

RELEASE IN PART
B1,1.4(B),1.4(D),B5,B6

From: Mills, Cheryl D <MillsCD@state.gov>
Sent: Friday, April 6, 2012 10:41 AM
To: H
Subject: FW: STATUS: DAQDUQ

Classified by DAS, A/GIS, DoS on 02/29/2016 ~ Class: CONFIDENTIAL ~ Reason: 1.4(B), 1.4(D) ~ Declassify on: 04/05/2027

From: Koh, Harold Hongju
Sent: Friday, April 06, 2012 9:14 AM
To: Mills, Cheryl D; Nides, Thomas R; Burns, William J; Sullivan, Jacob J
Subject: FW: STATUS: DAQDUQ

As mentioned this am

From: Jeffrey, James F (Baghdad)
Sent: Friday, April 06, 2012 8:06 AM
To: 'McDonough, Denis R.'; Canegallo, Kristie A.; 'Blinken, Antony J.'; 'Finer, Jonathan J.'; 'Samuel_K_Parker [redacted]'; 'Cardno, Gwendolyn'; Feltman, Jeffrey D; Leaf, Barbara A; Desrocher, John P; Koh, Harold Hongju; DeBartolo, David M; Beecroft, Robert S (Baghdad); Silliman, Douglas A (Baghdad); Freeman, Jeremy B (Baghdad); Tayah, Therese (Baghdad); Alzayat, Wael N (Baghdad)
Subject: STATUS: DAQDUQ

B6

First, to summarize situation as of Friday morning:

WHAT WE'VE LEARNED

1. Judge in reversal from April 3 has told us he believes he does not have the evidence to go forward on the two remaining charges—forgery and the Kabala attack (forgery would have likely only gotten 'time served' in any case)
2. Chief Justice Medhat has told us that in fact he has no knowledge of the MFA having served the extradition request on the judiciary. That is relevant as that would be one possible/possible basis for the judiciary to continue to hold Daqduq if no charges are filed per 1. Above. (MFA has repeatedly told us they forwarded the paperwork to Min Justice to pass to judiciary. What we do not know is if MoJ actually did so.)
3. Political commitments to keep Daqduq for some significant period, and to give us 90 days advance notice, have been recently reconfirmed—[redacted]

B1
1.4(B)
1.4(D)

STATE OF PLAY

- For the moment we have to act as if 1. Above is operative.
- That means the 'legal' basis for continuing to hold Daqduq in line with 3. Above would remain the extradition request if no charges filed on monday.
- Furthermore, proper processing of the extradition request, which appears/appears at this point to possibly not have been done, is an executive branch diplomatic/treaty responsibility, not a judicial branch action. This is relevant as it means that Maliki and Mignons cannot plead that 'this is in judiciary's realm, we thus cannot

interfere.' It is the RESPONSIBILITY of the executive, i.e, Maliki, to ensure that extradition requests are 'served' to the judiciary for whatever role it has in the matter. This is a specific grounds for complaint.

WHAT WE'VE DONE

- We are reaching out to Maliki's chief of staff re the extradition request
- We just checked with the senior advisor to the Minister of Justice, who says that his boss has not seen the request.
- Based on this, we are going back to the MFA to ask them to re-send, re-check, whatever (this is all complicated by being on a Friday but we'll find people).
- DoJ team will contact Medhat at OOB Sunday to go over options on holding. By that time we assume extradition request will have gotten to Judiciary.

(It's worth noting that we gave copies of the original to the MFA extradition request to all the actors including Medhat. To some degree people are going back to a 'he said she said' game on exactly where the request lies. No one is taking responsibility for it. We see this all the time here, e.g., visas. What is hard to ascertain is whether the reason is the incredibly inefficient, slow, risk-adverse, 'eat the homework' bureaucracy, for my money (and I served in Albania) the world's worst, or whether it is political influence to have an 'out' on a problem issue, Daqduq.)

NEXT STEPS

As the day wears on, the following are possibilities before or early Monday:

- I call Minister of Justice (once we can ascertain that he has the extradition).

- I call Medhat

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