

**PRESS CONFERENCE:**

**Judge Abdul Sattar Al-Bayrkdar, Spokesperson for the Higher Juridical Council**

**Mr. James Santelle, Rule of law coordinator at the United States Embassy**

**Col. Mark Martins, Staff judge advocate for the Multi-National Force-Iraq**

**DATE: NOVEMBER 11, 2007**

**TRANSCRIBED BY: SOS INTERNATIONAL, LTD.**

**PARTICIPANTS:**

**JUDGE ABDUL SATTAR AL-BAYRKDAR**

**MR. JAMES SANTELLE**

**COL. MARK MARTINS**

**REPORTERS:**

**STEVEN FARRELL FROM THE NEW YORK TIMES**

**AMIT PALEY FROM THE WASHINGTON POST**

**GINA CHON FROM THE WALL STREET JOURNAL**

**REPORTERS 1-6**

**\*REP1 = REPORTER 1**

**\*INT = INTERPRETER**

**SANTELLE:** Good afternoon. And welcome to our panel on rule of law and related issues. We're very delighted to have all of you with us today. We think we have assembled for you an outstanding program, information insight and perspective on some very important things that are happening in the rule of law arena here in the Republic of Iraq. My name is Jim Santelle, and I'm the rule of law coordinator at the United States Embassy here in

Baghdad. In just a moment I'm going to be introducing to you my two very distinguished companions and colleagues here on the panel today, who like me will be talking with you about some of the important accomplishments and challenges of rule of law in this country. Before we do that, let me make some general comments about the purpose of today's event and also some other perspectives that I anticipate that you'll be hearing throughout the next hour. As I indicated our purpose in gathering with you today is to share with you some important information and perspective on accomplishments, achievements, and challenges related to the rule of law, its conduct, its pursuit, its promotion in a number different venues throughout the Republic, focusing in particular on the courts and some especially successful achievements in recent weeks both at the CCCI in Karkh and also the Central Criminal Court in Rusafa. We have done these presentations in the past, and we have found that they are good opportunities for us to not only exchange, provide you with information about these accomplishments but also to give you an opportunity to ask us questions, which we will do at the end of this program. Let me talk very generally about some of the themes that you will be hearing today and also that will be animating some of our remarks and hopefully some of your questions as well. First, let me state that one of the hallmarks of the involvement of the mission, rule of law, enterprise, and also that of the Multi-National Force – Iraq has been partnership and cooperation with the Iraqi judiciary and other elements of the Iraqi government. We recognize

completely that the Republic of Iraq is a sovereign nation and that the Iraqi courts are independent and have great integrity to them. And so one of the themes that you'll be hearing about today is our support and our assistance to the Iraqi judiciary and other elements of the Iraqi government. But a recognition that the decisions and important achievements that we will be talking about today are those of the Iraqi government and of some very brave, courageous, and good judges are working very productively to accomplish rule of law here in this country. The purpose of course behind all of that is to establish and promote a very functional and transparent judiciary, to ensure that the Iraqi government and Iraqi judges in particular are able to process those great many civil cases and criminal cases alike that are on their dockets these days. I suspect that we will talk somewhat about the detainee population during the course of the afternoon, but is also significant to recognize as we have in the past that there is a great civil docket out there as well, and that a great deal of justice is being delivered on a daily basis, again by some very proud, rightly proud judges who are doing some outstanding work in this Iraqi judicial system. The purpose behind all of that of course is to accomplish and deliver justice to the Iraqis and also to accomplish the fundamental goal of rule of law, which is to ensure that the citizens in Iraq have confidence and trust in their government, that they feel with respect to the courts that they can in fact achieve justice and get their address of grievances in that forum. We believe that you will hear today some

support for the notion that the Iraqi judiciary, despite great challenges in recent years, is overcoming those challenges and that those forces that who had threatened and integrity and the stability and the safety and security of the Iraqi judiciary are in fact being lessened, and that the good work the courts are doing is in fact delivering rule of law concepts and trust and confidence to the citizens of this country. I want to in that context once again underline and underscore what we have done in other settings, which is again to acknowledge that we do have judges, investigative judges, trial judges, judicial investigators, and court staff here in Baghdad, at Karkh and Rusafa, the Central Criminal Courts of Iraq, and in virtually all of the other provinces throughout the country we have judges who are incredibly brave and who are honest and who are very productive, again under very challenging circumstances. The judiciary is in fact an operating and functioning unit of government, and it is our great honor and privilege to work again, collaboratively, in support of their work. There are plainly also challenges that the judiciary faces, and those include security. They include ensuring that the judiciary is trained adequately on both substance elements of the law and also process, and all of that again to promote and achieve the day when the Iraqi judiciary, as it is approaching it today, has established the confidence and trust of the citizens that it fundamentally serves. What I would like to do now is turn to my colleagues on my left and my right. And before I do that let me introduce them to you and then call upon them to make some

