignty of Iraq... Iraq grants access and use of agreed facilities and Areas” to U.S. (6:1)
- U.S. “shall assume control of entry to agreed facilities and areas that have been provided for its exclusive use”; both U.S. and Iraq “coordinate the control of entry into agreed facilities and areas for joint use” through the JMOCC; both “coordinate guard duties in areas adjacent to agreed facilities and areas through the JMOCC.” (6:3)

On Use Rights:
- Iraq “requests the temporary assistance” of the US, “for the purposes of supporting Iraq in its efforts to maintain security and stability in Iraq including cooperation in the conduct of operations against al-Qaeda and other terrorist groups, outlaw groups, and remnants of the former regime.”
- All such operations are to be “conducted with the agreement” of the Iraqi government and be “fully coordinated” with it, a process to be overseen by the JMOCC, “with full respect for the Iraqi constitution and the laws of Iraq” and “shall not infringe upon the sovereignty of Iraq and its national interests” (4:1-3)
- “In the event of any external or internal threat or aggression against Iraq...and upon request by the Government of Iraq, the Parties shall immediately initiate strategic deliberations and, as may be mutually agreed, the United States shall take appropriate measures, including diplomatic, economic, or military measures...to deter such a threat.” (27:1)
- “Iraqi land, sea, and air shall not be used as a launching or transit point for attacks against other countries.” (27:3)
- U.S. cannot detain/arrest any Iraqi except through an Iraqi decision issued in accordance with Iraqi law (22:1); when arrests are made, U.S. to hand detainees to Iraq within 24 hours (22:2); upon entry into agreement, all Iraqis currently detained by U.S. freed or handed over to Iraqi authorities (22:4)
- All U.S. Forces withdraw from Iraq by no later than December 31, 2001 (24:1); all combat troops out of cities and villages by June 30, 2009 (24:2); U.S. with “sovereign right” to withdraw earlier if it wishes; equally, Iraq with “sovereign right” to request U.S. departure earlier (24:4).
On Criminal Jurisdiction Procedures:
- Iraq with primary right to exercise jurisdiction over U.S. army & civilians for “grave premeditated felonies...when such crimes are committed outside agreed facilities and areas and outside duty status”; (12:1)
- Iraq with primary right to exercise jurisdiction over U.S. contractors (12:2)
- U.S. with primary right to exercise jurisdiction over U.S. army & civilians “for matters arising inside agreed facilities and areas; during duty status outside agreed facilities and areas; and in circumstances not covered by paragraph 1.” (12:3)
  o The Joint Committee “shall establish procedures and mechanisms for implementing this Article [i.e. 12:1], including enumerating grave premeditated felonies subject to paragraph 1 (12:8)
  o Provisions of this article would be reviewed every 6 months, & amendments would be considered taking into account security conditions, extent to which US actively involved in combat etc. (12:10)
- Claims: U.S. “pay just and reasonable compensation in settlement of meritorious third party claims arising out of acts, omissions, or negligence...done in the performance of their official duties and incident to the non-combat activities” of U.S. forces (21:2)

Comparing Order 17 (Revised) with the SOFA that was ultimately concluded between the U.S. and Iraq, it is very evident that the U.S. had to make significant concessions to the Iraqis in order to get the approval of the government and the support of parliamentary blocks. Looking at early working drafts of the SOFA confirms this: every provision listed above that struck a more balanced distribution of prerogatives went through numerous modifications as American and Iraqi negotiators tried to hammer out mutually agreeable compromises.

Provisions regarding criminal jurisdiction were the most contentious. Iraqi negotiators initially requested Iraq have primary jurisdiction over U.S. forces and contractors. Famous flashpoints such as the Blackwater incident of September 2007 were cited time and again by
Iraqi negotiators keen to ‘win-back’ full Iraqi-sovereignty. For American negotiators, Iraqi primary jurisdiction over U.S. personnel was completely unacceptable. They pointed out to Iraqis that in the 105 or more SOFAs the U.S had concluded with countries around the world, they had never accepted such terms and would not now. Against full U.S. primary jurisdiction, Iraqis pointed out that the U.S. had accepted the concept of “concurrent jurisdiction” with her NATO allies, and eventually with Japan. To this, Americans responded by reminding Iraqis that in those cases, the U.S. military was not involved in active combat. The compromise that was eventually struck reflects the constant back and forth that went on between the two sides on this issue, and that involved direct discussions between President Bush and Prime Minister Maliki, and negotiations on their behalf by trusted advisors. The U.S. as we have seen would have primary jurisdiction except when “grave premeditated crimes” off-duty take place – something that is admittedly extremely unlikely to occur, and which were it to happen, would likely garner much public support internationally (as well as arguably in the U.S.) in favor of Iraqis having the right to trial the accused. Recognizing this would not be enough to satisfy Iraq, paragraph 10 permitted for a more generous re-wording of the provisions of the article in future, directly linking this to the extent of U.S. military involvement in active combat in Iraq, security conditions on the ground, and the state of the Iraqi judiciary. In other words, American negotiators were happy to accept giving Iraq a similar agreement on the issue of criminal jurisdiction to the one reached with NATO allies if and when actual conditions in Iraq were comparable, a position that was accepted as fair by Iraq’s negotiators.

The balanced nature of the SOFA, thus, was the result of tough negotiations and bargaining between American and Iraqi negotiators that dominated relations between the two in 2008 (and especially so from June onwards). While the two sides reached an agreement that
the Iraqi legislature ultimately approved – something Cooley’s theory predicts – it is not the kind of hierarchical arrangement that should have come about due to Iraq’s dependence on the U.S. and its inferior bargaining position. Understanding why that proved to be the case requires delving even deeper into the nature of the negotiations, and exploring non-institutional as well as institutional factors and explanations.
Chapter 4: Institutional Dynamics and U.S.-Iraqi Negotiations

Examining the institutional dynamics in Iraq, as well as some of the institutional pressures faced by the U.S., validates some elements of Cooley’s theory, but undermines other important aspects.

Iraq’s Decision-Making Processes: Maliki and Consensus-Building

Reading some of the recent media stories out there today warning of an emerging “dictator” in Iraq, with some going as far as likening PM Maliki to Saddam,\(^{35}\) it is easy to assume that Maliki was in full-control of negotiations with the United States, and could thus use whatever concessions he gained from the U.S. to strengthen his hold on power. Careful analysis of Iraq’s decision-making processes, distanced from caricatured media stories, reveals almost the exact opposite. Thanks in part due to Iraq’s constitutional design, and in other parts due to its inchoate party system, electoral laws, and the political realities that resulted in Maliki’s choice as Prime Minister, Iraq’s decision-making processes on all major decisions were diffused, characterized by a remarkable number of veto points. As a result, Maliki was under constant pressure from different directions, having to balance rival powers, both domestic and international, and having to manage disparate objectives just to keep the Iraqi state alive.

Iraq’s first parliamentary national elections for a full-term Council of Representatives (COR) and government, held on December 15 2005, was conducted under the framework of a

closed-list proportional representation (PR) electoral law, with a 25% quota for women in place, and a mechanism in place to assign seats to Iraq’s small minorities (Assyrians, Yazidis etc.) While the results indicated the victory of five main lists – the winner, the United Iraqi Alliance (UIA) with 128 seats out of the 275-seat COR, as well as the Democratic Patriotic Alliance of Kurdistan (53 seats); the Iraqi Accordance Front (44 seats); the Iraqi National List (25 seats); and the Iraqi National Dialogue Front (11 seats), the neatness of such a result was actually misleading. This was because each of those lists, with arguably the exception of the Kurdish one, was actually composed of a multitude of big and small parties, as well as tribal and religious figures, academics and technocrats. Thus, within the UIA, PM Maliki’s Dawa Party had only fifteen members in the COR which Maliki could fully rely on.

What brought each of the grand lists together on the eve of the 2005 national elections was less a common ideology or political program, and more the ethno-sectarian fault-lines that came to the fore in the first post-Saddam, post-U.S occupation elections. However, intra-Shi’a and intra-Sunni divisions (as well as, but to a lesser extent, intra-Arab, intra-Kurdish differences) quickly re-emerged once these lists entered parliament, resulting in numerous breakages and constantly shifting alliances. Ironically, Iraq’s progress on the security front and on national reconciliation in 2008 exacerbated the unpredictable behavior of Iraqi political parties who could consequently operate more freely, scheming against rivals within their own lists, as well as

37 Since the Kurds in northern Iraq won their autonomy in 1991 following the Gulf War, their regional party system was more “mature” in 2005 than in other regions in Iraq; two political parties, the Patriotic Union of Kurdistan (PUK) and the Kurdistan Democratic Party (KDP), dominate Kurdish politics, and their strategic alliance during national elections (articulated so as to further Kurdish interests vis-à-vis the rest of the country) made for a robust list
Thus, the COR throughout 2005-9 was characterized by logjams, with key pieces of legislation such as those on oil or reconstruction submitted by Maliki’s cabinet government failing to see the light of day.

Iraq’s constitutional provision requiring a 2/3\textsuperscript{rd} vote in the COR for any candidate hoping to land the largely ceremonial role of President added a further obstacle to the formation of a streamlined government in 2005 (and will likely do so again in the government formation process following the March 2010 elections). Combined with Iraq’s multifarious political party system, and the PR electoral law ensuring no winner’s bonus comparable to the one the British first-past-the-post electoral law creates, this constitutional provision has resulted in helping enforce a political dynamic that pressures leading parties into creating large, often unwieldy coalitions, and in which the politician most likely to succeed is he who masters the politics of consensus-building amongst incongruent groups.

The importance of grasping this political dynamic with regard to the negotiations for the SOFA between the U.S. and Iraq also lies in the Iraqi constitution. Unlike the American constitution which permits Presidents to sign executive agreements without recourse to Congress (in addition to treaties requiring ratification by a 2/3\textsuperscript{rd} vote in the Senate), Iraq makes

\footnote{A cursory look at the Iraqi political map on the eve of the 2010 national elections demonstrates the fluidity of Iraq’s party system. Maliki’s Islamic Dawa Party (IDP) breaking up from the UIA and creating the ‘State of Law’ national coalition made headlines, but in reality the UIA had long been damaged with Dawa’s rival, the Islamic Supreme Council Iraq (ISCI) trying to unseat PM Maliki several times during his tenure in order to have one of their candidates (Vice President Adil Abdul Mahdi) take up the position instead. Ideological and policy differences between the two rival parties were also important: ISCI was notably closer to Iran, projected a more stringently Shi’a image, and advocated a “super” federal region combining Iraq’s nine largely-Shi’a populated provinces. The IDP, on the other hand, projected an Iraqi non-sectarian image, rejected ISCI’s plan for a super-region as a euphemism for a dividing of Iraq on sectarian lines, and emphasized its independence from all foreign states, arguing Iraq should seek positive relations with the region on the condition that neighbors respect the country’s sovereignty. Between 2005-10, Al-Iraqiya had even greater problems, with many key leaders within the list splitting off amidst complaints of Allawi’s authoritarian ways in the internal running of the list (e.g. Ayad Jamal al-Din, Mahdi al-Hafidh, Safiya al-Suhail, Hajim al-Hassani etc.)}
no such provision;\(^{39}\) thus, Maliki knew only too well that any agreement his negotiating team hammered out with the U.S. would have to pass through the major obstacle of ratification in the COR/ a (50/67\%) vote in the COR parliament.

