

June 27, 2003: Iraq: Rebuilding civil society

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WASHINGTON - In written testimony submitted to a joint hearing of the Senate Judiciary Committee, Subcommittee on the Constitution, Civil Rights and Property Rights, and Senate Foreign Relations Committee, Subcommittee on East Asian and Pacific Affairs, on "Constitutionalism, Human Rights and the Rule of Law in Iraq," the U.S. Commission on International Religious Freedom (USCIRF) urged the U.S. government to ensure that the Coalition Provisional Authority headed by L. Paul Bremer focus on rebuilding the justice system in accordance with international standards. Human rights must be fully guaranteed in the new constitution, consistent with international human rights standards, and religious freedom guaranteed for all Iraqis, including its 97 percent Muslim population. "The United States must guard against those whose interpretation of Islam seeks to deny individual rights or the freedom of religion or belief," said USCIRF Chair Felice D. Gaer. The text of the testimony follows: President Bush has spoken eloquently about a democratic Iraq where "the power of freedom [will] transform that vital region...bringing hope and progress into the lives of millions." Furthermore, President Bush has pledged that the U.S. government would help the Iraqis "build a peaceful and representative government that protects the rights of all citizens." This vision for Iraq can only become reality, however, with protections and guarantees of human rights, including religious freedom in a new Iraqi constitution, establishment of the rule of law, development of a vibrant civil society, and establishment of institutions to advance respect for international standards of human rights. Iraq will not be quickly transformed overnight into a democratic state. Iraq is a country with a rich ethnic and religious diversity with Arab Shiites (approximately 60-65%) comprising the majority of the population, and with large Arab and Sunni Kurdish communities (32-37%). Turkmen, Assyrians, Chaldeans, Armenians, Yazidis, and Mandaeans also make up small, but influential, segments of the population. A government that draws on members of all communities, or at least that represents key segments, would best protect the interests and rights of all Iraqis. Historically, Iraq has been a pluralistic society, with a rich religious and ethnic diversity, that enjoyed some political and religious freedom before Saddam Hussein came to power. In the 1920s, civil society flourished in Iraq through the formation of numerous professional organizations, civic associations, and political parties. During the 1950s, diverse Iraqis crafted and attempted to bring into existence an ambitious system of laws that brought together Sunni, Shi'a, and European elements. Although Sunni Arabs have historically dominated political life, Iraqis of varying religious and ethnic backgrounds were active in Iraqi politics through the many existing political parties. However, that brief period of political pluralism ended with the Ba'ath party coming to power in 1968. Religious Freedom Curbed Under Saddam Hussein For decades, Saddam Hussein's regime conducted a brutal campaign of murder, summary execution, arbitrary arrest, and protracted detention against the religious leaders and followers of the majority Shi'a Muslim population. The government also sought to undermine the identity of minority Christian (Chaldean and Assyrian), Yazidi, and Sabeian Mandaean groups. The regime also completely repressed the Baha'i community, and all Baha'i activity was punishable by death. Shi'a Muslims, the largest religious group, faced summary execution, arbitrary arrest, long prison sentences, harassment, destruction and desecration of property, and the decimation of its religious and political leadership. Sunni Muslim Kurds and Turkmen also suffered harshly at the hands of the Saddam Hussein regime. Christians also faced repression, forced relocation, and denial of political rights. The Constitution did not provide recognition for Assyrians, Chaldeans, Yazidis, or Baha'is. Government repression devastated Shi'ism within Iraq. According to the State Department's religious freedom report, the Iraqi regime "systematically killed senior Shi'a clerics, desecrated Shi'a mosques and holy sites, interfered with Shi'a religious education, and prevented Shi'a adherents from performing their religious rites." There was considerable government control over and interference with Shi'a mosques and religious observances. Traditional Shi'a practices such as the distinctive Shi'a call to prayer and ritual food preparations during the holy month of Muharram were banned in several Shi'a districts. Iraqi security forces interfered with the performance of religious pilgrimages, both to the Shi'a holy cities of southern Iraq and for those Shi'a Muslims wishing to travel to Mecca for the Hajj. Moreover, as religious scholarship in Shi'a Islam is passed from one generation of clerics to another, Iraq's policy of eliminating senior Shi'a clerics threatened the very future of Shi'ism in Iraq. Historically, Iraqi Christians, in the main, enjoyed freedom of worship. However, the issue of religious freedom for Christians in Iraq is complicated by the fact that lines between ethnic and religious identification are often blurred. Assyrians, for example, regard themselves as ethnically distinct from the majority Arab Iraqis, though the Saddam Hussein regime did not recognize them as such. Chaldeans, however, are generally more integrated into Iraqi society than Assyrians and at times even were favored by the former regime. Local churches often denied the existence of religious persecution under the Ba'athist regime, though Christians reported increasing vulnerability in the face of growing anti-Western sentiment and fear that their communities could become scapegoats due to their churches' perceived association with the West. There have been occasional reports of Muslim Kurds, themselves victims of harsh repression at the hands of the Iraqi government for political and ethnic reasons, attacking Assyrian Christians in northern Iraq. Other religious communities had varied experiences. The Yazidis, whose unique religion contains elements of paganism, Zoroastrianism, Christianity, and Islam, were subjected to persecution. Political Reconstruction in Post-War Iraq Since the fall of the Ba'athist regime, Shi'a Muslims have experienced religious freedom for the first time in more than two decades. In April 2003, hundreds of thousands of Shi'a Muslims participated in an important religious pilgrimage into the holy city of Karbala. At the same time, however, some segments of the Shi'a community have been vociferously demanding the implementation of Islamic law (Sharia) in a manner that reportedly threatens to preclude respect for freedom of thought, conscience, religion, or

