

Lawyer's Slaying Raises Questions on Hussein Trial

The New York Times
October 22, 2005
By JOHN F. BURNS

BAGHDAD, Iraq, Saturday, Oct. 22 - The execution-style killing of a defense lawyer in the trial of Saddam Hussein and some top associates shocked Iraqi and American officials on Friday and renewed doubts about whether it is possible to hold a fair trial in the midst of a war that has spurred a wave of revenge killings against people linked to Mr. Hussein.

A group of a dozen armed men seized the lawyer, Sadoun al-Janabi, from his Baghdad office at 10 p.m. on Thursday and his body, with two bullet wounds to the head, was found in a rubbish-strewn lot nearby about an hour later, an Iraqi police spokesman said. The killing occurred less than 36 hours after Mr. Hussein's trial began on Wednesday, with live television coverage that identified Mr. Janabi by name and showed close-ups of him presenting arguments in the court on behalf of his client, Awad Hamed al-Bander, the former head of the Revolutionary Court under Mr. Hussein.

Some Western human rights advocates who attended Wednesday's court session said that the killing reopened the issue of whether the trial should have been held outside Iraq, a question rights groups have raised ever since American troops toppled Mr. Hussein in April 2003.

"We understand that any trial will need to be accessible to the victims of the crimes, and to those in whose names the crimes were committed," said Richard Dicker, a lawyer who heads the international justice program for Human Rights Watch, based in New York. "But if it proves impossible to conduct a fair trial because of the security conditions, the question arises of relocating the trial elsewhere to allow for a fair proceeding."

Many Western legal experts and rights advocates have argued that Mr. Hussein should have been tried before an international court, or in an Iraqi court with a strong international dimension. But the Bush administration and its Iraqi political allies rejected that in favor of an Iraqi tribunal sitting in Baghdad, partly because an international court would not have the option of imposing the death penalty, which many Iraqis believe is the only fit punishment for Mr. Hussein.

While Iraqi and American officials dismissed the idea of moving the trial or changing its ground rules, the killing did send senior officials of the court into urgent meetings with American officials in Baghdad's heavily guarded international zone.

Iraqi officials said the discussions centered on steps to give defense lawyers in the case protection, and to discourage other defense attorneys from quitting the case. That possibility, the Iraqi officials said, could complicate or even block plans for the resumption of the trial, which was adjourned after three hours on Wednesday and is scheduled to resume on Nov. 28.

Elaborate steps to protect judges, prosecutors and other senior Iraqi officials involved in the case have been taken by American officials at the Regime Crimes Liaison Office, a unit of the American Embassy.

The office has had the primary responsibility, painstakingly hidden from public view, of preparing the trial. It has arranged for the judges, leading prosecutors and their families to live inside the heavily guarded international zone where the trial is being held, and to have around-the-clock protection by armed guards.

An official familiar with Friday's discussions between American and Iraqi officials said in a telephone interview early on Saturday that the defense lawyers have now been offered "substantial protection" that he declined to detail for security reasons. He said the lawyers had not asked for bodyguards before the trial, although some had been given other forms of security assistance, including what he called "certain accommodations" that gave them protection against attack. It was not clear if this referred to housing inside the international zone, which is surrounded by 10 miles of 15-foot-high concrete blast walls.

The official said that all 13 of the defense lawyers at Wednesday's session had been asked if they objected to being seen in the live television coverage and that only one, not Mr. Janabi, said he did, and that he was kept out of the transmission. "In other words, the wishes of the lawyers in respect of the TV coverage were respected," said the official, who asked for anonymity because he was not authorized to speak publicly.

Iraqi officials said one security precaution discussed at the meetings of American and Iraqi officials on Saturday was for the court to pay for guards whom the defense attorneys could later hire for themselves.