Foreseeing the potential political dangers that such institutional realities presented, both to any agreement signed with the U.S. and to his government’s rule, Maliki astutely set out to include all of Iraq’s major political parties in talks on the Pact from the early stages of the negotiations in a deliberate strategy designed to build consensus through active involvement.

Maliki’s ‘all-inclusive strategy’ came into play beginning with the prelude to the ‘Declaration of Principles for a Long-Term Relationship of Cooperation and Friendship Between the Republic of Iraq and the United States of America’ he signed with President Bush on November 26, 2007.\(^{40}\) The Declaration was described as “a shared statement of intent,” in which the U.S. and Iraq outlined a joint vision for “a long-term relationship of cooperation and friendship as two fully sovereign and independent states with common interests.” This emerging partnership, the statement declared, would involve three fields: 1) the political, diplomatic and cultural spheres; 2) the economic sphere; and 3) the security sphere. Within such a framework, the parties declared that bilateral negotiations would begin as soon as possible, with the aim of achieving agreement before July 31, 2008.

Maliki’s insistence that Iraq’s major leaders subscribe to this document with him was neither required, nor customary. On August 26, 2007, Maliki successfully negotiated a Communique with the three members of the Presidency Council (President Jalal Talabani, Vice

\(^{39}\) Though Article 61, Paragraph 4 permits for its inception provided 2/3\(^{rd}\) of the COR vote in support of it

\(^{40}\) See “Declaration of Principles for a Long-Term Relationship of Cooperation and Friendship Between the Republic of Iraq and the United States of America” (November 26 2007); a transcript of the agreement was published by the National Public Radio (NPR) on January 24, 2008; retrieved online at: http://www.npr.org/templates/story/story.php?storyid=18358334
President Adil Abdul Mahdi and Vice President Tariq al-Hashemi) and Massoud Barzani, President of the Kurdistan Regional Government (and head of the KDP). Each of these leaders led or represented key political parties in the COR: Maliki, the Islamic Dawa Party (IDP); Talabani, the Patriotic Union of Kurdistan (PUK); Mahdi, the Islamic Supreme Council Iraq (ISCI); Hashemi, the Iraqi Islamic Party (IIP) as well as more generally, the Sunni coalition, the Iraqi Accordance Front; and Barzani, the Kurdistan Democratic Party (KDP). Dubbed ‘The Agreement of “the Five”’ – in reference to their status as key political leaders within Iraq – the communiqué was a rare show of unity amongst Iraq’s political elite. In it, the leaders declared that they:

“...considered it important to link the renewal of UN Resolution 1723 for another year with a reference to the ending of Iraq's Chapter VII status under the UN Charter and the concomitant resumption of Iraq’s normal status as a state with full sovereignty and authorities and the restoration of Iraq’s legal international status, namely the status that it had before UN Resolution 661 of 1990. In this context, the leaders affirmed the necessity of reaching a long term relationship with the American side ... that is built on common interests and covers the various areas between the Republic of Iraq and the United States of America. This goal should be realized in the near future.”

Building on this agreement, Maliki’s staff worked closely with the U.S. embassy leading up to the Declaration in order to ensure that those four leaders would sign on to it in conjunction with the Prime Minister. The idea was thus to induce the PUK, ISCI, IIP and KDP to endorse negotiations before they had even begun to lend legitimacy to the process from its inception, and ensure that Maliki and his IDP would not be isolated politically as a result of its negotiations. Getting the support of Mahdi and Hashemi was particularly significant: here was a representative from ISCI – the Iraqi party most closely associated with Iran – and another from the IIP – a Sunni Islamic party that was an off-shoot of the Egyptian-based Muslim Brotherhood,

41 This quotation from the communiqué and its translation was provided by the White House. See “Fact Sheet: U.S.-Iraq Declaration of Principles for Friendship and Cooperation” (November 26, 2007); retrieved online at: http://georgewbush-whitehouse.archives.gov/news/releases/2007/11/20071126-1.html
and that only a couple years prior had been voted in on the back of a campaign promising to rid Iraq off U.S occupation – ascribing to a strategic partnership with the U.S.

When serious negotiations finally began – delayed for months partly due to disagreements between the U.S. and Iraq on whether one or two documents would need to be signed - Maliki continued pursuing his all-inclusive strategy in two ways.

Firstly, Maliki created a negotiation team in April of 2008 of technocrats that were nevertheless selected not only due to their competencies, but also because each was linked to different major parties and power blocs within the COR and coalition government. The team of thirteen included several names from the Iraqi Foreign Ministry, run by Foreign Minister Hoshar Zebari (a Kurd allied with Barzani’s KDP); other names included: Ambassador Dr. Fareed Yassin, an advisor to Mahdi, Dr. Mohammed Mustapha Juma’a and Mr. Mohammed Salih Younis, both advisors for Hashemi; Mr. Adnan Zurfi, a Shi’a independent politician who had previously been appointed Najaf Governor by the U.S. in 2004 (and who has since assumed this role again following the provincial elections of January 2009); and Mr. Thamir Abbas Ghadban, a secular Shi’a who had served in 2004 as Oil Minister under Ayad Allawi’s interim government. And while this team was eventually replaced in August with a more refined team of five, it emphasized Maliki’s commitment to building Iraqi consensus around an agreement with the U.S. from the outset.

Secondly, throughout the negotiations led by the first and second teams, Maliki and his close advisors kept formal and informal mechanisms of dialogue with politicians from all the

---

42 The second negotiation team, created August 27 2008, was much more closely associated with PM Maliki, and notably included Ambassador Sadiq Al-Rikabi, Maliki’s Senior Political Advisor who was not a member of the first team. However, it also retained Dr. Hajj Hmoood, Deputy Foreign Minister, as well as one of the two advisors of Vice President Tariq al-Hashemi present in the earlier round, Mr. Mohammed Salih Younis.
parties represented in the COR. On a monthly basis, a summary of the negotiations was presented at Iraq’s Political Council – an ad hoc body created to aid consensus-building amongst “the Five.” In the month prior to the COR vote, this council met twice. More importantly, Maliki and his aides talked on a daily basis informally with such leaders and many others to try to garner support for the agreement. Additionally, the Iraqi government sent emissaries to placate the fears of regional governments lobbying against the agreement (in particular Iran, Saudi Arabia and Syria) clarifying the defensive nature of Iraq’s security agreement with the U.S.

Maliki’s efforts to include other key players in the process of negotiating the Pact did not come without dangers. Indeed, Maliki’s rivals routinely leaked controversial aspects of the negotiations to the media, in a bid to undermine the Prime Minister’s credibility. Often, politicians within ISCI, Sadrists, the IIP and others played dumb in interviews with the media, pretending to be unaware of the course of the negotiations, so as to advance notions of a conspiracy theory. Maliki and his U.S. “masters,” one Sadrist source claimed, were hashing out a secret deal with secret provisions that would keep the U.S. infinitely long in Iraq in exchange for keeping Maliki in power.

Other politicians chose to oppose the Pact just to get at Maliki despite actually have few objectives to the agreement itself. The most notable example here was Ayad Allawi, who argued in the final weeks before the vote that a new Security Council Resolution extending the MNF mandate should be adopted instead, despite knowledge of Resolution 1790 adopted December 18 2007 stating that a one year renewal would be the last one. Allawi’s position surprised and angered U.S. officials, who had pressed on him the importance of the agreement and had won assurances he would not object to it. “He sensed he was no longer star of the show,” one U.S. official 1

---

43 Interview with Iraqi official 1
offical explained to me, “so he could afford to play politics”\textsuperscript{44}; in other words, Allawi chose to prioritize his narrow political interests over Iraq’s interests and strategic objectives.

Other Iraqi politicians played a dual game, quietly assuring Americans at the U.S. Embassy of their support for the agreement, whilst pushing Maliki in private meetings to reject it. In one such meeting held approximately two weeks before the COR was scheduled to vote on the agreement, and after the final amendments and compromises by U.S. and Iraqi negotiators had already been made, an ISCI leader posed the question: “Are we, as Islamists, really going to go ahead and sign a deal with the U.S.?” before expressing major reservations about the deal and suspicions of U.S. motives. To this, an enraged leader within the IDP responded: “you express your opposition now? Now, after weeks of Adil Abdul Mahdi assuring the Americans of your support?!”\textsuperscript{45}

Talks held by officials within the U.S. Embassy in Baghdad with various parties, designed to garner support for the Pact, actually served to encourage such behavior. Rival Iraqi politicians attempted to extract concessions from the U.S. on issues unrelated to the Pact, in exchange for their support for the Pact in the COR. Since such meetings were held privately, it was consequently very difficult for U.S. officials to hold them at their word. Moreover, for several months, politicians rivaling Maliki claimed he was the one who actually opposed the agreement, and that he would deliberately drag the negotiations with the U.S. until it would be too late to reach agreement and U.S. forces would be forced to leave (since their UN mandate was valid until the end of the year). So convincing was their pitch that by August of 2008, several U.S.

\textsuperscript{44} Interview with U.S. official 1
\textsuperscript{45} Interview with Iraqi official 2
officials in Washington became convinced “Maliki will never sign.” Against such a perception, other U.S. officials with close contact with Maliki and his advisors including US Ambassador to Iraq Ryan Crocker and lead U.S. negotiator and Special Assistant to President Bush Brett McGurk argued otherwise: they understood the pressures that Maliki faced, and encouraged compromises in view of the ‘strategic prize.’

U.S. Institutional Dynamics and its Effects on Negotiations

When President Bush and Prime Minister Maliki signed the “Declaration of Principles” on November 26 2007, an inter-agency debate started in the U.S. regarding how best to approach negotiations with the Iraqis and what the outcome should look like. US Ambassador in Iraq Ryan Crocker envisaged a final document similar to the Declaration of Principles. The Department of Defense (DoD), on the other hand, wanted a separate document, a SOFA, to outline the prerogatives of the U.S. basing presence there. A second document, they argued, could be ‘linked’ which could outline the U.S.-Iraqi vision for a political, economic and cultural relationship. Fears that a unified document would be seen as a treaty and thus require official Senate ratification, unlikely to be forthcoming with Presidential elections on the horizon and with the critical position of the Democratic Party vis-à-vis Iraq policy, tipped the debate in DoD’s favor. That decision came against Iraqis’ wish for one document, and for weeks negotiations consequently stalled on this point of contention. Eventually, Iraqis accepted the U.S. position, and Washington dispatched a largely technical team led by Ambassador Robert Geers Loftis to deal with the SOFA, with negotiations on the SFA left under Ambassador Crocker’s leadership.

46 Interview with U.S. official 2
47 Interview with Elissa Slotkin; Brett McGurk; Meghan O’Sullivan
“Loftis and his team were technically brilliant,” one Iraqi negotiator described to me, “but they didn’t understand Iraqi politics and culture.” Loftis’s team adopted a cookie-jar cutter approach: they brought a draft similar to Order 17, and to other hierarchical SOFAs the U.S. had negotiated, and presented it to Iraqi negotiators requesting their comments. The Iraqis balked. Months of negotiations failed to resolve any of the major disputes between the two sides. In June, President Bush ordered a change in negotiators and negotiations strategy, sending in Brett McGurk, with his title as Bush’s “Special Assistant” and his direct line of communication to the White House, which quickly changed the dynamics of negotiations. Soon, the Iraqis reciprocated, with Maliki changing his team of negotiators along similar lines. While negotiations continued to be undertaken for two different documents, the SOFA and SFA, McGurk’s arrival resulted in a greater fusion of American efforts between the Embassy in Baghdad and other agencies in Washington. Ambassador Satterfield’s role as Senior Advisor to the Secretary of State and Coordinator for Iraq also proved very useful in that regard.

