

**The Iraqi High Tribunal
The Appellate Chamber
Baghdad-Iraq**

Date: September, 4, 2007

The appellate Chamber in the Iraqi High Tribunal held its session on September 4 \ 2007 by Judge Arif Abdul Razzaq Al - Shaheen and the authorized judges to judge on behalf of the people and issued the following decision:

The appellars:

- 1- Complainants and Victims \ Their civil attorney each of Abdul Rahman Al Zebari, Mohamed Saleh Amedi, Mustafa Redha Al Askari, Hadar Zubair Barzani, Korran Adham Rahim, Mustafa Ali Ahmed and Ismail Ayad Kakah
- 2- Convicted Farhan Mutlak Al Jibouri and his defense attorney Marwan Al Shaykhli
- 3- Convicted Sultan Hashim Ahmad Al Tae'e and his defense council Abdul Sattar Salim Al Kubaisy and Suleiman Yassin Al Jibouri.
- 4- Convicted Hussein Rashid Mohammed, and his defense attorney Mekdad Sami Al Jibouri.
- 5- Convicted Ali Hasan Al Majid and his assigned defense attorney Najah Nasir Al Zubaidi.

Appeal requested:

The second trial chamber decision in the Iraqi High Tribunal No. 1 \ TC2 \ 2006. We received binders advocacy No. 1 \ TC2 \ 2006 of the Anfal case of the accused Ali Hassan al-Majid, Hussein Mohamed Rashid, Sultan Hashim Ahmed, Sabir Hussain Aziz, Farhan Mutlak Saleh and Taher Tawfiq Yousif according to the official letter of the second trial chamber No. 1 \ TC2 \ 2006 4 \ 7 \ 2007 for appeal consideration based on the provisions of rule 68 \ B in the rules of procedure and evidence gathering, which is attached to the IHT statute No. 10 of 2005 and Article 254 \ a of the Code of Criminal Procedure as the above rule of the Rules of Procedure stipulates that the appeal before the appellate chamber regarding the decisions and judgments issued by the Trial Chamber is in accordance with what has been stipulated in the Code of Criminal Procedure No. 23 of 1971 and that the appeal of the provisions and decisions and measures issued by trial Chambers is either optional and obligatory appeal and the optional appeal is to be for each of the parties of the case, the prosecution, the accused and the civil attorneys to appeal at the Appellate Court, offset in the form of this court, the Appellate Chamber in the judgments and decisions and measures issued by the trial chamber and this means that the Court should not send the case where any decision or measures to the appellate chamber only if there is a request from any party provided them in paragraph A of Article 249 of the Code of Criminal Procedure, and the obligatory appeal is to be according to the provisions of Article 254 \ in the criminal procedures code, which stipulates (If the trial chamber issued a death sentence or life imprisonment then it must send the binders

of the case to the appellate chamber within ten days if an appeal has not been submitted) and on this basis we find that the difference between the optional appeal and the obligatory appeal is that the trial chamber must send the file of the case to the appellate chamber if it issues a death sentence or life imprisonment to be checked while the optional appeal, which the sentence is less than the death sentence or life imprisonment then the trial chamber does not send the file of the case to the appellate chamber unless there was a request to appeal against the decision or that the appellate chamber would have any requests to revise it for appeal based on the provisions of Article 264 of the Code of Criminal Procedure in addition to all the above, the obligatory appeal does not abrogate the right of any party of the case who requested for appeal as the second trial chamber of the Iraqi High Tribunal had issued its decision in case No. 1 \ TC2 \ 2006 dated in 24\ 6 \ 2007, which included death sentences and life imprisonment and other provisions are as follows:

First: defendant/ Tahir Tawfiq Yousif Al Ani

Due to the insufficient evidence gathered in the case against Defendant Tahir Tawfiq Yousif Al Ani for charges against him in accordance with Article 11/First (A, B, C), Article 12/First (A, B, C, D, E, F, H, I, J) and Article 13/Fourth (A, D, E, H, L) of Iraqi High Tribunal Statute No. 10 of 2005, the Court has decided to drop all charges against him and immediately release him, provided he is not detained or wanted in any other case in accordance with Article 182/(C - E) of the Amended Criminal Procedures Law Number 23 for the year 1971.

Second: Convicted Farhan Mutlak Salih Al Jibouri:

1- The Defendant Farhan Mutlak Salih Al-Jibouri is to be sentenced to life imprisonment as a result of participation in premeditated murder as a crime of genocide according to the Penal Code 11\First\A-Second\E in reference to Article 15\First, Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The penalty was determined according to Article 406\1\A-B-F and contributory Articles 47, 48, and 49 of the amended Penal Code No. 111 for the year 1969.

2- The sentence of Defendant Farhan Mutlak Salih Al-Jibouri to life imprisonment for committing a deliberate murder as a Crime against Humanity is in accordance with Article 12\First\A, in reference to Article 15\First, Second and Article 24 issued by the Iraqi High Tribunal Statute No. 10 of 2005. The punishment was decided according to the rules of Article 406\1\A-B-F and Contributory Articles 47, 48, and 49 of the amended Penal Code No. 111 for the year 1969.

3- Defendant Farhan Mutlak Salih Al-Jibouri was sentenced to ten years in prison because his participation of committing the crime of compulsory relocation of civilians as a Crime against Humanity according to Article 12\First\D and in reference to Article 15\First, Second and Article 24 of the Iraqi High Tribunal Statute No. 10 of 2005. The

punishment was determined according to Article 421\B from the Amended Penal Code No. 111 of 1969.

4- The abovementioned punishments are to be carried out according to how the matter is connected to Defendant Farhan Mutlak Salih in accordance the rule No. 65\Second from the Rules of Procedures and evidence gathering and Article 142 from the amended Penal Code Number 111 for the year 1969.

5-The confiscation of his fixed and non-fixed properties is to be executed in accordance with Article 24\Sixth issued by the Iraqi High Tribunal No. 10 of 2005.

6- The defendant was informed, and understood, that the documents of the case will be automatically sent to the Appellate Chamber for closer examination, in compliance with Article 254/A of the Criminal Procedure Law No. 23 of 1971.

7 – In the case against Defendant Farhan Mutlak Salih Al-Jibouri regarding the charges directed against him, the court decided to drop the charges against him and release him based on the insufficient evidence, in accordance with the rulings of Article 11/First–B–C, Article 12/First–B–C- E –F–H–J - I and Article 13/Fourth–A–D- E –H–L of the Iraqi High Tribunal statute No. 10 of 2005. The decision was issued unanimously in accordance with the rules of Article 182/C of the amended Criminal Procedure Law No. 23 of 1971.

Third: Convicted/ Sabir Abdul Aziz Hussain Al Douri:

1. Defendant Sabir 'Abdul Aziz Hussain Al Douri is sentenced to life imprisonment for his participation in committing deliberate murder as genocide in accordance with Article 11/First/A, B, Second/E, in accordance with Article 15/First, Second, and Article 24 of the Iraqi High Tribunal Statute No. 10 of 2005. The punishment was determined according to the stipulations of Article 406/1/ A, B, F, and contributory Articles 47, 48, and 49 of the amended Penal Code No. 111 of 1969.

2. Defendant Sabir 'Abdul Aziz Hussain Al Douri is sentenced to life imprisonment for his participation in the deliberate murder as a crime against humanity according to Article 12/First/A and in compliance with Article 15/First, Second and Article 24 from the Iraqi High Tribunal Statute No. 10 of 2005. The punishment was determined according to the amended Penal Code Number 111 of 1969.

3. Defendant Sabir Abdul Aziz Hussain Al Douri is sentenced to life imprisonment for his participation in the deliberate crime of directing attacks against civilians or against individuals not directly participating in any military operations, considered as a War Crime according to Article 13/Fourth/A and in referral to Article 15/First, Second and Article 24 from the Iraqi High Tribunal Statute No. 10 for the of 2005. The punishment was determined according to the rules of Article 406/A, B, F and the collaboration Articles 47, 48, and 49 from the amended Penal Code No 111 of 1969.

4. Defendant Sabir Abdul Aziz Hussain Al Douri is sentenced to ten years imprisonment for his participation in crimes of demolishing or seizing properties of the hostile part, where the destruction or seizure was not a war necessity. It is considered as a War Crime according to the rules of Article 13/Fourth/L and in referring to Article 15/First/Second and Article 24 from the Iraqi High Tribunal Statute No. 10 of 2005. The punishment was determined according to the rules of Article 478/3 and the collaboration Articles 47, 48, and 49 from the amended Penal Code No.111 of 1969.

5. The aforementioned punishment is to be carried out in succession regarding defendant Sabir Abdul Aziz Hussain Al Douri, according to the stipulations of Rule 65/Second of the Rules of Procedures and evidence gathering related to the Court and to Article 142 from the Penal Code No. 111 of 1969.

6. The confiscation of the fixed and non-fixed properties of the defendant is to be in compliance with the rules of Article 24/Sixth of the Iraqi High Tribunal Statute No. 10 of 2005.

