

Closing Remarks*

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Thank you all for having me here today and thank you to those of you who are sticking around. I know it is always hard at the end of the day. I will, as Professor O'Connell said, spend a little bit of time talking about some of the points that have been raised during the four panel discussions throughout the day. I am also going to comment on how some of these points relate to larger questions of post-conflict reconstruction policy and, particularly, United States (U.S.) government policy and the ongoing efforts in Iraq. My work at the Center for Strategic and International Studies (CSIS) focuses mainly on these issues and Iraq is obviously front and center on everyone's mind at the moment.

I want to briefly mention that the project I work on at CSIS (the Post-Conflict Reconstruction Project) started looking at planning for a post-conflict Iraq last September, well before the war started, as we knew there was not enough strategic planning occurring in the U.S. government. Our team put together a report last January (2003) detailing the issues we thought the U.S. government should be preparing to confront. As a result of that report and the other work we do on post-conflict reconstruction, we were asked by the Department of Defense to go to Iraq to perform the first independent assessment of reconstruction efforts. We were there in late June and early July, and I will gladly talk about what I saw, with the caveat that last summer already seems a long way away and, as is typical in post-conflict settings, in just a short amount of time there has been substantial change. I continue to follow the situation in Iraq closely every day so I have a fairly good handle on what is going on there, but one always has a better sense by being on the ground.

So, even though Professor O'Connell has already raised many of the points I will touch on, I will attempt brief summaries of the four panel discussions. To begin with the first panel, which was on transitional justice,

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while I unfortunately missed Professor Scharf's talk, I understand he did speak extensively on Iraq.

Professor Scharf highlighted some of the complex realities that underpin questions of transitional justice in post-conflict societies and, in particular, the political issues that come into play in regard to appropriate transitional justice mechanisms. The potential trial of Saddam Hussein, and what exactly that trial should look like, became the focal point of the discussions during the first panel. Not surprisingly, just this week, thousands of Iraqis have been demonstrating about that very subject, calling for the death penalty for Saddam Hussein.

An interesting side note on this topic is that while we were in Iraq, the Iraqis we spoke with consistently voiced real anger that one of the first actions taken by the United States in the post-war period was the abolishment of the death penalty. Now, as you can imagine, abolishing the death penalty in Iraq was not exactly on the top of our agenda, especially given the current administration's support of the death penalty here in the United States. This was clearly an action that we were forced into, to some degree, by our coalition partners, most likely with particularly strong pressure coming from our staunchest ally in the post-conflict reconstruction effort, the United Kingdom.

This experience, however, underscores another important question, which was also discussed on the first panel: Who should decide these things? Who should decide which transitional justice mechanisms are appropriate and applicable? In the case of Iraq, it probably should not be the United States making these decisions. The reason why is that, for as long as the United States controls the country, whatever process we decide on and attempt to implement will probably not be seen as legitimate in the eyes of the Iraqi people.

But if not the United States, then who? Should the Iraqi Governing Council (IGC), which has already set up a special court that may be the venue where Saddam will be tried, decide? Unfortunately, the IGC faces the same problem the United States does: a serious lack of legitimacy. What we see then is that both of these options, the United States and the IGC, have a similar and substantial drawback: Their perceived illegitimacy could contaminate any transitional justice processes they implement.

So what about having the Iraqi people decide? This option is not quite as simple as it sounds. In thinking about this option, we also have to acknowledge the importance of international legitimacy. This includes incorporating the wider implications of the international community's conception of the process and, more specifically, whether internationally legitimized aspects of transitional justice mechanisms should be

incorporated, even if they vary, potentially profoundly, from the local populations' desired aspects. This tension is not easily reconciled, substantiating the problem with this option.

In fact, one of the interesting things in the case of the Iraqi protest earlier this week is that the Iraqi people do want Saddam Hussein to be put to death, a penalty not readily supported by the international community. What we are typically seeing in the Iraqi protests on this issue, however, is that they have a lot less to do with what the Iraqi people think the transitional justice should look like and a lot more to do with transmitting general anti-American sentiment.

