

Repairing a Broken Iraq?

By Col. Daniel Smith, U.S. Army (Ret.) | July 3, 2006

When he took over as leader, many of his country's 35 million inhabitants felt he was their last, and perhaps, best hope for keeping the country from unraveling. Others adopted a "wait-and-see" attitude, while still others looked upon his accession as the definitive sign that only through armed resistance would they be able to control the future course of their lives.

The war was still raging when, as a first step toward eventual reconciliation and re-unification, the central government issued a Proclamation of Amnesty and Reconstruction. The basic condition for amnesty was to declare under oath one's loyalty to the Constitution and to swear obedience to the laws and proclamations of the government, even those that precipitated the original rebellion.

This may sound like Iraq. But it was actually the United States in December 1863, during the U.S. Civil War. In 1863, the United States faced a national crisis that in many ways resembled Iraq's current challenge. How the government of Abraham Lincoln eventually solved the nation's crisis, however, differs dramatically from what the government of George W. Bush is prescribing for Iraq.

Iraqi Amnesty

As expected, on Sunday June 25, 2006, Iraq's new Prime Minister Nouri al-Maliki unveiled a 24-point plan that he hoped would jump-start the process of forgetting and reconciling necessary to end the carnage of civil war.

Unfortunately, although he heads what the U.S. government likes to call a permanent, fully sovereign Iraqi government elected by the Iraqi people, al-Maliki must work under conditions that severely

curtail his freedom of action. Better-armed foreign forces still conduct military operations and occupy the countryside. Revenge killings against the foreign occupation forces, as well as sectarian-based violence, have been a way of life for many soldiers and members of the former regime. Non-Iraqis, backed by foreign military forces, have designed the rules and organs of governance, while significant portions of the population have rejected the re-ordering of social and political power. Funds for major infrastructure repair to restart economic activity have been diverted to security measures or lost through graft and corruption.

Running throughout this list of conditions on the ground is the common theme of independence: not for the Iraqi people or their government but for those who invaded and occupied Iraq. As such, Iraqi "sovereignty" remains an unfilled promise.

Not that Baghdad hasn't tried to be its own master.

On June 25, al-Maliki offered wide-ranging participation in the political process and amnesty for those Iraqis who ended their rebellion. He provided what in other, less political parlance would be called a general "timetable" for the departure of all foreign troops and the end of coalition operations against rebel centers of resistance such as Anbar province. He anticipated that separating Iraqi civilians from coalition forces would significantly



reduce human rights violations by cutting the frequency of interactions between civilians and all the armed factions and armies.

Al-Maliki also proposed monetary payments to the victims of attacks from any source—militias, insurgents, foreign military, and Iraqi military forces—as a token recompense. And, while providing financial compensation to those summarily dismissed from government or the Iraqi army in 2003, the new government also pledged to crack down on militias and death squads that emerged after the fall of the old regime.

Many in the U.S. Congress and the White House undoubtedly gritted their teeth when these proposals became public. But then al-Maliki truly provoked his U.S. backers by proposing a general amnesty for all Iraqis “who were not involved in the shedding of innocent Iraqis’ blood.”

Amnesty is a formal act of government that waives punishment for political offenses by groups of individuals who otherwise could be put on trial. The Greek root of “amnesty” means “to forget” or to “erase from memory.” Amnesty differs from a pardon, which is an act of forgiveness for an offense usually bestowed only after a person has been tried and found guilty in a court of law.

The mere suggestion that Iraqis who attacked or wounded U.S. troops—let alone killed or mutilated U.S. service members—would not at least be called upon to confess their actions before being pardoned kindled instantaneous outrage from all quarters. “Unconscionable” was the term Senator Carl Levin (MI) used. After all, more than 2,500 U.S. military personnel have lost their lives liberating the Iraqi people. For a Congress that voted to allow the president to conduct a war as he saw fit, granting amnesty to those who had killed U.S. troops would render their sacrifice “in vain.” Moreover, many who have quietly grieved over the

loss of loved ones could—their grief rekindled—begin to ask why this war was considered necessary. They might go so far as to question whether those who led the United States to war 39 months ago should be held accountable for their misjudgments.

Policy Clarified?

By June 27, the storm had passed. Al-Maliki, capitulating to foreign pressure, declaring that “the fighter who did not kill anyone will be included in the amnesty, but the fighter who killed someone will not be.”

By definition, a fighter is a fighter whether the war is inter-state or intra-state. Anyone who picks up and points an automatic assault rifle, makes improvised explosive devices, puts bombs in vehicles or on bicycles, or fires mortars and rocket-propelled grenades at someone else can be said to have intended to kill. Considering the length of the Iraq war and occupation—over three years now with another 18 months likely—the distinction al-Maliki has drawn would seem impossible to apply. Is someone who fully intended to kill a person but was denied the opportunity by circumstances or was inept in carrying out the attempt less culpable than a “fighter” who, having joined an insurgent group, comes under attack and returns fire, killing the attacker?

