

# VANDERBILT LAWYER



## Worldly Pursuits

**International Legal Studies  
Program gives Vanderbilt Law  
students a global perspective.**

# Worldly Pursuits

BY GRACE RENSHAW

Vanderbilt's flourishing International Legal Studies Program allows students to gain a global perspective on the practice of law.



**B**ACK IN 1966, at a time when few American law schools boasted faculty specializing in international law, Vanderbilt hired a young professor, Harold G. Maier, to start a new program in Transnational Legal Studies. Professor Maier described the unusual manner of his recruitment in a 1989 *Vanderbilt Lawyer* article. "I had been hired in a rather strange chain of events," he wrote. "Somehow, Vanderbilt had gotten my name from the University of Michigan Law School, where I had earned my master's degree and had written to Munich where I was doing research under a Ford Foundation grant to ask if I were interested in teaching. I indicated some general interest, but wrote that I planned to enter practice and couldn't come to Vanderbilt for an interview before early June. I considered the matter closed. Two weeks later, I received another letter from Acting Dean Paul Hartman offering me a position because of what he termed 'an emergency situation in international studies at Vanderbilt.'"

The emergency, Professor Maier would soon discover, was that Vanderbilt didn't have an international legal studies program. He accepted the teaching job simply because Vanderbilt offered a better salary than anyone else, the princely sum of \$10,500 a year. "I had offers from a New York-based corporation at \$9,500 per year and from a large Wall Street firm for \$8,500 a year," Maier wrote. "Not caring to live in New York City, I was undecided between offers at two corporate firms in Cincinnati and Cleveland, each at \$7,500 per year. Vanderbilt's offer was a godsend. So I went into law teaching for the money. Two years later, a major Wall Street firm jumped its starting salaries by \$5,000 and the others followed suit. Nineteen sixty-seven was the last year that Wall Street entry-level salaries were below those for beginning law teachers. But it didn't matter. The day I walked out of my first law class, I knew I was hooked."

Professor Maier joined a faculty of 13 members and 325 students. The law school had recently moved into a brand

new building which, having been planned and built during the Cold War, had, according to Maier, "an unfinished basement designed as a civil defense bomb shelter in case of nuclear attack." One of his first steps, in 1967, was to help students found the *Journal of Transnational Law*, one of the earliest student-run scholarly journals on this topic.

Within five years, Professor Maier had developed an international law program that offered 10 courses taught by six faculty members. Jonathan I. Charney, whose distinguished career was cut short by his death in 2002, became Vanderbilt's second full-time international law faculty member in 1972 and remains the only law school faculty member to receive Vanderbilt's prestigious Alexander Heard Distinguished Service Professor Award, which recognizes scholarly contributions to understanding problems of contemporary society. Allaire Urban Karzon, who taught international tax law, became the law school's first female tenured faculty member in 1983. And Igor

Kavass, a trade expert who served both as professor of law and director of the law school's library, moved the offices of the International Association of Law Libraries to Vanderbilt in 1977, when he became the organization's president. By the time Professor Maier retired from the David Daniel Allen Chair almost 40 years later, he had built a solid foundation for the strong International Legal Studies Program Vanderbilt Law School boasts today.

Laurence R. Helfer, who came to Vanderbilt in 2004 and became director of the International Legal Studies Program in

2005, recalls that one of the lures of joining Vanderbilt's faculty was the fact that analysis of legal issues that transcend America's borders had been an important part of Vanderbilt's intellectual life and curriculum for more than four decades. "Professors Maier and Charney were highly regarded scholars and teachers who made major contributions to the development of international law and foreign relations law," Professor Helfer says. "I knew that a law school with faculty members of their caliber would be a terrific place to teach students about the many ways in which international legal

issues are becoming increasingly relevant to the practice of law in the United States." Another draw for Helfer was the commitment made by then-Dean Kent Syverud, which has been fully supported by Dean Edward L. Rubin, to expand the International Legal Studies Program and to increase the number of Vanderbilt's international law faculty, which had been depleted by Professor Charney's death and Professor Maier's retirement. "Law practice is increasingly global," Dean Rubin says. "It's essential that our students gain substantive exposure to international law,

#### INTERNATIONAL LEGAL STUDIES PROGRAM FACULTY

**Daniel J. Gervais** focuses on international intellectual property law. He spent 10 years addressing policy issues at the World Trade Organization, the World Intellectual Property Organization, the International Confederation of Societies of Authors & Composers, and the Copyright Clearance Center before entering the academy. He previously served on the law faculty at the University of Ottawa.

