



**International  
Legal Assistance  
Consortium**



## **ILAC Report**

### **Irak, August 2003**

ILAC is a global organisation, established and based in Sweden. ILAC is a consortium of NGOs throughout the world with experience in providing technical legal assistance in post-conflict situations. ILAC's more than 30 member organisations represent over 3 million judges, prosecutors, lawyers and academics.

## **1. Introduction**

This report is the result of an ILAC mission to Iraq 13 – 20 August 2003. The mission was undertaken in cooperation with the United Nations and its Special Representative to Iraq Sergio Vieira de Mello as well as with the Coalition Provisional Authority (CPA).

This mission would not have taken place without the support and cooperation of Sergio de Mello, who had earlier invited ILAC to conduct a similar mission in East Timor in December of 2001. The ILAC mission to Iraq met with Sergio de Mello in his office only two days before his tragic death in the bomb attack on the UN headquarters in Baghdad in the afternoon of Tuesday 19 August. As usual, he demonstrated his keen interest and deep knowledge of issues of human rights and the rule of law. The proposals at the end of this report have been approved by him. Sergio de Mello can not be replaced, but the horrific killings of him and several members of his staff must strengthen the resolve to help bring the rule of law to the people of Iraq.

### **1.1. Scope of the mission**

Prior to the ILAC Mission, an extensive country-wide assessment of the post-war judicial system in Iraq had been carried out under the auspices of

CPA and the Overseas Prosecutorial Development and Training Office of the United States Department of Justice (OPDAT). The conclusion from that assessment, both by the UN and CPA, has been that the existing judicial system is largely acceptable as a platform to build from, but there are obvious strong needs for resources and training. Therefore, after consultations with UN and CPA, the scope of the ILAC mission has been limited to identifying and defining specific projects for the reconstruction of the judicial system - on the basis of the CPA assessment report and interviews with Iraqi judicial officials and legal organisations as well as with the UN and CPA - and in concert with other initiatives. For a list of our meetings, see Appendix A. However, since most readers of this report will not have had access to the OPDAT assessment, this report also includes a brief description of the Iraqi judicial system and its different actors.

## 1.2. Mission members

The mission team consisted of the following four members:

- Judge Judith Chirlin (USA), representing the American Bar Association
- Mr Kadhim Lami (UK/Iraq), representing the Arab Lawyers Union and the International Bar Association
- Judge Finn Lynghjem (Norway), representing the International Bar Association
- Mr Christian Ahlund (Sweden), Executive Director of ILAC.

## 2. Country Background

Iraq has a total area of approximately 437 000 square kilometres or 171 600 square miles (approximately the size of California or Sweden), with a population of 24 million, with roughly 4 million currently living abroad. The two largest ethnic groups are Arabs (app. 75%) and Kurds (app. 20%). The Shia Muslims (app. 60%) and the Sunni Muslims (app. 35%) are the most numerous religious groups.

Iraq was formed out of the three Turkish provinces of Baghdad, Basra and Mosul after World War I. It gained independence and admission to the League of Nations in 1932, after having been under British occupation since the end of the war. Based on a treaty between the two countries in 1930, Iraq remained in a close military and political alliance with Great Britain until a military coup in 1958, when the king and the prime minister were overthrown and killed. During the years after World War II until this coup, Iraq had enjoyed a period of political liberalisation, relative judicial independence and increasing prosperity.

After a series of coups and counter-coups during the early and mid '60s, the Arab Socialist Renaissance Party (Ba'ath Party) assumed power in 1968. In July 1979, the Ba'athists appointed Saddam Hussein as the President of Iraq and Chairman of the Revolutionary Command Council (RCC).

### **3. Legal and Political Background**

A coalition led by the US and Great Britain invaded Iraq in March 2003. By 9 April, Saddam Hussein's regime had been overthrown and the coalition forces had occupied Iraq's territory.

On 22 May the UN Security Council passed Resolution 1483, which identifies the US and Great Britain as an occupying force and authorizes them to control Iraq until there is an internationally recognized Iraqi government.

