



*[TC: Iraqi High Tribunal Logo, for the year 2003, including the motto: And if you judged among people, by justice let it be]*

**Special Verdict  
Pertaining to Case No 1/ CSecond/2006**

**Al Anfal**

**In The Name of God All Merciful All Compassionate**

**Iraqi High Tribunal  
Second Criminal Court  
Baghdad – Iraq  
Ref. No 1/C Second/2006  
Date: 2007 Jun 24**

**The Verdict**

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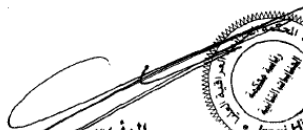
**(Introduction)**

The first of Nuremburg Court principles, for the year 1950, stated the following:  
"Any person, who commits an act classified as crime per international law, will be responsible and subjected to punishment". Relying on this principle, it becomes understandable that any act described as international crime will be punished as per International Law, if such action constitutes a breach of International Law's articles. The Iraqi High Tribunal, formed as per Law No 10 for the year 2005, even if it was a national court, is assigned to consider international crimes, as the report will state, and prosecute turned over convicts [charged for international crimes] as per its juridical allegiance.

**Nature of Crimes appropriated for this court:**

The Iraqi High Tribunal is the appropriated court to review acts considered as a breach of International Law, within a defined period of time, starting from 1968 Jul 17 until 2003 May 1, as per Clause [Second] of Article [1] of Law No 10 for the year 2005 (previously mentioned), which stated " Court's allegiance is applicable on every normal person, Iraqi or not, residing Iraq and convicted of any of the crimes mentioned in Articles [11, 12, 13, and 14] of the aforementioned law, within the Republic of Iraq or any other place ... These include the following crimes:

- 1- Genocide
- 2- Crimes against Humanity
- 3- War Crimes

A handwritten signature in black ink, slanted upwards from left to right, followed by a circular official stamp of the Iraqi High Tribunal.

The President

[TC: Iraqi High Tribunal – Second Court of Crimes Chairmanship's logo]

*\*At the request of the Iraqi High Tribunal/Regime Crimes Liaison Office, all names of witnesses and families of witnesses and victims have been redacted for their safety.*

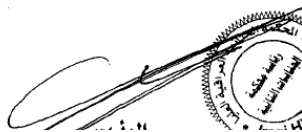
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4- Infringement of Iraqi Laws as stated in Article [14] of the aforementioned law. From this introduction, it becomes understandable that crimes defined by this law are crimes of International characteristics. It is acknowledged that International crimes' impact is not limited to a certain society, rather stretching to enclose all worldwide societies. In other terms, its impact will stretch to enclose all mankind, excepting no society whatsoever. As for local crimes, or internal ones, their impact is limited to the society where such acts were perpetrated. That's on one side. On the other's, international crimes are subjected to International Tribunal Law's articles, at a time where internal or local crimes undergo national tribunal. Third, we find that the basics of each category [international or internal] differ from one another. The idea of international crime, and its identifications, is different, from many aspects, than that of a national one. This does not necessary mean that they completely differ, but they surely do, over some aspects, as we mentioned above, due to the lack of legislative specs within the international community and availability within the state, taking into consideration that International Law's vital source is conventionality. Whereas, we find that the only tribunal law's source is legislation issued by the appropriated legislative authority (written law), excluding the Anglo-Saxon law which is still, to a big extent, based on juridical precedents. The difference in nature, between international and local crimes, is justified by legal divergence between the two concepts. In the internal field, law is framed as decrees issued by the appropriated legislative authority, when in the international field there is no legislative authority or commission ...

A handwritten signature in black ink, slanted upwards from left to right, followed by a circular official stamp. The stamp contains Arabic text and a central emblem.

The President

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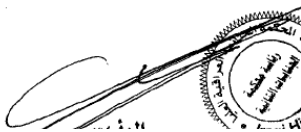
... designated to put down obligatory rules. Rather, the general agreements and accords, within countries, are adopted to identify legal rules, as well as stable and obligatory conventional international regulations. Fourth, the gap, between international and internal crimes, is clearly shown whence internal crime does not occur, usually, against a large number of victims and possessions, as the international crime includes tens, hundreds, or even thousands of victims and possessions, from where came its appellation as "Crimes against Humanity", "Genocide", and " War Crimes".

It is clear, from what had been said, that there are many differences between international and internal crimes. However, these differences do not prevent a similarity, on the same level, between the two categories, the thing that was behind adopting articles, already mentioned in national tribunal laws, and enforce them on crimes stipulated in international marshal or undisputed laws.

**Laws which must be applicable by this Court:**

Article [24] of Iraqi High Tribunal Law No 10, for the year 2005, stated the following:

- 1st) The court's sentences are those stipulated by Penal Code [111] for the year 1969, excluding lifetime imprisonment, which stretches over the convict's lifetime period, taking into consideration Article [17] of this law.
- 2<sup>nd</sup>) Sentences, stipulated in the Penal Code and other penal laws, are effective against crimes laid down in Article [14] of this law.



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3rd) Taking into consideration Clauses [Fourth] and [Fifth] of the aforementioned article, the tribunal court will be responsible to define charges appropriated to the aforementioned crimes, stipulated in Articles [11, 12, and 13] of this law.

4<sup>th</sup>) The convict, charged for crimes laid down in the Penal Code, will be sentenced if:

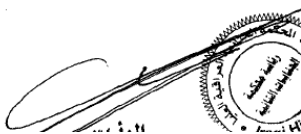
A- He perpetrated murder or rape as per Penal Code.

B- He participated in perpetrating murder or rape.

5<sup>th</sup>) When the court designate a sentence for any crime stipulated in Articles [11, 12, and 13] of this law, which do not have an analogue in the Iraqi law, it will take into consideration certain factors like crime's significance and convict's personal conditions, rightly guided by "judicial precedents and international tribunal's sentences, in this concern ...", and till the article's end.

By referring back to Article [17] of the same Penal Code, we find stated the following:  
Article [17] – **First:** If no legal text, pertaining to this Code and the issued regulations in accordance, Penal Code's Public Laws must be applied against accusing and prosecuting convicts, as it is stipulated in the following codes:

A- Between 1968 Jul 17 and 1969 Dec 14: Baghdad's Penal Code



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B- Between 1969 Dec 15 and 2003 May 1: Penal Code No [111] for the year 1969, which had been valid in 1985 (3<sup>rd</sup> Edition)


C- Martial Penal Code No [13] for the year 1940 and Military Trials Procedure Law No [44] for the year 1941

**Second:** The court and cassation commission can refer to International Tribunal Laws when elaborating Articles [11, 12, and 13] of this code.

**Third:** Penal Code's articles are effective as not to intervene with this code's, as well as legal and international commitments pertaining to internal crimes within the court's jurisdiction, when applying articles appropriated to an amnesty from tribunal responsibility.

**Fourth:** Crimes stipulated in articles [11, 12, 13, and 14] are not subjugated to oldness relinquish for the charges of penal litigation and sentence.

If we review acts stipulated as genocide, crimes against humanity, or crimes of war, we recognize that many of criminal acts have been already mentioned in Iraqi Penal Code No [111] for the year 1969, counted as crimes by Iraqi legislator who affirmed the appropriated sentences in many legal texts. Articles [405] and [406], of Iraqi Penal Code, identify premeditated murder as a premeditated murder of another person. This description matches up with murder description included in Articles [11, 12, and 13] of the Iraqi Penal Code. As of Articles [190] and [222] of the same Penal Code, criminal acts which threaten the state's internal security are elaborated, as well as Article [325] which condemns slavery (exploiting others in drudgery) and Articles [322], [421], and [425] ...



The President

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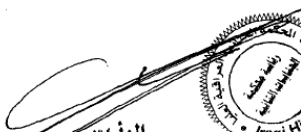
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... which handled detaining persons, jailing or depriving them from freedom, allowing some to misuse a certain location to prison or detain. Articles [421] until [427] stated the different forms of abduction, Article [333] tackled torture, Articles [393], [396], and [397] dealt with rape, homosexuality and molestation, and Articles [412] and [413] concentrated on assault. As of Article [381], it predetermined the incrimination of the eradication, dislocation or commutation of a new born baby. The Iraqi legislator documented, in Iraqi Penal Code, the charges of burglary in Articles [439] till [446], premeditated public properties' spoilage in Article [197], crime of spoiling, destroying, sabotaging or damaging a real estate, vehicles pertaining to others and making them useless, sowed fields owned by others, un-mowed crops or plantations belonging to others, as well as trees. The amended Iraqi Military Penal Code No [13], for the year 1940, mentioned the crime of giving officers orders to commit murder in Article [98], assailing injured and POWs' money in Article [115], turning a blind eye on crimes in Article [123], and many other Articles which incriminate a diversity of acts. This and it would be worth to mention that Article [150] of Iraqi amended Penal Code No [111] for the year 1969 stated that there is no oldness relinquish for the charges of penal litigation and sentence.



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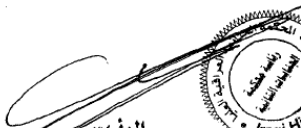
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... no crime or sentence will be dropped unless in the condition of death, via public or special amnesty, or if the plaintiff decided to withdraw all charges in appropriated cases.

**The Court establishment and its legitimacy:**

The Iraqi High Tribunal is the successor of Special Iraqi Tribunal for Crimes against Humanity which had been established by the Governing Council which was handling, temporarily, the authority in Iraq. The aforementioned council had been internationally recognized via International Security Council, as per Resolution 1511/2003 on 2003 Oct 16. As a consequence of the aforementioned resolution, the Governing Council issued a temporarily "State Administration Law for the Transition Phase", on 2004 Mar 8, where this constitution emphasized on the establishment of an Iraqi Special Tribunal for Crimes against Humanity which were committed during the previous regime, after the many accusations petitioned to the aforementioned council. Due to that, a Special Iraqi Tribunal's (for crimes against humanity) law was decreed, for the year 2003, as procedures regulations were based on Article [16].

After a general referendum and new governmental elections, to add a patriotic touch over the law, the permanent constitution was consented as Law No 10 [Iraqi High Tribunal Law], for the year 2005, had been issued to replace Law No 1 [Iraqi Special Tribunal for Crimes against Humanity Law], for the year 2003. In the obligatory reasons, behind the establishment of Law No 10 for the year 2005, it had been mentioned the following: "To reveal the crimes perpetrated in Iraq and what resulted as ghoulsh genocide, and to lay down the regulations and sentences which condemn ...



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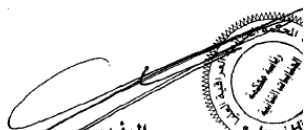
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... offenders in a fair trial, to charge them against launching wars, genocide and crimes against humanity, and to form a national Iraqi High Tribunal with the contribution of qualified, experienced and honest Iraqi judges, to trial the convicts, aiming to reveal the truth and consequences of such crimes (cruelty and oppression), protecting many Iraqis, unveiling their fears, and accentuating the sky's equity as God wanted to be ... this code had been legislated".

Based on givens, it is possible to confirm that Iraqi High Tribunal, which had been established as per Law No 10 for the year 2005, issued on behalf of the freely and democratically elected national committee and a legislative permanent national government (also elected), as well as a permanent constitution approved following a public referendum ... This court, including all its commissions and formations, is a legislative one, established according to a code issued by an elected parliamentary commission, as its legitimacy is taken from its law and Iraqi permanent constitution. Therefore, any contrary statement is a fact-less one, as pushing more on the illegitimacy of the court, which had been propagandized by convicts' attorneys, is baseless.

This, in addition to the fact that the first tribunal had already resolved the legitimacy issue and dissected all allegations pretending illegitimacy in Al-Dujayl Case No 1/CFirst/2005 on 2006 Nov 5, where its decree had been approved by the cassation commission in Iraqi High Tribunal, as per decree No 24/(SATTs T)/2006 on 2006 Sep 7. So, this issue had already gained over the charges.

The image shows a handwritten signature in black ink, slanted upwards from left to right. To the right of the signature is a circular official stamp. The stamp contains Arabic text: 'المحكمة العراقية العليا' (Iraqi High Tribunal) at the top and 'رئيس المحكمة' (President of the Tribunal) at the bottom. In the center of the stamp is a smaller circular emblem.

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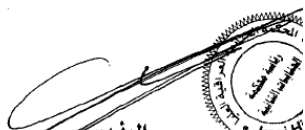
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**The Government official's immunity:**

It must be considered that some of the convicts, who are being trialed by the court, are members in the bygone Revolution Command Council. It had been mentioned in the temporarily Iraqi constitution, for the year 1970, that Revolution Command Council's head and council's members are fully immune where no course of action could be taken against them before acquiring an anticipated permission from the bygone Revolution Council Command's itself. If such principle was valid in the past, before the fall of the regime in 2003 Apr 9, it is not applicable nowadays. This principle had been cancelled by the government which succeeded the previous regime, as its president had been turned over to justice, convicted and the sentence had been executed against him and his henchmen. On the other hand, the aforementioned regime's eminent figures, including those charged in this case, were trialed for committing international crimes (genocide, crimes against humanity, and crimes of war). Adding up, the charges against our case's convicts (Al-Anfal Case) are crimes which are not limited within Iraqi state and society, as previously detailed, rather perpetrated against the whole human race. Therefore, its impact stretches to enclose all humankind all over the world, as in such type of crimes no one can rely on the logic of immunity to get away from penal responsibility.

The First Court of Crimes have already resolved the immunity issue in its Al-Dujayl Case's decree No 1/CFirst/2005, dated 2006 Nov 5, which reached a unanimous degree of affirmation from Iraqi High Tribunal – Cassation Commission in its decree No 24/ T)/2006, dated on 2006 Sep 7. The First Court of Crimes showed that ...



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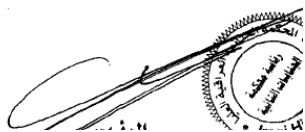
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... this court has juridical precedents such as Nuremberg cases where "Crimes against international law" had been identified as "committed by men rather than legal commissions". On the other side, International Martial Law's constitution declines immunities granted to statesmen – convicts at a certain time.

In reference to United Nations [U.N.] General Secretary's report, while discussing Article [7] of International Tribunal's law for former Yugoslavia, the aforementioned Secretary noticed that "no individual must be granted the right of president's immunity accreditation when perpetrating racial or war crimes, and mostly crimes against humanity". The U.N. leader mentioned that he "believes that all individuals, who participated in planning, preparing, or executing major infringements in International Human Law, in former Yugoslavia, or contributed in committing such violations, will be responsible as individuals". Therefore, he suggested "the law must contain verdicts which clearly define that presidents' abuse of their immunity or pretending that such crimes were executed via official orders will not be a motive to diminish sentences".

These statements reflect the general common unanimity that international standards have influentially changed vis-à-vis ex-statesmen and major governmental officials' immunities. It becomes understandable that, since World War II [WWII], comprehensive immunities do not apply automatically, especially after keeping high officials away from "Conviction Lists" when perpetrating international crimes including crimes against humanity, crime of war, or genocide.

The image shows a handwritten signature in black ink, slanted upwards to the right. To the right of the signature is a circular official stamp. The stamp contains text in Arabic, including 'الهيئة القضائية' (Judicial Body) and 'القضاء' (Judiciary), and a date '2007/6/24'.

The President

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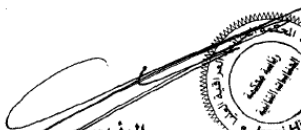
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If we referred back to Iraqi High Tribunal Law No 10 for the year 2005, we will find that Article [15] has already tackled the issue, clearly and decisively. Clause [Third] of the aforementioned Article stated "The convict's official description is not considered exempted from sentence, or a cause to diminish the sentence, even if the convict was president, Revolutionary Command Council's commander or member, Prime Minister or Minister, or Ba'th Party Command's member as no one should invoke immunity to get away from charges due to the crimes mentioned in Articles [11, 12, 13, and 14] of this law". Clause [Fourth] of the same Article said: "The Supreme President will not be exempted from criminal charges over crimes committed by henchmen working directly under his command, that if the president knew or had reasons to acknowledge that his subordinate committed these acts, or was going to, and he did not take necessary actions to prevent such doings or to transfer the case to appropriated authorities for investigation and trial". In Clause [Fifth] is included "If any individual committed an act as implementation of an order issued by the government or its president, this will not exempt him from criminal responsibilities, although a commutation may be applied if the court foresees it as a way to imply justice". Finally, Clause [Sixth] clear affirms "amnesty decrees issued prior to the implementation of this law do not include any of the individuals convicted in any of the aforementioned crimes".

From all of the above, we conclude that immunity allegations had lost legal justifications which were previously adopted vis-à-vis international crimes designated to the court, as it is not allowed ...

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... according to what have been ratified by international community, and relied on this Court's Law, to submit such allegation from any of the high officials convicts, from the previous regime.

**The formation of the Second Criminal Court and the process of its trials:**

At first, the Second Criminal Court was formed under the chairmanship of judge ('Abdallah Al-'Amiri) after being chosen by the four member judges in the aforementioned commission. The first Al Anfal case hearing, to prosecute convicts, was held on 2006 August 21. In the sixth hearing, on 2006 September 13, Attorney General submitted a written report dated 2006 September 13 asking the relinquish of the commission chairman from reviewing this lawsuit, supported by many reasons including that this court does not pertain the legal role of an attorney general, restraining his rights and those of plaintiffs. In other words, it permits convicts, and their attorneys, to direct useless, mocking questions to the plaintiffs. It was mentioned, in the warrant, that the court went the extra mile whereas the plaintiff became an accused of treason and espionage, in the convicts' point of views. On the other side, convicts assaulted the court and prosecutors, insulting both many times. Adding up, a direct threat, once to the court, another to the prosecutors, where the court, instead of taking legal actions against the convict, went asking permission to talk. The Attorney General Commission has noticed that the court permitted it to be misused as political platform by convicts, as the report said. Since the Attorney General represents Human Community, as the case is one of the crimes against humanity, the Attorney General finds that the court's attitude is supportive to convicts. Based on that, the Attorney General ...



The Chairman

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... is asking the court chairman to relinquish reviewing the submitted lawsuit. This is what contained Attorney General Munqidh Taklif Al Fir'awn withdrawal memorandum. Judge 'Abdallah Al-'Amiri, the court's magistrate replied "One of the accredited documents in the U.N., which became one of the main documents, is 'Omar Bin Al-Khattab letter when he assigned justice to Abu Musa Al-Ash'ari in the year 14 [Hijri Calendar]. One of the conditions needed to judge is to maintain equality among all individuals in his court, where no honest will be greedy for his unfairness and no weak will be desperate for his justice". This is one document which became vital source in U.N.". Then, the court's chief replied "I would like to comment on the issue. Our Imam 'Ali, which you all heard about the shield story, when he dropped the shield, a Jewish took it then they were summoned by the judge, and the judge told Imam 'Ali (Peace be upon him): Go ahead (Aba Al-Hasan), and the Imam said (Peace be upon him): Why do you differentiate me from my opponent? The judge said: I did not give my ruling yet. Imam 'Ali said: Just using my alias (Aba Al-Hasan) that means you differentiate me from my opponent, and after that, the judge sentenced the shield to the Jewish and the Jewish said: This is the morals of the prophets. Then, he returned the shield to Imam ('Ali) and converted to Islam. When the lawyer says: (Mr. President) I don't hold bad feelings against convict, but we hold a message, we are the veterans of great principles, a joyful present and prosperous future in Gods willing. The Iraqi Justice is recognized, as we learned from our great teachers, whose some were in the cassation court, while others, we still meet and ask advice from. We will keep on the oath, in God's will. Convict Saddam Hussein, as example, when the lawyer tells him" Mr. President" I don't hold bad feelings against him, I wondered why no one told these words before, when I reminded the attorney twice ...



The Chairman

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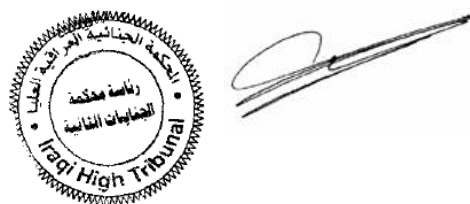
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... or three times. I am abiding by the law, so the lawyer should say: (convict), all what I did is along the course of legislation. I am not better than the legislator because it was not made on an arbitrary case, but it was made for reasons, studies, and deep theories in addition to a long experience. Even when one single Article is to be amended, it will be a subject of studies and suggestions and the article which faces complications will remain and will not be a subject to change. Formerly, we used to review (Babel) newspaper when it comments on a verdict or such things especially after a trial reaching a verdict. They pretend different things among counter sides. Now you see on satellite channels each one setting, lancing statements, speaking whatever crosses his mind as if he is the legislator, as if he was Al-Sanhuri, Ra'uf 'Ubayd, or Rushdi 'Abd-al-Malik, as if we are the intruders, the new freshmen knowing nothing. No, we will preserve the oath. This means when I say to a plaintiff "Kaka", I mean "brother", when I address the convict the way Imam 'Ali did, I must call him "brother". Why when I said "Kaka" no one objected? Why don't I tell this side (pointing the convict) "we are all brothers, Muslims are all equal before God and Justice". Based on this, the court rejected the request (withdrawal) and not impugn was presented in the cassation court.

Judge Muhammad 'Iraybi Majid Al-Khalifah was elected as head of the Second Criminal Court, succeeding Judge 'Abdallah Al-'Amiri whose transfer had been decided toward Iraqi High Tribunal. Another judge, Mr. Muhammad 'Iraybi Majid Al-Khalifah, replaced him as a member in the Court Commission, effective from the 10<sup>th</sup> hearing of the trial, on 2006 September 20.



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Convict Saddam Hussein and his attorneys impugned Judge Muhammad 'Iraybi Majid Al-Khalifah election's legitimacy. The convict raided verbal assault touching the judge's (head of commission) personal credibility, speaking out inappropriate words aiming to disrupt the course of trial and to affect its process. He objected deputizing a lawyer to replace his withdrawn proxy, the thing that violated the hearing regulations and forced the newly assigned judge moving him out of court, to insure a smooth and natural process for the hearing on that day.

In the same session, on 2006 September 20, the convicts' lawyers presented a written petition to the court objecting the change of head judges asking a permission to withdraw from the court. The judge in charge approved and order deputizing lawyers from the attorney office to defend the convicts.

Convict Saddam Hussein, and some others, attempted to re-violate the trials' process via political speeches, delivered by him, or by calling him "Mr. President" by other convicts. However, the court warned convicts many times that such behavior will cause their dismissal, away from court, as well as taking legal measures against who violate the court's courtesy. The trials continued normally and smoothly, after this announcement, until the end.

From the other side, convict's defense attorneys veered to a path which does not match with their profession as advocates, making illegal requests, each time rejected by court. This unprofessional behavior was shown through their continual interruption...

  
The Chairman

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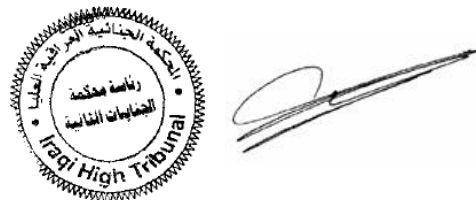
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...absence from court hearings for illusionary reasons far to be logic. The attorneys refrained from attending the sessions for the first time after changing the head of judges (Commission Chief). On the second time, they were bothered by the court's rejection of their "illegal" requests. The third time occurred when the court refused calling convicts by their aliases, ranks or previous military posts when they were on the state's pulpit. Fourth and final time, when they decided to support a comrade who assaulted the court's process, insisted on his stance forcing the court to take necessary measures against him.

On 2006 October 08, Attorney Badi' 'Arif 'Izzat, defending Convict Farhan Mutlak Al-Juburi, presented a petition asking the court to dismiss Judge Muhammad 'Iraybi Majid Al-Khalifah, head of the Second Criminal Court (Iraqi High Tribunal), as a hideous crime had been committed defined by the assassination of his brother-in-law and sister's child were treacherously by terrorists. The requester considered that such incident will affect the fairness and clarity of concerned judge's decision, and negatively affect his neutrality vis-à-vis the case and convicts including Farhan Mutlak Al-Juburi.

Based on the aforementioned petition, Second Tribunal Commission's judge presented his report stating that the murder of his brother-in-law and sister's child had nothing to do with the lawsuit, based on the fact that dismissal conditions are not available as no indications relate the convict to the crime as no previous hostility in recognized between the parties. Therefore, Article [93] in its second clause from the Civil Pleading Law...

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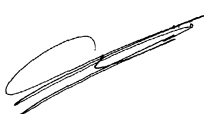
**The Verdict**

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...does not apply. The court has finished reviewing the case and submitted it to the Cassation Commission in the Court's chairmanship for verification.

The aforementioned commission has issued its cassation decree, holding Ref. No [4/R/D/2006] dated 2006 October 15 , which implied that the petition is not based on one of the terms stipulated in Article [93] of Civil Pleading Law. The decree fined the requester five thousand Dinars according to Article [4/96] of the aforementioned law, informing the commission's chief to carry on the case as the file had been turned to the court and the decision issued on 15 October 2006, unanimously.

In the 50<sup>th</sup> session on 26 March 2007, lawyers Dr. 'Abd-al-Sattar Salim Al-Kubaysi defending convicts Sultan Hashim Ahmad, Sabir 'Abd-al-'Aziz Al-Duri and Tahir Tawfiq Al-'Ani, and Mr. Miqdad Sami Al-Juburi defending Convict Husayn Rashid Muhammad, have submitted a petition asking the court to dismiss commission's chief of judges from reviewing this case, after the quarrel which occurred between him and Attorney Badi' 'Arif 'Izzat, defending Farhan Mutlak Salih, in a previous session, where the latter pretended that Halabja had been bombed with chemicals by Iran. The petition contained "What has Iran to do with such attack" which had been said by the chief of judges, considering such behavior as a presumption acknowledging that the basic motives, from the beginning of this trial, as attorneys pretended, has shown that chemical weapons usage was in the Northern area, by Iran and not Iraqi Forces. On the other side, when the chief of judges say that ...



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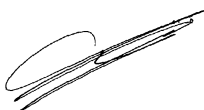
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...he is charging the case's convicts, as the two proxies proclaimed.

Chief of the Court Commission has carried out legal producers explaining, in his submitted report, to the Iraqi High Tribunal Chief, on 2007 March 27, that the quarrel was about striking Halabja with chemical weapons, following the question-and-answer method between the court and attorneys where no personal opinion had been mentioned. He enclosed, along his report, a detailed minute of the 49<sup>th</sup> session on 2007 March 15.

The documents had been verified by Iraqi High Tribunal - Cassation Commission on 2007 April 02, where it had been noticed that the petition do not rely on any legal evidence proving that the judge's answer disqualified him from his Judicial credibility as per 8<sup>th</sup> rule of Procedures and Evidence Collecting rules attached to Iraqi High Tribunal Law [10] for the year 2005. Adding up, what occurred in the aforementioned case of debate between the judge and the attorney is considered as part of the normal process of the court, not an opinion statement as per Clause [Third] from Article [93] of Civil Pleadings Law.

Based on that, the cassation commission turned down the petition as it is not matching with the law as per 8<sup>th</sup> rule of Procedures and Evidence Collecting rules and per Clause [Third] from Article [93] of Civil Pleadings Law, fining the requester five thousand Dinars as per Article [4/96] of Civil Pleadings Law, turning back the file to its court ...



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... informing 2<sup>nd</sup> Criminal Court Chief to continue on with the case as the decree was issued unanimously.

To reveal the full truth and apply justice, the court decided to check out locations where Al Anfal operations occurred.

The court had moved with all commission (General Prosecution, some lawyers and court's employees) to Kurdistan Region where it studied the sites which were possible to reach and were attacked with chemical weapons. They also inspected the mass graves where chemical weapons' victims had been buried as well as camps and detention centers, visiting Nizarki Fort at Duhuk governorate checking the very near mass grave where detainees used to be buried (men, women and children). They also visited Bahirka camp in Irbil governorate, which had been mentioned by many plaintiffs in their testimonies, and Al-Sulaymaniyyah

The field visit lasted four days after which minutes, witnesses' testimonies, and pictures had been put down. It is worth saying that plaintiffs (who claim personal right [TC: asked not to mention their names]) and witnesses reached 1192. Listening to this big number's testimonies will definitely take long time. Therefore, it had been decided to listen to 90 of them ...



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... as the others' had been disregarded due to their similarities to other statements as per rule [59] of Clause [3] of Procedures Rules.

On 2007 February 20, convicts were charged in this case. Defense lawyers refuted, via a memo dated 2007 March 14, the charges minute, explaining that it does not get along with Iraqi or international appropriated laws. Also, it does not match with the nature of acts charged against convicts, either legally or objectively. The two refutes were enclosed with case's file.

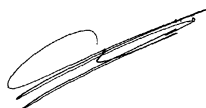
Convict 'Ali Hasan Al-Majid lawyer also refuted the memo.

In the 49<sup>th</sup> session, on 2007 March 15, a quarrel occurred between 2<sup>nd</sup> Criminal Court Chief and Attorney Badi' 'Arif 'Izzat where the first said "You don't respect the court, because when you describe it as a murderous project, you will be libeling it".

That was after Panorama program, broadcasted on Al-'Arabia Satellite Channel, on 2006 December 26, where the aforementioned lawyer described the court as a farce and murderous project rather than trial.

Based on that, the court decided to implement legal actions against lawyer Badi' 'Arif 'Izzat, arresting him as per Article [230] of Iraqi Penal Code, transferring him to Central Tribunal court to take appropriate legal procedures, as well as requesting Iraqi Bar to charge the attorney disciplinary fines for breaching the ethics of the profession.

Convicts and attorneys submitted a list of defense witnesses, exceeding legal deadline. However, for human reasons, the court approved informing them with hearing's schedule ...



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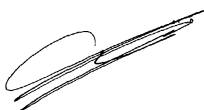
**The Verdict**

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... to attend and testify. But the court noticed that most of the convicts provided blurry or missing addresses as some did not mention one at all, as well as some did not show up, due to security reasons or fearing that they might be wanted by justice for participating in Al Anfal Operations. Despite, the court gave convicts many chances, delaying the hearings so that they can contact their witnesses but in vain which let the court continue its trial according to rules. The court refused listening to witnesses residing outside Iraq, where the convicts after lawyers' request to assign the Iraqi consul in Damascus and Amman to write down their testimonies. The court viewed such procedure as inefficient in a complex case such as Al Anfal. This matter will lead to a delay in declaring the verdict, especially that the court had been granted vast jurisdiction in estimating evidences as well as turning down any procedure which may delay settling down the case. Therefore, the court decided not to respond to convicts and lawyers' request.

**The Case's files:**

Al Anfal case contains 43 investigative files including thousands of documents, testimonies, investigative decisions, maps, mass graves' files, international experts' reports, and examinations carried out throughout investigation stages, as well as CDs (Compact Discs), audio tapes and others.



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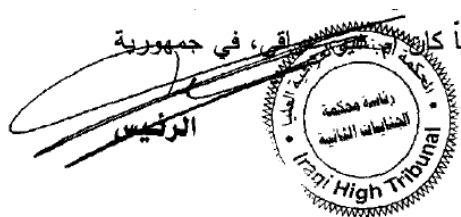
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The Second Tribunal spent hard and big effort in reading and classifying these files, while the number of plaintiffs (personal right plaintiffs) in this case, whose testimonies were juridical recorded, reached more than a thousand from victims' relatives missed due to Al Anfal operations, in addition to those who escaped the mass graves and chemical raids. This, plus the documents, files, and CDs (Compact Discs) which were not organized effectively due to its huge number, diversity of sources and whereabouts, despite General Attorney Commission's hard efforts to re-archive those documents, files, CDs, and audio tapes in an accurate, well organized manner.

