

Testimony of Larry Diamond to the Senate Foreign Relations Committee

Washington, DC, May 19, 2004

Chairman Lugar, Senator Biden, Distinguished Members, Ladies and Gentlemen:

As you all well understand, the United States now faces a perilous situation in Iraq today. Because of a long catalogue of strategic and tactical blunders, we have failed to come anywhere near meeting the post-war expectations of Iraqis for security and post-conflict reconstruction. Although we have done many good things to eliminate tyranny, to rebuild infrastructure, and to help construct a free society and democratic political system, the overall ineptitude of our mission to date leaves us—and Iraq—in a terrible bind. If we withdraw our military forces precipitously in this security vacuum, we will leave the country at the mercy of a variety of power-hungry militias and criminal gangs, and Iraq will risk a rapid descent into one or another form of civil war. If the current situation persists, we will continue fighting one form of Iraqi insurgency after another with too little legitimacy, too little will, and too few resources. There is only one word for a situation in which you cannot win and you cannot withdraw: quagmire. We are not there yet, but we are close.

The scope for a good outcome has been greatly reduced as a result of the two insurgencies that we now confront in Iraq. One of these, in the Sunni heartland, has been festering since the end of the war, but has picked up deadly momentum in recent months and then took on a new ferocity with the grisly murder of the four American contractors in Fallujah on March 31. The other, in the Shiite heartland, broke out shortly thereafter when the radical young Shiite cleric, Muqtada al-Sadr, launched a violent uprising after the Americans badly bungled the long-delayed imperative of confronting his violent network. Add to this the awful news of grotesque humiliation of Iraqi prisoners by our own forces, and you have a profoundly deteriorating and potentially disastrous situation for the United States.

I will not dwell long on how we got to this perilous point, but a few observations are necessary. In any situation of occupation or imperial dominion, there is always a tension

between control and legitimacy. The less control you have or can impose as an occupying power, the more you need legitimacy and voluntary cooperation. In many parts of its colonial empire, Britain addressed this challenge through the system of “indirect rule,” which used local rulers to maintain control and gradually devolved more power through elections and local self-rule. As a result of this, Britain needed less troops relative to population than other colonial powers. United Nations peace implementation missions have addressed this problem in part through the mobilization of international legitimacy, via UN Security Council resolutions, and in part by developing explicit and transparent timetables for the transfer of power back to the people through elections. But even in these UN or other international trustee missions, success has depended in part on the presence of a sufficiently large and robust international force to keep (and in some instances impose) peace.

In Iraq, we have had too little legitimacy, but also in some ways too little control as well. We insisted on maintaining full political control from the start, but we did not have sufficient control on the ground, through adequate military force, to make our political and administrative control effective. Thus we could not meet popular expectations for the restoration of security and basic services like water and electricity (though progress we did make on all of those fronts). Because we did not deliver rapidly enough (and it could never truly have been rapidly enough to meet the inflated public expectations), because it was always an American administrator out in front decreeing and explaining, and because the Iraqi people did not see new Iraqi political leaders exercising much effective responsibility, the American-led occupation quickly developed a serious and growing legitimacy deficit.

Many things could have relieved this deficit. For example, if we had pushed more reconstruction funding out to local military commanders, through the rather effective CERP (Commanders’ Emergency Reconstruction Program) channel, and if we had given some real authority and funding to the local and provincial councils we were establishing around the country, Iraqis might have seen more progress and found emerging new forms of Iraqi authority with which they could identify. We might have also made more progress by organizing actual elections, however imperfect, at the local level where the people were ready for it and the ration-

card system provided a crude system for identifying voters. In the few places where this mechanism was employed, it worked acceptably well—before CPA ordered that no more direct elections be held (for fear of giving the impression that it would be possible to hold national elections soon—which it would not have been). Even so, the local governance teams did a pretty good job in many cases of finding ways to choose, and then later “refresh”, the provincial and local councils. Sadly, the CERP funding was terminated prematurely, and the Local Government Order, defining the powers of provincial and local governments, sat around at CPA for months in various states of development and imminent release, while the local councils dawdled and dithered without much of anything to do, and ominously in some cases, without getting paid for months at a time. Within the CPA itself, I think historians will find that there was an obsession with centralized control, at the cost of the flexibility and devolution that might have gotten things done more quickly and built up more legitimacy.