7. The Defendant was informed that case documents will be automatically sent to the Appellate Chamber to be verified in accordance with the rules of Article 254/A from the Criminal Procedures Law No.23 of 1971.

8. The Court decided to drop (in part) the charges against defendant Sabir Abdul Aziz Hussain Al Douri, and to release him due to the insufficient evidences in the case for the charges against him., in accordance with the rules of Article 11/First/-C, Article 12 first C-E-F-H-I-J, Article 13/Second/J-Q, and Article 13/Fourth/D-E-H of the Iraqi High Tribunal Statute No.10 of 2005. The decision was issued unanimously in compliance with the rules of Article 182/C from the amended Criminal Procedures Law No 33 of 1971.

10. On imposing punishment against defendant Sabir 'Abdul Aziz Hussain, the Court took into consideration his apology to the Iraqi people, and to the families of the victims, which was reason enough for reducing his punishment. The decision was issued in agreement, according to terms of Article 132 of the amended Penal Code No. 111 of 1969.

Fourth: Convicted Sultan Hashim Ahmed Al Tae'e:

1- Defendant Sultan Hashim Ahmad Al-Tae'e is sentenced to death by hanging for his participating in the perpetration of premeditated murder, inflicting severe physical and mental damages for community members, as well as subjecting them to harsh living conditions intending to eradicate them. Therefore, he is charged with genocide as per Articles 11/ First (A, B, C) and Second (E) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined

according to Article 406/1/ (A, B, F) by virtue of contributory Clauses 47, 48, 49 of the amended Penal Code No. 111 of 1969.

2- Defendant Sultan Hashim Ahmad Al-Tae'e is sentenced to death by hanging for his participating in the perpetration of premeditated murder as a Crime against Humanity as per Article 12/First (A) by virtue of Article 15/ First and Second and Article 24 of Iraqi High Tribunal Law Number 10 for the year 2005. The sentence was defined according to Article 406/1/ (A, B, F) by virtue of Clauses 47, 48, and 49 of the amended Penal Code No. 111 of 1969.

3- Defendant Sultan Hashim Ahmad Al-Tae'e is sentenced to death by hanging for his participation in the perpetration of crimes of genocide as a Crime against Humanity as per Article 12/First: (B) by virtue of Article 15/ First and Second and Article 24 of the Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 406/ 1/A, B, F) by virtue of Clauses 47, 48, and 49 of the amended Penal Code No.111 of 1969.

4- Defendant Sultan Hashim Ahmad Al-Tae'e is sentenced to 10 years imprisonment for participating in and perpetrating premeditated compulsory deportation for civilians as a Crime against Humanity, as per Article 12/First (D) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 421/B by virtue of Clauses 47, 48, and 49 of the amended Penal Code No. 111 of 1969.

5- Defendant Sultan Hashim Ahmad Al-Tae'e is sentenced to life imprisonment for participating in and perpetrating enforced disappearance as a Crime against Humanity as per Article 12/First (I) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 406/1/ (A, B, F) by virtue of Clauses 47, 48, and 49 of the amended Penal Code No. 111 of 1969.

6- Defendant Sultan Hashim Ahmad Al-Tae'e is sentenced to life imprisonment for participating in and perpetrating inhumane acts as a Crime against Humanity, in accordance with article 12/First: (I) by virtue of Article 15/ First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 393/1/(C) by virtue of Clauses 47, 48, and 49 of the amended Penal Code No.111 of 1969.

7. Defendant Sultan Hashim Ahmad Al-Tae'e is sentenced to death by hanging for participating in and perpetrating premeditated attacks against civilians as a War Crime, in accordance with Article 13/Fourth (A) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 for the year 2005. The sentence was defined according to Article 406/1/ (A, B, F) by virtue of Clauses 47, 48, and 49 of the amended Penal Code No.111 of 1969.

8. Defendant Sultan Hashim Ahmad Al-Tae'e is sentenced to seven years imprisonment for participating in and perpetrating premeditated attacks against buildings designated for religious and educational purposes as a War Crime, as per Article 13/Fourth (D) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 479/2 by virtue of Clauses 47, 48, and 49 of the amended Penal Code No. 111 of 1969.

9. Defendant Sultan Hashim Ahmad Al-Tae'e is sentenced to 15 years imprisonment for participating in and perpetrating the issuance of orders pertaining to the relocation of civilians as a War Crime, as per Article 13/Fourth (H) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 421/ (A, B, D) by virtue of Clauses 47, 48, and 49 of the amended Penal Code No. 111 of 1969.

10. Defendant Sultan Hashim Ahmad Al-Tae'e is sentenced to seven years imprisonment for participating in and perpetrating the destruction or confiscation of a hostile side's possessions as a Crime of War, as per Article 13/Fourth (L) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 479 by virtue of Clauses 47, 48, and 49 of the amended Penal Code No. 111 of 1969.

11. The more severe sentence against defendant Sultan Hashim Ahmad Al-Tae'e must be applied in accordance with Article 142 of the amended Penal Code No. 111 of 1969.

12. Defendant Sultan Hashim Ahmad Al-Tae'e fixed and non-fixed properties are to be confiscated in accordance with Article 24/Sixth of Iraqi High Tribunal Statute No. 10 of 2005.

14. Defendant Sultan Hashim Ahmad Al-Tae'e has been informed that case documents are automatically transferred to the Appellate Chamber to be verified in accordance with Article 254/(A) of Criminal Procedures Law No. 23 of 1971.

15. The Court decided to drop all the charges against defendant Sultan Hashim Ahmad Al-Tae'e, and to release him due to insufficient evidence for the charges against him, as per Article 12/First (C-E-F- H) and Article 12/Fourth (E) of Iraqi High Tribunal Statute No. 10 of 2005.

Fifth: Convicted Hussain Rashid Muhammad:

1- Defendant Hussain Rashid Muhammad is sentenced to death by hanging for his participation in committing premeditated murder and inflicting severe physical and mental damages, as a crime of Genocide, in accordance to Articles 11/First (A and B) and Second (E) by virtue of Article 15/First and Second and Article 24 of the Iraqi High Tribunal Statute No. 10 of 2005. The sentence was determined according to Article 406/1

(A-B-C) by virtue of contributory Clauses 47, 48, and 49 of the amended Penal Code No. 111 of 1969.

2 – Defendant Hussain Rashid Muhammad is sentenced to death by hanging for his participation in committing premeditated murder as a Crime against Humanity, in accordance with Article 12/First (A) and Second (E) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was determined according to Article 406/1 (A, B, F) by virtue of contributory Clauses 47, 48, and 49 of the amended Penal Code No. 111 of 1969.

3 –Defendant Hussain Rashid Muhammad is sentenced to death by hanging for his participation in committing premeditated genocide as a Crime against Humanity, in accordance with Article 12/First (B) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was determined according to Article 406/1 (A, B, F) of the amended Penal Code No. 111 of 1969.

4 –Defendant Hussain Rashid Muhammad is sentenced to death by hanging for his participation in committing premeditated murder attacks against civilians as a Crime of War, in accordance with Article 13/Fourth (A) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was determined according to Article 406/1 (A, B, F) by virtue of contributory Clauses 47, 48, and 49 of the amended Penal Code No. 111 of 1969.

5 –Defendant Hussain Rashid Muhammad is sentenced to seven years imprisonment for his participation in committing premeditated attacks against buildings designated for religious purposes as a Crime of War, in accordance with Article 13/Fourth (D) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was determined according to Article 479/2 by virtue of contributory Clauses 47, 48, and 49 of the amended Penal Code No.111 of 1969.

6 – The most severe sentence is to be carried out against defendant Hussain Rashid Muhammad in accordance with Article 134 of the amended Penal Code No.111 of 1969.

7 – Defendant's fixed and non-fixed properties are to be confiscated in accordance with Article 24 /Sixth of Iraqi High Tribunal Statute No. 10 of 2005.

8 – The defendant was informed that the verdict documents will be automatically transferred to the Appellate Chamber to be reviewed in accordance to Article Number 254/ (A) of the Tribunal Trials Procedure law No. 23 of 1969. The verdict was released in unanimous agreement based on Article 182 / (A) of the Criminal Procedure Law No. 23 of 1971.

9 – The Court decided to drop charges against defendant Hussain Rashid Muhammad and release him due to the insufficient evidences in the case concerning charges against him in accordance with Article 11 /First (C), Article 12/First (C-D-E-F-H-I-J), and Article 13/Fourth (E-H-L) of Iraqi High Tribunal Statute No. 10 of 2005.

Sixth: Convicted Ali Hasan Al Majid:

1 – Defendant 'Ali Hasan Al-Majid is sentenced to death by hanging for perpetrating intentional murder, as well as causing severe physical and mental damage to individuals from the community, subjecting them to harsh living conditions with the goal of total or partial eradication. As such, the convicted perpetrated a genocide in accordance with Article 11/First (A, B, C) and Second (A, E) by virtue of Article 15/ First and Second and Article 24 of Iraqi Higher Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 406/1/ A, B, F by virtue of contributory Clauses 47, 48 and 49 of the amended Penal Code No. 111 of 1969.