All that was due because Al Anfal operations were considered big and inclusive, starting 1987 and ending in 1988, including all villages from Iraqi Kurdistan in all governorates (Irbil, Al-Sulaymaniyah and Duhuk) as well as some villages which belongs to Kirkuk governorate. The toll reached tens of thousands of Kurdish victims between martyrs killed by raids (whether conventional or chemical weapons), or missed individuals buried in mass graves, found and anonymous, which are known as (The anfalized).

**Iraqi High Tribunal Authority:**

It had been early mentioned that Iraqi High Tribunal, established via Law No [10] for the year 2005, is the court appropriated to review acts which constitute a breach of international law, committed by a normal person, Iraqi or not, residing the Republic ...



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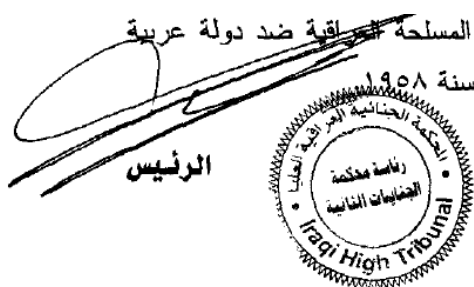
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...of Iraq or any other place, between the period of time from 1968 Jul 17 to 2003 May 1. This was what had been stipulated in [Second] of Clause [1] of Article [1] of the aforementioned Code, as follow:

"1-Second- The allegiance of this court is applied on every normal individual, Iraqi or not, residing Iraq and convicted for committing one of the crimes enlisted in Articles [11, 12, 13 and 14] of this code and committed between 1968 July 17 and 2003 May 1, in the Republic of Iraq or any other place ... including the following crimes:

- a. Genocide
- b. Crimes Against Humanity
- c. War Crimes
- d. Violation of Iraqi laws enlisted in Article [14] of this code. By referring back to the previously mentioned Article, we recognize that it states the following: "Court allegiance is applied on convicts accused for one of the following crimes:
  - 1<sup>st</sup> – Interfere in judiciary affairs or trying to affect the trials' procedure.
  - 2<sup>nd</sup> – Squander and disperse national wealth, as per Clause [G] of Article [Second] of Conspirators and Regime's Corruptors Penal Code No [7] for the year 1958.
  - 3<sup>rd</sup> – Misuse of the position or pursuing policies which could have possible lead to threat by war or Iraqi Armed Forces usage against an Arab state as per Article [1] of Code No [7] for year 1958.



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4<sup>th</sup> - If the court finds out that the concerned side delayed in sentencing any of the crimes mentioned in Articles [11, 12 and 13] of this Code, and can prove this act considered as crime that should be punished according to Iraqi Penal Code, or any other, at the time or perpetration. In such case, the court is assumed to review the lawsuit".

From the above two texts, it becomes obvious that Iraqi High Tribunal, even if it is national rather than international court, has the right to consider international crimes, because such characteristic had been granted to it as per clear law texts.

Even though the law did not grant such characteristic to the court, it is still legislative to consider international crimes, because Iraq signed international treaties including International Crimes Penalty, as well as War Crimes' included in Geneva Accords in 1949 and extra attached protocols, genocides included in Genocide's Prevention and Penalty Convention for the year 1948. This on one side, as on the other, the International Tribunal Laws are applied on all countries – including Iraq – directly with no need to be enclosed in country's national laws, without even the need to be published, as in the case of crimes against humanity. That without mentioning that war crimes and genocides are forbidden as per international conventional laws before being contained and incriminated by Conventional International Law (International Agreements and Accords).

From Article [14] of the abovementioned law, it has been mentioned that this court's jurisdiction is not limited only to prosecute convicts for perpetrating international crimes ...



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... but also prosecuting convicts for crimes enlisted in Baghdad Penal Code which was effective in the monarchy era and still, until the expirée of Penal Code No [111] for the year 1969, as well as crimes enlisted in the latter, National Security's Conspirators and Regime's Corrupts Penal No [7] for the year 1958, Martial Penal Code No [13] for the year 1940, or any other code applicable at the time of perpetrating the crime.

#### **Crimes and Sentences Legislative Principle**

**(No crime or penalty without clause)**

##### **1<sup>st</sup> – Crimes' Legislation (No crime without Stipulation):**

This principle means that any fact, even an act or abstention from action, can't be categorized under penal code, or can't be a reason to incriminate pronounced by penal justice, unless it undergoes a legal (adaptation) description. In other words, it must include the elements able to incriminate as per documented law. The legislator must, when incriminating acts, make sure to define crimes in refined, clear text where the pronouncement and terms bear meanings far from being fraud or hold double significance. It is not enough to limit facts, taken as crimes, but it must detail the makeup of each crime, specs and conditions, in a way which erase any deemed thought, rendering easier the judge's verdict. In other words, for any crime, to be under the penal roof, must include the general basic principles, which formulated it, in addition to the specific elements stipulated the legal description, by which is differentiating this crime from hundreds other ...



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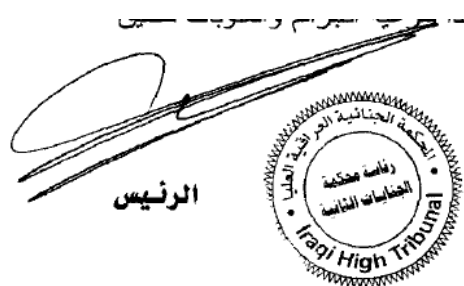
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... facts currently not punished by law and, on the other hand, is differentiating from hundreds of other facts considered as different category crime. Each crime will form, by looking deep into its general basics and special features, a unique forensic description. Accordingly, no act or abstention of action is sentenced if no legal description is available. French had adopted, after their revolution, the crimes and sentences legislative principle clearly stating "Citizenship and Human Rights Declaration" in 1789 and in Article [8]. Thus principle had been reinforced via International Human Rights Declaration issued by the UN General Assembly, on 1948 September 10, becoming a pattern to be followed by all countries. Its final form showed up in Article [11/ 2], as follow "No person must be convicted due to an act or abstention of action unless the following is considered a crime as per national or international law at the time of perpetration. As well, no sentence heavier than that supposed to be issued at the time of perpetration must be given". This statement expresses the opinion which believes that no crime or sentence must be applied unless it was previously documented in a text which defines it clearly, at a date previous to that of perpetration. This means that to consider an act as penalized crime, it must be defined by law at a time previous to its perpetration and stable on the same conditions. In fact, tribunal laws, in some countries the constitutional laws, include this principle without any doubts because the latter is considered as a guarantee of individual freedom, and condition imposed on states. In other words, applying crimes and sentences' legislative principle is as imposing the principle of law on the state itself.

الرئيس



The image shows a handwritten signature in black ink, slanted upwards from left to right. Below the signature is a circular official seal. The seal has a double border. The outer border contains the text 'القضاء الجنائي العراقي' (Iraqi Criminal Judiciary) at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة محكمة' (Chairmanship of the Court) and 'الضحايا الثانية' (Second Victims) in Arabic, and 'Iraqi High Tribunal' in English at the bottom.

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All Iraqi constitutions, excluding the monarchy constitution of 1925, clearly declared this principle which is available in the last Iraqi Permanent Constitution of 2005 and valid Iraqi Penal Code No [111] for the year 1969. It is worth mentioning though that Baghdadi Penal Code did not include this principle.

According to that, criminal base's source is legislation, or legislative authority which is the only one authorized to frame actions and omissions considered as crime, defining appropriated sentences. In other words, as a result, documented texts issued by a state's legislative authority are the source of incrimination and sentence.

The committed crimes in our case [Al-Anfal] go back to 1987-1988, so, did the Iraqi High Tribunal Law No [10] for the year 2005 and Special Iraqi Tribunal for Crimes against Humanity No [1] for the year 2003 take into consideration the whole topic? Criminal acts charged against convicts, in this case, laid down in Articles [11, 12, and 13] of Iraqi law No [10] for the year 2005, were not enclosed as crimes in the Iraqi law when committed. Therefore, the trial of these convicts over such crimes is not righteous as well as legally investigating them. The law which incriminated the aforementioned acts was first issued in 2003 but the acts of the defendants were committed between 1987 and 1988, as mentioned above. On the other side, Iraqi High Tribunal No [10] for the year 2005 has drawn court's specialization as to prosecute Iraqis and foreign residents in Iraq for the period between 1968 July 17 and 2003 May 1. As if this law incriminated and sentenced ...



Head of Court



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... over acts which were not identified as crimes, and not sentenced, and committed before its validation, the thing which contradicts Penal Code's basic principles.

However, is that saying is true, despite its ills? Is crimes' legitimacy principle applicable on International Tribunal law as on a country's internal tribunal law? We mentioned previously that tribunal base's source is legislation which is declared by the legislative authority appropriated for each country. However, on 1948 September 10, International Human Rights' Declaration, which had been adopted and published following U.N. Resolution No [217000 (D – 3)], was issued including Article [11/2] which confirmed the aforementioned principle, clearly as aforesaid.

The International Human Rights' Declaration is highly important in adopting and defining crimes legitimacy principle and sentences, as well as the refusal of retroactivity in International Tribunal Law. The aim of such principles, as per this declaration, is not limited to what nations' internal laws adopt in different states for the importance of the act being stipulated as a crime, and punishable in the national laws when they were committed.. Rather, it stretches within the International Tribunal Law to include international crimes. The act or refrain must be considered as international crime sentenced as per International Tribunal Law, and at the time of its commitment, whether the origin of such incrimination or sentence is available in the international agreements and accords or internationally agreed upon. Our court acknowledge that what occurred in International Human Rights' Declaration is obligatory to all countries, at least those members in the U.N., and due to the fact that Iraq is one of its ...



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... founders, which impose on it to abide by such laws without the necessity to be mentioned in internal legal texts. What confirm the advanced opinion is Article [15] of Special International Convention for Civil and Political Rights, issued following a U.N. Resolution No [2200 A] on 1966 Dec 16, valid starting 1976 March 23, and approved by Iraq in 1976. Article [15] of the aforementioned convention stated:

"1- No individual is charged for acts or refrains which were not considered as crimes at the time of implementation, as per national or international law. Also, it is not allowed to impose a sentence which is more severe than that applicable at the time of implementation. If, after the crime's perpetration, a legal text had been issued stating new lighter sentences, convicts must get the benefit of such mitigation.

2- This Article does not include any point that breaches the trial or sentence of any individual, for an act or refrain which was considered as a crime at the time of implementation, as per general laws recognized by International Community".

There is no doubt that both International Human Rights' Declaration and Special International Convention for Political and Civil Rights are characterized by international feature abiding all member countries in the United Nations, including Iraq, due to the aforementioned reasons.

We've already mentioned that international crimes' nature is enclosed under International Tribunal Law but differ from local crimes' nature, adjusted by an internal tribunal law, as the first laws are in general agreed upon [not written] where as the internal tribunal law are written as (legislations) issued ...



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... on behalf of special local legislative authority. Therefore, the principle of crime's legislation does not harmonize with the nature of the agreed basic laws. Still, this principle could be applied within International Tribunal Law's scope differently then within national law's scope, as it is hard to imagine previous legal texts, in International Tribunal Law [agreed], that defines crimes and sentences the same was national laws do.

Despite the improvement of both International Tribunal and Human laws toward codification, especially after Geneva Conventions, Genocide Prohibition Treaty, and approbation of International Tribunal Law's basic regulation [Roma Regulation], but the fact is still indicating, and on a large scale, that to bestow lavishly the description of "crimes" upon acts considered to be international crimes is done in the same way that International Law's positive basics are established in general, via international customs. In addition, defining crimes within International Law is not that accurate as in any country's national laws.

To identify which of the acts are considered crimes in International Tribunal Law, we must refer back to a conventional international law established through international treaties (the general ones) called "Legislative Treaties" obliging all countries to abide by, whether they had approved or not, whether they had been affiliated to them or not, especially those endorsed among two or more countries (limited parties treaties). The articles of such treaties, in their two aforementioned categories, are basically international agreed rules, as for LAHAY and Geneva conventions are none but a group of agreed rules known before their stipulates were written. Therefore ...



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... it is understood that international law's main source is still the international custom where as treaties and accords are none but international custom rules' translation, available before laying down such treaties and accords. To apply the principle of crime and sentences' legislation in International Tribunal Law field, we must find the basic custom international law that incriminates this act or refrain, considering it as an international crime when it was committed by an individual, or the basic law is included in a general international (legislated) treaty, or special international treaty wherein the country takes part.

Based on what had been said, it became understandable that the principle of crime and sentences' legislation is applied in International Tribunal Law as it is in the National Tribunal Law. In the first, incrimination can not occur unless on acts defined as crimes by international law at the time of perpetration, whether such incrimination description was mentioned in an international conventional rule, or legal regulation enclosed within international treaty, general or special. Maybe, the best example on this is what occurs in Article [11/2] of International Human Rights' Declaration and Article [15] of Special International Convention for Civil and Political Rights, both approved by Iraq and it had been previously mentioned. Genocide, crimes against humanity, and crimes of war charged against convicts in our case (Al Anfal) are identified crimes in International Tribunal Law. Therefore, indicating it in Iraqi High Tribunal Law for the year 2005 and before that in Special Iraqi Tribunal for Crimes against Humanity for the year 2003, do not change in the nature of such crimes, as it had been and still documented within international custom ...



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... due to the availability of a major part within Iraqi law as Internal Crimes, as well as Baghdad Penal Code, Iraqi Penal Code No [111] for the year 1969, and Military Penal Code No [13] for the year 1940.

#### **Second- Penalties' Legislation:** **(No Penalty without stipulate):**

"No Penalty without clause", is the second part of the expression that says: "No crime and no penalty without stipulate ". It means that the Judge cannot sign any penalty unless it was predetermined in previous laws with the same nature of the present case. Not that only, in addition to what was presented, it is agreed upon that the judge should not change the nature, time, and way of execution of the predetermined penalty in previous laws.

The ideology of crimes legitimacy, completely applies to penalties legitimacy, as for the International crimes (crimes against humanity, genocide, war crimes and others) they are in general crimes that have punishments in the Iraqi penal code No.: (111) for the year 1969 and the other aforementioned penal codes. It would be easier to take reference to those laws that are related to murder, torture, persecution, assault on others fixed and non-fixed assets, captivating others, and other crimes, and to know that they are subject to punishment by the same penal code. What was mentioned in the clause No.: (24) of the High Iraqi Tribunal Criminal Court in referral to articles of penal codes to impose a suitable punishment to the predetermined crime...



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...in court, is to emphasize on the principle of Crime's legitimacy on one hand, where as most of these crimes if not all of them are criminal acts by Iraqi law (penal code No.: (111) for the year 1969), furthermore, referring to penalties of those crimes in that law and criminal laws are to abide by the penalty's legitimacy principle. Nothing can prevent a law from imposing predetermined penalties of another law, if that law incriminates such predetermined acts, and the examples on that are many even in national penal laws.

In addition to what was presented, the Article (24/fifth) of this court law points out to using guidelines, legal precedents, and punishments of International Court's Sentences, regarding penalties implemented on individuals condemned with committing predetermined crimes referred to in court law. It assures as well the no contradiction of Court's law in the principle of crime legitimacy, that is if punishments on international crimes were imposed by International Courts, if international custom grounds were available, which with its role could form an obligatory international custom that could be applied in National Courts that are examining international crimes.

If crimes were not stipulated in international treaties and agreements, and the systems and laws of International Crime Courts; it does not mean that there is no mandatory international custom that obligates International Criminal Courts, to impose punishment on who ever commits such crimes, or else what is the use of incriminating such acts and considering them international crimes if they wont have punishments? Applying the principle of crime's legitimacy does not specifically mean that the provision of the punishment should match the provision of the crime in the same text, even in national law, we find some laws include provisions that incriminate some act, and we find the punishment of it in another text, either in the same or different law, and it is logical...



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...to impose the punishments mentioned in national penal codes against accused for international crimes, where as these crimes or most of them were predetermined in the national law, as well as its incrimination within the international law. This is what was mentioned in the text of most of International Criminal Court's laws and systems and Article (24) of Iraqi High Tribunal as well.

We conclude, from what had been said, that the sentence's legislative principal, as well as that of crime, is applied within international tribunal's jurisdiction, whether it was a custom or by agreement law, in a way which gets along with the nature of such law and differentiate it from the national tribunal one. This principle – with its 2 sections – is fully and extensively applied within the Iraqi High Tribunal Court No (10) for the year 2005. Therefore, claiming other stories is none but a reaction far from being truthful or legal.

**Principle of not to retroactive the Criminal Law for past cases:**

Set forth with necessity for a legal text that incriminates the incident and treats it as a punishable crime, as well as preparing for the next highly important phase which is to forbid applying new criminal law on events occurred prior to its issuance. Since such legal clauses are focusing on narrowing down individual's freedom preventing them from exercising certain doings, or else they will be punished, both logic and justice require it to be applied starting from its implementation, so not to include all previous acts except those pertaining to it. This makes it understandable that it is not allowed to use criminal laws for past crimes.



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Clause [1] of Article [2] of Iraqi Penal Code stated the following:

1- The crimes are subdued to law at the time of perpetration defined as the time in which the execution of the action occurred without looking at the timing of its consequences. Maybe a teller would say: crimes affiliated to convicts in our case (Al Anfal case) occurred prior to Special Iraqi Tribunal for Crimes against Humanity's issuance of Law No [1] for the year 2003, followed by Iraqi High Tribunal's Law No [10] for the year 2005 which both mentioned that crimes against humanity, genocide, and war crimes violate the principle of non referral to crimes happened in the past, considering it a law issued after the perpetration of such acts between 1987 – 1988. Such saying won't be taken as it is not supported by legal evidence, due to the mere fact that the incrimination of the aforementioned acts was valid before issuing First Court Law in 2003, which means was under international custom as well as international treaties and accords, already approved by Iraq. Also, it was under Baghdad Penal Code, Iraqi Penal Code [111] for the year 1969, Martial Penal Code [13] for the year 1940, and other penal codes. Therefore, we can say that both First and Second courts' laws, if not prescribing the criminal characteristics of such acts, they surely relied them on the international tribunal combining it to the national one. In other words, they considered the international tribunal which incriminate such acts as international crimes and enlisted it in the internal law as per "Reception Theory" which is recognized in the field of International Law.

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Chief Judge

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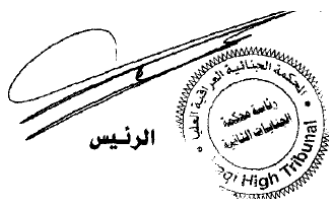
**The Verdict**

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The principle of tribunal non-retroactivity over passed cases is a must to protect basic freedom in different societies, lifting injustice and tyranny of the innocents. However, to take it as allegation without legally proven documents, aiming to let convicts get away with their international crimes is none but denial for justice and consecration of oppression.

Since acts affiliated to convicts, in our case, are considered international crimes as per International Tribunal Custom Law, International Tribunal Agreed Law, or International Human Law before its date of occurrence. Therefore, the principle of tribunal non-retroactivity over passed cases is a principle, adopted in this case, as per court's law for the year 2005 and Special Iraqi Tribunal for Crimes against Humanity for the year 2003, and does not form a breach in the aforementioned principle. Indeed, it is a consecration and application as long as charges against convicts are considered international crimes at the time of occurrence

What is worth mentioning is that the first tribunal already discussed this issue, as well as that of crime and sentences' legislation, in a detailed style and enclosed it in its decree issued for Al-Dujayl case No [1/CFirst/2005], on 2006 Nov 5, which had been approved by Iraqi High Tribunal – Cassation Commission in decree No [24/(SATTs V)/2006], on 2006 Sep 7. Many of what have been mentioned is included in first tribunal court which derived tribunal decision and a fully applied cogency.



The president  
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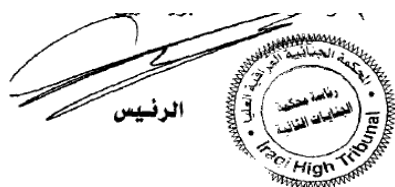
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**((Al-Anfal Case))**

**Historic Summary:**

The Kurdish population is estimated around 35 million inhabitants. Zakrus Mountains, a prolongation of Taurus and Al-Qafqas Mountains separating Iran from Iraq, is considered as their homeland, from where came their appellation "Kurds" which means, in the Cimmerian language, "residents of the mountains". They are distributed over 5 countries: Iraq, Iran, Turkey, Syria and Al-Quqaz area, consecutively as per their populace concentration.

When national conflicts waved the horizon via Prosperity and Union Association [Al-Ittihad wal Taraqqi], Turkiyyah Al-Fatat Party [Turkey the girl], and Oath Association [Al-'Ahid], in early 20<sup>th</sup> century, as well as the Ottoman government's oppression of populations under its command and Al-Sharif Husayn movement in the Arab Island, the Kurds felt a need for a unified identification which will re-group them to preserve their language, customs, traditions, and presence like others. Due to the fact that the allies [France and Britain], didn't keep their promises enlightened by U.S. President Wilson's "The Right of Self Determination Principle" as per SEVAR Treaty signed on 1920 Aug, the Kurdistan land had been cut over many countries, after Lausanne Conference on 1922 Nov 20, granting Turkey 320,000 km squares, Iran 125,000 km squares, Iraq 174,000 km squares, and Syria 20,000 km squares. The Kurds in Iraq took of armed resistance to defend their existence and patriotic identity, and to lift the oppression, resisting the Ottomans between (1909 and 1914), confronting the British ...



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... from (1919 to 1927), until the mid forties (1943-1947) were harsh battles and bloody fighting took place with the government forces.

The Kurds were calling for their legal rights including the recognition of their own language as official in their areas, to have a share in the Cabinet and Parliament which match their number and populous concentration, turning back democratic freedoms, acknowledge Kurdistan self autonomous ruling, and establishing projects for economic and social development.

Due to these legal demands, the Kurds faced ordeals from all regimes which succeeded in Baghdad. The Iraqi governments were considering Iraq as a whole, including all lands and borders as one piece not able to be partitioned. That's why such governments could not admit the fact that Iraq is a country with many ethnics, ignoring the existence of any other ethnic on Iraqi soil other than Arabs. Such comportment pushed the Kurds to adhere to their rights emphasizing on their eminent national role in the country, as well as the importance of recognizing Iraq as dual ethnic country, if desired to carry on within the World War I [WWI] borders.

When successive governments in Iraq did not want to grant the Kurdish people any of their rights, the Kurds lifted arms confronting these governments, as combats continued on during monarchy era, 'Abd-al-Karim Qasim era, and got more critical in 'Abd-al-Salam 'Arif regime. The Prime Minister at the time, Dr. 'Abd-al-Rahman Al-Bazzaz tried to solve the problem peacefully but turned unsuccessful.



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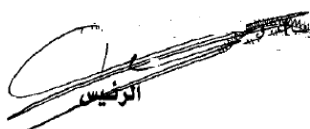
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**The Verdict**

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When previous Ba'th Party regime returned to power, in 1968, the Kurds sensed the catastrophe. However, the new regime was too busy in Baghdad strengthening his power in the center, the matter which forced to a ceasefire in Kurdistan, even though temporarily, until the regime finishes cleansing the nearest neighborhoods as it became required. Motivated by that, the regime played it soft with the Kurds and signed on 1970 Mar 11 the treaty known as "Mar 11 Treaty" which could not be implemented effectively and efficiently. No position in bygone Revolutionary Command Council, army commands, Security, and Oil, Internal and Foreign Ministries was assigned to Kurds whose role was limited to marginal ministries which do not have any significance whatsoever in drawing the country's features or to feel really involved in country's affairs. Barely a year passed by when the previous regime tried assassinating Idris Al-Barzani, followed by another try on Al-Mala Mustafa Al-Barzani at the Barzani council. In the late 1971 and early 1972, by allegation of taking revenge from Iran who occupied the 3 Gulf islands, 40,000 to 50,000 Kurdish citizens were deported to behind (Shatt Al-'Arab), where it had been identified later on that most of the deportees are Kurdish Fayli. On 1973 Feb and March, thousands of Kurdish Izdiyyin were relocated and at the end of the same year, Kurds were accused of sabotage acts over general establishments in the north and affiliation to Iran. The aircrafts raided back, widening the scope more and more until reaching, in 1974, a total war striking Zakhu and Qal'at Dizah extensively, dislocating hundreds of thousands of Kurds from villages to cities.

Then came the (Algeria Accord) of 1975 March 06, where Shah Iran gave up on Kurds, and the previous regime gave away half of (Shatt Al-'Arab). Here, the army did not slack ...



The President



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... Iraqi army launching an intensive, large-scaled attack on the Northern area where thousands were killed and more than 200,000 Kurds took refuge in neighboring countries, pushing them to negotiate a cease fire with the regime to avoid eradication. Their request had been rejected as glances from (Algeria Accord) had appeared. An area, stretching along the joint borders with Iran with a width of (5 to 10) miles, had been completely cleansed from its inhabitants [as villages had been destroyed] who had been relocated by force to residential compounds in the suburbs, and put under security forces' surveillance. The total number of dislocated inhabitants reached 150,000 Kurds in 1978, as some were moved to other governorates like Al-Barzani clan, far from being an exclusive example, which had been relocated to Southern Iraq where they remained until 1981.

Facing such incidents, the Kurds learned the rules of bitter politics and forces equilibrium in a ruthless region. Only the mountains, which ensure their escape and refuge, became their true friend who never abandon his fellow, as the tyranny, which the regime will exploit against them, will render their previous struggles with many governments none but "childish games". The confrontations were technically different then what they used to be. The tools of aggression, provided by the regime and used against them (Kurds) for eradication, were one in a million. The death toll augmented permanently, as, in the late seventies and early eighties, this devastating machine went on devouring huge numbers rather than few individuals as it became clear that this war do not renounce any taboo. Even the geographic borders formed another hostile reason, as murder and relocation continued nonchalantly at a time when talking about a Kurdish identity, whatever the explanations were, considered as act of separation in the eyes of the regime. All that and Al Anfal Operations were not officially launched yet.



The President



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**((Al Anfal Signification))**

"Al Anfal" is the 8<sup>th</sup> Sura [TC: Chapter from the Holy Koran]. Its instructions were mentioned in the first verse of the aforementioned Sura where God almighty told the greatest prophet [in the name of God all merciful all compassionate] "They ask you about Al Anfal, Say Al-Anfal for God and the Prophet. Therefore, fear God, reconcile your own, and obey God and His Prophet if you were true believers".

Al-Anfal: plural of "Nafal" pronounced as written, is the excess of things and designated to mention spoils of war. War means to invade the enemies and achieving triumph, eradicating them from their roots. Once the aforementioned is achieved, then spoils must be taken away from the foes of religion in a Jihad battle.

The choice of "Al Anfal", as a headline for the previous regime's bloody campaigns against the Kurdish community, was not by fondness of Koran's terms, as well as its verses and instructions. That regime, which was as far as it could be from religious principles, was searching for a religious umbrella to veil its crimes.

This appellation, "Al Anfal", had been used by the previous regime for Military Operations targeting Northern Iraqi territories in 1988. Yet, prior to this year, the aforementioned regime had a special agenda in the Northern area through relocation and demolishing the villages sympathizing with both Patriotic Union of Kurdistan Party and Kurdistan Democratic Party. These limited operations went on until 1987, although Al Anfal Operations did not start until 1988 February, with the 1<sup>st</sup> Al Anfal operation and ended ...



The President



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... with the eighth (Al Anfal Closure) on 1988 September 06, i.e. after the Iraq-Iran cease fire.

**Al-Anfal Operation Scope:**

In 1987, convict 'Ali Hasan Al-Majid was assigned in-charge of the North Organization Office, granted Ba'th Party State Command and Revolutionary Command Council's jurisdictions to apply their policies all over the aforementioned area, including Kurdistan autonomous ruling area, aiming to protect both security and regime, as well as guaranteeing stability and implement autonomous ruling law in the area, as per Article No [160] on 1987 March 29. The aforementioned convict had been also granted, via the same Article, a jurisdiction for all Military, Security and Civil state systems, especially those directly related to National Security Council and Northern Affairs Committee in order to achieve aimed targets. The Article stipulated the correlation between Executive Council of Kurdistan for Autonomous Ruling, Governorate governors, Administrative units heads affiliated to Local Ruling Ministry, Intelligence Systems, Internal Security Forces, Military Intelligence, and People's Army Commands, as well as all military commands within this zone, forcing them to abide by Convict 'Ali Hasan Al-Majid instructions and decrees, in accordance with the mentioned Article.

On 1987 June 20, Convict 'Ali Hasan Al-Majid issued a letter, numbered 4008, addressed to the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps' commands, drawing the lines of how to deal vis-à-vis security restricted villages. Article [3] of the aforementioned letter stated travel ban, in and out of the villages ...



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... prohibiting agronomic, industrial and livestock cattle's investment, starting 1987 June 22 and on. In such areas shooting is not restricted by any regulations as corps' commands lay down special strikes, from time to time, using artillery, helicopters and aircrafts to kill the largest possible number of those residing in, at all times (night or day). Those arrested were investigated by Security systems, executing any person whose age fall between 15 [included] and 70 [included] years old, after extracting information from him.

Al Anfal Operations' plan – as it had been identified from some convicts' testimonies, after investigation, according to the statements of some of the accused during investigations – was prepared at Army Staff headquarter. This plan is not related to the Iraq-Iran war, rather targeting, from the beginning, the Northern area including Al-Sulaymaniyyah, Irbil, Dahuk and some other areas hundred kilometers away from Iraq-Iran borders, as well as some Kurdish regions closer to Baghdad than to the Northern area, like Tuz, Khurmatu, Sulayman Bag Sub-District, and Kifri region.

Al Anfal Operations were formed of eight operations breaking on 1988 February and ending September of the same year as we mentioned and as following:

**The first Anfal Operations** were breaking on 1988 February and ending mid March of the same year. This operation enclosed the area where Patriotic Union of Kurdistan Party is located in Sargalu, Barkgalu, Haladan and Yakh Samar...



The President



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... Sidar, Maluma, Balak Jar). This region had been bombed by various weapons, after being totally seized. Houses were looted and devastated as per Convict 'Ali Hasan Al-Majid orders. Individuals, who had been arrested in the aforementioned regions, were directly handed to Northern Organization Office's commander who dealt with them in person. Years after the incident, many fates remain anonymous (Anfalized).

### **Second Al Anfal Operation**

This operation broke on 1988 March 22-23 (nighttime), enclosing Qara Dagh and neighboring villages like Siw Sinan, Balak Jar, Takya, Jafaran, Qara Dagh, Mila Sur, Chicha Qala, Astil Saru, Hafawan, Kushk, Umar Qala, Sangaw, Shikh Tawil, Takya, and Timar. These villages were bombed by venomous chemical gases, launched from aircrafts, artillery and rocket launchers. Many inhabitants fell dead while others managed to escape through rock-strewn mountains. After seizing the whole region, destroying all signs of life (burning down the villages), Reinforced concrete had been placed in water springs while turning trees to ashes.

### **Third Al Anfal Operation**

It broke on 1988 April 07 and ended on 1988 April 20. It concentrated on Garmiyan and neighboring villages like Taza Shar, Kula Ju, Haydara Sur, 'Alyawa, Di Rasha, Siw Sinan, and Kani Quydar, as well as Chamchamal and Qadir Karam. These villages witnessed the same fate carried on in the previous Anfal Operations, where ...

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... the military forces intervened eradicating villages, burning down buildings, and putting an end to all signals of life, aiming to take control, especially after detaining civilians (women, men and children) and conducting them to Northern Organization Office to be treated as per previous directions.

