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CONTACT

Suzana Grego
Director of Communications
Tel +1.917.703.1106
sgrego@ictj.org



5 Hanover Square, 24th Floor
New York, NY 10004
Tel 917-637-3800
Fax 917-637-3900
www.ictj.org

Iraq Tribunal Chooses Speed over Justice in Final Ruling *Lost Opportunity to Solve Flaws of Dujail Case*

BAGHDAD and NEW YORK, December 27, 2006—The Appeals Chamber of the Iraqi High Tribunal has mistakenly chosen speed over justice, said the International Center for Transitional Justice (ICTJ). Instead of addressing the serious flaws of the Dujail trial, the Chamber yesterday appeared to have bowed to political pressure and issued its final judgment with worrying speed.

Eight defendants were tried in the Dujail case. The ruling confirmed the verdicts and sentences of seven defendants, including Saddam Hussein. The exception was Taha Yasin Ramadan, former Vice President and head of the Ba'ath Popular Army, whose sentence was changed from life imprisonment to the death penalty. The ICTJ opposes the application of the death penalty as a matter of principle.

"The Appeals Chamber's ruling was issued far too rapidly for a case involving complex international crimes," said Miranda Sissons, head of the ICTJ's Iraq program and one of its trial monitors. "The Chamber should have conducted a serious revision of the evidentiary and fairness issues in the Dujail trial to ensure that justice was done. That clearly hasn't happened."

For more information on the shortcomings of the Dujail trial, see the ICTJ's November 2006 briefing paper, "[Dujail: Trial and Error?](#)"

The Trial Chamber announced the verdicts and sentences in the Dujail case on November 5, 2006, but released its written opinion only on November 22—more than halfway through the 30-day appeal period—giving the defense only 11 days to study the judgment before submitting their appeals on December 3. The Appeals Chamber announced its final judgment on December 26, just over three weeks later. The Tribunal statute requires that all sentences be implemented within 30 days of the final judgment, with the consequence that defendants facing charges in other cases—like Saddam Hussein in the Anfal trial—will never be fully tried.

The speed of the ruling reflects the increasing politicization of the Tribunal's work. The Tribunal has suffered from repeated political interference in its operations, including the

dismissal of the presiding judge of the Anfal trial on September 19, 2006. In November, government officials stated that sentences would be carried out before the end of the year. Rumors of Saddam's execution have been mounting in Baghdad. It came as no surprise that news of the Appeals Chamber's decision was conveyed to the public by Iraq's National Security Advisor several hours before the Tribunal's press conference.

"Iraqi victims deserved a sound verdict that could withstand the test of time. Instead they have been dealt a flawed process and a less than clear picture of the massive crimes committed by their former leaders," Sissons said. "Applying the death penalty will make the mistakes of Dujail irreversible. It will deny justice to all, including the victims of those crimes."

Background on the Dujail Trial

The facts of the Dujail trial deal with a retributive attack against the population of al-Dujail, a small village north of Baghdad, where local residents mounted an assassination attempt on the motorcade of former President Saddam Hussein on July 8, 1982. In the days following, hundreds of residents were detained in inhumane conditions and tortured. Of the detainees, nearly 100 men were referred to the Revolutionary Court, given death sentences, and executed. Some 46 others who had also been sentenced had already died under torture. Hundreds of their relatives, including elderly men, women, and children, were banished to a camp in the desert. While in exile, their houses were confiscated, orchards razed, and property destroyed.

The Iraqi High Tribunal tried eight defendants in the Dujail trial, ranging in levels of seniority. The high-ranking defendants included former President Saddam Hussein; his half-brother and former chief of the intelligence service (the mukhabarat) Barzan al-Tikriti; former Deputy Prime Minister, and later Vice President and head of the Ba'ath Popular Army, Taha Yasin Ramadan; and President of the Revolutionary Court Awwad Hamd al-Bandar. On the other end of the spectrum were medium- to low-ranking local Ba'ath party members, including Abd Allah al-Ruwaid and Mizher al-Ruwaid, senior Ba'ath party officials in Dujail, and Ali Dayih Ali and Mohammed Azzawi Ali, both party officials in Dujail. The defendants were charged with crimes against humanity, including murder, deportation, imprisonment, torture, disappearances, and "other inhumane acts".