The protest this week was really more about the U.S. decision to give Saddam prisoner of war status, which the Iraqi people are vehemently against. So, these types of protests are really just another way for the Iraqi people to show their real dislike for some of the U.S. decisions in Iraq. This again highlights a serious problem with the United States being perceived as an illegitimate decisionmaker in Iraq: The decisions we make, regardless of the actual state of the Iraqi public's position on those decisions, can be used to serve as yet another rallying point to espouse general anti-American sentiment merely because they are American decisions. The anti-American sentiment can in turn contribute to substantial security problems for Iraqis, Americans, and our coalition partners.

At the same time, there is a U.S. domestic imperative, particularly going into this election year, to show both the American public and the world that we got Saddam. Yet, I think Professor Chesterman raises an important point here, in that you have to balance what is more important. Essentially, we will need to ask ourselves, should we focus our resources and attention on stopping the looting, the crime, and dealing with the general public safety issues in Iraq or should we be focused on a global show trial for Saddam Hussein?

Finally, the first panel also touched on the question of the de-Ba'athification order and the progress that has been made in this area. Issues like the fact that this order terminated the employment of tens of thousands of civil servants, police officers, and even army officers and judges, many of whom are now desperately needed in Iraq, were appropriately raised during the discussions.

It should also be noted, though, that the de-Ba'athification process has added to the problem of Sunni marginalization. The United States has in fact made multiple decisions thus far that have left the Sunni population feeling largely disenfranchised. Because of this marginalization, it is not surprising that the United States has seen the greatest resistance in the Sunni areas in Iraq.

Turning now to the second panel: Neither one of the panelists talked specifically about paying post-conflict reparations, but both of their talks did raise very interesting points that relate to post-conflict reconstruction issues. Yet, the question of reparations and Iraq is interesting and deserves some further discussion. While we have not yet heard discussion about paying reparations to the Iraqi people, Iraq owes reparations related to the previous Gulf War. The Post-Conflict Reconstruction Project at CSIS did some of the earliest work on how this question relates to post-Saddam Iraq.

As some of you may have read, Iraq has an enormous amount of financial obligations, the largest piece of which is the reparations from the previous Gulf War. We will need to tackle the U.N. Security Council's resolutions that spell out Iraq's reparations obligations and what will become of the U.N. Claims Commission (UNCC) in Geneva that continues to pay out billions of dollars in reparations claims. The UNCC has already paid nearly a billion dollars in claims to Kuwaiti victims of the previous Gulf War, using Iraqi oil money, since the fall of Saddam last spring. Under the U.N. Oil for Food Program, 25% of Iraq's oil revenues went to paying off these claims. According to U.N. Security Council Resolution 1483, passed last May, five percent of oil revenues are still directed to such claims.

Although a significant portion of claims have been settled by the UNCC, the question remains whether Iraq should continue to pay back the already settled claims and what course of action to take on the tens of billions of dollars in claims that have not yet been settled.

Compounding the financial difficulties for Iraq's future government is yet another troublesome and costly obligation: the massive international debt burden Iraq owes, mainly to Paris Club countries. While the United States has appointed former Secretary of State James Baker to oversee U.S. policy related to Iraq's debt, the numbers are mind-boggling and dwarf anything that we have seen in past post-conflict reconstruction situations.

Before the United States went to war, it was generally believed that we did not have to worry too much about the costs of the reconstruction efforts because Iraq was going to pay for itself. As we have all seen, this is not the case. Iraq may get to a point in the future where it can use its revenues to pay for its own budgetary and reconstruction needs, if the reparations and debt obligations are dealt with properly, which would limit its current dependence on outside financial assistance. But if Iraq's revenues remain tied up for the foreseeable future in paying back reparations and in servicing debt, Iraq's ability to regain secure economic footing, and thus gain greater independence from foreign aid, will continue to be significantly impeded.

I want to move on now to mention an important point raised by Mr. Feinberg about the question of process and how processes are designed. He

shared that it has been important in his case, especially, not to make it seem as if decisions are being handed down from above.

This issue brings up yet another difficulty for the United States in Iraq. Our tendency in Iraq has been for the Coalition Provisional Authority (CPA), which is what the U.S. occupation authority in Iraq is called, to hand down decisions first and then deal with the repercussions later.

