

Delusions About Jurisdiction

Perry de Havilland is a **jolly nice chap** who often strikes us as a **libertarian** with some **sense** (and oh, how rare *they* seem), so we were somewhat taken aback by a recent **article** of his. Quoting this –

A United States federal judge has **ruled** that Iraq provided material support to Osama bin Laden and his terrorist group al-Qaeda for the September 11, 2001, attack and is liable to pay \$US104 million (\$163 million) in damages to two victims' families. The ruling, by Manhattan District Judge Harold Baer, is the first court decision stemming from the September 11 terrorist attacks.

– Perry stormed:

The notion a US court would think it had any standing or authority to order Saddam Hussain's Ba'ath Party, let alone the future post-Ba'athist government of Iraq, to do anything *whatsoever* is almost beyond belief. How divorced from reality is this? Judge Harold Baer and the people involved in this case must be suffering from serious metal delusions.

We guess that Perry can't have given this more than two seconds' thought before his the-state-can-do-no-right override cut in and his brain went offline, overwhelmed with revulsion at the idea of the American State 'intervening in someone else's affairs' – shock, horror: *outside its jurisdiction*. We have commented **before** on the unconscious **statism** inherent in this particular hangup.

Call us

"moronic" [...] "Cretinous? Idiotic? Ludicrous? Laughable?"

– but this seems to us a good illustration of the absurdity of the "non-intervention" idea. *Of course* the court in question had jurisdiction! For a start, there is, no doubt, money lying around in vaults *in America* whose legal ownership depends on the outcome of this case – for instance, on whether S. Hussein of Baghdad, or M. Omar of Kabul did or did not commit a tort against the plaintiffs. In other words, to decide what is legal or illegal by way of cash

transfers *within the US* in 2003, the court has to decide on the legality or illegality of acts committed in Baghdad and Kabul in 2001. And furthermore, there is property all over the world, which may at any moment be involved in trade with the US, whose legal ownership depends on the same thing. And there are people all over the world, whose status in US law may change from 'trader' to 'bankrupt' as a result of the same issues.

Judge Harold Baer is just doing his job. The all-too-common yearning of Libertarians to keep the Saddams and the Omars immune from his judgment is ludicrous and reprehensible.

Mon, 05/12/2003 - 11:58 | [permalink](#)

What about Sharon?

What does **The World** think about the Belgian courts trying Ariel Sharon for alleged war crimes in Lebanon?

Is there a jurisdiction issue there?

by **Gil** on Mon, 05/12/2003 - 16:17 | [reply](#)

What about Sharon?

That's a very interesting and relevant question.

Basically the answer is that Belgian courts do sometimes have to take a position on the legality of acts committed in Lebanon or Israel. Generally, the way to do this is to recognise the decisions of courts with more immediate jurisdiction. In the case of the US court hearing a case about Saddam this could not be done because there was and still is no Iraqi court able to try Saddam and hear the case with integrity, or under a legal system conforming even to minimal standards of human rights or the rule of law.

The case of Sharon in Belgium is, first of all, a malicious prosecution and should have been thrown out on its merits. That it was not thrown out is pure **political posturing** on the part of the Belgian government. Secondly, the case has already been heard by the competent Israeli authorities and by a **US court**, and there is no reason, other than crass **anti-Semitism** anti-Zionism and anti-Americanism, for doubting that those cases were conducted with integrity. Hence, again, the Belgian courts should refuse to re-open the case.

by **Editor** on Mon, 05/12/2003 - 17:20 | [reply](#)

What about Sharon?

And thirdly, the Belgian court is attempting a criminal prosecution, while the argument we gave only justifies civil cases.

by **Editor** on Mon, 05/12/2003 - 18:01 | [reply](#)

He's a Good Guy!

According to a Rabbi who hosted Sharon at a university in the UK, Sharon insisted on holding the hand of his wife, even if it made him look weak when he was being jeered at by Palestinian supporters, because his wife had comforted him through the time of his first wife's death. Imagine that! A big strong warrior leader holding his wife's hand. I love the guy!

by [Sylvia Crombie](#) on Mon, 05/12/2003 - 20:05 | [reply](#)

He's a Good Guy

Sylvia Crombie:

:) We think that this might not *quite* count as decisive evidence in most courts. Nevertheless, in fact, he is not guilty of any war crime, and is indeed a good guy.

by [Editor](#) on Mon, 05/12/2003 - 20:23 | [reply](#)