2 – Defendant 'Ali Hasan Al-Majid is sentenced to death by hanging for perpetrating premeditated murder as a Crime against Humanity pursuant to Article 12/First (A) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 406/1/ (A, B, F) by virtue of contributory Clauses 47, 48 and 49 of the amended Penal Code No. 111 of 1969.

3 – Defendant 'Ali Hasan Al-Majid is sentenced to death by hanging for perpetrating a genocide as a Crime against Humanity pursuant to Article 12/First (B) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 406/1/ (A, B, F) by virtue of contributory Clauses 47, 48 and 49 of the amended Penal Code No. 111 of 1969.

4 – Defendant 'Ali Hasan Al-Majid is sentenced to ten years imprisonment for perpetrating compulsory deportation crime as a Crime against Humanity pursuant to Article 12/First (D) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 421/ (B) by virtue of contributory Clauses 47, 48 and 49 of the amended Penal Code No. 111 of 1969.

5 – Defendant 'Ali Hasan Al-Majid is sentenced to ten years imprisonment for perpetrating torture as a Crime against Humanity pursuant to Article 12/First (F) by virtue of Article 15/First and Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 333 by virtue of contributory Clauses 47, 48 and 49 of the amended Penal Code No. 111 of 1969.

6 – Defendant 'Ali Hasan Al-Majid is sentenced to death by hanging for perpetrating the forcible disappearance as a Crime against Humanity pursuant to Article 12/First: (I) by virtue of Article 15/First and Second) and Article 24 of Iraqi High Tribunal Statute No. 10 for the year 2005. The sentence was defined according to Article 406/1/ (A, B, F) by virtue of contributory Clauses 47, 48 and 49 of the amended Penal Code No. 111 of 1969.

7 – Defendant 'Ali Hasan Al-Majid is sentenced to life imprisonment for perpetrating inhumane acts which premeditatedly caused severe suffering or serious physical or

mentally damages as a Crime against Humanity pursuant to Article 12/First (J) by virtue of Article 15/First and Second and Article 24 of the Iraqi High Tribunal Statute No. 10 of 2005. The sentence had been defined according to Article 393/2/(C) by virtue of contributory Clauses 47, 48 and 49 of the amended Penal Code No. 111 of 1969.

8 – Defendant 'Ali Hasan Al-Majid is sentenced to death by hanging for perpetrating premeditated assaults against civilians as civilians not directly involved in warfare pursuant to Article 13/Fourth (A) by virtue of Article 15/First and Second and Article 24 of the Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 406/1/ (A, B, F) by virtue of contributory Clauses 47, 48 and 49 of the amended Penal Code No. 111 of 1969.

9 – Defendant 'Ali Hasan Al-Majid is sentenced to seven years imprisonment for perpetrating an intentioned assault against buildings designated for religious and educational purposes as a War Crime pursuant to Article 13/Fourth (D) by virtue of Article 15/First and Second and Article 24 of the Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 479/2 by virtue of contributory Clauses 47, 48 and 49 of the amended Penal Code No. 111 of 1969.

10- Defendant 'Ali Hasan Al-Majid is sentenced to 15 years imprisonment for committing looting crime of any town or location even if it has been intentionally occupied as a War Crime pursuant to Article 13/Fourth/E and Article 15/First/Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined according to Article 452 and contributory Articles 47, 48, and 49 of the amended Penal Code No.111 of 1969.

11- Defendant 'Ali Hasan Al-Majid is sentenced to ten years imprisonment for committing the crime of issuing an order to deport civilians for reasons related to the conflict not for the civilians' safety or for urgent military reasons as a War Crime according to Article 13/Fourth/H and Article 15/First and Second and in virtue to Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was designated in accordance with Article 421/B and contributory Articles 47, 48, and 49 of the amended Penal Code No. 111 of 1969.

12- Defendant 'Ali Hasan Al-Majid is sentenced to seven years imprisonment for committing the crime of destruction and properties confiscation of the hostile party, where the destruction and the confiscation were not a war necessity, as a War Crime in accordance with Article 13/Fourth/L and Article 15/First/Second and Article 24 of Iraqi High Tribunal Statute No. 10 of 2005. The sentence was defined in accordance with Article 479\2 and contributory Articles 47, 48, and 49 of the amended Penal Code No.111 of 1969.

13- The more severe sentence is to be carried out against the convicted 'Ali Hasan Al-Majid, in accordance with Article 142 of the amended Penal Code No.111 of 1969.

14- The fixed and non-fixed properties of convicted 'Ali Hasan Al-Majid, are to be confiscated according to Article 6/24 of Iraqi High Tribunal Statute No. 10 of 2005.

15- The convicted was informed that case documents are automatically transferred to the Appellate Chamber to be verified in accordance with Article 254\A of Criminal Procedures Law Number 23 for the year 1971.

16- Due to the insufficient evidences in the case against defendant 'Ali Hasan Al-Majid pursuant to Article 12/First/C-E- H of Iraqi High Tribunal Statute No. 10 of 2005, the court has decided to drop the charges against him and release him. And the legal proceedings have been suspended rightly condemned Saddam Hussein to prove his death basis of articles (300, 304 \ Code of Criminal Procedure).

The appealers (complainants and civil attorneys) have appealed regarding the mentioned verdict and under the argument dated 23 \ 7 \ 2007 as they revoke the decision of releasing defendant Taher Tawfiq Al Ani and returning the case to the Court to convict him under articles of the indictment against him and sentence him with the appropriate punishment for acts committed by him, as he has participated in the commission of crimes during the Anfal 1978 and 1988, either directly or indirectly inciting to commit through the important positions he occupied, assignments to the North Affairs Committee and secretary of the Office of the North organization and the governor of Ninawa Governorate.

They also requested to appeal the ruling of the Trial Chamber for determining death penalty against the convicted Farhan Mutlak Saleh Al Jibouri where they requested to increase the punishment commensurate with the gravity of the crimes committed by him as they appealed paragraph 548-4170 regarding planning and preparations for crimes using chemical weapons against the civilian population have led to the deaths of hundreds of thousands of citizens one of the main instigators of the process of committing genocide, as requested that the Trial Chamber's decision should contain the compensation request from the Iraqi government before the civil courts and the text that is to ensure justice, as well as retaining the rights of all those affected etc. Farhan Mutlak Saleh Al Jibouri has also appealed to the Second Trial Chamber via his attorney requesting the revocation for the reasons cited in his argument dated 23 \ 7 \ 2007, one of the reasons that the witness statement made no mention of any role in the intervention or in the torture and the use of chemical substances and they did not refer to any role in the detention or deportation of the detainees and that he was raising the information to the military command, and then to the highest in the Repertoire in the State which is the former republic's president in order to keep him noticed in what was happening in the region. And the court's decision to confiscate his properties wasn't right, because there was failure to prove his seizing or causing to seize properties illegally and that the causal relationship between the acts attributed to him and the results of these actions are not available since the Court did not mention the alleged act nor specified the day and hour in which the act has been conducted, or identifying the persons who have been affected or killed by this act.

The convicted (Sultan Hashim Ahmed) also appealed the Second Criminal committee's decision through his attorney asking to revoke it for the reasons listed in there argument dated on July 22nd 2007 which included: invalidating the court's legitimacy, it's a special court, established contrary to the constitution, an exceptional court which is prohibited under article (95) of the constitution, it is differ from regular Iraqi courts formations organized by the Judicial organization law, it is limited to prosecute (the former regimes and its figures), the provisions in the criminal code contrary to the constitutional provisions and however harmonious with the criminal code procedures provisions, the legislator gave an international jurisdiction to the court while it is national, the court withheld from the defendants the opportunity of listening to defense witnesses and military experts pretext current addresses anonymity, the indictment wasn't clear which of the defendant can accurately answer it where it was contrary to the prerequisites of article (187) context of the criminal procedures code which mentions certain formality and required information for validity, that the defense has asked to hear other witnesses but the court refused to do so arguing that it delay the lawsuit settled...etc.

The appellant (Hussein Rashid Mohammed) appealed the court's decision through his attorney asking to revoke it for the reasons listed in there argument dated on July 23rd 2007 which included that: its illegal to judge a defendant for a single act occurred at one time on one victim of each these legal articles (11, 12, 13) as much as related to his post as the army deputy chief of staff for operations, he didn't contribute to any military action as described in article (13 / Fourth / A), and what happened as much related to him was unintended side effects of the large military operations towards opposite to the government semi-regular forces, the large number of civilian casualties during the Anfal military campaign as it is in terms of his contribution by developing military plans for those operations may reach the stage of gross negligence on the part of some military units implementing such processes, it is not necessarily reflected by the level of his contribution as the army deputy chief of staff for operations, the documents presented before the court cannot be considered as an evidence of an intent or purpose or a prior acknowledgement of an intention to commit a crime of this magnitude, he was an officer in the army during the war and the Anfal campaign and the punishment of disobeying military orders or even mere hesitation in executing orders pretext discussion will be immediate execution, the criminal court completely neglected extenuating circumstances and excuses.....etc.