### **Fourth Al Anfal Operation**

After that the previous raids, carried by military forces over Kurdish villages, accomplished convicts' intended policy vis-à-vis the area and the Kurdish people, other forces were sent, within a large new campaign which stretched over 10 days, starting 1988 May 3, including Al-Zab Al-Asfal (Lower Zab) river's basin, and the villages situated at the vicinity of 'Askar, like (Gup Tapa, Haydar Bag, Chami Rizan, Kalisa, Kani Bi, Qizlu, Kani Hanjir, and Guma Shin). The region had been raided by chemical weapons, using aircrafts. The death toll reached around 1680 dead women, children and men. Many villages were totally eradicated, crops burned down, and destroying any sign of life.

### **Fifth, Sixth and Seventh Al Anfal Operations**

The same sequence carried on in Northern Kurdish areas, including Irbil and Al-Sulaymaniyyah governorates, in addition to Kirkuk and other villages affiliated to Sulayman Bag Neighborhood and Kifri, Tuz, and Khurmatu counties. The situation remained the same until 1988 Aug, even after the Iraq-Iran war, because Al Anfal operations' target was not concerned, at all, by the aforementioned war. These operations included many villages like Akuyan, Balisan, Barjina, Faqyan, Khlayfan, Rawanduz, Sisar, and Sharista), as well as Salah-al-Din Resort ...

The President



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... where chemical weapons were used on a large scale. The operations carried on, over passing Irbil and Al-Sulaymaniyyah Governorates' borders, right toward Dahuk Governorate and its villages, after 1998 August 20.

### **Eighth Al Anfal Operation ( Khatimat Al-Anfal) (T.C: The Closure)**

This operation is distinguished from the previous on many levels. It started on 1988 August 22-23 and carried on till 1988 September 06, meaning after the ceasefire between Iraq and Iran. No armed presence or conflict remained within the area but rather a concentration on civil inhabitants only. It involved Dahuk, near the Turkish Borders, as well as nearby villages, close to the governorate center. Chemical weapons were used side by side with conventional ones. Probably the major characteristic of this operation is the implementation of genocides on contained villages, such as Kurmi where 33 men were executed, and only 6 survived. Another village's men genocide occurred in the very next village, few meters away, without a reason, investigation or trial. As for detained women and children, they were first confined at Nazarki Fort – Dahuk governorate, and then transferred to Al-Mawsil. Other villages witnessed these criminal acts, throughout the operation, like Nafuka, Bamarni, Bawirki, Bisfiki, Birjina, Jamsiba, Ikmalala, Jizi, Gund Kusa, Gund Kani, Hinsil, Kurmi and Ramila).

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**Al Anfal Operations' Consequences:**

According to the policy, adopted by the previous regime vis-à-vis the Northern area, many consequences resulted from the eight Al Anfal operations. Below are the most important:

Prohibiting any human or animal presence, within prohibited zones and villages, starting 1987 June 20. Taking into consideration that most of Northern Iraq is agronomic, such attitude had resulted in banning crops harvest and trees' fruits cultivation (almond, walnut and all sort of fruits which are recognized in this area). This strategy aimed at Kurdish populace's starvation, rendering him a consumption-people, after being a productive one. The application of such order led to a waste in national resources, exposing the Kurdish people to harsh economic and living conditions, if not extreme and lethal.

After that Convict 'Ali Hasan Al-Majid became in charge of the Northern Organization Office, as the report previously detailed, he issued emancipated orders to all Military troops (1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps) and Security Authorities to deal with prohibited zones' inhabitants, as he used to call it, in a way which contradicts with basic human rights. Those are the orders which allowed gun-fire, without any directions, day and night, meaning that death was massive without ...

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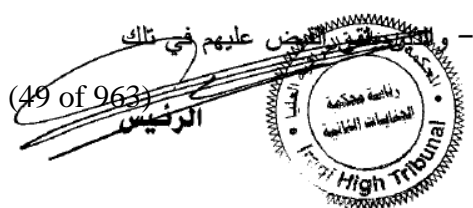
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...limitations. In addition, the aforementioned convict issued an order, along with the previous one, including that if any person from the inhabitants of the security prohibited area was arrested, aged between 15 years old (included) and 70 years old (included), he will be directly executed, after being investigated by designated security authorities, getting out information that might be useful for the government. All this had been implemented without juridical investigation or trial procedure. This means, moreover, that killing the Kurdish people was randomly carried, hitting on any person available within the boundaries of the previously indicated area, which Convict 'Ali Hasan Al-Majid considered as prohibited for security reasons, even if such presence happened by mistake or coincidence, and even if these areas are way too far from the Iraq-Iran borders, way too far from the Iran-Iraq battlefield. Indeed, the convicts used this as an expedient to vindicate their bloody political diversion against the Kurdish population. The correspondence's text, issued by Convict 'Ali Hasan Al-Majid to the aforementioned military troops' commands, clearly orders them to prepare special strikes, from time to time, day or nighttime, as well as artillery, anti-aircrafts, and helicopters' raids, to eradicate the biggest possible number of those still residing the area.

3. Such policy, adopted by the former regime, led to the coercive relocation of civil inhabitants from areas included in Al Anfal Operations, from their residences in Kurdish rural areas, where they were born and had lived, housing them in compounds, under the surveillance of a different security forces, against their will, exposing them to ...



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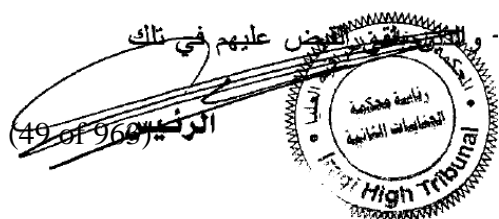
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.... inhuman living conditions. First, he prevented any person, forcefully residing these compounds, to leave or move to another, even if conditional, as well as forbidding them from going to the city or any other place, to visit a brother for example, or relative, or any other reason. These compounds were lacking the basic requirements of life which match with the humanity of an individual. In a compound, which the court had been informed about while moving to Kurdistan, the rooms were very narrows, barely fitting for two persons though a whole family was forced to live in. The court had been told about another camp, Bahirka, in Irbil governorate. This one was none but a barren, faraway land, close to Irbil though pretty far from the city's suburbs. In that place the deported Kurds were placed without being provided with any supplies to protect them from the winter's cold or summer's heat. Irbil citizens used to supply these latter with tents and food, secretly, far away from the tyrant eyes of the security authority which was surveying the whole camp. Examples, upon what have been mentioned, are numerous.

4. These military operations did not only caused the relocation of civil inhabitants far from their villages and hometowns, but ended in a total devastation of these areas, burning down and looting whatever available, as well as confiscating the livestock pertaining to the aforementioned inhabitants.

5. As for individuals, men, women and children, who had been arrested in those ...



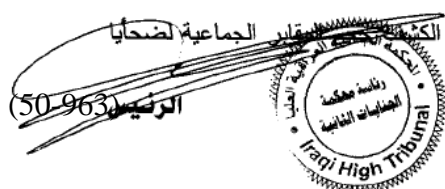
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.... villages, they were carried by the military forces, via military trucks and sometimes civil buses, straight to Northern Organization Office's headquarter, and headed by Convict 'Ali Hasan Al-Majid, where they were handled. Those are individuals arrested by the aforementioned office as per the convict's directions. But, how were they handled? Detainees were gathered in a certain place where men were separated from women and children. The latter were moved to Tupzawa, Al-Dibs [in Kirkuk], Nazarki Fort [in Duhuk governorate], or Bahirka [in Irbil governorate] concentration camps. Men, on the other side, were dislocated to places such as Nuqrat Al-Salman detention camp in Al-Muthanna governorate. All were exposed to torture suffering from harsh living circumstances (hunger and thirst), as each person was given one or two breads maximum per day, drinking water from unhygienic containers with no healthy precautions whatsoever. In addition, those administrating those camps prevent the children from milk consumption. Due to such inhuman handling, tens of children, women and men faced death. Some corpses were buried in graves outside, but near the prison as it happened at Nuqrat Al-Salman camp, while others were transported outside the camp to be buried in mass graves which remain anonymous. The best proof is the latest excavation, implemented by the deputized Al-Samawah court, revealing mass graves pertaining to victims ...



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... at Nuqrat Al-Salman camp. This discovery had been archived via CDs (Compact Discs) which had been displayed in one of the public trial sessions.

6. As per orders issued by Northern Organization Office, headed by Convict 'Ali Hasan Al-Majid, concerning the raiding over prohibited zones with special strikes (meaning chemical weapons), most of the aforementioned areas had witnessed such operations, bombed by chemical weapons from artilleries, helicopters, fighter aircrafts, rocket launchers and missiles. Witness [NAME REDACTED] mentioned, before the investigative judge, that the area which had been included in the 1<sup>st</sup> Al Anfal Operation was bombed by rocket launchers holding toxic gases rockets. As well, he told the court about the simple precautionary method adopted by the Kurds; a thick textile dabbled in water and placed on the face. The same thing happened in villages included within the 2<sup>nd</sup> Al Anfal Operation which also witnessed toxic gases' bombardment via aircrafts, artilleries and rocket launchers, killing an immense number of civil inhabitants while another group escaped to the rough mountainous passage. Another identical incident occurred in the 4<sup>th</sup> Al Anfal Campaign where villages had been raided by widely concentrated chemical weapons via aircrafts killing around 1680 Kurds (men, women and children). Chemical weapons were vastly used against civil inhabitants in the 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> operations, as well as Al-Anfal Closure...

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...8<sup>th</sup> Al Anfal).

7. We have previously mentioned that Kurdish citizens, who had been arrested after completion of military operations and complete seizure of their villages, were dislocated via Army Forces' military vehicles, and sometimes civil buses, to North Organization Office who handled them and passed them over to different security authorities.

These sides used to distribute them over specific camps, as per the area of detainment. Some had been dislocated to Tupzawa camp, others to Al-Dibs in Kirkuk where North Organization Office is located or Nazarki camp in Duhuk, Nuqrat Al-Salman camp in Al-Muthanna, Bahirka camp in Irbil, Shursh compound in Al-Sulaymaniyyah

Through torture and ghoulish treatment (exposure to famine and thirst, deprivation of health care, cutting down medicaments or milk for newborns carried by their mothers) lead to the death of hundreds of detainees. Many skeletons and remains, as well as identification cards, pertaining to the aforementioned detainees, were found in Al-Hadar mass grave, located at Al-Hadar area in Ninawa Governorate. As for the Kurdish detainees, who were mainly dislocated to Nuqrat Al-Salman Camp in Al-Muthanna Governorate, their status was not all better than ...

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...those detained in Tupzawa, Al-Dibas, Nazarki and Bahirka camps. Captives of Nuqrat Al-Salman Camp were exposed to different types of torture, especially by the camp's commander (Hajjaj), or that's what they used to call him, who was executing merciless torture, without differentiating between a man and a woman ... an old and a young. He and his guards used to rape women without any conscience or moral restriction. Hundreds have died due to these manners of torment, inhuman behavior, starvation and thirst, as well as premeditated murder. All had been buried in mass graves many of which had been discovered later on. The investigative court, assisted by international experts, was able, as per forensic evidences and procedures regulations, enclosed within Iraqi High Tribunal, to open the aforementioned mass graves and disinter skeletons and apply laboratory tests on them, as to emphasize, through investigation and tests, that these corpses which had been disinterred from mass graves in Al-Hadar and Al-Muthanna pertain to Kurds whose fate was anonymous (Anfalized).

8. We have already shown that Al Anfal Closure (8<sup>th</sup> Al Anfal) is distinguished from other operations by many characteristics such as its concentration on civilians rather than others, especially after implementing a ceasefire between Iran and Iraq, meaning no dispute is left in the area. The second characteristic is the inclusion of Duhuk governorate located at the vicinity of Turkish borders as well as many regions nearby the governorate center witnessing massive chemical weapons usage against civil inhabitants. However, the most important ...

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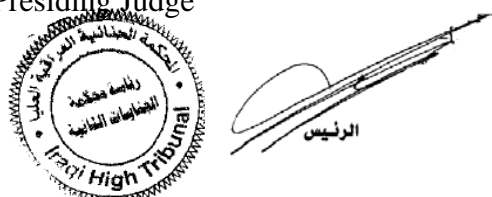
### **The Verdict**

... characteristic which distinguish the 8<sup>th</sup> operation is the occurrence of mass executions against men residing the villages which Iraqi Armed Forces invaded.

Among these villages is Kurmi where 33 men were executed few meters away from the city itself, without a trial or investigation. 4 men managed to survive these acts and their testimonies had been documented throughout the investigation and trial. Not that only, many plaintiffs and witnesses, who survived executions or mass graves, mentioned that military and security authorities used to take detainees from different camps, previously mentioned, straight to the desert via closed vehicle (no windows), to an anonymous site, blindfolded, where they were pulled over in rows and shot by people wearing the olive-colored military suit. At the moment of shooting, they all dropped dead in that previously prepared big pit (mass grave). A second, third group will be brought consecutively until the whole pit is filled up with executed corpses. In the end, soldiers used shovels to hide them, 6 feet underground. Through testimonies of plaintiffs and witnesses who managed to escape, it had been acknowledged that this desert could probably be Al-Ramadi Desert. Some survivors expressed interest in showing the court these mass graves' site, if they will be asked to, and they did.

9. Above all, the military forces couldn't get enough from controlling villages and demolishing, burning down and looting buildings, as well as arresting...

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... civil inhabitants, from men, women or children, dislocating them to North Organization Office and then to the aforementioned terrifying prison camps.

#### **10. What happened after Al Anfal Operations?**

On 1991 March, negotiations took place between previous regime's high officials, headed by Convict 'Ali Hasan Majid, and the Kurdish Front. Among the discussed affairs are the Kurdish detainees all along the eight Al-Anfal Operations. After a long quarrel tackling these subjects, Witness [NAME REDACTED] asked Convict 'Ali Hasan Majid about more than 180,000 Kurdish citizens, and the latter nervously responded – according to the aforementioned witness allegations – that those detainees do not exceed the 100,000 only!!!

#### **Transferred Convicts:**

Chief of Investigative Judges in the Iraqi High Tribunal transferred via decree No [2], dated 2006 April 02, to the Second Criminal Court the following convicts: Detainee Sultan Hashim Ahmad and Adjourned 'Ali Hasan Al-Majid, Saddam Husayn Al-Majid, Sabir 'Abd-al-'Aziz, Husayn Rashid Muhammad, Tahir Tawfiq Al-Haj Yusif and Farhan Mutlak Salih, to proceed with their trial by a none brief litigation as per Article [18 \ Third] of Iraqi High Tribunal Law No [10] for year 2005, and Principle [32/First] of Evidences and Procedures Collection Law attached to this court's code...

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... and Articles [130/(B)], [131], [132/(A)-2], and [134/(A)] of the Iraqi amended Penal Trials Procedure Law No [23] for the year 1971, as per the following detail, as mentioned in the transfer's decree:

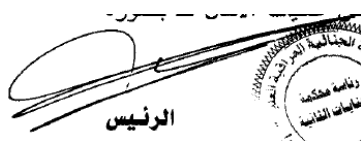
**Convict Sultan Hashim Ahmad:** He occupied the position of First Al-Anfal Operations' Commander, and then 1<sup>st</sup> Corps' Commander where he had been directly in-charge of implementing Al-Anfal operations including the devastation of villages, buildings and worship sites, burning them down and dislocating their civil inhabitants, contrary to the law, confiscating all possessions and delivering them to North Organization Office's headquarter. Charges against him include:

Genocide: as per Article [11/First – Clauses (A) and C] by virtue of Article [15] of the court's law.

Crimes against Humanity: as per Article [12/First – Clauses (A), C, and 5] by virtue of Article [15] of the court's law.

War Crimes: as per Article [13/Fourth – Clauses (A), (D), and (L)] by virtue of Article [15] of the court's law.

**Convict 'Ali Hasan Al-Majid:** He is one of Convict Saddam Hussein Al-Majid's relatives, was in-charge of North Organization Office during Al-Anfal operations, and is considered as the man behind issuing direct orders, to Military Forces, to murder, prevent plantation, and carry executions as per Decree No [4008], dated 1987 Jun 20. Charges against him include: Genocide: as per Article [11/First – Clauses (A) and C] by virtue of Article [15] of the court's law.



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Crimes against Humanity: as per Article [12/First – Clauses (A), C and 5] by virtue of the court's law.

War Crimes: as per Article [13/Fourth – Clauses (A), (D), and (L)] by virtue of Article [15] of the court's law.

**Convict Saddam Hussein Al-Majid:** Head of the bygone Revolutionary Command Council and former Armed Forces' General Commander, he issued Decree [160] for the year 1987, granting Convict 'Ali Hasan Al-Majid full authorities of the president, Party commander, and Armed Forces General commander to execute command's objectives in the Northern Area. The latter issued orders to carry on Al-Anfal operations, as per the aforementioned granted authority, especially the order to use "special ammunition" [meaning chemical weapons] which can not be used unless after an order from the president himself, as it had been mentioned on the voice record. Charges against him are:

Genocide: as per Article [11/First – Clauses (A) and C] by virtue of Article [15] of the court's law.

Crimes against Humanity: as per Article [12/First – Clauses (A), C, and 5] by virtue of Article [15] of the court's law.

War Crimes: as per Article [13/Fourth – Clauses (A), (D), and (L) by virtue of Article [15] of the court's law.



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**Convict Sabir 'Abd-al-'Aziz Husayn:** He occupied the post of Military Intelligence General Director and Armed Forces General Command's member. Charges against him are:  
Genocide: as per Article [11/First – Clauses (A) and C] by virtue of Article [15] of the court's law.

Crimes against Humanity: as per Article [12/First – Clauses (A), C, and 5] by virtue of Article [15] of the court's law.

War Crimes: as per Article [13/Fourth – Clauses (A), (D), and (L) by virtue of Article [15] of the court's law.

**5- Convict Husayn Rashid Muhammad:** He used to occupy the post of Army Chief of Staff's Deputy for operations during Al-Anfal Operations, as well as a member in the bygone Revolutionary Command Council. Charges against him are:

Genocide: as per Article [11/First – Clauses (A) and C] by virtue of Article [15] of the court's law.

Crimes against Humanity: as per Article [12/First – Clauses (A) and C] by virtue of Article [15] of the court's law.

War Crimes: as per Article [13/Fourth – Clauses (A), (D), and (L) by virtue of Article [15] of the court's law.

**6- Convict Tahir Tawfiq Al-Haj Yusif:** He used to occupy the post of North Affairs Committee's Secretary and then governor of Ninawa Governorate. Charges against him are:



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Genocide: as per Article [11/First – Clauses (A) and C] by virtue of Article [15] of the court's law.

Crimes against Humanity: as per Article [12/First – Clauses (A), C, and 5] by virtue of Article [15] of the court's law.

War Crimes: as per Article [13/Fourth – Clauses (A), (D), and (L) by virtue of Article [15] of the court's law.

**7- Convict Farhan Mutlak Al-Juburi:** He used to occupy the post of North Zone Intelligence System Director and then Eastern Zone Intelligence System Director which headquartered at Kirkuk. Charges against him are:

Genocide: as per Article [11/First – Clauses (A) and C] by virtue of Article [15] of the court's law.

Crimes against Humanity: as per Article [12/First – Clauses (A), C and 5] by virtue of Article [15] of the court's law.

War Crimes: as per Article [13/Fourth – Clauses (A), (D), and (L) by virtue of Article [15] of the court's law.

**Accusing the convicts on behalf of the court:**

We've already explained a detail in the previous article stating that Mr. Chief Investigative Justice had transferred 7 convicts to this court, as follow:

Sultan Hashim Ahmad

'Ali Hasan Al-Majid

Saddam Hussein Al-Majid

Sabir 'Abd-al-'Aziz Husayn

Husayn Rashid Muhammad



The President

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6. Tahir Tawfiq Al-Haj Yusif

7. Farhan Mutlak Al-Juburi

to prosecute them as per articles mentioned in the referral decision.

Via trials' result, after listening to the plaintiffs' testimonies, prosecution and defense witnesses, and reviewing the huge number of documents, files, compact discs (CD's) and audio tapes, and by acknowledging that the court is not bound to charges by which the Chief of Investigative Judges transferred the convicts, the same court, on 2007 February 20, directed to each convict a charge paper, excluding Convict Saddam Husayn Al-Majid who had been executed as per First Criminal Court's verdict in Al-Dujayl case, approved to be irrevocable by cassation court. The charge paper, pertaining to the six other convicts, included the following:

**Convict Sultan Hashim Ahmad:** he was assigned, on 1988 Dec, Commander of Al Anfal Operations which had been headlined Al-Anfal First Operation. On March of the same year, he took command of the 1<sup>st</sup> Corps which implemented the other Al Anfal Operations. Accordingly, he had been accused of the following charges:

**First charge:** as per Articles [(A), (B) and C] of Clause [First] of Article [11] consisting the genocide which is stipulated in Clause [Second/ (A)] by virtue of Article [15/ First, Second, Third and Forth) of Iraqi High Tribunal Law No [10] for the year 2005. That is due for giving orders to Military Troops, under his command in Al-Anfal Operations (First, Third, Forth and Eighth), to use all kinds of...

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...conventional weapons via aircrafts and artillery to kill Kurdish civilians in Iraqi Kurdistan region, causing physical and mental damages, oppressing them and subjugating them to harsh living circumstances such as shortage in food, medical and fuel supplies, killing their livestock cattle, burning to ashes their agronomic crops. All in all, he was implementing the plan prepared by Army Staff General and his deputy for operations, Convict Husayn Rashid Muhammad, which represents the Armed Forces' General Command adopted Policy to totally or partially eradicate Kurdish people in Northern Iraq.

**Second charge:** as per Articles [(A, B, C, D, E, F, H, Y, and J)] of Clause [First] of Article [12] consisting crimes against humanity, by virtue of Article [15/ First, Second, Third and Forth] of Iraqi High Tribunal Law No [10] for the year 2005. That is due for giving orders to Military Troops, under his command in Al-Anfal Operations (First, Third, Forth and Eighth), to launch a large scaled, systematic raid against Kurdish inhabitants in Northern Iraq referring back to all kinds of conventional weapons, via aircrafts and artillery. As a result, civilians were killed; their villages were burnt down and devastated, as well as their coercive deportation and relocation away from their villages, carrying on the orders from the Northern Organization Office's official Convict 'Ali Hasan Al-Majid. This assault carried on by arresting Kurdish civilians, detaining them to be transferred to Tupzawa and Al-Dibs camps, by Military Intelligence Systems, where they had been inhumanly treated. These actions resulted in the death of many...

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...and disappearance of others. Many corpses were found, later on, in mass graves at Al-Hadar, Al-Muthanna, and other diversified places all over Iraq, as another immense number remain anonymous. All in all, they aimed to eradicate the Kurdish inhabitants.

**Third charge:** as per Articles [(A and B)] of Clause [Third], and Articles [(A, D, E and H)] of Clause [Forth] of Article [13] consisting war crimes, by virtue of Article [15/ First, Second, Third and Forth] of Iraqi High Tribunal Law No [10] for the year 2005, and Article [406/ 1/ (B)] of the amended Iraqi Penal Code No [111] for the year 1969. This is due for using chemical weapons against opposing Kurdish parties which were fighting under the names "Patriotic Union of Kurdistan ", "Kurdistan Democratic Party", "Kurdistan Communist Party" and others. These weapons targeted civil inhabitants who did not participate in the confrontations, causing their death, deformation or becoming disabled. The Military Troops wrecked religious buildings, looted and confiscated citizens' properties, as well as relocating them far from their villages without any logic reason. The convict has been fully aware and acknowledged of such acts.

**2) Convict 'Ali Hasan Al-Majid:** He occupied the post of member in the bygone Revolutionary Command Council , as well as in-charge of Northern Organization Office following Decree No [160], dated 1987 March 29, within the period ...

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...of 1987 March until 1988 September. This is the decree which assigned him as a Ba'th Party State Command and Revolutionary Command Council 's representative, executing their policies in the Northern Zone and Autonomous Ruling Region of Kurdistan. In addition, such decree gave the convict full authority imposing on state's Military, Civil and Security Systems to abide by his orders, especially due to the jurisdictions usually provided to National Security Council and Northern Affairs Committee. Kurdistan Autonomous Ruling Region's Executive Council, as well as Governorates governors, Administrative Units' in-charge which are affiliated to Ministry of Local Administration, Intelligence Systems, Internal Security Forces, Military Intelligence and People's Army Commands, all over Northern region, were placed under the convict's authority. All the aforementioned systems will abide by orders and directions as per implementing bygone Ba'th Party State and Revolutionary Council Commands' policy, as well as the latter Decree No [244], dated 1987 Feb 20, granting the convict the authority to suspend or dismiss whenever it is considered beneficial for carrying on Northern Affairs Committee missions and impose Revolutionary Command Council's Decree No [160], dated 1987 Mar 29. Accordingly, he had been accused of the following charges:

**First charge:** as per Articles [(A, B and C)] of Clause [First] of Article [11] consisting genocide crime and stipulated in Clause [Second/ (A)] by virtue of Article [15/ First, Second

...

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...Third and Fourth] of Iraqi High Tribunal Law No [10] for the year 2005. This due for, within the period before Al Anfal, on 1987 June, as well as within Al Anfal campaigns in 1988, the aforementioned convict issued orders to military troops and security, intelligence and military intelligence systems, as well as bygone Ba'th Party organizations to murder Kurds in northern Iraq, causing physical and mental damages by using all types of war weapons like aircrafts and artilleries, oppressing them and imposing harsh living conditions (shortage of food, medicine and fuel supplies, killing their livestock and burning their agronomic crops) aiming to partially or completely eradicate them.

**Second Charge:** as per Articles [(A, B, C, D, E, F, H, Y and J)] of Clause [First] of Article [12] consisting crimes against humanity, by virtue of Article [15/First, Second, Third and Fourth] of Iraqi High Tribunal Law No [10] for the year 2005. This is due for, within the period before Al Anfal, on 1987 June, as well as through Al Anfal operations in 1988, the aforementioned convict issued orders to military troops and security, intelligence and military intelligence systems, as well as bygone Ba'th Party organizations to wage large scaled and systematic attack against Kurdish inhabitants...



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...in Northern Iraq using all types of weapons like aircrafts and artilleries. These perpetrations caused the death of many civilians, burning down and destroying their villages, dislocating and departing them, coercively, away from their hometowns, as well as detaining them in Tupzawa, Al-Dibs and Nuqrat Al-Salman camps. Moreover, the convict directly supervised, from his location in the Northern Organization Office – Kirkuk, the interrogation and torture of detainees and their execution after. Many captives were exposed to inhuman conducts leading to the death of many, burying them in mass graves. Some of these mass graves had been located at Al-Hadar – Ninawa Governorate, Al-Muthanna Governorate, and many other places all over Iraq. However, the fate of many other Kurds remains anonymous.

**Third Charge:** as per Articles [(A and B)] of Clause [Third] and Articles [(A, D, E, H and L)] of Clause [Fourth] of Article [13] consisting war crimes, by virtue of Article [15/ First, Second, Third and Fourth] of Iraqi High Tribunal Law No [10] for the year 2005 and Article [406/1/(B)] of the amended Iraqi Penal Code No [111] for the year 1969. This is due for, the period before Al Anfal, on 1987 June, and through the operations...

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...in 1988, the aforementioned convict issued orders and directions to military troops and security, intelligence and military intelligence systems as well as bygone Ba'th Party organizations to use chemical weapons in northern Iraq against opposition troops which were fighting under different appellations like Patriotic Union of Kurdistan, Kurdistan Democratic Party, Kurdistan Communist Party and others. The attack which was carried using chemical weapons, targeted the civilians who did not participate in the confrontations, leading to killing, deforming, handicapping, or assaulting their dignities, as well as attacking religious sites, destroying them, looting and seizing properties and dislocating inhabitants far from their homes and villages without any logic reason.

**3) Convict Sabir 'Abd-al-'Aziz Husayn:**

He was occupying the position of a member in the Armed Forces General Command and General Military Intelligence Directorate's (GMID) director between 1987 March and 1988 September. The directorate's duties were to supply military references with gathered intelligence information concerning all the happenings in the Northern area, to analyze it and take suitable measurements, waging military attacks against the aforementioned area, based on these information. After carrying out raids, GMID reports back to Army Chief of Staff the military operations' outcome and efficiency as well as strikes effect, enemy casualties and others, in case of emergency. On the other side, it had been assigned...

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...to study the possibility of directing strikes with special ammunition [chemicals], against Northern Iraq, following orders issued by the Presidential Secretary. Thus study had been laid down and many suggestions presented, including the usage of [Special ammunition – Chemicals] and tracking down strikes' execution, précising the time and target, as well as the objectives to attain from raiding chemical weapons.

**First Charge:** as per Article [(A, B and C)] of Clause [First] of Article [11] consisting which is stipulated in Clause [Second/(A)], by virtue of Article (15/First, Second, Third and Fourth) of Iraqi High Tribunal Law No [10] for the year 2005. This is due for the aforementioned convict has premeditatedly participated, in the period before and during Al-Anfal operations, in the murder of Kurdish citizens in Northern Iraq aiming to partially or completely eradicate them, causing physical or mental damages, exposing them to harsh living conditions. He was fully aware and acknowledged of what will afflict the Kurdish civilians and opposition as a result of such military operations.

**Second Charge:** as per Articles [(A, C, D, E, F, H, Y and J)] of Clause [First] of Article [12] consisting crimes against humanity by virtue of Article [15/First, Second, Third and Fourth] of Iraqi High Tribunal ...

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... Law No [10] for the year 2005. This convict premeditatedly participated in a large scaled, systematic raid against Kurdish civil inhabitants in Northern Iraq, along the military troops, by using all types of weapons like aircrafts, artilleries and others leading to the murder of civil inhabitants, demolishing and burning down their villages, coercively dislocating and deporting them far from their hometowns, as well as civilians, moving them to Northern Organization Office. Many were exposed to inhuman conducts within the detention camps, lacking the basic human requirements. Others were executed inside Military Intelligence system [affiliated to GMID] premises, after being investigated, while another number completely disappeared to discover, later on, their corpses in mass graves at Al-Hadar area in Ninawa, Al-Muthanna Governorate, and a variety of other places. All in all, these acts aimed at the eradication of Kurdish citizens.

**Third Charge:** as per Article [(A and B)] of Clause [Third] and Articles [(A, D, E, H and L) of Clause [Fourth] of Article [13], consisting war crimes, by virtue of Article [15/First, Second, Third and Fourth] of Iraqi High Tribunal Law No [10] for the year 2005, and Article [406/1/(B)] of Iraqi amended Penal Code No [111] for the year 1969. The aforementioned convict suggested, during the application of Al Anfal operations, the use of special ammunition [Chemicals] in Northern Area, précising ...

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... the targets, their timing and required quantity of chemical substances (Mustard and Sarin gas). The military troops attacked the area using special ammunition [Chemicals] based on the previously identified suggestion, causing the death of Kurdish citizens, deforming or handicapping them. Additionally, the convict premeditatedly contributed in the military attacks against religious sites, burning down houses, looting personal possessions, deporting civil inhabitants without any reason, acknowledging that he was fully aware of these criminal acts committed against civilians.

**4) The Accused Husayn Rashid Muhammad:**

In 1987, the convict was occupying the position of the chief of the Army Staff's Deputy for Operations and a member in the Armed Forces' General Command. He participated in setting down, along with the Chief of Army Staff, the vital military plans for attacking villages in Northern Iraq, to be later known as Al Anfal operations. He attended all meetings held for that purpose including conferences in Kirkuk, where the plan has been ratified, as well as assigning Convict **Sultan Hashim Ahmad** for the command of these operations. He supplied military troops with everything needed (weapons and finance) to properly carry on these operations, as he was in charge of carrying on the attack and expand it, as well as following up with Armed Forces' General Commander's orders and those of Chief of Army Staff, throughout the operations. Upon that, he had been charged of the following:

**First Charge:** as per Article [(A, B and C)] of Clause [First] of Article [11], consisting genocide, as per Clause ...