Before studying and practicing law in the U.S. and abroad, **Christopher Brummer** earned a Ph.D. in Germanic Studies from the University of Chicago and served as a doctoral fellow at the CIA's Office of Russian and European Analysis. His expertise includes regulation of international securities and foreign direct investment, globalization and the law, and law and economic development.

**Ingrid Brunk Wuerth**'s expertise is in foreign affairs, international law, and comparative constitutional law. She has served as a research fellow in Berlin at both Humboldt University and the Free University, where she worked as a research scholar in 2007. Professor Wuerth serves as cochair of the American Society of International Law's Interest Group on International Law in the Domestic Courts.

**Michael A. Newton** is an expert on international accountability, international criminal law and conduct of hostilities. He assisted with the establishment of the Iraqi High Criminal Court and served as Advisor to the Court's Legal Judicial Chambers. At Vanderbilt, he teaches the International Law Practice Lab and International Criminal Law and develops placement opportunities for students interested in international law practice.

**Laurence R. Helfer** heads Vanderbilt's International Legal Studies Program. His diverse research interests include international human rights, intellectual property law, international relations theory, and international litigation and dispute settlement. He serves as an expert advisor to the United Nations Food and Agriculture Organization and provides advice to NGOs that engage in human rights advocacy.



## Analyzing legal issues that transcend America's borders has been an important part of Vanderbilt's intellectual life and curriculum for more than four decades.

because almost immediately after they graduate, they are more likely than ever before to find themselves dealing with cases that have international aspects. In the past three years, we have deliberately set out to expand the range of international law courses and experiential learning opportunities we offer our students by recruiting faculty with diverse areas of expertise."

Professor Helfer has authored more than 50 publications relating to his wide-ranging research interests in human rights, international litigation and dispute settlement, treaty design, and international intellectual property law. As director of the International Legal Studies Program, he has enhanced Vanderbilt's international law profile in many ways. He organizes a series of roundtables for visiting scholars to present their works in progress; he assists the *Journal of Transnational Law* in organizing a biennial symposium on cutting-edge legal topics; he manages a distinguished lecture series honoring Professor Charney (recent lecturers include U.S. State Department Legal Advisor John Bellinger and Supreme Court of Canada Chief Justice Beverley McLachlin); and he oversees summer internships for Vanderbilt law students at the World Intellectual Property Organization in Geneva and the Food and Agriculture Organization in Rome.

In addition to Professor Helfer, four

new faculty members have joined Vanderbilt's International Legal Studies Program over the past four years.

Christopher Brummer, who came to Vanderbilt as an assistant professor after practicing in New York and London with Cravath Swaine & Moore, teaches international business transactions and international investment law. This fall, he became the first Academic Fellow in the Securities and Exchange Commission's Office of International Affairs, where he has had the unique opportunity of working with the agency during a global economic crisis. "My research involves assessing how securities regulators coordinate with one another to formulate policy with regards to cross-border securities transactions," he explains. "In the U.S., the OIA is the focal point of such activity, so this is an especially interesting time to be a research fellow in this office."

Ingrid Brunk Wuerth, whose work focuses on foreign relations law, international law in domestic courts, and comparative constitutional law, previously served on the law faculty at the University of Cincinnati and spent summer and fall of 2007 as a Fulbright Scholar at the Free University in Berlin before taking residence at Vanderbilt last spring. Professor Wuerth, whose innovative scholarship has been published in leading law journals and cited by the U.S. Supreme Court, credits her stay in Germany for the opportunity to rethink the way comparative constitutional law is taught in this country and to begin work on a new casebook. "The International Legal Studies Program is a wonderful environment for students and faculty alike," she says. "My colleagues are not only the

leading scholars and practitioners in their fields, but they also welcome real intellectual challenges and exchanges."