The appellant (Ali Hasan Al-Majid) appealed the court's decision through his attorney asking to revoke it for the reasons listed in there argument dated on July 15th 2007 which included that: the former Iraqi regime took several measurements to address the scourge of the Iraq-Iran war and minimize damage to civilians especially residents of border villages and towns so it started to deporting people along the border strip between Iraq & Iran but part of the Kurdish population refused own or forced deportation, the appellant didn't commit the crime himself, he had no control on the perpetrators so he can prevent and punish these crimes, he didn't had effective control so he would be in charge of the crimes committed by the perpetrators the worked under his authorities thus there is no way to convict him with genocide while the special criminal purpose neither in investigation nor during the trial, it would be easier to target residential areas in the cities,

major towns if he had an intention to eliminate the Kurdish population instead of bombing border towns and villages, the attack wasn't directed towards civilian population but it was a war along the Iraqi-Iranian borders where the Anfal campaign was a part of it, the goal was to control the entire Iraqi soil, the civilian population who suffered harm were in the military operations areas, the Anfal operations are eight operations were each of them had plan and result, the appellant (Ali Hasan Al-Majid) didn't issue any order on that operations to any military commander and that the military field commanders received there orders from the chief command of staff, the Kurds were detained by the security forces and the appellant had no acknowledgment about that. As for the chemical weapons, the convicted fully denied it, and about what has been mentioned in the video tape presented before court alleged to be the appellants words when he says (I'll strike them by chemical weapons) are just a matter of psychological warfare was intended to influence the enemy's moral and to terrorize and frighten them and that he didn't use chemical nor he had any acknowledgment that such weapon was used in the Iraqi soil.

Moreover, the charges addressed to him were general and vague and not detailed contrary to provisions of article (19 / Fourth / A) and article (20 / Second) of the Iraqi High Tribunal statute and article (187 / A) of the criminal procedures code, he received orders from his superiors in the party and the government and obliged to implement that policy...etc.

The dossier had been presented to the prosecution chamber in the trial, the prosecution chamber replied on its argument 625P on Aug 5th, 2007 requesting clemency to convicted (Sultan Hashim Ahmed) and to commute the sentence to life imprisonment instead of execution in accordance with the provisions of articles (15 / Fifth) and (132) of the penal code where the prosecution found that the death penalty was cruel and severe more than necessary and it was better if the Court applied the provisions of article (15 / Fifth) of the court's statute because he was field officer who receives orders and implements it as corps commander and in charge of implementing orders that comes from the superior leadership, in addition to that he had turned him self in to the investigative authorities which facilitated the investigation and uncovered many facts and things that were hidden, the prosecution asked for ratifying the sentence imposed on convicted (Sabir Abdul Aziz Hussein) where it came appropriate, the prosecution chamber asked to apply the provisions of article (15 / Fifth) on convicted (Farhan Mutlak Al-Jibouri) because the punishment was sever and didn't fit with the act committed by the convicted, the prosecution chamber founded that the death sentences issued on convicted (Hussein Rashid) and (Ali Hasan Alomajeed) were consistent with the legal texts, the prosecution chamber requested finally to reject the defense attorney's requests that are contrary to the argument presented by the prosecution chamber, the prosecution chamber's requests were taken majority as mentioned in their argument, their argument was subject to review and discussion, and it has been noticed while reviewing that the appellant arguments were submitted within the legal period, thus its formality was accepted, and while they are related to single subject, a decision has been taken to unite and review all the requests together. Upon reviewing the contested verdict, it has been found that the criminal court's decision included several determinate paragraphs including releasing some of the defendants and convicting and punishing other defendants, as set out below:

- 1- The court issued its decision to drop charges addressed to defendant Tahir Tawfiq Yousif Al-Ani and to release him from detention forthwith unless required or detained for other case in accordance to the provisions of article (182 / C - F) of the criminal procedures code where the court chamber took in consideration the rule of law before the insufficient of evidence to convict him, which didn't have any statement from the witnesses and complainants against him, also there were no presented documents before the court which convicts him, in addition to denying the defendant of charges addressed to him. On this basis, the court's decision to drop charges against him and release him was correct and in accordance to the law.
- 2- During the course of the preliminary and judicial investigation, and the ongoing trial against defendant (Farhan Mutlak Salih Al-Jibouri), it has been proved to the trial chamber that he was director of the eastern region intelligence bureau at time of the incident, the complainants and witnesses stated that military operations which included large areas of provinces of Kirkuk, Al-Sulaimanayah, Duhok within a widespread and systematic attack, where army units used all available weapons at that time to attack Kurdish villages, including war planes and helicopters, heavy artillery, missile launchers, using conventional and special ammunition. The complainants and witnesses also described the military operations launched by the previous regime's military forces against their villages and the weapons used against them, they also clarified to the court how that units stoked and destroyed their villages and deported its residents including women, children, senior men, the complainants requested complaint against whom involvement in the Anfal campaign are proved, the complainants has confirmed in addition to the witnesses (whom their testimony supported the complainants statements) that the Iraqi units launched a widespread and systematic attack in the form of campaigns (called the Anfal campaigns) targeted villages inhabited by thousands of civilian population, the army also stroke villages by artillery, airplanes, helicopters, witnesses also reported that the villages where they lived have been struck by chemical weapons which caused killing and wounding of thousands of the civilian population in these villages, they also reported that the army deported families from there villages and detained them in detention centers like: Tobzawa, Dibis, Al-Salameyah, Nohrat Al-Salman, where they suffered from torture, humiliation, lack of food, lack of medical care, and because of that a lot of them died in the detention centers, the witnesses also reported that they saw a lot of people injured due to exposure to chemical weapons, the trial chamber examined a large number of document left by the former regime, which proved that convicted (Farhan Mutlak Salih) participated with the other defendants in committing crimes against Kurds in the Anfal campaign, among these documents a document contains a list of the demolished villages which was signed by convicted (Farhan Mutlak Salih), and a letter from the eastern region intelligence bureau about the execution of number of people which was signed by convicted (Farhan Mutlak Salih), another confirms the deportation of families from their houses to other places which was signed by the mentioned convict, the defendant mentioned in his statement before the investigative Judge that no one can reject implementing any order issued by defendant (Ali Hasan Al-Majid) and he denied

- all the charges addressed to him whether in the investigation or in the trial, the convicted claimed that he didn't did the action attributed to him directly which considered genocide, crimes against humanity, war crimes in accordance to the provisions of articles 11, 12, and 13 of the court's statute since these acts specifically are assistance and encouragement in accordance to the provisions of article (12 / Second / C). On that basis, the convicted is criminally responsible for the crime as an assistant where his assistance and encouragement had big effect in committing the crime, where his acts contributed significantly to the commission of genocide crime by assisting to target the civilian population and providing information which helped in the attacks which allowed and helped to continuing attacks and killings, so the casual relationship exists between the acts attributed to the convicted and the results of these acts, therefore the arguments presented by the by the defense attorney are over rolled in this regard. It appears from the forgoing that the evidence adopted by the court were sufficient to convict him.
- 3- During the course of the preliminary and judicial investigation, and the ongoing trial against defendant Sabir Abdul Aziz Hussein Al-Douri, it has been proved to the trial chamber that on 1987 he was director of the general military intelligence directorate, the complainants stated that convicted Sabir Abdul Aziz Hussein Al-Douri was the direct in charge for planning and preparing to the crime of using chemical weapons against the civilian population, the convicted mentioned in his statement before the investigative Judge and during the trial that all document presented by the prosecution chamber before the trial chamber were signed by him, he also assured that Iraq was producing chemical weapons. The witnesses testimonies and documents presented before the trial are all evidence that proves the convict's participation in committing the crimes that the court charges him with, as the attacks took place in the Kurdistan region, these attacks were no limit to the Kurdish fighters but included all the Kurdish villagers, they were shelled with various and most lethal weapons, the survivors were detained in several detention centers, some of them were executed individually or within groups, the convict participated in all these crimes as he was in charge for the military intelligence system, the military operations carried out by the previous regime against the Kurdish nation were based on Intel provided by that office to the military forces, these acts caused several crimes among them is genocide. All the evidence adopted by the court was sufficient to convict him for the charges addressed to him by the court.
- 4- Convict Sultan Hashim Ahmed was commander of the 1st corps during the Anfal campaigns and in charge for Al-Sulaimanayah and Kirkuk provinces, the complainants, the victim's families, and the experts stated that the attacking military forces started killing and arresting without discriminating between civilians or armed fighters and that what really happened when they were stroke by chemical weapons, most of the victims assured that the majority of the dead were children and that the attackers were targeting all people whether they are civilians, fighters, children, or women, this became apparent during the course of the preliminary and judicial investigation, and the ongoing trial, also large areas were demolished and evacuated reached to (2000) villages in addition to killing, deporting, detaining tens of thousands of victims as well as preventing human and

