



**Opening Statement by Pierre-Richard Prosper
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I welcome this opportunity to appear before this committee to discuss options for accountability in Iraq. This is an issue that is clearly vital to reconstruction and essential for reconciliation. If there is to be lasting peace and democracy, there must be a level of justice.

For the past three weeks, we have received disturbing information indicating that the regime has engaged in a consistent and systematic pattern of war crimes and atrocities. From the egregious conduct we have seen, it is clear that Saddam Hussein and his forces have a complete disregard for the laws of war and for human life. The Iraqi regime has intentionally removed the line of distinction between combatants and civilians, often with the specific intent to cause civilian casualties.

- The list of reported atrocities is long. There are reports that the regime has:
- Killed civilians by opening mortar and machine gun fire on civilians who were trying to flee.
 - Repeatedly used human shields, resulting in their deaths.
 - Seized children from their homes and told families that males must fight for the regime or they will all face execution.
 - Summarily executed military deserters, including former officers.
 - Positioned significant amounts of military weapons near civilian buildings, such as hospitals, schools, mosques and historical landmarks.
 - Used ambulances to transport death squads and other irregular fighters.

There are also credible reports that Iraqi forces may have executed coalition soldiers following their surrender or capture and committed other crimes to which my colleague Mr. W. Hays Parks, a leading expert on these issues, will speak.

This pattern of war crimes and other atrocities is nothing new. Saddam Hussein and his regime have ruled with terror and brutality since taking power in 1979. The regime has institutionalized violence, torture, rape, murder, and mass extermination. There is an extensive body of evidence that the Iraqi regime has repeatedly committed atrocities and serious violations of the laws of war over a twenty-year period, including:

- The gassing and killing of between 50,000 and 100,000 Kurds during the Anfal campaign in 1988.
- The brutal oppression and torture of Kuwaitis in 1991, displacing 1.5 million people,

killing more than 1,000 Kuwaitis, and leaving over 600 persons missing.

- The brutal suppression of Shi'a Muslim insurgencies in southern Iraq in 1991, with indiscriminate attacks that killed between 30,000 to 60,000 persons, the draining of the southern marshes, and the secret execution of thousands.
- And a series of violations during Iraq's war with Iran.

Senators, the end of brutality is near. We are cataloging and documenting the reports of war crimes and other atrocities, both past and present. Our troops have a mission to help secure and preserve evidence of war crimes and atrocities. It is our hope to find the leaders responsible for these abuses and ensure justice.

The United States has been a leader in pursuing justice for serious violations of the laws of war and other atrocities from the trials in Nuremberg through the International Criminal Tribunals for the Former Yugoslavia and Rwanda and the Special Court for Sierra Leone.

Iraq will be no different. There must be credible accountability. The question presented today is what forums are available for accountability.

- For crimes committed against U.S. personnel, we, the United States, will prosecute. My colleague, Mr. Parks, can discuss this matter in greater detail.
- For the regime's crimes committed against other countries' nationals, both in the present and in the past, the governments of those nationals may also have a sovereign interest in seeking justice.
- For the regime's crimes committed against Iraqi citizens, we believe that those responsible should be held accountable before an Iraqi-led process, possibly ranging from tribunals to truth and reconciliation commissions. The international community has an obligation to help the Iraqi people move towards democracy, the rule of law and legitimate judicial institutions. The United States intends to help to ensure that a strong and credible process is created.

While at this moment it is difficult to assess the degree of international involvement needed, from minimal to substantial, from financial to legal experts and judges, all states, particularly those from the region, should stand ready to contribute. We have been in continued contact with the Iraqi Jurists Association, a group of experienced judges and attorneys who share these views, to devise a plan. Once the situation in Baghdad is stabilized, we will also work with the internal Iraqi jurists to identify credible practitioners, those untainted by the past, who can administer justice impartially. Together we will find the right formula for accountability.

As I testified before the United States Senate Committee on the Judiciary in December 2001, "the international practice should be to support sovereign states seeking justice domestically when it is feasible and would be credible... International tribunals

are not and should not be the courts of first redress, but of last resort.” It is our policy to encourage and help states to pursue credible justice rather than abdicating their responsibility or having it taken away. Because justice and the administration of justice are a cornerstone of any democracy, pursuing accountability for war crimes while respecting the rule of law by a sovereign state must be encouraged at all times.

I am aware that there are those who say the Iraqis are not up to the challenge. I have personally met with groups of Iraqi lawyers. I am convinced that there are qualified Iraqi jurists both within and outside of Iraq who are ready and willing to accept the mandate of justice. They have a thirst for this pursuit that should not be denied. Our goal is to help create the conditions that will allow them to make the essential decisions, while at all times providing the necessary international support and expertise. As President George W. Bush and Prime Minister Tony Blair said in a joint statement on April 8, “We will create an environment where Iraqis can determine their own fate democratically and peacefully.” Iraqis should lead the efforts to judge those who have committed the greatest crimes against their people.

The Iraqis are proud. The last couple of days we have seen the beginning of a rebirth of a nation. Voices that were once silenced by an oppressive regime are now beginning to speak. The Iraqi people who have been crying for justice and reconciliation will now have the hope of being heard. The seeds of reform will be planted and the rule of law will emerge. The United States and the international community have the obligation to support the Iraqi people in their quest to end impunity in their country.