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TO MANY IRAQIS, SUICIDE BOMBING LESS WORRISOME THAN GRAFT

by TOM McGETTRICK

As the American drawdown in Iraq nears completion, it is not physical harm that most concerns many Iraqis, but corruption. Surveys and anecdotal evidence show that, despite suffering massive suicide attacks nearly every month this year,¹ more and more Iraqis claim that corruption is a greater concern. The Iraqi government faces great obstacles in prosecuting corrupt officials, however, and few wrongdoers are charged.

A nationwide survey conducted annually for each of the last five years by the International Republican Institute found that most Iraqis in 2009 believed that security was less of a concern than access to basic services.² Moreover, 60 per-

cent of Iraqis felt that corruption has gotten worse while only ten percent thought it had gotten better.³ Only a year before, the report found that over 40 percent of Iraqis believed security the greatest concern, while just over 20 percent thought access to services was the biggest problem.⁴

Anecdotal evidence of corruption abounds in Iraq as well. “I cannot move one step without bribing people,” said Adel Hamza, who, as head of public relations at a foreign construction company, is responsible for getting contracts signed, stamped and authenticated by Iraqi authorities.⁵ “Everyone has got their mouths open as if I am feeding birds.”⁶ Iraq ranked above only 3 of 178 countries in level of perceived corruption in 2010.⁷

Even special shipments from the U.S. have been stolen through corruption.⁸ Recently, laptop computers meant for Iraqi schoolchildren were taken by customs officials, who brazenly sold them at auction, resulting in over a million dollars in loss to U.S. taxpayers.⁹ Despite calls from the Pentagon and the Senate for justice, however, few arrests were made, no one has yet been convicted, and the names of the arrested and what charges they face remain secret.¹⁰

A report by Iraq’s own Integrity Commission shows that immediately after the invasion, few Iraqis were prosecuted for corruption, perhaps as few as two dozen prosecutions in 2004.¹¹ Prosecuting corruption was not a focus early on in the stabilization phase of the Iraq War, and State department officials have said that “[t]he Bush administration repeatedly ignored corruption at the highest levels within the Iraqi government and kept secret potentially embarrassing information so as not to undermine its relationship with Baghdad.”¹²

Once Iraqis regained responsibility for prosecuting corruption, the government tasked four offices with stopping it.¹³ These are the Inspector Generals, the Board of Supreme Audit, the Investigative Judges, and the Commission on Public Integrity (CPI).¹⁴ According to the most recent CPI report, successfully prosecuted corruption cases increased to about 400 from 2004 to 2008, but that number seems small compared to the over 17,000 corruption complaints made in 2008.¹⁵

Corruption investigators faced violence from insurgents if they dared travel to the government ministries to investigate, and faced assassination from the gangs controlling the ministries if they made it at all.¹⁶ According to a leaked

report prepared by the U.S. Embassy in Baghdad and reported on by many news agencies, “several ministries are so controlled by criminal gangs or militias as to be impossible to operate within absent a tactical force protecting the investigator.”¹⁷

The Iraqi legislature further undermined the ability of the CPI when the body gave broad amnesty to those accused of corruption.¹⁸ This amnesty led to the dismissal of nearly 700 then-pending corruption cases.¹⁹ By contrast, Iraqi investigators have opened only 67 “fraud cases” this year, compared with 69 for all of 2009, according to the Special Inspector General for Iraq Reconstruction (SIGIR).²⁰

Unfortunately, even uncorrupted Iraqi officials often feel a greater need to save face than lose it by openly combating corruption.²¹ As a result, Gen. David H. Petraeus, former commander of U.S. forces in Iraq, felt compelled to adopt a less-than-transparent approach to tackling corruption.

“It was never in public and it was always behind closed doors, and it was always aimed at [Prime Minister Nouri al-Maliki] taking ownership of whatever solution was devised,” said retired Col. Peter Mansoor, Petraeus’s former executive officer in Baghdad. “We knew if it was forced on them, there would be push-back and it would be a matter of face and honor.”²²

Regrettably, even the Special Inspector from the U.S. has little faith in the ability of Iraqi prosecutors and judges to attack corruption.²³ The Inspector cited many factors contributing to the tolerance of graft by the courts, including a shortage of reliable judges, courtrooms, and detention facilities, as well as political interference and the resulting “culture of impunity.”²⁴