Apart from proving these underlying offences, crimes against humanity also require proof of a widespread or systematic attack on a civilian population and that defendants must have known that they were acting in that context. Under Article 406 of Iraq's penal code, the crime of murder is punishable by death.

On November 5, Trial Chamber I of the Tribunal found former President Saddam Hussein and former chief of intelligence Barzan al-Tikriti guilty of willful killing, torture, deportation/forcible transfer, imprisonment, and other inhumane acts. The two were sentenced to death and multiple terms of imprisonment. Former President of the Revolutionary Court, Awwad Hamd al-Bandar, was found guilty of willful killing and

sentenced to death. Former Vice President and head of the Ba'ath Popular Army, Taha Yasin Ramadan, was found guilty of willful killing, deportation, torture, imprisonment, and other inhumane acts. He was sentenced to life imprisonment and multiple jail terms, but on December 26, the Cassation Chamber increased Ramadan's sentence to the death penalty. Former Ba'ath party officials Abd Allah al-Ruwaid and Ali Dayih Ali were both found guilty of willful killing, torture, and imprisonment. They were sentenced to 15 years' imprisonment plus multiple other jail terms. Former senior Ba'ath party leader, Mizher al-Ruwaid, was convicted of the same charges and penalties. All defendants were found guilty of these crimes as crimes against humanity. All defendants were acquitted of charges of forced disappearances. Charges against Muhammad Azzawi Ali, a former Ba'ath party member from Dujail, were dismissed for lack of evidence.

Additional Resources

ICTJ Briefing Paper: "[Dujail: Trial and Error?](#)" November 2006

ICTJ Press Release: "[ICTJ Releases Analysis of First Iraq Trial,](#)" November 7, 2006

ICTJ Press Release: "[Iraq Tribunal Issues Verdict in First Hussein Trial,](#)" November 5, 2006

ICTJ Briefing Paper: "[The Creation and First Trials before the Supreme Iraqi Criminal Tribunal,](#)" October 2005

The Tribunal Statute of October 18, 2005:

([English, ICTJ translation](#))

([Arabic](#))

The Tribunal's Rules of Procedure and Evidence of October 18, 2005:

([English, ICTJ translation](#))

([Arabic](#))

For more information, go to the ICTJ's [Iraq page](#):

<http://www.ictj.org/en/where/region5/564.html>

The Role of the ICTJ in the Dujail Trial

The ICTJ has played a crucial role in monitoring the Dujail trial, being one of only two organizations to observe the trial throughout. Prior to the trial, the Center commented on the Statute and the Rules of Procedure and Evidence. The organization's Arabic-speaking observers were present from the trial's opening and attended nearly all of the hearings. The ICTJ has engaged in many discussions and interviews with key participants in a series of four missions, including one with international expert Robin Vincent, former Registrar of the Special Court for Sierra Leone.

Apart from a consistent presence on-the-ground, the Center organized a pre-trial dialogue on international standards in London with IHT prosecutors and judges; evaluated the trial dossiers; maintained an informal transcript; and corresponded with Tribunal staff. The ICTJ has given extensive media commentary throughout the trial. The Center also worked in Iraq prior to the beginning of the trial, and in 2003, with the University of California, Berkeley, conducted a country-wide survey on Iraqis' expectations of transitional justice.

About the ICTJ

The International Center for Transitional Justice (ICTJ) assists countries pursuing accountability for past mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved.

In order to promote justice, peace, and reconciliation, government officials and nongovernmental advocates are likely to consider a variety of transitional justice approaches including both judicial and non-judicial responses to human rights crimes. The ICTJ assists in the development of integrated, comprehensive, and localized approaches to transitional justice comprising five key elements: prosecuting perpetrators, documenting and acknowledging violations through non-judicial means such as truth commissions, reforming abusive institutions, providing reparations to victims, and facilitating reconciliation processes.

The Center is committed to building local capacity and generally strengthening the emerging field of transitional justice, and works closely with organizations and experts around the world to do so. By working in the field through local languages, the ICTJ provides comparative information, legal and policy analysis, documentation, and strategic research to justice and truth-seeking institutions, nongovernmental organizations, governments, and others.