

A Trial Giving Kangaroos A Bad Name

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As the dominant corporate media in the US made sure everyone in the country would know just ahead of the mid-term congressional elections here, Saddam Hussein was convicted of crimes against humanity on November 5 for his involvement in the killing of 148 Shia men in al-Dujail village after a failed assassination attempt against him there in 1982. The Supreme Iraqi Criminal (Hanging Court) Tribunal (SICT) sentenced him to death by hanging, subject to appeal that's automatic and pro forma. It won't save him from a very sore neck as long as the Bush administration has the final say, which it does despite international law or whatever passes for it in Iraq where the law is what the US occupier says it is. The sentence must be carried out within 30 days after all appeals are exhausted and the death sentence is ratified by Iraq's nominal president and two vice-presidents who have no authority and take their orders from US Ambassador and proconsul Zalmay Khalilzad who takes his orders from Washington.

It's called victor's justice that not even someone like Saddam Hussein should have been put through. Not even a former dictator should have to answer the charges made against him before an illegal tribunal established by an occupying power.

This proceeding should only have taken place in the sole independent venue constituted for this purpose - the International Criminal Court (ICC) in the Hague established by the Rome Statute of 1998 that gained its authority to try cases in 2002. This court is a permanent tribunal created to prosecute individuals for war crimes, crimes against humanity and genocide as defined under the Nuremberg Charter of 1945. Saddam wasn't sent there because allowing him a legitimate trial might have exposed the culpability of US administrations and the West in his crimes and would also have denied the Bush administration the ability to have the show trial it wanted and not a fair one according to international laws and norms.

It got all that and more. The eleven month "trial" began in October, 2005 and concluded last July with a verdict delayed for when it could be used most effectively for an administration in big trouble with mid-term congressional elections approaching. Forty-eight hours ahead of them seemed about the right positioning. The whole production leading to the November 5 climax was a theatrical, made-for-US-television extravaganza and sham from the start, right up to the staged theatrics in the streets following the announced verdict TV cameras just happened to be around for as they were when Saddam's statue in Baghdad's Firdos Square was toppled at an earlier scheduled-for-a-US-television audience on April 9, 2003 with a brought-in-for-the-occasion "crowd" of "tens" to watch and cheer.....just like it's done on a Hollywood sound stage.

The SICT was established, funded and staged-managed from Washington with US-approved judges and a team of American lawyers working out of the US Embassy in the Green Zone

preparing the case and directing the whole process from beginning to end. It was a classic case of victor's justice in full view assuring whatever the outcome justice would never be served even for a man like Saddam. It wasn't. Along the way from beginning to end, it was a show trial circus best characterized in the terminology of the "down under" marsupial (whose name this trial besmirches) that's known to be shy and retiring by nature and unthreatening to humans unless provoked. The judgment rendered in Washington and announced by the Baghdad SICT on November 5 provoked all people of conscience wanting justice according to the rule of law, not the brand of it practiced out of the Bush White House and Pentagon these days.

The entire process was flawed, unfair and illegal according to virtually all standards of international law. It violated UN Resolution 1483 that required the UN Secretary-General's Special Representative for Iraq to be responsible for "promoting the protection of human rights" in the country. He did not. Nor did his boss, Kofi Annan, take any action to guarantee them or speak out against the violations he witnessed, a clear abdication of the oath he was sworn to uphold: "to save succeeding generations from the scourge of war; to reaffirm faith in fundamental human rights; to establish conditions (promoting) justice....equal rights of men and women (in all nations)....(respect for) international law....promote social progress....to ensure....armed force shall not be used." Kofi Annan, his representative and the UN body they serve failed on all counts allowing a criminal occupation and trial of Saddam to go on with barely a whimper.

The trial itself violated almost every provision in Article 14 of the International Covenant on Civil and Political Rights. Its Preamble cites the UN Charter that's binding international law and Universal Declaration of Human Rights stating "civil and political freedom....can only be achieved (if) everyone may enjoy his civil and political rights (and that it is the) obligation of States under the Charter of the United Nations to promote....human rights and freedoms." The US is one of those states so obligated.

Article 14 precisely stipulates the rights of the accused which all signatories to the UN Charter are obligated to observe under international law. In the trial of Saddam Hussein, the US failed by almost every measure and stands exposed and condemned in the eyes of the free world for not having done so.

— Provision 1 under Article 14 states "All persons shall be equal before the courts and tribunals (and) everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law." The Bush administration was in complete violation of this provision.

— Provision 2 guarantees "Everyone charged with a criminal offense....the right to be presumed innocent until proved guilty according to law." Saddam was pronounced guilty the moment George Bush signed off on going to war, invading and occupying Iraq.