In order to assume the responsibilities of an occupying force under international law (1907 Hague Regulations and the 1949 Fourth Geneva Convention) the US has established a civilian authority, the Coalition Provisional Authority (CPA), to govern Iraq until structures for a domestic democratic rule have been put in place. CPA Regulation Number 1 states: "The CPA shall exercise powers of government temporarily in order to provide for the effective administration of Iraq during the period of transitional administration.---- The CPA is vested with all executive, legislative and judicial authority necessary to achieve its objectives."

Resolution 1483 also involves the UN in the reconstruction of Iraq, by calling for the appointment of a Special Representative to assist the people of Iraq by, inter alia, “promoting the protection of human rights, encouraging international efforts to rebuild the capacity of the Iraqi civilian police force, and encouraging international efforts to promote legal and judicial reform”. Resolution 1483 calls for the UN Special Representative to work “in coordination” with the CPA, but since the CPA is vested with “all executive legislative and judicial authority”, the UN in Iraq is in reality in the unusual and delicate position of being subordinated to one of its member states.

After a consultative process involving the CPA, the UN Special Representative and major Iraqi political groups, an “Interim Governing Council” has been formed. It met for the first time on 13 July. This body consists of 25 members, selected with a view to reflect the ethnic and religious composition of Iraq.

According to CPA Regulation Number 6, the Interim Governing Council will, in cooperation with CPA formulate policy on, inter alia, “the rebuilding and reform of Iraq’s armed forces, police and justice sector”. The mandate of the Council has been criticized for being unclear on the issues of executive power and the division of responsibility between CPA and the Governing Council. In its recent report “Governing Iraq” (25 August 2003, p 13), the International Crisis Group (ICG) writes: “The question left unanswered by the structure established by the CPA is whether it intends the Council to be a real executive authority or, rather, the symbolic embodiment of Iraq’s national sovereignty, with real power exercised elsewhere”<sup>1</sup>

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<sup>1</sup> Also, the composition of the Governing Council has been criticized for an over-representation of Iraqi exiles and for using ethnicity and religion as selection criteria. According to the critics, Iraq has not suffered from ethnic and religious tensions, and the use of these concepts as the basis for the selection of the Governing Council may in fact create the very problem that the selection process has been intending to avoid. “Unwittingly, Bremer and the CPA may have already started Iraq down the road to Lebanonisation by composing the [Interim Governing Council] according to sectarian and ethnic calculus” (Raad Alkadiri and Chris Toensing, “The Iraqi Governing Council’s

## 4. The Judicial System

### 4.1. The Constitutional Situation

The most recent “constitution” in Iraq dates back to 1970 and was adopted by resolution of the Ba’ath Party Revolutionary Command Council (RCC). According to this constitution, the right to issue laws and decrees was vested in the RCC and the President with the National Assembly having only the right to propose legislation. The President had the right to appoint and remove judges and other public officials.

The RCC has been dissolved by the coalition forces. The much-feared Special Security Courts, which were created outside the regular court system by the RCC after the Ba’ath Party assumed power in 1968, have also been abolished after the overthrow of the old regime.

The Interim Governing Council has very recently appointed a national constitutional commission, which will decide on the process for adopting a new constitution for Iraq.

### 4.2. The Regular Court System

The Iraqi judicial system is based on the French model (“Code Napoleon”), which was introduced during Ottoman rule, combined with Islamic Sharia law.

In each of the eighteen provinces, except Baghdad, there are the following levels of courts:

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Sectarian Hue”, MERIP, 20 August 2003; see also International Crisis Group, *op.cit.*, pp. 15-17).

The gender aspect, on the other hand, appears to have been overlooked in the selection process.

a) **Courts of First Instance**, which hear civil and commercial cases. Its decisions and judgements may be appealed to the Court of Appeal for the province.

b) **Misdemeanour Criminal Courts**, which handle crimes, where a sentence of maximum five years imprisonment is applicable. The possibilities of appeal are limited to the more serious cases, where judgments may be appealed to the Felony Criminal Court.

c) **Felony Criminal Courts**. In each province of Iraq, there is a Criminal Court, except Baghdad, which has more than one because of its large population. These courts handle all major crimes. The judgments are sent to the Supreme Court for review. Judgements that do not comply with the law may be returned to the original court for a retrial.

d) **Administrative Courts**, which have jurisdiction over disputes between individuals and the government, or between government bodies. The decisions may be appealed to the Court of Appeals. If the size of the amount under dispute exceeds a certain limit, the case may be brought further to the Supreme Court. If not, the decision by the Court of Appeals will be final.

