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## **THE STRUGGLE FOR IRAQ: JUSTICE; Iraqis Meet With War Crimes Trial Experts**

By MARLISE SIMONS

Ten Iraqi judges and prosecutors preparing to try Saddam Hussein and members of his government have quietly met here with veterans of international war crimes tribunals to draw on their experience of judging atrocities in the Balkans, Sierra Leone and Rwanda, according to the Iraqis and other participants.

Interviews with court officials based here and with Iraqi participants in the meetings, held late last month, outline some of the Iraqis' deepest concerns and their state of readiness.

The Iraqis said trials were not likely to start until early next year and emphasized that Mr. Hussein would not be the first to be tried.

The Iraqis were led by Salem Chalabi, the coordinator of the tribunal for Iraqi war crimes, who is a nephew of Ahmad Chalabi, the leader of the Iraqi National Congress.

Salem Chalabi said the discussions included the need for security for staff and witnesses, modern court equipment, careful handling of evidence, and an effective defense for the accused, among many other issues.

The Iraqis also focused on the drawn-out trial of the grandstanding former Yugoslav president, Slobodan Milosevic, the first deposed head of state to be tried before an international court.

Because Mr. Milosevic defends himself, he is able to hold the floor for long periods as he cross-examines witnesses. He often makes statements disguised as questions and uses the court as a political podium from which to encourage nationalist Serbs.

"There was a discussion what effect a Saddam trial could have on the Arab street," one participant said.

The Iraqis are determined to keep Mr. Hussein on a far tighter leash, participants in the meetings said.

Mr. Chalabi said that under Iraqi law, no one, not even Mr. Hussein, could defend himself unless he is a lawyer.

In Amsterdam, the Iraqis met with members of the international courts dealing with Rwanda, the former Yugoslavia, East Timor and Sierra Leone. In The Hague, they visited the new International Criminal Court, which Washington opposes, and the Yugoslav tribunal.

"It was all extremely useful," said Mr. Chalabi, who has practiced law in a London firm.

"Seeing the software and the monitors recording testimony in the courtrooms was an extremely powerful message for our judges," he said of the Yugoslav tribunal. "It showed them how Iraq is lagging behind."

The meetings, which lasted three days, also underlined the complexities and contradictions of finding international help to organize the Iraqi tribunal, when the process so far has been mainly controlled by the United States.

"Iraqis feel quite strongly that they want the international input to be broad-based, not just American," said Neil Kritz, a director of the United States Institute of Peace in Washington. "We want to ensure that happens." But it was his federally financed group that organized and paid for the trip, and he accompanied the Iraqis.

In contrast to the United Nations, which has been cautious about being drawn into a process in which it has no say, Washington has been deeply involved in creating the tribunal, helping to draft statutes and providing staff, funds and expertise.

But the United States has not held or encouraged the kind of open, international meetings that accompanied the creation of other tribunals. "It's all happening behind closed doors," said Richard Dicker, a director of Human Rights Watch. "It's almost clandestine."

Meanwhile, some governments in Europe, including Britain, where there is no death penalty, have said they will have problems cooperating in trials that could lead to capital punishment.

Further, Mr. Chalabi said that unlike other international tribunals, judges will not be from a variety of nations. "We will have only Iraqi judges; that's a big political issue in Iraq," he said, speaking by telephone after returning to Baghdad. "The judges will get special training to meet international standards."

The American involvement will intensify shortly. A small team from the Justice Department has already gone to Iraq. Investigators and prosecutors will follow this month to establish the tribunal, work out procedural rules, organize evidence and charges against Mr. Hussein and his aides, administration officials said.

Mr. Chalabi cited two main reasons Mr. Hussein will not be tried first: wrinkles need to be ironed out before the tribunal "gets put under the scrutiny of a trial like Saddam's" and as many as 12 charges may be brought against him, for which evidence must be ready for trial.

United States officials have repeatedly cited the Sierra Leone court as a model for future war crimes prosecutions, rather than the costly and large Rwandan and Yugoslav tribunals created by the United Nations a decade ago. Its budget is controlled by the United States and other donor countries; it has a three-year mandate; and it aims to try only the 15 to 20 defendants deemed most responsible for atrocities during the latter part of Sierra Leone civil war.

But the Iraqis may not be satisfied with a small number of trials. "The U.S. government was suggesting trying the 20 top cases, and Iraqis are talking of hundreds, even thousands," Mr. Chalabi said. "I rather think it will be closer to 200 people, a good portion of which can be dealt with through plea-bargaining."

A primary concern will be security. At the time of their creation, the Yugoslav and Rwandan conflicts were continuing, so the tribunals were set up outside the country. But the Iraqi tribunal will remain in Iraq, and continuing violence may hamper its operation.

In the former Yugoslavia and in Rwanda, for example, numerous witnesses were threatened and refused to appear before the tribunals. At times, defense lawyers have leaked the names of some witnesses who testified secretly or under assumed names.

The unstable and polarized climate in Iraq may also cause deeper problems. Antonio Cassese, the first president of the Yugoslav tribunal, said he feared that the climate for a fair trial may not yet exist. But both Iraqi and American officials have said early trials inside Iraq must be a part of the transition and stabilization process.

Defense is another serious concern. The Yugoslav and Rwandan tribunals have seen their work affected by poorly trained and sometimes corrupt defense lawyers whose practices included slowing the proceedings in order to bill the United Nations for more work or splitting their fees with defendants.

Like the courts of Rwanda and Yugoslavia, Iraq's will face vast amounts of evidence, stretching over many years. Iraqis were told that the way evidence was stored was crucial. The Yugoslav tribunal had to reorganize its databases and catalogs three times as new evidence and new technology became available.

"Criminal trials and justice after armed conflict have now almost become a given," said Sam Muller, a senior official at the newly created International Criminal Court in The Hague who attended the talks. "The practice of it is much more difficult than is often believed."