

# OTHER VIEWS

## Let world oversee the trials of Iraq's war crimes

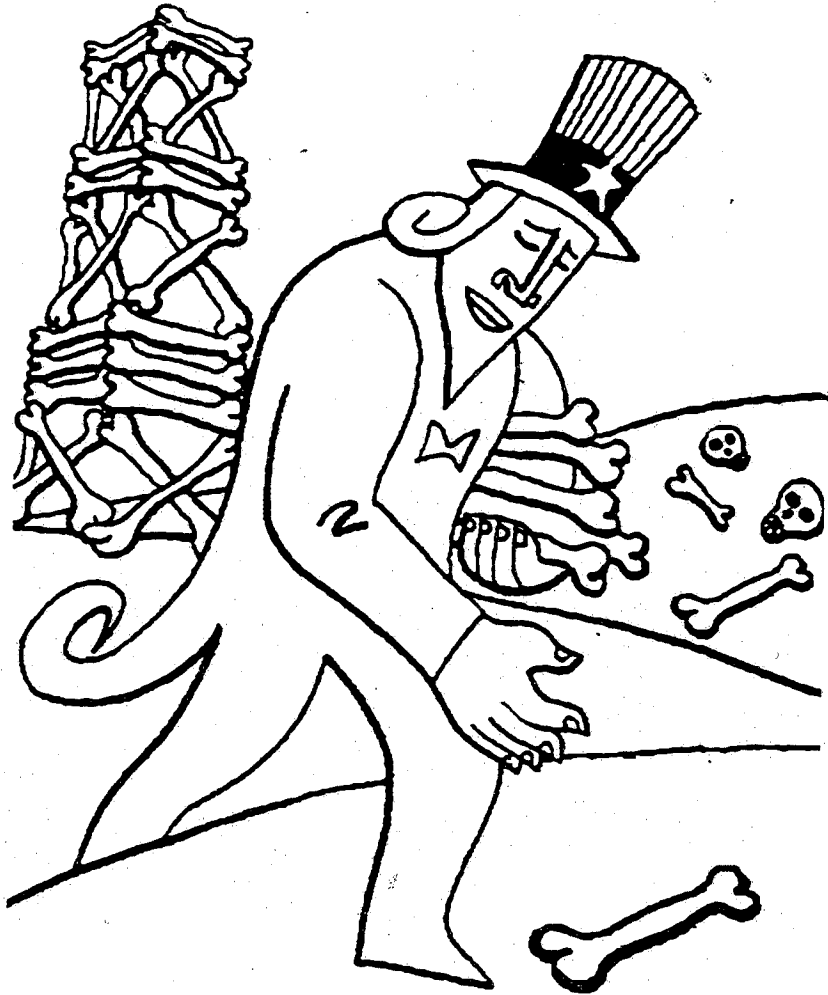
BY KENDALL COFFEY

In the aftermath of military success, the dilemmas of post-war justice in Iraq could pose daunting challenges for U.S. leadership in international law enforcement. Because anti-terrorism and law-enforcement priorities depend on support, not just from friends but from some strange bedfellows — even Syria has provided help against al Qaeda — we can ill-afford any collateral damage to U.S. credentials in maintaining global law and order.

Even so, U.S. guardianship of international principles has been questioned. World opinion splintered over the legality of taking military action against Iraq. Meanwhile, widespread international skepticism followed the U.S. decision to reverse support for the International Criminal Court, a widely hailed tribunal endorsed by 139 countries.

Whatever legalities were debated before, the post-war trials of Iraqi war criminals should provide a historic opportunity for renewed vindication of global norms of law. Even before the first shot, President Bush underscored the law-enforcement dimensions of this mission by issuing a prosecutor's ultimatum about accountability for war crimes: "Following orders is no defense," he said. That prosecutorial focus intensified with the regime's final crime wave — brutal attacks against unarmed civilians and war crimes against coalition forces, including the use of human shields and launching combat from hospitals.

In response, the United States commendably has reaffirmed its stewardship of international law enforcement by stating that any recent war crimes charged against uniformed enemy soldiers will be governed by the Geneva Convention.



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More questions remain, however, in seeking justice for the last two decades of hundreds of thousands of crimes against humanity, ranging from nerve gas murders of Kurdish villagers to acid-bath slayings of political prisoners.

While the administration indicates this component of post-war justice will be "Iraqi-led," the reality, after some 24 years of Hussein's rule, is that there is no legitimate Iraqi system to investigate and prosecute such a flood tide of heinous crimes. Hurriedly improvising Iraqi justice could lead to an awkward, even bungling training exercise that violates international norms and inevitably is attributed to U.S. puppeteering.

Rather than getting blamed for alleged miscarriages of justice or attempting to conduct inflammatory proceedings by itself, the United

States should encourage international guidance. While some have dismissed any supervisory role by the ICC, since neither the United States nor Iraq is an ICC participant, that tribunal's independence may be precisely the quality needed to fortify the credibility of emotionally charged prosecutions.

More effective would be the creation, under U.N. auspices, of an international criminal tribunal. That system would parallel the framework in place for war crimes against the people of Rwanda and the former Yugoslavia. In contrast to startup justice, the U.N. tribunals have prescribed rules for everything from witness protection and attorney conduct to extradition and punishment. Our nation has provided jurists and prosecutors, and yet these processes are recognized as international in

scope and decision-making.

A fair day in court to document the horrific legacy of criminality that prompted military action could provide ultimate validation. Just as prosecutors rely upon "probable cause" rather than complete certainty for initial police actions, the final affirmation comes with proof beyond a reasonable doubt through faithful adherence to fair processes.

America's long-term success in the war against terrorism depends on aggressive assistance from Third World fence-straddlers. Energizing respect for global law and order is a cornerstone of needed cooperation. The prosecution of a lawless regime should write the final chapter by honoring the principles that Hussein has despised.

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