In addition to these types of courts, there are twelve regional **Courts of Appeal**, which hear appeals from lower courts in their respective region, with the exception of religious tribunals.

Judgements from the Courts of Appeals may be appealed to the **Supreme Court**. Since the system is based on the French model, the Supreme Court functions as a “cour de cassation”, which means that it will only hear matters of law, and will refer erroneous judgements back to the original court.

#### 4.3. The Central Criminal Court

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In addition to the already existing criminal courts, CPA has by decree established the Central Criminal Court in order to try “those serious crimes, that most directly threaten public order and safety”<sup>2</sup>. Specifically, this court will only hear such cases as are forwarded by the CPA (Section 21:1). The jurisdiction of the court is further limited to “crimes committed in Iraq since 19 March 2003” (Section 5). The Central Criminal Court sits in Baghdad and in Mosul.

The judges of the Central Criminal Court are appointed for a term of one year by CPA, following recommendations from the Judicial Review Committee. The Central Criminal Court applies the regular Iraqi Code of Criminal Procedure and the Iraqi Penal Code. Judgements may be appealed to a special appellate division of the court, and from there to the regular Supreme Court.

#### 4.4. The Judiciary

Applicants for a career as an Iraqi judge are required to have a law degree, three years of legal practice, to be married and to be between 28 to 40 years old. The number of accepted applicants each year vary from 10 to 100, depending on the need. The number in 2003 was thirty-three. The training takes two years, after which follows one year of practical work as a junior judge. According to our information, no woman has been accepted since 1991.

Under the previous regime, the judiciary was placed under the control of the Ministry of Justice. Membership in the Ba’ath Party was in reality necessary to embark on a career as a judge.

##### 4.4.1. The Judicial Training Institute

The training of judges and prosecutors takes place at the Judicial Training Institute, which was established in 1977. The Judicial Training Institute was badly looted in the lawlessness that followed the overthrow of

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<sup>2</sup> CPA Regulation Number 13, 18 June 2003

Saddam's regime. However, with international assistance, the building has been restored and the impressive library remains largely intact. The institute is headed by Jaffar Nasir, an experienced judge, who appears to enjoy respect in the Iraqi legal community, and who supports the idea of beginning to use the Judicial Training Institute for the kind of training needed to bring the actors in the Iraqi judicial system out of their international isolation.

#### 4.5. Prosecutors

The prosecutors are also trained at the Judicial Training Institute and are recruited from the same group of candidates as the judges. On the basis of how successfully a candidate performs, the board of directors determines who will become a judge and who will become a prosecutor. Judges have a higher status and are better paid than prosecutors. Prosecutors are organised in the Department of Public Prosecutions, which is under the control of the Ministry of Justice.

In the inquisitorial system, which is the basis for the Iraqi Code of Criminal Procedure, the investigation of a crime is led by an investigative judge and the role of the prosecutor is more limited than in countries which apply the accusatory or adversarial principle of criminal procedure. The inquisitorial system also gives the trial judge a more active role than in the adversarial system, at the expense of the prosecutor and the defense counsel. Under Saddam's regime, the role of the prosecutor was even further reduced and is presently not much more than an advisory or observational role. According to the OPDAT assessment, prosecutors in Iraq have become virtually irrelevant to the process.

#### 4.6. The Bar Association

The Iraqi Bar Association was established in 1923. It has roughly 20 000 members, about half of them in Baghdad.

