Lawyers Eye Iraq for Opportunities

U.S. Occupation Creates Room To Develop New Legal System, But Cultural Issues Abound

BY THOMAS ADCOCK

They went to Iraq when duty called. Ralph A. Dengler and Thomas O. O’Connor are U.S. Marine Corps reservists, after all. But when the lawyers and judges of Nasiriyah sought their non-military expertise in restoring court procedure, the two New York associates answered that call as well.

Home since August, they reflect often on their months in the Dhi Qar province, and note the increased interest among stateside lawyers and multinational firms in Iraq as a frontier of new opportunity.

Both Messrs. Dengler and O’Connor would consider returning to Iraq as lawyers rather than as Marines. “It’s going to be awhile before intellectual property lawyers are needed there,” said Mr. Dengler, 37, a patent litigator at the IP boutique Fitzpatrick, Cella, Harper & Scinto and a graduate of Fordham University School of Law. “But certainly when an IP matter comes up, I would go through the process of vetting a future client with the firm.”

As a commercial litigator at Chadbourne & Parke, Mr. O’Connor could have more immediate business reasons for return.

“But of me thinks, Sure I’d like to go back,” said Mr. O’Connor, 37, a graduate of the University of Notre Dame Law School. “Just to see how things develop.”

Indeed, the talk of opportunities has advanced rapidly, according to Alexander S. Kritzalis, a partner at White & Case who began building his career in international commercial and financial transactions in the Arabian peninsula nearly 20 years ago.

Shortly after the U.S. and Britain invaded Iraq in March, said Mr. Kritzalis in a telephone interview from Abu Dhabi, “a host of young, idealistic, entrepreneurial but woefully inexperienced young western lawyers” began circulating résumés.

“They were viewing Iraq as El Dorado, and e-mailing all over the place announcing their capabilities and enthusiasm,” said Mr. Kritzalis, who heads the Middle East Practice Group at his firm. “It’s going to take more than enthusiasm — more, even, than facility with the Arabic language. Iraq is a difficult legal market to penetrate. There is nothing anywhere in the Middle East that parallels the physical instability of Iraq.

“But, young lawyers will be idealistic,” he added. “And they might have some fear of missing the boat.”

An article this week in The Guardian newspaper of London found that the boat is clearly asail in Iraq’s commercial waters — not to mention its oil.

“Private corporations have penetrated western warfare so deeply that they are now the second biggest contributor to coalition forces in Iraq after the Pentagon,” according to the lengthy
investigative report in The Guardian. “While the official coalition figures list the British as the second largest contingent, with around 9,900 troops, they are narrowly outnumbered by the 10,000 private military contractors now on the ground. “[T]he U.S. Army estimates that of the $87 billion earmarked this year for the broader Iraqi campaign,” the report said, “one-third of that, nearly $30 billion, will be spent on contracts to private companies.”

Messrs. O’Connor and Dengler, who operated as executive officers of the 2nd Battalion, 25th Marine Corps Division, agree with Mr. Kritzalis that the key to abundant opportunities for lawyers in Iraq lies in addressing the open questions of civil security and political stability. “The need was to get at least a rudimentary law system up and running, to offer due process for people accused of looting, theft, robbery — and a few homicides, some of which was a by-product of vendettas,” said Mr. Dengler, whose earlier career experience as an assistant district attorney in the Bronx came in handy.

“Tom [O’Connor] and I received good instructions from former judges and local attorneys, and put a background checking process into place with the help of our [military] counter-intelligence people to assure that hard core Saddam people wouldn’t get back into the system. “Our first big effort, really, was to physically re-establish the courthouse” in Nasiriyah, he said. “People had gone through government buildings like they were Home Depots. They’d stripped the walls of [electrical] wiring and fixtures. The records room was literally a foot of ashes.”

Because Nasiriyah is a Shi’ia city whose people were not hospitable to Ba’athist regime of Saddam Hussein, a member of the minority Sunni Islamic community, “The judiciary was not viewed with contempt,” said Mr. O’Connor. “In fact, it was a fair and functioning judiciary, even though it operated in a dictatorship,” he said. “The judges and lawyers we worked with were professional people, dedicated, and ready to get back to work.”

Mr. O’Connor said he was more surprised by how much he found in common with his Iraqi counterparts of the Nasiriyah bar. “There would always be a lot of debating, a lot of points argued,” said Mr. O’Connor. “They were just like us. Just lawyers, and we’re a peculiar breed.”

Cultural Sensitivity

Haider Ala Hamoudi, an American attorney of Iraqi parentage and a fellow of the International Human Rights Law Institute at Chicago’s DePaul University College of Law, would remind young lawyers in the U.S. of Iraq’s pre-Saddam legal sophistication. Indeed, despite the authoritarian years of Saddam, there are some 26,000 lawyers among the Iraq population of 22 million, Mr. Kritzalis noted. Mr. Hamoudi, a former associate at Debevoise & Plimpton who plans a corporate law practice in Baghdad after his fellowship, would further advise American attorneys that cultural sensitivity is essential. “Iraqis are a very proud people, and even though there’s relief now that Saddam has been removed, there’s a certain resentment or a sense of embarrassment that someone else had to come in and do that job — and the embarrassment rolls over to the law,” said Mr. Hamoudi, 32, a graduate of Columbia Law School. “Iraqis want to handle things on their own, they don’t need outsiders to guide them as if they were children.”

“If one comes in with the attitude of ‘Here are some ideas from our country that you might find helpful,’ rather than a teacher-student outlook,” he added, “then you open discussion and dialogue and you’ll find success.”

Jean C. Berman, executive director of the New York-based International Senior Lawyers Project, which sends retired corporate attorneys to hot spots around the world, said the U.S. military occupation of Iraq is a unique complication for lawyers hoping to do good in that country or make money — or both. Under such circumstances, she said, “A lawyer, particularly a young lawyer, needs to really care about and listen to the client — and know who the client is. In the case of rebuilding the legal system somewhere, that’s not always clear. In Iraq, the client could be the U.S. government.”

Lawyers and other professionals in Iraq are certainly aware of such murkiness, suggested both Messrs. Hamoudi and Kritzalis. “Iraqis are able to draw a distinction between the Pentagon and some organization that might have to work with the Pentagon to some degree,” said Mr. Hamoudi. “But suspicion would still be there.”

Mr. Kritzalis said distinctions are finely parsed in Iraq, where many lawyers left Iraq and lived in exile in Europe or elsewhere in the Arabian Gulf region during the Saddam years, sometimes returning for short periods. “Which in itself raises questions,” said Mr. Kritzalis. Since April, he added, “The expatriates have been trying to position themselves for current and future roles, and are viewed with some skepticism. I’ve yet to hear of an expat lawyer who went back and was greeted with open arms.”

Bottom line: Would Mr. Kritzalis advise lawyers to venture into the Iraqi frontier? “If one looks at the possibilities in the mid-term or long-term, and overcomes the impulse to short-term thinking — yes, it becomes interesting,” he said. “From banking to telecommunications to project finance work and so on, the needs are going to be huge. “A lawyer in his 30s could have a very, very interesting time of it.”

This article is reprinted with permission from the December 12, 2003 edition of the NEW YORK LAW JOURNAL. © 2003 ALM Properties, Inc. All rights reserved. Further duplication without permission is prohibited. For information, contact American Lawyer Media, Reprint Department at 800-888-8300 x6111. #070-12-03-0016