As agreement on the controversial provisions drew near, a different political dynamic in Washington became increasingly significant. Maliki’s Der Spiegel interview on July 18 2008 in which he seemed to support Obama’s proposal for the withdrawal of troops drew the angst of Republicans on the McCain camp who consequently pressed the White House to present an “either-or” approach to Iraqis: either accept a ‘conditional timetable’ or the Pact would not be possible. Democrats, on the other hand, maneuvered to press their advantage: they pushed for treating the SOFA as a treaty, rather than an executive agreement, so they could scrutinize it in the Senate. Voices of dissent against the Pact were soon heard from some quarters of the U.S. military anxious that the SOFA would constrain their freedom of operation so much so that their ability to succeed in Iraq would be compromised. The DoD echoed such concerns, with some
within the agency viewing the terms as a ‘humiliation’ and demanding a stronger line from Washington. Much of these criticisms were fuelled by misunderstandings of the exact terms being hammered out in Baghdad, a lack of appreciation of Iraq’s institutional and cultural dynamics, and the misperception that “Maliki was booting us out.” Others were simply the result of partisan politics in a heated election season. “In retrospect, one lesson of the U.S.-Iraq Pact,” Elissa Slotkin, the White House point person on the agreement, argued: “never try to negotiate one in an election year.” Otherwise, it turns into a political football. Bush of course had not intended for it to develop as such: as the Declaration of Principles charted, he aimed to have agreement before July 31 2008, but the delays resulting from the initial U.S. strategy conceived in isolation of Iraq’s intense institutional and cultural dynamics precluded the fulfillment of that wish.

Despite these pressures, Bush stuck to the plan, and agreement in November was finally reached. To assuage the anxieties of the Senate, the White House held a series of highly informative briefings about the process of negotiations as it entered its final stages. These briefings proved very useful for educating the Obama camp of the details of the Pact, who upon Obama’s victory in the elections maintained contact with White House staff through backdoor channels so as to remain updated and involved.

Maliki had not only signed on, confounding the accusations of his critics, but he had also successfully led a public relations campaign prior to the signing, marketing the document as the “best strategic option” for Iraq, and emphasizing what Iraq’s negotiators had achieved.
Re-assessing Cooley’s Institutional Dynamics

Reviewing the kinds of political games that took place in Iraq and the institutional pressures Maliki’s government faced corroborates important arguments and insights Cooley’s *Base Politics* makes. For instance, citing the example of the 1960 Mutual Security Treaty in the Japanese Diet, Cooley observes: ‘In democratizing hosts, parliamentary ratification of agreements has often been a politically volatile and even tumultuous affair.’

But it also encourages a more critical view of the two-level political game central to his thesis, “in which rulers use base-related issues and resources for their domestic political purposes but can also invoke domestic constraints in their negotiations with the sender.” Cooley, explicating the assumptions behind his thesis, argues that “rulers of base-host countries value and pursue, above all else, their own domestic political survival”; they value other things, but that ultimately they “wield power in both the domestic and foreign policy arenas in order to maximize their own political benefit and maintain their office.” From a cool Realist perspective on power, that seems reasonable. But, by extension, surely competing parties are likely to do so as well? In a democratizing state that is still reliant on the U.S. for security, political or economic support, what stops rival parties wanting the government to fail so they could replace it instead? Indeed, is it not easier for politicians to act irresponsibly and pursue narrow interests when they are sat comfortably in parliament as opposed to when they are governing and observing the impact their decisions are making to their own people directly? Allawi as interim Prime Minister did not hesitate to sign onto Security Council Resolution 1546 despite, as we have seen, the extremely hierarchical SOFA that the U.S. was essentially imposed in the form of

---

48 Alexander Cooley, *Base Politics* pg. 33
49 Ibid., pg. 11
the revised Order 17, because he understood the pressing need for U.S. security and political support at a fragile moment in Iraq’s development. He was happy, however, to chip away at Maliki when the latter was in a similar position of realizing the continued relevance of U.S. support to Iraq, despite the much more favorable terms Iraqi negotiators had extracted after months of prolonged negotiations.

Cooley grasps that domestic political institutions matter, but for him, they matter for “contractual credibility”⁵⁰ and should not make too much of a difference on how hierarchical the terms of a SOFA are, because ultimately “the regime” recognizes its reliance on the U.S. But if in a democratizing regime, politicians are primarily self-serving, why should they allow their competitor to beat them in a power struggle? Why not conspire to ensure the prime minister fails? In Iraq, this is precisely the power struggle that took place in the culmination of the negotiations.

Cooley then exaggerates the ability of rulers in democratizing regimes to play a two-level game. Often a two-level game is played on them by their opponents. This flaw is partly due to the fact that his focus when he writes on democratizing regimes is on Japan and Italy: states that were governed through one-party rule – in Japan, the Liberal Democratic Party, and in Italy, the Christian Democrats.

But it is also part of a more serious flaw inherent in the institutional nature of his theory, which also leads him to miss the link between a contested party system and the degree of hierarchy the terms of SOFAs can have. By focusing on institutions alone, Cooley fails to appreciate the significant impact political culture and ideology play on the way they function.

⁵⁰ See Table 19 which summarizes the effects of host countries’ political institutions on contractual credibility, in Ibid., pg 19
More generally, he dismisses or simply does not address the relevance of other theories in IR or Comparative Politics – such as Daniel Byman’s and Kenneth Pollack’s theorizing about the impact of individuals in history or Robert Jervis’s discussion on the impact of perception and misperception. Drawing insights from such other approaches will not only help enrich our understanding of the Iraq case, but will also yield important insights for policy-makers approaching the negotiation of other SOFAs in the future.
Chapter 5: Cultural Dynamics and U.S.-Iraqi Negotiations

What is political culture? In what ways can and does it make an impact in domestic and international politics? Such theoretical questions are widely and vigorously debated between scholars in various academic disciplines, and it is not my intention in this paper to delve too deeply in the subject so as to find consensus or come up with theories of my own as I link it to the discussion on base politics. My goal is much more humble. By drawing on some important insights from the literature, and examining its applicability to Iraq, I hope to illustrate the importance of adding a cultural dimension to developing the theory of base politics to which Cooley has made the first significant contribution. Theoretical discussion on culture is relevant at both the domestic and international level: having a better sense of Iraqi political culture will help us understand its impact on how the SOFA negotiation process was handled by Iraqi negotiators, parliamentarians and the public; having a better sense of international political culture will help us understand how norms embedded in the international system shaped the interactions between the U.S. and Iraqis, and the extent to which that impacted on the outcome.

Mlada Bukovansky’s *Legitimacy and Power Politics* offers some useful insights and a good starting point.\(^5\) Her study of international political culture in the American and French Revolutions draws attention to how the transformation of legitimacy from dynasticism to popular sovereignty in the mid-eighteenth century triggered a process of systemic transformation toward democratic legitimacy that continued into the twentieth century. If legitimacy is a necessary ingredient for the sustaining of political power, Bukovansky does not

---

mean to refer to abstract notions of right, but rather “to the norms of a specific cultural system
at any given time.”

What does she mean by political culture? To answer this, Bukovansky
draws on Lynn Hunt’s definition, which Hunt had developed in her study of the French
Revolution, and which she outlined as: “The values, expectations, and implicit rules that
expressed and shaped collective intentions and actions.”

Through such a conceptualization, Hunt explicitly set out to avoid reducing politics to
deeper social or structural forces. Instead, her argument is that:

“Political practices were not simply the expression of ‘underlying’
economic and social interests. Through their language, images, and daily
political activities, revolutionaries worked to reconstitute society and
social relations.”

A central concept to this definition, for Bukovansky, is the idea of “legitimacy contests”
and the connection she draws between culture and strategic interactions by political actors. It is
useful here to quote her at length to illustrate this idea:

“System-transforming changes develop within a cultural medium;
contradictions and complementarities in political culture provide
opportunities for actors to mobilize in conflict or cooperation, in ways that
may lead to systemic change. Culture thus shapes strategic
relationships. But strategic relationships also shape culture. Rules about
political legitimacy are likely to be elastic enough to be manipulated,
perverted, and defied. Such manipulation is a source of creativity and
change. Actors use the cultural medium in order to engage in political
struggles, and that engagement the medium itself may be
transformed.”

It is my contention that when the U.S. toppled Saddam in 2003, it unwittingly unleashed
a series of legitimacy contests that had been raging on in Iraq for at least several decades and

\[\text{References}\]

52 Ibid., pg 24
53 Lynn Hunt, Politics, Culture and Class in the French Revolution Berkeley University Press of California,
(1984) pg. 10-11, also cited in Ibid., pg 21
54 Lynn Hunt, Politics, Culture and Class pg. 12, also cited in Ibid., pg 21
55 Ibid., pg 38
which have contributed to the country’s turbulent modern history. These legitimacy contests – which drew on different ideologies, views of the past, and conceptions of the present – were central to the debates around the U.S.-Iraq Pact that was being negotiated, and had an important shaping influence on both a macro and micro level, influencing the conduct of negotiators and helping set the framework of debate.

Najaf, the Shi’a and Political Involvment

One of the most important legitimacy contests brought to the fore in 2003 was one that has been at the heart of Shi’a Islam at least since the 1970s. Shi’a Muslims, though a majority in Iraq, are a minority of about 15 percent within the larger Muslim world, and so have often been subjugated to marginalization and oppression at different periods within the history of Islam and the region.\(^{56}\) Considered by some within this greater majority as a ‘fifth column,’ especially by the Wahabbi-ideology dominant in Saudi Arabia, they were often the victims of prejudice, and their loyalty to Islam and Muslims constantly questioned.\(^{57}\) As a result of such subjugation over


centuries long, fatalism and lethargy enveloped many faithful Shi’a Muslims, who thus tended to shy away from active involvement in politics. This disposition was encouraged by an ideology of “quietism”\textsuperscript{58} articulated by their clergy in Najaf – the centre of Shi’a learning in Islam and the burial place of Imam Ali, the fourth Caliphate for Sunni Muslims, and the first Imam of twelve for Shi’a Muslims.\textsuperscript{59} For Shi’a who sought activism, they thus had to proceed with extra caution: fearing on the one hand the ‘traitor’ label that rivals could so easily brand them by, and on the other hand, alienation from the Shi’a community should they be seen to be straying too far from Najaf’s quiescence.

However, things in Najaf began to change with the beginning of the twentieth century, and a radical “renewal” movement soon took hold by the second half of the century.\textsuperscript{60} This movement saw the emergence of two particularly significant scholars with competing visions: Ayatollah Ruhollah Khomeini and Ayatollah Mohammed Baqir al-Sadr.\textsuperscript{61} Khomeini’s theory of *wilayat al-faqih al-mutlaqa* (absolute rule of the jurist) is now well-know to Western audiences and much studied for obvious reasons: Khomeini went on to lead a revolution that brought down the rule of the Shah, and his ideas heavily shaped the formation of the Islamic Republic.

