



## International

### Iraqis Push to Prosecute Rape in War Crime Trials

Run Date: 06/26/06

By Elizabeth Dwoskin  
WeNews correspondent

*Women are lobbying the Iraqi tribunal--the court trying the war crimes of Saddam Hussein's Baathist regime--to prosecute crimes against women. Iraqi women involved in the effort are concealing their identities out of fear of retribution.*



(WOMENSENEWS)--A prominent women's group in Iraq, along with advocates of international law in the United States, are beginning to demand justice for thousands of Iraqi women who suffered under the regime of Saddam Hussein.

They are working with and lobbying the Iraqi High Tribunal--the temporary court now trying the crimes of Hussein's Baathist regime--to prosecute and punish perpetrators of gender-based violence, including allegations of women being raped in prison and politically motivated public beheadings.

**Janet Benshoof** The group in Iraq, whose members request anonymity, formed in 2003 as a network of expatriate women, some of whom have returned to the country. They are supported in part by a grant from the New York-based Open Society Institute.

"I do not want our name to be used to protect our members in Iraq from being targeted," said the group's director, who is based in the United States. She said she has also concealed her work with the tribunal from many members of her own organization. "To protect them, I didn't tell them," she said.

On June 21, a senior lawyer defending Saddam Hussein before the tribunal was murdered at his home in Baghdad, dramatizing the level of sectarian violence and danger surrounding the proceedings.

In August 2004, the Iraqi women began working with the New York-based Global Justice Center, a group that advises female leaders in transitional democracies.

### **Chance to Strengthen Precedent**

The activists say their work with the tribunal is a chance to strengthen recent precedents in international law that can be used to prosecute violations of women's rights and sexual violence within Iraq, even after the tribunal itself has ended.

"If we can get the prosecutors to make indictments for the Baathist crimes and the judges to recognize sexual violence, it is going to open a door that can change the local laws on rape and on honor killings. Once that door is open, it cannot shut," said Janet Benshoof, director of

the Global Justice Center. "Today under the domestic Iraqi penal code, if a man runs out on the street and rapes 40 different women in complete view of the public, that act is not considered a crime unless one of the women or her relatives come forward. The tribunal, on the other hand, is working with the progressive and comprehensive legal code on sexual violence in the world."

The tribunal was formed in 2003; its mandate is to try the Baathist regime of Saddam Hussein for genocide, war crimes and crimes against humanity committed between 1968 and 2003. It includes approximately 70 judges; all but the chief investigative judge are anonymous. One of the judges and one of approximately 20 prosecutors are female.

The tribunal is scheduled to hold 12 trials in all. The first trial, which began in October and is expected to last at least until August, includes the trial of Hussein and seven others for a 1982 massacre in the Iraqi city of Dujail.

The next trial will be for the Anfal campaign, described as a three-year-long murderous rampage that Hussein is accused of waging upon the Kurds, the minority population in northern Iraq.

The U.S. State Department and KurdishMedia.com, an independent online news source, have alleged that Kurdish women were raped and trafficked during the Anfal campaign. The women's groups are compiling such reports in an attempt to organize pieces of evidence of violence against women during the Baathist regime.

## ***Rape Charges Unsure***

While the tribunal's statute identifies rape as a war crime, a crime against humanity and a form of torture, some international lawyers and members of the Global Justice Center say that the wording of the statute itself does not ensure that the group of predominately male judges and prosecutors will include rape in their list of charges in future cases.

One reason for this is that such progressive laws for prosecuting sex crimes are new, first established in the 1990s by the war crimes tribunals in Rwanda and the former Yugoslavia. The International Criminal Court was established in 2002, but hasn't issued any rulings yet that could influence future cases.

Another reason is that Iraq's domestic rape laws--those with which the judges are most familiar--are far less progressive than the laws they will be using in the tribunal. In Iraq today, for example, a rapist can escape prosecution by marrying his victim.

Nehal Bhuta, a research fellow at New York-based Human Rights Watch, says that sexual assaults in connection with the 1982 massacre have come up before the Iraqi tribunal but have not become a focus.

"The witness evidence indicated that there were some forms of sexual assault, but it is not in the charges," Bhuta told Women's eNews. "It could be that they are not paying attention to it, that they don't want to emphasize it. All I can say is that it is there in the evidence, but for a reason I do not know, the prosecution has not chosen to focus on it."

## ***Trainings on Sex Crime Laws***

Benshoof says that the tribunal judges and prosecutors have asked the women's groups for training in the international legal precedents on sex crimes. In her opinion, they are eager to prove the legitimacy of the court to the international community, which has questioned whether Iraqi judges can give their former dictators a fair trial.

In March training sessions, the women's groups emphasized that contrary to the Iraqi Penal Code, under the tribunal's statute, rape can happen to a man or woman, it does not limit the crime to an act of penetration and a person does not have to say no to establish that she or he has not consented to sex.

The women are also advocating that the tribunal set up videoconferencing in Kurdistan so that women there can testify from the safety of their homes and communities. They want the tribunal to create a reparations fund for the women if judges rule in their favor.

Along with other human rights groups, the Iraqi women's group is considering submitting a friend-of-the-court brief to the tribunal, which will argue that, while sexual violence against women has traditionally been treated with impunity, the tribunal has the opportunity to make history by addressing it.

As part of an effort to sensitize the judges to the psychological dimensions of rape, the women showed the judges a videotape of a woman who said that she was raped by Saddam Hussein himself.

"The point is we are trying to bring this before the judges, because when the tribunal is over, they will go back to their benches and be the elite judges of Iraq," said the leader of the Iraqi women's group. "So we want them to see how women suffer."

*Elizabeth Dwoskin is a freelance writer and radio producer based in New York City. She will be beginning a yearlong Rotary Ambassadorial Scholarship in Rio de Janeiro, Brazil, starting this July.*

Women's eNews welcomes your comments. E-mail us at [editors@womensenews.org](mailto:editors@womensenews.org).

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### ***For more information:***

Global Justice Center:  
<http://www.globaljusticecenter.net>

Grotian Moment: The Saddam Hussein Trial Blog:  
<http://www.law.case.edu/saddamtrial/>

Iraqi Women Under Saddam's Regime: A Population Silenced:  
<http://www.state.gov/g/wi/rls/18877.htm>

Dr. Sahib al Hakim (Arabic only):  
<http://www.alhakim.co.uk/>