

Security Sector Reconstruction in Iraq

Introduction

More than two and a half years after the overthrow of Saddam Hussein's regime, the vision of a stable and democratic Iraq is still far from being realized. In contrast, the security situation within the country has deteriorated through the emergence of a 'war after the war' in the form of a high-scale insurgency paralyzing the whole reconstruction process. A variety of adversaries aim at driving the occupying forces out of the country as well as frustrating the stabilization of the government and the transition to democracy and. Thus, the reconstruction of the collapsed Iraqi security sector, in particular the creation of effective Iraqi military, security, and police forces capable of bringing security to the entire country and eventually replacing all coalition forces, is of fundamental importance. It is critical to Iraq's political and economic development, because unless security is improved, neither economic nor political sector transformation can fully succeed. Regarding the belligerent conditions prevailing at present, it is even the deciding factor in preventing Iraq from collapsing into a failed, lawless state.

Background

Efforts to recreate the Iraqi security sector have met immense obstacles. Difficulties derive from the fact that the immature Iraqi security forces, having increased in strength and thus playing a larger role in securing the country, have become more and more a target of the insurgent's attacks. Challenges such as providing adequate security and training for judges and court personnel have hindered the rehabilitation of Iraq's judicial system. However, most of the problems are the result of a long chain of US miscalculations and misperceptions on the post-war situation and of an almost non-existent strategy for post-war Iraq. Some progress has been made since the reorganization of the SSR program in June 2004 following the hand-over of sovereignty to the Iraqis: the Multi-National Security Transition Command-Iraq (MNSTC-I) took over efforts from the Coalition Provisional Authority (CPA) to train, equip, and organize Iraqi security forces and the UN started to engage in justice and legal reform.

Military and Ministry of Defense Reform

After the war, the Iraqi military and the Ministry of Defense had to be built up from scratch. Saddam's special forces had been defeated during the fighting, the regular army effectively disbanded itself at the end of the invasion, the Ministry of Defense had been destroyed, and its professionals had scattered.¹ Focusing on the goal of establishing the first true democracy in the Middle East, the broad directive for

¹ Perito, 2005, p. 4.

reconstruction of the Bush administration involved spending several years shaping a military with the mandate to defend Iraq's borders against external aggression. Ignoring the realities on the ground, the United States made no efforts to create Iraqi military forces that were capable of dealing with the serious insurgency and security challenges the country faced after the war. Despite being continuously used internally to provide defense against the insurgents, the mission of the Iraqi Army (IA) was not adjusted to active counterinsurgency warfare. It took until the hand-over of sovereignty to the Iraqis that building up Iraqi military forces for such a mission was given higher priority.² Before, no component of the military forces was intended to fight against well-armed insurgents. Instead, inadequate training as well as unsuitable equipment caused heavy casualties among the troops.³

After the CPA ceased to exist, its SSR strategy came under serious criticism and the US reassessed its approach to SSR in Iraq. Since the dissolution of the CPA, efforts to organize, train, equip, and mentor Iraqi security forces have been pursued by the newly created Multi-National Security Transition Command–Iraq (MNSTC-I). Headed by Lieutenant General David Petraeus, the MNSTC-I consists of two key elements concerning military reconstruction: The Coalition Military Assistance Training Team (CMATT), responsible for organizing, training, and equipping the Iraqi Army as well as mentoring and advising leaders at all levels of command and the Joint Headquarters Advisory Support Team (JHQ), responsible for mentoring and assisting the Joint Headquarters of the Iraqi Armed Forces in order to enable them to exercise effective national command and control.⁴ In addition, the MNSTC-I's personnel is supported by 300 NATO military trainers.⁵

In order to iron out the mistakes of the first year of the occupation, the MNSTC-I was instructed to review, as well as to elaborate and refine, the original SSR strategy. The team reassessed Iraqi security capabilities, identified past failures and derived a new strategy for future SSR activities focusing on specific challenges and problems identified in its analysis. The review emphasized adjusting Iraqi military forces to the threat environment and increasing their capabilities for effectively combating the insurgency as the most pressing issue. Plans were provided to increase the end-strength objective for the IA and to create additional force components.⁶ Concerning counterinsurgency and counterterrorism capabilities, the CMATT is now in the process of training and equipping the Iraqi Intervention Force (IIF) and the Iraqi Special Operations Force (ISOF), created by the MNSTC-I in the summer of 2004. As the counterinsurgency wing of the armed forces, the IIF, focuses on urban areas and has the mission to internally assist in the restoration of a secure and stable environment. IIF soldiers undergo the standard

² Cordesman, 2005, p. 25-26.