\textsuperscript{58} The “quietist” movement was also a result of the success of policies implemented by Iraq’s rulers, who sought to separate Shi’a tribal leaders from the clergy so as to weaken them both; see Yitzhak Nakash, *The Shi’is of Iraq* pg 88

\textsuperscript{59} The nine Imams that followed Ali were all oppressed and killed, and the final Imam, Al-Mahdi (‘The Awaited One,’) is the leader upon whom Shi’a ultimately rest much of their hopes on, since it is he who, they believe, will emerge along with the return of Jesus (considered to be by Muslims a prophet of God, rather than His son) and other honorable leaders to save humanity before the demise of this world.

\textsuperscript{60} This movement of renewal was prompted in part by the growing encroachment of the secular government in Baghdad on the clergy in Najaf, and in part by the growing popularity of communism in Iraq and the Middle East more generally. For more on this, see Chibli Mallat, *The Renewal of Islamic Law: Muhammad Baqir al-Sadr, Najaf and the Shi’i International* Cambridge University Press (1993) and T.M. Aziz, “The Role of Muhammad Baqir al-Sadr in Shi’i Political Activism in Iraq from 1958 to 1980,” *International Journal of Middle East Studies* 25, No. 2. (May, 1993)

\textsuperscript{61} For a brief exposition of the two, see Ali Rahnema (ed.) *Pioneers of Islamic Revival* London: Zed Books (1994)
that replaced monarchical rule. Sadr’s theory based on the idea of *khilafat al-umma wa shahadat al-anbiya* (‘the people as rulers, the prophets as witnesses,’) on the other hand, has only recently come under scrutiny and is yet to be appreciated for all the significance it has had not only in Iraq, but in Iran also. For, despite the triumph of Khomeini in Iran, and Sadr’s execution by Saddam in 1980, Sadr’s ideas lived on primarily through the IDP, of which he was the primary founder and ideologue, as well as a network of scholars that had closely worked with or studied under him. Though severely contested internally within the Shi’a world, for the IDP, Sadr’s ideas eventually crystallized in *Barnamjuna* (‘Our Political Program’), which was published in February 1992, and which held democratic governance away from the direct involvement of clergy as one of its central axioms.

By the time the U.S. invaded Iraq in 2003, three main political-cultural strands within the Shi’a faithful of Iraq existed and competed with one another: the traditional ‘quietist’ trend which continued to view politics with suspicion and disdain, and called for the Najaf clergy and its followers to stay as far away from it as possible; the Khomeini trend closely associated with ISCI which in its exile years had upheld Khomeini’s *wilayat al-faqih*; and the Dawa trend, which


63 See in addition to Mallat’s book, Sama Haddad “The Development of Shi’i Islamic Political Theory” *Baghdad Institute for Public Policy Research* (October 2005)

64 For more, see the IDP’s official entry “Party History” on its website retrieved at: [http://www.islamicdawaparty.com/?module=home&fname=history.php&active=7](http://www.islamicdawaparty.com/?module=home&fname=history.php&active=7)

65 I deliberately refer to a “Dawa trend” rather than the Islamic Dawa Party (IDP) because what Mohammed Baqir al-Sadr created was more than just a political party; rather, he successfully inspired the emergence of a politico-cultural trend that grew and fed on his symbolic death – executed by Saddam in 1980. The growth of the cultural trend was also in part due to the fact that institutional structure of the IDP was small, and deliberately so: relying on a “cadre” party organizational model. Examples of Sadr’s appearance in Iraqi popular culture include a famous song lamenting his ‘martyrdom’ and promising continued activism. The song has spawned numerous remixes; see the following version (in Arabic) available on YouTube: AIM TV, posted by Eljabouri, “Baqir al-Sadr Minna Salama” (Oh Baqir al-Sadr,
advocated an “advisory role” for Najaf – somewhere in between no involvement and direct control. Of these competing narratives, the Dawa cultural trend was, indirectly, the greatest beneficiary of the U.S. invasion. For the long-marginalized Shi’a, ‘quietism’ was no longer a viable stand now that democracy was being ushered in, with its great promise of doing away with centuries of oppression and second-class status. The Shi’a faithful needed leadership, and in the political vacuum that followed the collapse of Saddam’s state, they naturally turned to the Islamic Seminary in Najaf. Led by Ayatollah Sistani, Najaf preceded to accept this immense responsibility with great caution: Sistani was no follower of Khomeini’s model, and preferred to minimize Najaf’s active involvement. 

Thus, Sadr’s middle position was in effect adopted, boosting the IDP which had by 2003 been significantly weakened due to its confrontations with both Saddam and, ironically, the Shi’i Islamic Republic of Iran. ISCI, seeking active participation in post-Saddam politics, shelved its public support for Khomeini’s *wilayat al-faqih* and attempted to fashion itself in a new light as following Ayatollah Sistani instead, a process it hoped could be aided with a symbolic name change: dropping “revolution” from its original name “Supreme Council for Islamic Revolution, Iraq” (SCIRI), to become the “Islamic Supreme Council, Iraq” (ISCI) that it is called by to our present day.

---


67 Iran’s leaders, in the duration of the Iran-Iraq War, systematically set out to induce all Iraqi political parties opposed to Saddam under its wing; when the war ended, the IDP’s insistence on its political independence from Iran enraged Iran’s leaders, and they subsequently set out to destroy it and support the rise of modern-day ISCI instead.

68 On the party’s name change, see Mariam Karouny, “Iraq’s SCIRI party to change platform – officials” *Reuters* (May 11 2007); retrieved online at: [http://www.alertnet.org/thenews/newsdesk/YAT153309.htm](http://www.alertnet.org/thenews/newsdesk/YAT153309.htm)
Despite the boosting of the Dawa trend, quietism and Khomeinism did not simply disappear from 2003 onwards (with Iranian influence helping make sure of that), and these three contesting strands continue to be salient to the Shi’a of Iraq to this day, though Khomeinism is by far the weakest of the three.

Suspicion of the West

One important cultural legacy of at least quietists and Khomeinists is distrust of the West. For the quietists, distrust of the West can be linked to at least three different factors. First, any anti-Westernism was in part the result of an anti-politics position more generally. Second, there were misgivings about the West due to a perception that the West, consciously or not, brought with it moral decadence and so had to be treated with caution. Third, and perhaps most importantly, distrust of the West was linked to a bitter experience with British colonialism, which Najaf had had a long history of resisting. The Iraqi Revolt of 1920, brutally crushed by the British, had drawn on significant leadership from the Shi’a clergy: Najaf and Karbala were the last two cities to surrender to the British. Nor for Iraqis did British colonialism end with the October 13 1932 declaration of Iraq as a sovereign state. The Anglo-Iraqi Treaty of 1930, which provided the British with virtually unlimited basing rights, was used to justify the British invasion and occupation of Iraq in 1941, and eventually spawned the 1948 Portsmouth Treaty, which would last another twenty-five years, formally authorizing British influence in Iraq until 1973 – fifteen years beyond the expiration date set out in the 1930 treaty. The Iraqi politicians and government that had negotiated this treaty with the British, including figures such as Prime

---

69 For a good overview of the impact of British colonialism on Iraq’s modern history, see Charles Tripp, A History of Iraq Cambridge University Press (2002)
Minister Salih Jabr, immediately faced the wrath of Iraqis in the famous Al-Wathba Uprising when for several weeks mass protests erupted in Baghdad and across the country led by the urban classes against the government and its foreign connections. The uprising was eventually crushed, but also led to Jabr’s resignation.

For Khomenists, distrust of the West, and in particular, of the U.S. had more to do with political struggles in Iran than events in Iraq. First, it was the U.S. and Britain that had sustained the Shahs’ tyrannical rule, for instance by helping restore to the throne Shah Reza Pahlavi in 1953 against the nationalist-populist movement of Prime Minister Mossadegh. Second, the U.S.-Iran SOFA of 1968, which amongst other things, granted the U.S. exclusive criminal jurisdiction over all personnel at all times, had angered lots of Iranians and was famously used by Khomeini to attack the regime’s credibility. Finally, any grievances towards the U.S. were exacerbated with the immediate aftermath of the Islamic Revolution, in the drama that unfolded with the Iran hostage crisis and with U.S. backing for Saddam in the Iraq-Iran War.

For decades, Anti-British/American sentiments that arose from such experiences were not challenged by the rise of the Dawa trend. This was so because, at least from an Iraqi perspective, for many years the U.S. and the international community had supported Saddam’s tyranny, and when it realized its error in doing so, had failed the Iraqi people when it permitted him to crush the popular uprising that followed the Gulf War. Crucially, the international

---

71 On the U.S.-Iran SOFA, see Richard Pfau, “The Legal Status of American Forces in Iran,” *Middle East Journal* Vol. 28, No. 2 (Spring 1974)
community’s failure came despite these rebellions being encouraged in the first place by
President Bush.73 In the minds of many Iraqis, and especially so for Iraqi Shi’a, this resulted in
the emergence of an important cultural narrative: “the great betrayal of 1991.”74 Moreover, to
make matters worse, the U.S. proceeded to apply a disastrous sanctions strategy that served
only to strengthen Saddam’s hold on power as millions starved to death.75

2003 as a Watershed Moment?

“When President Bush toppled Saddam,” Iraq’s Deputy National Security Advisor Safaa
al-Shekh put it to me, “he abruptly ended decades of U.S. foreign policy that whether
deliberately or not had in effect sided against the Iraqi people. Now, it was on our side.”

“Iraqi Scientist Reports on German, other help for Iraq’s Chemical Weapons Program” Al-Zaman
(December 1, 2003), retrieved online at: http://www.fas.org/nuke/guide/iraq/cw/a2120103.html; Joyce
Archive Electronic Briefing Book, No. 82, http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB82/ and Peter
http://www.boston.com/news/globe/editorial_opinion/oped/articles/2006/08/31/the_true_iraq_appeas
ers/ for more on US-Iraqi relations during this period.

73 On February 15, 1991, President George H.W. Bush had called on the Iraqi military and people to
overthrow Saddam Hussein. A month earlier, on January 29 1991, President Bush announced in his State
of Union Address: ‘what is at stake is more than one small country, it is a big idea — a new world order,
where diverse nations are drawn together in common cause to achieve the universal aspirations of
mankind: peace and security, freedom, and the rule of law.’ For a transcript of his speech, see “President
George H.W. Bush’s Address before a Joint Session of Congress on the State of the Union,” C-Span
repeatedly broadcast across Iraq. It was also contained in millions of leaflets dropped by the U.S. Air
Force.

74 On “the great betrayal” see: Robert C. Hunter, “Brothers or Rivals? Iran and the Shi’a of Iraq” pg 67-68;
75 On the effects of sanctions, political and humanitarian, see: Jeffrey Meyer and Mark Califano, Good
Intentions Corrupted Public Affairs (2006); Richard Garfield, “Morbidity and Mortality among Iraqi
Kroc Institute of International Peace Studies, University of Notre Dame, (1999); and “Iraq Sanctions:
Humanitarian Implications and Options for the Future” Global Policy Forum (August 6 2002) retrieved
A seismic shift had thus seemingly occurred almost overnight, and it was one that caught most Iraqis by surprise. Yet, thanks to their bitter historical experiences, many Iraqis were suspicious. Thus, speaking to Washington Post correspondent Anthony Shadid, a son of a senior Najaf-based cleric explained: “If the Americans had finished the task in 1991, the Shiites would have received them with flowers. We have a previous experience with foreigners. Is it possible to trust them?”

