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di Aldo
Bernardini,
Ordinario di
Diritto
internazionale
all'Università di
Teramo

November 6, 2006

Sunday's announcement of the verdict in the trial of Saddam Hussein and his seven co-defendants was, of course, timed to occur on the eve of the mid-term elections to the U.S. House of Representatives and the U.S. Senate.

:: ONU - XX
Assemblea
Generale (1965):
La XX Assemblea
Generale dell'ONU
(1965) dichiara
"la legittimità
della lotta da
parte dei popoli
sotto oppressione
coloniale, per
esercitare il loro
diritto all'
autodeter-
minazione e
all'indipendenza".
Inoltre,
l'Assemblea invita
"tutti gli Stati a
fornire assistenza
morale e
materiale ai
movimenti di
liberazione
nazionale nei
territori coloniali".

:: ONU -
Risoluzione 1514
"L'Assemblea
Generale dichiara
che: la
soggezione dei
popoli a dominio
straniero,
conquista e
asservimento
costituisce una
negazione dei
diritti umani
fondamentali, è
contraria alla
Carta delle
Nazioni Unite ed è
un impedimento
alla promozione
della pace e della
cooperazione
mondiali.
Tutti i popoli
hanno diritto all'
autodeter-
minazione; in
virtù di tale diritto
essi devono
liberamente
determinare il
loro status
politico e
liberamente
perseguire il loro
sviluppo
economico,
sociale e
culturale".

:: Convenzione di

To what end?

Clearly, to mobilise and motivate U.S. citizens to vote Republican. But how will this work?

It will work the same way that the invasion and occupation worked—emotionally, as the concluding act of a White House scripted morality play.

I argued in June ([Pleasure-in-cruelty: Bush, Nietzsche and Haditha](#)) that the Anglo-American invasion and occupation of Iraq was a collective emotive response to 9/11.

The link between 9/11 and Iraq is the moral and emotive connection between suffering an injury and inflicting pain to relieve it. This connection is felt, not thought; it involves all of the body, not just the head.

This logic of equivalence lies at the heart of Judeo-Christian morality. When America experienced great injury and loss of face, President Bush, as a "born-again Christian", felt morally entitled to inflict great pain and humiliation.

On whom did not matter. But preferably a defenceless, Arab nation.

It is an understandable impulse (equivalent to kicking the dog because your wife's left you), but one that could and should have been resisted.

Bush and Blair made love to this basest of impulses.

The purpose of this invasion was never to liberate or to disarm Iraq: it was to vent America's malice; to experience the pleasure of doing ill in the name of doing good; to expiate fear of terrorism by anger toward Saddam Hussein and Iraq.

It was a spectacular and prolonged festival of cruelty and humiliation for the "folks" back home, who consumed it like a reality TV show.

They did it because they found it pleasurable, because it helped ease the pain of 9/11.

This is the dirty secret of the war against Iraq. It is the enabling mother of all other motives.

There has been nothing like since the Middle Ages.

The "fall" of Saddam Hussein, his capture, imprisonment and trial has been staged and scripted as the central act in this festival of cruelty and humiliation.

The court which tried him, the Iraqi High Tribunal, was neither independent of the occupying power nor was it impartial. This is the judgement of most independent bodies. Even the U.N. Special Rapporteur on the independence of judges and lawyers recognizes this.

He is concerned by the fact that its jurisdiction is limited since it cannot judge those responsible for



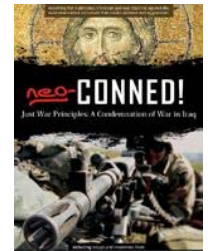
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fermato a
Baghdad, by
Valeria Poletti

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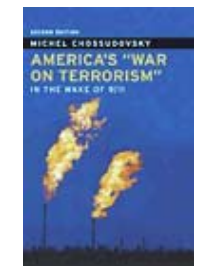
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war crimes committed by foreign armed forces neither during the first Gulf war (1990) not after 1 May 2003. Also, the Tribunal was set up in the context of an armed occupation which is mainly considered to be illegal. Moreover, it should be noted that the Tribunal violates a number of international human rights standards on the right to be tried by an independent and impartial tribunal and on the right to defense. [\[Link\]](#)

This is also the judgment of the majority of Iraqis who viewed the trial as an American puppet show. The mockery of the trial itself humiliates Iraqis.

Those privy to its inner workings know that this trial was run by American lawyers in the U.S. Embassy in the fortress-like Green Zone.

You need moral as well as legal authority to hang someone and this court had neither.

It was not only Saddam Hussein who was on trial, it was also the morality which propelled the invasion and motivated the behaviour and actions of the occupying forces.

It too is guilty.

To be hung is relatively quick and clean. What awaits this morality and its agents is much more unpleasant.

If the Iraq High Tribunal cannot be relied upon to make a sound judgment of Saddam Hussein, we must each make up our own mind. When doing so, please note the following:

First, only a leader of worth would warrant the volume of righteous defamation heaped upon him by Bush and Blair.

It is a safe bet that as many lies have been told about Saddam Hussein as there have about WMD. Aggressors always vilify their enemies, so as to legitimate their own aggression.

Second, Saddam Hussein was an effect of the nature of a Iraq, not its cause.

