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IRAQ 2008 NEGOTIATIONS

Late in 2006, Iraq was roiled by violence and a growing insurgency. With Baghdad on the brink, President Bush made the controversial decision to alter America's strategy and double down in Iraq. In January 2007, the President ordered the deployment of 20,000 additional troops to Iraq – which came to be known as "the surge."

During the Bush Administration, Brett McGurk served as National Security Council Director for Iraq and then as Special Assistant to the President and Senior Director for Iraq and Afghanistan.

"The surge wasn't just a surge to nowhere. It was a surge to build capacity of Iraqi security forces and political institutions so we could begin to draw back and Iraqis could hold the line as we did. The surge was about building a bridge, a capacity bridge to allow us to start withdrawing."

For US officials, that critical work was to negotiate an agreement that consolidated America's relationship with Iraq. The central goal for Iraqis was to take true ownership over their country. But, as McGurk explains, with roughly 150,000 US troops operating under a broad UN mandate, striking a deal would not be easy.

"Because the Security Council Resolution basically said U.S. multi-national forces can take all necessary measures to contribute to the security of Iraq, which was a legal mandate to basically do anything we wanted. There was always the idea that you have to get to a bilateral foundation where our presence is grounded upon Iraqi consent and true Iraqi sovereignty."

To get consent, American officials needed to negotiate a Status of Forces Agreement (or SOFA) with Iraq. But the Americans were asking for authorities that went far beyond the typical arrangements of a SOFA. According to McGurk, asking the Iraqi government to sign on to an agreement that would allow American troops to conduct combat operations on Iraqi soil and detain Iraqi citizens was unprecedented.

Iraq's fractured political scene only complicated matters. Sami al-Askari, who was an advisor to Prime Minister Maliki during the negotiations, says that internal disagreements within Iraq weren't the only challenge.

"Externally, it was clear the Iranians were against this agreement, and they told us straight away, '[There is] no need for this agreement, let the Americans go.' And even their president voluntarily said, 'We will fill the vacuum of the American troops.'"

Iranian attempts to influence the outcome of the negotiations were something that U.S. negotiators, like McGurk, were well aware of.

"Iran is always around. It's always hard to put your beat on what they are doing. When it comes to the SOFA, there was no question that they were putting a full court press on the Iraqis to try to get them not to pass this."

But despite the rocky landscape of Iraqi politics and the intense pressure from Iran, the negotiations began in early 2008.

The difficult negotiations did yield some progress on the technical aspects of the SOFA, but there was no agreement on what the Iraqis cared most about – a firm withdrawal date.

McGurk headed back to the U.S. to rethink the American strategy with the president and what was needed to close the agreement by the end of the Bush administration.

"I felt strongly at that point that we needed to put things on the table that would help Iraqis with their political problems. The stakes were extremely high. The negotiations had become intense and difficult and a full media spotlight. We had to rethink not the core elements of the agreement but the framing of it."

U.S. officials ultimately agreed to talk about a timeline for the departure of American troops, and it proved to be an important shift.

Ryan Crocker, Ambassador to Iraq from March 2007 to February 2009, remembers discussing the issue with Prime Minister Nouri al-Maliki.

"He said, 'Look, we may need US forces there for another decade, but the only way politically we can have you there is to say there is a definite date on which you're going.' It was a logic that I came to accept. It was, of course, challenging on the US side, where there was concern that a firm timeline would be seized on by the President's own opponents in the US as saying, 'Well, it's a treaty of capitulation. He has agreed to do exactly what he said he would not do, which is agree to a firm date on withdrawal.'"

While that agreement helped the negotiations clear a major hurdle, there were many more before the finish line. A particularly tall one was making sure that US troops were tried in American courts, not Iraqi ones.

According to Crocker, "We made it clear to the Iraqis from the beginning that one element that we simply could not give on was the question of US legal jurisdiction over our service members."

For the Iraqis, it was an equally difficult issue. As Dr. Mowaffak al-Rubaie, former National Security Adviser of Iraq, explains, "When you say 'These are immune people, and the jurisdiction is to the Americans,' if you translate this to Arabic, it will have huge repercussions – that you are surrendering your independence. You're surrendering your sovereignty."

Officials in Washington also urged American negotiators to get the same legal privileges for American contractors that servicemen in Iraq would be granted. In the end, U.S. servicemen remained under American jurisdiction while security contractors fell under Iraqi law.

As the talks slowly resolved key issues like timetables and jurisdiction, the Maliki government came on board. President Bush travelled to Baghdad to meet with Maliki and publicly announce the signing of the agreement.

But something unexpected happened during the conference. An Iraqi journalist stood up and threw his shoes at the President. McGurk laments the incident.

"That visit was kind of the culmination and then it became known as the shoe day, which was kind of a bummer I'll have to admit. That day will not be known for signing two historic international agreements. It will be known for the guy who stood up and threw a shoe at the President."

The agreement lent legitimacy to the American presence in Iraq. McGurk believes the Iraqis finally came to trust the Americans.

"From the very day we entered Iraq in 2003 the Iraqis have not trusted our motives, they have not trusted what we're doing there. It's been a constant problem. Now, we have this bilateral international agreement that went through the Iraqi Parliament, it was on national television, people know what it is. And then they see the United States following through on its terms. It lends absolute legitimacy to our presence, something we did not have from the day we entered in 2003."

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