In such moments of great transition, cultural assumptions, norms and precepts inevitably undergo significant examination and critique. For decades, Ambassador Fareed Yassin described to me, the U.S. was “radioactive”: Iraqi Islamist exiled groups stayed as far away from Washington as possible out of fear that any contact would taint it given the negative perceptions of the U.S. in the region. Though the Iraq War in 2003 was a game-changer, bringing ISCI and IDP on board a political process engineered by the U.S., negative views of the U.S. did not disappear. Al-Shekh, who was one of the Iraqis involved in negotiating the U.S.-Iraq Pact, cited this as one of the “psychological” obstacles that stood in the way of agreement. His elucidation of the problem is worthy of quoting at length:

“There was a problem of trust between Iraqis and Americans, and this lack of trust was mainly from our side. You see, our generation grew up in the context of Arab nationalism and Iran’s Revolution. We grew up in the context of the West backing Saddam against Iran, and of the West failing to help Iraqis in their humanitarian plight following the Gulf War. Following 2003, some of us were slow to adapt and challenge this heavy inheritance.”

---

77 Interview with Safaa al-Shekh
Given the size of the U.S. investment in Iraq, the thousands of soldiers killed and the billions of dollars spent, Americans may understandably be both surprised and frustrated at such lingering suspicions. Against this objection, it is useful to remember the enduring nature of cultural practicises and assumptions everywhere, and the gradual nature by which social change normally occurs: after all, old habits die hard.

Returning to Bukovansky, we can observe how a fierce legitimacy contest has been taking place in post-war Iraq, involving debates regarding the country’s very identity. As Bukovansky astutely observes, “political authority cannot be legitimated domestically without addressing the problem of foreign relations.” This is particularly relevant to the Arab region where so many regimes over the Middle East’s modern history have suffered from a legitimacy deficit due to their subservience to foreign powers. This is where sensitivities regarding the US-Iraq Pact came in. That U.S. support was needed in the security realm was not disputed by most of Iraq’s political elites (with the important exception of Muqtada al-Sadr, and more obviously die-hard Baathists). The key question was: at what cost? For some politicians, the answer may well have been “whatever the cost” but in the political turbulence of 2008, they must have been a small minority. Others, suspicious of U.S. motives, or fearful of their standing in the public with provincial elections round the corner, needed clear assurances: specifically, a timetable for the withdrawal of troops that would ensure no repeat of the Portsmouth Treaty would occur.

So hyper-sensitive were Iraqis about issues of sovereignty, that security concerns came to be seen by many as secondary. The impact of this on the SOFA negotiations and outcome was very clear. Looking at the document, I count fifteen references to the need for the U.S. to respect or act in accordance with Iraqi law; five references to respecting the Constitution, and four repetitions of Iraqi sovereignty (as well as an additional two in the context of the U.S.
coming to the aid of Iraqi sovereignty if it is under threat). Aside from issues that are typically controversial in most SOFA negotiations, such as criminal jurisdiction and base use rights, U.S.-Iraqi agreement was delayed additionally by disputes over other issues normally considered trivial. For instance, Iraqi negotiators spent hours debating with the U.S. the matter of registration plates, demanding that the U.S. use Iraqi ones (American negotiators initially objected due to bureaucratic reasons as well as associated security concerns). The very title of the document was another symbolic point of contention, with Iraqis insisting on adding the word “temporary” before “presence” and the phrase “withdrawal of United States Forces from Iraq.” An early working draft submitted by the U.S. on the other hand was titled more simply as: ‘Agreement on the Presence and Activities of U.S. Forces in Iraq.’ The dispute remained unresolved till the very end, when Iraqis finally got what they wanted as Bush sent direct word of his acceptance of the wording so as to get the agreement through.

“Sovereignty was the theme of the document,” Elissa Slotkin, the White House point person on the Pact explained to me, “President Bush understood that. Even though it was excessive, he understood the Iraqi need to express it.”

Studying Iraq’s domestic political culture thus enables us to appreciate why the Pact was so strongly contested despite Iraq’s need for U.S. support, but also why in the end it could be accepted. A striking feature of the negotiation and ratification of the Pact is the role of Islamists in the process, particularly Shi’a Islamists of the IDP under the leadership of Maliki, and to a lesser but still notable extent, the ISCI under Hakim. Politicians like Maliki could draw on a tradition of moderation from Najaf, and on an intellectual tradition favoring democracy (and which was not inherently anti-American) going back to Mohammed Baqir al-Sadr’s thought.

78 Interview with Elissa Slotkin
They were opposed, within Shi’a Muslims, by those whose cultural underpinnings were formed in line with the Iranian Revolution and its immediate aftermath, many of whom had spent time there whilst in exile. Different calculations of interests were without a doubt involved. But to characterize the competition merely as a clash of interests fails to grasp the extent of intra-community debate that occurred within Shi’a Islamists, and within individual parties. These contests were real, rather than concocted as part of a negotiation strategy, and it was U.S. negotiators appreciation of them as such that helped encourage their compromising attitude with regard to the terms of the SOFA.

Political culture in Iraq can thus be seen to have impacted on base negotiations in at least two different ways:

1) It had an impact psychologically – on the negotiators, on the parliamentarians, and on the public – always urging extra caution

2) *Claims* about political culture, and on what it *really is*, formed part of a legitimacy contest between different parties who utilized different norms and readings of the past to interpret the present; for Maliki, to defend the Pact, this involved emphasizing the withdrawal timetable so as to contrast it with previous treaties such as the Portsmouth Treaty, and to reiterate Iraq’s sovereignty and try to relinquish as little of it as possible.

That claims about political culture can be as important as any objective impact their ‘essence’ has – if such an ‘essence’ exists at all – is a case made cogently by Patrick Thaddeus Jackson in *Civilizing the Enemy: German Reconstruction and the Invention of the West*. Following the end of the Second World War and U.S. occupation of Germany, Jackson finds, the notion of a ‘Western civilization’ played a role in postwar German reconstruction:
“… not by being an essential entity that somehow objectively determined a field of possible outcomes. Rather it would be the appeal to ‘the West’ that played a critical role. Along the way, the notion of ‘the West’ would have been fleshed out along particular lines and linked to other notions in particular ways so as to create the impression of an essential entity in the name of which postwar German reconstruction was carried out.”\textsuperscript{79}

With so much of legitimacy contests being played out in the public realm, the importance of rhetoric and public discourse also comes to the fore – something scholars of IR have traditionally dismissed as having an impact in of itself. Consuelo Cruz offers a good counter perspective, contending that a mutually constitutive relationship exists:

“[W]e cannot grasp the nature and dynamics of political identity – and collective identity more broadly - unless we understand the rhetorical frames that emerge as dominant at critical junctures in the history of a group or a nation…Shaped by past struggles and shared historical accidents, Collective memory is both a common discriminating experience (this was right, that was wrong) and a ‘factual’ recollection of the group’s past ‘as it really was.’”\textsuperscript{80}

It was such a “collective memory” – of a great ancient history, and a modern one defined by the struggle against colonialism, the betrayal of Portsmouth and the betrayal of 1991 – that Iraqi politicians drew on, reframed and contested. And it is within this context that Maliki’s emphasis on the transparency of the agreement, the heralding of Iraqi sovereignty, and the timetable for U.S. withdrawal needs to be understood.

\textsuperscript{79} Patrick Thaddeus Jackson, \textit{Civilizing the Enemy: German Reconstruction and the Invention of the West} The University of Michigan Press (2006) pg 12

\textsuperscript{80} Consuelo Cruz, “Identity and Persuasion: How Nations Remember Their Pasts and Make Their Futures,” \textit{World Politics} Vol. 52, No. 3 (April 2000) pg 276
Chapter 6: Perceptions and Misperceptions in U.S.-Iraqi Negotiations

Understanding both the process of negotiations between the U.S. and Iraq and its outcomes would not be complete by grasping the impact of perceptions and misperceptions. Drawing on valuable insights by Robert Jervis, I discuss here several common (mis)perceptions that impacted on the negotiations to show how beliefs and assumptions can play a role. My intention in each case is not to investigate the veracity of each claim, but rather to highlight its potential impact on the negotiations.

“America is out to get us” Vs. “Islamists are intrinsically hostile to us”

“The process of drawing inferences in light of logic and past experience that produces rational cognitive consistency,” Jervis argues, “also causes people to fit incoming information into pre-existing beliefs and to perceive what they expect to be there.” Given Iraqis’ bitter experiences with Western countries, in particular the U.K. and the U.S., it is easy to see how that could have impacted on perceptions of the U.S. in Iraq. Deep distrust of the intentions of the U.S. amongst some political parties and groups resulted in interpreting events such as those that took place in Haditha, Nisour Square or Abu Ghraib as part of a deliberate and consistent U.S. plan to destroy and humiliate Iraqi society. Such sentiments were not held by Iraqi negotiators with years of working and personal ties to American negotiators and politicians. But their

---

82 Robert Jervis Perception and Misperception pg. 143
existence in at least some quarters of the Iraqi public, and the COR, complicated the task of negotiations. Their impact, moreover, was exacerbated by Saudi and Iranian-linked media outlets that embarked on a systematic campaign of attacking the Pact and the politicians that were supporting it in the weeks before ratification, and by Iraqi politicians who did not necessarily believe in such conspiracy theories but who nevertheless sensed they could exploit them for political purposes with provincial elections on the horizons (scheduled to be held in January 2009).

A similar perception held by at least some policy-analysts in the U.S. and amongst a proportion of the American public is the belief that “Islamists are intrinsically hostile to the U.S.” Again, this belief draws on a tradition and a set of experiences of its own – from academic and policy scholars linking authoritarianism and backwardness of the Middle East region to Islam, through to acrimonious experiences of U.S. officials with other Islamists in the region, most notably in Iran, Hezbollah and Hamas, to the impact of the tragic events of 9/11 on the perception of Islam in America. Again, while such a perception did not impact on U.S. negotiators who had learnt much about Iraq and its particular brand of moderate Islamists through working closely with them from 2003 onwards, those in Washington with less Iraq know-how effected by such views could still lobby and exert much pressure on the Bush administration to oppose the Pact, referencing Iraqi politicians’ public pronouncements critical of the agreement as a true and accurate reflection of their views about the U.S.

---

Distrust between some U.S. and Iraqi politicians, and within the greater public, fed on many misconceptions about each nation’s values and each state’s intentions. It is linked to numerous other misperceptions about each side, which are worthy of brief exposition.

- **“America wants to stay in Iraq forever”** – the perception or fear that the U.S. wanted permanent basing rights in Iraq for perpetuity – whether in actuality true, partly true or completely false – existed in the minds of many Iraqi policy-makers and analysts and led to heightened pressure on Maliki for a clear and firm withdrawal timetable.