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[Second/(A)] by virtue of Article [15/First, Second, Third, Fourth] of Iraqi High Tribunal Law No [10] for the year 2005. The convict participated deliberately, before and during Al-Anfal operation, in killing Kurdish civilian residents in Northern Iraq, inflicting physical damages by using all kinds of weapons while attacking villages, subduing them to harsh living conditions from lack of food, medicinal and fuel supplies, aiming to partially or completely eradicate them.

**Second Charge:** as per Articles [(A, B, C, D, E, F, H, Y, J) of Clause [First] of Article [12], consisting crimes against humanity, by virtue of Article [15/First, Second, Third and Fourth] of Iraqi High Tribunal Law No [10] for the year 2005. This is due for Convict Husayn Rashid Muhammad deliberately participated in carrying on a systematic wide-ranged attack against Kurdish inhabitants in Northern Iraq, causing the death of civil inhabitants, burning down and demolishing their villages, dislocating them out from their areas, exposing civilians to detention, arresting and inhuman conducts which also resulted in the death of numbers of them, hidden and buried in mass graves at Al-Hadar in Ninawa Governorate, Al-Muthanna Governorate, and other graves. All these aimed at the eradication of the Kurdish populace. The convict was fully aware of the military plans, their follow-ups and execution, as well as their consequences ...



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**Third Charge:** as per Article [(A, D, E, H, L) of Clause [Fourth] of Article [13], consisting war crimes, by virtue of Article [15/First, Second, Third and Fourth) of Iraqi High Tribunal Law No [10] for the year 2005 and Article [406/1/(B)] of the amended Iraqi Penal code No [111] for the year 1969. The convict participated in using chemical weapons against Kurdish opposition in Northern Iraq, targeting civil inhabitants' lives, those who didn't participate in the confrontations, killing, handicapping, deforming and assaulting their dignities, as well as raiding on religious sites, looting civil properties and dislocating many far away from their villages, without a reason.

**5) The convict Tahir Tawfiq Yusif:**

The convict was occupying the position of Northern Affairs Committee's secretary, after bygone Revolutionary Command Council 's Decree No [674], dated 1986 August 19, and Northern Organizing Office's member, to be assigned, later on 1987 September 19, as a governor for Ninawa Governorate, between 1987 March and 1988 September. In conformity with Decree No [160] for the year 1987, the convict was in charge of the security committee within the aforementioned governorate, directly affiliated to Northern Organizing Office's official, Convict 'Ali Hasan Al-Majid. He attained all meetings which prepared and planned for Al-Anfal operations in Northern Iraq. These operations resulted in a high death toll, burning down Kurdish civil inhabitants' villages, demolishing their possessions, as well as detaining them...



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...executing a large number, burying them in mass graves, among which some were found in Al-Hadar at Ninawa Governorate. Accordingly, he had been charged as follow:

**First Charge:** as per Article [(A, B, C)] of Clause [First] of Article [11], consisting genocide, as laid down in Clause [Second/(A)] by virtue of Article [15/First, Second, Third and Fourth) of Iraqi High Tribunal Law No [10] for the year 2005. That is due for he deliberately participated, fully aware and acknowledged, in setting down and offering special suggestions concerning the attack over Kurdish villages in Northern Iraq, later to be known by Al-Anfal operations. These operations which had been carried on by military troops, witnessed the usage of all types of war weapons, exposing Kurdish civil inhabitants to death, detention, and relocation , as well as subduing them to harsh living conditions, aiming to partially or completely eradicate them.

**Second Charge:** as per Articles [(A, B, C, D, E, F, H, Y, J)] of Clause [First] of Article [12], consisting crimes against humanity, by virtue of Article ([15/First, Second, Third and Fourth] of Iraqi High Tribunal Law No [10] for the year 2005. Convict Tahir Tawfiq Yusif, between 1987 March...



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... and 1988 September, deliberately participated in carrying on a systematic wide-ranged attack using a variety of weapons against Kurdish residents in Northern Iraq, causing the death of civil inhabitants, burning down and destroying their villages, coercively dislocating them out far from their areas and detaining them. He submitted many suggestions concerning the execution of a group of detained Kurds. The execution had been carried as he was a member of Northern Organization Office. All the persons who had been detained before or through Al Anfal operations were handed to the aforementioned office to handle them. Such comportment led to the execution and disappearance of many whose corpses were found later on, in mass graves at Al-Hadar in Ninawa Governorate where the convict was a governor and in charge of the security committee. He was fully aware and acknowledged.

**Third Charge:** as per Articles [(A, B)] of Clause [Third] and Articles (A, D, E, H, L) of Clause [Fourth] of Article [3], consisting war crimes, by virtue of Article (15/First, Second, Third and Fourth) of Iraqi High Tribunal Law No [10] for the year 2005 and Article (406/1/(B)) of the Iraqi amended Penal Code No [111] for the year 1969. That is, and during the mentioned military operations, chemical weapons have been used in attacks targeting...



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...Kurdish inhabitants and opposition, causing the death, deformation, or handicapping of many civilians, as well as assaulting their dignities. The convict was fully aware and acknowledged of such criminal acts against Kurdish civil inhabitants.

**6) The convict Farhan Mutlak Salih:**

In 1987, the convict was The Northern Zone Intelligence System Director affiliated to GMID. His responsibilities were to supply GMID with reports and information concerning the Northern area, as well as identifying targets.

In the Al Anfal Operation's period, Convict Farhan Mutlak was directly linked to Northern Organization Office, headed by Convict 'Ali Hasan Al-Majid following Revolutionary Command Council 's Decree No [160] for the year 1987. He was in charge of supplying concerned parties with detailed information regarding the aforementioned area. Based on these information, adding up the given reports by Eastern Intelligence System, raids were designated over Kurdish villages, known as Al Anfal operations, as well as detaining another number within Eastern Intelligence System's premises, under his supervision, until handing them over to Northern Organization Office, immediately after being investigated. However, many were executed inside these concentration camps. Accordingly, three charges had been directed against him, as follow:

**First Charge:** as per Article [(A, B, C) of Clause [First] of Article [11], consisting genocide, as stipulated in Clause [Second/(A)] by virtue of Article [15/First, Second, Third and Fourth] of...



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... Iraqi High Tribunal Law No [10] for the year 2005. This convict premeditatedly contributed, before and within Al Anfal operations, murdering Kurdish civil inhabitants in Northern Iraq, after being raided by military troops, using a diversity of weapons, aiming to partially or totally eradicate them. This caused a high death toll as well as a demolition of possessions, burning down villages and killing livestock cattle. **Second Charge:** as per Articles [(A, B, C, D, E, F, H, Y, J)] of Clause [First] of Article [12], consisting crimes against humanity, by virtue of Article [15/ First, Second, Third and Fourth) of Iraqi High Tribunal Law No [10] for the year 2005. Convict Farhan Mutlak premeditatedly contributed in implementing a systematic, large scaled attack, using military troops and an open diversity of weapons, aircrafts and artilleries, leading to the death of Kurdish inhabitants, demolishing and burning down their villages, coercively dislocating and deporting them, detaining citizens and handing them over to Military Intelligence systems which in turn transferred them to the Northern Organization Office. These detainees were subdued to inhuman conducts in detention camps, lacking the minimal basic human needs, ending in the death of too many, disappearance of others, to be found ...



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... in mass graves at Al-Hadar, Al-Muthanna governorate, and other places. All in all, the aim was to eradicate Kurdish inhabitants.

**Third Charge:** as per Articles [(A, B)] of Clause [Third], and Articles [(A, D, F, H, L)] of Clause [Fourth], consisting war crimes, by virtue of Article [15/ First, Second, Third, and Fourth] of Iraqi High Tribunal Law No [10] for the year 2005, and Article [406/ 1/ (B)] of the Iraqi amended Penal Code No [111] for the year 1969. This is due for the convict premeditatedly contributed in Al Anfal operations using chemical weapons against Kurdish opposition forces, hitting on non participant civil inhabitants, putting an end to their lives, deforming or handicapping them. On the other hand, he contributed in destroying religious sites and others, as well as villages, dislocating the inhabitants without a reason. He had been fully aware and acknowledged of the criminal acts against Kurdish citizens.

The court asked all convicts, individually, whether they consider themselves guilty or innocent. They all responded, each one at a time that they are innocent.

**Legal Articles' Stipulates Included in Accusatory Documents against Convicts:**



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We had already mentioned that the Chief Investigative Judge already referred, via a referral decision, the six convicts over to this Court for prosecution as per Articles [11, 12, and 13] of Iraqi High Tribunal Law No [10] for the year 2005 by virtue of Article [15] of it. On the other hand, the court charged convicts as per Articles [11, 12, 13] of the same code, by virtue of Articles [15] and [406] of Iraqi amended Penal Code for the year 1969.

To render the report more useful, and to clearly identify these articles' contents, we enclose it below, fully illustrated:

**First – Genocide:**

Article – 11 – First: for the purpose of this law, as per special international convention to prohibit genocide, dated on 1948 Dec 9, approved by Iraq on 1959 Jan 20, genocide means below enclosed acts which are perpetrated to partially or completely eradicate a group due to their origins, ethnicity, race, or religion.

- A- Killing individuals from a given group
- B- Causing sever physical or mental damages for a given group's members
- C- Premeditatedly subdue a given group to harsh living conditions as an intention to partially or completely eradicate them.
- D- Imposing measures to prevent reproduction within a given group.

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E- Coercively dislocating children from a given group to another  
Second – The following acts necessitates a penalty:

- A- Genocide
- B- Conspiracy for committing Genocide
- C- Direct and public stimulation for committing Genocide
- D- Attempts for committing genocide

**Second- Crimes against Humanity:**

Article -12- : Crimes against humanity means, for legal purposes, any of the below enlisted acts, if perpetrated on a large scale, systematic scope targeting any group of the civil inhabitants, while being fully aware of such implementations.

- A- Premeditated Murder
- B- Eradication
- C- Enslavement
- D- Relocation or coercive relocation of inhabitants
- E – Imprisonment or harsh prevention from physical freedom, in a way that contradicts with the International Law.
- F- Torture



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G- Raping, sexual enslavement, forced prostitution, compulsory pregnancy or any other form of sexual violence on that level of seriousness

H- Persecuting any given group or specific inhabitants for political, racial, ethnic, patriotic, cultural, religious, related to gender, or any other reasons not legalized by International Law, correlated with any sexual violence on that level of seriousness.

Y- Coercive concealing of people

J- Other identical inhuman acts, which premeditatedly cause sufferings and extreme physical and mental damages.

Second: For the purpose of applying Clause [first] of this article, the following enclosed terms means the following, as it had been defined:

A- Guided attack against any group of civil inhabitants means a behavioral pattern which includes repetitive perpetration of the acts stipulated in Clause [First] of this article, against any group of civil inhabitants, as to implement the policy of a given state or organization which requires the application of such attacks, or to support the scheme of such policy.

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- B. Genocide means to premeditatedly impose certain living conditions as deprivation from food or medicaments, aiming to eradicate part of the inhabitants.
- C. Slavery means conducting any or all appropriated authorities over ownership's rights, against a given individual, including the practice of such authority for the purpose of slave trafficking, especially women and children.
- D. Coercive dislocation or deportation of inhabitants means to move given group of people, coercively, from the area where they legally reside, via expulsion or any other compulsory act, without any justifications authorized by International Law.
- E. Torture means causing severe anguish and suffering deliberately, whether physical or mental, against an individual under detention or under the convict's control, acknowledging that torture does not include pain or suffering resulting from legal penalties or any relevant reasons.
- F. Oppression means severe and deliberate prevention from basic rights in a way which contradicts with the International Law due to the ethnicity of a given group or people.
- G. Compulsory concealing of individuals means arresting, detaining, or abducting individuals by a state or political organization, whether via an authorized permission, support, or turning a blind eye followed by a deny ...

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... to admit preventing those individuals their freedom or to provide information identifying their fates or whereabouts, aiming to segregate them from law protection over a considerable period of time.

#### **Third: War Crimes**

**Article [13]** means war crimes related to this law as follow:

First- Serious violations of Geneva Conventions dated 1949 August 12, specifically any of the below listed acts committed against individuals or protected properties as per the appropriated Geneva Convention.

- A. Premeditated murder
- B. Torture or inhuman conduct, including implementation of biological tests
- C. To cause, intentionally, severe suffering or inflicting serious physical or mental damage.
- D. To cause a large-scaled demolition of properties, followed by confiscation, without a justifiable military necessity, in a way which contravenes the law abusively.
- E. To force a prisoner of war [POW] or protected individual to serve in hostile forces.

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F. Deliberately prevent a POW or protected individual from his right to have fair, regular trial

G. Illegal detention

H. Illegal dislocation or relocation

I. Seizing hostages

Second- Other serious violations of laws and customs that should be applied over International Armed Conflicts, in the steady course of International Law, and specifically any of the following actions:

A. Deliberately directing attacks targeting civil inhabitants, in their current description, or against individuals not involved in acts of war.

B. Deliberately directing attacks against civil targets including locations which do not consist military targets

C. Deliberately directing attacks against employees, establishments, vehicles or units' equipments used in humanitarian aid or peace keeping according to U.N. Charter, as long as these duties are worth the granted protection for civilians or civil targets, as per International Armed Conflicts Law

D. Deliberately launching an attack, acknowledging that such raid will result in successive casualties as well as injuries among civilians, or causing...

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- ... excessive civil damages, compared to the total sum of expected concrete and direct military gains
- E. Deliberately launching an attack, acknowledging that such assault would result in a large scaled, long termed damage for the Natural Environment, and foreseen as excessive and obvious damage compared to total sum of expected concrete and direct military gains.
  - F. Attack or bombing, via any mean whatsoever, targeting cities, villages, residences, or buildings which do not hold defenses and are not considered military targets.
  - G. Eliminating or injuring a fighter who already abandoned his weapon or has no more self defensive tools and completely surrendered
  - H. Misusing the truce flag, enemy flags, military insignias or uniforms, U.N. flags, insignias or military uniforms, as well as special slogans correlated with Geneva Conventions which might cause the death and serious injuries among individuals.
  - I. Carrying out dislocation, directly or indirectly, by Iraqi Government or any of its systems (including, as to clarify, any system of the Arab Socialist Ba'th Party), moving part of the civil inhabitants to any seized territory, or to dislocate or deport some or all of the seized territory's inhabitants, within the given area or outside.

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- J. Intentionally carrying out attacks against buildings, which are considered as non-military targets, appropriated for religious, educational, artistic, scientific, charitable, or archaeological purposes, as well as hospitals, and patients or centers for injured and patient's gathering.
- K. Submitting people affiliated to any country, to physical deformation or any other type of medicinal or scientific tests which are not identified as medical, dentistry or hospitalized treatments, the thing that may lead to the death of the individual or exposing his health to harsh danger.
- L. Murdering or injuring any of a hostile state or army's member in a perfidious manner.
- M. Declaring that no one remained alive
- N. Destroying or seizing hostile side's civil properties, unless the act had been justified as a war necessity.
- O. Declaring the cancellation, suspension, or prohibition of referring back to law as to deny the hostile party from demanding their rights.
- P. Coerce hostile side's nationals to be involved in war operations against their state, even if they were serving the hostile country way before the war broke.
- Q. Looting any town or place, even if it had been occupied by force
- R. Usage of toxicities or toxic weapons.

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- S. Usage of suffocating or poisonous gases, or any other gases, substances or identical items.
- T. Usage of bullets which expand or flatten inside the human body like those with a hard cover that do not contain the whole bullet's body, or the nicked ones.
- U. Assaulting individuals' dignity especially by a despised treatment
- V. Rape, sexual slavery, compulsory prostitution, forced pregnancy, or any other kind of sexual violence, on that level of dangerousness.
- W. Exploiting the presence of some civil individuals or others protected, to render some positions, areas, or military forces reinforced vis-à-vis military operations.
- X. Intentionally carrying out attacks against buildings, medical units, transportation means, and individuals who use recognized signs correlated to Geneva Conventions as per International Law.
- Y. Intend to make civilians starve as a tool of war, preventing them from vital nutritional elements required to survive, as well as hampering relief supplies, as stipulated in the International Law.



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Z. Recruiting or registering children less than 15 years old in the national Army Forces or using them to participate effectively in hostile acts.

Third: Cases of armed conflicts, of any type, from the bellow acts committed against individuals uninvolved in acts of war, including armed forces' members who laid down their guns, or those who turned unable to carry on the fight due to an illness, injury, detention, or any other reason.

A. Using violence against lives and civilians, especially all types of murder, deformation, extreme conduct, and torture

B- Assaulting individuals' dignity especially the despised treatment

C- Taking hostages

D- Issuing sentences and carrying out executions without previous judgment issued by a regular court guaranteeing all acknowledged judicial rights which can't be put aside.

Fourth: Other main laws and customs' violations regarding non-international armed conflicts, within the steady course of international law, specifically any of the following acts:

A- Intention to carry out attacks against civil inhabitants, in their current description, or against civilians who did not directly participated in acts of war.



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- B. Intend to carry out attacks over buildings, materials, medical units and transportation medical units, and against people abiding by Geneva Convention's recognized signs, as per International Law.
- C. Intend to carry out attacks against employees, establishment, materials, units, or vehicles used for humanitarian aid and peace missions correlated to U.N. Charter, as long as these missions deserve the protection granted to civilians or civil targets as per International Law for Armed Conflicts.
- D. Intend to carry out attacks over buildings appropriated for religious, educational, artistic, scientific, and charity purposes, as well as historical sites, hospitals, and patients and injured regrouping centers, as long as all the aforementioned places are non-military targets.
- E. Looting any town or place even if it had been taken by force.
- F. Rape, sexual slavery, compulsory prostitution, forced pregnancy, or any other kind of sexual violence at this level of dangerousness.
- G. Recruiting or registering children less than 15 years old in armed forces or groups, or using them for effective participation in war acts.
- H. Issuing orders to deport civil inhabitants for reasons affiliated to the conflict, as long as it is not due for the security of the concerned inhabitants or necessary military purposes.
- I. Murdering or injuring one of the hostile side's fighters.



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- J. Declaring that no one remained alive
- K. Subduing people affiliated to the authority of the other side in the conflict, to physical deformation or any other type of medicinal or scientific tests which are not identified as medical, dentistry or hospitalized treatments, the thing that may lead to the death of the individual or exposing his health to harsh danger.
- L. Destroying or seizing hostile side's properties, as long as such act was not directly imposed by war necessities.

#### **Fourth- Personal Criminal Responsibility:**

Article [15] – First: the individual who committed a crime within the court's jurisdiction is considered responsible for such act, as his personality, subjected to punishment as per appropriated law.

Second: the individual is considered responsible as per this law and Penal Code, if he perpetrated the following:

- A. If he perpetrated the crime as an individual, contributory or via a third party, turning a blind eye on whether the third party is criminally charged or not.
- B. If he ordered committing a crime and had occurred, legislated it, enticed for it, or urged it.



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- C. Contributing, instigating, or providing assistance, in any mean, in order to facilitate or attempt the crime, as well as providing the tolls of its implementation.
- D. Contributing, in any other way, with a group of individuals, aiming at a contributory crime, committing or commencing it, as long as such contribution is premeditated and holds:
  - 1- Either to support the criminal activity or group's criminal purpose, if these two were enclosed in a crime committed within the court's jurisdiction.
  - 2- Acknowledging the intention to commit this crime, by the aforementioned group.
- E. Direct and public abetment to commit this crime by virtue of genocide.
- F. Attempt to commit a crime, starting by an act of intention, even though the crime did not occur yet, for reasons that the offender has nothing to do with, but will exonerate the latter from penalty if he tried to stop the crime. The offender won't be prosecuted if he willingly abandoned the whole idea.

Third: The official status that a convict may have will not count as a suitable reason to exonerate him from penalty or to diminish the sentence's degree, even if the convict was a head of a state...



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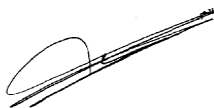
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... head or member in the Revolutionary Command Council, head or member in the Cabinet, or a member in the Ba'th Party command. Remonstrance of immunity is not permitted to get rid of charges for crimes enlisted in Articles [11, 12, 13, and 14] of this code.

Fourth: The Supreme official will not be exonerated of criminal responsibility over offenses committed by officials operating under his command, if this person in charge acknowledged or had reasons to identify such acts, or even if the commanded was going to perpetrate crime and the commander did not act as to prevent the occurrence of such action, or did not lift the case to appropriated authorities to endure an investigation and trial.

Fifth: In case any convict carried on the orders issued by the government or president, regarding the perpetration of a crime, this will not exonerate him from charges, though it may be taken into consideration while prosecuting if the court foresees in that an application of justice.

Six: Amnesties, issued before the implementation of this law, do not include any of the convicts accused for perpetrating one of the stipulated crimes.



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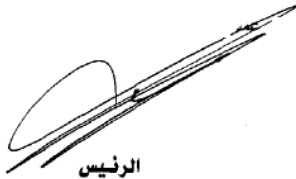
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#### **Article [406] of Iraqi amended Penal Code No [111] for the year 1969**

Article-406: 1- Will be sentenced to death any one who premeditatedly murdered a soul, in the following cases:

- a. If the murder is considered as preconceived malice.
- b. If the murdered occurred due to the usage of poisonous, exploding, or popped substance.
- c. If the aim of murder was dirty or in exchange for money, or if the offender referred to savage manners while perpetrating his crime
- d. If the murdered is an offender's relative.
- e. If the murder occurred against an employee, or authorized a public service, during performing his job or service, or as result of that.
- f. If the offender intended to kill two persons and more, and this took place in one act.
- g. If the premeditated murder had been linked to another crime of premeditated murder or attempt to.
- h. If murder had been carried on as a proem to a crime or misdemeanor sentenced to not less than one year imprisonment, either as to facilitate, execute, render possible, or contribute in the escape or avoid punishment.
- i. If the offender had been already sentenced for life imprisonment, charged for premeditated murder, and committed another one or commenced it, within the sentence's period of time.



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- 2- Sentence will be execution or life imprisonment in the following cases:
- A. If the offender intended to murder one person, but his act lead to the killing of two or more individuals.
  - B. If the offender was sentenced to life imprisonment in another case [not that mentioned in Clause [1-(I)] of this Article], and perpetrated a premeditated murder during the sentence's period of time.

**((Explanation))**

By explaining the text is meant to illustrate its real meaning and reveal its content in a way that facilitate a safe adaptation on real tangible events for which law had been legislated. However, the explanation differs as per adaptation of legal texts on facts that are enclosed within penal code. The judge is cautious adopting a verdict which did not occur in the legislator's mind, because he does not search outside the legal texts, defining what is mentioned without adding a thing, or filling a blank. This is the meaning of narrowing down the documents explanations without stretching outside the legislator's will. The originality in criminal texts is that they constringe the explanation, the thing that impose a pause on each term, understanding its meaning as it is, without getting deeper into the spirit and content of such expressions if the opposite leads to a wide explanation contradicting the incriminatory texts, because the latter are none but restrictions shaping the individual freedom, as an exemption from the general rule "The root of everything is permission". And if this narrow explanation is a general rule in respect to "Crimes and Penalties' Legitimacy" , but this do not prevent reviewing and investigating the legislator's intention, as per modern life necessities...

  
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On the other hand, it doesn't prevent elaboration if the purpose was to determine ways to exonerate from charge or notify a penal prevention, if the judge found out that the case is not illustrated in the text or if he doubted in explaining the text, transforming the confusion into a plus for the offender, deciding to declare him innocent, for any equivocation in a legal text must be taken for the convict's benefit.

### **Crimes' Legal Description:**

The legal description is a main problem in implementing the task of criminal justice. Moreover; the adaptation [description] is the first step that any criminal justice operation should carry, from the moment a crime will be acknowledged. Therefore, legal text must be known to incriminate and sentence the act which we had been sure of his occurrence. If not matching description is found, we will be obliged, as per "Crimes and Penalty Legitimacy", to drop down legal charges. Furthermore, what we are concerned about is legal adaptation per which the trial process must carry on. This adaptation is highly important for, based on it, the convict's fate will be defined. It is true that referral decree includes a description of the crime, as well as the investigative report, but the tribunal is not obliged to follow such description, as it is possible that new elements show which were anonymous in the preliminary investigations which will change the whole course of action. From the other side, we must realize that the tribunal does not decide convict's innocence until all legal aspects had been considered. If it had been identified that his act is not enlisted under any Article, and could not be incriminated as in terms of law, then this court could not but release the convict, if he was not wanted for another crime. It is worth mentioning that the tribunal ...



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... could change the legal description of a crime, even if no new evidences had been represented through pleading, alleged that it was not convinced by the description handed by the investigative judge.

#### **Crime's concept:**

Most of penal legislations did not encourage providing a specific definition for the crime, since the crime's content is variable depending on the crime's understanding, time and place, even if the tribunal intellectualism had included terms for each given crime, these definitions had changed from a legislator to another. Indeed, the best way to define crime, which can contain all the different terminologies and match up with them, as well as being identical to the principle of legislation, is "act or abstention incriminated by law which defined a sentence if carried by a responsible person"

#### **Crime's Basics:**

To say that there is a crime, specific basics should be available. Moreover; crime is categorized in two, the first constitutes the general basics of a crime pertaining to all crimes, differentiating between legal and criminal act in general, as the second is dedicated to special basics pertaining to each crime aside.

#### **1<sup>st</sup> Principle – Tangible Basics:**

Tangible Basics mean external behavior indicated as a crime, defined by what is relevant to senses. That's the reason why whatever crosses the minds of thoughts and desires, as long as it remained veiled (did not show in the tangible world) is not to be considered as a tangible basic. Article [28] of the Iraqi Penal Code identifies crime's tangible basic as "criminal behavior by committing an act which had been incriminated by law or abstaining of action ordered by law"



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The tangible basic has three elements: Criminal Behavior (action) – Criminal Result – Causative Relationship linking the behavior to the result (harmful).

#### **1<sup>st</sup> Element – Criminal Behavior:**

This means external tangible action constituting the crime (Action). No crime without criminal behavior. As we mentioned before, the law doesn't punish only for intentions and desires as by describing it (Behavior) tangible activity, it will differ from a crime to another. It's defined in murder as putting an end for a human soul, and in robbery it is the seizure of others wealth. The criminal conduct is described as tangible activity (positive) when the offender exercise an action prohibited by law, which is the main principle in all crimes framing the criminal action as activity (negative) applied when the offender refrain from doing an activity imposed by law, such as a witness abstain from standing in a court of law.

#### **2<sup>nd</sup> Element – Harmful Result (Criminal Result):**

It means the consequences that resulted from the criminal behavior materialized by the aggression that hits a right or interest which the legislator estimated the necessity to be criminally protected. It is worth mentioning that the criminal or harmful result, as a tangible basic in a crime, doesn't always play a role in defining a crime, as well as basing the sentence on it. It is possible that the "harmful result" absent from a crime, but still the crime is considered occurring by law, such as the conventional crime where it is only necessary to agree upon the execution of a crime to incriminate all participant or contributory parties.

#### **3<sup>rd</sup> Element – Causative Relationship between Action and Result:**

- Binding the action to convict, as a first step, and then binding the result to the action, as second step.

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... which helped reaching such end. Here, it became necessary to search for the convict activity within these factors, extend of his responsibility over the end result. To resolve such dilemma we must tackle it from two sides: the first is theoretical while the second legislative. But, first of all we must start by identifying the meaning of "availability of causative relationship" as well showing the meaning of "Causative Relation Outage" and the effect of that in criminal responsibility, briefly.

### **Causative Relationship Provision**

It means that the real harm is a result of the committed action or, in other words, the offender's action is the cause of such harmful result. The more provisionary this causative relationship, between action and result, is the more it became easier to completely charge the offender. So, if the result is "death" then it is a premeditated murder if the offender has the intention to commit murder, or it is a falsified murder, that's if the intention was not to carry on the action. If a permanent disability resulted, then the convict will bear full responsibility, whether it was premeditated or not, as per the degree of mistake commanding the attitude.

### **Outage of the Causative Relationship**

It means that the real harm is not the result of the committed action linked to the convict. In other words, the action carried by convict was not the reason behind the caused harm rather external factors contribute to the convict's action delivering such result and then cut back its presence. When the causative relationship between action and result is cut back, due to the contribution of other factors, the convict won't be charged for caused damage. If it was death or a permanent handicap, the injury will be linked to either the action or factor which caused it, However, the convict will not completely get away but rather remains responsible according to the flagrancy of its action. If he stroke or stabbed aiming to kill and the victim died due to a third different factor, the convict won't be charged other than for commencing a murder.

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**First: Causticity from Theoretical aspect**

Lawmakers argue whether the convict's action is suitable to be considered as a cause of death, simply for being one of the contributory factors leading to death, or that such act must be contributory as well as effective in the harm's occurrence to consider it as a reason of putting an end to the victim, or getting injured.

To answer what's been mentioned, two theories emerged. We will summarize its content and what includes of ideas and legal interceptions.

**A) Equal Causes Theory**


This theory aims to equalize among all factors contributing to the occurrence of criminal act; in other words, the causative relationship considerably exists between action and result whenever the criminal behavior was proved to be one of the factors that contributing to its occurrence even if in small percentages (each contributory activity created the result). Whenever it's proved that the convict contributed in any manner in carrying out the death, it would become legal to say that he caused such consequences, without referring back to contributory elements. As elaboration, it would be sufficient to prove that death would not be able to happen without the intervention of the convict, to build up a link between action and cause, meaning between the victim's death and offender's action, which would never had occurred if not for offender's action. The caliber upon which such theory is settled will be clarified when answering the following question:

If we supposed that the convict did not commit his action, would death or injury have hit the victim? If the answer came affirmative then a causative relationship between ...

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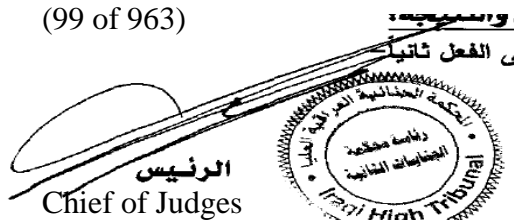
... death, injury and action. If the answer came negative then, in contrary, it means providing causative relationship between action and actual result such as death or injury. Accordingly, the causative linkage exists in the aforementioned examples even if the victim didn't die due to a chronic disease, ambulance crash, or an erupted fire in the hospital. Whereas every action is considered an equivalent to the other actions, so every cause is responsible for murder. The explanation is that general contributory activity, for all factors, change whole of the end result, while in such general contribution each factor lose its individuality, preventing to say that each factor delivered the whole result. If the convict injured another person to kill him and the latter was transported to the hospital where a fire erupted leading to his death, the convict will be charged for a full murder as by the following: If it was not due to the injury, and if it was not for the action exercised by the convict against the victim, the injured would not be turned to ashes. [We thing this theory is righteous and abide to justice, especially that it pull the apron strings around convict's neck so not to get away with crime]

### **B) Direct Causticity Theory or Suitable Cause (Sufficient)**

It briefly means that some of the factors which join and contribute might be direct reasons (sufficient) for the resulted harm while others stand as indirect. Whenever it's decided, according to experience, that the convict's action was a direct reason for the result, the causative relationship will be attained between them. Whenever it's recognized that the aforementioned action was an indirect reason, the causative relationship cut down and then the convict will not be asked for more then commencing murder despite whether his will was devoted to aggression or towards putting an end to the victim's soul.