comments. First to my immediate left, we're very pleased and honored to have with us today Judge Abdul Sattar. Judge Sattar is a distinguished jurist here in Iraq, and he is also the spokesperson for the Higher Juridical Council, which is responsible for administering and supervising the judiciary throughout this country. To my right, equally distinguished, a colleague of mine at the Embassy and in other forums, Colonel Mark Martins, who is the staff judge advocate for the Multi-National Force-Iraq. I partner with the civilians and with the Iraqis as well in promoting the good programs and achievements that we will talk with you about today. And with that I would like to turn to Judge Sattar for his comments and remarks about the accomplishments to date among the Iraqi judiciary. Judge Sattar.

**SATTAR:** Speaking in Arabic

**INT:** Thank you. the Iraqi court is now independent. Now the Iraqi judge can issues his judgment regardless of any political or governmental impact so that we can implement the rule of law that guarantees that there should not be any kind of impact. And in the process of developing the judicial court, the number of judges in Iraq is currently 1,160 after it was 570 before April 9. And the investigative judges are 850 in all around Iraq. And we have 5,000 judicial guards and 3,000 employees in the courts and all the judicial system in Iraq. And we also provide buildings and institutes for the courts in a way that is what the Iraqi judicial court and the duties. As

for Operation Fardh al-Qanoon and the rule of law, the impact of the investigation committees that included over one hundred judges and district attorneys in Karkh and Rusafa, those were assigned to investigate, or conduct investigation with the detainees in the detention centers. So the judge and district attorney they go to the detention centers that are actually spread in all of Baghdad. And we have five detention centers. This is the...this aims to resolve the detainees' cases. And the result of this act is that we resolved 7,450 detainees, and those have been released for not being convicted. And 4,000 have been presented to trials to be judged. In the way of activating the district attorney, we hired district attorneys in the prisons and the juvenile detention centers so that we can monitor the work of the detainees and also keep an eye on the violations in the prisons. We've also worked on sending reports to the authorized committees. We've also formed a committee so that we can receive the complaints of the citizens at the federal appeal court in Karkh. And as for the release of the detainees of the MNF and based on the agreement that the MNF and High Judicial Council, I'd like to confirm there was no interference of any governmental or political part, so the number of the detainees ever since July until October, 2,800 detainees. And this is after of course we've been sure they haven't committed anything. And the process is ongoing until we release all the detainees that have not been convicted. I'd also like to say that the Higher Judicial Council also refused taking any footage of the

detainees since this is considered a violation of the rights of the detainees and a violation of the human rights.

**SANTELE:** Judge Sattar thank you very much for your introductory comments and for being with us today. Now I'd like to turn to the other panelists, my colleague who is Colonel Mark Martins. As I said he's the staff judge advocate for the Multi-National Force. Colonel Martins.

**MARTINS:** Shukran. As-Salāmu `Alaykum. I would like to add to the comments of Mr. Santelle and Judge Sattar a few observations from the perspective of the Multi-National Force, which seeks to support Iraqi efforts to promote the rule of law of Iraq. And from the perspective of a coalition lawyer, I'm honored to be the senior coalition lawyer of among 300 of us in uniform across the Multi-National Force and supervisor of another 330 paralegal personnel across the Multi-National Force. We are legal professionals in uniform who are serving alongside Iraqis in this land whose reverence for the law dates back nearly 4000 years to Hammurabi and whose values include an independent judiciary and government by the rule of law. In recent months those of us who are close observers of the rule of law in Iraq have been encouraged by the activities that have been detailed in part by Judge Sattar, and this is because the rule of law, that principle that holds that all entities in society, public and private, including the government itself are accountable to law, that that principle is not only