We are seeing this currently in regard to the transitional political process: We came up with the process and then we convinced the Iraqi Governing Council to sign on to that process. The problem is that we did not consult the Iraqi people. We also did not consult some very important people in Iraq, notably Iraq's most important Shi'ite cleric, Grand Ayatollah Ali al-Sistani, who, it turns out, fundamentally opposes the U.S.-devised process. Consequently, we now have a huge problem on our hands.

The fact that the United States is cut off from the Iraqi people has been constant throughout the reconstruction effort. There is very little contact between the U.S. presence in Iraq, whether military officers or civilians, and the Iraqi people. The Americans are all shut off in Baghdad and inside the so-called "Green Zone."

People frequently ask me what it was like walking around the streets of Baghdad when I was in Iraq. Well, quite frankly, when you are with the CPA, which we were, you do not walk around the streets of Baghdad. If you are there as a journalist or independent NGO or contractor you might. The most I saw of Baghdad was from behind a window while racing through the streets in a military convoy. This type of seclusion does not facilitate the CPA's ability to explain to the Iraqi people what it is trying to do, or get them to buy into that process. If anything, this type of seclusion only emboldens the already present perception of the United States as an illegitimate party, the repercussions of which, particularly in terms of the U.S. decision-making capability, we have already discussed.

In this regard, Professor Kriger's discussion of her experience in Zimbabwe, making choices among people who would get access to pension programs after the war there, was very interesting. It relates to questions of vetting in postwar situations; in Iraq, this comes back to the question of de-Baathification. How do you make decisions, on what standards, who is setting those standards, especially as to who gets to stay and who gets to go, and what are the repercussions of those decisions?

An excellent illustration of this point is that when the United States first entered Iraq, the U.S. military installed a number of mayors. We believed—usually on the basis of a few conversations with people we had chosen to talk to—that the people placed in these positions were going to be publicly acceptable and well suited for the job. It turned out, however, that some of

them were people with deplorable histories. We then had to go through the process of removing the mayors we had appointed, which made for an awkward situation and, again, in a setting where time is of the essence, caused setbacks that should have, and could have, been avoided.

The third panel discussed two of the most significant issues in post-conflict situations: refugees and repatriation. We heard discussions on the panel about the legal protections for refugees under international conventions and other such issues. I want to also note two situations where these issues are particularly critical: Afghanistan and Sudan.

In both of these countries, the massive influx of refugees once war ceases is an enormous concern. This is already an active issue in Afghanistan and is one that Sudan will certainly face down the line. Sudan also has the largest population of internally displaced persons in the world. About 4.5 million people in Sudan have been displaced from their homes, and some portion of them will move back to their home areas if Sudan can reach peace.

Another interesting issue we should keep in mind when looking at refugee policies, and the politics that construct and shape such policies, is that repatriation to a post-conflict setting can significantly test already overstretched services, infrastructures, and resources. Repatriation can also, in some cases, actually cause conflict. In post-conflict settings, there is an increased risk that conflict will be dealt with violently, which dictates the need to be especially cautious in regard to this issue. Professor O'Connell pointed out that we are now facing this issue in Northern Iraq with the Kurds, as they attempt to return to and claim the homes they lost during Saddam's process of Arabization in Northern Iraq.

Interestingly, one of the contingencies that was best planned for in Iraq was a refugee crisis. This was due in no small part to the fact that many NGOs were predicting we would face a huge refugee problem. Fortunately, however, we did not, for two main reasons.

First, the war was very short, as the coalition troops faced scant resistance in the initial invasion. We had been predicting a large refugee problem in the first place because we thought Saddam would unleash weapons of mass destruction either against his own people or against the U.S. military. This, of course, did not happen.

A second reason that the refugee contingency was well planned for in Iraq was that we knew how to plan for it. There is an entire industry set up to plan for humanitarian crisis, whereas the opposite is true for a number of other reconstruction tasks that fall somewhere in the gap between humanitarian and development needs.