So we had serious problems of security, reconstruction delivery, and legitimacy. We failed to ameliorate these by putting enough resources in (particularly enough troops) and by giving Iraqis early on more control over their own affairs. Now we are transferring control soon to Iraqis, and that is truly the only hope for rescuing a rapidly deteriorating situation. But in transitional politics, as in all other politics, timing is crucial, and what could be achieved by a certain initiative at one moment in time may no longer be possible months or years later, when the parameters have shifted and the scope for building a moderate center may have been lost.

One June 30, governing authority will be transferred to an Iraqi Interim Government, terminating the occupation authority, the CPA (or Coalition Provisional Authority). Despite all the violence and turmoil—which the Baathist spoilers, external jihadists, and Islamist extremists have always intended to escalate in the run-up to the transition—that transfer is going to happen on schedule. A United Nations team, led by special envoy Lakhdar Brahimi, is in Iraq now for a third visit, completing work to select the members of the Iraqi Interim Government. As the interim constitution (called the Transitional Administrative Law) provides for, the government will be led by a prime minister and cabinet, with some oversight and symbolic authority being

exercised by a presidency council of a president and two vice-presidents. But there will be no law-making parliament until elections are held, by the end of next January, for a transitional government. Rather, Mr. Brahimi plans to return again to help mediate the selection after June 30, through indirect means, of a widely representative national conference of some 1000 to 1500 delegates, which will discuss national problems and select a smaller consultative assembly to advise the cabinet.

This plan is not without some serious problems. It is easy for Iraqis to agree in principle on elections to choose a transitional government, even if many parties plan to try to rig or mutilate those elections in practice. But having the United Nations select the interim government, even a so-called “technocratic” government of non-partisan officials, risks a whole new set of legitimacy problems. Everyone who loses out in the bid for interim power will complain bitterly that the selections were illegitimate. The problem is that the method that some of us within CPA preferred—having Iraqis select the national conference delegates *before* June 30, and having that body then choose an assembly which would choose the prime minister and presidency council—is just not feasible given the pressure of time and the deterioration in the security situation since the end of March. Thus, many key members of the twenty-five-member Iraqi Governing Council (IGC), which has exercised some advisory authority alongside the CPA Administrator, Ambassador L. Paul Bremer III, since last July, are denouncing the plan and calling for the IGC to continue, perhaps in expanded form, as a kind of senate or consultative body with some authority. Some of the political parties on the IGC that are pushing this line are powerful players because, independent of whatever popular support they command, they have large, armed militias whose cooperation, or at least forbearance, the Coalition needs now more than ever if it is to survive this treacherous period.

The next step in the timetable will be the organization of elections by January 31 of 2005. To do this, Iraq will need an independent electoral commission, a law to define and structure that body’s authority, and a law to define the electoral system for choosing members of parliament. A separate UN team, led by the head of the UN electoral assistance division, Carina Perelli, has been in Iraq working on all these issues. Its work has been slowed by the upsurge in violence,

and by the group's decision to invite any and all Iraqis to apply in writing for one of the seven Iraqi slots on the commission. In the current chaos, it is going to be a real challenge to appoint and train an electoral commission with sufficient credibility, independence, and competence to organize decent elections by the January deadline. Fortunately, they will have considerable assistance from the UN. But if the violence is not brought under control, they will not even be able to move around the country to set up local and regional offices, much less prepare for the crucial tasks of registering voters and parties. Even if the violence subsides to a degree that permits the administrative work to proceed, the Electoral Commission will need to tackle the question of how to level the political playing field, which will otherwise be dominated by political parties that are already ruling (in Kurdistan) or that have been receiving huge amounts of money and other assistance from Iran.