worth pursuing in itself but it is also effective counterinsurgency. General Petraeus has said that success in this conflict is ultimately not going to be about how many enemies can be killed but rather about the Iraqi government helping create jobs and economic opportunity and about gaining people's trust. It will be about protecting the Iraqi people certainly. But it will also be about learning who can be brought into non-violent politics and about who is irreconcilable. It will be about mending sectarian wounds. Fundamental to all of these things will be establishing the rule of law. And this is because of government's respectful adherence to preexisting and impersonal legal rules can provide the key to gaining widespread and enduring societal support. The distribution of everything, from economic goods to property rights to criminal punishment according to such rules can be the basis for legitimacy. Independent courts that consider cases based on evidence and under the law are of course crucial to gaining legitimacy. It is an important tenant of counterinsurgency that to establish legitimacy a government should transition security activities from combat operations to law enforcement as quickly as feasible. I submit to you that the accelerated activity that Judge Sattar describes is reflective of that transition beginning to take place. The momentum is not yet irreversible, and innumerable obstacles lay ahead. But we have seen important if only still incremental progress. The improvement in Iraqi security force detention facility conditions in Baghdad, the very active case processing at the Rusafa rule of law complex, the opening recently of

major crimes courts in Ramadi and Kirkuk. These are real achievements, and we can applaud and attempt to build on them even as we also condemn setbacks such as the 26 September vehicle-borne improvised explosive device attack on the new Mosul courthouse, which killed three innocent Iraqis and wounded 46 others. We can applaud the conviction, for instance, of Walid Jaled Fayed al-Dulani on 1 November, 2007, before the Central Criminal Court of Iraq sitting in Karkh. And that was based on evidence that his fingerprints matched those found on an improvised explosive device that exploded in June. And we can applaud that even as we recognize that there is much work to do in helping Iraqi judges receive the sort of forensic and physical evidence that is by its very nature nonsectarian and nontribal. A fingerprint is a fingerprint. It is not Sunni, it is not Shiite. I want to emphasize that the brave soldiers, marines, sailors, airmen, coastguardsmen of the coalition including the uniformed lawyers have a supporting, a supporting rather than a lead role in helping Iraq promote the rule of law, Fardh al-Qanoon. Chief Judge Medhat, Prime Minister Maliki, the cabinet, the members of the presidency council are the leaders in this effort, and they are of course civilian leaders. While Iraqi security forces and the Multi-National Force must play a key role in defeating Iraq's enemies during this continuing state of emergency. And in building police investigative capacity, the building of Iraq's courts, its corrections system, and other rule of law institutions is a civil as opposed to a military endeavor. We uniform lawyers are pleased to be serving

alongside Judge Sattar as well as Jim and other talented and committed public servants, Iraqi as well as coalition. Thank you.

**SANTELLE:** Colonel Martins thank you very much for those comments as well. At this time we'd like to open the program up to some questions, and I will direct those questions to the appropriate responder here on the panel. We invite your questions at this time. And I believe we may have a roving microphone or, right there, on both sides of the room here today. So if you would raise your hand, and I'll attempt as best we can to organize our questions here. Please.

**REP1:** Asking question in Arabic.

**INT:** Iranian news agency. This is a question to Judge Sattar. There are eleven Iranian detainees with the American forces. I'd like to ask the Higher Judicial Council have you seen their files of those Iranian detainees? Are you sure those detainees are accused of the right accusations that the American forces say?

**SATTAR:** Responding in Arabic.

**INT:** Those detainees are with the American forces, and currently they haven't been presented to the Iraqi court, and we don't have any information regarding this.

**MARTINS:** The detainees from Iran were detained under a U.N. Security Council Resolution 1723 Standard. It is a law-governed standard. It incorporates the Law of Armed Conflict and the basis for holding is that the detainees posed an imperative threat to the security of Iraq. Roughly a tenth of those individuals detained under that standard, which is again coming from the Law of Armed Conflict incorporated into a binding Security Council resolution. Roughly a tenth of those move into the Iraqi court system, but others are held based on that standard. The Security Council resolution and the government of Iraq recognize that right now Iraq is in a state of emergency, and that armed conflict prevails at certain times and in certain areas. So that is a law-governed appropriate standard for this day and time. And as long as people continue to pose an imperative threat to security and stability they will be detained. Now that isn't detention without review. There's a series of careful reviews that are applied to that to ensure that there is intelligence information, if not evidence that forms a good reason and a basis for holding those individuals. They are reviewed within 72 hours by a magistrate. There is then a combined review and release board of Iraqi and coalition members that reviews the information within no more than six months, but it usually takes place within three or four. And then every six months thereafter there has to be another review, and if an individual no longer poses a security threat or evidence is developed that enables it to be moved into an Iraqi court, that occurs. So I didn't want there to remain out there some thought that there's

unmonitored detention or that there's a detention that's not anchored in law. Thank you.

