

Saddam's Trial in Context: Episode of Victors' Injustice

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American and European official and public opinion reactions to Saddam Hussein's guilty verdict on November 6 artificially removed both the trial and the death sentence out of context and focused instead on "flaws" in the legal technicalities of a fair trial and on death penalty as a punishment, which exposed the trial/s in Baghdad as merely another episode in the U.S.-British so far unsuccessful efforts to establish their occupation of Iraq and to develop the current status quo there as the new order.

Saddam's trials were staged to buy the U.S. and British leaders as well as the rulers of their new Iraq some time for political survival, but the trials needed no time to prove they are counterproductive and will in no way make the conclusion of a farce trial a turning point, a "milestone" or an end of era as President George W. Bush and Prime Minister Nuri al-Maliki prematurely stated.

Democrats' crushing victory in the U.S. mid-term election was the latest proof that his administration's gimmick of orchestrating trials of Saddam Hussein was a failure that clearly turned the pre-planned verdict against Saddam into a popular verdict against Bush himself, in a referendum on his performance in the war on Iraq that broke his grip on power in Washington by depriving him of ruling with his own Republican party in charge of both houses on Capitol Hill, as he has done for six years.

While the western public opinion has criticized the trial on the grounds of its legal flaws the official European, Australian and Russian reaction in particular was confined to criticizing the death penalty and to some warnings against the fallout of the verdict on the Iraqi internal situation. Without underestimating both accounts this reaction fell short of Iraqi as well as Arab expectations: A farce trial orchestrated by an occupying power with the aim of changing a regime by an outside invading force outside the framework of international law should have had the priority to condemn as a matter of principle.

American and western experts and mainstream media, like Nehal Buhta of Human Rights Watch (HRW), Malcolm Smart, Director of the Middle East and North Africa Programme, Sonya Sceats of the international law program at Chatham House, the Amnesty International, the New York Times and The Times of London have condemned or criticized the trial as a "shabby affair," a "shameless show trial concocted for political purposes," a "circus," and a "deeply flawed and unfair" trial where "political interference undermined the independence and impartiality of the court" by which "Iraq got neither the full justice nor the full fairness it deserved."

Justice served or not, the pre-staged trials are unsuccessfully trying to put on trial not only

Saddam Hussein but the status quo ante, which on all comparable accounts has been proved preferable if not better than the status quo since the U.S.-led invasion in 2003. Nuri al-Maliki's statement that "The Saddam Hussein era is in the past now" was premature and could cost Iraq its territorial integrity, unity and sovereignty and hundreds of thousands more of Iraqi lives before it becomes a true description of the facts on the ground.

The fact that curfew was imposed on metropolitan Baghdad and three nearby provinces, including Iraq's largest province of Al-Anbar, Baghdad's international airport was closed, all US-led and commanded Iraqi troops and security forces were put on high alert and all military leaves were cancelled on the eve of Saddam's verdict testify contrary to al-Maliki's statement. All those precautionary measures do not indicate in any way that Saddam is already a bygone history. Al-Maliki government's recent decision to retract a U.S.-sponsored legislation to purge tens of thousands of Baathists except for some 1,500 top party officials is a further proof that Saddam and his party are still a power to reckon with.

U.S.-made Tribunal

Of course justice was not served. Saddam's trials have proved to be the worst form of victors' injustice, where Al-Malki — whose Dawa party had been behind the Dujail assassination attempt — was trying the man whom he failed to assassinate during wartime when the man was the constitutional president of his country and where Bush, the leader of the occupying power, was trying the legitimate leader of the occupied country.

All evidence confirm Saddam trials are American in all except for conducting the proceedings in Arabic instead of English by Iraqis instead of Americans, which was the only logical option to convey the American message to Iraqis who do not understand English, thus turning the tribunal into another U.S. propaganda outlet to support the Voice of America and Al-Hurra satellite TV channel.

The "Iraqi Governing Council" the occupiers installed immediately after the invasion in 2003 established the "Iraqi Higher Criminal Court" with the permission of U.S. ruler Paul Bremer's Coalition Provisional Authority on Dec. 13, 2003, three days before Saddam Hussein's capture.

Scott Horton, chair of the International Law Committee of the New York City Bar Association, said: "This entire process from beginning to end is being closely superintended by the United States," he told IPS. "This whole process is funded by a 138-million-dollar grant from Congress and a large staff of people working out of the U.S. Embassy in Baghdad called the 'Regimes Crime Unit'."

Horton said Washington has especially tight control over the tribunal's schedule: "Access to the courtroom is controlled by the Americans, security is controlled by the Americans, and the Americans have custody over the defendants who must be produced before the trial can go forward, so whether they have the trial on day x or day y depends on the Americans giving their okay," he said.