The case brought against Mr. Hussein and his associates this week, the first of about a dozen that the Iraqi court plans to prosecute that could feature Mr. Hussein as a defendant, involves the killing of 148 men and teenage boys from the Shiite town of Dujail, 35 miles north of Baghdad, after Mr. Hussein survived an assassination attempt there on July 8, 1982.

Mr. Janabi was one of three attorneys who appeared in the court to represent Mr. Bander, who was seated next to Mr. Hussein in the front row of the defendants at Wednesday's session. He had been among the most hated men in Iraq during Mr. Hussein's years in power.

Mr. Bander was considered among the government's most brutal figures for the summary trials at which he condemned thousands of people to death, often on what human rights groups have said was the flimsiest of evidence, or no evidence at all.

Mr. Bander sentenced most of the Dujail victims to death without ever holding a hearing, 46 of them men who had already been tortured to death in secret police cells, according to prosecution evidence at the trial. The prosecution said four of those executed were men with no links to the case who were taken to the gallows by mistake.

Raid Juhi, the investigative judge who spent hours questioning Mr. Hussein and other defendants in the Dujail case, and who acts as spokesman for the court, said in a telephone interview on Friday that judges and prosecutors in the case had "heard this news about Mr. Janabi with great sadness."

But he added: "How can we protect people who don't ask us for it, and who wouldn't accept it anyway?"

Other Iraqi officials concurred, saying they didn't expect the defense attorneys to accept protection offered by the court, since they have long maintained, in an argument used by Mr. Hussein on Wednesday, that the court is an American creation and illegitimate.

Although the attorneys mounted the beginnings of a defense on Wednesday, their rejection of the American presence in Iraq, and of the new Iraqi government, might make it hard for them to accept the highly visible security arrangements, involving armored, four-wheel-drive vehicles, bodyguards with flak jackets and automatic rifles, that have been provided to other senior court officials.

Eyewitnesses quoted on Friday on the television channel Al Arabiya said that Mr. Janabi's abductors, dressed in suits and ties, identified themselves as officials of the Interior Ministry, which has faced frequent accusations in recent months that it has harbored Shiite death squads that hunt down members of the Sunni Arab community with links to Mr. Hussein's years in power.

Mr. Janabi was a Sunni Arab, and was said by associates on Saturday to have been a personal friend of Mr. Hussein's. Shiites were the principal victims of Mr. Hussein's repression, with tens of thousands sent to mass graves.

At the three-hour hearing which opened the trial, Mr. Janabi, a tall, powerfully-built man in his mid-50's with well-coiffed white hair and a thick mustache, was one of several defense lawyers who mounted vociferous objections to the opening presentation by Jaafar al-Musawi, the chief prosecutor. Mr. Musawi said Mr. Hussein had been responsible for the deaths of two million Iraqis by murder, torture and disappearances, and that his other "odious crimes" had included what he called "a war with no justification against our neighbor, Iran."

Mr. Janabi leapt to his feet and demanded that the chief judge, Rizgur Mohammed Amin, halt the prosecutor's "political speech" and concentrate on the case at hand. Addressing himself to the prosecutor, he added, "What are you, an Iraqi or an Iranian?"

Mr. Musawi, the prosecutor, replied by saying that "what I am saying has nothing to do with politics," only with criminality.

But Judge Amin agreed with Mr. Janabi, saying, "The public prosecutor will now confine himself to the Dujail case."

The office where Mr. Janabi was seized is in Baghdad's Shaab district, a mixed Sunni-Shiite area near the Shiite militant stronghold of Sadr City, the base for groups of armed men who are believed to have abducted and killed dozens of prominent Sunnis in Shaab. An Interior Ministry official, denying that the ministry was involved in the killing, said the men who seized Mr. Janabi had arrived in Nissan four-wheel-drive vehicles of a kind used by the Badr Organization, a militant Shiite militia linked to the Supreme Council for the Islamic Revolution in Iraq, one of two Islamic parties that dominate the government of Prime Minister Ibrahim al-Jaafari.