**SANTELLE:** Thank you, Colonel. Thank you, judge. Other questions? Yes, why don't we go over here to this gentleman in the dark shirt.

**REP2:** Asking question in Arabic.

**INT:** It's al-Sharq newspaper, an Iraqi newspaper. The question is, what is meant by that those people don't actually form a threat? And how many Iranians are actually now detained?

**MARTINS:** I would have to defer the actual number in detention to our Task Force 134. But the standard, I commend to you Common Article 3 of the Geneva Conventions and then the Fourth Geneva Convention which lays out the standard. There has to be good reason to believe that an individual poses an imperative security threat, in this case to Iraq or to the coalition. And there's a series of commentaries, international commentaries, about the convention that help describe what the content of that standard is. And that's the standard that's applied by boards that are reviewing it. And then of course detention, during that entire period, has to be humane. And detention facilities of the coalition are humane, are inspected by international organizations, including the International Committee of the Red Cross. They're inspected carefully to ensure that detention is

humane, that detainees receive medical care, proper conditions and so forth. That's the meaning of that standard, sir.

**SANTELE:** Thank you colonel. Another question, yes.

**REP3:** Asking question in Arabic.

**INT:** Question to Judge Abdul Sattar. There are certain Iraqi female detainees in the American detention institutes. Have you participated in the investigation? And have some of them been released or not?

**SATTAR:** Responding in Arabic.

**REP3:** But in previous press conferences the American forces that there are ten Iraqi female detainees. So they weren't presented to you?

**SATTAR:** Responding in Arabic.

**INT:** No, so many detainees that haven't been presented to the Iraqi court.

**REP3:** So why is that?

**SATTAR:** Responding in Arabic.

**INT:** Currently as we mentioned that we agreed with the Multi-National Forces so that they can give us the detainees that they have. And actually we don't know the exact number of those detainees. Everyday they give us around 70 or 60 detainees, and they give it to the Iraqi judge who actually looks into their files. And upon that we present them to the CCCI. So they're the ones who bring the detainees. There are no female detainees presented by the MNF.

**REP4:** Asking question in Arabic.

**INT:** The detainees that have been released for not being convicted, some of them, or most of them, spent over four years imprisoned. And so my question is, why this long? Why do you take this long in released those detainees that actually haven't been convicted at the end. And at the end there are some media reports that say that the American side actually belittles the release of those people, or those detainees.

**SANTELLE:** Let me begin. I suspect that both Judge Sattar and Colonel Martins may have some responses to that as well. There is no doubt that there have been detainees in custody for long periods of time, both in Iraqi detention and also and MNF-I detention. One of the challenges that we have identified here today is the interest of the Iraqi judiciary and the government as a whole in processing those cases more quickly. And what I would, in addition to the comments that I suspect that Judge Sattar and Colonel Martins may make, in part what I'd like to do is respond and describe to you some of things that are happening to address that very situation. Colonel Martins has already made appropriate reference to the Rusafa complex and the very good things that are going on there. The Higher Juridical Council has established two new courts of the Central Criminal of Iraq at that location. They are actively hearing not only significant cases but also processing in significant numbers detainees, Iraqi detainees who have been in custody, admittedly some of them for

long periods of time. In addition, the Higher Juridical Council through Chief Judge Medhat has assigned to that location something approaching thirty investigative judges. I think the number is about 26-27 right now. And their purpose, their function at that location is to do precisely what your question gets to, which is to address those detainees who have been in custody for short periods of time, modest periods of time, and long periods of time. And Judge Sattar has given you some statistics about some of the successes in processing some of those detainees to this time. Let me also comment that beyond Rusafa of course the same kind of work is going on, has been going on, for in excess of three years at the Central Criminal Court in Karkh. And again we can provide you and talk to you more about some of the statistics there. But the processing is going ahead, and many of the challenges that you identified in getting the detainees through the system are being addressed. And let me add one final comment to that before I turn to my colleagues for their perspectives on your question as well. And that is we have been talking quite a bit about Baghdad. Colonel Martins has again appropriately made reference to some other good things going on in other provinces. And we can chat with you more about some of the specifics on this. But again the Higher Juridical Council through the Chief Justice, through outstanding judges like Judge Sattar and others are establishing new courts in those provinces. Ramadi, I can tell you that again with American support and assistance but also great deference to the Iraqi judiciary there are new courts in Kirkuk