animal presence, preventing agriculture and enclosure of water springs, targeting this segment of the civilian population is an evidence that partial extinction intention was available for the defendant (Sultan Hashim), the attackers didn't discriminate the victims on age, sex, medical situation, and pregnancy basis, which appear clearly through the killing of thousands by poisonous gas while attacking the Kurdish villages by convention or chemical ammunition or in detention centers, a lot of the mass graves survivors assured that. As well as physically targeting Kurds as an ethnic and national group, their properties and assets were targeted which can be an evidence for criminal purpose and enterprise against a group where most of the complainants assured that the military units possessed their properties, the national ranks were also authorized to possess the Kurdish villagers' properties and assets, it appeared through the course of the preliminary, judicial investigation and the ongoing trial that convict Sultan Hashim was providing assistance to convict Ali Hasan Al-Majid to commit genocide crime against the Kurdish civilian population in northern Iraq through implementing the military plans by issuing orders to the forces works under his command to attack the Kurdish villages where thousands of Kurds were killed, by this act he assisted and participated committing genocide against the Kurdish civilian population as an ethnic and national group where he was aware of that, thereby his criminal responsibility is proved for participating in committing genocide crime, also, it appeared through the course of the preliminary and judicial investigation, and the ongoing trial that a lot of the detainees victims suffered from extreme hunger whether in the detention centers (Dibis, Tobzawa, Nzarki) or elsewhere, also the detainees suffered from various kinds of persecution, humiliation, and contempt, the trial chamber noticed that when part of the complainants attended before it signs of chemical poisonous gas appears on them, where they suffered from respiratory problems and other physical scars on their bodies in addition to psychological effects caused by the suffering they had. Through all that, the trial chamber found convict (Sultan Hashim) criminally responsible for committed acts through his contribution in a Joint criminal purpose with group of other people by joint criminal plan in committing genocide crime to inflict extreme physical or mental harm to members of certain group by issuing orders to the 1st corps forces to launch widespread on the Kurdish civilian population knowing that his acts and orders contributed substantially to commit the genocide crime by inflicting extreme physical or mental harm to members of certain group, it appeared through the investigation and the ongoing trial that convict Sultan Hashim: transferred women and children to detention centers in (Tobzawa and Dibis) by using military vehicles, executing orders issued to him by convicted (Ali Hasan Al-Majid) or chief command of staff or general command of armed forces to demolish houses and villages, imposing an economic blockade on the region where agriculture, industrial and agriculture investment were prevented, seizure of families in the detention centers where living conditions were extremely poor, which suffered from lack of proper hygienic care, as a result, diseases as diarrhea, vomiting and skin diseases were spread, which led to the death of hundreds of them from starving. One of the victims mentioned before the trial chamber that a lot of the detainees starved to death when she was in

(Nograt Al-Salman) detention center due to extreme lack of food and water, detention center officials didn't provide those minimum health services to be provided, in addition to raping that took place in that detention centers according to some complainants whom the court codified their statements, as was the separation of family members, where all the complainants stated women and children were separated from men, young men from senior ones, and young women from seniors, the elder members of the families were sent to (Nograt Al-Salman) detention centers, and young members were sent to the mass graves. All that constitute an element of the proving elements and a clear evidence with no doubt that subjecting this ethnic and national group (Kurds) to that harsh living conditions was for the purpose of material extinction, the rule of convict (Sultan Hashim) in these crimes was clear through leading several operations of the Anfal and through contributing in the other operations whether in issuing orders or providing military experience which makes him eventually criminally responsible for those crimes through participating with group of people to deliberately submit certain group to life conditions for the purpose of total or partial actual destructing with common criminal purpose through common criminal plan with the aim of strengthening the criminal activity or the criminal purpose of defunct regime of (Saddam Hussein) and his military and security systems. In addition to that convict (Sultan Hashim) led the first Anfal operation and the 1st corps, he also led other Anfal operations and contributed in other operations where military units that worked under his supervision provided moral support, and contributed by offering help, military plans to launch widespread and systematic attack on the Kurdish villages within four provinces in which the state used all its military and civilian efforts where these villages were bombed by fighter jets, helicopters, artillery, rockets, conventional and chemical ammunition, this bombarding caused the death of thousands of civilians due to the use of chemical and conventional ammunition, then the military units transferred tens of thousands of civilian (women, children, elder men) to the detention centers and some of them were taken to the mass graves and executing them by the death squads. Kurds as an ethnic and national group live in the northern part of Iraq who had their own language, culture and traditions, these attacks targeted them within widespread and systematic, what proves the existence of known policy to target Kurds as ethnic and national group is resolution no. (160) of 1987 issued by the dissolved Revolutionary Command Council, which granted convicted (Ali Hasan Al-Majid) wide authorities as the supreme commander in the region and all the state's directorates (civilian, military, security, partisanship) to be linked to him in order to implement the dissolved Ba'ath party's policy, the letter No. (4008) on June 20th, 1987 issued by convicted (Ali Hasan Al-Majid) to the 1st, 2nd and 5th corps including orders to prevent human and animal presence, killing each person located in the region of the age (15 – 70) years, this is another evidence for existence of plan or policy targets civilian Kurds in northern Iraq, that the inheritance of attacks as ravages, destruction, killing, displacements and starvation is further evidence of a policy or systematic plan targeting the civilian Kurds, where there are hundreds of families who were exterminated and no one of their relatives are left, dozens of victims lists were presented to the trial chamber

were each one contained names an average of (30 -100) victim which indicates that there are tens of thousands of victims, also indicated to the massive power that were used in the mass killings and the use of all available weapons by the state including forbidden weapons (the chemical weapon), there were documents presented before the trial chamber indicating that the procedure was to identify the civilian groupings within the army sectors areas and then to address intensive special strikes to those gatherings before implementing which will create a state of panic and fear among them, the convicted (Sultan Hashim) had distinct role, and that role made the head of the regime, the inhumed (Saddam Hussein) would satisfy him when he rewarded him with medals for that role in the Anfal operations. Regarding forcible deportation and transferring of civilians, it is clear that the Kurdish civilian population of the Kurdish villages were inhabited the region for a long time and they lived on the land of their parents and grandparents in Kurdistan and practiced agriculture, grazing and enjoyed its moderate climate, its fertile lands and water, fresh fruit and trees are the civilian population living in those villagers, where those military units launched a widespread and systematic attack targeting the civilian population, demolishing villages and transferring its residents (women, children, elder) to the detention centers by force, this was confirmed by the convicted (Sultan Hashim) before the investigative judge, where he said (I implemented military orders, and although the villages remain dear to their owners and there is no preferred to leave his home against his will), the convicted also mentioned before the investigative Judge that (the purpose of those acts was to extent the State's authority to the last piece in the region and that was for political purposes more than being military purpose), and it appeared through the ongoing trial that the widespread and systematic attack included four provinces (Al-Sulaimanayah, Erbil, Duhok, and Kirkuk) which are very vast areas includes more than (2500) villages village or township, and it is neither possible nor necessary on military basis to demolish villages of four provinces and the documents and letters issued by the military intelligence directorate in the region reflects the daily reports for demolishing villages, the convicted Sultan Hashim (who was leader of the 1st corps, commander of the first Anfal operation and other Anfal operations where military units attacked the northern region within widespread and systematic attack targeting the civilian population from the Kurdish villages) mentioned that he was implementing orders of the chief command of staff, General command of the armed forces, he mentioned before the trial chamber that he received orders from chief commander of staff defendant (Nazar Al-Khazraji), it appeared through the facts presented before the trial chamber that the forced disappearance process of the victims was formal and was organized by the government, where all the directorates within the northern area (military, civilian, security, partisanship) participated in that process which was commanded by convict (Ali Hasan Al-Majid) and convict (Sultan Hashim)'s responsibility for the forced disappearance for thousands of the civilian Kurdish victims of the Anfal, where the military units that worked under his authority or the other units that offered assist transferred tens of thousands of women, children and men by military vehicles to the detention centers and they disappeared after that and till now their destiny still unknown. Thereby, convict (Sultan Hashim)'s

responsibility is clear in this regard represented by the assisting, contributing, and participating with a group with common criminal purpose. Regarding Intentionally launching attacks against buildings dedicated to religious purposes, educational, technical, scientific, charitable or against historical monuments, hospitals and patients gathering spots; it emerged during the trial course, witnesses testimonies, documents presented before the trial chamber, that the military units and through the Anfal operations, which convicted (Sultan Hashim) led part of them attacked the Kurdish villages using all kinds of weapons, including chemical weapons, where part of those villages were demolished by shuffles armored vehicles, and the other part demolished either artillery and aerial bombing or completely burning including protected buildings such as schools, mosques and clinics, and this was also proved through the statements of victims and witnesses where the army entered and looted everything including livestock and destroying mosques and the attacking units' goal was to completely destroy the area including the protected buildings, the destruction of these protected buildings was through orders issued by convict (Sultan Hashim) to destroy the villages and mentioned buildings by the units working under his authority, the mentioned convict assured on his statement before the investigative Judge that the units working under his authority transferred families from the civilian population to the intelligence directorate then to the north organization bureau and then to the detention centers, the implementation of deportation or displacement decision against the displaced or forcibly deported civilian population was against their will, through the leadership of convict (Sultan Hashim) of the First Anfal and the 1st Corps, the military units worked under his authority committed several criminal acts according to the orders issued to them by him as the supreme commander of these forces, the fact that convict (Sultan Hashim) was leader of the 1st corps and the First Anfal operation means that these tow high incumbents enables him to acknowledge the intention of the officials in the hierarchy of leadership including convict (Saddam Hussein) and convict (Ali Hasan Al-Majid), and as commander of the first corps he had access to all details of the Anfal operation and the intention of the supreme leadership HQ, the documentary evidence mentions clearly that the mention convict well known that he'll participate in a widespread and systematic attack against the Kurdish civilians in northern Iraq, and that he (the convict) was aware about the intention of (Ali Hasan Al-Majid) to exterminate the Kurds as an ethnic and national group, through documents and on this basis had issued orders to his military units to attack the civilian population of Kurds from villages using chemical and conventional weapons.