- **“Shi’a are an extension of Iran”** – such a misconception, fuelled by Sunni Arab authoritarian leaders and used as pretext to justify their subjugation of Shi’a in their own countries and their fierce opposition to democracy, continues to frame some views of Iraq’s Shi’a in Washington. During the difficult periods of negotiations, it contributed to the misperception that “Maliki will never sign” given Iran’s opposition to the Pact and the significant pressure it was summoning against it.

- **“Nothing ever works in the Middle East”** – American fears that U.S.-Iraqi negotiations would collapse at the last possible minute are also at least influenced by the series of previous failures U.S. foreign policy has had in that region. The most obvious examples revolve around the US attempts to help resolve the Israeli-Palestinian conflict: thinking back to Bush Sr.’s Madrid Accords of 1991, Clinton’s Oslo Process culminating in Camp David, and his final try, the Taba Summit, and Bush Jr.’s Roadmap, it is easy to see how an unshakable pessimism and skepticism at all negotiations Middle Eastern could set in.

---

84 See some citations expressing such views in Michael Broning, “The Myth of the Shi’a Crescent,” *Project Syndicate* (May 20 2008); retrieved online at: [http://www.project-syndicate.org/commentary/broening1/English](http://www.project-syndicate.org/commentary/broening1/English); see also: Abigail Fielding-Smith, “The Shi’a crescent: myth or reality” *openDemocracy* (July 27 2006); retrieved online at: [http://www.opendemocracy.net/conflict-middle_east_politics/shia_crescent_3774.jsp](http://www.opendemocracy.net/conflict-middle_east_politics/shia_crescent_3774.jsp)
“We no longer need the U.S.”

An interesting perception increasingly held in Baghdad was the belief that U.S. support was no longer necessary in the light of improved security conditions in Iraq in the second half of 2008. Analysts within Iraq’s security ministries – Defense, Interior, National Security and Intelligence – vigorously argued against such claims, but their assessments were drowned out by over-confident voices in the COR and elsewhere who argued that Iraqi security forces could and should now stand on their own two feet without recourse to U.S. assistance. Did those politicians actually believe what they were saying, or was this part of an Iraqi negotiation strategy? It is difficult to say for sure. Former Director of National Intelligence and U.S. Ambassador to Iraq John Negroponte suggested several alternative motivations for the presence of such claims: some leaders made such claims with the hope of scoring political points with the Iraqi public, sensing that nationalism was on the rise again and knowing elections were round the corner; others were probably trying to attack Maliki’s nationalist credentials; still others, linked to Saddam’s banned Baath Party, had more nefarious aims: aiming to undercut the security and political progress that was being made by encouraging a premature U.S. exit.

Yet, it is still not too unreasonable to hold that at least some Iraqi politicians not privy to detailed information on security conditions in the country had come to believe that Iraq was better off with an immediate U.S. withdrawal. Such a perception contributed to opposition to the Pact amongst some, and heightened demands as condition for supporting it from others.

---

85 In discussing this perception, I deliberately omit the views of Iraqis fundamentally opposed to a U.S. presence since 2003 as a matter of principle, and who have been consistent in their opposition ever since. My interest here is rather to explore why numerous politicians in the lead-up to the Pact’s ratification seemed to concur with such a view that Iraq was better off without U.S. security support.
86 Former Special Assistant to President Bush Meghan O’Sullivan raised this particular question to me, referring to the issue as one of the puzzles that was difficult for U.S. policy-makers to resolve.
87 Interview with Ambassador John D. Negroponte
Returning to Jervis, several of these perceptions can be linked to important dynamics he delineates:

1) Uneven distribution of information with governments

There is a strong case for arguing that some of the perceptions above regarding security conditions or Maliki’s intentions were at least partly linked to what Jervis describes as:

“[t]he unrecognized effects of the uneven distribution of relevant information, usually highly classified information, some of which deals with the state’s own behavior.”

It is easy to see how such a dynamic applies to the early phase of negotiations when they were being conducted in a confidential manner, and away from the media’s prying eyes, or to the classified nature of much of the detailed security assessments and intelligence relating to Iraq’s capacity to defeat Al-Qaeda, protect its borders from foreign threats etc.

2) Generational effect

Returning to the “psychological” impact of the legacies of Arab nationalism, Iran’s Revolution and U.S. foreign policy in the aftermath of the Gulf War I noted in the previous section, Jervis’s insights help us understand why Iraqi leaders could still grapple with such fears in 2007-8 despite the immense U.S. investment in their country from 2003 onwards. Jervis tells us that: “Among the events experienced firsthand, those that occur early in the person’s adult life have an especially great impact on his perceptual predispositions.” Moreover:

---

88 Robert Jervis Perception and Misperception pg. 209
89 Ibid., pg 249
“...people also absorb many of the values and beliefs that dominate the climate of opinion at the time when they first began to think about politics. Since the concerns and events that are most important in any period of time pervade the society, all those who come of age at the time are affected similarly.\textsuperscript{90}

This was precisely the point Iraq’s Deputy National Security Advisor Safaa al-Shekh made to me and which I cited earlier. While it is difficult to conclude emphatically about the kind of impact such generational effects had on base politics in Iraq, there seems a reasonable case to be made that the obstacles facing agreement were at least exaggerated by differing perceptions each side held about the other.

In times of great transition, where different narratives about the past and present compete intensely with one another, and ambiguities and anxieties about the future pervade societies and their leaders, perceptions and misperceptions arguably matter more than ever. Difficult decisions with significant consequences for Iraq’s future had to be made on a daily basis by Maliki and other Iraqi leaders, who had to rely on particularly acute imperfect sources of information while fighting a war against Al-Qaeda, attempting to prevent the spiraling of sectarian and ethnic tensions, and trying to manage competing interests and ideologies, party rivalries and tribal disputes. We have seen how Cooley, when looking at the issue of why contracts become politicized, links it to institutional dynamics such as democratization – which inevitably involves much transition. But we can hypothesize more generally that base politics can be influenced wherever significant misperceptions are likely to occur, for instance in the consequence of a tragic incident that may result in beliefs a sender nation espoused deliberately-ill intent to the host nation.

\textsuperscript{90} Ibid., pg 253
Cooley may legitimately respond to this by arguing that all politics is plagued by the problem of misperceptions. What is the point then of accounting for it in our analysis on base politics more specifically? To this I argue that appreciating Jervis’s insights brings to the fore an important aspect regarding basing contracts: the fact that so many of them are shrouded in secrecy. Keeping negotiations and their outcomes confidential has generally been a preference of host nations perhaps embarrassed by the terms of an agreement, or not comfortable publicizing the extent of their relations with the U.S. to their public and the world at large. But it has often been a preference for U.S. policy-makers also. Jervis’s insights encourage us to question the wisdom of such a policy preference for U.S. interests. In Iraq, despite all the initial misperceptions about the Pact, when its provisions became public – with the SOFA and SFA published in their entirety in most of Iraq’s newspapers prior to the vote of the COR – many of the conspiracy theories regarding the agreement were undermined, and legitimate concerns of Iraqis and their representatives in the COR pacified. Were the provisions of the agreements kept confidential, the legitimacy of the Pact would have been continuously questioned by politicians either out of sheer ignorance, or for more nefarious reasons.

Thus, with this in mind, we can limit the number and significance of misperceptions on base politics by increasing informational flow and transparency, and more generally, by encouraging policy-makers, as Jervis advises, to play ‘devil’s advocate’ and continually question the assumptions they hold to be true.
Chapter 7: The Role of ‘Great Men’

“As a professor, I tended to think of history as run by impersonal forces. But when you see it in practice, you see the difference personalities make.”

- Henry Kissinger

Given the numerous obstacles – within the domestic institutions of both countries, the political culture of Iraq, the misperceptions held by both sides on one another’s character and intentions – no agreement could have been possible without the active involvement of two key men: President Bush and Prime Minister Maliki. This was the message that I heard time and again from virtually every interview I conducted with U.S. and Iraqi officials, as well as with Iraqi religious leaders and academics, including some who were not supporters of either men.

Reappraising the institutional and cultural dynamics that were at play in Iraq, the centrality of Maliki’s role has emerged as a constant theme in this paper. It was particularly relevant in the closing stages of negotiations when the toughest decisions regarding criminal jurisdiction and the withdrawal of troops had to be made, and during the difficult task of getting the agreement ratified in parliament. Despite their constant moaning about wanting a greater say in policy, when Iraq’s rival politicians were invited in by Maliki to participate in the negotiation and ratification process, they preferred to use their access to undermine Maliki rather than push the process forward, and in the final hour backed away from taking a public stand in support of an agreement they had privately assured the U.S. they supported.91 For weeks, worried U.S. officials watched helplessly as Iraq’s politicians refused to “own” the project they had all participated in. Sensing a deliberate attempt to isolate the prime minister, Maliki’s

91 Kurdish leaders Barzani and Talabani did take a public stand in support of the agreement, but they were the exception, and the latter’s vote of confidence was delayed for several weeks. Moreover, Barzani’s support was tinged with the same kind of political games other Iraqi politicians played: he invited the U.S. to keep bases in Kurdistan were he promised they would be welcomed should the pact fail. See ...
advisors drafted a counter-strategy with one of its key elements a public outreach campaign. In televised interviews and special recorded messages, Maliki addressed the Iraqi public with unassuming honesty: the agreement, he explained, was not perfect, and Iraq had not gained everything it wanted. But it was the best his team of negotiators could do, and it was in the strategic interests of Iraq to sign on. Iraq, he maintained, would fare worse with every alternative. The fact that the agreement had already been made public, and was published in every Iraqi newspaper was utilized to strengthen the premier’s case: we have nothing to hide, supporters could argue, pointing to the balanced nature of the provisions and the procedural transparency that characterized its ratification. Behind the scenes, Maliki simultaneously sent some of his most trusted advisers to counter-act the Iranian lobbying taking place in Najaf, and that aimed to push Ayatollah Sistani to oppose the Pact. Other officials were sent to Iran itself, and to neighboring Arab states, tasked with repeating one comforting message: nothing in the Pact is designed to be or can be used against you.

Less discussed in this paper, but just as important, was the role President Bush played. Not everyone in Washington understood Iraq, its history and culture, or could appreciate the pressures that its leaders were under. Many members of Congress balked at some of the concessions the U.S. had handed to the Iraqis. Some, particularly in the Democratic Party believed the whole thing was designed to tangle the next President in “Bush’s Iraq mess” and wanted to have nothing to do with it. Others, as noted earlier, argued that an executive agreement was not appropriate in the context of Iraq, and that the President needed to submit the agreement to the Senate for ratification in the way of an official treaty. Meanwhile, in the U.S. Army, some generals expressed concern that the treaty’s provisions had swayed too far in Iraq’s favor, and that as a result, their ability to complete their mission was in danger of being
compromised. Many in the Department of Defense agreed: with the rigid timetable the Iraqis had won, they felt the U.S. was getting much less from the Pact than the Iraqis, and thus questioned whether it was worth signing. Within the State Department, as well as in other agencies, another question was being raised: was Maliki even in favor of the agreement? Would he sign it? Or was he just “playing games with us”?

It needed a strong President and a confident leader to say no to the demands of some celebrated U.S. generals, buck the pressure from congressmen within his own party, and assuage the suspicions of staff working within his government. Bush rightly kept his eye on the strategic U.S. objective behind the negotiations: rooting America’s military presence and long-term relationship in Iraqi legitimacy, and did not shy away from making the necessary compromises to attain that goal.

