

FDCH Political Transcripts, April 10, 2003
SENATE GOVERNMENTAL AFFAIRS, CHAIRMAN HOLDS HEARING ON
PROSECUTING IRAQI WAR CRIMES

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U.S. SENATOR ARLEN SPECTER (R-PA): What do you think, Ambassador Prosper? You've had a lot of experience in the international field.

Do you agree that there would be a better international tone if there was an international tribunal to try Iraqi war criminals who perpetrate acts against the United States? Put aside your categories, you articulated regime crimes committed against Iraqis, suppose we leave those to the Iraqis. I have doubts about setting that up, but put those aside, and now you have regime crimes against U.S. soldiers.

Would there be a substantial advantage in having an international tribunal handle those matters in terms of response by others in the world, especially the Arabs, if there is a multilateral tribunal which goes beyond the United States, picks up Great Britain, Australia, the coalition forces?

PROSPER: Well, it is my view that the practice has become, and it is accepted that a state who is a victim, falls victims to war crimes or atrocities, that has the capacity and the ability to address these cases themselves, it's become accepted that these states have the sovereign right and ability to address these cases themselves.

PROSPER: I mean, even if you look at, for example, the permanent **international criminal court** that recognizes -- the supporters of that recognize that states have the right to at least begin prosecution themselves. Now, we have other problems, other issues with that court, but the point I'm making, it is recognized that we can do this ourselves. It will be accepted.

One quick point on the Iraqi process. What we are seeing is that it needs to be an Iraqi-led process where there is ownership. It does not rule out the possibility of external participation. This is something that will have to be worked out with...

SPECTER: Now you're talking about regime crimes committed against Iraqis.

PROSPER: Correct.

SPECTER: Come back to regime crimes committed against U.S. or British or Australian, et cetera, soldiers. Do you think there would be a better reception internationally if it was a multilateral jurisdiction as opposed to picking a U.S. jurisdiction, a court-martial or say a military commission?

PROSPER: Well, my answer is not necessarily.

SPECTER: Well, why not?

PROSPER: Well, the reason being is, we'd have to look at the extent of the crimes. Right now, most of the crimes that we have seen have -- obviously, there have been crimes against U.S. personnel. We've heard of possible crimes against the U.K. British personnel. They may be to the extent where we each have the ability to do these cases ourselves. If not, it's not a situation where the crimes were so indistinguishable that we have to come together to form some sort of a coalition for a tribunal process.

So I think you can distinguish the crimes. It is recognized that states have this right and ability to do this. And we, in the U.K., for example, have credible judicial systems that can address this.

So I do not think by our prosecuting our own people -- crimes committed against our own people that there will be an international backlash for those actions.