Moving onto the final panel, which discussed integrated peace processes, Professor O'Connell's introduction and the two panelists raised the

importance of looking for change agents in post-conflict settings. Change agents in post-conflict settings are often women and children; in fact, youth typically make up large portions of post-conflict populations. In some communities, women and children might be the only remaining residents, as many of the men will have gone off to war and in some cases been killed. It is therefore critical to try to involve these sizeable and active parts of the population in the reconstruction efforts.

The last point I want to reiterate and comment on from this final panel is the matter of building up the future generation of leaders, which is another issue we will face in Iraq. We have set up a transitional political process in Iraq that does not provide an enormous amount of time to look for or facilitate the rise of future Iraqi political leaders. Between now and the end of June, at which time we have said that we are going to transfer sovereignty to the Iraqi people, this will be an important issue.

I will now turn to a brief discussion of U.S. post-conflict capabilities. Because of the financial issues involved, the national security concerns, the fact that American men and women are sacrificing their lives, and a host of other humanitarian and strategic concerns, both Iraq and Afghanistan have made post-conflict reconstruction a central U.S. foreign policy issue. We now find ourselves in the position of intense involvement in two vast reconstruction efforts.

But post-conflict reconstruction is obviously not a new issue for the U.S. government. In fact, we have averaged at least one of these efforts every other year since the end of the Cold War. It is also safe to say that Afghanistan and Iraq are not going to be the last of these endeavors. The Post-Conflict Reconstruction Project at CSIS just released a report on planning for a post-conflict Sudan, based on a trip we took there in early September. The United States will be involved in Sudan eventually, although we will not play as major a role as we are in Iraq; it will be more of a multinational effort, but it will be another huge effort, and there are more to come.

As we have had so much experience with post-conflict reconstruction, it is worth asking why we are not better at it. Answering this question requires looking at the U.S. post-conflict reconstruction architecture, strategy, and industries.

The U.S. efforts in Iraq so far have been widely criticized. But ultimately our problems there relate not only to particular policy decisions made by the current administration, but also to the fact that the U.S. post-conflict reconstruction architecture and strategy need to be fundamentally changed.

A few examples highlight this point. First, we do not have the right strategic planning capacity on the civilian side for these types of operations.

While we have incredibly fine-tuned skills for planning with regard to military activity, we do not have the same kind of capacity on the civilian side. As military activity is but a single facet of post-conflict reconstruction operations, which are by their very nature multi-faceted, the lack of honed civilian strategic planning creates substantial problems.

This is not to suggest, though, that there was no U.S. government civilian planning for the post-conflict phase in Iraq. In fact, there was extensive civilian planning going on in several areas within the government, most notably within the State Department. Ultimately, though, for political reasons, there was a decision not to utilize those plans. The administration can be faulted for not taking into account the planning some of its own departments did and for not heeding the advice of outside experts on Iraq and post-conflict reconstruction.

Perhaps one of the most egregious examples of this is that many post-conflict experts predicted a security vacuum after the war. Yet, still the administration failed to undertake the requisite preparations to deal even with those contingencies they had been warned to expect. We have seen the disastrous consequences this failure produced.

Thus, while civilian strategic planning is a problem in the current U.S. post-conflict reconstruction architecture, the problems we continue to see in Iraq are occurring not solely because of a failure of strategic planning by civilian, and in fact, even military personnel. Instead, some blame can be placed on the administration's decision to disregard those post-conflict Iraq plans that had been drawn up.

Another critical area where the United States does not currently have the necessary capacity is in post-conflict security and stabilization forces. The U.S. military performs in a highly skilled fashion during combat, but our forces are not trained or mandated for post-conflict stabilization operations. This is a deliberate choice the U.S. government has made, but having made that choice, we must do something to prepare for the fact that that capacity is needed.

In the CSIS January 2003 report on Iraq, we argued that given the lack of time before the war was likely to start, we should at least be training some core number of U.S. forces in post-conflict stabilization duties. We argued that this would allow for a proper handling of the security vacuum that would occur in the immediate aftermath of the war. That did not happen. Another option was to harness the post-conflict security capacities of other countries. Given the diplomatic problems in the run up to war, we did not turn to countries like Italy, France, and others to provide this kind of much-needed capacity.