Based on the foregoing, the appellate committee finds that the available evidence against the convict in the crimes of genocide, crimes against humanity and war crimes according to articles (11, 12, and 13) of the Tribunal's statute are sufficient evidence to convict him, as for the arguments made by the convict's attorneys in their closing argument to this committee including article (95) of the constitution which prohibits establishing special or exceptional courts, which on that basis will make the establishment of the Iraqi High Tribunal contrary to the mentioned text, this argument is previously responded where this

committee has issued its appellate decision No. 24 / V / 2006 in Sep 7th, 2006 which stated that this court is not special but it is specialized to consider certain issues like other specialized courts, like: trade regulation courts, traffic courts, rental property courts and others, and that the establishment of this court is not contrary to the constitution which assured on continuation of its work as an independent judicial committee to consider the crimes of the ousted dictator regime and its symbols, and the house of representatives has the right to dissolve it by a constitution after completing its duties in accordance to the provisions of article (134) of the constitution, regarding the argument which states that the trial chamber neglected the convict's right to listen to the defense witnesses and military experts through the trial sessions, the committee noticed that the defendants and their attorneys submitted defense witnesses list for each one of them, but the trial chamber noticed that most of the defendants submitted insufficient and vague addresses or that they didn't submit address of some of the witnesses which make impossible to notify, also some of the defense witnesses that had been notified didn't attend either to the security situation or because they were afraid from attending thinking that might be wanted to justice due to their participation in any way in the Anfal operations, nevertheless, the trial chamber granted many chances to the defendants and postponed several times to give enable the defendants from contacting their witnesses but they failed to do so which led the trial chamber to carry on in its trial according to the procedures; and since that the law granted authority to the trial chamber waste any procedure that might delay solving the case, therefore the trial chamber decided not to answer the requests for the defendants and their attorneys regarding listening to the defense witnesses outside Iraq, and regarding the addressed charges, the defendants were granted enough guaranties for fair trial where they were informed about the nature of the charges addressed to them and its reason and each of them was granted enough time to prepare his closing argument and receiving legal assist within their choice and granted chance to defend them selves and by the assistance of the attorneys, also they had the chance to question the defense and prosecution witnesses, and the right to defend themselves. Accordingly, the arguments of aspect are also replied.

5- The convicted: Hussein Rashid Mohammed: The convicted was the former assistant for the Chief of Staff of the Army during the Anfal operations, one of The charges against the convicted (Hussein Rashid Mohammed) is committing murder crime as a crime of genocide, as this crime like any other crimes, it should have the crime elements and there must be criminal behavior which conducted by the offender or participator in this act or behavior of killing or causing it, In addition to this there must be a criminal result , it is the death of the victims and there should be a causal relation between the act and the result, The important thing in the crime of genocide is that the criminal intent or purpose is to be effective in destroying a national, ethnic, racial or religious group partially or fully and The important elements in the crime of genocide is the presence of members of the group in a specific place and the attackers surrounded them and prevent them from escape from the area also that the responsible person issued an orders and organized the killings and the use of weapons in the attack , Regarding The convicted Rashid Hussein, he occupied the position of the Army Chief of Staff operations assistant during the Anfal operations and he denied committing any crimes attributed to him, but he admitted that he had attended the planning Anfal conferences, He stated that he was

not able to oppose any decision regardless of the legitimacy or lack of legitimacy in the decision , even though he denied committing any crime, but the court found a lot of evidence appeared before the court which emphasize his involvement in murder crime as a crime of genocide, Defendant Hussain Rashid had reviewed the aforementioned decree and letter number 4008, dated 20 June 1987, and realized the intention of defendant 'Ali Hasan Al-Majid regarding: the dislocation of Kurdish civilians from their villages; prohibition of human and animal existence; foiling agricultural and industrial growth within the area; detention of everyone found to be within prohibited zones; and the execution of those found within, between the ages 15 and 70 years old, without trial, after investigating them. The letter included instructions to the corps commands to prepare special strikes by artillery, helicopters and aircraft to murder the largest possible number of residents within the aforementioned area, the Court is aware of how the military troops attacked the Northern Area and blocked all exits to Turkey in order to contain the inhabitants and arrest them, using to excess various types of weapons in these raids, including traditional and chemical weapons against Kurdish civilians, according to what had been preplanned by Defendant Hussain Rashid. The Defendant provided human and physical resources to the military, which attacked the Kurds, being a national ethnic community, having their own language, history and culture, which constitute the legal bounds or nationality among members of a targeted community. Several victims and witnesses testified that the attacking military forces exploded water wells and filled them up with concrete bricks, which is evidence of the destruction of the water. As for using violence and severity with victims, most of the plaintiffs and victims stated that the attacking forces had used extreme violence and severity, as their villages had been exposed to an intense concentrated bombardment, Which led to kill a large numbers of people together in these villages, some of them have been killed by chemical weapon, and the military personnel separated a group from the other members **and separated the men from women and separated the personnel who is in the age of recruitment from the others, some of the survivors of the mass graves have mentioned they saw rigs prepared before their arrival to the places allocated for execution also they saw bulldozers ready to drop the sand after the execution, that the mentioned acts Although were executed according to orders issued by convicted 'Ali Hasan Al-Majid, they had been planned and supported by convicted Hussain Rashid, who had attended the Kirkuk conferences in which the use of special (chemical) munitions over Kurdish villages was discussed , the convicted mentioned above was the Army Chief of Staff operations assistant , he read all the details of the Anfal operations plans, as well as most of the letters and documents relating to the use of chemical weapons and the consequences of its use, the convicted Hussein Rashid had contributed in the planning of the Anfal operations and he provided the military units everything they need like , individuals and equipments and weapons through his position that he occupied during the Anfal operations (the Army Chief of Staff operations assistant) as a result of these plans, it's obvious to the court through the documents and official letters to the genuine bodily and mental harm, to the civilian population in northern Iraq , and preventing villagers from foiling agricultural and prevent grazing livestock, The convicted admitted to regularly attending planning meetings of Anfal, which were held in Kirkuk, where a discussion and a study for Anfal plans were laid down in detail, including the use of special munitions (chemicals), as it is**

proven by the convicted revealed in his testimony before the Chief of Investigative Judges that all military plans were not to be factually executed before being presented to the Operations Directorate (under his command) which is affiliated to the Army Staff Chairmanship, where the plans are to be presented to different correlated Directorates for their opinion, before referring them (plans) to the Army Chief of Staff. Moreover, the defendant acknowledged to the Court that the Operations Department under his command during Anfal operation was like a "bank" that prepared financial and human resources for all military sectors, and its role was confined to giving advice and technical directions to the military. The convicted Hussein Rashid had been aware that his actions were a part of a widespread and systematic attack against the civilian population through the enormity of the military forces used in the attacks against the civilian population during the Anfal operations by pushing thousands of the military in such operations, it have been proven through the evidence and through the statement of the convicted Hussain Rashid in the investigation and trial,

