

Agreement on the Withdrawal of U.S. forces from Iraq

Change in the Status of Forces Agreement (SOFA)

By [David Swanson](#)

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Theme: [US NATO War Agenda](#)

In-depth Report: [IRAQ REPORT](#)

In November 2008, then President George W. Bush and then Puppet Nouri al-Maliki negotiated an unprecedented, unconstitutional treaty to “legalize” three more years of war in a manner not unlike the “legalization” of invasions, detentions, torture, and warrantless spying by secret decree of the Office of Legal Counsel in the U.S. Department of Justice.

This treaty was public, but it was not called a treaty. Instead Bush presented it as a “Status of Forces Agreement” or SOFA, even though it went far beyond what any other SOFA had previously done. The U.S. Constitution requires that two-thirds of senators present consent to any treaty. A certain Senator Barack Obama favored upholding that requirement. Another senator by the name of Joe Biden introduced a bill (S. 3433) that, had it been brought to a vote and passed, would have cut off any money for U.S. operations in Iraq authorized only by an unconstitutional treaty.

The U.S. media barely told Americans the treaty was happening at all, never called it a treaty, and whited out the opposition from senators. Americans followed the treaty’s progress in Iraq via bloggers like Raed Jarrar who translated Arabic translations of English documents back into English. (Jarrar should be publishing an update on the situation this week, so watch for it!) The Iraqi media covered the story well, and the Iraqi Parliament insisted on the right to vote the treaty up or down, no matter what Bush and Maliki called it. The parliament approved the treaty only on condition that the Iraqi people be allowed to vote it up or down in a referendum to be held no later than July 2009. If you haven’t heard about this, or have succumbed to the collective amnesia, even the [New York Times](#) admitted this occurrence in a buried half a sentence on November 27, 2008:

“Approved Thursday along with the security pact were a nonbinding resolution that included a commitment to address longstanding grievances of minority blocs in the Parliament as well as a law requiring a referendum on the pact to be held in July 2009.”

The treaty was actually called “An agreement regarding the withdrawal of the U.S. forces from Iraq and regulating the U.S. activities during its temporary presence, between the United States and the Iraqi government.” It required that U.S. troops be out of all cities and localities by June 2009, and that US forces entirely leave all of Iraq by the end of 2011. The peace movement in the United States could not be persuaded to lift a finger to challenge the unconstitutionality of the treaty, because many feared any treaty actually approved by the U.S. Senate would be worse. In vain, some of us argued that this treaty was not legal

and therefore could simply be ignored or revised, that it in fact had no more legal weight than the promises of then President elect Barack Obama, who was promising something arguably better than the treaty.

That this treaty worsened expectations even while being celebrated as an “end to the war” is illustrated by an action taken by the American Friends Service Committee (AFSC). The AFSC had created a graphic that many pro-peace websites had posted. It counted down the days to withdrawal from Iraq based on Obama’s often repeated (though hedged and qualified) promise to end the occupation in 16 months. Once the treaty was created, AFSC silently altered its widget to count the days to the end of 2011.

While a complete withdrawal is certainly better than Obama’s promised incomplete withdrawal, even the incomplete withdrawal is not now happening. Any moment for accountability has been pushed off to the end of 2011, and there is no reason to expect a complete withdrawal to have been made by then.

On June 9, 2009, the [New York Times](#) reported that Iraq was moving ahead with holding the referendum required by the end of July 2009. Otherwise, the U.S. media has gone silent. And since July 9th the Times has too. An occasional wire service story, such as [this one](#) from Reuters, has suggested the referendum might not be held or might be pushed off until January 2010. To understand what this would mean, it’s important to recall that from the very start most observers interpreted the prospect of a referendum as allowing the ending of the occupation one year after the referendum. The treaty claims, in its text, to be valid through one year following any date on which it is declared invalid. (Imagine getting your health insurance company to agree to such terms!) There has never been any doubt that the Iraqi public would vote the treaty down if permitted to, so a vote this week would be interpreted as requiring an end to the occupation a year from now, but a vote in January would require ending the occupation in January 2011. Majorities of the following groups have long told pollsters they want the “democracy”-imposing occupation ended: Iraqis, U.S. soldiers, Americans.