The U.S. and Britain selected the judges, who were sent to London for training; "rehearsals" were staged in Italy and the Netherlands. Any judges who showed signs of impartiality were dismissed. Three defense lawyers and one witness were kidnapped and executed during this farce of a tribunal, held deep in Baghdad's Green Zone behind bulletproof barriers and under armed guard. (David Walsh, World Socialist Web Site, 7 November 2006)

Whose Moral Authority

The victors' unjust trial also lacked moral authority. "We cannot even claim moral superiority," wrote Robert Fisk, for if Saddam's mistakes are to be "the yardstick against which all our iniquities are judged, what does that say about us? We have won. We have inflicted justice upon the man whose country we invaded and eviscerated and caused to break apart."

"Iraq is now swamped with mass murderers, guilty of rape and massacre and throat-slitting and torture in the years since our 'liberation' of Iraq. Many of them work for the Iraqi government we are currently supporting, democratically elected, of course. And these war criminals, in some cases, are paid by us, through the ministries we set up under this democratic government. And they will not be tried. Or hanged. That is the extent of our cynicism. And our shame. Have ever justice and hypocrisy been so obscenely joined?" (Robert Fisk, *The Independent*, Nov. 7, 2006)

The invasion of 2003 was a war crime; in the subsequent three-and-a-half years, the U.S. occupation was responsible for the deaths of 655,000 Iraqis according to a John Hopkins University study; from 1991 to 2003 the United Nations sanctions imposed under the U.S. pressure claimed the lives of one million Iraqis through malnutrition and disease.

Refuting Bush's statement that the trial was "a landmark event in the history of Iraq (and) a milestone in the Iraqi people's efforts to replace the rule of a tyrant with the rule of law," which the *New York Times* described as "overreacting," Malcolm Smart called the trial an "an opportunity missed" and said it "should have been a major contribution towards establishing justice and the rule of law in Iraq."

But it was not! Worse the fallout from the "missed opportunity" could create further obstacles to moving from a one-party-one-leader system into a multi-party western-style democratic one, because the verdict if executed would doom reconciliation efforts and exacerbate the internal Iraqi divide to the point of no return away from a full-fledged civil war to settle it.

To judge with an obvious overwhelming vengeance the leader of a one-party system that ruled the majority of the non-western world during the cold war era at the hands and from the "liberal" perspective of his enemies and the enemies of the system could not be a fair trial; neither could be to judge him in isolation of the ongoing struggle between what he symbolizes and its antithesis.

The Real Divide

However it is still too early to say the saga of Saddam Hussein and what his era stands for is over, because he, whether dead or alive, symbolizes the ongoing and unabated fierce and brutal struggle between the occupiers and the occupied and between two visions: One offered by the American occupying power for Iraq and the region and one offered by Pan-Arabism as symbolized by Saddam Hussein and Jamal Abdul Nasser of Egypt before him, despite their mistakes and flaws of their approaches and systems.

Twice the US bought official Arab connivance or silence for targeting Iraq in 1991 and 2003 by offering to weigh in on Israel to withdraw from the Arab territories it occupies since 1967 in a land for peace deal but twice Arab governments were tricked to sacrifice Iraq for

nothing. Therefore in Palestine , Syria , Jordan , Lebanon and Egypt in particular any calls for celebrating Saddam's downfall would fall on deaf public ears; at the official it's another story.

Iranian and Kuwaiti cheers are very well understandable, but they should not obscure the fact that they are an _expression of solace and dominated by the overwhelming vengeance of the foes, but could not in any way be interpreted as proof that the peoples of both countries would not come sooner or later to their good senses to put Saddam's trials in their proper historical context.

The Iraqi cheers from more than 17 ethnic and sectarian organized foes are similarly understandable, but more resistant to common sense because Saddam represents their antithesis and their battle with what the man stands for, whether he is alive or dead, may never be won; however this doesn't justify short memory on their part.

True thousands of their followers were killed by Saddam's state, but they were killed in battle while fighting the "dictatorship" during war time against Iran in the north and against the US in 1991 in the south; the victims were not carrying flowers and celebrating family events at their homes, but were carrying weapons supplied by Iraq's war enemies and playing in the hands of those enemies in battles on which their ruling leaders now commemorate as "uprisings."

The unfolding "mass graves" tragically contain alongside their bodies the bodies of thousands of Baathists, Saddamists and official Iraqi troops whom they slaughtered in cold blood. The mass graves of the victims of their current atrocities that will be discovered in future will condemn their leaders who incited and recruited them at least as accountable as Saddam if not more in any objective reading of history.

Saddam Hussein's purged "party comrades" may have more convincing grievances against his rule and could have a more credible case against him in court, but - unlike their sectarian and ethnic counterparts - would not call in a foreign invasion to empower them to settle their accounts and did not hesitate for a moment, together with other national, pan-Arab and Islamic opposition to Saddam, regardless of sect or ethnicity, to join forces against the occupation of their country.

The issue at stake here is the foreign occupation that destroyed the Iraqi state and not the dictatorship or the democratic structure of an Iraqi regime in an occupied stateless country; all, Saddam inclusive, will be judged by where they stand vis-à-vis the occupation.

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