

Iraq's New Form Of Justice Seems To Satisfy Few

Case Offers View of U.S.-Backed Court

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BAGHDAD -- Kamal Mutib Salim, a neatly bearded man in a yellow prison jumpsuit, stopped briefly to whisper a prayer before walking into the courtroom where three judges in black robes were waiting for him. A police officer clasped his right hand firmly into Salim's left and led him to an ornately carved wooden cage at the front of the room. Salim stepped inside, folded his arms across his broad chest and waited for his trial to begin.

Salim's case was making its way through the hybrid legal system that evolved after the U.S.-led invasion last year as a blend of Iraqi- and American-style justice. He was arrested by the U.S. Army in April, when soldiers from the 1st Infantry Division raided his house and charged him with illegally possessing explosive-making materials. Last week, he answered the charges in an Iraqi court -- the Central Criminal Court, established last year by the U.S.-led occupation authority.

The court, which so far has tried 37 cases involving 55 defendants, relies on a mixture of Iraqi law and rules laid down by the now-dissolved occupation authority. Although U.S. military authorities say they have established something new in Iraq -- a fair tribunal that gives defendants due process -- many Iraqis have refused to accept a legal system backed by the U.S. government, even if it is run by Iraqis.

While Iraqi justice generally tends to be swift -- before Salim's trial, a man was tried and sentenced to death for a double murder in two hours -- the court has been bogged down from the start, handling just a fraction of the hundreds of cases the military plans to send to trial.

In cases in which Iraqis have been accused of being threats to security, the Iraqi judges have imposed light sentences, ranging from two months to six years. The stiffest sentence involving a security detainee was handed down when a man who had approached a military checkpoint with four mortars, 16 mortar rounds, fuses and explosive charges in the trunk of his vehicle was ordered to spend 30 years in prison, the minimum sentence.

But the majority of the cases have turned out like Salim's. He got 18 months, and his trial provided a rare look into how an Iraqi court is dispensing justice for a foreign military force.

The court meets under heavy security in a building that used to be a personal museum of the overthrown president, Saddam Hussein. The man in charge of the court, Luqman Thabit, was also chief judge for Hussein's special secret court, in which sentences were often dictated by the Iraqi leader or his sons. Thabit said he was fired and persecuted by Hussein three years ago after he refused to sentence five prostitutes to death. As a matter of law, the women did not deserve death, Thabit said while drinking tea in his chambers before court convened.

After Hussein's son Uday had the women executed, Thabit said, he was asked again to impose the death penalty, as one final slap.

"You can't kill someone who is already dead," Thabit said. "So when I refused, I was removed from the bench."

The new court over which he presides "is fully independent," Thabit said. Because the court was set up to hear all cases of threats to security and stability in Iraq, the double-murder case also came before Thabit.

As evidenced by Salim's trial, the U.S. military has no official role in the actual court proceedings, other than to provide witnesses and an interpreter.

Staff Sgt. Guy Ridings, 31, of Waco, Tex., and Staff Sgt. Eduardo Fernandez, 27, of Guayama, Puerto Rico, were members of the unit that raided Salim's house. The two soldiers, dressed in their camouflage fatigues, testified that they found circuit boards, a disassembled alarm clock and batteries hidden in a dresser in the house. They spoke to Thabit through Maher Soliman, an Arabic-speaking divorce lawyer from California who works as a special prosecutor for the U.S. military.

Thabit, a slight but commanding figure who had sentenced the double-murderer to death by telling him in an impassioned speech that "the bloodshed must stop," asked Fernandez whether Salim had resisted arrest. No, Fernandez replied, and then he grabbed the interpreter's arm. "Tell him," Fernandez pleaded with Soliman. "Tell him it was early in the morning and he was basically asleep."

Before the start of the trial, as he waited with Fernandez in a small room used by military lawyers, Ridings said that if it were up to him, Salim "wouldn't see the light of day."

"I've got soldiers dying about every day," he said. "I picked a dead body out of a vehicle no more than a week ago. I hope he gets what he has coming to him."

In the courtroom, the soldiers looked at Salim only once, when the judge asked them to identify him as the owner of the house where the materials were found.

After the soldiers testified, a plainclothes guard and an Iraqi police officer removed Salim from the defendant's cage to stand in front of the judges. Etched into the pink marble behind them were a scale of justice and a verse from the Koran that read, "When you judge between a man and a man, you judge with justice."

Salim told the judge that the circuit boards came from a battery factory where he had worked and that he was only holding them for safekeeping after the factory was looted.

"Aren't you against the Army?" the judge asked. "Aren't you against the Iraqi police?"

"No," Salim responded. "No."

Later, Salim asked to speak with the judge. Gesturing from inside the cage, Salim said he was a victim of a conspiracy. The informant who had tipped off the Army was an old nemesis, he said, and the materials in the house were used for fishing. "I shock the fish and take them," he said. "But the timer, I don't use it at all."

After a 10-minute recess to discuss the case with the other judges, Thabit announced that he was ready to rule.

"The instruments they found in your house can be used for bombs," Thabit said, his head turned to address Salim in the cage. "But we didn't have any connection between a bomb in your neighborhood and the devices in your house."

Thabit ordered Salim to spend 18 months in jail.

Mukdad Alwan, Salim's attorney, protested that the court had no right to bring charges against his client in the first place. "This court is not legitimate," he said in an interview after the verdict.

Alwan said no Iraqi law prohibits the possession of the materials that the soldiers claimed to have found in Salim's house. "The Iraqi law found my client not guilty, but the court didn't say that. They tried him according to occupation forces."

Although the court is open to the public, not many Iraqis know that it exists. Americans as well as Iraqis have expressed surprise and disappointment at how light the judges have gone on security detainees like Salim.

Bashar, a 25-year-old pharmacist who was kneeling on a prayer rug behind the desk in his shop, said the violence will stop only if the detainees are imprisoned longer.

"We have many bad people in my country. Unfortunately, we need a thousand people like Saddam to control them," said Bashar, who declined to give his last name. "The court is legal, but the judge is not fair. He should put him in the jail a long time."

The only one who seemed pleased by the outcome was Salim.

After his trial, he greeted his attorney outside the courtroom with a kiss on each cheek.

Well, Alwan told his client, it could have been worse. The guy the other day got 30 years.

Salim smiled broadly.

"I'll take it easy," he said, before gesturing with his thumb at the U.S. soldiers. "Those dogs are finished."

Special correspondents Omar Fekeiki and Luma Mousawi contributed to this report.