³ US General Accounting Office (GAO), 2004, p. 58-59.

⁴ Multi-National Security Transition Command – Iraq: MNSTC-I Information.

⁵ Sedra 2005, p. 158.

⁶ US General Accounting Office (GAO), 2005, p. 5.

eight-week basic training all Iraqi soldiers go through, thereafter spending thirteen weeks in a 'military operations in urban terrain' (MOUT) follow-on training. MOUT training aims at acquiring the skills of street fighting and conducting such operations as clearing buildings, both of which are typical of anti-insurgent operations in cities and towns. The ISOF is a high-end strike force specialized in unconventional warfare. It consists of a counterterrorism battalion, a commando battalion, and a support battalion. ISOF soldiers undertake a thirteen-week training course acquiring a broad range of operational skills. Potential personnel is selected from army soldiers already operating in the country and only outstanding recruits who pass the intensive vetting process including skills evaluations, psychological and physical tests are incorporated in the recruit pool.⁷ In order to increase the capabilities of the military in securing Iraqi territory, the MNSTC-I established the Iraqi Air Force (IAF) and the Iraqi Coastal Defense Force (ICDF) in summer 2004. The IAF provides aerial reconnaissance, border security missions and transport for the Iraqi security forces. The goal is to create a six squadron force of various light reconnaissance aircraft and support aircraft. The CMATT actively recruits from previously established service personnel pools in the country by carrying out an intensive vetting and screening process. Recruits participate in comprehensive one to four-month 'conversion courses' bringing them up to date on current IAF aircraft as well as augmenting their prior skills. The training itself is almost entirely conducted in the United Arab Emirates and Jordan by MNSTC-I partners. The ICDF carries out security operations over Iraqi territorial waters, including gas and oil platforms, and, in conjunction with the Department of Border Enforcement (DBE), conducts police operations along Iraq's coastline and over territorial waters to counter smuggling, foreign fighter infiltration, and other unlawful actions. Forces undergo the eight-week basic training of the IA before moving on to specialized follow-on training for land and sea-based troops.⁸

Police and Ministry of Interior Reform

It took until April 2004 before building up Iraqi police and border forces was made part of the US training and equipping program. For most of the first year after the war, creating and training these forces was treated as a low-level task coordinated by an inexperienced Iraqi Ministry of the Interior which lacked any serious external support.⁹ In addition, local coalition force commanders recruited Iraqis into *ad hoc* formations performing police functions. The CPA provided only limited training to the new Iraqi police recruits to get them on the street quickly. A lot of personnel even remained untrained. Iraqis graduating from the Baghdad Public Safety Academy or from an academy in Jordan, where most of the initial training took

⁷ Multi-National Security Transition Command – Iraq: MNSTC-I Troops Facts Sheet.

⁸ Multi-National Security Transition Command–Iraq: MNSTC-I Troops Facts Sheet; CORDESMAN 2005, p. 50-51.

⁹ Cordesman 2005, p. 26.