The Iraqi Bar Association is governed by a law (No 173) from 1965. It is a national bar, with chapters in each of Iraq's eighteen provinces. The requirements for membership are Iraqi citizenship and a degree in law from an Iraqi university. There are no requirements for any previous practical experience. Iraqi nationals who have graduated from foreign law schools may also be admitted, but only after having to pass an examination. In addition, an applicant may not have been sentenced for a crime during the last two years. Only members of the Bar are allowed to provide legal advice or to practice before the bench.

Critics say that the admission requirements are too lenient, resulting in too many lawyers of insufficient quality. Many night schools and private schools are in reality functioning as diploma mills, offering law degrees if the student is simply willing to pay. This is a development, which has accelerated during the last ten years and greatly damaged the reputation of the legal profession.

A Council of ten members and a President govern the Bar. The Council and the President are elected by all members of the Bar for a term of three years and may be re-elected.

Disciplinary issues are handled by a special committee consisting of one member of the Council and two Bar members in good standing, who are not members of the Council. There are three degrees of sanctions:

- warning
- temporary suspension for maximum one year and
- exclusion

According to the Bar Administrator, 60 to 70 individuals are subjected to different forms of sanctions each year. Decisions by the disciplinary committee may be appealed to the Supreme Court.

The activities of the Bar are financed by yearly membership fees, equivalent of about \$ 6 per member. In addition, commercial companies, which retain lawyers, are required to pay the Bar an amount of 5% of the lawyer's fee.

During the previous regime, the Bar, in the same way as other Iraqi associations, was under the supervision and direction of the “Professional Bureau of the Ba’ath Party”, which strongly influenced the nomination and election of the Bar Council and the President.

The ILAC team had the opportunity to observe the first free elections of the Iraqi Bar Association since the fall of the regime of Saddam Hussein. These elections took place on 14 August. We were impressed with the number of members, who had turned up to vote, and were told that the large turn-out was partly due to the fact that this was the first free and democratic election in Iraq for more than thirty years. The election was conducted in an orderly and disciplined manner. After the results were announced, we had a constructive meeting with the new President, Mr Maleh Douhan al Hassan, and with the new Council.

## **5. Urgent Problems Facing the Iraqi Judicial System**

### **5.1 International Isolation and Executive Interference**

The Iraqi judicial system does not suffer from a shortage of trained jurists. Instead, its perhaps greatest problem is the disastrous effect on the system of three decades of international isolation, in combination with Saddam’s policy of systematic under-mining of any judicial independence. Almost all our interlocutors were in agreement that there is a strong need to re-introduce today’s Iraqi jurists to the concept of the independence of the judiciary.

Similarly, during the time of the isolation of the Iraqi judiciary, the world has seen important developments in the area of human rights law. For example, on the basis of international conventions, such as the 1966 Covenant on Civil and Political Rights (ICCPR), landmark jurisprudence has been developed in the field of due process and fair trial. Iraq has ratified the ICCPR. Iraqi jurists need to be made aware of the contents of the ICCPR and of the fact that it is technically part of Iraqi law.

## 5.2 Right to Legal Representation.

In the wake of the wave of lawlessness and looting, which accompanied the overthrow of Saddam's regime, large numbers of suspects have been arrested. However, the judicial system, including the newly established Central Criminal Court, lacks the resources to process these cases in accordance with internationally accepted principles, with the result that hundreds of detainees remain in jail, in violation of the principle of habeas corpus and the right to be put on trial within a reasonable time. As a first step, these suspects will need to have counsel appointed to look after their rights.

In the short term there is an urgent need for devising a mechanism for the appointment of defense counsel for those who are being investigated for crimes under the jurisdiction of the Central Criminal Court. A mechanism for the appointment of legal representation also needs to include a component of financial compensation.

## 5.3. Criminal Procedure Review

The criminal procedure applied under the previous regime systematically violated the rights of a suspect, in spite of the fact that Iraq had ratified the 1966 International Covenant on Civil and Political Rights (ICCPR). The right to be represented by a lawyer is only applicable at the time of the actual trial, not during the investigative stage. Confessions obtained through torture are admissible, if corroborated by other evidence. Counsel is not permitted to confer with their clients in private. The right for the indigent to have counsel appointed is not applicable in misdemeanour cases. A misdemeanour under Iraqi law is an offense punishable by a maximum of five years imprisonment. When indigent clients have lawyers appointed, the compensation, roughly \$ 3 per case, is totally inadequate.

