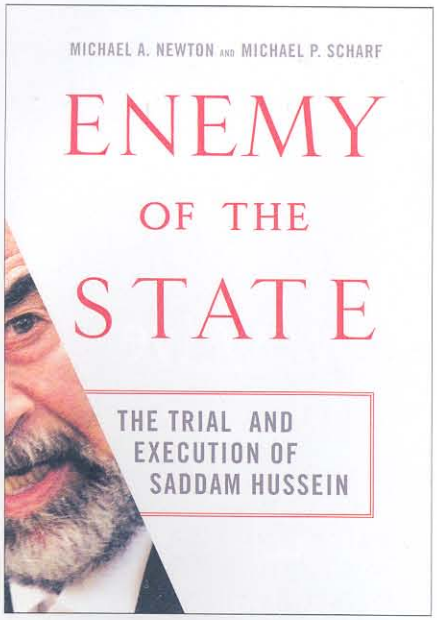
Enemy of the State: The Trial and Execution of Saddam Hussein
By Michael A. Newton and Michael P. Scharf '85, J.D, '88. St. Martin's Press, 2008. 305 pages. $27.



At 6:10 a.m. on December 30, 2006, Saddam Hussein fell through a trapdoor in a gallows at the old military intelligence headquarters building in Baghdad. He died instantly. An unauthorized cell-phone video of his execution, which included the voices of guards taunting and cursing the former leader just before he died, was soon aired on television networks throughout the world. To many who watched the spectacle, Saddam's undignified death on that cold morning culminated a "sham" trial process with one predetermined result. To others, the trial was fair and the verdict just. But was it, and will history judge it a success? *Enemy of the State: The Trial and Execution of Saddam Hussein* helps provide the answers.

Michael Newton and Michael Scharf, law professors with extensive backgrounds in international criminal law, were heavily involved in training the judges who heard the case of Saddam and other defendants charged with atrocities against the Iraqi people. Newton gave assistance throughout the proceeding as well. From their unique perspective, they provide a glimpse of the debate surrounding the creation of the Iraqi High Tribunal, a debate that started long before Saddam was even captured. Some argued that he should be prosecuted for his crimes before a purely international tribunal under the authority of the United Nations, such as the tribunal at The Hague that tried Slobodan Milošević. Another view was that Saddam should face justice in an Iraqi national court composed of Iraqi jurists with no international control involved.

In the end, the Iraqi High Tribunal became a so-called "internationalized domestic tribunal." Its rules of procedure were modeled on international war-crimes tribunals, but all the judges were Iraqi, it held its hearings in Baghdad, and it had jurisdiction over select crimes from the Iraqi criminal code as well as internationally recognized crimes.

The authors chronicle the first of several scheduled trials, one involving charges against the former president and those against seven other defendants relating to the 2004 execution of 148 townspeople from Dujail and the destruction of fields and orchards surrounding that town. Because Saddam was convicted and executed so quickly after this first trial ended, he was not involved in any of the others. This book is therefore limited to an extremely detailed account of the thirty-eight courtroom days in the Dujail trial, which actually spanned a period of some thirteen months.

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Besides the evidence presented, Newton and Scharf set forth the myriad problems that occurred during the trial, including the assassination of three of the defense counsel involved in the case, the resignation of the presiding judge, the boycott by the defense team, and the disruptive courtroom conduct of the defendants. These incidents, coupled with the undignified execution of Saddam, make it difficult to accurately assess whether the trial achieved its purpose. The authors suggest that it did, although because of their personal involvement in the pretrial process and assistance given during trial, they acknowledge a possible bias in their conclusion. Ultimately, the reader is left to make his or her own assessment.

Newton and Scharf highlight one of the most interesting aspects of the Dujail case, involving capital charges against one of the defendants, Awad al-Bandar, former chief judge of Saddam's Iraqi Revolutionary Court. He conducted a trial of the 148 Dujail townspeople who had been interrogated and detained; and his written verdict stated, falsely, that all the defendants had appeared in court, were represented by counsel, and had confessed to an assassination attempt against Saddam. Awad al-Bandar's verdict then sentenced all 148 to death by hanging, and that sentence was carried out. The charges against him before the Iraqi High Tribunal were that the Revolutionary Court trial over which he presided was, in reality, a sham that perverted the law and that was used as a weapon against political enemies of the regime. Therefore, he could be held criminally responsible as an accomplice to a crime against humanity. His conviction of the charges and death sentence were the first since the World War II Nuremberg tribunal in which a judge was held criminally liable for using his court as a political weapon.

Enemy of the State is a good and easy read for lawyers and laypeople alike. Its pages provide a detailed and accurate historical record of one of the most controversial criminal tribunals of our time. In doing so, it is a most valuable resource.

—*Scott Silliman*

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