The Interim Government's structure, powers, and functions are to be spelled out in an Annex to the Transitional Law. This Annex will be written through negotiations this month. During my final weeks in Iraq, I encountered in speeches and meetings around the country some vigorous and frequent objections to specific provisions of the Law, particularly article 61 C, which gives any three provinces (and there are three predominantly Kurdish provinces) the ability to veto the final constitution in the referendum. Many Arab Iraqis are in fact quite upset about this and other provisions, which they feel give too much veto power to the Kurds. These Iraqis object as well to other features of the Law, and to the lack of public discussion over its final provisions before it was adopted (unanimously) by the Governing Council. If we did not have the crisis of mounting violence in the country, and now the new crisis over the treatment of Iraqi prisoners at Abu Ghraib, we would probably be dealing with a crisis over the Transitional Law. Ayatollah Ali Al-Sistani, the most important Shiite religious and moral leader in the country, and some of his key followers have been quite outspoken in rejecting the Law and demanding changes. Indeed, Muqtada Sadr's remarkable success in mobilizing many thousands of supporters in March-April-May is the direct result of the crisis between the CPA and the Governing Council on the one hand and Sistani (and the Hawzah, or senior Shiite clergy) on the other. At long last the isolated Muqtada could claim, as he indeed did, that he was "Sistani's Striking Arm." This way one crisis led directly to the other.

Here is another manifestation, in sharp relief, of the legitimacy problem. The negotiations over the Annex provide a new opportunity to address this problem, and given the high threshold for amending the Law once it comes into effect, perhaps the last realistic opportunity in the transitional period. We should seize this opportunity as part of a broader strategy of building up the more moderate Shiite political and religious establishment as a counterweight to Muqtada al-Sadr.

All counter-insurgency efforts ultimately depend on winning the larger political and symbolic struggle for “hearts and minds.” Though he has gained in popular support in recent weeks, Muqtada Sadr—a fascist thug with only the thinnest Islamist religious credentials, who is reviled by much of the Shiite population and religious establishment—cannot win the broad bulk of Iraqi “hearts and minds,” even in the Shiite south. Neither can the diehard Baathist remnants of Saddam’s regime, who, in connivance with external jihadists such as Al-Qaeda, have been driving the insurgency in the Sunni center of the country. Indeed, one of the fascinating, potentially destructive, but also potentially positive elements in the fluid political situation we confront is that there is no coherent political and military force in Iraq that is capable of rallying, and for any meaningful period of time, sustaining, broad popular support.

No single force can win in Iraq, but the United States could lose, and very soon. Even before the outbreak of the scandal over US forces’ degrading, disgraceful abuse of Iraqi prisoners at the Abu Ghraib prison, Iraqi patience with the American occupation was dwindling rapidly. More and more Iraqis have been coming around to the view that if we cannot give them security, jobs, and electricity, why should they continue to suffer the general humiliation and countless specific indignities of American forces occupying their land?

What seemed possible six weeks ago, and certainly three months ago, is not necessarily feasible today. Clearly, the option of sending in a significantly more troops to combat the insurgency and defeat the diehard and spoiler elements is dead. It is now clear that the Bush

Administration—which has never been honest with itself or the American people about what would be needed to succeed in Iraq—is not going to up the ante for the United States in that kind of way in an election year. Moreover, even introducing two more divisions—which would still leave our overall troop strength far below the 250,000 or so that many military experts believed was the minimum necessary to bring and maintain order in post-war Iraq—would so strain the capacity of our armed forces that it would require drastic measures.