In January 2009, the U.N. fig leaf for an illegal occupation expired. It was replaced only by this absurd treaty. But the treaty itself was violated from the start. For eight months, the United States has failed to comply with its part of the bargain. The treaty regulates the behavior of U.S. forces in Iraq, but their compliance with its terms has been weak. And from the beginning, top US commanders have openly said they intend to remain beyond 2011. When required to exit localities last month, the United States re-labeled troops as “non-combat,” redrew urban boundaries, stationed forces around cities, and simply failed to comply, continuing patrols in blatant violation of the agreement. Read [Dahr Jamail’s report](#) here.

While American “journalists” might perhaps be forgiven for forgetting to ever ask Obama about the looming deadline for a referendum in Iraq, last week’s press conference in Washington, D.C., with Maliki might have offered such an opportunity. Yet, as far as I have been able to learn, not even the progressive reporters in the room breathed a word about it. Instead they asked Maliki about U.S. troops remaining in Iraq beyond 2011 and then congratulated themselves for “making news” when he replied essentially that he’d be happy to see that happen. The [New York Times](#) has just published an article with this headline: “Iraq Can’t Defend Its Skies by Pullout Date, U.S. Says.”

I asked independent reporter Dahr Jamail what he was hearing from Iraq, and he told me:

"From what I can tell, the referendum has not been canceled. This surprises me, because if/when it does happen, the vote will overwhelmingly be to reject the SOFA. Thus, I'm watching the situation closely, to see if it does indeed happen, and if so, how will the US react to the inevitable results...but also to see if it's fixed, and then what happens in Iraq in the wake of that. Either way, there is nothing to indicate a real US withdrawal from Iraq, ever. So this begs the question, how will the US Government spin the referendum, if/when it happens. Yet, we're already seeing Gates openly discuss the US use of Iraqi air space beyond 2011, and Maliki already making gestures towards a US presence in Iraq post-2011."

The problem is obvious. If the referendum is honest and verifiable, the occupation has to end in a year rather than never. If it's rigged and the Iraqis protest, the US media might have a hard time condemning them while celebrating similar protests next-door in Iran. If the referendum is never held, and the Iraqis allow that, and the US media never mentions it, who's harmed? I mean, who in the power structure in Washington, D.C., is harmed? I'm not much into gambling, but you can guess what my prediction is here. My desire is to see Iraqis and Americans prove me wrong.

It's not as if the SOFA has been forgotten. Maliki is using it to [justify](#) crimes, incidents noticed even by [the Washington Post](#). "It's our territory and it's our right to enter, to impose Iraqi law on everybody," defence ministry spokesman General Mohammed Askari told Al-Arabiya television, regarding a [new assault](#). "They have to submit to the law, and to Iraqi sovereignty. The SOFA authorizes us to do what we did."

And what have we done? We've sat on our sofas while a so-called SOFA eliminated the requirement that our congress approve treaties and wiped out any remnant of the congressional power to begin and end wars. We've set an international precedent whereby wars of aggression are justified through treaties made with puppet governments installed by the invaders. We've proactively torn up Obama's promise to have (at least "combat") troops out in 16 months, so that he didn't have to. We've allowed violations of the treaty to pass unnoticed and announcements of intent to prolong the occupation further to go unchallenged. We've effectively made the occupation of Iraq permanent by allowing George W. Bush to play us all for fools from the comfort of his Dallas mansion, and by imagining that electing someone else to take his place had anything to do with our peace movement. —

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David Swanson is the author of the upcoming book "Daybreak: Undoing the Imperial Presidency and Forming a More Perfect Union" by Seven Stories Press. You can pre-order it and find out when tour will be in your town: <http://davidswanson.org/book>. Arrange to review it on your blog and Seven Stories will get you a free copy. Contact crystal at sevenstories dot com.

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