

William SLOMANSON¹:

UN Post-Transfer Role in Iraq

The US occupation of Iraq will not end on June 30th. The sovereignty transfer to the US-installed Iraqi Governing Council is in jeopardy. US allies are beginning to withdraw from Iraq. The UN has proposed a fresh UN-appointed caretaker regime. When the US attacked Iraq last year, absent the desired UN Security Council resolution, President Bush characterized the UN as irrelevant. But front-page pictures of American civilians, literally hung out to dry in Falluja, recently fueled the growing sentiment that a unilateral approach to long-term stability in Iraq is more a part of the problem than the solution. So the US is once again courting the UN, seeking an attractive partner for avoiding its potential divorce from the Arab world.

The UN report card on recent conflict management is some measure of its potential role. It could arguably serve as the sovereign administrator of Iraq, as the UN has done for almost five years in Kosovo. The US veto power, however, guarantees that the US would not tolerate a similar UN governance role. The US desperately seeks a permanent sovereign to supplant the US occupation of Iraq, in the insatiable quest to export US-defined democracy to this distinct culture. Ambassador Bremer, for example, tendered an early objection to Islamic Law playing any role in the current draft constitution, notwithstanding its centuries old pervasiveness in the local legal culture.

The UN could instead perform a peacekeeping role in Iraq. This device normally encourages parties to a territorial conflict to take a timeout. Mutual consent to the presence of a broad-based multinational force effectively buys time for further negotiations. But Iraq is not the object of competing territorial claims. Also, the devastating attack on UN offices in Baghdad last Fall resulted in the UN's hasty departure. UN Secretary-General Kofi Annan just expressed serious reservations about reintroducing UN staff into Iraq, given the recent Shiite uprising and US inability to effectively provide security. The only hope for a peacekeeping operation would hinge upon the soon to be 120,000-troop US military force being the bedrock of UN-based Iraqi security. Establishing a UN peacekeeping force, however, would only entrench the indigenous forces who daily express their desire to rid Iraq of the US occupation.

¹ William Slomanson is a professor at Thomas Jefferson School of Law, visiting professor at Pristina University School of Law (Kosovo), and chair of the American Society of International Law's UN 21 section. This article was first published on April 30, 2004 in the San Diego Union Tribune.

Kofi Annan's recently tendered his charismatic expression of regret regarding the international community's snubbing of the 1994 Rwanda genocide, when he was chief of the UN's peacekeeping operations. French and Belgian soldiers, present to extract their own nationals, did not interfere with the 100-day slaughter of the 800,000 Tutsi minority. Were ethnic differences in Iraq to boil over, the national members of any UN peacekeeping force might be ordered not to interfere with such hostilities. Alternatively, UN forces might be too meager to control like inter-ethnic violence in Iraq. Some 8,000 Muslim men and boys in Bosnia's Srebrenica UN safe haven paid the ultimate price when the UN-based military presence failed to guarantee their safety. That the Dutch government fell because of this massacre is scant retribution for this enormous loss of life. Iraqi's would likely discount the possibility of any meaningful help from the UN, were hostilities to ultimately turn inward among the formerly powerful Sunni's, the minority Shiites, or the Kurds, 5,000 of whom were annihilated by Saddam Hussein's WMD.

The UN will apparently could serve in some lesser administrative capacity, such as helping with the ultimate elections scheduled for December 2005. Last month, the Iraqi Governing Council asked the UN to consider some role after the scheduled turnover this June 30th. The UN has not amassed the relevant experience in its half-decade administration of Kosovo. The ensuing national election of a parallel but subservient national government and later municipal elections were all run by the Organization for Security and Cooperation in Europe, the human rights pillar of the administration of Kosovo. The UN did schedule elections in Afghanistan for June 2004, only to delay them until at least September 2004. But it did arrange the Afghani model of convening a council of notable citizens whose like task is to develop a constitution similar to the proposed Iraqi document.

The US is now attempting to expand the so-called coalition to mark its occupation with the UN imprimatur. The local population and Iraq's regional allies, however, will likely perceive the UN as being too closely associated with the not-so-stealthy US presence. Last week, Kofi Annan acknowledged that concern by ruling out the dispatch of any sizeable UN staff to Iraq, given the dramatic upsurge in violence and kidnapping of non-Iraqi civilians. The Secretary-General has no doubt considered the risks with allying the UN with the US occupying power that stood idly by, while looters stripped the nation for days, and put 300,000 people out of work by disbanding the entire Iraqi military. Nor will the Iraqi populace suddenly blank out the inter-Persian Gulf War UN sanctions regime that unwittingly benefitted Saddam Hussein, as symbolized by his new palaces.

There is a tragic irony to this impotency. The UN's sixty year-old collective security system was suspended by the inter-related US policies of pre-emptive strike and regime change. Were this unilateral revision to be even partially shelved by the US, the UN might once again flourish as a vibrant alternative to the current unipolar world. One thus hopes that the US will be successful in resurrecting its political capital via an effective UN presence in Iraq. Even a negligible UN role would be advantageous during the interim period wherein some transitional government will presumably draft a final constitution and hold meaningful elections.