place, had courses lasting less than one fifth as long as similar training in the U.S. and Europe.¹⁰ A study by the US General Accountability Office (GAO) describes the so-called Transition Integration Program (TIP) designed for personnel who served as police under the former regime as follows: “The full curriculum is 108 hours long and provides basic police training in such subjects as basic human rights, firearms familiarization, patrol procedures, and search methods.” The GAO study criticizes that TIP was not uniformly adopted. Trainers had wide latitude and were free to establish their own curriculum and requirements, which varied in depth and scope so that training could last between three days and three weeks.¹¹ Planning under the CPA had neither intended nor prepared the police to withstand the insurgent attacks. The mission of the Iraqi Police Service (IPS) was to uphold general law and order through such activities as performing criminal investigations, arresting suspects, and questioning witnesses. As the weakest element of the Iraqi security apparatus, it had become the most popular target of the insurgency with more than 1,500 Iraqi policemen killed until the end of 2004. In order to address this weakness, the MNSTC-I decided to improve some units’ ability to operate in a counterinsurgency environment and to upgrade the security measures at police stations throughout the country.¹² Its review of the SSR strategy particularly underlined the need of developing a police force capable of democratic law enforcement in a hostile environment. As an element of the MNSTC-I the Civilian Police Assistance Training Team (CPATT) is since June 2004 responsible for organizing, training, equipping and mentoring the Iraqi civilian police forces and the Department of Border Enforcement.¹³ It is supported by civilian police trainers from countries outside the Coalition (i.e. Germany).¹⁴ In a first step, the CPATT supplemented the Iraqi Police Service (IPS) by the Iraqi Highway Patrol (IHP), providing law enforcement, internal security, and convoy security along Iraq’s highways and by the Dignitary Protection Service (DPS), providing close protection, convoy security, and fixed-site security for key Iraqi political leaders. Information about the training of these two units is not available. In order to improve some IPS units’ ability to operate in a counterinsurgency environment, the CPATT created in a second step the Civil Intervention Force (CIF), the Iraqi Police Service Emergency Response Unit (IPSERU), the Special Police Commando Battalions (SPCB), and the Mechanized Police Brigade (MPB). The CIF provides a national-level high-end rapid response police capability to counter large-scale disobedience and insurgents. Information about the training, which began in November 2004, is not available. The IPSERU is an elite 270-man team trained to respond to national-level law enforcement emergencies that will only be used in extreme situations by local and

¹⁰ US General Accounting Office (GAO), 2005, p. 4.

¹¹ US General Accounting Office (GAO), 2004, p. 57.

¹² US General Accounting Office (GAO), 2005, p. 13, 15.

¹³ Multi-National Security Transition Command – Iraq: MNSTC-I Information.

¹⁴ Sedra 2005, p. 158.

national authorities. Recruits attend standard IPS training and an eight-week specialized training course focusing on terrorist incidents, high risk searches, explosive ordnance, and weapons of mass destruction. The SPCB resembles a paramilitary army-type force complete with heavy weapons, rocket-propelled grenades, etc. As the Iraqi Ministry of the Interior's strike-force capability, this force focuses primarily on carrying out raid operations and counterterrorist missions. Information about the training is classified. The commandos consist of highly vetted Iraqi officers and rank-and-file service-men largely made up of prior servicemen with specialty unit experience. The selection of all recruits is based on loyalty to Iraq and the new democratic model. Lastly, the MPB, created in December 2004, is a paramilitary, counterinsurgency police unit to be deployed in high-risk areas.¹⁵

Judicial Reform

All aspects of the Iraqi judicial system were in disarray at the end of the major hostilities in May 2003, with the majority of its courthouses damaged or destroyed. The CPA undertook a number of initiatives to rehabilitate and reform the judicial system: It suspended the Iraqi Organization of the Judiciary Act of 1979 and set up the Judicial Review Committee (JRC) within the Ministry of Justice to establish a measure of public trust in the legal system by assessing and removing those judicial officials found to be unqualified and corrupt; it reinstated a Council of Judges to supervise the judicial and prosecutorial systems of Iraq and to re-establish judicial independence; it created the Central Criminal Court of Iraq (CCCI) "as a model of procedural fairness and judicial integrity", to try designated serious offences committed since 19 March 2003; it established the Iraqi Special Tribunal in December 2003 to try senior members of the former regime for war crimes, crimes against humanity, genocide and designated offences under Iraqi law; and it created the Special Task Force on Compensation for the Victims of the Previous Regime.¹⁶ However, challenges such as security and training have hindered these efforts: courts were open but not functioning at pre-war levels, the court system did not operate independently, judges were assassinated, etc. After the hand-over of sovereignty to the Iraqi interim government, the Iraqi Ministry of Justice turned to the UN for support in the field of judicial reform. It requested support to improve the efficiency of the Ministry of Justice itself, the administration of justice as well as transitional justice. The UN started reform initiatives with a duration of 24 months in all of these areas beginning in August 2004. The first initiative aims at strengthening the Ministry of Justice by equipping it with computers and training its personnel on IT; by establishing a library; and by improving the capacity of its employees through the provision of expert advice in designing policies and legal

¹⁵ US General Accounting Office 2005, p. 8-9; Multi-National Security Transition Command-Iraq: MNSTC-I Troops Facts Sheet.