So we are stuck in Iraq for the moment with too few troops to defeat the insurgency and way too many for a growing segment of deeply disaffected Iraqi public opinion. Thus we have basically opted to live with the city of Fallujah under the control of insurgents, hoping the Iraqi force we have quickly stood up there will at least contain and dampen down the problem. And we are slowly trying to take back some of the facilities and installations that Muqtada Sadr's al-Mahdi Army has seized in the past few weeks and months, while so far avoiding a decisive confrontation with Muqtada himself (so as not to inflict civilian casualties or damage the religious shrines). If there is any chance of decent governance emerging in Iraq in the near to medium term, I believe we are going to have to defeat the insurgency of the Mahdi army. But we can only do so if we work with Iraqi Shiites of at least somewhat more moderate and pragmatic political orientations, and most of all with Ayatollah Sistani. No Iraqi commands a wider following of respect and consideration, and has more capacity to steer political developments away from violence and extremism, than Sistani, who insists on free elections as the basis of political legitimacy.

In fact, there are many Iraqi forces with whom we can work. But the tragedy is that the most democratic among them do not have sizable armed militias at their command, and for the most part, have not had the money, time, training, and skill to build up broad bases of support. At least four political parties represented on the Governing Council do have some basis of support in the country. The problem is that two of these are the ruling parties of the semi-autonomous Kurdistan region, the PUK (Patriotic Union of Kurdistan) and the KDP (the Democratic Party of Kurdistan), and their influence largely ends at the borders of that region, while the other two forces, SCIRI and Da'wa, are backed in various ways by the Iranian regime

and, despite the moderation they have evinced in Baghdad, appear to favor one or another form of Islamic fundamentalist regime. Each of these four parties has its own militia with probably at least 10,000 fighters, and in the case of the two Kurdish Peshmerga forces, maybe each several times that number.

If Iraq has elections with these forces, and many other private armed forces, controlling various strongholds, and without a superior neutral force on the ground to rein them in, the elections are not going to be free and fair. There will be a war for dominance along the margins of different strongholds, opposing candidates will be assassinated, electoral officials will be intimidated, ballot boxes will be stolen—it will be a nasty business. Beyond this, there is the danger that if the militias are not demobilized before the Americans withdraw, other political forces would arm in self-defense, or more precisely—if you consider that in many parts of rural Iraq, every male over 14 already has a Kalishnikov (or at least older) rifle—they will acquire heavy weapons, in preparation for the coming war for Iraq. Then you would have a truly awful mess, in which different parties, tribes, and alliances would have their own armies contesting violently for local, regional, and perhaps ultimately national dominance, with every neighboring country in the region intervening on behalf of its favored group or groups. This would be what Thomas Friedman calls “Lebanon on steroids”—a hellish (and possibly like Lebanon, protracted) civil war in which no central government could exert coherent authority.

Such a scenario could spawn disastrous humanitarian and political consequences. There would be thousands, possibly tens or even hundreds of thousands, of Iraqi casualties. In the chaos, terrorism and organized crime would thrive. Anti-Americanism, which is already gaining momentum in Iraq, would take on an entirely new breadth and intensity. We would be blamed for this, even if the instigators were more properly located in Syria, Saudi Arabia, and most of all Iran.

The only alternative to civil war or another truly brutal and total dictatorship is a political system based on some kind of constitutional, consensual power-sharing bargain. Any plan to break up the country, explicitly or implicitly, into its constituent ethnic or religious pieces will

inevitably bring massive bloodshed, much of it regionally driven. And any effort to simply hand power over to a reconstructed Baathist dictatorship would be violently, and I am sure successfully, resisted by both the Kurds and the Shia. Any scenario that is even vaguely positive—that avoids the disaster of total war or total dictatorship—must involve key elements of democracy: negotiations, mutual concessions and compromise, delineation of individual and group rights, sharing and limiting of power, and elections in which different political parties and independents contest to determine who will exercise power.