Some of the most reprehensible practices of the Iraqi criminal procedure have been provisionally suspended by CPA, but the whole system of criminal procedure is in need of an over-haul, to bring it into accordance

with the principles of ICCPR, which has been ratified by Iraq and is in fact already part of Iraqi law. We believe that such an over-haul should consider the potential advantages of the introduction an adversarial criminal procedure, with a more prominent role for both the prosecutor and the defense counsel. This type of criminal procedure is steadily gaining ground – at the expense of the inquisitorial system - and has been successfully introduced also in many so called civil law environments, including the Scandinavian countries.

## **6. Transitional Justice**

Many of the atrocities committed by the regime under Saddam Hussein are of such a magnitude as to qualify as crimes against international humanitarian law, such as genocide or crimes against humanity. The recent capture of Ali Hassan Al Majid, known as “Chemical Ali”, confirmed by CPA on Thursday 21 August 2003, provides an illustration of the kind of crimes that post-Saddam Iraq will have to deal with. “Chemical Ali” has been named as responsible for the killing of more than 5 000 Iraqi Kurds, including women and children in the town of Halabja in March 1988, by the use of poisonous gas. Recent estimates indicate that as many as 300 000 Iraqis may have been killed in various ways during Saddam’s regime.

A number of unfortunate countries can provide examples of various solutions how to deal with similar situations: The truth commissions of Chile, South Africa or Peru; the international tribunals of Rwanda and Former Yugoslavia; or the mixed tribunals of Sierra Leone and Cambodia.

It will be up to the Iraqis themselves to decide how best to deal with the atrocities of the past regime. But Iraq will need the assistance and the support of the international community, both in selecting an adequate mechanism for the implementation of transitional justice and in processing cases through that mechanism.

Regardless of what mechanism the Iraqis will eventually choose, it is clear that the jurisprudence developed in the area of international humanitarian

law over the last decades will be applicable as the substantive law in many of these cases.

And even if the Iraqis choose to involve international jurists in the process of administering transitional justice, it is clear that a considerable number of Iraqi jurists must play important roles, be it as investigators, judges, prosecutors or defense lawyers.

It has been underlined elsewhere in the report that the Iraqi legal community is well trained and composed of many distinguished judges, prosecutors and defense lawyers. However, as a consequence of their long isolation from the rest of the world, in order to prepare themselves for dealing with complicated issues of transitional justice, Iraqi jurists are in urgent need of training in international humanitarian law.

## **7. Project Proposals**

As in other areas of reconstruction in Iraq, the need for international assistance in rebuilding the judicial system is substantial. The following project proposals have been selected as being both of particularly high priority and within the areas of expertise, covered by ILAC's member organisations, which will be the implementers of the proposed projects.

### **7.1. Training Programmes**

#### **7.1.1. Training of Judges**

As set forth above, the Iraqi judiciary has been isolated from the rest of the world and particularly from contemporary legal thinking for thirty years. This is neither a revelation nor a controversial notion: all of the Iraqi judges and other legal professionals with whom we met are in agreement.

There is a recognized need for comprehensive training of judges in a number of areas. The highest priority subject areas, which were mentioned independently by the Iraqis and by the members of our team, are judicial independence and contemporary standards of human rights

law. The Iraqis are very proud of the ancient roots of their legal system and the historical tradition of an independent judiciary. They are also forthcoming and candid about the extent to which independent judicial decision-making was not only discouraged but also aggressively punished by the previous regime. They are also cognizant, albeit in a vague way, of the fact that there have been substantial developments in the field of international human rights, developments that have not touched Iraqi law.

To address the need for training of judges and for exposure of the judges to the outside world, the ILAC team recommends a program of training for judges that would include two components. The first is a series of actual training programs for Iraqi judges; the second is an educational tour of a sophisticated judicial training centre by the leadership of the Judicial Training Institute.