Daniel Gervais, one of the world's leading experts in international intellectual property law, came to Vanderbilt in 2008 after serving as the Acting Dean of the Common Law Section of the University of Ottawa, Canada. In addition to enriching Vanderbilt's international course offerings, Professor Gervais heads the law school's Technology & Entertainment Law Program. With a background that includes stints at the World Trade Organization and the World Intellectual Property Organization, Professor Gervais, who holds degrees from universities in Canada, France and Switzerland, and speaks fluent French (along with Spanish and "some German and Dutch"), brings to the program not only experience practicing and teaching intellectual property law in foreign countries, but also the perspective of a non-U.S. practitioner who understands the impact of American law around the globe.

In 2005, Professor Helfer was instrumental in recruiting Michael Newton, who joined Vanderbilt from West Point as Professor of the Practice of Law. Professor Newton established Vanderbilt's first international law clinic, the International Law Practice Lab. During his first year at Vanderbilt, Newton, an expert in conduct of hostilities and international criminal law, served as International Law Advisor to the Iraqi tribunal that tried Saddam Hussein, "Chemical" Ali and others accused of war crimes from 2004–05. He and fellow advisor Michael Scharf wrote a book about the trial and their experiences as advisors to

the tribunal, *Enemy of the People*, which was released in September by St. Martin's Press. [See article, p. 20.] At Vanderbilt, Newton's International Law Practice Lab is popular with students because of the substantive projects Newton garners for them to work on, which address everything from human rights policy to war crimes to treaty negotiations. "We learned practical lawyering skills while working for the biggest of real-world clients," recalls Jason Hutchison, '07. Hutchison departed this fall for his first Foreign Service posting as Vice Consul at the U.S. Embassy in Manila. "Work with the Foreign Service is

exactly what I've been aiming for since my freshman year of college," says Hutchison, who spent a semester of his 2L year interning at the U.S. Embassy in Vientiane, Laos.

Newton, who develops summer and semester internship opportunities for students in addition to his teaching responsibilities, points proudly to Charlie Trumbull, '06, who clerked for Judge Philippe Kirsch, president of the International Criminal Court in The Hague, before starting work for the U.S. State Department, and Sara Murphy, '06, who served as an intern in the Office of the Prosecutor of the International Criminal Tribunal for the former

Yugoslavia in The Hague during her 3L year, as well as to 2L Drue Preissman, who was invited by the State Department to join its Student Career Experience Program after working for the Bureau of Democracy, Human Rights and Labor as an intern last summer. Other graduates have garnered positions with foreign firms and NGOs based on the contacts and experience they gained in the program.

Professor Helfer notes that, as the study and practice of law become increasingly global phenomena, faculty in other areas are getting involved in the International Legal Studies Program. Erin O'Hara,

### ON-THE-JOB TRAINING

**D**rue Preissman began her 2L year at Vanderbilt with an enviable position: A part-time job working for the U.S. State Department.

After Preissman spent last summer as an intern at the Bureau of Democracy, Human Rights and Labor in Washington, D.C., she was offered a paid position in State Department's prestigious Student Career Experience Program, in the form of part-time work she can complete during the academic year while remaining a full-time law student. "I'm telecommuting," she explains. "I'm doing research, drafting and editing reports. But if I continue with this program throughout law school, I'll be eligible to apply for State Department positions on a non-competitive basis."

Preissman's career interest is demonstrated by the three international law courses she's taking this semester, including International Protection of Human Rights, Public International Law and the International Law Practice Lab. "I'm

interested in the legal framework of human rights policy," she explains, "but I'm also taking Corporations this semester. As the world becomes more globalized, the practice of law in every area is becoming more international."

