

TESTIMONY OF JUDGE RADHI HAMZA al-RADHI
Commissioner, Commission on Public Integrity, Republic of Iraq
Hearing on the Effectiveness of U.S. Efforts to Combat Corruption,
Waste, Fraud and Abuse in Iraq, March 11, 2008
Senate Committee on Appropriations
Corruption in the Iraqi Government and its Costs

To Our Distinguished Chairman and Respected Members of the United States Senate, Ladies and Gentlemen:

GREETINGS

I am Judge Radhi Hamza al-Radhi, former Commissioner of the Commission on Public Integrity ("CPI"), Republic of Iraq. It is an honor to be here among you today to discuss with you the most important problems facing Iraq after the recent change. The change which led the United States and its allies in Iraq to eliminate the highest dictatorship in the world, that of Saddam Hussein. The dictatorship he built on the corpses, money and the suffering of Iraqis. I want to thank the American people who have sacrificed their life and money in order to achieve noble goals that are worthy of respect. The goal for Iraqi's rights, for the ending of their suffering and for the spread of democracy throughout Iraq, which is the key to progress and growth. Thank-you thousands of times to everyone who participated and sacrificed for these noble goals.

REASONS FOR AN IRAQI COMMISSION ON PUBLIC INTEGRITY

- Iraq is a rich country; however its infrastructure is essentially nonexistent and much work needs to be done.
- Building democracy requires transparency from the Government in order for that government to manage socio-economic matters.
- The Iraqi people are smart and hard working and are looking for progress. For that they deserve a fair and honest government.
- Transparency and the presence of an effective Commission on Public Integrity as well as The Board of Supreme Audit and the Inspectors General will encourage foreign investment in Iraq.

- The existence of these bodies dedicated to public oversight, especially CPI, would protect funds, and these funds would be devoted to public services for Iraqi people, leading to welfare and prosperity for them. This in turn would bring internal stability and would have positive impacts on regional and international stability.
- The legal authorities for these anticorruption organizations are derived from the Coalition of Provisional Authorities orders including Order No.(55) establishing the Commission on Public Integrity, Order No.(57) establishing the office of Inspector General in each ministry and Order No. (77) Continuing the Board of Supreme Audit which was established in 1927.

APPOINTMENT AS COMMISSIONER

For these important reasons Iraq established the Commission on Public Integrity. I was honored to be named the Commissioner of CPI. The Iraqi Judicial Council selected three candidates for this position. Ambassador Bremer chose me to lead CPI because I graduated from the Judicial Institute in 1979 and I have 39 years of experience in legal affairs. Additionally, I was director of funds for Iraqi orphans during the Iraq-Iran war. While I consider myself an honest technocrat and judge, some have speculated that other credentials included the fact that I am Shia and that I was jailed and tortured by Saddam Hussein for refusing to join the Baath Party. According to the law, future commissioners will be selected from three candidates chosen from the Higher Juridical Council. The Prime Minister must pick one of these candidates and the Parliament must confirm this candidate. A Commissioner can only be fired for cause by a two thirds vote of the Parliament. Therefore the responsibility of this power and the need for integrity in this office is great.

OPERATION OF CPI

This Commission on Public Integrity started in June 2004. American experts have had a great impact in providing advice and guidance to this magnificent Commission. The American experts helped us by establishing training courses from day one until now. They have spent a great amount time and of money to hold this Commission accountable to disseminate and promote the ethics of integrity for my country.

The functioning of CPI had been outstanding even under very difficult circumstances. It was able to build several important departments or directorates within 3 years, such as:

- The Directorate General of Prevention and Transparency, which prepared a Code of Conduct for all Iraqi government employees and has also prepared a Financial Disclosure program to disclose the financial interests of senior employees such as the general director and superior officers.
- The Directorate General for Non-Governmental Organization relations, which contacted most NGOs in Iraq in order to motivate them to achieve their objectives and solve their problems honestly. Some of these organizations have played a significant role in my country to develop morals and contribute to the reconstruction of Iraq and also to put pressure on the Government to provide better services to the Iraqi people.
- The Directorate General for Education, which worked to educate government employees on their duties and responsibilities, including promoting the Code of Conduct, educating Iraqi public on their rights and responsibilities as well as promoting the Hotline. In conjunction with the Ministry of Education, it worked to develop a curriculum for Iraqi school children to promote public service and ethics. It had a public affairs department to work with international and domestic news media organizations.

In addition, the Directorate General for Investigations investigated corruption in government departments and ministries.