However, *elements* of democracy do not necessarily add up to democracy, and the situation has deteriorated to the point that we need a strong dose of realism about what is possible. The two best-organized parties in the Shiite South, SCIRI and Da'wa, are not democratic political parties. That is why they have heavily armed militias that are already flexing their muscles. That is why they are being backed by hardline conservative elements in the Iranian regimes. And doubts are even raised about whether the two Kurdish parties, who fought a war for political control in Kurdistan during the 1990s, will tolerate electoral competitors. In the last few months, their militia forces have been involved in acts of ethnic cleansing to push out from Kirkuk Arabs who were settled there by Saddam Hussein in his campaign of “Arabization.” This violent preemption of the intended process of peaceful, judicial dispute resolution is hardly a reassuring sign.

Much of the country's politics remains, literally, tribal. Particularly in the rural areas, loyalties are mobilized and delivered by tribal sheikhs, and alliances are built on these foundations. So can blood debts be incurred and avenged deep into the future as a result of violence against a member of the tribe. Inevitably in emergent democratic politics, important political formations will be constituted from among Iraq's many tribes. In fact, one of the potentially more moderate and democratic political party formations—the Iraqi Democratic Gathering, based largely in the Shiite south—has its base among a vast network of tribes that do not want to see Iraq or any part of it dominated by Iran or forces loyal to the Iranian regime. If other parties play by the rules of the democratic game, so will this one. If elections are to be fought by more violent methods, I do not expect that these tribes, which are already heavily

armed, will sit on their hands and wait to be bullied and shot.

The establishment of the Fallujah Brigade as a solution to the insurgency there was probably the least bad option, but it comes at a price. In effect, we created (or fully legitimized) a new sectarian militia, small for now, but probably the best trained of them all. Similarly, by encouraging SCIRI's militia, the Badr Brigade, and the Da'wa militia to attack Muqtada's Mahdi Army in Najaf and Karbala (again, probably a necessarily evil), we will also pay a heavy price. To the extent they do our bidding, we will owe them something.

I am suggesting, then, two points. First, the chance for any kind of decent, peaceful, constitutional order heavily depends on what happens to the militias. Unless they are to some considerable extent demobilized and replaced by the armed forces of a new and legitimate Iraqi state, the near-term political future will be very rough. But the militias that would need to be demobilized for this to happen have in fact been strengthened enormously in their bargaining leverage vis-à-vis the United States as a result of the disintegration of recent weeks. Now, we need them, and their cooperation and assistance, more than ever. So we are in less of a position to ask of them painful concessions—not to mention compelling those concessions by force.

Since the beginning of the year, we have been negotiating with the principal militias a comprehensive DDR plan for “disarmament, demobilization and reintegration” of their fighters into the new Iraqi police and armed forces and the civilian economy. To succeed, any DDR plan has to rely heavily on positive incentives (jobs, pensions, status in the new armed forces) for those militias that agree to cooperate, and force to demobilize those militias that will never cooperate. The Mahdi Army clearly falls into the latter category, which is why it is so important that it be defeated now. But it was always questionable whether the other four largest militias would really fully demobilize and disarm, rather than warehouse their heavy weapons while taking up positions, temporarily, in the new armed forces. With the country in the state it is and our leverage so much reduced, demobilization—if it happens at all—is likely to be much more superficial, and even to concede to the integration of whole militia units into the police and armed forces, with their command structures more or less intact. In that case, the new and truly

independent Iraqi state that is so desperately needed will not emerge. Rather, it will be parceled out among and become a captive of these preexisting armed groups. Probably the big winner then, at least initially, will be Iran, which has seeded the whole Shiite south with arms, weapons, propaganda, and thousands (by one estimate, 14,000) intelligence agents.

I am not sure, at this point, that there is any way to prevent a scenario something like this. To do so would require a sizable and credible international—which is to say, largely American—force on the ground in Iraq for some time to come. And the way things are going, we are likely to find ourselves in something of a race to see who demands the withdrawal of American forces first, the Iraqi public or the American public. Even if American troops are able to stay in large numbers for another year or two to help provide security, I doubt they are going to be given the authority, or that they would be able to muster the legitimacy within Iraq, to really confront these other militias—even assuming that the Sadr insurgency is somehow defeated, and that the Fallujah insurgency is at least contained.