Preissman earned her undergraduate degree in political science and gender studies at the University of Southern California, and then spent a year working as a grant manager for the Burton G. Bettingen Foundation in Los Angeles, monitoring grants the foundation had made to the Children's Hospital of Los Angeles and the Children's Institute, Inc., before starting law school. Having prior work experience helped her hit the ground running as an intern with the Bureau of Democracy, Human Rights and Labor during summer 2008. "Last summer was a really interesting time to be working in the bureau's offices because of the elections in Mongolia and Zimbabwe and the tension between Russia and Georgia," she says. Preissman

supported a Deputy Assistant Secretary who was monitoring the elections in Zimbabwe by preparing briefing documents, drafting building blocks for speech delivered by President Bush to commemorate Captive Nations Week, and conducting research related to the military conflict in South Ossetia.

Since Professor Michael Newton started the internship program in 2005, more than 80 Vanderbilt law students have spent summers or semesters working for such organizations as the U.S. Mission to the European Union in Brussels; the World Intellectual Property Organization; the CIA; the U.S. embassies and consulates in London, Milan, Geneva, New York, The Hague, and Vientiane, Laos; the International Criminal Tribunal for Rwanda in Arusha, Tanzania; the Office of the Prosecutor for the Special Court for Sierra Leone in both The Hague and Freetown, Sierra Leone; the United Nations Food and Agriculture Office in Rome; the ABA's Rule of Law Initiative in Baku, Azer-

baijan; and various bureaus of the U.S. State Department. "Last summer, our students worked with 22 different international organizations, consulates, government agencies, and NGOs in 12 foreign countries and in the United States," said Professor Laurence Helfer.

"This is due in large part to the efforts of Mike Newton, who has developed a broad range of placement opportunities for our students."

Many internships are unpaid, and some students benefit from a special stipend program established by Dean Edward L. Rubin that helps defray the costs of overseas travel and provides financial support for living expenses. "These placements afford students an unmatched learning opportunity," Dean Rubin says. "We want to ensure that students who are offered these opportunities can take advantage of them."



an expert on choice of law, enjoys having foreign J.D. and LL.M. students in her classes because “they bring a comparative perspective to classroom discussions and add a fresh perspective to the way we view our legal institutions.” Randall Thomas, who directs the Law & Business Program, also directs Vanderbilt’s Summer in Venice program, which offers a variety of courses with an international focus. And visiting professors—including James Bacchus, former chairman of the WTO Appellate Body who now heads D.C. law firm Greenberg Traurig’s international trade law practice; Dr. Thomas Fetzer, a law professor at Germany’s University of Mannheim who earned his LL.M. at Vanderbilt in 2003; and corporate law expert Jennifer Hill of the University of Sydney—enrich the curriculum with courses on international trade law and dispute settlement, European antitrust law, and comparative corporate governance.

Professors Helper and Newton point to the growing number of students securing internships, clerkships and jobs after graduation as a measure of Vanderbilt’s success in building its International Legal Studies Program. Three 2008 graduates—Mavanee Anderson, Don Jeon and Laura Thompson—went to law firms in the United Kingdom, Seoul and Tokyo, respectively, and Casey Kuhlman is working for the Public International Law & Policy Group in support of an autonomous regional government in Africa. Two other graduates, Ali Mohamed, ’08, and Payton Cooke, ’07, are teaching law in Ethiopia. “Vanderbilt has always been known as a national law school,” says Dean Rubin, “but we now have a program with international reach.”