¹⁶ US General Accounting Office 2004, p. 79-84.

reform, a training-of-trainers program on human rights, specialized human rights seminars, and training courses for employees on managerial skills. The second project aims at enhancing the administration of the justice system by establishing legal aid centers; training on juvenile justice; providing Iraqi courts and law enforcement agencies with basic tools as well as equipment and training. The third project aims at supporting the development of a national strategy on options for transitional justice by organizing workshops to present best practices principles in relation to the prosecution of serious violations of human rights and in relation to the creation of non-formal justice mechanisms, such as vetting, reparations and truth commissions; by creating an international transitional justice expert group to provide advice to the new Iraqi government specifically on issues relating to transitional justice policy development; by organizing six transitional justice consultations; and by translating relevant publications concerning transitional justice into Arabic.¹⁷

Legal Reform

During Saddam Hussein's rule, the Iraqi legal framework—not modernized since the 1960s—had been rendered inadequate and outdated. Moreover, applicable law and legal processes were subjected to arbitrary decrees issued by the Revolutionary Command Council and international human rights standards were not taken into account. After the war, the CPA introduced a number of new elements of legislation. In March 2004, it promulgated the Law of Administration for the State of Iraq for the Transitional Period (TAL) providing the legal framework for the government of Iraq during the period of transition and containing a bill of rights for Iraqi citizens. With the transfer of sovereignty to the Iraqi interim government in June 2004, the TAL came into effect. In July 2004, the Ministry of Justice announced the creation of a Law Reform Commission tasked with reviewing all current laws and commenting on new laws proposed by the various government ministries. Additionally, the UN was requested for support in the field of law reform. The UN started to engage in the following activities: it helps to create a database of Iraqi legislation (some 6,000 laws) and provides training on the use of such a database; it provides training courses for the employees who are involved in the law reform; and it provides expert advice on law reform. These UN initiatives will be completed in August 2006.¹⁸ Other reform initiatives undertaken by the interim government during 2004 show undemocratic tendencies. As part of the declared intention to crack down on terrorism and violent crime, the interim government passed the Order for Safeguarding National Security introducing emergency legislation on the statute books and enabling the prime minister to

¹⁷ UNAMI Human Rights Office/Office of the UN High Commissioner for Human Rights (OHCHR) 2005, p. 25-27, 51-52, 59-61.

¹⁸ UNAMI Human Rights Office/Office of the UN High Commissioner for Human Rights (OHCHR) 2005, p. 50-51.

declare martial law for up to sixty days (renewable with the approval of the Presidency Council). The Order provides for the imposition of curfews; the closure of roads, sea lanes, and airspace; restrictions or bans on public gatherings; surveillance of electronic and other communications; and wide powers to search property and to detain suspects. Under the Public Safety Law, a state of emergency may be declared “upon the exposure of the people of Iraq to a danger of grave proportions, threatening the lives of individuals and emanating from an ongoing campaign of violence by any number of people, for the purpose of preventing the establishment of a broad based government in Iraq, or to hinder the peaceful participation of all Iraqis in the political process, or for any other purpose”. In announcing the Order, Iraqi officials pointed to provisions requiring that persons may not be arrested except upon the issuance of arrest warrants from the judicial authorities, and would be brought before an investigative judge within twenty-four hours. The law, however, does provide for such arrests or searches without warrant in “extreme exigent circumstances”, which are not defined. Additionally, the interim government reintroduced the death penalty, which had been suspended by the CPA. The Order, passed in August 2004 provides capital punishment for certain crimes affecting internal state security, public safety, attacks on means of transportation, premeditated murder, drug trafficking, and abduction.¹⁹ One of the landmarks of Iraqi legislation is the current constitution of Iraq. It was approved by a ratification vote on 15 October 2005, and replaced the TAL. The drafting and adoption of the new Constitution was not without controversy, however, as sectarian tensions in Iraq figured heavily in the process. The deadline for the conclusion of drafting was extended on four occasions because of the lack of consensus on religious language. In the end, only three of the 15 Sunni members of the drafting committee attended the signing ceremony, and none of them signed it. Sunni leaders were generally urging the electorate to reject the constitution in the 15 October referendum, but were overwhelmingly rejected by the voters. The constitution describes the state as a ‘democratic, federal, representative republic’, and a ‘multiethnic, multi-religious and multi-sect country’.