RESULTS

During these three years, there have been many results produced for an organization so young and new to my country. I will briefly expand on many of the areas above such as our work with educating the government ministries in the Code of Conduct, work on Financial Disclosure, the establishment of an INTERPOL liaison office, printing and distribution of educational materials for children, a Civil Service Reform conference and NGO conference, Investigation Department has expanded with the establishment of a Forensics Division, an Investigative Research Division, a Witness Protection Program and facilities, the establishment of a Statistics Division in the Administration Department which promulgates annual reports to the Iraqi government and the Iraqi people on the activities of CPI, the initial establishment of a Public Integrity and Ethics Institute to professionalize the civil service and provide training for CPI, the Board of Supreme Audit and the Inspectors General, the establishment of an anticorruption Hotline to receive calls from Iraqi citizens for the first time in Iraq's history, the printing and distribution Hotline promotional materials and other CPI materials.

For the first time, perhaps in Middle East history, a government minister was arrested, in accordance with the Rule of Law in a non-political, non-sectarian manner, on corruption charges. This case came early in our investigation process, before the full force of opposition to CPI was organized. Unfortunately, of the 3,000 corruption cases we successfully investigated and forwarded to the courts for adjudication, according to my records, only 241 cases to date were adjudicated with guilty sentences ranging between six months and one hundred and twenty years. However, the cost of corruption that my Commission has uncovered so far across all ministries in Iraq has been estimated to be as high as \$18 billion.

Broken down by Iraqi government ministry, that \$18 billion was distributed in this way:

| <u>MINISTRY</u> | <u>TOTAL MONEY</u> |
|-----------------|--------------------|
| Defense | \$5,000,000,000 |
| Trade | \$3,000,000,000 |
| Electricity | \$3,000,000,000 |
| Transportation | \$2,000,000,000 |
| Health | \$2,000,000,000 |
| Interior | \$1,000,000,000 |
| Communications | \$1,000,000,000 |
| Housing | \$1,000,000,000 |
| Finance | \$ 500,000,000 |
| Oil | \$ 500,000,000 |

This data represents my estimate based only on cases before the courts as of late 2007. It does not break the numbers down by US tax dollars or Iraqi dinar. While US tax dollars may be of greater interest to this Committee, such a break down is very hard for me to determine. It also does not distinguish between degree of crime such as funds stolen and funds poorly spent due to mismanagement. It does not represent the cases that never made it to the courts or cases dismissed at the court, some of which were dismissed after judges were threatened or assassinated. In particular, it does not reflect the full extent of oil corruption, including metering fraud, theft, and smuggling. My small group of heroic investigators did not have the capacity to investigate all of the oil smuggling. In addition to theft by militias and government employees, I had received evidence of widespread smuggling including the reestablishment of the smuggling routes that Saddam Hussein's regime used to circumvent United Nations resolutions including the Oil for Food Program.

In addition, based on the end of year 2005 data available to me, I have attached for the Committee six graphs detailing how corruption was reported, our CPI caseload by ministry, the percentage of corruption cases by ministry, the disposition of

cases, the corruption cases by kind and the demographics of the top 35 senior indicted officials.

GUIDING PRINCIPLE

I have led my life governed by these few words, "Law is above all, no one is above the law." This guiding principle applies to all government departments and ministries neutrally, fully and without regard to sect, ethnicity, party affiliation, tribe or religion.

MAIN OBSTACLES

The main obstacles to our work are:

- Violence, intimidation and personal attacks. Since the establishment of the Commission of Public Integrity, more than 31 employees have been assassinated as well as at least an additional 12 family members. In a number of cases, my staff and their relatives have been kidnapped or detained and tortured prior to being killed. Many of these people were gunned down at close range. This includes my staff member Mohanned Abd Salif who was gunned down on the street with his seven month pregnant wife. My Security Chief on my staff was repeatedly threatened with death, and his father was recently kidnapped and killed because of his son's work at CPI. His body was found hung from a meat hook. One of my staff members who performed clerical duties was protected by my security staff, but his father was kidnapped because his son worked at CPI. This staff member's father was 80 years old. When his dead body was found, a power drill had been used to drill his body with holes. My head of our Mosul branch was killed by a suicide bomber in his office. Two weeks ago one of my attorneys was shot in the neck and in the chest, and is now fighting for his life. Just Friday the body of one of my investigators was found in a Baghdad trash dump. These are just a few examples, there are many more which were directed to my staff, me and our families. Personally, for example, my family's home has been repeatedly attacked by missiles, virtually destroying all around me. I have had a sniper bullet striking near me as I was outside my office. We know the corrupt will stop at nothing. They are so corrupt that they will attack their accusers and their families with both guns and meat hooks as well as counter charges of corruption. So that the accusers become the accused in a deadly game that all of us have witnessed.