Some of the Anfal plans had been prepared in the Operations directorate, which headed by the mentioned convicted and other plans had been prepared in the military headquarters when he was there, it's obvious during the investigation and the trial that the military units have launched a widespread and systematic attack against the civilian population in northern of Iraq, according to a systematic clear plan the military units used in those attacks the full military potential of the State, it attacked Kurdish villages in all types of weapons by aircraft, helicopters, armor and rockets by using traditional and special (chemical) weapons. As a result, thousands of civilians been killed and thousands of civilians been displaced and other thousands been transferred to detention camps. It is obvious that the given statements, constitute evidence demonstrating that the dead and wounded individuals among the civilians mentioned by the victims were not fighters. Also, among the victims there were women, children and the elderly, and they were not combatants. Additionally, there were Artillery rockets, shells of multiple rocket launchers, and bombs, and when they fall on a piece of land, they do not differentiate between a civilian and a combatant. Also, there was no proof that the Kurds who died or were injured by conventional or chemical weapons lifted arms against the attacking forces. To the contrary, it was proved that these victims were civilians; most of them women, children, the elderly, and farmers who had no relation to the conflict that was taking place in Kurdistan. According to the documents which shown to the court, it proves that the convict Hussain Rashid, who was the assistant of the Army Chief of Staff for Operations, had complete knowledge of the details of such events that were taking place, with knowledge of all those documents. As was proven, Based on what was mentioned in his statements before the investigation judge and the Tribunal, it was impossible to execute any military operation unless it passed through the Operations Department. Therefore, defendant Hussain Rashid participated in a criminal plan along with other convicts with an intentional joint criminal act in order to enhance criminal activity or a criminal purpose of the former regime and its' military systems. Therefore, his responsibility in the Willful Killing by executing attacks against civilians or against individuals, who were not directly involved in military acts,

and the responsibility of the convicted for the crime of intentionally directing attacks against buildings dedicated to religious purposes, educational, artistic, scientific and charitable or against historical buildings, hospitals and gathering places for the sick and wounded persons, during the Anfal operations the military units conducted a wide spread attack against the Kurdish villages using all kinds of weapons, including chemical weapons , some villages have been destroyed by bulldozers and others by artillery attack and air strike or burning the villages totally and using explosives ,it is known that these villages did not include housing only, but they include schools, mosques, clinics and these are all protected buildings, this had been confirmed through the statements of the complainants who gave their statement in front of the court and what came of those statement is an evidence that the damage happened to civilian property in various Kurdish villages, it has been proved during the phase of investigation and trial that convicted Hussain Rashid was the chief of the operations directorate which relate to the Presidency of Army chief of staff, They provided updated maps and determine the targets and provide the military units with various equipment , supplies, weapons and ammunition and provided the material and human potentials, including chemical weapons to attack those villages, the convicted Ali Hassan al-Majid ordered to destroy the villages completely for this the convicted Hussein Rashid, participated in a personal capacity in the joint criminality plan with the rest of the accused who are involved in that plan , they deliberately targeted protected buildings, according the international law for what mentioned above , the appeal chamber found that the evidence against the convicted Hussein Rashid are sufficient to convict him under the articles 11, 12 and 13 of Court statute, and concerning the defense arguments which presented to this chamber , such as the convicted didn't participate in the planning , intentionally targeting the civilians who didn't participate in the war acts, the appeal chamber reject it , because according to the complainants and witnesses statements and the documents which shown in front of the criminal court ,they all are evidence confirm that the convicted had been planning to carry out military operations and the purpose of it is targeting the civilians, and concerning the other argument is that the convicted didn't prepare or issue an official documents, letters , the reply is that he had examined those letters and he attended the meetings, which contributed to the preparation of such a military plans and for the argument that the convicted performs his duty as any other Officers the reply is that the convicted is a person and he has awareness , he is not a machine which implemented the duty without thinking , he should examine the orders and shouldn't conduct it if it is against the law , and concerning the argument that the convicted had no intention of the intent and prior knowledge of the existence intent, the response to this argument is that what came in the official letters and the statements of the complainants and witnesses and the statement of the convicted , he said , he is the one who prepared the military plans to conduct such a military campaign and he knew certainly the intents of the convicted (Ali Hassan Al-Majid).

The convicted Ali Hassan Al-Majid: in 1987 the convicted 'Ali Hasan Al-Majid was placed in charge of the Northern Organization Office. This granted him wide jurisdiction to carry out the policy of the Revolution Command Council's and the Regional command of the ba'ath party in the Northern Area,

Including autonomy Kurdistan region for, in order to keep the security and order and ensure stability on Kurdistan and apply the autonomy in the region, this is according to the decision No. 160 in 03/29/1987 which related the executive council for Kurdistan region and provincial governors and heads of administrative units of the Ministry of autonomy as well as the intelligence department, the internal security forces and military intelligence and the Army leaders throughout the northern region, where all of those departments will follow all the directives and decisions issued by him and it is enforceable, as well the military leadership have to follow his orders regarding the implementation the policy of the Revolution Command Council's and the Regional command of the ba'ath party in the Northern Area also the dissolved Revolution command council issued his decision no. (244) in 20th, feb.1987 which gave the mentioned convicted the authority to start conducting the duties of the North affairs committee in order to implement the decision of the dissolved Revolution command council no.(160) in 29th, Mar.1987 , it shown in the trial that there were correspondences between the presidential office and the head of the military intelligence department in march , 1987 including a report from the military intelligence department to the presidential office concerning the activities of the Kurd fighters and the infect of the air strikes on them , the convicted (Saddam Hussein) was asked to establish a committee from the specialists in directing strikes by the special weapon , the military intelligence department specified targets in Balisan and other areas , They discussed in these correspondences the ability of three different things (Sarin, Nabon and mustard), after that the convicted Saddam Hussain approved using the chemical weapon after that is an obvious policy and a clear plan to target Kurds for being a national and ethnic group, the convicted (Ali Hassan Al-Majid) has been given the a wide authority , all the departments in the state was under his command whether the military of the civilian departments and he was responsible of conduction the policy of the dissolved National command council and the Arab Ba'ath socialist party , the focus was in demolishing the Kurds villages which have Kurds fighters so they implemented the plan of implementing the forced deportation to the population from their homes after that and according to the decision of the dissolved Revolution command council no.(160) , the convicted issued few letters concerning the implementing of the prepared plan such as impose the economic blockade on the Kurdish villages and the prevention of human and animal existence, the banning of travel in and out, agronomy, agricultural and industrial investment, the allowance of shooting without restrictions, murdering individuals arrested whose age was between 15 and 70, as well as granting jurisdiction to national defense regiments to confiscate the villagers' property, there were a lot of documents which have been presented in front of the court which confirmed the orders of demolishing the villages and conducting a chemical attacks , most of Kurdistan residents have been subjected to inhumane conditions and suffered from torture, humiliation and hunger and loss of personal care and hygiene , hundreds been died from hunger in the detention camps beside the field executions without trials , all what mention above is an evidence that there is prepared plan or strategy on the general level by the dissolved the command of the Arab Ba'ath and the Revolution command council to target the Kurds as an ethnic and national group in the north of Iraq , the convicted Ali Hassan Al-Majid participated with the convicted Saddam Hussein in implementing their joint criminal plan in order to terminate the Kurds in the north of Iraq , the military units attached Kurdistan according

to orders from (saddam Hussein) and (Ali Hassan Al-Majid) , different kind of weapons been used by air crafts, helicopters and artillery launches , the chemical weapons used against the civilian Kurds , the kudish villages been attacked by all kind of weapons which led to kill thousands of them and the survivors few of them escaped to the mountains and the other part of children women and elders been transferred to the detention camps or to the mass graves and the convicted (Ali Hassan Al-Majid) was a member in the dissolved Revolution command council and the Arab Ba'ath socialist party , he is the cousin of the convicted (Saddam Hussein), the command of the party and the Revolution command council found that the only person who can implement their policy in the area is the convicted (Ali Hassan al-Majid) , the mentioned convicted is one of those who prepared for the genocide and hurting the civilians mentally and physically , and make intentionally the groups suffer from the bad living circumstances in order to kill them partially or totally and issuing the orders to commit genocide , the military forces and according to his orders and also the security departments conducted a wide spread attack on Kurdistan during (1987-1988) , all the military and civilian potential been used in this attack ,different kind of weapons been used by air crafts, helicopters and artillery launches , the chemical weapons used against the civilian Kurds , the kudish villages been attacked by all kind of weapons which led to kill thousands of them and injuring thousands after the attack and killing thousands of them in the detention camps and taking the rest to the mass graves or conducting field executions , the Kurds are national and ethnic group live in Kurdistan in the north part of Iraq , the have their own language and culture , the prove of having preplanned policy targeting the Kurds society is the content of the decision no.(160) for 1987 which issued from the revolution command council which gave a wide authority to the convicted (Ali Hassan Al-Majid) and all the security, military Bath department became under his command, the mentioned convicted issued the letter no. (4008) in 20/6/1987 which prohibited the human and animal existence in the prohibited area, and to kill any person if he been found in the area that lead to the villages destruction and hunger all of this proved there were a known policy targeting the Kudish society and using the chemical weapon as a first time in Iraq history in this attack, the human societies never witnessed that the regime terminate his people by using chemical gases except the convicted (saddam Hussein) regime and the convicted (Ali Hassan Al-Majid) , they used chemical weapons against the civilians in their villages , In terms of the magnitude of the systematic nature of the committed acts is the huge military forces in the Anfal operations , they used all the available weapons of the country including the chemical weapons , the villages been attacked repeatedly as result a lot been killed and injured then the military forces arrest the rest of the civilian villagers and transfer them to the detention camps this is according to the orders of the convicted (Ali Hassan Al-Majid) and also separate the groups , most of the victims who came to testify mentioned they been separated to groups like , separating the women and children from men and separating young females from older women and separating young men from elder men and take the young men to the mass graves and shoot them , the court noticed that through the mass graves , the letter which shown to the court prove the existence of the knowledge and the will and intention of the convicted (Ali Hassan Al-Majid), he issued his orders to kill and participated with the others in a joint criminal intent to commit this crime , the defendant admitted in front of the court that he issued execution orders without trial because he is authorized from the Revolution Command

