

# Try Him for His Crimes

The Washington Post

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Thursday, September 12, 2002; Page A23

The debate on Iraq overlooks the totality of Saddam Hussein's atrocities and how that record can help build an international coalition to end his rule over Iraq.

For two decades, top Iraqi officials have committed massive crimes and atrocities -- genocide, crimes against humanity and war crimes. This list includes far more than the common refrain that Hussein and his associates gassed their own people, particularly at Halabja in 1988.

The criminal record includes other serious war crimes during the Iran-Iraq war of the 1980s; the genocidal Anfal campaign against Iraqi Kurds in 1987 and 1988; the invasion and occupation of Kuwait in 1990; the violent suppression of the 1991 uprising that led to 30,000 or more mostly civilian deaths; the draining of the southern marshes during the 1990s, which ethnically cleansed Hussein's southern flank of thousands of Iraqi Shiites; more ethnic cleansing of the non-Arab population of Kirkuk and other northern Iraqi areas; and the summary executions of thousands of political opponents.

Following the invasion of Kuwait, Iraqi authorities killed more than 1,000 Kuwaiti civilians, held foreign diplomats hostage, unleashed environmental crimes on a colossal scale, looted Kuwaiti property, rained missiles down on Israeli civilians and committed war crimes against American soldiers. The fate of more than 600 missing Kuwaiti citizens remains unknown.

All these crimes have been impressively recorded by the United Nations, the American, Kuwaiti, British, Iranian and other governments, and nongovernmental groups such as Human Rights Watch and the Iraqi opposition's INDICT organization, which has received financial and political support from Washington for years.

Throughout the Clinton administration, I waged an often lonely campaign to compile the criminal record against the Iraqi regime and to seek indictments of Iraqi officials. By the end of 2000 our investigative team had amassed millions of pages of documents, resurrected an extensive archive of evidence prepared by U.S. Army lawyers and investigators during the Gulf War, interviewed key witnesses, and published a report and released aerial photography demonstrating Iraqi crimes against humanity.

Yet no Iraqi official (at least 10 are of extreme interest) has ever been indicted for some of the worst crimes of the 20th century. My efforts to obtain U.N. Security Council approval for an ad hoc international criminal tribunal encountered one obstacle after another in foreign capitals, in New York and even within the Clinton administration. The usual excuse was that a tribunal would jeopardize either the United Nations' inspections regime or its sanctions regime. We needed Hussein's cooperation, which a criminal indictment might discourage.

Now the stakes are much higher. While President Bush speaks of Hussein as an "evil man" and tries to convince Congress and the rest of the world that the Iraqi threat -- weapons of mass destruction, ties to international terrorism -- merits military intervention and a regime change, his publicly stated case seems oddly weak. How evil is Hussein compared with other tyrants? Without a return of U.N. inspectors to verify (as best they can) the state of Iraq's weapons production, what proof is there to compel such drastic and potentially catastrophic action? How serious is any terrorist connection?

We know from the ad hoc criminal tribunals for the former Yugoslavia and Rwanda, and now for Sierra Leone, that indictments of alleged war criminals who lead tyrannical and genocidal regimes can destroy their political careers, isolate them internationally, end their regimes and even achieve justice. Whether or not the Security Council authorizes use of force against Iraq if credible inspections collapse, the United States should build an anti-Hussein coalition through old-fashioned law enforcement.

The time has come for a Security Council resolution establishing an international criminal tribunal to investigate and prosecute the Iraqi leadership. Such a tribunal would confirm the evil character of the Iraqi regime. Its indictees would be subject to arrest. And its creation could pave the way for later U.N.-authorized military action to neutralize any weapons and terrorism threats and to bring about regime change with international support.

With so much evidence readily available to a U.N. prosecutor, preparation of indictments could be speedily accomplished. It would be difficult for Russia or China or any other Security Council member to argue against a tribunal if the alternative were an American rush to war.

In the meantime, an indictment process would discourage commercial deals that embolden the Iraqi regime and would compel contracting governments and companies to stall their implementation until new, unindicted officials rule Iraq free of U.N. sanctions.

The time for offering Saddam Hussein incentives is over. He and his colleagues deserve to be indicted, and the U.N. Security Council must disarm Iraq. At the end of the day, both justice and international security must prevail.

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