The third problem that I would like to address in regard to U.S. post-conflict reconstruction operations is a disturbing reality that we have seen time and time again. For all of our experience in post-conflict reconstruction, the United States performs such missions in an ad hoc way every time. In fact, it always looks as if we are making it up as we go along. This is unnecessary given our many experiences, costly in terms of human lives and resources, and inefficient.

We should be thinking about a standing post-conflict reconstruction office in the State Department. This would be an appropriate first step in reforming the U.S. government's post-conflict reconstruction architecture. Such an office could capture the numerous lessons learned (studies that think tanks, academics, research organizations, and the military have done) and start incorporating them into U.S. government practice.

Along with this office, we also need a standing, ready reserve of civilians that are well trained and prepared to work in such environments. In addition, we need dedicated resources for reconstruction activities. The administration and Congress are currently looking into some of these ideas, and we may start to see some of these types of reforms implemented in the coming months.

So, along with poor planning and the failure to implement the plans that were drawn up, I want to wrap up my discussion of the problems with U.S. post-conflict reconstruction architecture, strategy, and industry by touching on the shockingly poor coordination among U.S. agencies we have seen over Iraq.

I want to especially note the intense conflicts and debates between the State Department and the Defense Department about the post-conflict efforts. While such debates are normal in Washington, they have had a significantly greater impact with respect to Iraq. The issues debated range from the grand, such as the appropriate level of U.N. involvement, to the minute, such as disagreements over particular personnel assigned to work with the CPA. One result of such disagreements is that the CPA has never been close to fully staffed. How can the U.S. perform adequately when it cannot even fully staff its own offices?

For my last two points, I want to talk briefly about security and governance in Iraq—perhaps the two largest obstacles to the success of the reconstruction efforts. As for the security situation, the problems are well documented. We have seen more bombings this week, reminding us that the insurgency is still strong. The military is saying that things are going better, that attacks are decreasing. Yet, in fact, the attacks continue and they are large-scale, significant, and sophisticated. Crime is also a big security concern. Iraqis do not feel safe, and until they do, they are not going to have

faith in the occupying authority or be able to make substantial progress in other areas of reconstruction, such as employment, education, and governance.

To deal with the security situation, the United States has been placing a lot of emphasis on so-called "Iraqification," the idea of turning security needs over to the Iraqi security forces. While it is a good idea, this type of measure always takes a very long time. It is unreasonable to expect, even come June, that the Iraqi security forces will be capable enough to turn significant security responsibilities over to them.

I will close with the question of governance. There was again, not surprisingly, a lack of planning and strategic vision on the questions of governance—what should be done about the political transition and what should be done about turning sovereignty over to the Iraqis? The United States has shifted its plans, in substantial ways, several times since we have been in Iraq, and we may be about to revise them again. This has not given the Iraqi people much confidence that we know what we are doing or that our intentions are benign. More importantly, there has been no opportunity for Iraqis to buy into a political process that continues to change before their eyes.

We are now faced with domestic political imperatives here in the United States that will compel us to stick with the June 30th deadline. It will be very important for the current administration to make sure that, come summer, the United States is no longer occupying Iraq. The problem is that if we wind up with an Iraqi provisional government that is not seen as legitimate by the Iraqi people, it could lead to real chaos in Iraq. Because the United States will continue to have at least 100,000 troops on the ground, we will remain caught in the midst of that chaos for the foreseeable future.

We are now into the tenth month of the reconstruction process in Iraq, and I have only briefly touched on a few of the myriad reconstruction issues there. It is too early to give a definitive assessment of the U.S. efforts. Yet, I believe that these early months have shown that we need to focus anew on the systemic problems within the U.S. government in regard to our post-conflict reconstruction capacities.

Without an invigorated effort to address our capacities, geared toward ensuring a reformulation of our post-conflict reconstruction architecture, strategy, and industries, along with a radical transformation of the political will necessary for properly conducting such operations, we face dire consequences. Ultimately, we must recognize that our failures in post-conflict reconstruction can be a catalyst for diminished U.S. power and prestige. Places like Iraq and Afghanistan can unintentionally become the Achilles heel of the United States. With such high stakes, now is the time to

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finally start asking ourselves how we can engage in these efforts more effectively.