and Tikrit. We have spoken to you in other venues, other times, in this setting about the wonderful successes in Mosul. And that has been, all of those locations were until fairly recently, recent months even as late as a year ago, there were not active criminal courts addressing the detainee population and moving those detainees through the system. Today again I do not mean to indicate that they are not without their challenges, both security related and administrative but that there are in fact judges who are working actively and productively to get those detainees in those locations processed. And there is going to be more of that and more planning as the Higher Juridical Council not only increases its judges that Judge Sattar described but also deploys them thoughtfully to those locations around the country where those detainee populations are especially acute. I'll turn to Judge Sattar and see if he has any additional comments that he would like to make about that.

**SATTAR:** Speaking in Arabic.

**INT:** Regarding the Iraqi court judges that go to the detention centers so they can carry out the investigation. The judge has its own committee and a district attorney. They all go to the detention and they stay about three or four days until they can resolve all the cases. Concerning the question about those who have been detained for a long time, actually that's an Iraqi court. The agreement with the MNF started in 2007 and we worked on and actually released over 2,000 detainees. So the process is ongoing

now, and until now we have a board at the Baghdad International Airport that is actually processing all the cases. We have only 70-80 detainees that are actually being released everyday. And also we sometimes increase the number of detainees in certain occasions, so hopefully the process is ongoing and all those who have not been convicted will be released. And this is also due to the efforts of the Iraqi judges, which I consider really majestic. And Iraq due to what's going on, we go to the citizens. There's no judge in any country that goes and stays the night at the detention center so that it can resolve the cases. So the judges go and carry out all their work with their people so that it can resolve the cases, and hopefully we will succeed.

**MARTINS:** If I could just add to those excellent comments. This goes to what I said in my opening, that converting from combat activities to law enforcement as soon as feasible is an important principle of counterinsurgency. As soon as feasible is an important caveat. There are armed groups in this country attempting to take down the government by force. And there are people in detention who have not foresworn their allegiance to those groups. The building of investigative capacity in the Iraqi courts, the building of the judicial capacity that we're hearing about today is critical to that conversion eventually, from combat activities to law enforcement. But the meantime is always the hardest time, and we're inhabiting the meantime. And doing so I think productively and energetically in trying

to build that Iraqi capacity. Among the things that are happening in US detention facilities to have individuals who can be weaned from their antagonism, their violent approach towards the government, our attempts to give them education, certainly to have the juveniles go to school, to try to give them job opportunities. And then there's a very innovative and helpful forward looking program that Iraqi judges have adapted from their own criminal law of accepting a pledge from the detainee. This is for someone who's typically not guilty of a serious crime a pledge and then a guarantee from a family member. And this is recognized by the court. The guarantee is self-enforceable under law. And in using mechanisms such as this, individuals can be taken out of the category of the imperative threats to the security of Iraq. And that is certainly the goal, is to move people out of that category. So I wanted to add that. But Iraqi capacity, investigative capacity is certainly key to this. Thank you.

**SANTELE:** Thank you, Colonel. Thank you, Judge. Yes a question right over here.

**REP5:** Asking question in Arabic.

**INT:** Question to Judge Abdul Sattar. Iraqi newspaper. Were there any cases of the foreign detainees presented to the Iraqi judicial court? Were there any files of foreign detainees presented to the Iraqi judicial?

**SATTAR:** What do you mean by foreign? Only the Arabs?

**REP5:** No, from all nationalities. Do we have any cases of non-Iraqis? And what happened to them?

**SATTAR:** Responding in Arabic.

**INT:** Actually investigating these issues and the documents of the files. If those committed crimes, yes, we have many allegations by foreigners and Arabs. Some of them have been...and in case they did not commit anything and we don't have enough evidence, they will be released.

**REP5:** Asking question in Arabic.

**INT:** What about those who have been...can you show some of the sentences that have been carried out?

**SATTAR:** That depends on the crime that they committed. We have death penalties...and also have...

**REP5:** So did you carry out these sentences?

**SATTAR:** Yes, some of them have been convicted or carried out by...

**REP6:** Asking question in Arabic.

**INT:** Question to Judge Abdul Sattar. What about the Blackwater company, especially that they violated the Iraqi laws? Have you reached a solution regarding this?

