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# Saddam Hussein at the Bar of Justice: A Moral Imperative

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The actual arrest was part spy thriller and part cartoon. The military executed its job masterfully, making maximum use of solid intelligence gained by reaching into Saddam’s declining circle of family and friends. The cartoon aspect of the affair was seen in the person of Saddam Hussein, the one-time dictator of Iraq, arrested without a fight in a “spider hole” underground chamber he had inhabited, sharing the space with mice, rats, and \$750,000 in American currency. Give this much to Saddam—he may have ended his run in humiliation, but he wasn’t broke.

Justifiably concerned about the risk posed by the arrest of an imposter, the White House waited for confirmation. Within hours, DNA evidence proved that the allied forces indeed had Saddam Hussein in custody. Photographs of the former dictator’s arrest revealed a bearded man whose desperation was obvious. According to official reports, Saddam did not resist arrest, even though he was armed with a pistol.

“He was caught like a rat,” said Maj. Gen. Raymond T. Odierno, commander of the Army’s Fourth Infantry Division, the unit that conducted the raid and captured the former dictator. The realization that Saddam had been arrested brought the Iraqi people into the streets of Baghdad. For some, the circumstances of Saddam’s capture seemed almost unreal.

“This is not Saddam Hussein,” Mehdi Essa told the Wall Street Journal. Mr. Essa, a driver for a Western embassy, explained that Saddam would not have allowed this humiliation: “He would never behave this way. Saddam is very proud. He would have killed himself before he would allow the Americans to get him.” Evidently not. Saddam Hussein may have called for his oppressed citizens to be martyrs for the cause of his regime, but he surrendered without a fight.

The deposed tyrant must have noted the irony when his first interrogation was at the hands of officials of the newly organized Iraqi Governing Council. “I was in his torture chamber in 1979, and now he was sitting there, powerless in front of me without anybody stopping me from doing anything to him,” said Mowaffak al-Rubaie. As The New York Times reported, Mr. al-Rubaie continued: “Just imagine. We were arguing, and he was using very foul language.” Ahmad Chalabi, also a member of the council and head of the Iraqi National Congress said: “He was quite lucid. He had command of his faculties. He would not apologize to the Iraqi people. He did not deny any of the crimes he was confronted with having done. He tried to justify them.”

Like the German soldiers and officers who rushed west to be arrested by the Americans [rather than by the Russians] as the Nazi regime fell, Saddam is no doubt glad he was arrested by disciplined American troops, rather than captured by his former citizens. Just consider the fates of Benito Mussolini and Nicolae Ceausescu.

President Bush waited until Sunday afternoon to address the nation. “In the history of Iraq, a dark and painful era is

over,” he said. “A hopeful day has arrived. All Iraqis can now come together and reject violence and build a new Iraq.”

“The capture of this man was crucial to the rise of a free Iraq,” the President explained. “It marks the end of the road for him, and for all who bullied and killed in his name.” Most urgently, the President promised that “the former dictator of Iraq will face the justice he denied to millions.”

In the end, this may be the most important mission the new Iraqi government will undertake. The test of true justice will also challenge the United States and its allies as they seek to strengthen the institutions necessary for justice to prevail and for a just trial to be conducted. With the arrest and trial of Saddam Hussein, the new Iraqi government can prove its legitimacy and its commitment to the rule of law.

The debate about a war crimes trial started even before Saddam came out of his hole. Just last week, the Iraqi Governing Council established a war crimes tribunal, intended to try Saddam Hussein and other Ba’ath Party leaders for crimes against humanity and the Iraqi people. Judge Dara Nor al-Din had promised that the tribunal would try Saddam for his crimes, in absentia if necessary. The plan calls for tribunals of five judges to start within six months—but all that could change now that Saddam will face his accusers in court.

