

COALITION PROVISIONAL AUTHORITY
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MEMO FOR: Secretary Powell
FROM: Paul Bremer *11/2/8*
SUBJECT: Kuwaiti Note Verbale Concerning Iraqi War Crimes

I understand that you are preparing a letter for the Kuwaiti Government in response to their Note Verbale of November 2, 2003 requesting information on redress for crimes against Kuwaitis in the Iraqi Special Tribunal. As you are aware, the CPA has been working very closely with the Iraqi Governing Council to support their creation of an Iraqi Special Tribunal to prosecute senior regime officials for war crimes, crimes against humanity, and genocide in Iraq. At the same time, my staff has strongly supported the efforts of the Kuwaiti government to identify and exhume remains of their missing and unaccounted for since the Gulf War of 1991 through the Tripartite Commission and forensic exhumations taking place in Iraq.

I offer the following points for inclusion in your response:

- The current Draft Statute of the Iraqi Special Tribunal does provide for the prosecution of persons accused of committing war crimes, crimes against humanity, and genocide in Kuwait and against Kuwaiti citizens, whether inside or outside of Kuwait at the time of commission. Specifically, Sections 1(c) and 10 of the Draft Statute provide jurisdiction over any Iraqi national, or resident of Iraq, accused of committing genocide, crimes against humanity, war crimes and specific enumerated Iraqi laws, against the State of Kuwait, between July 17, 1968 and May 1, 2003.
- The current Draft Statute of the Iraqi Special Tribunal, in Section 7(i), allows Tribunal Investigative Judges "to gather evidence from whatever source he considers reliable." This could include evidence provided by the Kuwaiti Prosecutor General, and can be more specifically referenced in the Rules of Procedure for the Court, which are in their early stages. Perhaps also, the State of Kuwait could offer to integrate Kuwaiti investigators into the Iraqi investigative teams that focus on these crimes.
- The Iraqi Special Tribunal statute is a criminal statute, and does not include provisions for compensation for any victim, whether Iraqi, Kuwaiti, or otherwise.

I am happy to pass along these concerns to the Iraqi Governing Council for their future consideration.