**SATTAR:** Responding in Arabic.

**INT:** Regarding the Blackwater, you know there's an immunity for those companies, so the Iraqi law or the Iraqi court can't judge them or actually

bring them to court. But I think there is a bill at the Council of Representatives, and in case it was approved...

**REP6:** So do you wait a bill to be approved by the Council of Representative?

**SATTAR:** It was a bill presented by the Prime Minister to the Council of Representatives.

**REP6:** And why does it take so long? Particularly, the Council of Representative is busy with many other things. And you can intervene. Why don't you intervene?

**SATTAR:** We just apply the law. We don't legislate. We just apply the law, but those who legislate the laws. It's the Parliament's job. We do not interfere with the job of the Parliament.

**FARRELL:** I'm Steven Farrell, New York Times. Just to move a bit deeper than the numbers we've been hearing about. Can you tell me what sort of cases make up the caseload of the court system on the Iraqi side? Is it just the most heinous types of crime, murder, kidnapping, etc? Or does it go down to lower types of crime, theft and so on? And I'd like to ask in addition to that, as part of that, does the fact that so many people in Iraq have been displaced, has that thrown up property disputes, crimes relating to the sort of things you might find in large movements of populations?

**SANTELE:** Thank you for the question. I suspect that Judge Sattar might be able to give us a general sense of what might be able to give us a general sense of what the overall Iraqi court docket looks like, criminal cases, and frankly, civil cases as well, which is also important to appreciate as I said at the outset that there is a very vibrant and healthy and productive civil judiciary that's working actively out there.

**SATTAR:** Responding in Arabic.

**INT:** I'd like to ask about...you asked about the cases by the CCCI or by the Iraqi courts in general?

**FARRELL:** Well, basically if you could give a breakdown of what both of them, what CCCI does, CCCI and the other courts. I'm just trying to get a sense of what other court's busy with each day. How much of it is major, major murders, etc? And how much of it is ordinary criminality?

**SATTAR:** Actually the CCCI they look at all different of crimes, like kidnapping, terrorism, administration and corruption. We look into all of these. And we also work on other things like the civil court and the commerce court also. We look at all these. But now and due to what's going on, the cases of crime increased. We have cases of kidnapping, terrorism, murder. As to give you some exact statistics I don't have any numbers.

**SANTELLE:** I can also add from just a very anecdotal perspective having visited some of the provincial courts, and I suspect that Judge Sattar will affirm this as well that in those provincial courts you also get what I will refer to as some of the more common crimes also being prosecuted there. As judge Sattar said, the Central Criminal Courts of Iraq in Karkh, Rusafa, the other places around the country where those are being developed have the very special jurisdiction over the high crimes and corruption cases. But I think it's fair to say, and Judge correct me if I am wrong, that in the provincial courts they are also doing those garden variety cases that I suspect your question gets to. And again I remember that one of the most inspiring days of my time here was being in the Basra court and frankly other provincial courts right here in Baghdad, teaming with litigants, teaming with lawyers who are there to seek civil redress of claims, on contracts and other issues and what we would call torts in the American system. There is a very vibrant and productive civil docket that has been handled today by the Iraqi judiciary as well.

**SMITH:** Doug Smith from the Los Angeles Times. Forgive me if this question's been asked. I was delayed somewhere else. A lot of killings have occurred over the past several years. Is there the equivalent of a homicide book on each one of those? Is there a potential for those all to be investigated at some point? Or is some of history just going to be washed over? And are homicides now being investigated individually?

**SANTELE:** I may have perspectives on that. The Colonel may also, but Judge why don't I defer to you first on that. Really I think it goes to the role of the investigative judges I suspect and the role of the judiciary in responding to some extent one aspect of what you're posing.

**SATTAR:** I'm sorry. Could you please repeat the question?

**UNK:** Speaking in Arabic.

**SMITH:** In the United States there's no statute of limitations on homicide. Every single homicide is investigated and always remains open whether resolved or not. And I'm trying to get some comparison.

**UNK:** Speaking in Arabic.

**SATTAR:** Speaking in Arabic.

**INT:** So do you mean the cases that haven't been resolved? Did they catch the perpetrator? Or the crime that took place and still hasn't been resolved? Of course we can't close the case. We can carry out an investigation until...we can't close any case. Especially in the Iraqi law, we don't have that. A case cannot be closed even if it take a long time, so it keeps on going, the process and investigation keeps on going until we find a perpetrator.