According to T.E. Lawrence ('of Arabia' fame—that British-born, but American-made hero), holding together the fragments out of which Iraq was created by the British after World War One, will take a genius, a prophet, or a great criminal. Time will tell into which category Hussein belongs.

Undoubtedly, he is a hard man, but Arabia is a land of hard truths and the British created a country which only a hard man could rule.

Saddam Hussein was a product of Iraq's bloody history. His will held together these fragments. Observe their coming apart.

Third, Saddam Hussein undoubtedly threatened Anglo-American interests, but not because he possessed WMD or because he sponsored global terrorism—he did neither.

It was because he was unafraid of American military might and the only Arab leader to risk courting Israel's wrath by actively supporting the Palestinian cause.

Like Iraq itself, he was and is unbowed, despite the Gulf War, 12 years of blockade and bombing and the invasion and occupation.

Ginevra, Protocollo Addizionale I (1977):
La lotta armata può essere usata, come ultima risorsa, come mezzo per esercitare il diritto all' autodeterminazione.

:: Tribunale penale internazionale

In base allo Statuto del Tribunale penale internazionale, sono definiti "crimini di guerra":
(1) attacchi lanciati intenzionalmente contro popolazione civili in quanto tali o contro civili che non prendano direttamente parte alle ostilità;
(4) attacchi lanciati intenzionalmente nella consapevolezza che gli stessi avranno come conseguenza la perdita di vite umane tra la popolazione civile, e lesioni a civili o danni a proprietà civili ovvero danni diffusi duraturi e gravi all'ambiente naturale che siano manifestamente eccessivi rispetto all'insieme dei concreti e diretti i vantaggi militari previsti.

:: [Iraq anthem \(click to listen\)](#)

Master "Enrico Mattei in Medio Oriente", Università di Teramo

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Defiantly spitting truths at the occupiers and their agents, right up to the moment he received the death sentence, his very existence was a *moral* threat to Anglo-American interests. That is why Bush wants him destroyed.

Fourth, do not judge Iraq justice by that of the United States.

Iraq is a society of families, clans and tribes, governed by the requirements of dignity and honour, in which rights are inscribed in bodies. Its justice system reflects this. The United States of America is a society of monads, who barely touch each other, governed by abstractions.

It is not easy to say which is the more barbaric.

Fifth, a demonized Saddam Hussein and a downtrodden Iraqi people are sides of the same racist sentiment emanating from the Bush administration.

Neither Hussein nor Iraqis, by this account, are to be trusted.

Hussein deceived and lied; he was cruel and ruthless. He had to be stopped.

Iraqis are long-suffering and held-down, afraid and unable to act. They have to be saved.

So President Bush and Prime Minister Blair—casting aside global opposition and warnings—mobilized the most powerful and expensive force in the history of this planet and sent it half-way around the world to win freedom for Iraqis and to build them a democracy.

As if Iraqis were incapable of choosing and fighting for their own future. Perhaps they had chosen to live in an independent country with Saddam Hussein over living in subjugation under an occupying army.

As if present day British and American democracies are not products of revolutions and centuries of bloody struggle.

As if these countries are enviable models of democracy and freedom.

As if "giving" Iraqis 'freedom' does not humiliate and insult them.

Any child knows that liberation comes from within and below, not from without and above. Rights which are bestowed are seldom worth having; meaningful rights usually have to be fought for.

Well, thousands of Iraqis have fought and are fighting with passion, tenacity and courage for freedom from foreign domination and the right to self-determination—and these Anglo-American democrats have been killing and maiming them and terrorizing their families.

What the Americans and the British have done to Iraqis, their society and their country, and what the "international community" *let* them do, is an atrocity of Biblical proportions.

It has been and continues to be one prolonged act of socially organized evil, made worse by its premeditated and cunning nature.

The Americans have committed, and are committing, more war crimes in a typical month than they accuse Saddam Hussein of committing in a lifetime.

How was it, then, that Saddam Hussein and not Bush and Blair was on

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trial?

In a word, Power.

But that can change.

Bush really should have heeded that *other* 9/11, the coup d'état in Chile on September 11, 1973, led by General Augusto Pinochet which deposed President Salvador Allende.

Who would have thought then that Pinochet would be arrested, in England in 1998, under an international warrant issued by a judge in Spain, and held accused of committing crimes against humanity? Pinochet now awaits trial.

The arrest of Pinochet in England is regarded by scholars of law as a watershed in international law, an event comparable to the Nuremberg trials of Nazi war criminals.

Pinochet's arrest was based on "universal jurisdiction": some crimes are so egregious that they can be prosecuted in any court in the world.

It may take decades of political will, but Blair and Straw, Bush and the White House Iraq Group—Rove, Hughes, Matalin, Card, Wilkinson, Calio, Rice, Hadley, Libby and Gerson—who orchestrated the deaths of over half-a-million Iraqis and blighted the lives of generations to come, will be held to account for what they have done. Americans may be blind to what has been done in their name, but the rest of us are not.

These people had better be very careful in their choice of countries to visit.

Bush and Blair can hang Saddam Hussein, but he knows that he has won. The Americans and the British have been defeated militarily and morally in Iraq—and by men, women and children willing to die for these fragments he held together: Iraq.

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