belief for others in contravention of Iraq's commitments to human rights and individual freedoms. It is essential to ensure that the Iraqi people can exercise their religious freedom in full accordance with international human rights standards and the human rights treaties to which Iraq is a party. Moreover, some recent reports indicate a growing influence of Shi'ite fundamentalism from Iran and extremist Wahhabi influence from Saudi Arabia. Because both of these elements are well organized and funded, other moderate Iraqi religious groups and those that advocate multi-religious cooperation may be overwhelmed. These foreign and intolerant versions of Islam must not be permitted to undermine human rights, including religious freedom, in Iraq. Fortunately, up to now, the most radical Iraqi voices are in the minority. The U.S. government should aid, advance, and protect those who stand for moderation and tolerance. The record to date is mixed. In some cases, hard-line Islamic clergy have been allowed to take over courts, hospitals, neighborhoods, and towns. Religious freedom must be guaranteed not only to Iraq's non-Muslims, but also to Iraq's Muslims who comprise approximately 97 percent of the population. Iraqi Muslims must have the right to dissent if they so choose. Only if Iraqi reformers and dissidents have the individual right to debate and criticize religiously-sensitive issues will democratic political development occur. The Universal Declaration of Human Rights provides for individual rights to religious freedom, which no group or community can destroy. The Commission has observed that religious freedom, individual rights, and tolerance strengthen all societies. A small minority of radical Iraqis advocate that democratic nation-building should not take place in Iraq. Therefore, the U.S. must guard against those whose interpretations of Islam seek to deny individual rights or the freedom of religion or belief. In order to prevent extremist elements gaining strength in Iraq, the U.S. government should ensure that the following recommendations are implemented in the next phase of Iraq's political reconstruction. Recommendations National Security Advisor Condoleezza Rice assured the Commission in a June 9 letter that "All of Iraq's religious adherents must be free to worship in peace, and must respect each other's right to do so, if Iraq is to flourish as a sovereign country with a democratic government. The promotion and protection of human rights, including religious liberty, is an important component of United States efforts to help the Iraqi people reconstruct their country, free and at peace." To that end, the Commission makes the following recommendations: Human rights must be fully guaranteed in the new constitution, consistent with international human rights standards. The new constitution should guarantee that the religious freedom of all Iraqis is protected, that women and members of religious minorities have equal rights to all other Iraqi citizens, that any internationally prohibited, abusive punishments such as flogging, amputations, and stoning are banned, and that non-Muslims will not be subject to Sharia or to any law that may violate international principles of human rights. In order to establish the rule of law, which is essential for the protection of human rights, including religious freedom, the U.S. government should ensure that the Coalition Provisional Authority in Iraq headed by L. Paul Bremer focus on rebuilding the justice system in accordance with international standards. The coalition administration should appoint a team of advisors in Iraq to advise on religious affairs and to monitor human rights violations, including freedom of religion. In order to rebuild Iraq's civil society, the Pentagon's Office of Rehabilitation and Humanitarian Aid (ORHA) should identify and fund multi-religious and multi-ethnic efforts to meet human needs, rebuild devastated communities, promote religious tolerance and understanding, and discuss values central to good governance and democracy.

Felice D. Gaer, Chair

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