Technological innovations that have taken place over the last decade served to enhance the role these two leaders played. Through video-conferences held in the closing stages of negotiations more than twice a week, Bush and Maliki hashed out agreement between themselves on key issues of dispute. Those video-conferences became the foci for both teams of negotiators, exchanging notes and drafts around compromises the two leaders had made with one another. These video-conferences also served to increase trust and understanding between the two sides, and helped strengthen each leader’s commitment to the Pact in the face of institutional and cultural opposition.
The role of individuals in IR theory

While perhaps it is natural for politicians to be partial to emphasizing the role of individuals over systemic factors, academics have generally been guilty of the reverse: speaking of structures and systems, rather than personalities and their idiosyncrasies. Cooley’s *Base Politics* follows such a model, emphasizing institutions and institutional development, and breaking the latter process into neat categories – “client democracies”; “independent democracies”; “consolidated democracies” – without acknowledging the impact leaders can have in accelerating or thwarting change.

Drawing on insights from Daniel Byman’s and Kenneth Pollack’s article “Let Us Now Praise Great Men” we can provide for a theoretical understanding of why Bush and Maliki were so influential, and particularly so in the case of the Iraqi leader. Byman and Pollack tease out thirteen plausible hypotheses regarding the roles of individuals, several of whom are applicable to the Iraqi case. In particular, I consider the following four as particularly relevant:

“Hypothesis 1: individuals set the ultimate and secondary intentions of a state.”

This first hypothesis is arguably applicable to both leaders. Bush’s personal investment in Iraq was an important factor behind U.S. involvement in the country and commitment to signing the Pact. Other factors, including Iraq’s strategic position in the region, are of obvious salience, but given the multitude of challenges facing the U.S., Bush’s attachment to Iraq was an important factor in making the Pact a concrete reality. Maliki’s role was probably of even greater importance given the dynamic and conflicting institutional and cultural dynamics that were taking place in Iraq, and are a common feature of democratizing countries.

---

92 Pg. 28
“Hypothesis 2: individuals can be an important component of a state’s diplomatic influence and military power.”

Iraq’s ability to gain important concessions from the U.S. was closely associated with the ability of Maliki and his close advisors to convert weaknesses in their domestic position to strengths in negotiations with the U.S. Cooley’s two-level game built on institutional analysis captures an important aspect of this. But a closely related aspect is surely associated with the personal capacity of some politicians to bargain better than others, or as a minimum to enable the other side to see things from their point of view. In at least the latter respect, Iraq’s negotiators, led by Maliki, deserve credit.

“Hypothesis 3: individual leaders shape their state’s strategies.”

Under this hypothesis, we can appropriately cite Byman and Pollack who rightly recognize that: “One particular manifestation of this role is the influence that individuals have in making and breaking alliances.” Both Bush and Maliki stayed the course of a tough negotiation and ratification process to turn the vision enshrined in the Declaration of Principles they had signed on to a year prior a reality. Maliki’s role was also notable in designing Iraq’s negotiation strategy – by bringing on other Iraqi leaders on board (with the help of the U.S. Embassy) from the earliest stages of the discussions, he was able to soothe the erratic behavior of Iraq’s rival parties and leaders.

“Hypothesis 11: individuals are more important when circumstances are fluid.”

As has been clearly demonstrated, this hypothesis is particularly relevant to explaining Maliki’s importance in the context of Iraq’s nascent democracy and amorphous party system,

93 Ibid., pg 28
94 Ibid., pg 29
95 Ibid., pg 142
but it can also relate to the role Bush played in the closing stages of the negotiations. By August of 2008, the Pact had been turned into a political football not only in Iraq, but also in the U.S. in the context of a heated Presidential election pitting the Democrats led by Barack Obama with their message of an early withdrawal against Bush’s Republicans and their nominee John McCain who emphasized the need to ‘stay the course’ no matter how long it would take.

Individuals, thus, do matter, and they matter in several other ways than the few I have briefly discussed here. That was true for Iraq, but it was also true in many of the cases Cooley discussed. An Iraqi premier who lacked the moderate and authentic Islamist credentials of Maliki may well have been unable to win over the support of the Shi’a majority, and in particular, of Najaf’s influential clerics. And had the negotiations floundered as a result of such a factor, what would we have argued then? Cooley would perhaps have pointed to the intense democratizing dynamics of Iraq as reason for the failure, just as he does when he explains the Turkish parliament’s refusal to grant the U.S. access rights in the lead up to the Iraq War. Of course, he would have been partly right. Iraq’s democratizing dynamics were certainly intense, and arguably more so than Turkey’s given the weight of the issue at hand, and the novelty of the experience. But, as Cooley himself admits, the negative result in Turkey was in part due to Erdogan’s and other Turkish leader’s off-handed confidence in the passage of the issue in parliament.\footnote{Alexander Cooley, \textit{Base Politics} pg. 132-133} This was in stark contrast, I have demonstrated, to the meticulous efforts put in by Maliki and his close advisers to ensure nothing in the Pact could raise the ire of parliamentarians and the public – not even its title, the matter of registration plates or the possible negative impact of America’s temporary basing presence on the environment.
Chapter 8: Theoretical Implications

We cannot grasp base politics – when and why bilateral military basing agreements
become accepted, politicized, or challenged by host countries – if we do not account for not
only institutional dynamics, but also cultural dynamics, and the impact of key leaders. In this
paper, I have demonstrated this using an in-depth case study of a democratizing state, Iraq.
Iraq’s political culture – its negative experiences with colonialism, its heritage of distrust of the
West, its contested character – had a very visible impact on the course of negotiations, pushing
Iraq’s leaders to risk the undoing of their whole partnership with the U.S., with the possible
immediate withdrawal of all U.S. forces, so as to ensure they are not depicted as being agents of
another imperial power. The constraints it placed on Iraq’s leaders translated into a more
compromising attitude from American leaders in Baghdad, and those in Washington with
experience working with Iraqis, and who understood moreover the strategic implications of the
success of the Pact. “We had done nothing like this before,” Special Assistant to President Bush
Brett McGurk put it to me: “negotiating and signing a Pact with a fiercely-proud Arab country in
full view of the public, its neighbors and the world, and through democratic means.”

Can the above analysis be dismissed on the notion that Iraq was just a unique case?
Before addressing this, I must briefly protest the notion that U.S. involvement was
“extraordinary.” If our frame of analysis is the amount of U.S. dollars spent on the venture the
argument is valid. But since when has that been the frame of reference for the students of
international politics? Iraq is much less unique if we take into account America’s history in the
reconstruction of Germany and shaping of Japan, its current investment in Afghanistan, and the
American instinct since at least the Second World War to actively participate in helping resolve crises however distant they may be located from its shores.

Yet, even if we consider U.S. involvement in Iraq a special case, the theoretical arguments I make in this paper are still valid and relevant. That Cooley’s institutional analysis is lacking more generally on a theoretical level becomes more apparent if we prod further his model. Cooley we have seen identifies his various cases as falling under different categories of institutional development. The regimes the U.S. deals with are client democracies and client autocracies, client democratizers or independent ones. They are occupations or consolidated democracies. Yet Cooley makes no effort at defining what each of these entail. When does a democratizer become “consolidated”? We would not be able to tell from reading Cooley. It is an important omission and its impact on his theory is clear when we consider, for instance, the example of Turkey. Turkey, according to Cooley’s analysis, swings from being a “consolidated democracy” to an “independent democratizer” with the victory of Erdogan’s Justice and Development Party (AKP) in November 3, 2003, and this shift is used to justify the March 1 vote preventing US base access in the war on Iraq. But if ideology, political culture or the impact of individuals has already been dismissed by Cooley’s theory, what accounts for this sudden reversion and subsequent contesting of base politics? And if we include them in the analysis, then what is doing the work – institutions, or culture and ideology? If the furious debate within the comparative politics field regarding democratic consolidation underlines any one thing, it is that defining such terms as ‘erosion’ and ‘consolidation’ is a difficult business, and one that must
account for many factors, both institutional (executive format, electoral and party systems etc.) and non-institutional (economic performance, political culture etc.).

Furthermore, consider the question of why democratizing states are troublesome. Cooley notes that fluid party systems and a competitive media are two major reasons. Drawing on George Tsebelis’s theory of veto players, I suggest a possible re-articulation to look at the issue from a different perspective. A veto player, Tsebelis tells us, is an individual or collective actor who has to agree for the legislative status quo to change. A veto player can be institutional (e.g. in Iraq, the Prime Minister’s Office, the Council of Representatives etc.) or partisan (e.g. Iraq’s IDP, ISCI, PUK etc.) The basic rule of his thesis is that the greater the number of these veto players on any issue, the greater the level of policy stability. To predict whether a specific policy change would likely occur or not, Tsebelis outlines, we need also to know the ‘agenda-setter’: veto-players that can present ‘take it or leave it’ proposals to other veto players (e.g. PM Maliki to other parties in the COR). We also need to account, importantly, for the process of “absorption” – the actual number of veto players is less important as opposed to the effective number: if many actors have the same or very similar preferences, we can treat them for the sake of our analysis as single veto players. Applying this to base politics, it is arguably the case


that what makes democratizing states so difficult to deal with is the sheer number of effective veto players on decision-making processes. Thus, to get agreement in the COR, Iraqi leaders had to engage with numerous parties, and thereby required the U.S. to make more and more concessions to use to persuade enough members of the COR to sign on. Some of these concessions were related to the terms of the agreement itself, others were in terms of “side payments” – for instance, Maliki having to accept a last-minute “political reform” document that was passed in the COR in conjunction with the Pact to placate his rivals’ suspicions that he would try to use the Pact to marginalize them.

A policy-analyst engaging in the exercise of attempting to account for the number of veto players in any one case may be overwhelmed by their sheer number, or by the tasking of trying to figure out which of them matters more and which less. But this is where grasping a country’s political culture and ideology can make such a difference. ‘Absorption’ occurs when veto players are similarly inclined, and this occurs when they share similar ideologies, values or cultural backgrounds. The Shi’a Islamic identity of various parties and politicians in the COR brought their preferences closer to one another had they lacked this common religious attachment, and their association with Najaf made Ayatollah Sistani a powerful veto player – hence Iran’s failed attempts to destroy the Pact by getting Sistani to issue a fatwa against it made a lot of sense, and arguably could have succeeded were it not for the counter-lobbying led by Maliki and his close advisers.

Where does this leave the development of theory on base politics? To Cooley’s hypotheses, I outline an additional six of my own drawn from my analysis of the Iraq case that are worthy of further testing and analysis:
**Hypothesis 1**: when negotiations take place vis-à-vis democratizing states with intense democratizing dynamics and inchoate party systems, two-level games will likely be played by both rulers and their rivals.

**Hypothesis 2**: when dealing with democratizing states, particularly ‘independent’ democratizers, accounting for political culture is particularly salient.

**Hypothesis 3**: when dealing with democratizing states, especially those undergoing a radical transition from autocratic to democratic rule, the impact individual leaders can have in recreating identity and defining a state’s strategy is particularly noteworthy.