In an interview with Western media, al-Maliki defended his new position as an “ethical commitment.” But to base granting or withholding amnesty solely on the commission or non-commission of an act without also considering the intent behind the act, fails to distinguish the degrees of culpability recognized in the U.S. civil justice system as well as the Uniform Code of Military Justice. Thus the criterion for granting amnesty itself is ethically suspect. Moreover, in a justice

system that includes execution upon conviction of murder, the omission of intent serves to deny anyone accused of killing another an appeal to mitigating circumstances that Iraqis have recognized throughout the period of occupation—i.e., the distinction between Iraqi “nationalists” opposed to the presence of foreign troops and those “foreign” combatants who indiscriminately attack coalition and Iraqi soldiers, Iraqi police, and Iraqi civilians.

Before Tuesday, more than half a dozen “nationalistic” insurgent groups reportedly had contacted Iraqi government officials expressing interest in the amnesty program. With al-Maliki’s “revised” stance on amnesty, and its failure to consider mitigating circumstances, the incentive for these groups to end their participation in the insurgency has vanished. They are thrown back into the same category as those who have committed multiple and indiscriminate murders. In short, they have no incentive to stop fighting.

This was not al-Maliki’s only retreat from the positions outlined on June 25. He also declined to reiterate even his general comments of Sunday concerning a timetable for the departure of foreign armed forces from Iraq. He repeated the Bush administration mantra that as the readiness of Iraqi troops goes up, “the need for American or international troops goes down.”

The concessions announced June 27 may not be the last “ethical” word on amnesty. Al-Maliki may be attempting to play a short-term strategy to reduce the killing by quietly negotiating with the insurgents who expressed initial interest in the amnesty. This would allow the beginning of the withdrawal of occupation forces—or at least their concentration in the most volatile areas in Iraq. Then for the long-term, after the bulk of foreign combat units have left, a broader amnesty that

takes into account thresholds of violence and mitigation could be enacted retroactively.

The Lessons of the 1860s

Which gets us back to 1863 and Lincoln’s amnesty proclamation during the U.S. Civil War. Despite Lincoln’s amnesty offer, the war raged on another twenty-eight months—ending with Confederate General Robert E. Lee’s surrender at Appomattox Courthouse in 1865. Lincoln’s strategic amnesty offer, meant to split support from the hard-core Confederacy, was augmented by Union Army commander Ulysses S. Grant’s tactical amnesty—a very generous one for those times but one that reflected the perception that punitive measures would only prolong resistance.

At war’s end, the Union army had lost 364,500 men from all causes, yet the single condition for Lee’s surrender was that the Confederate forces agree not to take up arms against the government of the United States and surrender all arms and other Confederate government property. In return, officers who owned their horses and side arms were permitted to retain them, and all officers and men were permitted to return to their homes “not to be disturbed” as long as they observed their parole.

In other words, whether they killed Union soldiers in battle or killed civilians off the battlefield, the insurgents were pardoned.

There are clear differences between the 1860s and 2006. Lincoln never accepted that the eleven states in rebellion had a right to secede. And, while outside powers supplied political encouragement and materiel to the Confederacy, no “foreign” military units aided the South against the Union army. Thus, Lincoln’s government didn’t have to distinguish between “indigenous nationalistic” insurgents and “foreigners” or between those involved in

killing occupation troops and those who killed indigenous security forces and innocent civilians.

Still, the government of George W. Bush could learn a lesson or two about reconciliation and reunification from the government of Lincoln. It should view the Iraqi amnesty proposal through such a historical filter.

Al-Maliki might have had to make adjustments in his original June 25 pronouncements because of pressures from other Iraqis. But these would have been adjustments rooted in Iraqi history, culture, and tradition—the unique combination of factors that chart the broad course of a nation’s existence. As it stands, now, U.S. interference has complicated the reconciliation process, thereby prolonging the U.S. presence and perpetuating the killing and destruction.

The question now is: how many more—Iraqis and foreign troops—will die before Iraq becomes truly sovereign again and truly begins its postwar reconstruction?

Dan Smith is a military affairs analyst for Foreign Policy In Focus (online at www.fpif.org), a retired U.S. Army colonel, and a senior fellow on military affairs at the Friends Committee on National Legislation. Email at dan@fcnl.org or blog "The Quakers' Colonel."

Published by Foreign Policy In Focus (FPiF), a joint project of the International Relations Center (IRC, online at www.irc-online.org) and the Institute for Policy Studies (IPS, online at www.ips-dc.org). ©Creative Commons - some rights reserved.

Foreign Policy In Focus

"A Think Tank Without Walls"

Established in 1996, Foreign Policy In Focus is a network of policy analysts, advocates, and activists committed to “making the United States a more responsible global leader and global partner.” For more information, visit www.fpif.org.

Recommended citation:

Daniel Smith, “Repairing a Broken Iraq,” (Silver City, NM & Washington, DC: Foreign Policy In Focus, July 3, 2006).

Web location:

<http://www.fpif.org/fpifxt/3339>

Production Information:

Writer: Col. Daniel Smith, U.S. Army (Ret.)
Editor: John Feffer
Layout: Nick Henry, IRC