- The Prime Minister and his government have refused to recognize the independence of the Commission on Public Integrity, even though the Iraqi Constitution sets forth the independence of CPI in point No. 102,103.
- The interference of the Iraqi Government in Commission matters; officials and agencies in the Iraqi Government sent us formal letters forbidding us to take any action against the presidency, council of ministries and former and current ministers.
- The use of Article 136, Section B of the Criminal Procedures Law No. 23 of 1971, which prevented us from transmitting many corrupt employees' cases to court until we received permission from the minister of the agency we were investigating. This presented obvious problems. The same thing applied to corrupt ministers: We could not take any action until we could get the permission of the Prime Minister. Based on that, many corruption cases have been closed by the ministers and the Prime Minister, at an estimated worth of one hundred billion Iraqi dinar. In addition to the obstacles of Article 136, there was pressure put on the judiciary not to prosecute cases on behalf of individuals. Many of Iraq's judges live in fear of torture and assassination of themselves and their family members if they adjudicate cases of senior government officials.
- The Executive, Legislative and Judicial branches of the Iraqi Government did not work as required to promote the Rule of Law and fight corruption in Iraq. The executive branch often protected corrupt employees and actively attempted to eradicate or control the Commission. The legislative branch did not revise the anticorruption laws. The judiciary branch often succumbed to pressure and did not adjudicate corruption cases.
- The government did not appoint leaders, particularly ministers and Inspectors General that would fight corruption within ministries.
- In order to promote sectarian agendas, professional technocrats who were qualified to perform vital government services and administration were not appointed.
- Importantly, it has been impossible for the Commission on Public Integrity to safely and adequately investigate oil corruption where Sunni and Shia militias have control of the metering, transport and distribution of Iraqi oil. This has resulted in the Ministry of Oil effectively financing terrorism through these militias.

- Additionally, my small group of investigators investigated the largest number of cases in the Ministry of Defense and Ministry of Interior. As you might imagine, investigating the security forces of Iraq is very difficult, but necessary for an Iraqi future of transparency and the Rule of Law.

THE FUTURE

As the committee can appreciate, this is not an easy situation to resolve and it will not be resolved quickly or completely. Obviously the Government of Iraq, with the help of the US government, needs to resolve the specific obstacles that I have listed above.

Further, the people who were dedicated and honest under my tenure at the Commission on Public Integrity need to be protected and supported and those who infiltrated the Commission for sectarian political reasons must be re-staffed with people who are truly committed to its mission and its guiding principle that "No one is above the law." If this does not happen, I am afraid that the Commission itself can be used as a tool of oppression as well as a tool of the corrupt to further corruption, sectarianism and an illegal consolidation of power through targeted purges of political enemies.

Finally, the people of Iraq must see advances by the Iraqi Government on the political level, on economic reconstruction, on basic services, amenities and infrastructure, and on the rule of law. The Government of Iraq will fail and the Iraqi and American people will continue to suffer if the militias and militia controlled parts of the Iraqi government, including the security forces, are not brought under control. Sectarian corruption has eroded the work of the American and Iraqi people to build a better future for Iraq and the region.

CONCLUSION

Let me share with you my situation -- at the least to the extent I am able right now. I and a staff delegation from the Commission on Public Integrity of the Republic of Iraq came to the United States on August 24, 2007, for forensics and evidence training with the US Department of Justice. During our visit, threats against me and my family in Iraq escalated to a point where, together with the immense pressure of the last two years from the highest levels of the Iraqi Government, regretfully and painfully caused me to seek appropriate US Government protection for my family. My family's safety became paramount.

My case for asylum was filed October 3, 2007, and is currently pending. Just as my family's safety was at risk in Iraq because of my work, now my words, including my words to you today, may add to my risk. Following my testimony

before the United States House on October 4, 2007, the Iraqi Prime Minister himself threatened me with prosecution. Further, I am told that my former agency now has been directed to simply pursue charges against me and my staff and ignore the corruption in the Iraqi Government.

My staff and their families, I and my family, know too well that honesty, democracy and justice are not purchased without a price. While those ideals are praised loudly, the people who fight for them daily -- the law enforcers, the anti-corruption fighters, the whistleblowers and their advocates -- are too often met with violence, persecution, false allegations, and indifference. I have the greatest respect for the work, courage and sacrifice that the American people have made on behalf of Iraq. I come before you with faith and confidence that my service to my country and to all like you who stand against corruption will not cause any retaliation in the United States. This is not the case in Iraq today, where I and my Commission have been politically, legally, financially and physically attacked.

Now, here in America, without protection or plan, I am but a feather in the wind. I am a judge and a crime fighter. I don't know politics. I worked my life for my country. I love and I very much miss my country, but if I return, I will be killed. I look forward to the day when my status is secure and my family and I can begin to rebuild our life.

I see my work in uncovering billions of dollars of corruption as promoting democracy, public integrity and the rule of law in Iraq and look forward to working with all who will aid in this effort.

Thank you for your attention and patience, and please feel free to ask any questions.

Judge Radhi Hamza al-Radhi
Chairman of the Integrity Commission in Iraq