**PALEY:** Hi, Amit Paley from the Washington Post. I wanted to ask what sort of political pressure has there been? Pardon me if this has been asked before. I was at the same event that we were delayed at. What sort of political pressure is there on judges? How do judges deal with that? And how has that changed over time? And I'd be curious on both of the judge's perspective and also on the American perspective.

**SATTAR:** Responding in Arabic.

**INT:** The Iraqi Constitution and the Iraqi law guarantee that the Iraqi court is independent. So the Iraqi judge now is independent and no one can influence it, whether it was the government or any political side. The Iraqi judge now is independent inside the Iraqi judicial court itself in issuing his verdict. So the case that he looks into is actually free in issuing his resolutions, according to the law, of course. And the defendant of course can appeal after that. So the Iraqi judge is free and independent in his work.

**SANTELE:** I have little to add by way of substance to that articulate expression of independence of judiciary other than to say once again from my admittedly anecdotal perspective in support of and watching the judiciary in a supportive and assisting role. That has been my assessment as well, that the judiciary again not only takes pride in being independent but is independent. One of the significant things that happened in the history of this nation fairly recently is the establishment of a third branch of

government. That is the courts. And that the policies and practices, training, assignments of judges, deployments of them to various spots, have been conducted independent of the other branches. And one of the things that the chief justice has spoken about with great articulateness for many months has been just this issue. And I know that in the context of training of new judges and new judicial investigators that that sense of independence and not being influenced by outside sources is a key part of that curriculum.

**MARTINS:** If I could just add, too, another sort of sideline observation of this from watching this for a few years and talking to Iraqi judges. They seem to regard themselves as independent. They have a technical body of expertise, common education, then they have strong values of nonpolitical conduct and decision-making. And one Iraqi judge described to me...and any comments from Judge Sattar are certainly welcome here...that under Saddam the judiciary was displaced by special and revolutionary courts more than it was corrupted or changed within. And as a result you have a body of very professional independent actors who are capable of taking decisions apolitically, particularly if protected.

**PALEY:** I wanted to clarify especially what the Judge said. It seemed that in particular when you were talking, you were talking about the ideal of an independent judiciary. Are you saying that in actuality is there no

pressure? Are you saying that no one attempting to exert political influence on the judges? Or are you saying that that influence does exist but the judges are ignoring it and continuing to act independently?

**SATTAR:** Responding in Arabic.

**INT:** Yes, there's always pressure. But the judge and the Constitution and the law, this all guarantees the independence of the judge, and it guarantees that there will be no pressure. The judicial system has an independent budget. So they don't need the government. The judges themselves are independent, and according to the institution, the judge should be politically independent and he should adhere only to the law and not to any other side. So all these guarantees actually make a judge independent. Even assigning or hiring the judges...I only say the only institution in Iraq that doesn't follow any sectarian division, and every institute we now have judges from all sects and they apply the law without any kind of influence, any kind of external influence.

**PALEY:** When you said at the beginning that there is pressure, there of course is pressure, what sort of pressure are talking about? Is it coming from Parliament, from the Prime Minister's office? Where is the pressure coming from?

**SATTAR:** Responding in Arabic.

**INT:** It comes from all sides. The character of the judge and his proficiency makes him really bold. In the past the judge used to...he was afraid when he used to issue a resolution. Probably they could fire him, but after this and now the judge...things are different. The judge is not influenced by the government or any other political side. That's why the judges are now more stronger. And last year in 2006 the number of the cases resolved are 96%, and this is all due to the independence of the law.

**SANTELE:** Thank you. We have time for just one more question, and then we will conclude. Why don't we take a question right here on the right side.

**CHON:** Gina Chon Wall Street Journal, and I apologize if this was also asked since we were all at the same event. It seems that with the security improvements in some areas, they are also trying to establish more court houses. But with the sort of brain drain we've seen in Iraq, and certain people being targeted for killings, are there enough people who have the education and the skills to fill some of these posts at the courthouses to be judges, to be lawyers? And you know is there enough to actually service the people in these areas where courthouses are being established.

**SATTAR:** Responding in Arabic.

**INT:** As I mentioned a while ago, before April, after the independence of the court, we amended the law so we have three sides so that we can bring

new judges. Now we have 1,160 judges. And this comes from three sides, or three different places, in which a judge can study for two years. And after that they apply for some tests in the science of law. And then they will be hired as judges. And also we have lawyers that served for ten years, and they will be nominated by the appealing sessions, who of course will be checked with the Higher Judicial Council and will be hired after that. And also we have the employees who work in the courts, who have actually worked for more than ten years, and they have a Bachelor's degree. And after applying them for some tests in front of the committee, and of course after succeeding in those tests, they are being hired as judges. And as a Higher Judicial Council we have a plan to hire a new group of judges in the future, after the procedures are done.