# Making a Case for Human Rights

BY GRACE RENSHAW

**In Mike Newton’s International Law Practice Lab, students may find themselves working for governments in exile.**

This fall, four students in Professor Michael Newton’s International Law Practice Lab—Jonathan Misk, Rachel Perkins, Aparna Shewakramani and Lin Zhou—drafted a position paper in support of the Burmese government in exile. Their clients, who are Burmese nationals, represent a government forced into exile in 1990, when Burma’s oppressive ruling military junta refused to turn over power after an opposing party won a democratic election with a landslide victory. The students’ paper, written on behalf of two groups representing members of the exiled government—the Members of the Parliament Union and the National Council of the Union of Burma—argues that the military junta still in power in Burma does not represent the country’s people because it seized power and was not democratically elected. The paper also meticulously documents the legal basis for categorizing the obstruc-

tion of humanitarian relief to civilian victims in the aftermath of Cyclone Nargis in May 2008 as a crime against humanity. “The report was adopted by several governments in support of a challenge to the junta’s United Nations credentials and was widely circulated in the U.N. at the 63<sup>rd</sup> General Assembly,” Professor Newton says.

Until Cyclone Nargis devastated Burma, eradicating entire villages and leaving hundreds of thousands of people without shelter, food or potable water, many people outside the country were unaware of the extent of the oppressive control Burma’s ruling military junta exercises over its citizens. In the cyclone’s aftermath, international aid organizations found their efforts to deliver basic aid severely hampered. Junta officials first denied that aid was needed. When they did express willingness to accept help, junta

NASA

**Cyclone Nargis gathers strength over the Bay of Bengal before unleashing its fury on Burma.**



officials insisted that aid supplies be turned over to them, leaving aid organizations with no assurance that aid items would actually reach Burmese citizens in areas hardest hit by the destructive storm. “The struggle over getting aid to victims of Cyclone Nargis was in the news for weeks,” Professor Newton says. “That dramatically increased international awareness of Burma’s oppressive regime, which may be the only good thing that happened as a result of the cyclone. The human suffering was immense, and this government deliberately pursued a policy that exacerbated that suffering.”

When a group of exiled Burmese politicians sought legal expertise to support their efforts to strip the junta, which has been in power since a coup in 1962, of its seat in the United Nations, Newton garnered the project for the International Practice Lab. One of the brief’s authors, 2L Jonathan Misk, acknowledges that it’s unlikely that the paper will topple the junta, at least in this session of the U.N. General Assembly. But “it highlights the situation in Burma and raises awareness of the fact that there is a Burmese government in exile,” he says. “We’re also involved in a complementary project to assist citizens of Burma who live in the U.S. in filing claims against the junta under the Alien Tort Statute.” The Alien Tort Statute (ATS), which the U.S. Congress enacted in 1789, allows foreign nationals to file suit “for a tort only, committed in violation of the law of nations or a treaty of the United States.” The ATS languished in obscurity until 1980, when a Paraguayan



*Jonathan Misk*

citizen successfully invoked the statute to sue the police officer who had tortured her son to death in Paraguay. In recent years, victims of human rights violations have filed ATS complaints against multinational corporations complicit in those violations, including a recent suit filed by a group of Burmese villagers against California-based Unocal. That suit, settled in 2005, alleged that Unocal knowingly used forced labor to construct a gas pipeline

in Burma and contracted with the ruling junta to provide security for the pipeline project. The junta, in turn, used tactics such as murder and rape to displace villagers and force them to clear the way for the pipeline. “Even if you question the way the ATS

was interpreted in the Unocal litigation and other ATS cases,” Misk says, “these cases do have the positive effect of gaining greater visibility for human rights abuses around the world.”

Misk spent last summer working as an intern in the National Security Section of the U.S. Attorney’s Office in Washington, D.C. He became interested in applying to Vanderbilt because of the strength and reputation of its International Legal Studies Program. “A family friend in the U.S. diplomatic corps suggested I look at Vanderbilt and mentioned that its international law program had placed interns in courts and tribunals based in The Hague,” he recalls. “The Practice Lab and internship programs allow you to gain substantive advocacy experience that goes above and beyond the typical classroom experience. It’s a very dynamic program.”