Council , as a result for his orders a lot of men and women been executed and as a result for the attack , tens of thousands of the civilian Kurds been transferred to the security committees or to the north affairs bureau by military vehicles , and then to the detention camps and they used to send the victims to the mass graves , that was confirmed some survivors from the mass graves and that led to kill tens of thousands of the civilian Kurds whether men or women, it was clear after we read the report of one of the international experts that most of the victims been shot and the convicted was targeting the civilian Kurds and he has the previous knowledge and intent to reach to this criminal result , the attack was systemic wide spread attack against the civilian Kurds in the north of Iraq in order to kill them partially or totally , the military units attacked the civilian villagers by using the traditional and chemical weapons and as result for this attack, thousands of civilians been killed in side their villages and houses , then the military units arrest the survivors from the chemical attack and transfer them to the security committees or the north affairs bureau and then to the detention camps , according to the statements of the victims and complainants and through the document which presented in front of the court, it lead to that the convicted (Ali Hassan Al-Majid) he was the arranger and the commander for all genocide crimes and the field executions and the orders of using the chemical weapon against the civilian Kurds to kill them because they are Kurds, and concern relocating the Kurds and the forcible transferred , it's been confirmed according to the statements of the victims and complainants that they been forcibly dislocating , the victims is been arrested then they dislocate them and then their houses been destroyed , for this they been forcibly dislocating from their area Kurdistan and they used to live in the area since along time , the Iraqi military forces during the (1987-1988) conducted a wide spread systematic attack against Kurdistan area and destroyed more than three thousands villages and the villagers whether they are men , children and women been forcibly dislocated after arresting them , the arresting is against the National and international law , then they been detained in the detention camps as (Topzao, Debs , Nzarki and Al-Salameah) , a lot of them been transferred to the (Nokrah Al-Salaman) detention camp in Al-Samawah desert and the others led to the mass graves , the convicted (Ali Hassan Al-Majid) knew about this forcible dislocating and he intended to make it a part of the wide spread systematic attack against the civilians , most of the victims stated in front of the court that they have been subjected to various kinds of humiliation, psychological and physical torture and debasement of human dignity and of starvation and the loss of personal hygiene and health care , all of these things are against the national and international law , these actions been committed according to an order issued from the convicted (Ali Hassan Al-Majid) who participated with others in conducting a joint criminal plan and he participated with a joint goal and intent to terminate the Kurds in the north of Iraq partially or totally and it is a part of the joint intent because he purposely ordered to forcibly transfer the civilian Kurds from the north of Iraq within a wide spread systematic attack , and his employees conducted these orders literally , according to the statements of the victims and complainants in front of the court and after giving their statement each one of them presented a list of the missing people from his village , those victims called (the –Anfalized)it refers to the victims with unknown destiny , the convicted (Ali Hassan Al-Majid) admitted in front of this court that no one arrested can be release unless he order to do so , according to statements of the victims in front of the court , there are thousands of detainees till now no body knows

their destiny , the former regime was responsible of hiding their bodies , there were non human crimes were committed by the convicted (Ali Hassan Al-Majid) and all the crimes insulted the human dignity specially the Kurdish women , she suffered physically and emotionally and few women been raped and their dignity been insulted , there are few women refused to testify in front of the court for social reasons , and some victims mentioned a lot of the arrested villagers died in the detention camp as a result for hunger , and the non human treatment by the detention camp officials , the convicted Ali Hassan Al-Majid Knew about all these crimes , few victims mentioned in front of the court that they noticed the movement of the army and they felt the risk before thirty minutes from the sun set and then they been targeted by the chemical weapon by air crafts and the villagers been falling down on the ground for being infected by the chemical weapons and a lot of them died or been physically hurts, some victims mentioned that they saw a lot of children dead in front of the eyes of their parents and after that the military personal came and executed the survivors , for this the convicted Ali Hassan Al-Majid is criminally responsible of those attacks which targeted the civilians by the traditional and chemical weapons and all the military units were under his command , the military necessity does not give any excuse to use the chemical weapon against the civilians or the fighters , according to the statement of the complainants and the witnesses and the documents The convicted (Ali Hassan Al-Majid) had participated in person and with other in conducting a common criminal plan and he had a part of a common criminal purpose to eliminate the Kurds out of north of Iraq (Kurdistan) completely or partially, and as a part of that common purpose and common plan, he gave the orders to dislocate the civilians which was a part of a wide spread and systematic attack against the civilians, the documents and the witnesses testimony had proved to the court the mentioned convicted was the person who issued those orders. As for the convicted rule in targeting the attacks against buildings distinguished for religious, education, arts, scientific or medical purposes, we had already proved that according to the orders and instructions issued to the military forces, these forces starts attacking Kurdistan within the Anfal campaigns where more the three thousands villages had been completely distorted and that includes the schools and the mosques, and according to the witnesses testimonies and the available evidences more the three thousands villages were been demolished and more then (1000) primary and mid schools and more then 2000 mosques because most of those villages had such buildings and all that was according the orders of the convicted (Ali Hassan Al-Majid). The convicted had issued an order stated that the national defense battalions members or advisers can keep any thing they gain and according to that order a lot of the Kurdish villages were looted by the national defense battalions and other soldiers, and some witnesses had said that there money and animals had been looted by the armed forces. It was clear from the documents and the witnesses' testimonies that the convicted (Ali Hassan Al-Majid) had participated personally and with other in conducting a common criminal plan and that he had a common criminal purpose to eliminate the Kurdish people in the north of Iraq completely or partially and that he participated intentionally in provoking the other to commit looting actions and that was been proved through the official letter No.(4008) in 20/Jun/1987 issued by the convicted him self which also proved that the national defense battalions soldiers are a part of the Iraqi Army. The appellate chamber, through all that, finds that the evidence which are available against the convicted (Ali Hassan Al-Majid) were sufficient to convict him

according to the articles 11, 12, 13 of the court statute, and as for what had been mentioned by (Ali Hassan Al-Majid) defense lawyer, which had been submitted to the appellate chamber, which includes that the convicted did not commit the crimes him self and that he had no effective control up on the perpetrators of these crimes, which mean that he didn't had the ability to stop or to punish them, all these defenses are rejected according to the article (15) of the IHT statue, and as for the defense that the convicted can not be found guilty for the genocide crime due to the fact that the special purpose of the crime never been proven nether in the court nor in the investigation stage, this defense can also be rejected according to a lot of documents had been shown in the court room and also a lot of testimonies for people from Kurdistan which had proved that the intention of killing those thousands of Kurdish civilians where available, and as for the defense was that the army did not intend to eliminate a particular an ethnic group or at least part of it, but only to kill the saboteurs, that kind of defense can also be rejected due to the fact that the people of areas had been attacked by the army where all from the same ethnic group (Kurdish) and the intentions of eliminating them were obvious from the size of the forces had been used which led the death of thousands of Kurdish men, women, children and old men an to the distraction the villages and farms, and as for the defense that the attack was not against the civilians but it was a part of the Iraqi – Iranian war along the borders, the response to that will be that the curse of events took place in Kurdistan area shows something different, it shows that the war launched by the Iraqi forces was not limited to the borders area but it reaches cities far a way from the Iraqi – Iranian borders and that what had been confirmed through the witnesses and victims testimonies and also by the documents shown in the courtroom, as for the defense that no evident is available that could refer to the using of weapons against the villages, and the response to that will be that a lot of document had been shown includes the use of all kinds of weapons including the chemical weapons against the Kurdish cities and villages which were occupied by civilians, and as for the defense which criticize the legality of the charges addressed to the convicted, the response to that will be that the charges addressed to the convicted by the court were detailed and it were following the national and the international standards.

For all what had been mentioned above this chamber sees that there is no state in the world would launch a war against its on population just because they are belong to a specific nationality or an area of land, all these destroys of the villages and the genocides had been committed in Kurdistan by the ex-regime had forted mass graves. On these grounds it is the duty of the state to practice its criminal jurisdiction upon those who were responsible for committing international crimes, because the actions committing by the convicted consider as national and international crimes, and when they committed it they violated for the international, criminal and human law and at that time this is against the Iraqi law , according to what mentioned above and all the decisions which issued in this case whether conviction, releasing decisions in this case against the defendants ; Farhan Mutlak Saleh Al-Jibouri, Tahir Tawfiq Al-Ani, Sabir Abdul Aziz Al-Douri, Hussein Rashid Mohamed , Ali Hassan al-Majid and Sultan Hashim Ahmed Al-Tae'e , the criminal chamber found the right reasons for their decisions and it's in accordance with the law , we decided the approve it and the reject the appeal requests , this is in

accordance with the provisions of article (25-2nd) of the IHT statute no. 10 for 2005 and the decision been issued by the Majority in 4th, Sep.2007

Signed by
Judge Arif Abdul Razzaq Al-Shaheen
The president of the IHT