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## Legal Custody of Hussein and 11 Aides Is Transferred to Iraqis

By IAN FISHER

AGHDAD, Iraq, June 30 — Legal custody of Saddam Hussein and 11 of his top aides was formally transferred today to the new Iraqi government. On Thursday, the former Iraqi president will be given the opportunity, for the first time in the nearly seven months since his capture, to speak at length before a court and television cameras that will record the hearing.

Mr. Hussein's chance to speak will come at an arraignment in which he will be formally charged with crimes against humanity, the killing and torture of hundreds of thousands of Iraqis in more than two decades in power, until American forces deposed him last year.

After a low-key handover of formal sovereignty on Monday that came two days early, Mr. Hussein's arraignment will be the most concrete — and possibly dramatic — evidence that Iraqis are now, to some untested degree, in control of their own affairs.

There is reportedly no specific limit in law on how long a defendant may speak, meaning that Mr. Hussein could launch into a lengthy defense of his rule and a condemnation of the American occupation, which officially ended two days ago. Some 160,000 foreign troops will remain on Iraqi soil indefinitely, and American officials will continue to hold great sway here.

In the hearing today, Mr. Hussein offered no protest or defiance as he was read the papers transferring his legal — though not physical — custody to the new Iraqi government effective at 10:15 a.m., a senior military official said. American troops will continue, at least for now, to guard Mr. Hussein.

"Are you Saddam Hussein?" an Iraqi judge asked the defendant, according to the official. Mr. Hussein, 66, confirmed that he was. He appeared to be in good health and was shorn of the long hair and gray beard that he wore in December, when he was taken by American troops from a hole in the ground near Tikrit, his hometown.

Mr. Hussein also said that he wanted to ask some questions, said Salem Chalabi, a lawyer in charge of the tribunal trying Mr. Hussein and the other defendants.

"He was told he should wait until tomorrow," Mr. Chalabi told Reuters.

The arraignment on Thursday will come after nearly a week in which insurgents have not carried off any of the deadly and spectacular attacks that have killed hundreds of Iraqis and Americans in the last several weeks alone and clouded the official end of American rule here.

A senior military official with the multinational forces here said the actual number of insurgent attacks had remained steady in the last few days. Today, insurgents wounded 11 Americans

soldiers after firing at least 10 mortar rounds at a military base near Baghdad's international airport. Two Iraqis were also wounded when a car bomb exploded near a police station in the southern city of Samawah.

But the official said that the military was speculating why the insurgents had not launched more high-profile attacks, like the coordinated car bombings in several cities last Thursday that took more than 100 lives, to coincide with the transfer of formal sovereignty.

The official said the military was leaning toward a theory that such attacks were not planned to take place in the last few days — and that large-scale attacks that are expected in the coming days will be a violent sort of probing.

"It is our assessment," the official told reporters at a briefing here, "that the purpose of the attacks in the first couple of days would not just be destruction and not just to send a signal, but it would be a test to see how the new government reacts. Is the new government going to be too weak, too strong? Will it be harsh, not harsh enough? Are they going to find a middle point?"

"I think the new government recognizes that they have a responsibility, in a large-scale attack, that they need to address it," he added. "And we are absolutely confident in Prime Minister Allawi's, and his team's, ability to confront any such message."

The official was referring to Iyad Allawi, sworn in on Monday as prime minister over an interim government responsible for leading Iraq into full elections for a national assembly next January.

Like many of the new leaders of Iraq, Mr. Allawi spent years trying to overthrow Mr. Hussein, and in the coming months Mr. Hussein will face judgment before them in a trial they say will be fair and public. The trial — criticized by some legal experts who want it held before an international body — is unlikely to begin before next year, Iraqi officials have said.

The transfer of Mr. Hussein's legal custody presented an early challenge to the new Iraqi government on perhaps the most politically sensitive issue it faces: to what extent Mr. Allawi, who has long ties to Washington, will bend to the demands of an American presence that Iraqis are impatient and angry with.

Though he said earlier in the week that Iraqis would have actual custody of Mr. Hussein in their own jail, Mr. Allawi said today that "at our request" American troops would continue to guard him physically, even if legal custody belonged to Iraqis.

The senior military official with the multinational troops said Mr. Allawi had "intimated to us that he may ask for custody" if and when Iraq constructs an "adequate" facility to hold him. The official also said Iraqi guards might be brought into the American prison in the future.

Like the hearing to transfer legal custody, the arraignment on Thursday will also take place at an unpublicized location and before a senior Iraqi judge, who for security reasons, has not been identified. Indications were that the proceeding would take place outside of Baghdad, shortly

after Gen. George Casey is to assume command as the top military leader in Iraq from Lt. Gen. Raymond Sanchez, who has led the foreign forces here since the invasion last year.

About six reporters will be permitted to cover the hearing on Thursday, half of them from the Arab language press. Television cameras will be allowed in the courtroom, but the proceedings will not be broadcast live.

The proceedings are expected to be long, since the 12 defendants will be arraigned one by one and each will have an opportunity to address the charges read against them.

In addition to Mr. Hussein, the other defendants to be arraigned include Ali Hassan al-Majid, known as "Chemical Ali" for his role in directing a poison-gas attack on the Kurdish town of Halabja in March 1988.

Others were Taha Yassin Ramadan, one of Mr. Hussein's two vice presidents, long cited by international human rights groups for his role in the torture and killing of tens of thousands of Iraqis; Tariq Aziz, a deputy prime minister, who conducted many of Iraq's international negotiations, especially in the prelude to the Persian Gulf War in 1991; and Abid Hamid Mahmud al-Tikriti, a relative of Mr. Hussein who oversaw his personal security.

Most of the 12 appear in the "deck of cards" the United States issued after the invasion that pictured the 55 most-wanted Iraqi officials. Iraqi and American officials declined to say why the 12 were chosen for transfer to Iraqi jurisdiction.

They will be tried before the Iraqi Special Tribunal, set up in December, and which American officials say will be observed by international legal experts to ensure fairness. The charges expected to be lodged against Mr. Hussein include the gassing of thousands of Kurds in 1988 in northern Iraq, the war against Iran between 1980 and 1988, in which hundreds and thousands of soldiers died, and Iraq's invasion of Kuwait in 1990.

For the last few days, the usually traffic-clogged streets of the capital have been clear, many Iraqis say, because people have been afraid to go out for fear of violence in the days leading up to the handover. It was especially true today, a national holiday in celebration of the transfer of sovereignty to Iraqis.

For the last few days, the capital has also been largely free of the usual rounds of gunfire and explosions.

Mr. Allawi, who has promised to crack down hard on the insurgency, has said that he is likely to impose a state of emergency in restive parts of the nation, and that that could include curfews and more roadblocks.

In Najaf, the southern city held holy to Shiite Muslims where Shiite militiamen battled United States forces in April and May, local officials imposed their own curfew today after discovering a car bomb and after 25 police officers were kidnapped by members of the militia loyal to Moktada al-Sadr, said Brigadier Ghaleb al-Gazaeri, the police chief of Najaf.

He said that by this evening 15 of the officers had been released in exchange for two arrested members of Mr. Sadr's militia. The curfew, he said, would be imposed from 9 p.m. to 6 a.m.

John F. Burns contributed reporting for this article, and an employee of The New York Times contributed reporting from Najaf.

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