We are in an utterly Hobbesian situation, as we always are in such post-conflict settings, in which the balance of force will shape all the other political parameters. If we do not succeed in standing up Iraqi police and military forces that are loyal to the state of Iraq, and not to this or that party, militia, or warlord, there will be no hope for even a semi-democratic political system. But creating any kind of coherent Iraqi armed forces will take years (by some estimates, two to five years), and the prospect is rising that an Iraqi government will demand (possibly under popular pressure) that American forces be withdrawn well before that. Then (absent a new international force that is nowhere on the horizon), the only force that Iraq could fall back on to maintain order would be the major party militias, and the only question would be whether they could work out among themselves some *modus vivendi* that gives each a relative monopoly of power within some region or locality, while sharing power at the center. That would be better than all-out civil war, but lacking any roots or constraints in a rule of law, it would be highly susceptible to descent into civil war if the elite bargains were to shatter. And it would still be very bad for most of the Iraqi democrats we have sought to help in politics and civil society—decent people, with ideas and ideals, who placed their faith in our own professed commitment to

stay the course to help build a democracy in Iraq.

One silver lining is that the overall national situation is highly unlikely to revert to the kind of coherent, total dictatorship that the country has suffered under the Baathists in particular. There will be a profusion of power centers. Even if these are not democratic in themselves, the interaction among them will provide some pluralism, some space for democratic discourse and action—if the country does not drown in bloodshed, and if some kind of self-sustaining constitutional bargain can be struck among them. That is risky, but not impossible.

What Is To Be Done?

The only way out of this mess is a combination of robust, precise, and determined military action to defeat the most threatening, anti-democratic insurgency—led by Muqtada Sadr and his Mahdi Army—combined with a political strategy to fill the legitimacy vacuum as rapidly as possible.

The Bush Administration has taken two vital steps in the latter regard. First, it has sought to improve the international legitimacy of our mission, and our ability to find a transitional solution that will be credible and acceptable to the largest possible number of Iraqis—by giving the United Nations and its special envoy, Lakhdar Brahimi, a leading role in the process. Ambassador Brahimi is an extraordinarily able, imaginative, and fair-minded mediator; I could not imagine a better candidate for this arduous task. One reason why he is the right person for the job is that he has a habit of doing something elementary that our own CPA has not done often and well enough: listening to Iraqis themselves, and as wide a range of Iraqi opinion as possible.

The second essential, correct decision of the Administration is to hold to the June 30 deadline for transferring power to an Iraqi interim government. One of the few positive things that has been suppressing Iraqi frustration and even rage over the occupation has been the prospect of a return to Iraqi sovereignty on June 30, and the promise of elections for a transitional government within seven months after that. It is vital that we adhere to the June 30

deadline. There is no solution to the dilemma we are in that does not put Iraqis forward to take political leadership responsibility for the enormous challenges of governance the country confronts. They cannot do it alone, but they must take the lead, and Iraqis must see that Iraqis are taking the lead. We should stop talking about “limited sovereignty.” Iraqis have suffered enough humiliation. They need the dignity of knowing that they will be able to assert control over their own future after June 30, even if this will obviously be limited on the security side by the presence of some 150,000 international troops.

We need to embrace a number of other steps that will advance three key principles or goals: building legitimacy for the transitional program, increasing the efficacy of emergent Iraqi control, and improving the security situation in a more lasting way. All three of these goals require an intensive effort at rebuilding the now decimated, fragmented, and demoralized Iraqi state.