## HIGH-PROFILE CLIENTS

**S**ince the inception of Vanderbilt’s International Law Practice Lab in 2005, students have completed legal work for the U.S. Departments of State, Defense, and Justice, as well as high-profile international organizations such as the International Bar Association. Students have also produced legal memoranda advising the governments of Sri Lanka, Iraq, Kosovo and others, in addition to several notable human rights groups and non-governmental organizations. Past projects supported the Iraqi High Tribunal, the International Criminal Tribunal for the Former Yugoslavia, and the Sierra Leone Special Court. Two extensive projects on behalf of the International Centre for the Legal Protection of Human Rights in London and the Women’s Gender Justice Group in New York addressed the legal protection of women in societies where they do not currently have equal rights. These projects formed the cornerstone for subsequent internships in these organizations, where students worked in the field or assisted with ongoing litigation.

“In addition to projects supporting human rights, our students have dealt with treaties, trade law and fair trade standards, government transitions, conflict of laws, criminal prosecutions, and the interpretation and application of a range of international crimes,” says Professor Michael Newton, who garners many of the projects for his students and teaches the International Law Practice Lab.

Two projects Professor Newton considers especially challenging include a comprehensive analysis of regional trade and dispute mechanisms on behalf of the British Institute of International and Comparative Law and an assessment of national complementarity mechanisms for the International Bar Association.

“The work my Practice Lab students have produced for our clients has been of exceptionally high quality,” Newton says, “and these students have also met some very exacting schedules to support clients grappling with ongoing negotiations or rapidly evolving issues in the real world.”



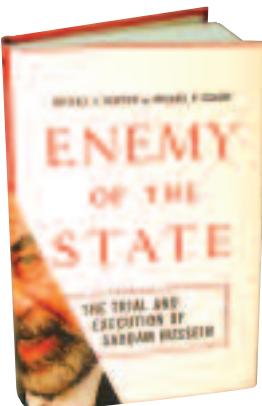
**W**hen Mike Newton joined the faculty of Vanderbilt Law School in 2005, he was in the midst of a difficult assignment as an advisor to the Iraqi High Tribunal. Iraqi politicians had begun the effort to create a specialized court to prosecute leading Baathists in December 2003, while Saddam was still on the run from coalition authorities. Professor Newton had spent the previous year and a half advising Iraqi judges as they prepared for trials of those

who had oppressed Iraq. "Iraqi judges claimed that 'Saddam was the real occupier of Iraq' because his regime had displaced the rule of law," Newton recalls. "They hoped to demonstrate a model of due process grounded in the most modern human rights principles. But, in contrast to their hopes, the first trial before the Iraqi High Tribunal was one of the most chaotic in world history, and it certainly failed in the short term to serve as the unifying focal point for a revitalized Iraqi civil society."

At Vanderbilt, Professor Newton quickly put students in his first International Law Practice Lab to work analyzing issues encountered by the Iraqis and the U.S. Department of Justice during and after the trial. "My students provided comparative legal analysis for a number of difficult issues that informed the reasoning of the Iraqis

as they issued extensive judicial opinions for the first time in the region," he says. Newton made four trips to Iraq from 2005 to 2007 to train and advise Iraqi judges and to help lay the foundation for the trials that would continue after Saddam's conviction and execution in 2005.

Newton and fellow Tribunal advisor Michael P. Scharf, a law professor at Case Western University, have written a book about Saddam's trial, *Enemy of the State: The Trial and Execution of Saddam Hussein*, released this fall by St. Martin's Press. "Our goal was to write a readable narrative, and much of the book is a first-person account of the human drama behind the spectacle Americans watched on TV news channels," Newton says. "The future of Iraq was forever changed with the capture of Saddam Hussein on December 13, 2003."



In this excerpt from *Enemy of the State*, Mike Newton recounts Saddam Hussein's capture and its immediate aftermath.