Penal Reform

Photographs, made public in April 2004, showed US forces torturing and mistreating detainees in Abu Ghraib prison. Further investigations revealed that abuses against detainees were not limited to Abu Ghraib and were not only conducted by US personnel. Following the public release of the photos, the UN working group on arbitrary detention and UN special rapporteurs on torture, independence of judges and lawyers, and right to health made a joint request to visit all places in Iraq where terror suspects are held. However, information about the situation in Iraqi prisons is still limited. US forces continue to detain hundreds of Iraqis on the basis of Security Council authorization but in accordance with no

¹⁹ Human Rights Watch 2005, p. 2.

evident law.²⁰ Since the Abu Ghraib incident, the United Kingdom has supported the development of an effective Iraqi Prison Service, which aims to meet the minimum international standards for the treatment of prisoners in Iraq. Over 600 Iraqi Corrections Service (ICS) staff have been trained. Since summer 2005, the training is conducted by the Iraqis themselves. The United Kingdom continues to provide mentors to advise the Prison Service.²¹

Paramilitary Forces and Non-State Security Actors

Iraq has various heavily armed militias. As the United States failed to fill the security vacuum after the war, these militias, originally established in opposition to Saddam Hussein by regional, sectarian, and political Iraqi groups, stepped into the gap to protect their communities. With the exception of 'Mahdi's Army', created by the Shi'i leader Muqtada al-Sadr after the war, none of these groups actively took part in the insurgency. Still, with approximately 100,000 former resistance fighters, they presented an enormous potential security threat.²² In spring 2004, the CPA began to negotiate an agreement with nine main militias for their disarmament, demobilization, and reintegration (DDR) into the Iraqi security forces. The DDR plan was comprehensive and included innovative elements such as granting 'retired' members of militias veteran's benefits and a job training and placement program.²³ Unfortunately, an uprising of Sadr's Mahdi Army in April 2004 delayed the realization of the plan. When CPA Order 91, which concerned this matter, was finally issued in early June 2004, militias operating in the South and East had already refrained from disarming. Regional leaders and parties were not willing to count on the Coalition's ability to contain al-Sadr. Although CPA Order 91 prohibited the existence of militias and established penalties for those who did not implement the agreement, no further steps were taken against the leaders and parties. With the transfer of power in June 2004, the United States lost the ability to control the DDR process. The new Iraqi administration could on the one hand not afford to take steps against these powerful regional leaders, while on the other hand none of the new ministers set any serious priority on implementing the plans of the CPA. Therefore, even today the militias continue to be a serious potential security problem.²⁴

Conclusions and SSR outlook

There is no comprehensive approach to SSR in Iraq. Although most institutions of the security sector are included in the reconstruction program, 'hard security issues'

²⁰ Human Rights Watch, 2005.

²¹ Foreign & Commonwealth Office Iraq, 2005.

²² Slocombe 2004, pp. 245-246.

²³ CPA 2004.

²⁴ Cordesman 2005, p. 36; US General Accounting Office 2004, p. 68.

such as building up effective security forces, are still the focus of attention. 'Soft security issues' of security sector governance and control have long been neglected and are still difficult to implement due to the high-risk environment. In part because of the diplomatic breakdown before the war, and in part because of differences over how the U.S. was conducting the reconstruction efforts, its efforts to build an international consensus for the post-war reconstruction of Iraq floundered. During the first year after the war and the whole CPA tenure, the United States was unsuccessful in getting major commitments of troops or funds from other countries. The reconstruction was led by the US—with only a skeletal coalition—in contrast to the UN or a robust multinational coalition. Additionally, the US did not develop an adequate hand-over strategy ensuring domestic commitment. On account of this, many Iraqis viewed the reconstruction program with suspicion. Continuous insecurity and incidents such as the abuse of detainees in Abu Ghraib contributed to public mistrust in the SSR efforts. Until today, the Iraqi population remains unconvinced about any progress in SSR that would make them feel safer. However, the situation has changed significantly after the transfer of power in June 2004. Since the MNSTC-I took over efforts to organize, train and equip the Iraqi military and police forces, progress is visible. More and more effective Iraqi forces are involved in fighting the insurgency and have a share in securing the country. Moreover, the UN began engaging in the SSR process emphasizing security sector governance and control. As far as civil society is concerned, the security situation still hinders any involvement of NGOs or other groups in the efforts to rebuild the security sector. Yet, the Iraqi security apparatus is still far from reaching the levels of strength and competence required and serious problems remain in every aspect of the security sector reconstruction program.

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