Here, briefly, are my recommendations:

1. **Disavow any long-term military aspirations in Iraq.** We should declare unambiguously that we will not seek any permanent American military bases in Iraq. (No Iraqi parliament in the near term is going to approve such a treaty, anyway). Iraqis fear that we harbor long-term imperial intentions toward their country. This would help to allay this fear.
2. **Establish a clear date for an end to the military occupation.** We should declare that when Iraq is at peace and capable of fully providing for its own security, we intend to withdraw all American forces from Iraq. We should set a target date for the full withdrawal of American forces. This may be three or four years in the future, but setting such a date will convince Iraqis that we are serious about leaving once the country is secure—that the occupation, in every respect, will come to a definite end.
3. **Respond to the concerns about Iraqi detainees.** We need an independent investigation of the treatment of Iraqi detainees, with international participation, and we should release as many detainees as possible for whom we do not have specific evidence or a strong and credible suspicion of involvement in insurgent or criminal activity. This has been a profound grievance of Iraqis virtually since the end of the war, and it has been a major factor feeding the Sunni insurgency.
4. **Reorganize and accelerate recruitment and training of the new Iraqi police and armed forces.** Police training in particular has been an astonishing disaster. There is no hope of avoiding renewed oppression and/or civil war in Iraq unless we can stand up Iraqi police and armed forces that are independent of party and religious militias and answerable to the new, and ultimately democratically elected, Iraqi government. We can

no longer allow ourselves to be hampered by divided responsibilities, bureaucratic face-saving, and resource constraints. We must find the best, most experienced experts and give them all the resources they need to get the job done.

5. **Proceed vigorously with our plan for disarmament, demobilization, and reintegration (DDR) of the principal armed militias into the police and armed forces.** There cannot be free and fair elections in Iraq—or even sustainable peace—if the most powerful forces in the country are a variety of competing and antidemocratic religious and political party militias. The most radical and antidemocratic militias, particularly Muqtada Sadr’s Mahdi Army, must be isolated, confronted, and defeated—disarmed by force, or the credible threat of force. With the militias of the Kurdish Peshmerga, SCIRI, Dawa, and other political parties that have indicated their willingness to play in the political game, we need to complete negotiations that have now been underway for several months. We will have a much stronger hand in these negotiations if we compel the Mahdi Army to disarm, rather than offering to merge it into the new police and armed forces. Outside of Kurdistan, which is a special case, militia fighters should be merged into the new police and armed forces as individuals, not as organized units with their command structures intact.
6. **Get more money flowing to our Iraqi allies.** In particular, we should increase the pay of the Iraqi Army and police, giving them a stronger incentive to risk their lives to join up and stick with us. We might also want to increase the pay of the provincial and local councils, and most of all, we should make sure that all of these Iraqis who are part of the newly reemerging Iraqi state get paid in a timely fashion.

There are several other steps we can take to address our debilitating deficits of legitimacy with the Iraqi people and the international community:

7. **Make the new Iraqi Interim Government dependent on some expression of popular consent.** It is a pity that time did not permit the proposed Iraqi national conference and consultative assembly to be chosen well before June 30, so that one of these two more representative bodies could have elected the presidency council, the prime minister, and the cabinet. However, it is vital that the plans for indirect election of these bodies proceed after June 30. Once the consultative assembly is chosen by a large national conference, it should have the ability to interpellate the prime minister and cabinet ministers, and even to remove them, at least through a “constructive vote of no confidence” (which brings down the government only if there is a simultaneous majority vote for a new government).
8. **Aim as much as possible for instruments of democratic control, even in the interim period.** I do not think the Governing Council should continue in its current form. It has its own severe legitimacy problems, due to widespread Iraqi perceptions of its inefficacy and corruption. If some members of this Council have real bases of popular support, they should be able to demonstrate this within the national conference, to win election to the consultative assembly, and to exercise influence through that more democratic means. And one or members of the GC may wind up being appointed to positions in the

presidency council or the new government.