**Second: Causticity from a legislative side (Iraqi Penal Code Stance from Causticity Linkage)**

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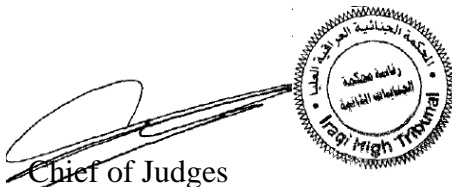
The contemporary legislator did not want to leave criminal causticity to juridical efforts or intellectualism confusion; rather he foresees a set of special and specific disciplinary texts, clear and straightforward, as Article [29] of Iraqi Penal Code in its 2 Clauses, as follows:

1. No individual is to be prosecuted for a crime that was not a result of his criminal behavior, but he is to be prosecuted for a crime that had already involved his criminal behavior along with prior intentions or present motives even if he is not totally aware of it.
2. Yet if the cause only is sufficient for such crime then the offender will be prosecuted only over the action he perpetrated.

The law text presented above is comprehensible based on the principal defined by Causes Equality theory a the causticity linkage is available even if a previous, current or successive factor intercepted the convict's action as per Article [First] of the aforementioned code, where all contributing factors are considered even and equal as per importance and influence, as well as the convict's action. In other words, each reason can be referred to as a cause without a distinction whatsoever. Therefore, the other factors do not veil the relationship between the offender's action and caused result, giving total responsibility to the offender as the text states "the offender will be asked about the crimes, if he contributed via his criminal behavior in its occurrence, even if an external previous, current or successive factor had been overlapped.

The purpose of causticity is negated after the interception of foreign cause (external) where, in this case, the offender will be asked only on the act he perpetrated. This means that the foreign factor which contain (far enough) the cause's events (without convict's action) will lead to a cut down in the causticity relation between action and result which rely on nothing but the foreign factor. In other term, the causticity linkage between action

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... and current results, if sufficient reason contributed specifically to implement the result and was independent, based on efficient grounds, this means two conditions must be met to link between the result and foreign cause. These conditions are:

1. Adequacy of the reason itself to produce an outcome.
2. Independency of the foreign reason from the convict's action, not to be related to such action consequences. In other words, if overlapped actions with convict's actions are obviously important, to an extent rendering some invalid though not enough to attain the result, the perpetrator will not be charged for the crime which will be appropriated to the sufficient and valid reason's applicant, rather this insufficient reason's applicant will be asked about what have caused his action of consequences only, as per Clause [second] of Article [29] previously mentioned.

### **2<sup>nd</sup> Principle – Morale Basic (Psychological) or (Intention)**

It is necessary, when acknowledging a crime, to identify the morale basic (or psychological), in addition to the other basics. Therefore, a crime can not be affiliated to an individual if this latter did not bear the intention to commence or perpetrated it – a vicious intention – as long as it is directed toward illegal acts which by logic and law implement that the applicant will be able to carry it, able to frame the criminal concept to commit such crime, via his understanding and planning, the matter which imposes an awareness as well as a freedom of choice in committing a crime or letting it go.

In this mean, the intention or as some call it, the will is none but the strength residing in the soul containing both awareness and freedom of choice. If an individual directed his will or intention toward committing a crime, this intention or will is considered vicious. Therefore it must be incriminated as per what had been committed. For that same reason, some describe the morale basic as a penal responsibility or ...



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... penal responsibility's basic capacity, therefore, to attain the moral basic, the following conditions should be available:

- 1- Awareness and distinction:** meaning the readiness or ability of an individual to understand the nature of his acts and estimate the consequences.
- 2- Freedom of choice:** meaning the ability of an individual to focus his will over a given act or abstain.

Where as the elements of the criminal responsibility are the pillars of moral crime's basics, its existence is not factual unless relying on two elements: Awareness and Freedom of choice. If any of these two, or even both, drop down the whole principle will fade away.

This is what made questioning individuals with mental problems or kids under distinction age [7 years old] difficult, due to the lack of mental competency or the ability to form a criminal concept, following their limited mental awareness, the matter which if does not suspend all its legal legitimacy, largely diminish its efficiency. The same conditions are applied on who had coercively committed a crime, or forced by certain conditions. He is not responsible for committing it due to the lack of freedom of choice in his case, leading to dropping down the morale principle as well as the whole crime.

From all that had been presented, it became clear that to mention a tangible principle, the convict must be fully aware, by his freedom of choice, as well as acknowledging what he is doing as criminal act, aiming at it to execute his crime, the thing that must be expressed both scientifically and willingly.

### **Moral Basics Figures**

When committing different crimes; the moral element is described as follow:

#### **First: Premeditation – or (Premeditated act)**



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In this figure, the actor, while committing his criminal acts, desired the action which constituted a crime as well as his will to attain a criminal end. In other terms, a premeditated crime is equivalent to the actor's will plus the result's will. It is worth mentioning that premeditation, or criminal aim, may be (simple), which is the case where no drastic conditions are correlated, and can be (descriptive) when being affiliated to preconceived malice as per Article [33/(Q)3] of Iraqi Penal Code when stating (pre-decisive thought in committing a crime, before its perpetration, far away from temper of anger or psychological agitation)

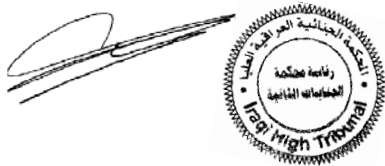
**Second: Mistake or (Unintentional mistake)**

It is the second figure where morale is headlined, where the actor wanted to perpetrate the act of crime but did not desire its result. The situation is similar to someone who points a rifle to hunt an animal but accidentally shot a human being; he, the actor, wanted to commit the action (hunting) but did not desire the consequence. Therefore, the actor is unintentionally responsible. Iraqi Penal Code defined the unintentional figures in Article [35] stating "the crime is unintentional ... whether it was due to negligence, frivolity, inattention, lack of precaution, or non adherence to law, regulations and orders".

On this occasion, the criminal meaning (intentional), as well as the mistake, could both be canceled if neither the actor nor the result were desired, as example:

If someone sit down while holding a rifle in his hand, and a wall or person fell on him, a bullet, mistakenly, gets away and hits an individual. Therefore, the intention of perpetrating a crime is dismissed leading to the fall of the morale basic.

**Third: Possible Intent**



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It is the 3<sup>rd</sup> and last figure which bears morale characteristics. By it, is meant to focus the actor's possible intent to commit the action constituting the crime, as well as his expectancies of the result, adding up his acceptance to take the risk in committing it, as example: an individual is driving his car, at a high speed, in a narrow, crowded alley, careless of people lives, accepting what may result out of his attitude. Accordingly, the Possible Intent elements are:

- A. The offender's will to commit the act.
- B. Expectancies of the result which occurred.
- C. Accepting the risks while perpetrating.

In the above figure, he (the offender) is very close to the intentional (premeditated) crime. Therefore, Iraqi Penal Code considered it (possible Intent) similar to premeditated intention, as Article [34] provisioned "the crime is premeditated if the criminal intention of the actor had been proven". A crime is considered intentional if the actor expected such criminal results for such action and committed it.

**The Original Actor and the partner**

To distinguish between the original actor and the partner, in committing a crime, it is essential to come briefly across two needs. The first is the original actor and his definition, while the second being the contribution in a crime:

**1<sup>st</sup>: The original actor in a crime**

Article [47] of Iraqi Penal Code provisioned that it is "considered actor in a crime) any individual who:

- 1. Committed the act alone or with another.
- 2. Contributed to the perpetration, if it (the crime) is consisted of many actions, and premeditatedly carried on at least one of the actions.



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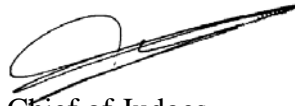
3. Pushed an individual, via whatever mean, to commit the act constituting a crime, if the aforementioned individual is not legally responsible, for any given reason.

The text frames 3 patterns of original actors:

The first includes the one who commits the crime alone, for, as example, while perpetrating the crime's tangible basic three individuals contributed to robbing a house, each one carrying a defined task like putting the money in a car prepared for this purpose. As for the second pattern, it includes those who contributed to the crime, without getting involved in the tangible basic. However, they execute acts which lead for the instigation of the crime. These acts, although not considered as part of the crime, is correlated to it, leading directly to the result. As example: An individual stopped a car and his comrade murdered its driver. The first, even though he did not commit murder by stopping a car, his act directly led to instigate the crime (harmful act), committed by the comrade.

The third pattern is that which law intellectuals call "Morale Factor". In other words, it is the person who compels an individual, not subject for prosecution, to commit a specific crime. It is similar to pushing an insane or child to commit a specific crime. The original actor, in such case, is the instigator as the insane and child are none but tools exploited to commit the given crime.

As specified by Article [49] of the same Code, a fourth pattern is induced concerning individuals, considered as original actors, who contributed by setting up the crime scene while perpetration (of the crime or any act leading to it). Perhaps the main difficulty regarding the contributory partner ...

  
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... is when considering him an (original actor) for setting up the crime scene, whereas his presence is a sufficient indicator of his desire of the result, as a sign of his wish to go an extra mile rather than contribute to the crime.

### **Second: The Partner in Crime**

Article [48] of Iraqi Penal Code stated "is considered a partner in crime" who:

- 1 – Provoked it as it occurred based on such provocation.
- 2 – Agreed with another to perpetrate it as it occurred based on such agreement.
- 3 – Provided weapons, tools or anything else used to carry on the crime, while being fully aware, or if the provider helped the actor, in any way [Prepared or facilitative tools] , in accomplishing the task.

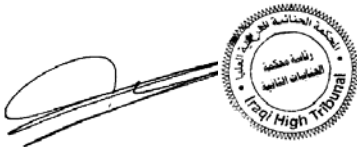
From the text, it becomes clear that the partner is he who does not directly participate in implementing tangible actions of the crime yet participated indirectly using ways stated within the mentioned text which can be grouped as follow:

- 1 – Provocation in implementing a crime
- 2 – Agreeing to commit a crime
- 3 – Assist in committing a crime

The penalty is applicable for those who participate in committing a crime, provided it was actually perpetrated in the aforementioned ways or in mere (agreement) even though the crime was not carried on. This occurs when the agreement is dangerous by nature, which is called "Criminal Agreement".

### **Criminal Responsibility Preventions**

- Legal Content



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We stated in accordance with what was presented, that the criminal responsibilities could not be applied in confronting the committer, unless he has a certain awareness and freedom of choice which both constitute the criminal responsibility factors. In the case of denial of either or both privileges, his case became impracticable criminally for his actions; therefore, we can say that what makes criminal responsibility unfeasible:

These are cases which do not compete with application of criminal responsibilities as when both awareness and freewill are affected. These cases are even self originated related to the status of the committer as in case of minor age or mental - psychological abnormalities, or externally originated affecting elements of responsibility, especially freedom of choice, as in case of necessity or coerce. Hence, the grounds on which hindrance of responsibility are of a personal nature, which means correlated to the committer's personality and not his actions. Therefore, the action remains a crime yet the committer is not subject to questioning. It is not viable in accordance to this that the committer be questioned by (criminal court) but by (civil court) to compensate for damages resulting from his actions. Yet it is pointed out that this pardon does not go without questioning other contributors in a given crime as per Article [52/1] of Iraqi Penal Code, stating "if personal excuses, exempt from penalty, were provided ... against a contributor, committer or partner in crime, do not exceed other than those directly affected".

- **Description of Criminal Responsibility Impediments**

Presented within Articles [60-65] of Iraqi Penal Code, illustrated specifically for cases where law prohibited the committer to be liable for crimes he commits, as example if a case falls within this category such as, seeking new criminal responsibilities...



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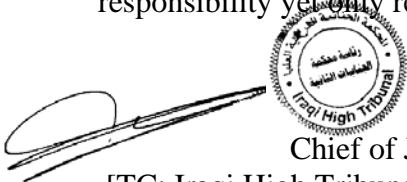
... agreed upon, unable to persecute due to the lack of evidence (availability of cause) where cases may arrive that lead to the loss of perception of choice. It is not illustrated within the law in-order to limit scale of incrimination (such as Hypnotism) despite the fact that the law does not consider this an impediment amongst the impediments of responsibility which may be considered a guideline in cases where the provided loss of will due to it's relation to the cause.

### **Illustrations of Responsibility Impediments within the above articles are:**

#### **(a) Mental Disability (Insanity)**

Article [60] of Iraqi Penal Code stated "Legally not liable for questioning is he who at the time of the crime was unconscious or unwilling, due to insanity or mental illness, or because he was in a drunken or doped state, resulting from alcohol or drugs, given to him coercively or without his acknowledgement, or for any other reason proved by science that is a fair reason to lose conscious or will. However, if the aforementioned do not apply and is based only on partial absence or weakness or conscious and will, at the time of crime, the penalty will be lowered only".

It is noticed, from the previous code, that it is not taken into consideration in the case of mental sickness due to being of mental or psychological nature, for if both illnesses lead to unawareness and lack of will then they are both considered equivalent to mental disorder. To apply the text's articles, it is conditioned that the individual lose his ability to perceive or chose, at the time of crime perpetration, to evade liability of criminal responsibility, only if that was the genuine reason from mental disorder, alcohol or drugs, provided it was (forced) upon him or given without his (awareness). It is noted that the mental disorder or doping substances led to his lack of awareness and freewill, it does not avert criminal responsibility yet only reduces it. In ...



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... which case a (reduced justification) is applied on the perpetrator in event where mental disorder was the reason for non-liability for criminal responsibility as long as the individual was unaware of its reformatory nature and purposes in which case precautionary measures will be taken and he shall be sent to a mental asylum for public safety to protect the society from his danger.

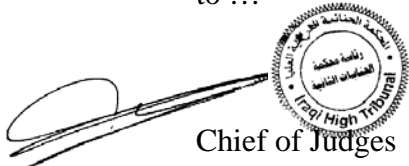
#### **(b) Coerce**

Article [62] states "shall not be legally questioned who had been coerced to commit a crime, whether materialistic or moral force which he could not resist". From the aforementioned, it becomes understandable that coerce is of two categories: Tangible and Moral

- **Tangible Coerce**

Is a materialistic, tangible force, evident and tackling an individual's will, taking its freedom of choice away, as example: an individual holding a pistol pointed at another's head forcing the latter to sign a document or he will be killed. The coerce individual is lacking the will to decide which, and due to such circumstances alone, one of the responsibility's factors is dropped down. However, it is worth mentioning that forces caused by nature or animals, known as "unpreventable forces", as example: if a storm threw a man hitting another, causing his death, or someone riding a horse fell on a passing-by individual, hurting him. In both cases, the individuals are not responsible due to unpreventable forces which could not be prevented.

It is, in all cases, conditioned, to preventing responsibility of the committer due to Tangible Coerciveness in which the individual was left with no freedom of choice to anticipate reason of such coerce and inability to ...



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... resist the power imposed upon him. If it had been proven that one or both of the aforementioned conditions are invalid, the actor will be considered responsible vis-à-vis the law, due to the lack of coerces as a factor.

#### **Moral Coerce:**

Moral or psychological coerce is defined as threatening a person by vicious acts, or create a stance feared by the given individual, obliging the latter to cooperate coercively, as example: threatening a mother to kill her infant if she did not surrender sexually. Therefore, the female is not responsible for adultery. Examples are many regarding this issue, however, in all cases, it is conditioned, to deny the actor's charge due to morale coerce, that the latter be unable to resist the motive – threat behind committing a crime, as well as his unawareness to be exposed to such threats.

#### **(C) Necessity**

Article [63] of Iraqi Penal Code states (not be legally questioned he who committed a crime being compelled to by a self protective necessity or other like his money or that of others, as well as imminent tremendous danger which he didn't premeditatedly caused, and could not be able to prevent in any other way. All this is affiliated to the condition that such act, constituting a crime, is compatible with the danger to be wary of, as it is not considered, in necessities, his duty to confront the danger by law).

We extracted from the abovementioned text that for a necessity case to be considered, instigating the application of its verdicts, two conditional categories must be available:

First: correlated to the danger facing the compelled to commit the given crime.

Second: correlated to the obligatory act executed by the compelled.

#### **Conditions Correlated to Danger**



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- 1- If there is a danger threatening the committer's life and wealth or that of others, hence this person couldn't find a way out avoiding the perpetration of crime, or else he and his wealth will be endangered, as example: A person pulling a burned material away from his car ending up in burning another.
- 2- When the danger is tremendous, imminent and actual not only expected to happen, for instance when a person throw his friend from the boat predicting the possibility of a storm after an hour, claiming that the boat will not hold two persons at the time.
- 3- The committer should not be legally obligated to face the danger therefore a person in-charge of carrying an execution over the convict is not supposed to facilitate his way out by allegation of protecting the convict from being killed.
- 4- The committer should not be the one behind the danger. In other words, the actor who intends to create a certain danger will not be exempt from criminal responsibility as per necessity, as example: if an individual sinks a ship then found himself forced to kill someone who rushed in front of him to take the surviving mean.

**Conditions Correlated To Necessity**

- 1- When necessity is the only way to avoid danger where the sacrificed interest is less valuable and important than the interest sacrificed for it. Otherwise, justifications of sacrifice will be annulled as well as the necessity.
- 2- The necessity must be proportional to the danger, as aforementioned

**(D) Juvenile**

The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official seal. The seal contains Arabic text: 'المحكمة الجنائية العراقية العلية' (Iraqi High Tribunal) around the top edge, 'رئاسة القضاة' (Chairmanship) in the center, and 'القضايا الجنائية' (Criminal Cases) around the bottom edge. The English text 'Iraqi High Tribunal' is also visible at the bottom of the seal.

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Article [64] of Iraqi Penal Code states "No prosecution must be carried against individual who at the time of perpetration were less than 7 years old". This is the same text of Article [Second] of Juvenile Law No [64] for the year 1972. For a child not to complete 7 years old is a fair reason to drop charges for doings considered as crimes by law. Maybe this is directly justifiable by the cancellation of one of the two elements related to responsibility which is "lack of awareness", as the child, due to his mental immaturity, is foreseen as consciously weak to a certain limit where he could not comprehend things in a way to make him fully aware of the nature and value of things, the thing that render his legal questioning inefficient.

It is worth mentioning that the aim from dropping down charges due to minor age is affiliated to defining (proving) the condition (minor age) via official documents, or medical ways when the first are not trustworthy, or even not available, excluding the fact that some minors do have a level of intelligence fair enough to be fully aware of criminal acts.

### **Impediments restricting and reducing responsibility**

Actually there is a penalty for each crime according to the value of its judicial responsibility, defined by the legislator, which in its turn is defined via a criminal penal pattern based as per the crime committed by the offender. The penalty increase whenever the mistake imputed to the convict was grosser and more dangerous. In the contrary, we find consequences that, if were correlated to the act, will decrease the level of penalty. These responsibility's diminutive or increased factors, some are subjective affiliated to the circumstances of committing the crime while others, or even the same, are personal related to the status of the actor.

### **1- Restrictive Impediments:**



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The restrictive impediments are known as "the reasons stated by law which put the committer at critical situation leading to increase the penal terms against him", as example: someone who commits rape must be sentenced as per penalty defined by law. However, if he committed the act coercively, like using violence, the case is considered as restricted impediment and the related penalty will be more severe. It is worth mentioning that such cases could be special defined by special legal penal articles such as coercive theft, robbing a residential place, or raping a relative. On the other hand, restricted impediments could be general not pertaining to a given character neither in the committer [personal] nor in the crime [subjective], meaning it imposes an increased penalty against any individual as long as such impediments are provided.

Acknowledging, Article [135] of Iraqi Penal Code defined the general restricted impediments when stating "it is considered as restricted impediments the following":

- (A) Commit the crime by vile motivation
- (B) Commit the crime exploiting the chance of a victim's weak awareness, or his inability to resist, or under circumstances which do not permit the victim to defend himself
- (C) Use savage ways to commit the crime or mutilate the victim
- (D) convict's abuse of his position as an employee to perpetrate the crime or misusing his power or influence which both are due to his job.

**2- Reductive legal excuses**

These are situations stated by law imposing on the judge to abide down below the decreed bottom line pertaining to a given crime as per regulations and limits clarified in Article [130] of Iraqi Penal Code stating ...

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"If a reductive excuse was provided in a crime which sentence is death, the penalty will be dropped down to life or permanent imprisonment, then could be reduced to not less than 6 months imprisonment, as long as the law did not state differently", as per Article [131] of the same Code, stating "if, in a misdemeanor, a reductive excuse has been provided, penal reduction will be a follow":

If the penalty already has a minimal, the court will not abide by it while estimating the penalty. Therefore, if the sentence is both imprisonment and fine, the court will sentence by either one. However, if it was unconditioned imprisonment (no minimal), the court will verdict a fine instead.

It is worth mentioning that reduced excuses could be special or general; the general reduced excuses are those including all crimes as soon as it is actually provisioned, as example: commit the crime motivated by honored intention or under dangerous provocation by the victim. On the other side, special reduced excuses are enclosed in certain crime or sect as mentioned in the Penal Code's Articles [407] and [409]

**3- Reduced and exempted from charges' legal excuses**

Exempted legal excuse: is a circumstance, stipulated by law allow, which acquit the actor totally from punishment complying with the reduced excuse as both are defined by law and oblige the judge to apply them. The difference among them is that the reduced excuse confined on reducing the penalty while the exempted excuse extend to full acquittal from the deserved charge, as example: the amnesty stated by Article [218] of Iraqi Penal Code, or anyone who anticipated a crime, threatening the national security, and informed the government, or amnesty decreed in Articles [59], [3\273], [311], [462], and [462 (R) – Kidnap]

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**A) Reductive Impediments and Circumstances:**

Reductive impediments get along with reductive circumstances as both imply, while being applicable, a reduced sentence against the executor of a crime.

However, the juridical circumstances differ from reductive impediments, as the first (circumstances) are evaluated by the authorized judge, who derive them (evaluations) from subjective and personal case circumstances foreseen as contributory in formulating the actor's will, pushing him to commit the crime. The judge is free, while applying the reductive impediments, in forming his own ideology in prosecuting as no restrictions are imposed on him by the cassation court.

Therefore, the reductive impediments are recognized for being not exclusively defined by law, as well as not obligatory vis-à-vis the judge, from where came its appellation "Reduced Juridical Circumstances" in contrast to what have been identified as reductive executions characterized as being applied by law under the condition of being identified exclusively, as well as obligatory vis-à-vis the judge at the time of application.

**Contributors' Responsibilities as of Crime's Possible Results**

Legal text [(M) 53 of Iraqi Penal Code] "punish the contributor in a crime, actor or partner, as per the sentence of the crime itself, even if it was not the one intended to execute, whenever the perpetrated crime is a possible result of the contribution which occurred".

The principle in contributory responsibilities is that he is only questioned for the crime he contributed to, as an actor along with another, partner in inciting, by accepting or helping [(M) 48], but what is the verdict if the crime that the actor did is a possible result of the crime contributed to. As example: if two individuals participated in raping a girl, then one of them intended to ...

[Translator Comment (TC): Probably (SATTS M) means Article)]

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... murder her, aiming to hide the crime's features. Do both of them have to be questioned about the last crime? The Iraqi legislator paid attention to this issue and laid down Article [53], enclosing the solution that must be applied. Indeed, the act of the actor must be reviewed; if it was a possible result of the crime, the contributor is considered responsible, else only the actor is to be questioned. The results are considered possible if it was potentially expected to happen and normally the participant is supposed to expect all results that may happen in accordance with the flow of such situation. It's enough for results to be self expected, regardless if the contributor expected it or not, to question him over possible results, even if his intention was unlimited, as example: someone instigated his friend to take revenge, on his behalf, from another one. The friend went and stabbed him until death. In this situation, he will be incriminated for premeditated murder, not neglecting the fact that the general principle includes all contributors to a crime, not only the partners, stretching over to contain actors with others, as it is worth mentioning that for the contributor to take by the principle of responsibility over possible results is bound to the availability of criminal contributory conditions, as the affiliate contributor, for example, do not inquire the possible results of a crime perpetrated by the original actor unless he, from the beginning, premeditated (within the crime) leading to the occurrence of the aforementioned results considered as possible results for the crime he already approved on. However, the contributor in an illegal act, upon which a criminal result is imposed, will not be legally questioned.

**The Condition when the Offender's Intention is Difference from other Contributors' Intention**

Legal text [(M) 45] states that if one of the contributors' – actor or partner - intentions differed from that of other participants, each one must be prosecuted as per his intention. The principle established in this text is based on the rule which said that every contributor to a crime is not punished unless per his intention from the crime. As it becomes understandable, this principle is not related only to real actors, but includes all partners in a given crime, as the intention of a certain contributor may differ from that ...

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... of the original actor, leading to a difference in intention, as well as in describing the crime (severe or light). As example: the real actor purposely intends to murder the victim, where as the partner did not have a previous set up (for the crime). Therefore, this strict situation is not applicable and the real actor get receive death penalty [(M) 406] and the partner will be charged of levity premeditated murder by lifetime or temporary imprisonment [(M) 405].

### **Status of Difference between offender and other contributors' acknowledgement of crime's occurrence**

Legal text [(M) 45] states "if one of the contributors' intention (actor or participant) differed, or his acknowledgement following the intention of other contributors, or even the acknowledgment of that other contributor, each one must be prosecuted as per his intention and acknowledgement".

It's presumed when crime occurs such as hiding robbed items, that one of the offenders participating in the hiding operation be aware of the robbery, at the first places. That person must be punished strictly as the others, who were unacquainted with the first offense, must be punished lightly.

As example: if Zayd incited Khalid to hide items which had been robbed and the latter concealed them in his house, not knowing that these items are forcibly robbed, he will be penalized less than Zayd who knows about the whole robbery. (Review Articles [461] and [460] of Iraqi Penal Code).

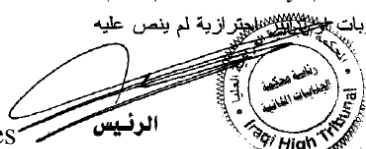
### **3<sup>rd</sup> Principle – Legislative Basic**

#### **No Crime if not stipulated in a Text**

Article [1] of Iraqi Penal Code stipulated "no punishment over an act or refrain, unless based on a law which stipulates its incrimination at the time of occurrence, as no verdicts or precautionary measures must be signed unless laid down by law".

[Translator Comment (TC): Probably (SATTS M) means Article)]

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Following such meaning, the legislative basic is the legal text which specifies the criminal violations (crimes) and appropriated sentences which must be applied, conditioned that the offender is defined as responsible. From this, it becomes understandable that the legislative basic's elements are:

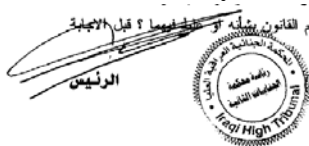
1. Matching between penal legal text and action.
2. None provision of any of the conditions permitting such act.

It is worth mentioning that a legal intellectual side foresees that the legal text [which is the legislative basic], must not be considered as a principle in crime, because the legal text is the one who defined the crime, writing down the law following this aim. In other words, the legal text is not one of the bases in a given crime but rather a condition of its existence. If it's so, as they say, meaning the legal text is a condition of crime's existence rather than a pillar, such adaptation headlines the text as the creator of a crime's tangible and morale basics, giving it a more importance than the basics of which the legal text was the reason for their (Basics) existence.

**Do Ignorance (or mistake) in Law and Facts  
Constitute a Reason for Tribunal Responsibility Refraining?  
(Ignorance or Mistake's Principles are the same)**

**What ignorance means?**

Ignorance means not to know something. It may be partly and occurs when an individual completely overlooked it or when he could identify some parts among others. By mistake, it is intended to draw another picture totally different from truth so that the individual believes what he sees, though the truth is bloody different. So what is the effect of ignorance or mistake? What is the solution if the actor ignores the act's (he committed) reality or the law verdict? Before answering ...



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... these questions, we must notice that ignorance might be included by law or in facts. Sentences differ depending on those variables tackled as follow:

#### **1. Ignorance in Law**

Legal text [(M) 45] states "No one can allege by his ignorance facing a verdict or any other sentence".

All jurists agree, usually, that ignorance of law does not lift the criminal responsibility, whether it was related to premeditated or unintentional crimes and it is explained by " No one is considered a law's ignorant". The reason behind is that acknowledging the law is obligatory on each citizen. Therefore, law's ignorance is not acceptable meaning what it includes of articles, starting from the date of validation. Despite the fact that this basic principal is vital in the criminal law, the Iraqi legislator, to emphasize, clearly mention it in the indicated Article where he considered everybody knowledgeable of penal codes from the date of publication, in the official gazette, as well as the date of validation, as such publication is considered a legal presumption, as per the acknowledgement of everybody of the aforementioned laws, a final presumption that does not bear doubts.

#### **• Unintentional Responsibility's Explanation despite Laws' Ignorance**

Violating the duty of being informed about state laws, trying not to get acquainted with know what articles are included, is considered, in fact, omission or incaution identifying, with no doubt, the individual's unintentional responsibility, for ignorance, by law, is due to personal negligence as the latter is a vital cause in such cases.

#### **• Intentional Responsibility's Explanation despite Laws' Ignorance**

  
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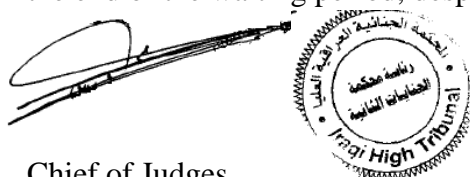
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In this situation, it seems that ignorance of law does not apply to the intent of contravention, consequently the logic impose annulations of the intentional responsibility due to the lack of criminal aim. However, the nature of criminal laws does not get along with such logical result because it is hard or impossible to be aware of all these laws. Hence, it had been agreed upon the law acknowledgement presumption rule regarding each person as no excuses are accepted so that no one gets away with his crime by allegation of unawareness of such laws. By acknowledgement is meant to show the righteous pattern followed by law as it never forgive an offender for mistakenly understanding the law, even if his view of ignorance of law had been shared by some intellectuals and jurists. As an example: if someone managed to rob an amount of money from his creditor to pay his debts, he is considered a thief, since his personal explanation is meaningless as well as his misinterpretation facing the legal text.

**Rule of law acknowledgement presumption scope:**

The scope of this rule, according to dangerous consequences, is limited to criminal laws only. This is clearly understandable as per indicated text which denies an excuse due to ignorance (in this law - Penal Code - and other Penal Laws). Therefore, ignorance in other law classifications, such as Administrative, Commercial and Civil Laws, forgive the offender as such allegation can be referred to dismissing charges. One of the French law applications, regarding such case, is that it rendered innocent an offender who found, as example, a treasure in another individual's property and took it as he considered such behavior a legal right. As he ignores that civil law permits him the half, as the other part remains the right of the land owner, the man took advantage of his unawareness, getting away with the criminal charges (theft). If the individual ignores Personal Status Laws as well, then all charges will be lifted such as a divorced woman (revocable divorce) got engaged in a sexual intercourse, thinking that she had been freed from marital bounds, although her ties remain until the end of the waiting period, despite the revocable divorce ...



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...she will not be charged for adultery if her ignorance had been proved. Another scenario is if someone sold his real estate, his house, and after clearance, managed to take some statues, drawers, and mirrors considering them exempted from the deal, unaware that Civil Law identifies such items as part of the real estate, he must not be charged.

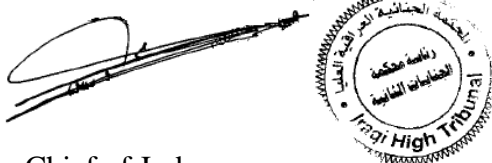
**Exceptions correlated to law awareness presumption:**

There are some cases where allegations of law's ignorance are valid as law recognized such reasons (in specific cases) lifting criminal charges:

**Coercion of Irresistible Force:** the last part of the designated Article in the research includes a main exception for "non-accepting allegation for law's ignorance" rule, let's read the whole article: (M 1/37) "no one is alleged to ignore this code articles or those of any other penal code as long as such ignorance is not due to coercion of irresistible force". This means, if it was impossible for the offender to acknowledge the issuance of a code, due to coercive circumstances, he is not to be prosecuted if he breaches the aforementioned code. Justifying irresponsibility in such cases is supported by the non-conception of contravening a law which is not acknowledged (by the offender). A practical example: a group of people besieged in a city or village due to floods, natural disasters, or something alike. In such circumstances, an irresistible force prevents them from recognizing the state penal law. Therefore, they are to be discharged upon violation as per the legislator's clear text.