Human rights groups were among the first to protest. A statement from the group Human Rights Watch criticized the Iraqi tribunals as lacking “essential elements to ensure legitimate and credible trials for perpetrators of genocide, war crimes and crimes against humanity.” The group charged that the Iraqis lack “experience working on complex criminal cases” and “serious human rights crimes.” Human Rights Watch also condemned the fact that the Iraqi courts could impose the death penalty.

Others quickly headed to the airwaves to call for Saddam to be tried at the International Criminal Court in The Hague. This is unlikely, since that court has no jurisdiction over crimes committed prior to July 2002—which would absolve Saddam of most of his crimes. Beyond that, a trial at the International Criminal Court would rob the Iraqi people of their right to try their own former dictator and bring him to the bar of justice. Saddam must answer for his crimes against his own people—and the internationalists have no right to take that responsibility away from the Iraqi people.

“Saddam Hussein will be tried judged by Iraqi judges and the tribunal will work and be situated in Iraq, under the supervision of international experts,” asserted Abdel Aziz al-Hakim, the Governing Council’s current chairman. Pierre-Richard Prosper, the U.S. Ambassador for War Crimes affirmed Mr. al-Hakim’s position: “We really need to allow the Iraqis the opportunity to do this.”

Calls for Saddam to be tried before an international court are further attacks upon the integrity of the Iraqi people. Furthermore, the International Criminal Court and various alternative courts favored by Europeans and liberal American groups are more likely to devolve into never-ending debates over the nuances of what is styled international law, rather than the reality of Saddam’s crimes. The Iraqi people deserve better than that.

Justice requires respect for law and for the institutions that apply the law. An Iraqi trial of Saddam Hussein is a vital first step toward the rule of law throughout that war-torn country. If Saddam Hussein can be brought to account for his crimes before a legitimate Iraqi court, the rule of law just might stand a chance. The Iraqi people deserve the chance to bring Saddam to justice. If not the Iraqis, then who? If not now, when?

The world faced a gruesomely similar challenge with the fall of the Nazi regime in Germany. Though Adolf Hitler cheated justice through suicide, the Nuremberg trials [formally the International Military Tribunal] brought many of the most notorious Nazi leaders to justice. President Harry Truman was convinced that the German people must see their former leaders brought to trial and forced to answer for their crimes. As historian Michael Beschloss records, Truman stated that he wanted “to make it impossible for anyone to ever say in times to come, ‘Oh, it never happened—just a lot of propaganda—a pack of lies.’” Gen. Lucius Clay, the senior American official in post-war Germany, later explained that the record compiled during the Nuremberg trials was necessary to convince the German people “how terrible their government really was.” History and justice demand that the Iraqi people come face-to-face with the horrors of the Hussein regime—horrors that include the genocide of the Kurds, the use of poison gas, mass murder of his own people, and suicidal war against his neighbors.

In recent years, it has become fashionable in some circles to belittle the Nuremberg trials as nothing more than

“victors’ justice.” That is, nothing more than a dressed-up form of legal revenge. Critics accuse the trials of lacking legitimacy, because no fully international body sanctioned the trials. Others claim that the accused were convicted of crimes *ex post facto*, for no official body had declared such “crimes against humanity” to be illegal prior to the war, and the actual commission of genocide.

Of course, these accusations take nothing away from the undeniable fact that failure to bring the Nazi warlords to justice would have been tantamount to an endorsement of their crimes. Millions of slaughtered Jews, murdered citizens, and wasted lives demanded an accounting. The Nuremberg trials not only brought many of the leaders to justice, but also produced the objective record of Nazi atrocities, including the genocide against the Jews, the Nazi medical experiments, and the slaughter of millions in Nazi occupied territory.

Benjamin Disraeli once described justice as “truth in action.” The arrest of the Butcher of Baghdad is only the start. The Iraqi people deserve to see justice demonstrated before their own eyes, administered by their own judges, and affirmed by their own laws. The Iraqis will need help in this task, and the allied powers—led by the United States—should be there to provide that help and support. But in the end, this task falls to the Iraqi people, who now face their sublime moment to put truth into action.

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