9. **Provide for the appointment of an Iraqi Supreme Court, according to the Transitional Administrative Law, as soon as there is** a consultative assembly that could confirm the appointments. If the spirit and practice of constitutionalism is to develop in Iraq, it must do so from the beginning of the reemergence of Iraqi self-rule. The Prime Minister, Cabinet, or Presidency Council should not each decide for itself what is constitutional. There must be a neutral arbiter, and it should no longer be the US or the UN. The TAL provides for the Iraqi Higher Judicial Council to propose three nominees for each of the nine vacancies on the Supreme Court, with the Presidency Council then nominating and the transitional parliament confirming. This new method would involve only a minor modification to be codified in the TAL Annex.
10. **Codify the domestic and international arrangements for Iraq in a new UN Security Council Resolution.** This resolution should recognize the Iraqi Interim Government and its right to name its own representation at the UN. Beyond this, however, a UN Security Council resolution should also recognize whatever temporary “status of forces agreement” is reached between the US and the Interim Government, hopefully with UN mediation or participation. UN involvement and recognition of this element might then make it possible for a number of other countries to contribute troops to help maintain peace and security in Iraq until the country can fully manage its own security.
11. **We should do something in this period to acknowledge the grievances over the Transitional Administrative Law.** The TAL is the most liberal and progressive basic governance document anywhere in the Arab world. Iraqis can take great pride in many of its features, such as the bill of rights. However, there is intense controversy over a number of its provisions, including the degree of minority rights and the balance of power between the center and the provinces and regions. At a minimum, **we should emphatically acknowledge that the TAL is only a temporary document**, that Iraqis will be fully free and sovereign to write a new permanent constitution (and this declaration could also be incorporated into a new UN Security Council Resolution). It might be possible, however, to go further, and encourage the key parties to negotiate soon, in the Annex to the TAL, some modest amendments that might address some of the most serious objections that have been raised.

Finally, we need to continue to think act more innovatively in the quest to build as democratic a political system as possible.

12. **We should invest in supporting moderate, secular Shi’a** who draw support from parties, movements, and associations that don’t have muscular militias. Hopefully, a fair process of selection of national conference participants will put many of these new faces forward.
13. **We urgently need to level the playing field with respect to political party funding.** The big parties either sit on huge resources, or are getting lavish funding from

neighboring states, particularly Iran. More independent and democratic political parties are begging us for support. As soon as an Independent Iraqi Electoral Administration is established, we should help it create a transparent fund for the support (in equal amounts) of all political parties that pass a certain threshold of demonstrated popular support, and we should fund it generously (perhaps with an initial infusion of \$10 to 20 million). Unless the gross imbalance in access to funding is established, there will not be anything approaching free and fair elections.

Senators, we should in fact do much more. As I have said, we should have had significantly more troops in Iraq—perhaps twice as many more as we now have there. We should apologize explicitly for our scandalous treatment of Iraqi detainees, and we should hold accountable everyone in the chain of command who was in a position to prevent it and stop it, and did not.

I have tried to recommend here steps that are achievable within our resources, timetable, and overall strategy. These steps largely comprise a political strategy for improving the legitimacy of the transitional program in Iraq, and the legitimacy and efficacy of the new Iraqi Interim Government. But none of these steps will amount to much if we do not make much more progress in securing the country.

For a long time now, it has been clear that the three great challenges of restoring security, reconstructing the economy, and rebuilding the system of government are intricately intertwined. We cannot revive and rebuild the economy, generate jobs and electricity, and get a new Iraqi government up and functioning unless we dramatically improve security on the ground. But we cannot improve security unless we have a more credible and legitimate framework for governance. The initiative of the UN mission, working with the CPA, holds out some promise of progress in the latter regard. But we have a lot of hard work to do on the security front as well, and we are not going to get there unless we put some of the worst thugs and spoilers out of business, beginning with the Mahdi Army. On both the security and political fronts, the choices we make and the actions we take between now and June 30 will have diffuse and lasting consequences for the future political order in Iraq.

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