**Training Program for Judges:** Attention is drawn to the CEELI Institute, a project of the American Bar Association, which our team believes has an established program that could be easily adapted to the needs of the Iraqi judiciary. The two week course is called “Judging in a Democratic Society.”

It focuses on two aspects of judicial independence. The first is a combination of the theoretical (“what do the words judicial independence mean?”) and the practical (“how does judicial independence inform and affect the daily work of a judge?”) Integral to this portion of the class is how independent judges make decisions. In the past, contemporary European human rights law has been the substantive law used in these exercises.

The second focus of the course is on those structural aspects of a court system that are necessary to strengthen and support an independent judiciary. Those aspects include:

- education of the public on the importance of an independent judiciary;

- education of the media on the how the courts work and the need for an independent judicial system (so that they can more accurately educate the public);
- judicial ethics;
- appropriate mechanisms for judicial selection, discipline and removal; and
- court management and leadership.

An additional aspect of the CEELI Institute program that would be of great value to the Iraqi judiciary is a “train the trainers” segment. It includes an explanation of the teaching techniques used at the Institute, so that the participant judges can return to their courts and teach those who were not at the class.

Ideally, there would be no fewer than three “Judging in a Democratic Society” programs for Iraqi judges within the first year. ILAC will seek funding partners.

**Educational Tour for the Leadership of the Judicial Training Institute:**

There are advanced programs for judicial education in various training institutes around the world. We believe that the program of the Judicial Training Institute could be significantly enhanced by exposing the leadership of the Judicial Training Institute to contemporary ideas in adult and judicial education.

**7.1.2. Training in International Human Rights Law**

International human rights law is another area, where decades of isolation have caused Iraqi jurists to lose contact with important developments. There is a strong need for bringing all actors in the Iraqi judicial system up to date in this field. Fortunately, the curriculum for such training is already available in the form of a recently completed manual “Human Rights in the Administration of Justice”, which has been produced in cooperation between the UN Office of the High Commissioner for Human Rights and the International Bar Association. This manual, which has the

sub-title “ A Manual on Human Rights for Judges, Prosecutors and Lawyers”, appears to be ideally suited for this purpose.

Such training should include judges, prosecutors and lawyers<sup>3</sup>. Participants in the training should be selected by the respective authorities and/or professional organisations. This training, which would need to be given on a repetitive basis and could take place in the Judicial Training Institute in Baghdad, should be planned further in consultation with UNOHCHR and IBA.

## 7.2. A Mechanism for Appointing Defense Counsel before the Central Criminal Court

As mentioned above there is an urgent need to have defense counsel appointed in the growing number of cases under the jurisdiction of the recently established Central Criminal Court. There should be no shortage of lawyers for this purpose. The Iraqi Bar Association has 10 000 members in the Baghdad area alone, many of whom are presently underemployed. What is missing is a mechanism for the identification and appointment of counsel as well as for administering the compensation. We believe these functions could at this point be handled by the Bar Association, which has a functioning administration, sufficient office space and a new and democratically elected leadership. The Bar could set up a special office, which would keep a roster of willing lawyers and to which court officials could turn with requests for counsel.

ILAC will seek a suitable member organisation to send a representative to Baghdad to meet with officials of the CCC and the Bar Association in order to facilitate the necessary administrative arrangements. In the meantime, CPA should make funds available for the administration of the “appointment office” and for the compensation of appointed counsel in Baghdad, in accordance with its obligations as occupying power similar to the arrangements already in place in the Basra region.

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<sup>3</sup> The need for a training course for judges and prosecutors “in internationally recognized standards of human rights as well as judicial and prosecutorial ethics” has also been suggested by the OPDAT Assessment Report.

### 7.3 Support to the Bar

An independent, democratic, professional and well-respected bar is an indispensable prerequisite for the rule of law. After the recent elections, the Iraqi Bar has taken promising steps towards independence and democracy. However, it still has a long way to go to meet those other requirements.