**Hypothesis 4**: the emergence of new ideas and values, resulting in new legitimacy contests, or the igniting of old ones never fully settled, will likely result in the re-politicization of contracts, attempts at renegotiation or abdication.

**Hypothesis 5**: countries with a legacy of suffering from imperialism are likely to contest more vigorously the terms of agreements, and to emphasize the theme of sovereignty, particularly the first time these agreements are negotiated via democratic means and under public scrutiny.

**Hypothesis 6**: the more a SOFA negotiation process and its outcomes are rooted in democratic legitimacy and transparency, and the more its implementation allows for joint-consultations between the sender state and host nation, the less likely it will fall victim to misconceptions, and thus the more readily it will be accepted, and its contractual credibility endure.

Together, these hypotheses serve to emphasize not only the heterogeneous impact of institutional dynamics, but also how such an impact can be affected by misconceptions, shaped
by the kind of norms, values and shared experiences embedded in political culture, and given practical relevance by leaders engaged in power and legitimacy contests.
Chapter 9: Concluding Thoughts: Implications for the Policy-Maker

What are the lessons that a U.S. policy-maker can draw from the theoretical discussion of base politics and the in-depth study of the Iraq case study I have provided in this thesis? Several should be clear by now. By way of conclusion, I summarize some of these lessons under three headings: what to do and expect “before” negotiations, “during” them, and once an agreement is in place.

What to Do and Expect Before Negotiations

1. **Recognize that negotiating a SOFA is a significant undertaking** – Given the number of sensitive issues SOFAs touch on, from aspects of state sovereignty, to the effects of bases on the environment, or their potential use for the delivery and/or use of Weapons of Mass Destruction, policy-makers need to be fully conscious of the difficulties that inevitably lie ahead and be prepared to invest the time to resolve them. If an authoritarian host negotiates a SOFA quietly, quickly and with few objections, it is one that will likely be rejected or contested in future – particularly so if the host nation witnesses a regime change.

2. **Conduct a careful analysis of the state’s institutions** – Policy analysis to ascertain the approximate number and type of effective veto players in a host nation will help inform expectations regarding the difficulty of getting agreement and ratification of a SOFA, and help negotiators design a strategy best suited to a host nation’s unique set of institutions. Particularly noteworthy here is the question of whether an agreement with the executive branch of government needs to be ratified in the legislature, and if that is the case, of the
nature of the party system and the balance of power between the executive, legislature and judiciary.

3. **Study the history and political culture of the potential host nation** – Just as with other foreign policy work, savvy negotiators with the capacity to converse in the host nation’s language, and who understand its history, political culture and way of doing things, are more likely to succeed in negotiating basing agreements successfully than those who lack the know-how or culturally-sensitive skills. That presupposes research be conducted, and a host nation’s cultural dynamics be appreciated. Where nations have a bitter history of fighting imperialism, for instance, negotiators must be prepared to make necessary accommodations that provide for the host nation sufficient reassurances to pacify any lingering fears or suspicions.

4. **Starting high is not the best negotiation strategy: better to calibrate your objectives and start somewhere there** – One of the big mistakes that occurred in the initial U.S. approach to negotiating with the Iraqis was to come in with completely unrealistic expectations, divorced from the reality of the country. “Ambassador Crocker and I,” Brett McGurk disclosed to me, “knew that the initial U.S. demands were far too steep and unrealistic.” The flaw with a negotiation process that starts high and then inevitably begins to compromise is that the notion of ‘red lines’ loses credibility: negotiators from the host nation no longer find convincing the claim that ‘this is all we can do’ and continue to push until they reach breaking point. A better approach would start with analysis of a host nation’s institutions, its history and political culture, use that to adjust objectives and draw up realistic ‘red lines,’ and start negotiations at a point not too far from the expected outcome.
5. **Avoid a cookie-cutter approach** – While experience from other negotiations in other countries is always handy, a negotiation strategy needs to be more sophisticated than simply applying the same formula without factoring in the peculiarities in institutions and culture of each potential host nation. Following the first three steps should ensure that a negotiation strategy is tailored to match the specific context it is going to operate in each time.

6. **Avoid negotiations during election season** – both in Iraq and the U.S., delays in negotiations left both sides attempting to reach consensus with elections on the horizon – provincial ones in Iraq, and more importantly, presidential ones in the U.S. Election season inevitably makes the behavior of legislatures more capricious, and makes the probability of the agreement turning into a political football much more likely. In the last few weeks of the agreement, it was partisanship resulting from such a reality – rather than any strong objections to the agreement itself – that nearly killed the agreement.

### What to Do and Expect During Negotiations

1. **Expect the unexpected, and react accordingly** – however important it is to be prepared, it is a cliche that surprises will nevertheless occur that may force unanticipated shifts in strategy or demand compromises on areas the U.S. would rather not make. Political leaders need to be flexible enough to make the necessary compromises and/or relevant shifts in strategy that help bring about a successful conclusion to the negotiations. In the Iraq case, both Bush and Maliki proved adept at doing both, changing the composition of their negotiation teams and compromising on their demands.
2. **Keep an eye on the strategic prize** – during arduous negotiations on what at times may seem incredibly trivial issues, policy-makers need to be armed with patience, persistence, and should never fail to lose sight of the strategic interests at stake.

3. **Talk to each other, and to the media to clarify misconceptions, dispel conspiracies** – The more transparent both sides can be about the negotiations, their demands and objectives, and the final document, both between themselves and with the wider public, the less likely will misconceptions about the process come to undermine it. This is particularly relevant where negotiations are taking place in cultures very sensitive to such agreements, even if it means that during the negotiations both sides get criticized routinely. In the case of Iraq, Bush’s and Maliki’s administration faced a torrent of criticisms. Yet, when the deal was finally concluded, the Pact was rapidly de-politicized as a result of the feeling among both sides that all in all, the outcome was fair and the process legitimate.

**What to Do and Expect Once Agreement is in Place**

1. **Be prepared for problems to arise and ensure mechanisms are in place to resolve them** – one of the interesting developments in Iraq following the conclusion of the Pact has been how relatively smooth its implementation has been. Where once many in Washington were anxious about the terms of the SOFA, Elissa Slotkin animated to me, “now everyone think it’s great!” A major accident or crime may result in a feud that alters such preliminary perceptions. But the crucial aspect is that in the U.S.-Iraq SOFA specific mechanisms – joint committees such as the Joint Military Operation Coordination Committee (JMOCC) – are there to deal with any problems of implementation that arise. How have these committees
fared? “So far so good” was the assessment of Chief of Staff of the U.S. Army General George Casey. Only time will tell if that continues to be the case, but the point more generally remains: having such mechanisms provides important safety valves, and thus all the efforts required to ensure they function properly need to be put in.

* * * * *

The theory of base politics is a developing project. Cooley has made an important contribution that merits praise and close attention. In this thesis, I have provided a critique and a first attempt at explaining weaknesses and how they can be addressed. More academic work is needed for the puzzle to be resolved, yet policy lessons can and must still be inferred and learnt. Otherwise, our expectations will likely be confounded by reality. In the course of the one and a half years in which the SOFA came to dominate relations between the U.S. and Iraq, American negotiators sipping tea and talking sovereignty learnt at least this much.

99 Interview with General George Casey; General John Abizaid
Appendix A
Select List of Actors Interviewed

U.S. Officials (in Alphabetical Order)

- **Brett McGurk**, Director for Iraq at the National Security Council (2005-2007); Special Assistant to the President and Senior Director for Iraq and Afghanistan; (2007-2009);
- **Meghan O’Sullivan**, Special Assistant to President George W. Bush (2004-7); Deputy National Security Advisor for Iraq (2006-7)
- **U.S. official 1**
- **U.S. official 2**

Iraqi Officials (in Alphabetical Order)

- **Fadel M. Jawad Kadhum**, Legal Advisor to Prime Minister (2005-2010)
- **Fareed Yasseen**, Advisor to Vice-President Adil Abdul Mahdi (2005-2010)
- **Iraqi official 1**
- **Najaf-based scholar 1**
- **Sadiq al-Rikabi**, Senior Political Advisor to Prime Minister Maliki (2005-2010)

- **Safa H. Al-Shekh**, Deputy Director of Iraq’s National Security Council (2005-9); Acting National Security Advisor (2009-2010)

- **Tarik Abdullah**, Chief of Staff to Prime Minister Maliki
Select Bibliography

1. Aaron Glantz and Alla Hassan, “Multiply Haditha by Thousands,” Inter-Press News Service (June 2, 2006); retrieved online at: http://www.aaronglantz.com/060206.htm
2. Tim McGirk, “Collateral Damage or Civilian Massacre in Haditha?” Time Magazine (March 19, 2006); retrieved online at: http://www.time.com/time/world/article/0,8599,1174649,00.html
3. John Dickerson and Dahlia Lithwick, “Home Court Advantage: Let the Iraqis try the perpetrators of the Haditha massacre” Slate Magazine (Friday June 02, 2006); retrieved online at: http://slate.msn.com/id/2142896/
11. “Coalition Provisional Authority Order Number 17 (Revised) Status of the Coalition Provisional Authority, MNF – Iraq, Certain Missions and Personnel in Iraq” Coalition Provisional Authority (June 27, 2004); retrieved online at: http://www.iraqcoaltio.org/regulations/20040627_CPAORD_17_Status_of_Coalition_Rev_with_Annex_A.pdf
31. Hamid Algar, Islam and Revolution 1: Writings and declarations of Imam Khomeini (1981);
33. Sama Haddad “The Development of Shi’i Islamic Political Theory” Baghdad Institute for Public Policy Research (October 2005)
34. “Party History” Islamic Dawa Party; retrieved from IDP’s official website at: http://www.islamicdawaparty.com/?module=home&fname=history.php&active=7
36. “Shiite Cleric Seen as Iraq’s Most Influential Leader,” Associated Press (November 27 2003); retrieved online at: http://www.foxnews.com/story/0,2933,104263,00.html
37. Mariam Karouny, “Iraq’s SCIRI party to change platform – officials” Reuters (May 11 2007); retrieved online at: http://www.alertnet.org/thenews/newsdesk/YAT153309.htm
42. “Saddam’s Crimes Against Humanity” Daily Telegraph (30 December 2006), retrieved online at: http://www.telegraph.co.uk/news/worldnews/1538184/Saddam%27s-crimes-against-humanity.html
43. “Iraqi Scientist Reports on German, other help for Iraq’s Chemical Weapons Program” Al-Zaman (December 1, 2003), retrieved online at: http://www.fas.org/nuke/guide/iraq/cw/az120103.html;
47. Jeffrey Meyer and Mark Califano, Good Intentions Corrupted Public Affairs (2006);
51. Patrick Thaddeus Jackson, Civilizing the Enemy: German Reconstruction and the Invention of the West The University of Michigan Press (2006)
53. Robert Jervis Perception and Misperception in International Politics Princeton University Press (1976);
54. Robert Jervis, “War and Misperception“ Journal of Interdisciplinary History Vol. 18, No. 4 (Spring 1988);
56. Bernard Lewis, “Roots of Muslim Rage” The Atlantic Monthly (September 1990);
60. Abigail Fielding-Smith, “The Shi’a crescent: myth or reality” *openDemocracy* (July 27 2006); retrieved online at: http://www.opendemocracy.net/conflict-middle_east_politics/shia_crescent_3774.jsp