— Provision 3 guarantees the accused the following rights:

— To be told clearly and promptly "of the nature and cause of the charge against him."

— "To have adequate time and facilities (to prepare a) defence and to communicate with counsel of his choosing."

— "To be tried without undue delay."

- “To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing.....”
- “To examine, or have examined, the witnesses against him (and those) on his behalf (under equal conditions).”
- To have an interpreter if needed.
- “Not to be compelled to testify against himself or confess guilt.”

The US occupier denied Saddam his legal right to a proper defense according to most of the above provisions.

- Provision 4 pertains to juveniles and was not pertinent to the trial.
- Provision 5 guarantees “Everyone convicted of a crime....the right to his conviction and sentence being reviewed by a higher tribunal....” What pretense of a review process occurs from here guarantees only a continuation of more show trial theatrics if the proceeding is made public. If it isn’t, it will merely be a sham made-in-Washington pro forma final sentencing staged-for-television hanging, even if visuals of Saddam on a rope aren’t shown to a US audience.
- Provision 6 pertains to those wrongfully convicted being entitled to proper compensation. Whatever Saddam’s crimes were, and there’s little doubt he committed many, what he was convicted of on November 5 would never hold up in a real tribunal. The Bush administration will never pay him damages, if so ordered, just as the Reagan administration ignored the World Court judgment against it in 1987 to pay Nicaragua \$17 billion for losses that country sustained from US state terrorism committed against it during the Contra war years in the 1980s. Hegemons never pay for their crimes. They make their victims pay for them.
- Provision 7 guarantees no one shall be subjected to double jeopardy. This hasn’t yet come up in the proceedings that are continuing, but as long as this show trial goes on, the issue of “jeopardy” is not on the table, and the US authority will do as it pleases just as it has up to now.

By nearly all accepted standards of jurisprudence, the Bush administration failed to comply with the above provisions. It spent \$75 million (approved by the Pentagon and State Department) on the prosecution that included the special “court room” that was more like a Hollywood sound stage than a court of law. That compared to the meager resources volunteer defense lawyers had at their disposal. Saddam’s lawyers requested the right to visit their client from December, 2003 when he was seized but weren’t allowed to do it as well as to have adequate and confidential consultations vital to the preparation of a defense. No visitations of consequence were allowed prior to the trial, and, at each one permitted thereafter, US officials claimed the right to read all materials brought to the visiting room. This violated lawyer-client confidentiality as did US monitoring of all meetings audibly and visually. The defense was also denied access to evidence to be used in the trial, the investigative hearings preceding it, any notice of witnesses the prosecution intended to call, and the right to visit the site of the alleged crime to obtain helpful evidence therefrom.

After the trial began, the US made and broke all the rules of proper procedure besides what’s explained above. It removed four of the five judges initially assigned to the trial while the chief judge in charge during one portion of it resigned in protest against government

involvement in the proceedings. Shortly thereafter two defense lawyers were murdered because they weren't given proper protection even knowing they were vulnerable for representing a controversial "client." Later a third one met the same fate. A defense witness was then murdered. These are the kinds of things that go on in an inquisition under "banana republic" justice. If played out on Broadway, it would be called a farce, but happening in an illegally constituted Baghdad tribunal stage-managed out of Washington and the Green Zone US Embassy, it's a real life tragedy even for someone as notorious as Saddam.

In a concluding act of arrogance and defiance, the latest presiding US-installed hanging judge ejected former US Attorney-General and noted human rights defender Ramsey Clark who was serving as one of the volunteer attorneys for Saddam - trying but failing to assure he was given due process. Clark is an international law expert and was a strident critic of the procedure from the start. His ejection occurred after handing the judge a memorandum calling the trial a travesty of justice. Judge Raud Abdel Rahman responded in his characteristic fashion saying "Get him out of the hall. He came from America to ridicule the Iraqi people and ridicule the court."

The judge neglected to mention he and his US bosses ridiculed and defiled every proper standard of jurisprudence now continuing in the next stage for a US audience, of course. Saddam is currently on trial by the same tribunal along with six others on separate charges related to the so-called Anfal Kurdish minority who were subjected to mass killings and other abuses in 1988. Can we stand another round of this as the Bush administration wants to squeeze every ounce of political capital out of this man before they let twist in the wind and be forgotten. The world will never forget the travesty of justice that took place in that so-called Baghdad tribunal that showed the world who the real criminals are who should have been front and center in the dock of justice but never will be in a world ruled by victor's justice.

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