**Second: Factual Ignorance**

Factual ignorance is the lack of acknowledging the factual main basics constituting a crime, the conditions forming its ambiance, and the victim's character. Therefore, if an individual committed an incident ignoring ...

The image shows a handwritten signature in black ink, slanted upwards from left to right. To the right of the signature is a circular official stamp. The stamp has a double border. The outer border contains the text "الهيئة القضائية العراقية العليا" (Iraqi High Tribunal) in Arabic at the top and "Iraqi High Tribunal" in English at the bottom. The inner circle contains the text "رئاسة محكمة" (President of the Court) in Arabic and "Chairmanship" in English.

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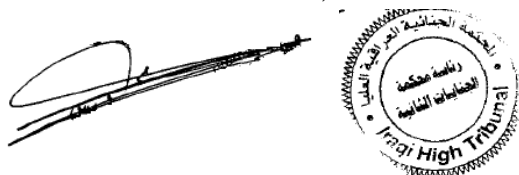
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... one of the following pillars, is he considered responsible, criminally, as per a presumption of his legal cognizance despite what he really knows. The originality, in the case of factual ignorance doesn't assume the person's awareness; hence, the intentional responsibility will be annulled in some cases, to be replaced by an unintentional one, if the basics were identified. In spite, the issue needs elaboration as we say that factual ignorance focuses on one of the following:

- 1- Unaware of one of a crime basics.
- 2- Unaware of one of its strict circumstances.
- 3- Ignoring the victim's character as each case bears its own verdicts.

**State of ignoring one of the main crime basics:**

The crime is constituted of general and special main basics. Therefore, if the person commits an incident, ignoring one of the crime main basics, he will be discharged from criminal intention. As an example: an individual fires a shot on a farm, hitting a person mistaking him for a wolf. The shooter will not be charged for premeditated murder. Another scenario: a pharmacist who spill poison in the patient's medicine taking it as the prescription. If the patient drinks it and ends up dead, the pharmacist will not be charged for premeditated murder for the dismiss of an intention to put an end to the victim's soul. The third scenario is about a traveler who took the wrong bag, while in the metro station, thinking that it is his, is not to be charged for theft as per the dismiss of criminal intention. The reason behind dropping down premeditated responsibility in such cases is elaborated as the awareness of a human being (rather than a wolf), poisoned medicine or looting another's property is a main basic in each crime (murder, poisoning and robbery). However, if the intention, as per assaulting a human soul, had been dismissed, it will be replaced by negligence, shortage, non-precautionary measures, and omission. Hence, an unintentional responsibility, based on unintentional mistake, will be considered ...

The image shows a handwritten signature in black ink, slanted upwards to the right. To the right of the signature is a circular official stamp. The stamp contains Arabic text: 'الهيئة القضائية العراقية' (Iraqi Judicial Body) at the top, 'رئاسة محكمة' (President of the Court) in the center, and 'الضحايا الثانية' (Second Victims) at the bottom. The words 'Iraqi High Tribunal' are written in English around the bottom edge of the stamp.

Chief of Judges

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... and the shooter, who murdered a human taking him for a wolf, will be prosecuted for accidental homicide. The same procedure must be applied vis-à-vis the pharmacist who spill poison instead of the cure.

**Crime's Strict Circumstance's Ignorance**

The offender may commit his crime and one of the strict circumstances stick in. Usually, this imposes a grosser penalty. Does this condition apply if the offender was unaware of them (strict circumstances)? The Iraqi legislator considered such issue in the following Article:

Legal text (M-36) "if the actor was unaware of strict circumstance's presence, which will affect the whole crime's description, he must not be legally questioned about it. However, he (the offender) benefits from the exemption even if he was unaware of it".

By analyzing the text, it becomes understandable that the offender will not be submitted to strict circumstance's responsibility, correlated to the crime and able to modify the whole crime's description, if he ignores its existence. As example: a servant stole fixed asset (watch) which belongs to his employer, thinking it belongs to someone else. The strict circumstance here is the fact that the robbery occurred from the servant against the employer's property is committed by the servant thought contrary that the stolen watch fixed asset. Hence, the servant thought, contrary to the truth, that the stolen item pertains to a foreigner. Due to the nature of such condition which will affect the whole crime's description, between light and heavy crime, the offender will be prosecuted as per light penal laws, as long as he ignores the strict circumstance. Another scenario is that of an offender who rapes the victim thinking the latter is bigger in age. A minor age in such offense is considered strict circumstance, changing the whole criminal description. Therefore, the offender can get rid of these heavy sentences if he proved to ignore the real age at the time of perpetration. As well, the relativity between the offender and victim in rape cases is a strict condition which can not hit the first unless he is fully aware. It is clear that the proof of unawareness is strictly limited to denying the intention, as per strict circumstances which can change the crime's description, submitting it to a heavier sentence...



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On the other side, personal circumstances which do not affect crime's description, limiting their influence on the sentence itself, are not essential if ignored. As example: the one who ignores his return or that who thinks he is under legal criminal age. In both cases, such ignorance can not be used because both are far from interfering in the constitution of a crime as per appropriated law.

- **Victim's identity confusion**

This occurs when the offender murder, conceived, a different person than the one intended to be killed, as example: if the actor intended to murder Zayd shooting him down to discover that this was the wrong individual. The confusion is in the victim's identity far from affecting the offender's criminal responsibility.

- **Pointing Confusion**

It occurs when the offender murders Khalid instead of his opponent Zayd due to poor aim. The sentence does not affect the actor's responsibility which remains considered, as the offender will be prosecuted for premeditated murder due to the fact that the crime, killing a living human being, occurred in all its elements while the confusion is caused by the offender's inaccuracy to point, changing nothing in the concept. That's on one side, on the other, the law imposes protection on all people whether Zayd was shot or Khalid, the offender must be subdued to punishment for putting an end to a human being, as the mediation of killing the other person is useless. The intention of murder is fair enough to draw all the crime's basics and prosecute him.



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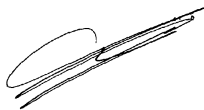
**Personal criminal responsibly in Iraqi High Tribunal Law No [10] for the year 2005**

**Article (15)**

First- Any person who commits a crime, enclosed within the court jurisdiction, is considered responsible of his act, as in personal attribution, and subject to prosecution as per this code.

Second- The person will be considered responsible as per this code and other penal codes, if he carried the following:

- (A) If he commits the crime as in personal attribution, by contribution, or via another individual, regardless whether the latter is responsible or not facing the law.
- (B) Order to commit a crime that occurred in fact, instigating, enticing or urging its perpetration.
- (C) Offer assistance, instigate or urge, in any other way, to facilitate the implementation of the crime, launching it, or even provide the criminal tools.
- (D) Participate in any other way, with a group of individuals, aiming at a contributory criminal, whether committing or instigating a crime, as long as this participation is premeditated and targeting to:
  - 1- Enhance the criminal activity or purpose, of a given group, if they enclosed committing a crime within the court jurisdiction.
  - 2- Acknowledge the intent to commit a crime, among a given group.
- (E) Public and direct urging to commit a crime as concerning genocide.



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(F) Attempt to commit a crime through instigating an act's implementation, aiming to execute the crime which did not occur for reasons the actor carrying has nothing to do with. However, this will be considered an excuse of exemption if the actor's activity prevented the crime from happening. He won't be prosecuted for instigation, as per this code, the actor if he completely abandons, willingly, his criminal intent.

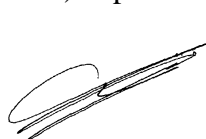
Third- The official character of an offender is not considered fair reason to exempt from punishment, neither to lighten it, whether the offender was a President, Head or Member in the Revolutionary Command Council, Prime Minister or Minister in the Cabinet, or a member in Ba'th Party Command, as it is not allowed to allege by immunity to get rid of criminal charges already mentioned in Articles [11, 12, 13 and 14] of this code.

Fourth- The Supreme Head is not to be pardoned from crimes committed by personnel operating under his command, if he was aware, has doubts that the commanded may have carried such things, or had been at the verge of perpetration and the higher commander did not take necessary measures to prevent such acts or to lift the case to appropriated authorities, as to conduct investigation and prosecution.

Fifth- In case any offender carried on an act as per governmental or higher command's (the offender's in charge) orders, he will not be exempted from excuse criminal responsibility. However, it may be possible to consider his case for lighter punishment if the court foresees in that an application of justice.

Sixth- Amnesties issued before the validation of this code will not include any of the convicts charged for committing crimes already stipulated.

To specify the criminal responsibility and its correspondence to aforementioned legal texts, in the submitted Article, as well as convicts' criminal perpetration (11, 12, and 13) stipulated in ...



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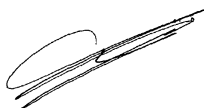
**"Verdict"**

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... Iraqi High Tribunal, it is a must to review the following subject until reaching the suitable legal adaptation of tangible facts for which the court's law had been legislated, guided through all that by Iraqi amended Penal Code No [111] for the year 1969 and International Tribunal Law, as not to interfere with this code.

The court foresees through analyzing submitted texts, especially Articles [1] and [2] with their Clauses [(A, B, C, D, E)] of the designated Article, which text stated "An individual, who commits a crime within the court's jurisdiction, is considered responsible and exposed to prosecution as per this code". The legislator goes to the equilibrium of all factors contributing to create the crime's result. In other words, the causative relation is provisionary between action and result, at the time of proving that the criminal behavior constitutes a cause of occurrence, even if its contributory role was minimal. In other terms, all factors, which contributed in creating the crime's result, are considered equal and covalent, as each factor is taken as a reason behind the crime's occurrence. Therefore, the actor, despite his role and legal - official description, is reckoned in-charge in perpetrating one of the crimes which falls under the court's jurisdiction, whether the offender was the Head or authorized (civil or military), a commander or commanded, whether he committed the crime by personal attribution, contribution or via another individual, even if the latter was not criminally responsible (for any reason), enticed, urged, assisted, instigated, or helped in whatsoever mean, to facilitate the execution of the crime, provided its tools, instigated or contributed with other individuals, aiming a joint criminal contribution conditioned by premeditation and effectively granting:

- 1-Enhancement of criminal activity or purpose, of a given group, if this activity or purpose enclosed committing a crime within the court's jurisdiction



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2- Acknowledging the intent of committing a crime, among a given group. Under all circumstances, the individual will not be prosecuted for a crime within the court's jurisdiction, far from being punished, unless the tangible basics were provided along with intent and awareness.

The criminal intent of a person is provided, when his will is guided to commit an action constituting a crime, aiming the offense's result which occurred, or any other crime, acknowledging that it will make results in the regular path of action (acknowledging that his act frames a legally prohibited action or a crime punished by law).

**Excuse Exempting from punishment as per Clause [Second/(F)] of Article [15]**


In addition to other reasons, exempting criminal responsibility, stipulated in Articles [60-65] of Penal Code, Clause [Second/(F)] of Article [15] stated "instigating a criminal perpetration through carrying out action aiming to commit it, (but the crime did not occur) for reasons the actor has nothing to do with, will be considered an excuse exempting from punishment if the actor performed an activity trying to prevent its occurrence or completion. Therefore, the offender will not be prosecuted because he completely, and willingly, abandoned his criminal project.

**What's the meaning of Instigation?**

Article [30] of Iraqi Penal Code defined the meaning of instigation as "commencing to carry out an action aiming to commit a felony or misdemeanor, and if it is stopped that for reasons the actor has nothing to do with"

From the above text it becomes understandable that the provision of certain conditions is a must to include the actor within the exemption from criminal responsibilities. These conditions are:

- 1- To commence carrying out the action is a must.
- 2- To stop the action for reasons out of the actor's reach.



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- 3- If the actor performed an activity without committing or completing it.
- 4- If the actor abandoned completely, and by his freewill, his criminal project.
- 5- Intent to commit a felony.

As the last condition does not impose difficulty because instigating is only performed in premeditated crimes. That is the reason why we will tackle other conditions briefly.

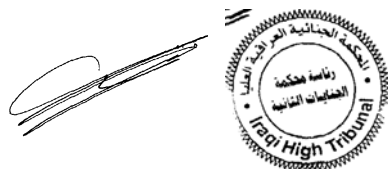
**First Condition- Commencing an Act**

It's undisputable that the implementation stage is a successor for preparation in which the actor would have clearly shown his vicious. Therefore, he will be prosecuted for a whole crime if the intended criminal result occurred, as well as instigating if the crime was stopped as per conditions enlisted legally.

There is no doubt that the difference between those two stages (Preparation and Execution) is so vital, because when preparatory acts do not lead to criminal charges, execution is, on the contrary, an equivalent to punishment. To focus on whether a certain act is considered preparatory or commencement, there are 2 theories:

**First: Objective theory also known by "Materialism School":**

It states that the offender will not be prosecuted for instigation, unless he started carrying out the concrete action shaping the crime as per law. So, if the crime is constituted of many actions, instigation will be accomplished by committing or commencing by one of these actions. If the crime is constituted of one action, instigation will be commencing the execution of the action. In other term, the offender should come from actions intercepted within the crime's tangible basic.



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To differentiate between instigation and preparation, the theory states that preparatory act is not considered as crime as no necessary ties between both exist. However, the implementing act is a crime's commencement and a complementary part of it, which can not be separated. Following such tangible caliber, the judge must wonder whether the act committed by the offender is considered as a tangible basic element. If the answer came affirmative, the offender is the crime's instigator, or else it will be taken as preparatory and no charges will be issued.

To elaborate the above practically, we mention the following incident: Zayd was caught trying to steal other people's money. The act, committed by the offender, is included in the definition of thievery's tangible basic (embezzling money). Therefore, Zayd is an instigator and must be legally questioned about the incident. But, if the money, aimed to be embezzled, is in a house, and Zayd broke the door, climbed the wall, or made a hole in the wall to infiltrate the house and reach the money, and was arrested before getting inside the house, is he considered an instigator? As an implementation of tangible advanced caliber, the answer is negative as breaking the door, climbing or perforating the wall is not included in identifying the embezzlement.

**Second: Personal theory (Self):**

This theory relays on personal criterion in estimating the reaction expressed by the offender, taking into consideration the dangerous peculiarity of the convict. This theory states, briefly, that it is difficult, to differentiate between preparatory and implementing acts, to ignore the offender's personal character of the committer. Carrying out the act is considered, according to this theory, legible when the offender perpetrates an act – thinking mentally – that it leads directly and immediately to the intended criminal aim. If such act was stopped, the offender will be considered as instigator. If the act revealed another truth

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... it will be that the offender's volition is not applicable all along the criminal path, then it should be considered as a preparatory act.

**Difference between the two theories:**

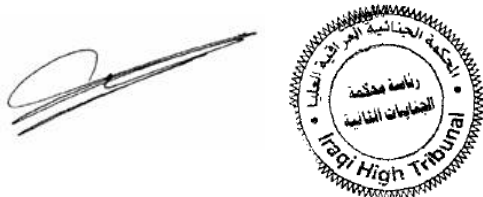
The personal theory foresees in the act committed by the offender an evidence of criminal intention, as the subjective theory tackles the nature of the act itself as evidence framing its specs. Hence, differentiation between preparatory act and instigation, as per personal criterion, is correlated to differentiating between acts which do and do not lead directly to crime.

**Iraqi legislator stance:**

Analyzing the Iraqi text, appropriated for legislative definitions, indicates that the personal theory was the pillar in codifying it. The issue, which is considered as a penalized legislation, is the act perpetrated by the offender to commit a crime. Based on this, any revealed act with an intention to carry a crime is framed as instigation rather than preparatory act. So, it is not conditioned on the offender to commence an act intercepted in shaping a crime, but rather it is enough to perpetrate an act of criminal orientation to prosecute him.

**Second Condition: Suspended Execution:**

The second condition, which must be provided to have a penalized instigation, is the obligation of a suspended execution, for reasons beyond offender's reach. So, if the stop of carrying on with the crime is due to actor's free choice (no prosecution). In other words, commencing execution is carried by offender though the intended criminal result will reach the criminal result sought after. If the previous is totally due to his freewill there will be no punishment. However, if the situation occurred due to other independent circumstances, instigation is applied and penalty decided.

The image shows a handwritten signature in black ink on the left. To its right is a circular official stamp. The stamp has a double border. The outer border contains the text 'القضاء الجنائي العراقي' at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة محكمة' at the top and 'الضمانات القضائية' at the bottom.

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**Third Condition: If the offender made an effort preventing the occurrence or completion of a crime:**

In this section, voluntary deviation from complete instigation is tackled, described by an actor who perpetrates positive executive activity ruining the whole criminal intent, preventing the occurrence of its result. Hence, if he was able to stop his former acts and hold up the damage, then the disappointment of the attempt is due to the convict will, and in return he is not to be prosecuted. Iraqi legislator followed such opinion. As example: in homicides, the individual who throws his opponent in the sea aiming to finish him, then rescue him preventing his death, and to justify the saying of non prosecution is to be considered as of an instigation annulled by the offender's freewill and choice. For this to be adopted, the offender's actions which lined the commencement of the crime must be preventive, even after they occur, before formulating the intended criminal result. If it was not like that, which means not naturally preventive, but fair enough to carry the intended criminal result, but its effect vanished for reasons beyond the offender's reach, instigation is considered complete and punishable as it is useless for the offender to pretend not to do it again, as example: an individual shoots at his opponent one bullet but missed him (however, instigation had already occurred when shooting the bullet) or thief who desired to return back the stolen items. In the latter case, the crime already occurred and it is useless to try and fix the situation, even if the offender willingly decided to abandon his criminal intentions. The renunciation issue, as per law, means if the actor stopped, from his own-self, influenced by his will, from carrying on the execution. For the offender, to get rid of criminal responsibility, his renunciation must be a willing truth (by choice) occurred by itself. Maybe, the wisdom of non-punishment in such case relies, with no doubts, on the necessity to permit the offender to revise his own conscience, getting back from what he got involved in. Everybody has interest in preventing a crime instead of being charged after committing a crime as the reasons behind stopping the execution of a crime preventing its occurrence to three reasons; tangible – accidental reasons (external) which presses on the offender's will, preventing him from carrying on with his crime. It's influence

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... prevents the accomplishment of a crime due to tangible barriers as an external force halting the offender from completing his job, or optional reasons (Internal) which render instigation unpunished. In other words, the deviation from reaching the target as long as the crime was not executed yet, as exemption from criminal responsibility, in this case, will be limited to instigation (in the crime which had been intended to be executed). The third category of influences is constituted of moral (psychological) and accidental reasons achieved via a factor influencing the actor's will, imposing another process as a new-breed factor emerges, encircling the actor though not rooted to his character. Due to these fluctuated factors, each case must be dealt aside, if the convict's will is able to refrain or if external factors are more effective. In the first case, instigation advances headlining the convict's will to refrain. In the second, instigation is reached and punishable. In other words, a comparison, in each incident, between the will's role and that of coincidence or coercive force, must be applied as well as a search in which of the two roles is stronger. In case of doubt, refrain must be considered voluntary as per the doubt principle illustrated for the offender.

**Responsibility of the Supreme Leader:**

From analyzing the text of Clause [Fourth] of Article [15] dedicated to approve the criminal responsibility of a higher leader – Civilian or Military – the following conditions must be provided according to International Criterion and International Tribunal Verdicts:

First: The Existence of Leader-Subordinate connection

- 1- The existence of a hierarchical official relationship in which the Leader is higher than his Subordinate. Special International Tribunal Court for Former Yugoslavia (ICTY) regarding Symanza case, dated 2003 May 15, Article [401] where the Appeal Commission headlined this hierarchical relationship as well as emphasizing on the organizational chart within a civil or military establishment.



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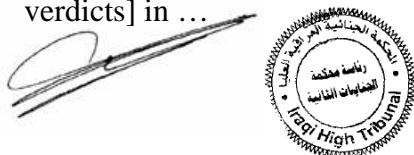
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- 2- The Leader should be in a commanding post within a Leader-Subordinate relationship.
- 3- The Leader should possess actual power over controlling his subordinates' actions as included in International Tribunal Court for former Yugoslavia (ICTY) verdict regarding Oritch case, dated 2006 June 30, Article [307].
- 4- The Leader should possess power to issue orders insuring his subordinates obedience to the aforementioned orders as included in International Tribunal Court for former Yugoslavia (ICTY) verdict regarding Blaskich case, dated 2004 July 29, Article [69].
- 5- The leader should possess tangible power (Effective) to prevent and punish any crimes committed or about to be committed.

Second:

The leader should be aware of or had any reason to believe that his subordinates had committed or about to commit acts which can be categorized within court's jurisdiction.

It will not be questioned whether the convict (Leader) acknowledges if he had enough reasons to consider that his subordinate had committed or about to commit a crime as no suitable or personal actions had been carried to prevent or punish the offenders. If the convict (Leader) issued such orders himself, it is vital to ask whether the convict tried to prevent or to punish incase he did not issue such orders, even if it was better for the court, under all circumstances, to take into considerations elements of awareness and failure in preventing or punishing. The guide which assures that a leader already knows or have reasons to know that his subordinates, either committed previously or will do, in the future, a crime (crimes), is the element of command's criminal intention since only assumption of knowledge form the center is not enough [(ICTY) verdicts] in ...

The image shows a handwritten signature in dark ink, slanted upwards to the right. To the right of the signature is a circular official seal. The seal has a double border. The outer border contains the text 'القضاءات العراقية' (Iraqi Judiciary) at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة محكمة' (President of the Court) at the top and 'القضاءات الثانية' (Second Criminal Court) at the bottom.

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**In the Name of God, Most Merciful, Most Compassionate**

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the case of Oritsh on 2006 June 30 Paragraph (319), and incase of non-existence for a direct proof which confirms the Knowledge in the form of a document or a witness, for example it is possible to prove the (Actual) knowledge basing on any circumstantial lead. The Law of the International Tribunal Court for former Yugoslavia (ICTY) had considered the following lead that would guide to the existence of an actual knowledge. the type and scale of the crimes committed, periods of the committed crimes, participation of the Armed Forces, the number of the joint forces, the range of the Armed Forceps's participation, geographical locations of the acts, if members of the Civil Organization committed crimes. The nature of such crimes, if those crimes were on large scale, if those crimes were publicly known, the relation between the crime location and the Leader's presence location, if the location is within the Leader's authority, and if the individual who had committed a murder is under the Leader's authority. For more information, look into the trial Judgments of the International Tribunal Court for former Yugoslavia (ICTY) Blaskish on 2004 July 29 Paragraph (57) of the Criminal Court (193) and due to prevailing conditions at that time. The Leader is assumed to be knowledgeable of acts committed or about to be committed by his Subordinates as provided in Paragraph (1/A) from the Penal Code (28) of the International Tribunal Court. Finally, the knowledge of committing a previous crime of an identical nature in an identical location; might be enough for the Leader to know and to conduct further investigations; (As proposed in the legislation of the International Criminal Courts. The Courts of Appeal Commission, International Tribunal Court for former Yugoslavia (ICTY) in the case against Dilalish on 2001 February 20 Paragraphs (386, 197, 196, and 195). The International Tribunal Court for Rwanda (ICTY) in the case against Baghlishmia on 2001 June 07 Paragraphs (46, 43, 42) and the trial of the International Tribunal Court for Rwanda in the case against Musima on 2000 January 27 Paragraphs (141, 148)

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The Chairman



Iraqi High Tribunal  
2<sup>nd</sup> Criminal Court  
Baghdad – Iraq

Reference: 1/2<sup>nd</sup> Criminal/ 2006  
Date: 9<sup>th</sup> of Jumadah Al-Akhirah 1428  
Coincided with 2007 June 24

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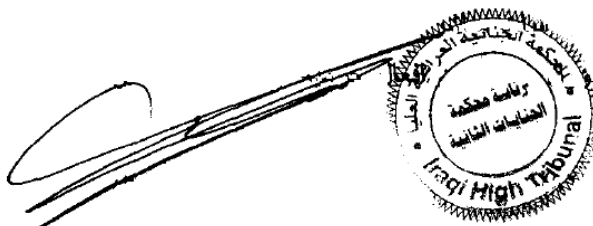
**Third:** The leader didn't take necessary and suitable procedures to prevent these actions from being carried out (crimes) or presenting the case in front to the specified authorities for investigation and prosecution; this is the third element in the responsibility of the commander (supreme leader) and correlates with proving the existence of the leader- subordinate relationship, and the actual power within the authority of this leader to prevent his subordinates from committing future and panelizing them for their past crimes, whenever he had a full perfect knowledge as a (necessary condition) of the case when the leader is supposed to take necessary and reasonable procedures as just a duty. To proceed in accordance with that, the International Tribunal Court for Rwanda (ICTY) decided that the decisions which the leader must take are connected essentially with the matter of the leader's position in power in Baghilishimya case on 2001 June 07, paragraph (48).

In a most recent decision made by the International Tribunal Court for former Yugoslavia (ICTY) regarding the matter of the procedures that must be taken, three standards are considered:

- 1 – The actual control degree of the president on his subordinates.
- 2 – Degree of the crime's danger.
- 3 – Current circumstances (the leader is not required to do the impossible).

The International Tribunal Court for former Yugoslavia (ICTY) in Ortish case on 2006 June 30 in the paragraph (329) concerning the concept of breaching these standards and in case when the leader doesn't have the authority to prevent his subordinates from committing crimes in the future or panelizing them for crimes they committed in the past and didn't have definite information to be fully aware of those crimes and their seriousness, with no circumstantial evidence confirming that, then he will not be held responsible for committed a crime.....

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Iraqi High Tribunal  
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or about to be committed by his subordinates. But what will be the verdict if all those conditions are shown up in the leader who did not take the necessary measures to foil these crimes or present the case to the specialized authorities to make an investigation and prosecution intentionally or mistakenly?

The premeditated ignorance doesn't make a problem for us because we are in front of the free will that is represented by the criminal intention which means the devotion of the offender's will into achieving the criminal event that is included in the law.

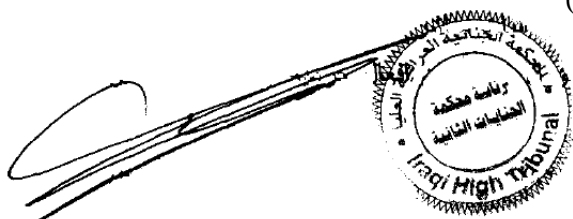
Consequently, the discussion of the international tribunals settled on (the leader is not allowed to premeditatedly ignore the crimes committed by his subordinates; therefore the leader is fully and criminally responsible of the committed crimes by his subordinates. But, what will be the verdict if the leader did not take the necessary measures to foil these crimes or present the case to the specialized authorities to make an investigation and prosecution for being negligent?

The article numbered (35) of the Iraqi Penal Code mentioned all the mistakes that could be imagined and enumerated some cases that could lead to the unpremeditated criminal responsibility stating (the crime could be unpremeditated if it led to the criminal result because of the criminal fault either this mistake is a negligence, carelessness, lack of caution or not complying with the rules, systems and orders).

The basic of the criminal responsibility in such unpremeditated mistaken crimes is due to the offender's mistake that will cause a particular harm. The punishment for the mistake (in both concepts) is an obligatory and necessary matter as it is a defect in the will and choice. As long as the tangible action was performed by the offender's free will and choice, therefore his mistake was a result for not taking precautions to halt the harm that was resulted from that action.

Consequently, the basic of the criminal responsibility in both premeditated and unpremeditated crimes is the normal human will. So, the criminal responsibility.....

(137 - 963)

The image shows a handwritten signature in black ink, which appears to be a stylized 'S' or 'J'. To the right of the signature is a circular official seal. The seal has a serrated outer edge. Inside the circle, there is Arabic text: 'المحكمة الجنائية العراقية العلية' (The Iraqi High Tribunal) at the top and 'رئاسة المحكمة الجنائية العراقية العلية' (The Presidency of the Iraqi High Tribunal) at the bottom. In the center of the seal, there is a smaller circle with the text 'رئاسة المحكمة الجنائية العراقية العلية' (The Presidency of the Iraqi High Tribunal) and 'Iraqi High Tribunal' in English below it.

The Presiding Judge

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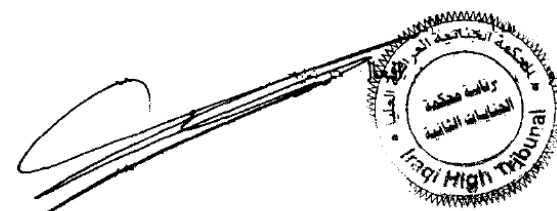
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in the modern law must be as result of a freewill action which is a committed action by a human having a free and conscious will. Based on that, the bad will is existed either from the desire in doing the evil or from premeditatedly doing an action where the offender mistook in estimating the bad consequences that are resulted from this action whose perpetrator couldn't be punished unless he is mistaken. In other words, that criminal action has no meaning but a freewill act whereas the human is always mistaken if he desired doing both the forbidden action and its harmful consequence. The example is all premeditated crimes and their premeditated mistake base, it is also considered mistaken who desired doing the criminal action without the bad result as he didn't pay attention for its occurrence, and the example of the unpremeditated crimes is the unpremeditated mistake base.

### **The Responsibility for the Unpremeditated Mistakes**

Criminal responsibility in unpremeditated crimes is based on the theory of the defect in caution and attention duty whereas the law comprehensively imposes an obligation for all the individuals to take cautions and pay attention in their behavior. So, the mistake is defined as a breach of the legal commitment considering that the social society which is organizing the human is obligating every individual not to assault others. The individual who doesn't pay attention in his behavior is considered mistaken. The law commonly determines the manners basics along with pointing at the necessary of taking the appropriate precautions that help in halt carrying out the dangerous acts. Hence the negligence in following this duty will lead to create the element of the crime. In addition to the law as a main source for the behavior bases, there's another source which is the general and technical experiences that the humanity gained during its development and advancement. The people in their daily behaviors practice their vocational and handicraft works in different fields. It's no doubt that they are all committed to comply with profession or handicraft familiar basics whereas the breach or carelessness in the compliance will be a mistake leading to a punishment as long as this mistake is a cause for occurring a harmful result.

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The image shows a handwritten signature in black ink, slanted upwards from left to right. To the right of the signature is a circular official stamp. The stamp has a double border. The outer border contains the text 'القضاء الاتحادي العراقي' (Federal Judiciary of Iraq) at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة محكمة' (President of the Court) and 'الضمانات القضائية' (Judicial Guarantees).

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- **Could the criminal be investigated for the expected mistake?**

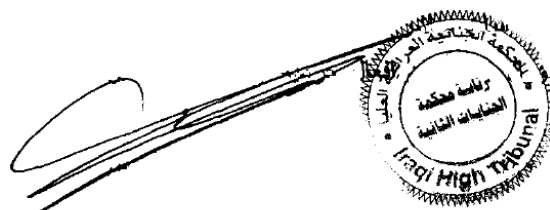
In this case, the accused expects the criminal result that is a consequence of his freewill behavior, the thing that leads his carelessness in paying attention and caution to prevent it from occurring, however he could expect its occurrence and he was supposed to do and take it in to consideration. Consequently, he is mistaken because of not expecting the resulted consequence and his negligence of precaution measures to prevent its occurrence. When the person ignores expecting the consequences of his activity and mistakes, despite he was capable of doing so and was also obliged to estimate the consequences of his work, he then makes a punishable mistake. Consequently the result was expected and it was possible to halt it. Therefore the accused that is ignoring is essentially mistaken and the result is expected within the normal procedures.

