

# Don't Hang Saddam

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## Why the dictator shouldn't get the death penalty.

By [Christopher Hitchens](#)



Saddam Hussein yells at the court

Of all the things that Saddam Hussein yelled as the court was cleared after he was [sentenced to hang](#) for crimes against humanity Sunday—" *Allahu akbar*" being more like his Quran-thumping everyday style—surely the best of the great secularist's ejaculations was "Long Live the Kurds!" As far as I know, this is a first for Saddam Hussein. But the irony, if there is any, is actually the other way around. The elected president of Iraq, Kurdish leader Jalal Talabani, is opposed on principle to capital punishment.



[CHRISTOPHER HITCHENS](#)

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Before the arrival of coalition forces in Iraq, one of Kurdistan's most respected leaders, Barham Salih, was the target of an assassination attempt by the Ansar al-Islam group. He was saved only by the momentary impulse to duck back through his doorway for a cell phone he had left behind, but several of his entourage were murdered. The killers were apprehended, tried, and sentenced to death. Salih is now the deputy prime minister, but he was then the man responsible for signing death warrants in northern Iraq. He declined to sign the warrants for those who had murdered his friends and nearly taken his own life. At the time, he told me that he hoped the new Iraq would abolish capital punishment "even when we capture Saddam Hussein." Like many leading Kurds, he had been influenced by discussions with Danielle Mitterrand, the widow of former French President François Mitterrand, who was a great friend of Kurdistan as well as a stern foe of capital punishment. The idea was that the new Iraq would begin life without the death penalty. I have had discussions with many Iraqi dissidents who take the same view. Almost every preceding change of regime in the country was marked by the execution of at least some of the previous leadership. Perhaps it might be desirable to break with this depressing tradition. Moreover, now that even the Turks have abolished capital punishment just next door, in order to conform with European Union stipulations, why should Iraq not signal its membership of the community of civilized nations in the same way?

I agree completely with this view, and I have not had to search through encrusted ditches for the remains of my relatives in order to arrive at it. The special symbol of Iraq under Saddam Hussein was the hangman: The whole country was a concentration camp above ground and a mass grave underneath it. The name [Abu Ghraib](#) has recently acquired new and revolting associations. Still, I shall never forget seeing those beams and hooks, dangling over open concrete pits, where thousands of victims were routinely dispatched by slow strangulation, or worse. An end to all that is a great thing in itself.

The case for carrying out the sentence of death, or for not protesting if it is carried out, is the following: Saddam Hussein has been tried under Iraqi law as it stood when he was dictator and has been sentenced according to that law. It is not for anyone else to tell Iraqi courts and judges what to do or to suggest retrospective changes in the system. He had the day in court that was denied to his victims, and the sentence should stand, even if the Iraqi parliament should later decide to abolish capital punishment. This might be technically correct, but then so until recently was the "sovereign immunity" defense, which said that those who were recognized heads of state could not be tried under the common law. Partly overturned by the British House of Lords in the case of [Augusto Pinochet](#), and by the [trial of Slobodan Milosevic](#), this doctrine is giving way to the idea of "universal jurisdiction," whereby crimes such as torture and genocide are akin to piracy and indictable and prosecutable in any place where the wanted person may be found. That being the case, the Iraqi courts should act according to a putatively universal standard. This standard might not include such features of the Saddam trial as the recent abrupt replacement of the presiding judge on the grounds that he seemed too soft on the defendant.

There is another argument that has nothing to do with law. It concerns the bizarre word *closure*. A better word might be *catharsis*. After 1945, for example, it would have seemed grotesque that millions of Jews and Poles and Russians and Gypsies should be dead and their murderers still alive and able to give interviews and write memoirs. The hanging of the principal Nazi criminals was more an act of hygiene than of law, as well as an absolute assurance to their surviving victims (and to their remaining sympathizers) that there could be no second act. One's humanity, here, is partly enlisted for once in favor of the death penalty. Nuremberg pressed the last breath out of the putrescent body of fascism, and it allowed others to breathe more freely at the same time. Iraq is a country absolutely febrile with rumor and paranoia: I never cease to be amazed at the way in which people's expressions still change into a flicker of fear when the name of their sadistic former boss is even so much as mentioned. Millions of people will not even start to relax until they are absolutely sure that the great werewolf will not come back. (This salutary effect was also palpable in Romania, once people became certain that the pictures of Nicolae Ceausescu's death had not been faked.) In this sense, you could argue that hanging the chief butcher and torturer would be an act of mass emancipation. But this still seems to me to be more like an exorcism than an execution—a concession to superstition and primitive emotion. And we have enough of both in today's Iraq.

One strong objection to all executions is that they involve the destruction of evidence. Once the accused has been removed from the scene, he cannot shed any more light on the crime; investigation of which often has to be reopened. The trial of Saddam Hussein, like those of Pinochet and Milosevic, ought to have been the occasion for the assembling of a huge and conclusive archive of evidence, which would stand for all time as a monument to justice and an insurance against later "revisionism."

If he is dropped through the trapdoor, we will never get to hear Saddam Hussein's response to two very important historic events—the [Anfal campaign](#) to exterminate the Kurds in the 1980s and the sanguinary way in which he restored himself to power after the Kuwait war. And there will always be the suspicion that he might have pointed the finger at Western complicity in both of these terrible episodes. He should have been indicted by an international tribunal well before 2003, and the refusal of the American and British governments to act on this suggestion—made most notably by the British MP Ann Clwyd and her organization, [Indict](#)—will always be a standing reproach to our statecraft. I have always found the term "victor's justice" an absurd one—the courts are invariably set up by the powers that be, and how would "loser's justice" have looked in Nuremberg or at The Hague? But it is for the losers, or in other words the victims, that justice should be sought in the first place. It is a shame that the Kurds were not part of the centerpiece of this trial, just as it is impressive that their leaders are the ones most in favor of magnanimity. And these, by the way, are the people that every liberal in the world is currently arguing that we should desert.