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### U.S. Would Seek to Try Hussein for War Crimes

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The Bush administration is building cases against Iraqi President Saddam Hussein and more than a dozen members of his inner circle who could be charged with crimes against humanity if the Iraqi government is toppled, according to U.S. officials.

Hussein is at the top of a working list of war crimes suspects, joined by his sons Uday and Qusay, each of whom has a reputation for brutality. Also on the list are Ali Hassan Majeed, known as "Chemical Ali" for his use of chemical weapons against Kurds in northern Iraq, and Izzat Ibrahim, vice chairman of Iraq's Revolutionary Command Council.

Those five belong to a core group of about a dozen Iraqis whose actions on behalf of the Iraqi government are deemed by U.S. officials and human rights groups to merit charges of genocide or crimes against humanity. Dozens of other Iraqi officials also are considered badly tainted and could face charges in a post-Hussein Iraq after further investigation, sources said.

The likelihood of U.S.-backed war crimes trials for the Iraqi leadership, if Hussein is overthrown, recalls the Nuremberg prosecutions that followed Nazi Germany's defeat in World War II and the international tribunal now prosecuting former Yugoslav leader Slobodan Milosevic in The Hague. The fate of Iraq's leadership cadre is considered crucial to the success of any U.S.-led operation against Hussein, and central to the way Iraqis would rebound from three decades of dictatorship.

The administration has not yet decided how deeply to target the Iraqi leadership and who would lead any criminal case. But as U.S. war planning intensifies, so does the urgency of identifying friend and foe in Iraq, officials said, adding that U.S. military commanders would be required to make swift choices about whom to arrest and whom to welcome as a partner.

"The top people around" Hussein must go, said Undersecretary of State John R. Bolton. Likening the situation to de-Nazification in post-war Germany, Bolton said the rebirth of Iraq would require the removal of people "who are so fundamentally part of Saddam's entourage that their remaining in power would have the problem persist."

By deciding in advance to stage trials for the Iraqi leadership, however, the administration risks the possibility that high-ranking suspects fearing prosecution would fight to retain power. Debate continues within the administration about how to handle the issue. "You want to get into Iraq the message that you're not going to kill everybody in the Baath Party," said one U.S. official, referring to Iraq's unchallenged ruling party.

The venue for prosecution has not been determined, but U.S. officials say a consensus is forming around establishing courts in a post-Hussein Iraq that would be staffed in part by international jurists. Such courts would draw upon ongoing evidence-gathering efforts in other countries, including projects supported in recent years with \$10.8 million in U.S. funds.

The International Criminal Court is not an option, because it does not have jurisdiction over events that happened before it came into existence on July 1. Nor is Iraq a signatory to the convention that created it.

Iraqi opposition groups have been urging U.S. officials to build cases more quickly.

"Regardless of who prosecutes, they should be prosecuted," said Rend Rahim Francke, director of the Iraq Foundation, which receives federal funds to examine seized Iraqi documents. "There is a great temptation for the United States to deal with persons who are indictable, and there is a great danger for Iraq if the United States yields to this temptation."

Two Pentagon lawyers have been assembling evidence in a form that could be useful to prosecutors, according to U.S. officials and people they have contacted. A State Department-supervised working group of about 30 Iraqi exiles and Iraqi Americans is developing plans for transitional justice, including criminal prosecution of a larger array of Iraqis.

The approach contemplates several tiers of prosecutions, with several U.S. officials describing a growing consensus in favor of targeting Hussein and his senior lieutenants and relatives, including a group U.S. officials have referred to since 1993 as "the dirty dozen." The administration favors trials in Iraqi courts staffed in part by international judges and lawyers.

"We'll take the lead in setting the tone. From there, it's hard to say," said Pierre-Richard Prosper, the State Department's war crimes ambassador. "We know that Saddam and his dirty dozen are believed to be the leaders responsible for all the atrocities that have occurred there for well over a decade. We know that over 100,000 people have been killed."

Prosper said of Hussein, "He will be suspect number one brought before a court, any court."

The U.S. inquiry began during the Clinton administration, after the Persian Gulf War and widespread reports of Hussein's use of chemical weapons against Kurdish villages. Since 1999, the State Department has channeled \$10.8 million to opposition groups and nongovernmental organizations to gather evidence, examine documents and interview witnesses, said spokesman Gregg Sullivan.

The Iraq Foundation, working with Iraqi intellectual Kanan Makiya, has overseen the review of 300,000 documents from northern Iraq and Kuwait, among a collection of 3.6 million documents hauled out of the region,

Francke said. The papers document brutalities against Iraqi ethnic groups, the beheading of Hussein's opponents and orders to arrest the families of "liquidated" dissidents. The documents go far toward defining the command structure of various operations.

The Hussein government's record of atrocities is vast, but building criminal cases against individuals beyond the Iraqi leader himself is a complex and incomplete task, said Charles Forest, director of London-based Indict, a U.S.-funded organization that has spent five years focusing on Hussein and the other members of the "dirty dozen."

"It's easy to show that Saddam Hussein is responsible for a great deal of crimes against humanity, but to show the individual responsibility of the others is very difficult. It's not easy to find a way to get these guys," said Forest, noting that Indict's database contains the names of roughly 200 people implicated as torturers or criminals.

A senior U.S. official said there exists "a pretty firm list of who it would be unconscionable to keep around."

Beyond the first tier, the Iraqi working group is discussing targeting officials with command responsibility for Iraqi atrocities, such as the 1990-91 destruction of Kuwait, the draining of the marshes in southern Iraq after a Shiite uprising in 1991, and the mass slaughter of Kurds in northern Iraq in 1988. Much of the group favors the use of Iraq-based courts bolstered by foreign experts, said London lawyer Salem Chalabi.

"We want to demonstrate that we're complying with international law and not killing people randomly," said Chalabi, noting Iraq's history of using courts to discredit previous regimes. "There's no collective responsibility. We're not going to go after everybody who's a member of the regime. We want them to realize this."

Chalabi said likely candidates for prosecution, if investigators establish a case, would include the members of the Revolutionary Command Council and cabinet, the Baath Party's regional command, Iraq's provincial governors and the chiefs of the country's four security services. As evidence mounts, he said, the list is sure to grow.

U.S. officials and the working group have discussed a truth and reconciliation process to encompass other offenders. People who admitted crimes and came clean in public would be granted amnesty or assigned other penalties, Chalabi said. Victims might be offered nominal compensation.