### Standard of the Mistake

The person is mistaken if he didn't take the appropriate precautions and attention in his manners but what is the criterion that regulates the extent of the required precautions and attention to be taken to get rid of the criminal responsibility.

This criterion or standard is based on objective foundation and this is a conception for a cautious and reasonable person in his behavior if he is found in the same circumstance where the accused was existed at the action occurrence, he would behave just like the accused did or could behave differently. If the answer is yes or in other words, the behavior of the cautious and reasonable person is the same behavior of the accused. At then, it is supposed to say that the latter's mistake does not count. But if the answer is no or in other words, the behavior of the cautious and reasonable person is different from the accused behavior whereas he is characterized by paying attention and caution, then the mistake of the accused must be estimated on the basis of that objective standard is not always unlimited and the circumstances of the accused have to be taken in to consideration.....

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concerning the environment, culture and vocational, besides of the illiterate not to be equalized with the literate or between the villager and the city inhabitant, the personal circumstance of the accused should be take in to consideration like a disease or weakness.

### **The Responsibility of the Commanders and other Leaders**

From analyzing the stipulate of clause (fifth) of the article (15), it's clear that the action which was carried out by the offender that caused the criminal result of any of the crimes within the jurisdictions of this tribunal will not be pardoned even if he was doing so complying with an order issued from the government or his designated leader either he is a military or civilian. However, in the end of the mentioned clause it allowed the tribunal when penalizing to take it in to consideration (reducing the sentence) if it sees that the presented circumstances and events and for achieving justice that the action of the accused in such case could lead to reduced excuse. Considering that the offender's action was based implementing an order issued to him and he had to obey the orders and regulations. But for the accused to benefit from such reduced punishment, the following conditions must be met, we can find it in the stipulates of article (33) of the International Tribunal Court's law, whereas the clause (Second) of the article (17) of the Tribunal's law allowed by stating (The tribunal and the appeal commission can benefit from the stipulates of the International Tribunal Courts verdicts when explaining the stipulates of article number 11, 12 and 13 of this law).

The article numbered 33 of the International Tribunal Law - in the chapter – Orders of the Presidents and Law Requirements. Stipulates in this regard:

1 – In case of any person committed a crime of those which fall under the responsibility of the Tribunal, he will not be exempted from criminal responsibility if his crime was carried out applying to an order from a government or a leader (civilian or military) except for the following cases:

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- (A) If the accused person has a legal commitment to comply with the government orders or the concerned leader.
- (B) If the accused person was not aware that the crime is illegal.
- (C) If the illegality of the crime was not clear.

2- Based on this article's requirements, the illegality is clear in case of issuing orders for committing genocides or crimes against humanity.

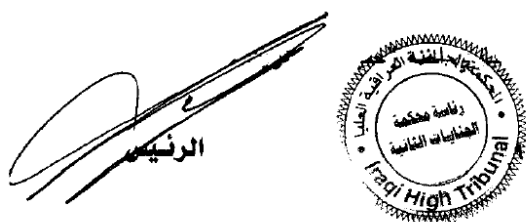
The first condition of the aforementioned conditions may lead to the following question: Do we consider the accused person, who committed a crime within the Tribunal's jurisdiction, to implement an order issued by the government or his designated leader to carry on a duty imposed by the law that leads to a legal commitment which must be obeyed, and at result being included with the stipulates of article(39) of the Penal Code that states, "No crime if it occurred while carrying on a duty imposed by law"? Also, do we accept this pleading from the accused person to get rid of the criminal responsibility?

The tribunal doesn't find a legal access to accept this pleading for the following reasons:

1 – The stipulate of clause – Third – of the article – 17 – of the Tribunal's law even if it allows the validity of the Penal Code's stipulates when applying the ones related to exemption from the criminal responsibility, but it stipulated in the meantime not to contradict with this law and International legal commitments that related to the crimes under the tribunal's jurisdiction.

2 – This tribunal's law is special law and will not be replaced with the General Law (Penal Code) during its application unless there's no stipulate in the special law and this is what the clause (First) states of the same aforementioned article.

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The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official seal. The seal has a double border. The outer border contains the text 'القضاء العرفي' at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة محكمة' at the top and 'الضحايا والتعويضات' at the bottom.

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3 – In addition to the aforementioned, the phrase "It will not be exempted from the criminal responsibility" which is mentioned in the clause (Fifth) of the aforesaid article (15) is clear and decisive without confusion and leaving no room for interpretation in the article. Moreover, the acceptance of a light excuse for the accused – when applying the punishment – according to what's mentioned in the aforesaid article that states, "...if the tribunal sees that it will lead to justice".

### **The Punishment**

#### **1 – Goals of the Punishment (Briefly)**

The achievement of justice requires the necessity of applying a punishment on the crime perpetrator as long as he is qualified to be responsible of his crime especially when he has awareness and freedom of choice. Additionally, the current definition of the international crime is not only representing an assault on the victim but also on the human community with its whole economic and social systems as well. The system of the national penal legislations currently depends on the saying that the punishment is not only imposed for the benefit of the victim and a satisfaction for him but it's also imposed for the benefit of the human community in the first place and considering the victim's benefit. The target of the punishment in addition to the aforementioned is not only causing pains for the criminal or revenge, but the goal is mainly to virtue him. So, it's said in the legislative, legal and doctrine fields that the punishment equals deterrence in addition to virtuous. The deterrence legally means preventing the criminal from committing the crime again by correcting and reeducating him to respect the society laws and joint life. Moreover, it is deterring the members of the society civilian through taking the punished criminal an example to avoid doing such crimes.



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#### **2 – Characteristics of the Punishment**

The penal punishment is characterized by several points; we mention some them as following:

##### **(A) The legality of the Punishment (Principle of no punishment without a stipulate).**

It means the difficulty to apply any criminal punishment in all cases for any action whatever it's dangerous or severe unless the law does mention it in an article as it's included in the punishment law.

##### **(B) Equality in the Punishment**

The purpose of this point is to achieve the generality and comprehension of the criminal punishment through the obligation of its appliance. So, this punishment is issued against the crime perpetrator whomsoever his position, category, social post or financial status and etc.

##### **(C) Character of Punishment**

The concept of this principle is that the punishment must be carried against except the perpetrator of the crime himself, not any one else of his family members. It's worth to mention in this regard that this principle has already bases in the Islamic Shari'ah especially what's mentioned in the holy Quran verses in Al-An'am Sura saying, "No one is responsible for other's crime", also in another sura of Al-Muddathir saying, "Every person is responsible of what he does".

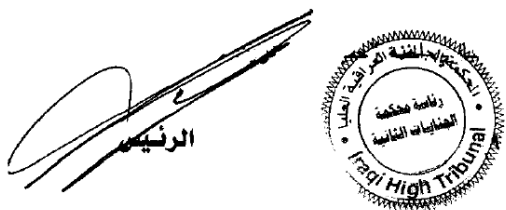
##### **(D) The Judiciary of Punishment**

It means that the order of imposing the criminal punishments on the crime perpetrators must be through the judiciary only. This characteristic is named by the principle of (No Punishment without a Verdict), the issue which all the current legislations take from.

#### **Basic (65) Punishments**

The aforementioned principle of the procedure principles and attached proofs collection, stated on the following:

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The image shows a handwritten signature in black ink, which appears to be 'الرئيس' (The President/Judge). To the right of the signature is a circular official seal. The seal has a decorative border and contains text in Arabic: 'الهيئة القضائية العراقية' (Iraqi Judicial Body) at the top, 'رئاسة المحكمة' (President of the Court) in the center, and 'القضايا الجنائية' (Criminal Cases) at the bottom. Below the Arabic text, the words 'Iraqi High Tribunal' are written in English.

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First: upon issuing the sentence the tribunal takes in to consideration the mentioned factors in Article (24) of the law, also the following factors:

- A- Strict circumstances.
- B-** Light circumstances include the cooperation of the convict with the attorney general or the investigation judge before and after conviction.
- C-** Applying the rules of clause (3) of the Article (30) of the law.

Second: The Criminal Court has to decide whether the numbers of the imprisonment sentences will be implemented by sequence or in interference.

Third: counting the convict's detention period from his arresting date until extraditing him to the Iraqi High Tribunal or to the trial or as result of the cassation. The detention period by other sovereign state government will not be included unless that state is working officially according to recommendation of the Cabinet or to the successor government, with taking into consideration the return of the sovereignty in 2004 Jun 01.

We previously mentioned the special reasons of the strict circumstances and the lightning circumstances for the criminal responsibilities as stipulated in the Iraqi Penal Code and that the tribunal must take into consideration those factors when penalizing. Therefore the tribunal sees that it is necessary in addition to what was mentioned to act upon what is decided of the lightening or intensifying factors from the criminal responsibility stipulated in International Tribunal Courts. The (1<sup>st</sup>) clause of Article (78) of the basic system for International Tribunal Court indicated the following regarding the punishment determination:

- 1- In determining the punishment the tribunal is considering factors such as seriousness of the crime and the convict's special circumstances and that's according to the procedural and evidentiary rules.



The President

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Complying by the mentioned stipulate, and what was stated in the rule No (145) of the procedural rule for the mentioned tribunal regarding the circumstances which lightening or intensifying the criminal responsibility whether it was related to the convict or to the crime its self such as its magnitude or seriousness, the extent of the damage particularly causing to the victim and his family, the nature of the illegal committed behavior, the means used for committing the crime, the extent of the convict's intent and participation, the circumstances related to the method, time, place and the convict's age and his social and economic status.


In additional to the above mentioned factors, the clause (2) of the mentioned Rule stipulated to takes the followings into consideration and according to the necessity:

**A- The lightening circumstances:**

- 1- The circumstances which doesn't form an enough base to remove the criminal responsibility such as (inability) or (coercion).
- 2- The convict's behavior after committing the crime including his effort to compensate the victim or to cooperate with the tribunal.

**B- The intensifying circumstances:**

- 1- Any past criminal convection in crimes of the court's jurisdiction or identical to it.
- 2- Abusing the authority or the official position.
- 3- Committing the crime with extra violence or many were victimized.
- 4- Committing the crime if the victim was bared from any self defense mean.



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5- Committing the crime with a motive implying discrimination according to any of the mentioned bases in (3<sup>rd</sup>) clause of Article (21).

6- Any non-mentioned circumstances but considered identical to the abovementioned according to its nature.

To be mentioned that clause (3) of Article (21) of the International Tribunal Court basic rule indicated that (Application and interpretation of the law for this Article must go consistent with the international approved human rights and have to be free from any harmful discrimination based on reasons such as gender as known in clause (3) of Article (7) or age, race, color, language, religion, belief, political or non-political opinion, national origin, ethnic, social, wealth, birth and any other situation.

### "Summary of the Plaintiff's Statements"

#### 1. The Plaintiff ' [NAME REDACTED]

**Date of birth: 1953**

**Profession: Laborer**

**Address: Irbil, Shaqlawa County, Balisan.**

#### **He stated the following after taking the legal oath:**

In the after noon and around 0615 hours dated 1987 April 16, the villagers came back to their houses and the livestock cattle also. A group of aircrafts were above (Balisan) at a sudden and they were (8-12) aircrafts which started bombarding Balisan and (Shaykh Wasanan) villages. The sound of explosives was low and the smoking spread in Balisan Valley. We smelt strange aromas, such as garlic and rotten apples, and after few minutes the side effects started to appear on the villagers where their eyes started to turn red and they started vomiting. After the sunset, helicopters came and attacked mountains tops which I don't know if the attack was by chemical weapon or not? We escaped to the mountains because we were afraid of another attack. When we arrived to the mountains at...

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...night, my family and I lost our sight and our bodies were burnt God with us. We asked the help of (Darsha) villagers and they helped us and carried us by the agricultural tractors. We were not capable of seeing but hearing the voices of bombing. They took us to (Bitwata) village where we received medical treatment and to (Ranya) then to (Al-Sulaymaniyyah). They took us to the hospital in Al-Sulaymaniyyah and took our official documents then they transferred us to one of our relatives' house but because of our bad health condition they took us back again to the hospital. After few days we knew that we are infected from the chemical weapons and they kept us in the hospital by authorities whom I don't know about. My health improved later on and I started to see. One of the Medical Aids took us out of the hospital and I complain against the roller of Iraq issuing the orders.

### 2. The Plaintiff [NAME REDACTED]

**Date of Birth: 1961**

**Profession: Housewife**

**Address: Irbil, Shaqlawa, Balisan.**

### She stated the following after taking the legal oath:

On 1987 April 16, a group of (8-12) aircrafts started bombing our village. The sound of explosives was low and the smoke was black with aromas. When the helicopter came and attacked the village and the regions surrounding it from the mountains to prevent people from reaching the mountains, the villages lost their sight and they started vomiting. At 2300 hours, it started to rain and if the sky didn't rain many villagers would probably be dead. The villagers were screaming until the morning, we escaped to the mountains where we stayed there until the morning in one of the caves. My children were screaming because of starvation and I was wounded. We were transferred by the tractors to (Ranya) region and the view was as it's the resurrection day in Ranya. The people of (Ranya) gave us medical treatments and when the authorities knew about the help we are getting from the people, then, they took us to Irbil region. I went to the hospital for medical treatment and I stayed there for 10 minutes then they took us to (Rashkin) camp where we were detained there and stayed there...

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...for 9 days without medical treatment. I would like to mention the names of my family members who were lost and (anfalized) in these operations to the Court where the fate of our lost members is still unknown and some of them are my brother [NAME REDACTED], my son [NAME REDACTED] who's age was 3 and half years old and my niece [NAME REDACTED] where all of them were anfalized with unknown fate. Men and women were separated in the 9<sup>th</sup> day and men were carried by the vehicles and took them to an unknown side. While they kept the women there until noon then they carried us by IVA vehicles and took us to (Khalifan) camp where we were released. We came back to our village and we found it ruined and the animals were dead. I would like to mention the names of individuals passed away during the attack on Balisan village and they are (my uncle [NAME REDACTED], my uncle [NAME REDACTED]). I built a hut in our village and we lived there. Later on, (Al-Anfal Operation) started again and they attacked the village and men started to escape to the mountains. I request a complain against Saddam Hussein, 'Ali Hasan Al-Majid and his Lieutenants.

### 3. The Plaintiff [NAME REDACTED]

**Date of Birth: 1950**

**Profession: Housewife**

**Address: Irbil, Shaqlawa, Balisan.**

#### **She stated the following after taking the legal oath:**

On Thursday around 1600 hours I was at home planting, but I do not remember the date because I am an illiterate woman, our village was attacked by aircrafts. We escaped to the shelters until the attack was over and as a result we started vomiting and our eyes filled with tears. We stayed there until the night then they told us the government will attack again so we went to the caves and the cave we hid in named by [NAME REDACTED]. We lost our sight and we stayed there for the next day until the villagers of (Bitwata) came and helped us. They took us to the village by agricultural tractors and gave us medical aids. In the next day we were sent to Irbil and to the Security Directorate but I don't know who sent us there.

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They detained us for 8 days there where they separated men and women. They took us after that to (Khalifan) region where they released us there, but regarding the fate of men is still unknown (anfalized) and here are the names of my relatives (my brothers [NAME REDACTED], my father, my uncle [NAME REDACTED], my husband [NAME REDACTED], my son [NAME REDACTED] and my cousin [NAME REDACTED]). I lost 3 cousins in the prison [NAME REDACTED] as well as my mother ([NAME REDACTED]), my uncle's wife ([NAME REDACTED]) and their fate is still unknown. I request for complain against Saddam Hussein and everyone participated in the crime committed against them.

#### 4. The Plaintiff [NAME REDACTED]

**Date of Birth: 1961**

**Profession: Housewife**

**Address: Irbil, Shaqlawa, Balisan village.**

#### **She stated the following after taking the legal oath:**

The villagers of our village were busy planting, dated 1987 April 16, and I used to live with my family that consists of 5 children in addition to my husband and his uncle ([NAME REDACTED]). While we were sitting at home in the after noon and I was busy preparing dinner, my husband came and I heard the sound of the aircrafts so I went with my husband and children to the shelter. I didn't see the aircrafts but I heard the attack and after that I smelt an aroma like the rotten apples. At the sunset, our health started to worsen where I started to vomit as well as my children then we knew that the weapon we were attacked by is a chemical weapon and my body started to burn. We were informed that the army started reinforcing to attack our village and the villagers started to leave the village taking food and medicine with them. During that time, helicopters came and attacked the mountains instead the village to hit the villagers heading towards the mountains. I went to the caves with my children and we were vomiting, my 5 children lost their sight, my leg was burnt, my body was burnt totally and my feet. We stayed one night in the cave and we lost our sight. In the cave next to us is the family of the husband of my father's aunt who is called...

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... ([NAME REDACTED]) where he could see a little so he went to (Dirashit) village and told the villagers about what happened. They came by the agricultural tractors to rescue us and took us while we were not able of seeing but hearing. I was screaming by saying "do not take my children from me". They took us to (Saru Chawa Bitwata) village where they gave us medical treatment then they took us to (Ranya) hospital. I lost my husband and his uncle there. They put me and my children in a room in which I don't know who did that. We saw in the hospital the villagers of (Shaykh Wasanan) village that were attacked by the chemical weapons. The doctors and (Ranya) inhabitants gave us medications there. When the government knew about us, they transferred us to (Irbil) where they took us to the hospital and we stayed there for 15 minutes then they took us to the jail. We stayed there with no medications or any medical aid where my health and my children's were really bad. After 9 days they gathered us and photographed us in the jail by a group of soldiers. They separated men, women and children and I have a paper that includes (29) individuals who were taken by vehicles. They took us to (Khalifan) region and 2 women died during the road one of them is called ([NAME REDACTED]) while I don't know the name of the other one. I request to complain against Saddam Hussein and 'Ali Hasan Al-Majid and everyone participated with them and this is my statement.

### 5. The Plaintiff [NAME REDACTED]

**Date of birth: 1956**

**Profession: Employee in a company**

**Address: Bag Dawwud village, Kani Masi Sub District.**

### He stated the following after taking the legal oath:

In 1987, I was in (Ziwa Shikata) which is located in the Upper Zab. I was a member of the Pishmarga Forces and my duty was in this region. We heard the sound of some aircrafts in the morning dated 1987 May 01 as we heard the sound of an attack. One of our Detachments pursued the place of the event then I came back to my position. During the time of going and coming back, there was a weird smell in the air like the smell of cinnamon and straight away our eyes filled with tears and it's the first time I see this event. We knew that we were attacked by a chemical weapon.

The President



(150-963)



In the Name of God the Merciful the Compassionate

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Date: 2007 June

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In the second time dated 1988 August 24, Iraqi Forces helped of the National Defense Regiments headed for (Dahuk, Sarsanq and Al-'Imadiyyah) regions and bounded them as well as the mountains surrounding them. Another part of these Forces chose the opposite direction of the first ones where they went to (Dahuk and Sumil) as well as (Batufah, Zakhu, Yadar, 'Ajam, and Kani Masi). Thousands of families were besieged in this region where some of them got close to the Turkish Borders. The other families couldn't escape and large number of them was arrested by the Iraqi Forces where none of the Pishmarga Forces were among them because they were civilians. I was at my brother's house ([NAME REDACTED]), on 1988 August 25, in (Ikmala) village which is related to (Kani Masi) Sub District. I walked with the children of my brother 10 steps away from his house and we heard the sound of aircrafts and I saw two Sukhoi jet fighters which attacked a group of villages (Ikmala and Hamisa) as well as the christian village (Mirkaji). I saw the aircrafts going back after attacking the region and I headed with my brother's children to one of the shelters but before my arrival there was a smell like rotten apples and cinnamon. I asked the children to run away, put a piece of cloth on their nose and we ran until we reached down the hill. I kept the children of my brother with another family on top the hill and we went back to the village with my brother ([NAME REDACTED]) and one of our relatives ([NAME REDACTED]) to know the fate of my other brother [NAME REDACTED], his wife and his elder son ([NAME REDACTED]) but we couldn't reach the village. We were on a height and looked on the village but we didn't see anyone because most of the villagers went to the same place we headed to as we asked them if they saw my brother and his family but their answer was that they don't know anything about them. I saw a number of injured people and they were screaming, vomiting and their eyes were red where there was no medication. The people who were badly injured are ([NAME REDACTED]). I went back with my other brother, ([NAME REDACTED]) and ([NAME REDACTED]) to the village...

The President



(151-963)





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## The Verdict

...using pieces of cloth to know the fate of my brother and his family. When we got close to my brother's house, we noticed that water is getting out from the mouth of animals and birds then died. I saw my brother ([NAME REDACTED]) and his elder son ([NAME REDACTED]) dead on the ground (100) meters a part from each other and from the house as well as the body of his wife which was few meters away from them. The corpses were buried in the cemetery of the village. My brother [NAME REDACTED] with his children and my children were suffering from throat burn and they were vomiting. We went to (Awra) village because it was the closest village to the Turkish Borders where the villagers helped us and gave us food. We stayed on the Turkish Borders for a couple of days as well as thousands of people were there too. Then, I entered Turkey and lived there for 4 years. I request for complain against Saddam Hussien, 'Ali Hasan Al-Majid and the rest of the participants with them.

### 6. The Plaintiff [NAME REDACTED]

**Date of Birth: 1954**

**Profession: Housewife**

**Address: Irbil, 94 Kulani.**

### She stated the following after taking the legal oath:

On Thursday during the spring and before Ramadan by couple of days in 1987, many Sukhoi jet fighters were flying before an hour of the sunset and their sound were loud. When they dropped the bombs, the sound of the bombing was low and we smelt a strange smell like apples or garlic as we felt nausea after they left. It was raining at night when we were in the house and when the aircrafts came back but there wasn't any kind of attack. I stayed with my family which consists of 12 members that night because I couldn't escape. We were drinking milk and vomiting and my children were screaming until the morning. We lost our sight and my other husband's brother ([NAME REDACTED])...

The President



(152-963)



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... [NAME REDACTED]) came and he was not able to see and he was walking like children on hands and legs and he stayed with us.

At noon, they told us that we will be transferred to (Ranya) by tractors for medication purpose. I do not know who took us. Moreover, Ranya's people offered us food and drink. There was another family with us with seven children, and we stayed one night at the hospital. The inhabitants of Ranya were treating us until the government knew about us. Then they took us to (Irbil) and I did not know who did that. They told us that ZIL vehicles have transferred us and we did not get medication. From there they took us to the prison and I do not know the number of the days that I have stayed there. However, I heard the voice of the men and women were increasing. At the prison, my kids who were with me and could see, they told me that my sister and her children were died. Moreover, they also saw ([NAME REDACTED]) my husband's cousin, and my sister's family was died. They were seven people ([NAME REDACTED]) and her husband ([NAME REDACTED]), and her kids, where four of them died at the hospital and they are ([NAME REDACTED]). My husband was with us, then we were separated when they separated men from women and they took my husband ([NAME REDACTED]) and I do not know his fate till now as well as my husband's relatives whom they are ([NAME REDACTED]). I also do not know the fate of my relatives whom they are my cousins [NAME REDACTED] and [NAME REDACTED]. I do request a complaint against Saddam Hussein and 'Ali Hasan and against the people with him behind the bar.

**7- Plaintiff:** [NAME REDACTED]

**Date of birth:** 1950

**Profession:** a writer

**Place of residence:** United States of America, Virginia State, She stated the following after taking the legal oath:

On 1987 June 05, I was one of the Pishmarga. At four PM, Iraqi airplanes (Sikhuy) kind attacked us, and they were four. They attacked us by chemical bombs; meanwhile I left with the others to the shelter. There was a Comrade with me [NAME REDACTED] I do not know her full name, and another Comrade told [NAME REDACTED] that I smell something, so we left the shelter...

The President



(153-963)



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... When the bombs fall down, there was a white to ashy smoke coming from the bombs. The Sound of the explosion was not strong. I saw a person his name is [NAME REDACTED], one of Zakhu Citizens, and he started to throw up, when people tried to carry him. After 12 at night, the Comrade ([NAME REDACTED]) came and woke me up, and she told me that we were attacked by chemical weapons. I saw the people around me with teary eyes, and they were throwing up and feeling pain in their stomachs. The supportive platoon was 30 minutes far from us, so we went there and we reached them at four at dawn, and the people with us were falling down because of their teary eyes. In the third day bubbles started to appear on my knee and the marks still exist until now. In the autumn of 1988, and I do not know the exact day and month, Iraqi airplanes came, then we went to the shelter, and after the attack with the bombs, it became clear that the bombs were not chemical. After that, we knew that there is a proceeding for the Iraqi military forces, so we left to the Turkish-Iraqi borders, and that lasted ten days. For that, I do request a complaint against Saddam Hussein and 'Ali Hasan Al-Majid and all the organizations and the international companies that provided the regime with the chemical weapons.

**8- Plaintiff:** [NAME REDACTED]

**Date of birth:** 1922

**Profession:** Farmer

**Place of residence:** Dar Barula Village. He stated the following after taking the legal oath:

I am one of (Dar Barula) citizens; we were working in farming, and in the year 1987, the harvest season was in the ninth months, so we went to the Ba'th Party Organization to take a permission to harvest. In the morning of 1987 September 03, the emergency forces attacked us, and surrounded our village and burned it and explode the electricity of the village, where we were outside the houses. Then they seized the livestock. Then they arrested us and took us to the emergency in Al-Sulaymaniyyah Governorate, and after that they took us to the Security Directorate then they brought us back to the emergency, where we stayed 4 months detained, and they investigated us several times. One time they came and announced nine names of the arrested and took them and they are ([NAME REDACTED]), ([NAME REDACTED]) and (....

The President



(154-963)



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... [NAME REDACTED] I do not know their full names. Moreover, they took two citizens of (Kalar) I do not know their names. They have been taken behind the prison's wall and I heard a fire shots, and I heard from the guards that they have been executed. Then were told by some of the guards that those people were arrested in the security prohibited zones, and according to the decision that issued by ('Ali Hasan Al-Majid) they were executed. Then I was released, and I do request a complaint against Saddam Hussein and 'Ali Hasan Al-Majid.

**9- Plaintiff:** [NAME REDACTED]

**Date of birth:** 1950

**Profession:** Farmer

**Place of residence:** 'Azaban Village. He stated the following after taking the legal oath:

In 1987, a Republican Guard Brigade attacked our village, using tanks in their attack. Moreover, there were bulldozers and military trucks with them. Our village was destroyed, and that lasted from the morning until six at noon, knowing that our village was not security prohibited and it is almost half an hour far from Al-Sulaymaniyyah Governorate, and there was no reason to attack our village other than we were Kurds. On 1987 September 08, 20 detachment of the security forces attacked (Shar Bajir) village. I was with my brothers ([NAME REDACTED]) and ([NAME REDACTED]) in the village, and the security forces and the emergency arrested us. Our village has been plundered as well as the livestock. A car was brought to transport the livestock to Al-Sulaymaniyyah Governorate, and then we were extradited to Al-Sulaymaniyyah emergency. When we arrived to the prison, there were 16 people of ('Arbat) citizens in Al-Sulaymaniyyah. We stayed in the prison three months, and we were tortured severely. Then a committee from Baghdad came and interrogated us after three days, just because we were Kurds. They indicated that the names they will read are going to be released. The number of the arrested people was (126), and they only took (58) people and said it is the president's noble deed. My brother's ([NAME REDACTED] and [NAME REDACTED]) stayed, I do not know....

The President



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... their fate until now, then I was released. For that, I do request a complaint against 'Ali aliased ('Ali Lut Masi) and ('Uthman Nawzad), I do not know their father's name, and Major Taha and Saddam Hussein and 'Ali Hasan Al-Majid.

**10- Plaintiff:** [NAME REDACTED]

**Date of birth:** 1965

**Profession:** Laborer

**Place of residence:** Al-Sulaymaniyyah Governorate. He stated the following after taking the legal oath:

In 1987, I was in (Si Kanyan) village in Shaykh Bakh, and one day at 8 in the evening, our village was attacked by (500-600) bombs. The attack was in (Siwa) area, and the bombs were low voice and smelly. The residents started to escape to the heights. There was also an attack in the area that located between (Si Kanyan) village and (Sargalu) village, and we went back in the morning to know what happened. We saw the area, it was white, so we knew that it was attacked by chemical weapon, and the oak tree converted to white. In 1988 we were in the same village (Si Kanyan) we saw the reinforcement of Iraqi forces, they started bombing us airplanes and artillery from four directions, and the residents started to escape from the village including my mother and my family members whom they fed toward Iran. Then airplanes came and dropped leaflets contain the amnesty decision, so they returned to Iraq, but they were arrested in (Qal'at Ziza) area, and were taken to (Ranya) including my mother ([NAME REDACTED]).and my brothers and sisters ([NAME REDACTED]). And my sister in law ([NAME REDACTED]) with her kids [NAME REDACTED], whom they are the children of ([NAME REDACTED]). And my Aunts ([NAME REDACTED])and my wife's sister and [NAME REDACTED]), and my wife's brother, he has two children ([NAME REDACTED]), they took them from Irbil to (Tupzawa), and we did not hear from them but I knew their fate after the return of my uncle [NAME REDACTED] and his wife from Nuqrat Al-Salman. There were two children with them, one of them called ([NAME REDACTED]), my uncle's grandson. He died in Nuqrat Al-Salman because of starvation, and he was buried in Nuqrat

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... Al-Salman and the black dogs ate his body, and when his cousin saw the scene, she became insane, and her name is ([NAME REDACTED]). After digging the mass graves by the investigation court in Al-Sulaymaniyyah, they have found IDs, which include the retirement ID that belongs to my father, and it was with my sister ([NAME REDACTED]), I do request a complaint against Saddam Hussein and his group.

**11- Plaintiff:** ' [NAME REDACTED]

**Date of birth:** 1953

**Profession:** Laborer

**Place of residence:** Si Kanyan Village. He stated the following after taking the legal oath:

I had two brothers and two sisters living in (Si Kanyan) village, and they are (' [NAME REDACTED]) and his wife ([NAME REDACTED]), and I had six kids [NAME REDACTED] kids. My brother ([NAME REDACTED]), had two kids, and his wife ([NAME REDACTED]) was pregnant. My widow sister ([NAME REDACTED]) had four kids, they were all living in (Si Kanyan) village. The Iraqi forces surrounded them, so they went toward the Iranian-Iraqi borders. After 20 days or almost one month, two people return from Iran to (Al-Sulaymaniyyah). I went to meet them to ask about my family. They told me that according to the amnesty decision that was issued by the government; they came back to Iraq, but they were arrested in (Suni and Shini) - Iraqi villages- so I went to (Aghjalar) area, and there was a person who confirmed that they were arrested and transferred to (Chwar Qurna). I came back to Ranya to ask about their fate and I was informed that they were taken to Irbil. After six months the elderly people came back from (Nuqrat Al-Salman), among them was my uncle ([NAME REDACTED]) and his wife. They mentioned that they stayed in Irbil for four months, then they were transferred to (Tupzawa) in (Kirkuk). Men were separated from women, children and elderly, and then we did not hear from them. In 2004-2005, I was requested by the investigation court in Al-Sulaymaniyyah, where they showed me six IDs related to ('Aziz) and his wife and for children. I have recognized them and I knew

The President



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... that they belong to my family, and they told me that they found them in (Al-Hadar mass grave), I do request a complaint against Saddam Hussein and 'Ali Hasan Al-Majid and their group, and against who participated with them.