★ ★ ★

The night was cold and crisp, and the sounds of soldiers not-so-discreetly searching for anything on the property carried clearly. ... The tension grew as the knot of soldiers heard a hollow "thunk" sound and heard a comrade call out to get their attention. ... [They] watched as some kind of brick or block was pulled up and moved to the side of [a] newly discovered hole. ... The Arabic translator...yelled out that some grenades would be dropped down into the hole if the person didn't get out. One of the soldiers looking down into the hole shouted "Movement! We have someone coming up." ... A few of the soldiers...grabbed at the body, and yanked upward and outwards; they deposited what looked like a homeless man onto the ground. ... The wild hair and shaggy beard surprised some soldiers who imagined that Saddam would have kept his "presidential" appear-

ance, so as to marshal support while on the run. ... When he was thrust face down on the ground, the interpreter yelled at him "Who are you? What is your name?" The deposed dictator responded—after translation—"My name is Saddam Hussein, and I wish to surrender."

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Around 8:30 P.M., the future of Iraq and the region was forever changed. The scruffy-looking man had once bragged about going down in a blaze of glory and defiance; he had terrified millions and buried thousands of his own citizens in mass graves scattered throughout the nation, yet all he could muster after hearing the translation was a dull, blank stare. The [American] troops pulled away the Styrofoam cover to reveal a hole about six by eight feet deep, barely wide enough for Saddam to wriggle into and lie down. Termed a "spider hole" by exultant military leaders, it provided just enough space to lie down; it was camouflaged with bricks and dirt, with an air vent sufficient to permit its occupant to remain underground for long periods. Saddam was unkempt and dirty. Inside the hole, American forces discovered \$750,000 in one-hundred-dollar bills, as well as a pistol that was never fired.

The former dictator was captured quickly and with no loss of life. "No way he could fight back," crowed General [Raymond T.] Odierno [then Commanding General of Operation Iraqi Freedom] at a press conference held in Tikrit. "He was caught like a rat." ... Saddam was searched, shaved, immediately identified by other detainees, and imprisoned while DNA tests were obtained for absolutely positive identification. One Iraqi woman said, "It's like he's a goat," as she watched images of the shaggy and obviously rattled tyrant being searched that were broadcast on worldwide television the next day.

The takedown was rich with irony, and even in those formative moments carried the seeds of controversy that would later infect the trial of Saddam. He was captured just across the river from one of his many ornate palaces. Iraqis delighted to see him emerge from hiding underground like an animal. The contrast showed just how powerless he was at the hands of the coalition forces. Although the insurgency could have been fed by images of a defiant and dignified Saddam being treated with cruelty by imperialist



occupiers, the former dictator's blank stare was captured in a photograph that inspired no nationalist fervor across Iraq or in the broader Arab world as it was broadcast around the world. Saddam would later try to rebuild his shattered image by appealing to the insurgents more than a dozen times as his televised trial progressed.



Saddam's capture at the hands of U.S. military forces paved the way for his later charges that the process of bringing him to trial was an extension of Western power. Rather than maintaining the image of the omnipresent leader whose will was dominant in Iraqi society, he looked like a scruffy, defeated 66-year-old man whose days would best be spent doing crossword puzzles and sipping chai tea at the market. No one will ever know with certainty, but it is likely that the strategy of disrupting the trial and denying its legitimacy was born in the minute that Saddam was humiliated before the cameras of the world.

... Meanwhile, I was in the Convention Center conducting a training session for a group of judges and prosecutors who had been tentatively screened by the Iraqis to preside over war crimes trials. The roomful of Iraqis buzzed with enthusiasm and mystery as they began to meet. Each attendee had been through a selection process, and most dreamed of being named to a position in such a court. Many of the key participants in the Dujail trial received their first exposure to the principles of international criminal law during those long days of discussion. Though this was months before the Iraqi High Tribunal (IHT) would name anyone to formal positions, or even establish its structure, prosecutor Ja'afar al-Moussawi was a memorable participant.

The Iraqis gathered in a large rectangular auditorium with a table at its front on a raised platform from which the Western experts spoke. Translators sat behind a sheet of glass in booths to the left of the audience. This simultaneous translation allowed for good interchanges between the Iraqi lawyers and teaching staff. Some coalition political officials stopped by to signal their

support for the discussions but did not remain in the room long enough to mingle with the Iraqis and listen to the issues they sought to raise. Most of the Iraqis wore suits, though a few wore traditional garb. One Sheikh wore flowing white robes lined with intricate designs; he would be murdered during the months of unrest as the insurgency blossomed. Many of the younger men were quiet as they grappled with the new notions of international law presented to them. They tended to take careful notes and ask questions only during the breaks or during lunch in private conversations.