Surprisingly, a statute from Iraq’s laws under Saddam Hussein has survived and continues to impede corruption prosecutions.²⁵ Article 136(b) of Iraq’s Criminal Code allows any Iraqi minister to grant, by fiat, complete immunity from prosecution to any of their own ministry employees accused of wrongdoing.²⁶

Radhi al-Radhi, the former head of CPI, has fled to the U.S, where he has spread the news of internal structures against corruption reform like this statute.²⁷ After coming to the U.S. to tell the truth about this statute, al-Radhi himself was charged by the Iraqi parliament with corruption, and later granted

asylum by the U.S.²⁸ That was in late 2008, the same year that the Special inspector for Iraq testified about the obvious obstacles to prosecution, including this “notorious” statute.²⁹ Since then, little or no progress has been made toward overcoming any of those obstacles, and the ebb of the intense pain of daily violence has only unmasked the further irritation of daily corruption.

NOTES

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2 International Republican Institute, *Survey of Iraqi Public Opinion*, 15, available at <http://www.iri.org/sites/default/files/2010%20September%2016%20Survey%20of%20Iraqi%20Public%20Opinion,%20June%203-July%203,%202010%283%29.pdf>.

3 *Id.* at 29.

4 *Id.* at 16.

5 Asharq Alawsat, *Corruption Tops Many Iraqis' Concerns, Not Security*, REUTERS, Jun. 24, 2010, available at <http://aawsat.com/english/news.asp?section=1&id=17184>.

6 *Id.*

7 *Corruption Perceptions Index 2010*, TRANSPARENCY INTERNATIONAL, available at http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results.

8 Steven Lee Meyers, *U.S. Gift for Iraqis Offers Primer on Corruption*, N.Y. TIMES, Sep. 25, 2010, at A1, available at <http://www.nytimes.com/2010/09/26/world/middleeast/26iraq.html?pagewanted=2>.

9 *Id.*

10 *Id.*

11 The Commission of Integrity, *Annual Report for 2008 18 (2008)*, available at [http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDUnidFilename/SNAA-7Z278X-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDUnidFilename/SNAA-7Z278X-full_report.pdf/$File/full_report.pdf).

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15 Commission, *supra* note 11, at 18.

16 Anti-Corruption, *supra* note 13, at 2.

17 *Id.* See also Debbie Elliott and Corey Flintoff, *Report Reveals Corruption in Iraqi Government*, NPR, Sep. 1, 2007, <http://www.npr.org/templates/story/story.php?storyId=14117853>.

18 Matt Kelley, *Corrupt Ofen Go Free in Iraq*, USA TODAY, Nov. 27, 2008, available at http://www.usatoday.com/news/world/2008-11-27-iraqcorruption_N.htm.

19 *Id.*

20 Ahmer Madhani, *U.S. Troops, Contractors in Iraq and Afghanistan Suspected of Corruption*, ABCNEWS.COM, Jun. 20, 2010, <http://abcnews.go.com/Politics/us-troops-charged-corruption-iraq-afghanistan/story?id=10952163>.

21 Rajiv Chandrasekaran, *Karzai Rift Prompts U.S. to Reevaluate Anti-corruption Strategy in Afghanistan*, WASH. POST, Sep. 13, 2010, http://www.washingtonpost.com/wp-dyn/content/article/2010/09/12/AR2010091203883_2.html?sid=ST2010092803769.

22 *Id.*

23 *The Effectiveness of U.S. Efforts to Combat Corruption, Waste, and Abuse in Iraq: Hearing Before the Sen. Comm. on Appropriations*, 110th Cong. 23 (2008) (statement of Stuart W. Bowen, Jr., Special Inspector Gen. for Iraq Reconstruction), available at http://www.sigir.mil/files/testimony/SIGIR_Testimony_08-002T.pdf.

24 *Id.*

25 Kelley, *supra* note 18.

26 *Id.*

27 *Id.*

28 Corey Flintoff, *Iraqi Watchdog Official Alelges high-Level Corruption*, NPR, Sep. 7, 2007, <http://www.npr.org/templates/story/story.php?storyId=14245376>; see also Allen Pusey, *'Eliot Ness of Iraq' Wins Asylum*, A.B.A. J., July 7, 2008, http://www.abajournal.com/news/article/eliot_ness_of_iraq_wins_asylum.

29 Bowen at 23, *supra* note 25.