**SANTELLE:** And if I can simply add to that again. I'm serving the role in having spoken to Judge Sattar and others in the Higher Juridical Council. In terms of an information point about the extent to which there are people here in Iraq, citizens who are committed to the future of this country and this government, I think it is telling, and I don't have the exact figures here, that when the Chief Justice nominates new judges as is he has done on a number of occasions in the past couple of years, there are many, many applicants for those positions. And there are many qualified applicants for those positions who are turned down because the pool is large. Likewise we are working with Judge Sattar and the Higher Judicial

Council in doing training and instruction. And so in connection with the Iraqi judicial training institute and in other settings, it is very much apparent to me that there many lawyers who are interested in enrolling in that judicial training institute to become judges, and many turned away who probably would also be good judges because the quality of those who are selected remains very strong. And the final thing that I will say about this again, just anecdotally from my perspective and acknowledging that I certainly do not know all the judges in Iraq, all 1,200 that are in place here. But those that we work with and have communications with are extraordinarily good quality. They are bright. They have a tremendous integrity. They are hugely productive. And it is not unusual for judges in this country to be working tirelessly, sometimes well into the night and the morning on cases that are critical to the future of this country. They are brave. They are putting their lives on the line on a regular basis. And they bring to all of that a huge amount of professionalism. And so my own anecdotal perspective on it is that we have a very good and solid judiciary. And again not without challenges ahead, but a base that will grow as the HJC continues to add more to that already very good group. With that, but what I'd like to do is have some closing statements from the panelists here. And let me defer initially to Judge Sattar for his closing comments for today. Judge.

**SATTAR:** No thank you.

**SANTELE:** Judge we appreciate your presence here and your comments. Colonel Martins, your thoughts as we conclude today's program.

**MARTINS:** Yes, Jim. In closing, there is encouraging news to report, even as we recognize that the momentum achieved is not irreversible and that many tough months lay ahead. If it is to be converted from a high sounding ideal to reality, the rule of law requires capacity, that is functioning institutions, trained and courageous people, time, money, and it also requires will. The hopeful development is that Iraq is demonstrating both greater capacity and increasing will to establish the rule of law. And this is not only a good thing in itself. It is also an effective part of the Iraqi government's counterinsurgency campaign. Thank you.

**SANTELE:** Colonel Martins thank you very much. And just by way of final comment, I wanted to offer this perspective. Many of your questions today most appropriately focus on the extent to which we know that the rule of law is being promoted, that judges are doing their jobs, that justice is in fact being delivered. One of the great difficulties in this area is measuring that. We can point to the construction of courthouses, the construction of new corrections facilities, the creation of things that we call bricks and mortar. The real challenge in rule of law is to capture the hearts and minds of any country's citizens, including those in Iraq. And as Judge Sattar as articulately said today and Colonel Martins has also supported in his comments, the real measure of rule of law and the establishment and its

taking hold in a nation is when the citizens, those people who are teachers and bankers and masons and government workers, look to the institutions of government, their legislature, their executive branch, and inside what we have been talking about today, their judges and their courts, and feel great confidence and feel great trust and feel that they can in fact go to the courts and go to the Judge Sattars of this country and be treated fairly without sectarian bias and have a sense that went the process in concluded that those who have been engaging in bad conduct are in fact held accountable. On the civil side those who have claims to make are in fact given their day in court as well. That is the aspiration, and that is the aspiration of any country that is committed to the rule of law. I believe that my colleague Mark and I would tell you that it has been our witness, if you will, that there are some, again, some great committed people to that concept. And that aspiration we're also realizing it today, even amidst the great challenges that we are facing. We continue to partner productively and actively with the judiciary and also with the other institutions of government that are promoting and advancing the time when all Iraqis will look to their government with that sense of confidence and trust. I want to thank very much my colleague Colonel Martins for his comments and his responses to questions today, and especially thank our good colleague and partner Judge Sattar, who has been in these forums before and always brings insight and perspective to them. And finally I want to thank all of you in the media for being here today. We appreciate very much your

presence among us and you're conveying the messages here to the larger population. Have a good afternoon everyone. Take care.