Rule of law efforts bringing reform to Iraqi judiciary

By Pfc. J.p. Lawrence
MND-S

COB BASRA – Thousands of years ago, the land between the rivers was the site where Hammurabi created his Code. Hammurabi's Code was one of the first written codes of law in recorded history, and its significance lay in making plain the laws of the land to the people of the land.

Recently, the staff judge advocate office in Talil was the site where Capt. David Peterson, a Romanian judge advocate and a group of Iraqi attorneys discussed law and the differences and similarities between Western and Iraqi legal thought.

For Peterson, rule of law chief for the 34th Red Bull Infantry Division, it's another day advising Iraqi officials on rule of law, or the belief that everyone is accountable to a consistent and predictable handling of the law no matter their rank or creed.

Peterson, a Sartell, Minn. native, got his start helping out low-income individuals in Brainerd, Minn. He said he still remembers the day he received his first file and had to put together all the pieces.

When he was a legal clerk, he always received the file at the end, when everything was resolved. But this was different. He said he sat in his chair, thinking, "This person is looking to me to help them receive custody of their child."

Now, Peterson is responsible for efforts in nine of Iraq's 18 provinces. Primarily a venture of the U.S. Department of State, efforts in Iraq seek to build a stronger and transparent Iraqi judiciary that people trust, one where the strong are treated equal with the weak.

Courtesy photo

Lt. Col. John Brossart, staff judge advocate for the 34th Red Bull Infantry Division, discusses issues with Capt. Victoria Chiriloiu, a Romanian judge advocate in Talil, after a presentation on international law in an armed conflict.

"Laws are not arbitrarily imposed," said Peterson. "Individuals can count on the law being predictable, so they can conduct their affairs knowing what each individual can and can't do."

Peterson said he knows that the legal system can easily spiral out of control for those unfamiliar with their intracacies. "Working your way through the complexity of the legal system can be frightening," said Peterson, "because for most individuals, it's probably one of the few times they've had any interaction with the legal system, and it can be a very trying experience for that individual."

Peterson coordinates with provincial rule of law teams to remove extra complexities in the law and ensure judicial reforms are consistent. In this way, DOS and military teams can

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work more efficiently with the Iraqi judiciary in rule of law efforts.

For instance, while the U.S. judicial system relies on a combination of statements and forensic evidence to prove guilt beyond a reasonable doubt, the Iraqi judiciary has historically relied upon testimony of the defendant and the discretion of the judges. The challenge, Peterson said, is combining the traditional Iraqi method of witness testimony with new technology and scientific methods – a challenge Peterson believes is being met.

"We're seeing judges use scientific evidence in issuing warrants for arrests and also in criminal cases," Peterson added. "They're starting to use this information in their court system. Before, judges would rely on eyewitness testimony only, or basically, for the most part, relying on witness testimony and statements of the defendant."

Much of Peterson's work involves bringing together judges, police officers and members of the Iraqi military to cooperate on how best to obtain warrants, deal with evidence and properly build a case.

"We're looking at the defense attorneys in Iraq to enforce the defendant's rights, but on the other spectrum, we're also working with the police to train them to build a good solid prosecution case against the accused," said Peterson, who has been both a defense and prosecuting attorney.

As a complement to training sessions and meetings, rule of law teams have also focused on improving infrastructure for the Iraqi court system and instructing Iraq's next generation of judges and lawyers on the importance of a consistent judicial system. However, these teams stress that they come not as missionaries.

"We make it very clear to all our attorneys that we're not here to say that our system is better than theirs," said Lt. Col. John Brossart, 34th Inf. Div. staff judge advocate, who was on the trip to Talil. "Iraq has a rich legal history, and they're rightly proud of that history."

"We're not here in Iraq to impose our justice system upon the Iraqis," said Peterson. "We're here to assist the rule of law effort within the Iraqi criminal justice system within their constitution."

"The Iraqis at any time can say, 'No, we don't want your assistance.' And we have to respect that; it's their country," said Peterson. "But we offer what assistance and what knowledge we can. All we can do is show them that following the rule of law leads to the citizens having trust that the judiciary is fair and just."

Only one example of Hammurabi's Code survives. It hangs in the Louvre Museum in Paris. At the bottom of the eight-foot stele lies Hammurabi's motive, the reason he placed in stone the laws of the land: "That the strong might not injure the weak, in order to protect the widows and the orphans, I have in Babylon…in order to declare justice in the land, to settle all disputes, and heal all injuries, set these my precious words."

It's a charge that lawful men like Peterson have sought to fulfill ever since.

For more of Pfc. Lawrence's stories, visit: www.TheRedBulls.org/Lawrence

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