To begin with, the Iraqi Bar Association needs to tighten up its organizational structure. The most obvious problem is the lax admission requirements, which have resulted in too many members of substandard professional quality. This has meant a decline in the respect for lawyers and increasing difficulties for members of the profession to make their voices heard in the legal process and, consequently, to represent their clients in an effective way. In order to raise the level of professionalism, the Iraqi Bar needs to introduce more stringent requirements for admission, including a law degree from a recognized law faculty, sufficient practical experience and a written examination, which only sufficiently qualified applicants will pass. A programme for continued legal education should be introduced to raise the professional level of already accepted members.

To help the Iraqi Bar to overcome these, and other deficiencies in its organisational structure, we suggest a project of “twinning” between the Iraqi Bar and one or more of ILAC’s member organisations.

### 7.4. Transitional Justice

#### 7.4.1. Conference to Present Different Solutions

As a first step in order to deal with the atrocities of the past regime, Iraq will need to decide what kind of mechanism it will want to handle the issues of transitional justice.

In our meetings with the Sergio de Mello of the UN, Judge Dahra Nureddin of the Interim Governing Council, Acting Minister of Justice

Madhat al Mahmoudi and David Hodgkinson of the CPA Department of Human Rights and Transitional Justice, all were very supportive of the idea of a conference, where the different models of transitional justice would be presented to key Iraqi politicians and jurists. They all agreed that such a conference needs to take place very soon, preferably already in October<sup>4</sup>. Dahra Nureddin promised to present the concept to the Interim Governing Council and report back to us about the reaction of the Council.

#### 7.4.2. Training of Iraqi Jurists in International Humanitarian Law

As mentioned above, regardless of the mechanism that will be chosen to deal with issues of transitional justice in Iraq, the jurisprudence in the field of international humanitarian law will be the applicable substantive law. And in order to assume their rightful role in the transitional justice process, Iraqi jurists will have to be trained in this area of the law.

We are in agreement with our interlocutors in Iraq that this training should take place in the Judicial Training Institute in Baghdad, but it will obviously be necessary to bring in international experts to conduct the training. In organizing this training it should be possible to use the model, including curriculum and faculty, which with great success has been applied by the International Bar Association in conducting the same type of training of judges, prosecutors and lawyers in Former Yugoslavia.

**Stockholm, 4 September 2003**

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<sup>4</sup> The security situation after the recent bomb attacks in Baghdad and Najaf will probably make it more realistic to plan for a conference in November or December.

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**LIST OF MEETINGS**

## Appendix A

13 August	3 p.m	Mona Rishmawi, UN Senior Advisor, Human Rights and Gender
	5 p.m	David Hodgkinson, CPA Human Rights and Transitional Justice Sermid D. Al –Sarraf, d:o
14 August	All day	Monitoring of Bar Elections
	2 p.m.	Rosa Ehrenreich, Open Society Institute Paul B. Stephan, Professor at Law, University of Virginia
	3 p.m.	Ahmed Asis al Khayoun, Chief Justice of Baghdad Criminal Court Abdul Hussein Shandal, Chief Justice of Al-Baya´a Criminal Court
15 August	8 a.m counting	Continued monitoring of Bar elections, ballot counting
	3 p.m	Judge Donald Campbell, Head of Judicial Reconstruction, CPA Madhat al Mahmoudi, Acting Minister of Justice Mike Dittoe, CPA
16 August	10 a.m.	Madhat al Mahmoudi, Acting Minister of Justice
	11 a.m	Radhi Hamza, judge at Central Criminal Court Abdul Amir Hashim, judge, chair of Investigation Department, Central Criminal Court Nuhad al Khudary, investigative judge Ali Hussein al-Shamary, judge Central Criminal Court
17 August	10 a.m	Mahmoud Abdul Fattah, Head of Judicial Training Institute
	3 p.m	Sergio Vieira de Mello, UN Special Representative Nadia Younes Amin M. Medani Mona Rishmawi

18 August	11 a.m.	UN Legal Needs Assessment Team David Marshall Amin M Medani Adam Adel Mouka
19 August	10 a.m	Maleh Douhan, President of the Bar Association Bar Council Members
	4 p.m	Judge Dahra Nurredin, Member of Interim Governing Council
	7 p.m	Tariq Rauf, Executive Director of the Bar Association