Early in the week, those who had suffered hardships at the hands of the regime tended to dominate the discussions as they told of their pain and tried to educate the visiting Westerners as to the particulars of their experience. Later, the dynamic changed markedly as the Iraqis became intrigued by the intricacies of applying international law to their own system. They wondered aloud about the challenges of integrating developments in international law into the comfortable contours of their own domestic procedures. Lunch discussions were lively, and I was pulled from table to table to answer questions. Almost all of the lawyers were eager for me to understand their perspectives on what had happened to Iraq under Baathist rule. They asked whether a court could truly be independent and impartial, as required by human rights standards, if its funding came through political channels. They debated which approach was preferable; the international practice of grouping all of the charges against a defendant into one megatrial or the Iraqi procedural code approach, by which a defendant is tried in a series of minitrials, each focusing on a particular incident. They wanted to know whether international law allowed for the combination of charges; that is, could the same acts be punished both as war crimes and as crimes against humanity? Could an act charged as an Iraqi crime also be characterized as a crime against humanity or even as genocide? They asked many questions about the differences between the responsibility of commanders and the individual responsibility attributed to the followers or those who had far less input into the joint criminal purpose. All of these issues would surface as key points of contention during the Dujail trial.

Those Iraqis were the first in the nation to read and discuss the legal content of the statute for the Iraqi High Tribunal that had been adopted by the IGC [International Governing Council] just a few days before. From the very beginning of our discussions, the Iraqi professionals referred to the end of Baathist rule as "the entombed regime." The reference

was more tinged with hope and weariness than with confident prediction. Midmorning of December 14, 2003, the calm orderliness of our academic discussions in the Convention Center was rocked by the electrifying rumors that Saddam had been taken. ... The Iraqi judges and lawyers studying the newly promulgated statute remained oblivious to the news until a cell phone rang and one of their number jumped to his feet from the back of the room to shout the good news.

The class immediately dissolved into a frenzy of joy and palpable relief as Iraqis literally jumped and hugged and cried on each other's shoulders. It was a scene of joyful pandemonium. Celebratory AK-47 fire began to crackle in the streets and lasted much of the night. The classes dissolved as the judges and prosecutors spontaneously left to return home before dark, when the celebrations might make travel more dangerous. Ironically, some Americans were injured accidentally as rounds that had been fired to celebrate the success of the U.S. Army rained down from the sky. Caught up in the electricity of the moment, one of the Iraqis in the room exclaimed, "Today is day one!" His spontaneous vision captured the sense of many Iraqis that the capture and prosecution of Saddam and the leading members of his regime was a watershed event for those dedicated to leading Iraq toward stability and sovereignty founded on respect for human rights and the rule of law.

Along with many of the judges, we went into the main press room and witnessed Ambassador Paul Bremer triumphantly proclaim the message that would change the course of Iraq: "We got him!" ...

The man whose entire persona was built on defiance to the West was humiliated as his confused and disheveled visage was transmitted around the world. The importance of this visual confirmation can hardly be overstated. The myth of the untouchable tyrant mocking the West in full control of his destiny was shattered. Rather than a well-groomed Saddam in a pressed shirt standing up to the invader, the world saw a humbled man with no pretense of power or control. Even today, the capture of Saddam remains as one of the key coalition triumphs. In the end, though, the trial itself would serve as the forum where Saddam found his voice and stood defiantly to rally the insurgency. The behind-the-scenes preparation for the trial of Saddam and other Baath Party officials began in earnest as soon as the press conference ended. As the enormity of the task became evident and the challenges mounted, the triumphant memories of that day sustained the Iraqis in their work on behalf of their country.