**12- Plaintiff:** [NAME REDACTED]

**Date of birth:** 1969

**Profession:** Farmer

**Place of residence:** Sidar Village- (Bingird) Sub District. He stated the following after taking the legal oath:

I am a resident of (Sidar) village, which related to (Bingird) Sub District. I was working in farming. In the second month of the year 1988, our village was attacked by artillery and airplanes, also the villages neighboring our village. The bombardment lasted seven days. Then the forces raided our village from three axes (Jila Karan, Qara Sard, and Dulimazali) mountains, 90 people of the village were arrested, and some of them escaped. All the properties and the livestock were stolen and burned by the government forces. So we left to the Iranian borders, it took us 3 to 4 days to get there. We stayed 6-7 months in Iran, and I knew from some people that some of the detainees were back from (Nuqrat Al-Salman), so I went back to Iraq illegally, and I met the people who returned from (Nuqrat Al-Salman). I asked them about my family, and they told me that they saw them, and they were with them in (Tupzawa) where they separated men from women and children. Then they took them to (Nuqrat Al-Salman). In 2004, the court called me and showed me some IDs, I recognized four of them and they belong to ([NAME REDACTED]) four years, (' [NAME REDACTED]) two years, and they are my bother ([NAME REDACTED]) children, he died in 1987 due to the bombardment. I do request a complaint against Saddam Hussein and 'Ali Hasan Al-Majid.

**13- Plaintiff:** [NAME REDACTED]

**Date of birth:** 1977

**Profession:** Laborer

**Place of residence:** Al-Sulaymaniyyah Governorate, Dukan District, Sidr Village, Bin Gird Sub District

He stated the following after taking the legal oath:

The President

(158-963)





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In 1988, I was in (Sidar) village with my family, which consists of seven people, my mother ([NAME REDACTED]), my brothers and sisters ([NAME REDACTED]). In the second month of the year 1988, our village and the neighboring villages were attacked. The First Al-Anfal operation had started in (Jafayati) valley, and the attack on our village came from two directions (Qara Sard) mountain, and (Jila Karan) mountain. The Iraqi forces came closer to our village. The attack was continual on the village in the evening. At midnight, we heard women and children crying and at dawn, I was able to escape from the village and meet my sisters and brothers ([NAME REDACTED]). One of the village's citizens told me that military vehicles transferred the people who stayed in the village, so we went to the Iranian borders and entered Iran through (Sar Dasht), after a while we return to Iraq to (Pishdar) area then to (Ranya) then to (Pira Magrun) complex. We stayed there for almost four months. I asked the people who were arrested with my mother in (Nuqrat Al-Salman) about my mother and my family; they told me that they were among the detainees in (Nuqrat Al-Salman) and the Iraqi forces separated men from women in (Tupzawa) and they do not know their fate. After the uprising in 1991, I went back to my village to find it destroyed and burned. The mosque was demplished and burned, so I went back disappointed to (Pira Magrun) complex, and then I went back to the village. Then, Al-Sulaymaniyyah Investigation Court showed me IDs that belong to my family, including my dead father's ID, which was with my mother. In addition, my mother and my sisters ([NAME REDACTED]) IDs and my sister ([NAME REDACTED]) ID whom were arrested with my mother. I found out that they were killed, because the IDs were found in (Al-Hadar) mass grave. I do request a complaint against Saddam Hussein and 'Ali Hasan and anyone participated in this crime

**14- Plaintiff** [NAME REDACTED]

The President



(159-963)



Iraqi High Tribunal  
Second Criminal Court  
Baghdad-Iraq

Ref.No.:1/ 2<sup>nd</sup> Criminal/ 2006  
Date: 2007 June 24

## The Verdict

**Date of Birth: 1965**  
**Address: Al-Sulaymaniyyah**

**Profession: Laborer**

**He gave his statement after being sworn as the following:**

I am a resident in Sargalu Village, a village with five hundred families working in the agriculture; the bombardment was continuing on the village through artillery, airplanes and rocket launchers. On Sunday evening, two helicopters hovered above and eight persons from the village were killed due to the bombardment, in 1988, and before Anfal operations, the launchers killed three persons ([NAME REDACTED]) and his sons ([NAME REDACTED]), then Anfal operations started during the month of February of the same year, whereas big military forces assembled in the region towards (Al-Sulaymaniyyah), and directed to (Dukan) by four sectors, then they started attacking the villages using chemical weapons; the attack lasted for twenty days. The inhabitants were not staying in the village, and left to Iran, along with my relatives, brother ([NAME REDACTED]), his wife ([NAME REDACTED]) and his sons. The Iraqi Forces started demolishing the villages, seizing the property and plundering everything left. After issuing the amnesty decision, the families returned from Iran to (Suni) village, including eight of my related families, they were arrested and transported in vehicles (Type: Iva) to Chuwar Qurna village then to (Irbil) where they were placed in a prison. Concerning my situation, I stayed in (Al-Sulaymaniyyah), and one day, one of the detainees told me that he spent six months with my relatives in the same detention facility, then some of them were moved to (Nuqrat Al-Salman); my cousin ([NAME REDACTED]) and her husband were released and they returned to (Al-Sulaymaniyyah), I was informed that their son ([NAME REDACTED]) died in (Nuqrat Al-Salman) due to starvation, and his corpse was moved outside the building, and buried in small excavation, the detainees were watching the burial location through a window, as they also witnessed a dog trying to take out the corpse from the dig, I am raising a complaint against (Saddam Hussein), ('Ali Hasan Al-Majid) and all criminals present in the cage of accusation.



**The Presiding Judge**

**(160 - 963)**

A handwritten signature in black ink, consisting of a series of loops and strokes, positioned below the text 'The Presiding Judge'.

In the Name of God the Merciful the Compassionate

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## The Verdict

**15- Plaintiff / [NAME REDACTED]**

**Date of Birth: 1978**

**Profession: Laborer**

**Address: Maluma Village**

**He gave his statement after being sworn as the following:**

I am a resident in (Maluma) village, along with my nine family members; I and my brothers ([NAME REDACTED]) and my grandmother ([NAME REDACTED]) traveled to Al-Sulaymaniyyah to visit my uncle, three or four days after, we heard that our village was destroyed by the Iraqi forces artillery and aircrafts, which forced the inhabitants including my parents to escape toward the Iranian borders; (Chalawa) village was attacked by chemical weapons, in which the all cattle were killed, and then my grandmother informed me about the amnesty decision, so we returned to (Qal'at Dizah) area, we handed ourselves to the Iraqi government; my parents, my uncle ([NAME REDACTED]), my grandmother ([NAME REDACTED]) and my brothers ([NAME REDACTED]) were arrested and transported to Irbil. My grandmother ([NAME REDACTED]) mentioned to me their sufferance at the Tupzawa detention facility, and that the men were separated away from women, elderly and children. I did not have any news about my parents and brothers ([NAME REDACTED]) until 2004, when I was called to Al-Sulaymaniyyah court to look at the identification documents, in order to recognize my family members, where I found the ID cards of my father and brother Muhammad, and I was told that these ID's were found in Al-Mawsil mass graves.

I am raising a complaint against (Saddam Hussein) and ('Ali Hasan Al-Majid) and all criminals present in the cage of accusation.

**16- Plaintiff / '[NAME REDACTED]**

**Date of Birth: 1964**

**Profession: Retired**

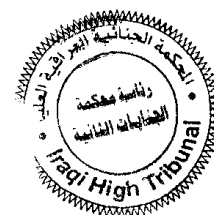
**Address: Al-Sulaymaniyyah Governorate**

**He gave his statement after being sworn as the following:**

When Anfal first operations started on 1988, February 18, I was one of the Pishmarga fighters, and I was in Sargalu area, our headquarters was based in Yagh Samar, The Iraqi forces at that time ...

**The Presiding Judge**

**(161 - 963)**



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.. used all kind of weapons, in which they used chemical weapons in most the of villages such as Shadala, Sargalu, Bargalu, Yagh Samar, Maluma, Ziwka, and Galala. We informed the village inhabitants that it was a necessity to leave the villages, because the government will be using chemical weapons to attack these areas. On 1988, March 19, we retreated from this area, due to shortage of munitions and fighters, at the time of our retreat; I witnessed around 200 to 300 dead sheep that belonged to (Chawa) village residents. On 1988, March 22, after the retreat of our forces to (Alan) region, at two o'clock in the afternoon, the Iraqi aircrafts attacked the region using chemical weapons.

Concerning the missiles which cracked but did not explode, one missile fall near me, and I got effected by the liquid that came out of it, which was not yet transformed to gas, after that the pain was similar to an electrical shock, or like boiled water poured on my body, but I did not lose my consciousness, after a while I saw victims' heads detached from their bodies, carved arms and legs, and my friends' corpses, including the martyr [NAME REDACTED], and the injured [NAME REDACTED] who is from Galala village. When I got up, I tried to go to the highland, then I looked into my eye in mirror, it was red and painful; our doctors started giving us primary instructions, then some people came for our help, and transported us by civilian vehicles to the Iranian border then to a hospital in (Bana) city. After I woke up from the coma, they told me that I'm in (Najah) hospital in Tehran, and I stayed in the hospital until the tenth month of the year 1988, and my body had an obvious wound which you can still see now ...



The Presiding Judge

(162 - 963)

A large, stylized handwritten signature in black ink, consisting of several sweeping strokes.

In the Name of God the Merciful the Compassionate

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### **The Verdict**

... there are also other wounds and in my arm, as a result of the chemical materials. I am raising a complaint against the persons who participated in Anfal campaign.

**17- Plaintiff / [NAME REDACTED]**

**Date of Birth: 1930**

**Profession: Farmer**

**Address: Malumah Village, Ma'ut County, Juwartah District**

**He gave his statement after being sworn as the following:**

I was a resident of (Maluma) village; the Iraqi forces attacked our village by helicopters and artillery. I don't remember the exact date, five members of my family and I were forced to flee to Iran, after that we heard about the amnesty decision, we were happy, so we returned to (Bastasin) camp in the North of Iraq, where we were arrested and taken to (Chuwar Qarna) camp, we stayed there for one night, and in the morning, they moved us to Irbil, then to (Tupzawa); our situation was very difficult, my sons ([NAME REDACTED]) were taken away from me, the officer took all our belongings such as watches and money. They separated men away from women, and placed the pretty girls in a different hall, and all the halls were dirty. After a while, they transferred us to (Nuqrat Al-Salman), but the youth stayed in (Tupzawa), and after eight months in (Nuqrat Al-Salman), we heard about the amnesty decision, and because of that, we returned to Al-Sulaymaniyyah in the north of the country, and still don't know anything about my sons ([NAME REDACTED]). Therefore, I am raising a complaint against Saddam Hussein, 'Ali Hasan, and all their accomplices.

**18-Plaintiff / [NAME REDACTED]**

**Date of Birth: 1955**

**Profession: Member of Pishmarga-Patriotic Union of Kurdistan**

**Address: Al-Sulaymaniyyah Governorate**

**He gave his statement after being sworn as the following:**

I was a member of Pishmarga in Sargalu region, when Anfal operations started in the second month of 1988, the attack started by all types of weapon such as heavy artillery, and chemical weapons; before that we notified the citizens and asked them to hide in ...

**The Presiding Judge**

**(163 - 963)**



In the Name of God the Merciful the Compassionate

Iraqi High Tribunal  
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### **The Verdict**

... refugee camps and the mountain caves. After that, the aircrafts carried out an intense chemical bombardment on the area and on the near villages which are (Yagh Samar, Bargalu, Sidar, Qurankuy, Sikanyan, Wilaghlu, Balkha and Maluma). We held back the attacks for fifteen days, and in the fourth attack, I got injured in the pelvis, and I was transported to the hospital in Sargalu where I was cured. When we were moved to the border, I witnessed dead animals and persons affected by the chemical attacks, then I was transported to (Bana) hospital in Iran, and to Tabriz. After the amnesty decision was issued, my sister ([NAME REDACTED]) and my niece ([NAME REDACTED]) left me to return to Iraq, I heard that they were arrested and taken to (Chuwar Qurna), then to Irbil, and then to an unknown region. After the fall of the regime, we knew their fate, because their corpses were found in Al-Mawsil mass graves, I was called by Al-Sulaymaniyyah Investigation Court, to show me ID's of my sister ([NAME REDACTED]) and my niece ([NAME REDACTED]). I am raising a complaint against Saddam Hussein, 'Ali Hasan and the persons who participated with them.

**19- Plaintiff / [NAME REDACTED]**

**Date of Birth: 1949      Profession: Farmer**

**Address: Sidar Village, Bingrad sub district, Dukan District:**

**He gave his statement after being sworn as the following:**

I am from (Sidar) village, in 1988, all of a sudden the Iraqi government started attacking my village from two directions, from (Qara Sard) to (Dulmazala) village, and from (Bingird- Dukan) to (Dari Sandaran). The battles were initiated between the Iraqi forces and Pishmarga forces, knowing that my village was not listed as a security-restricted area. The bombardment was intense and the children and women screaming was so high; when the military forces entered the village, many citizens and I were trying to escape, as my son 'Ali was following me, leaving his mother and brothers behind; we were hiding in the mountain cave, avoiding the bombardment. Through the binocular I was carrying I saw...

**The Presiding Judge**

**(164 - 963)**



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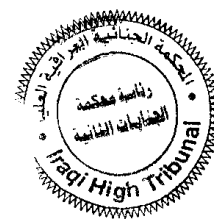
### **The Verdict**

...the Iraqi forces by assembling women and children in the mosque, and they put them in military tracks, as I personally witnessed the villages being destroyed by shuffles and bulldozer. I was 1 km away from the village when I also saw my family being transported by tracks when Iran, then I traveled to Iran, (Bana) village where I was hosted by a mosque Imam, we stayed there for six months and after the amnesty decision issuance, I surrendered to Dukan Organization of the Ba'th Party. I visited my mother when she returned from Nuqrat Al-Salman, and asked her about my family, which is composed of eight persons including my wife [NAME REDACTED] and my sons ([NAME REDACTED]), she told me that they were transported to (Sidar) then to (Raniya). We stay there for ten days, and then we were transported to a prison in Irbil for Fourteen days, then transferred to (Tupzawa) in Kirkuk, and there they separate women from men, where they transferred them to Nuqrat Al-Salman. Around ten people was dying daily due to starvation, and buried in the sand, the dogs excavated them, and ate the corpses. My mother saw my sons, after their return from (Tupzawa), but the security and officers did not allow them to approach her, my mother and my uncle were released afterwards and my family's fate remains unknown. At that time I was soldier, I met Saddam Hussein and asked him to release my family members, he said: (Shut up and don't talk about this, they were lost in Anfal operations, now get out of here). I remained a soldier in the army till the war of 1990, after that I returned to (Pira Magrun) complex, and after the fall of the regime, Al-Sulaymaniyyah Investigation Court showed ID cards to the public, and they informed me that they were found in Al-Hadar mass graves, I recognized them, and they belonged to ([NAME REDACTED]). I am raising a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and the persons present in the cage.

**20- Plaintiff / Khawanjah Karim Hasan**

**The Presiding Judge**

**(165 - 963)**



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## **The Verdict**

**Date of Birth: 1941**

**Profession: Housewife**

**Address: Pira Magrun Compound**

**He gave his statement after being sworn as the following:**

I am a citizen of (Sarmud) village, in 1988, we were attacked by chemical weapons, the artillery bombarded the village during the night and the day, after that the army burned our village, and made us walk to (Chirqa) village, we were transported after that by military vehicles to (Susi) fort where we stayed one night, and in the morning they transferred us to the Emergency in (Al-Sulaymaniyyah), and then we were sent back to (Dukan) due to the large number of prisoners, then we were released and twenty days later they arrested us and transferred us to (Al-Sulaymaniyyah) for fifteen days, then transported to (Tupzawa), we stayed there for one night, our situation was difficult; in the morning they transferred us to (Nuqrat Al-Salman), my husband [NAME REDACTED], my sons [NAME REDACTED] and my mother-in-law (Sawza) were with me, and my mother-in-law died from starvation, where no enough food and water was available, and as a result of that, many citizens died. They separated women from men, we remained there for a while till they informed us about the amnesty decision, so they transported us by buses to Al-Samawah, then to Al-Sulaymaniyyah, and released us afterwards; we went back to Dukan compound where my husband and my family members were missing, they isolated my husband in (Tupzawa), and fate remains unknown, but my sons were released. Therefore, I am raising a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and all the accomplices.

**21- Plaintiff / [NAME REDACTED]**

**Date of Birth: 1960      Profession: Retired**

**Address: Al-Sulaymaniyyah Village**

**He gave his statement after being sworn as the following:**

In the end of December 1987, an extensive attack started, with the use of all type of weapons, the attack persisted over several months and till 1988, March 16. On 1988 March 20, we arrived to (Shanakhshi) village, and which we found destroyed and abandoned; on 1988 March 22, in the morning, aircrafts bombarded (Mawut, Qaywan, Dashti, Akri, Bardi

**The Presiding Judge**

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## The Verdict

.....Qashan) areas using chemical weapons, and in the afternoon of the same day, the aircrafts attacked us, and bombarded all the surrounding regions using chemical weapons, and after that I headed to a highland wherein the other side of it our force's headquarter was located, while heading there, I saw a corpse of children, women and elderly that died from the chemical bombardment. The corpse were too scattered to the point where I could not recognize them; when I reached the headquarters of Pishmarga, I started feeling heat in my body and vomiting, and my eyes became red, and after one hour I lost conscious, I didn't know what happened to me, after two months, my friends told me that I was in (Al-Imam Al-Khumayni) hospital in Asfahan, and there were around ninety persons in that hospital, twenty of them died. I left the hospital by the end of 1988, and I was informed by the Doctor's that part of my lung was irritated due to my injury by chemical weapons; I am raising a complaint against Saddam Hussein, 'Ali Hasan and all the participants in Anfal operations.

**22- Plaintiff / [NAME REDACTED]**

**Date of Birth: 1965**

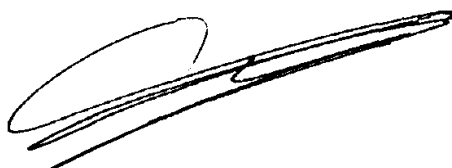
**Profession: Officer in Al-Sulaymaniyyah Security Department as a Major**

**Address: Al-Sulaymaniyyah, Majid Bag Area**

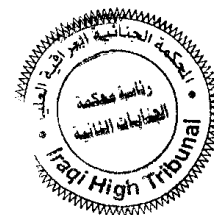
**He gave his statement after being sworn as the following:**

At the end of 1987, the Iraqi government started a huge attack against the Command of the Patriotic Union of Kurdistan in the region of (Surdash), they continued the attack for several months when we were forced to retreat to (Shanakhsi) area on the 17<sup>th</sup> or 18<sup>th</sup> of March 1988, and On 20<sup>th</sup> of March 1988, we arrived to (Shanakhsi) region, and on 22<sup>nd</sup> of March 1988, the aircrafts bombarded this area, the explosions were sometimes strong, and sometimes light, I was accompanied by my relative [NAME REDACTED], and when we were prostrating on the floor, a white smoke with detestable smell came out, we remained there for a while, and then ran away to height land, my health became worse, my heart pulses increased, I started having pain in my eyes and vomiting. I couldn't get up on my feet...

**The Presiding Judge**



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## **The Verdict**

... a number of buses belonging to the Red Cross approached, and took me in, after awhile it's shown I am in (Bana) hospital in Iran, my health was bad, they moved me to (Sina) hospital, I lost conscious for ten days, and when I got up, I noticed burns and scars on my body, and got hysteric from the gases. Therefore, I am raising a complaint against Saddam Hussein, 'Ali Hasan and all the participants in Anfal operations.

**23- Plaintiff** /[NAME REDACTED]

**Date of Birth:** 1951      **Profession:** Farmer


**Address:** (Piramagrun) complex

**He gave his statement after being sworn as the following:**

In 1988, the Iraqi forces attacked (Qalam Pasha) village, the battles lasted for three days, we were residents of (Qarankuy) village, we panicked and headed toward the mountain, knowing that our village was under attack by chemical weapons, I saw three individuals dead and they are [NAME REDACTED], we left to (Guma Zal) village, and when we got there, we found the citizens of the following eight villages: (Qarankuy Humar Qawm, Chalawa, Sargalu, Bargalu, Qalam Pasha, Sidar and Sikanyan Dulabi), then we went to (Shanakhsi) village, we were attacked by Iraqi helicopters using chemical weapons, then we went to (Sardasht) city, and we remained there for twelve days, and after the issuance of the amnesty decision, we headed to (Suni) village, where the Iraqi forces were located, their treatment was inhuman by beating and forcing people to get into military vehicles, type ZIL (Soviet vehicles), they took our belongings, and moved us to (Chuwar Qurna) Division then to Irbil Security Department, we stayed there for one day without food, then they transferred us to Al-Mawsil and Irbil camps, where they separated women away from men. In the camp hall, I saw a number...

**The Presiding Judge**

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## The Verdict

... Turbans with blood traces, my wife [NAME REDACTED] and son ([NAME REDACTED]) were with me. I am raising a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and all the accomplices.

**24- Plaintiff / [NAME REDACTED]**  
**Date of Birth: 1948      Profession: Officer**  
**Address: Al-Sulaymaniyyah**

### **He gave his statement after being sworn as the following:**

I used to live in (Siwsinan) village which belongs to (Qara Dagħ) District. The village is composed of 350 families; on 1988, March 22 and after the noon call for prayer of, our village was hit by two bombs launched from the region of (Darbandi Khan), the flames raised, and the citizens left the village, after they realized that these bombs were not chemical, they returned, and on their way back, they were attacked. Before the call for prayer, they attacked our village using fighter-launchers from (Darbandi Khan) region, at that time I was with my family, and when I left the room at around 06:45, I saw a white- yellow flame; my children [NAME REDACTED] were with me, my wife carried ([NAME REDACTED]) and I took ([NAME REDACTED]) and we ran away to the refugees, where I found some of the families with their children, when we reached the camp, we started to have a problem with breathing, we covers our faces with wet towels, then I lost conscious, and when I got up, I found myself in (Shurish) hospital which is close to (Balak Jar), I saw one of my village citizens whose name is [NAME REDACTED], I asked him about what's happened to my children, he told me that (Siwsinan) village was attacked by chemical weapons, and that my children are alive, later I was informed that they died. I asked him about the families and about Mahdi Hadi's family, who was my neighbor and were with us that night, they were fourteen persons, he told me that they all died, also the family members of [NAME REDACTED] died. My health became worse, so they moved me to Al-Sulaymaniyyah by a tractor, then to my brother's house ([NAME REDACTED]) and then to (Tu Malik) region ...



**The Presiding Judge**

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### **The Verdict**

... in the next day, I heard sounds of helicopters hovering above the city and they were calling for houses' inspection, they arrested the draft dodgers, in the same day they arrested the emigrants from (Qara Dagh) and (Karmali) in (Nasir and Zarayan) compound, they transferred them by military vehicles to (Tupzawa) and (Nuqrat Al-Salman), I heard that those who were arrested did not come back, it is worth mentioning that in our village there are 70 martyrs, they are victims of the chemical bombarding, 12 persons arrested and 3 become insane, Thus I raise my complaint against Saddam Husayn, 'Ali Hasan and all who participated in Anfal operations.

**25- Plaintiff / [NAME REDACTED]**

**Date of birth: 1967      Profession: Laborer**

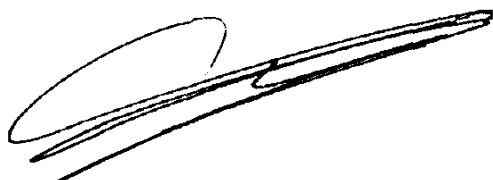
**Address: Upper Kushuk Village, Qara Dagh County, Al-Sulaymaniyyah**

**He gave his statement after being sworn as the following:**

I am a resident of Upper (Kushik) village in Al-Sulaymaniyyah Governorate. On 1988 March 22 during sunset, while I was in my village with my brother ([NAME REDACTED]), we witnessed an intense bombardment on (Siwsian) village, we saw heavy flames and when we arrived to one of the hills, the flames were heading toward us, the smell was detestable, we saw the inhabitants escaping and some of them injured, when I entered the village I saw one of my relatives named [NAME REDACTED] crying for losing his wife and daughter, I saw among the corpses, the body of [NAME REDACTED] he was one of the village inhabitants, also an injured person named [NAME REDACTED] and he is mentally retarded, also the body of his wife and his two sons, I found corpses for 6 children, the corpse of my sister ([NAME REDACTED]), my brother ([NAME REDACTED]) and his family were also martyred, when I went to the house of ([NAME REDACTED]), I found 14 corpses because this house is occupied by two families, they were buried with the assistance of the neighboring village inhabitants, while these corpses had been transported...

**The Presiding Judge**

**(170 - 963)**



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### **The Verdict**

...by tractors; I am raising a complaint against Saddam Husayn, 'Ali Hasan and all who participated in this crime.

**26- Plaintiff / [NAME REDACTED]**

**Date of birth: 1977**

**Profession: Laborer**

**Address: Piramagrun Compound, Al-Sulaymaniyyah**

**He gave his statement after being sworn as the following:**

I am a resident of (Dulaway) village, in 1988 our village had been bombarded by artillery and aircrafts, martyred one of our village's inhabitant named [NAME REDACTED], also injured my brother ([NAME REDACTED]), this what made us escape to Iran where we stayed for 10 days and after that we surrendered to the Iraqi authorities in (Suni) village, then we were moved to (Chuwar Qarna) village by military vehicles type (Iva), we were nine families, we stayed in the detention facility for 10 days and then moved to Irbil then to (Tupzawa) in which the soldiers' treatment was very bad, we were urinate in metal cans, then they separated the men away from women, they transported me, my parents and my brother (Muhammad) to (Nuqrat Al-Salman) detention facility where the rooms were very dirty, full of insects, the drinking water was not good and we were always sick with diarrhea and vomiting because of such dirty environment and as a result of that the majority was died, like my father[NAME REDACTED] who had been taken by some soldiers and after 15 minutes he came back deceased and there was a red spot on his forehead, my uncle buried his body. Therefore, I am raising a complaint against Saddam Husayn, 'Ali Hasan and all who participated with them.

**27- Plaintiff / [NAME REDACTED]**

**Date of birth: 1952**

**Profession: Housewife**

**Address: Al-Sulaymaniyyah Governorate, Kurdistan**

**She gave his statement after being sworn as the following:**

I am a resident of (Kanisan) village, during the springtime 1987, the army informed us about the necessity of leaving the village and move to the housing compounds, so we went to (Qupi Qara Dagh) village, while moving ...

**The Presiding Judge**

**(171-963)**



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### The Verdict

... toward (Darbandi Khan) we were attacked by artillery; we reached (Al-Diwana) village and then to (Qara Dagħ) village, in the 3<sup>rd</sup> month of the year 1988, the attack started in (Siwsinan) village by cannons and the attack was strong; a mountain separated between our village and (Siwsinan) village, one of this village's inhabitants informed me that their village was attacked by chemical weapons, in this time when we knew that the army is coming to our village, we escaped and left all our property, we ascended a mountain and we saw black flames coming out from (Balkhi and 'Alyawa) villages that were burned, then we reached (Barawkri) village and then left running away from the army that was coming after us, we arrived to (Kala Khal) village which is in (Kalar) County, where my brothers ran away afraid to be captured by the authorities; my brother ([NAME REDACTED]) was arrested and till now we do not know his fate, then we headed toward (Mila Sura) village, after that the authority transported us by cars and tractors to (Qara Tu) village. My father, brother ([NAME REDACTED]), husband ([NAME REDACTED]), the wife of my brother ([NAME REDACTED]), and five of her children, we still with me; then were transported to (Tupzawa) in Kirkuk, they placed us in a big yard while it was raining and they separated the men away from women. Until this moment I still did not see my husband or my brother ([NAME REDACTED]), and their fate remains unknown. A year ago, I was called for verifying my husband and my identity card because he was carrying it when they found him in the mass graves. Therefore, I am raising a complaint against Saddam Hussein, 'Ali Hasan and all who participated in this crime.

**28- Plaintiff / [NAME REDACTED]**

**Date of birth: 1932**

**Profession: Housewife**

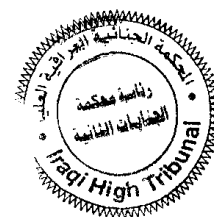
**Address: Al-Sulaymaniyyah Governorate, Qara Dagħ County, Siwsinan Village**

**She gave his statement after being sworn as the following:**

I am a resident of (Siwsinan) village, on 23<sup>rd</sup> of March, I do not remember the year, it was springtime, at 06:30 o'clock, and two helicopters hovered above our village and bombarded us with 40 rockets from the side of (Darbandi Khan), when I went to ...

**The Presiding Judge**

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My daughter's ([NAME REDACTED]) house, I found 14 corpses, 7 of them were members of ('[NAME REDACTED]) family, and the rest were my daughter ([NAME REDACTED]) and her children ([NAME REDACTED]) and I also saw two corpses. One of the vehicles of Pishmarga forces transported 40 injured persons; the inhabitants of the neighboring village buried the bodies. My husband and I took our deceased persons and buried them, whereas the total martyrs number in this attack was 81 persons, 70 of them died affected by the chemical weapons and the rest remain with an unknown fate. After that we went to Barzan village, we saw the helicopters bombarding the villages of this region then we headed towards (Qara Dagħ) village. Therefore, I am raising a complaint against Saddam Husayn, 'Ali Hasan and all who participated in this crime.

**29- Plaintiff / [NAME REDACTED]**

**Date of birth: 1951**

**Profession: Laborer**

**Address: Lower Astil, Qara Dagħ County**

**His ethnicity: Kurdish**

**He gave his statement after being sworn as the following:**

I am a resident of Lower (Astil) village, Qara Dagħ County in Al-Sulaymaniyyah Governorate, in the 4<sup>th</sup> month of the year 1988, the army attachments attacked our region with the aircrafts and artillery; I escaped from (Sangaw) County with my family and some of my livestock, then we headed towards (Nazar Kani Village), in 1988, April 15 the army destroyed the village with shuffles, we stayed there for two days under the rains as the children condition was very bad, I left the village to (Barika) compound then I went with my children to ('Arbat) organization where the authorities detained us and transported us to (Al-Sumud) compound, they separated men away from women and sent us to (Nuqrat Al-Salman), my health was not good and some of us died because of the harsh conditions; one day I saw some dogs eating a head of a woman or a man that amputated. I was released ...

**The Presiding Judge**

**(173-963)**



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... I left the detention facility but I do not know the fate of my family. Therefore, I am raising a complaint against Saddam Hussein, 'Ali Hasan and all who were participated Anfal operations.

**30- Plaintiff / [NAME REDACTED]**

**Date of birth: 1937**

**Profession: Housewife**


**Address: Jafaran Village, Qara Dagh County, Al-Sulaymaniyyah**

**She gave his statement after being sworn as the following:**

I am a resident of (Jafaran) village in (Qara Dagh) County in Al-Sulaymaniyyah, in the 3<sup>rd</sup> month of the year 1986 the army attacked our village by artillery; one day a strong explosion occurred and I saw a big bomb dropping on the ground but it did not explode, and a black flame raised from, its smell was like spoiled apple, after that we started feeling bodies burning, breathing difficulties and eyes shedding tears. The inhabitants of the neighboring villages transported us, my daughter who is married to ([NAME REDACTED]) came to visit us, then we were transported by a tractor to (Sagirma) then to (Chamchamal) where we were in a very bad condition especially my daughter (Sabriyyah) due to the chemical attack, so she was taken to Saddam Hospital in Kirkuk but they did not treat us for 5 days and the doctor told us that my daughter ([NAME REDACTED]) does not need treatment because she will die, and she died right after that, then they took her, and I do not know where they buried her. During this time one of the soldiers told us that there is an officer named (Ramzi) who ordered the doctor not to give us any kind of treatment; we stayed in the hospital for 2 months and after that they transferred us to (Maysalun) prison in Kirkuk where my two daughters ([NAME REDACTED]) were with me; the prison was full of women and children; after issuing the amnesty, I returned to my village. 10 days after the commencement of Anfal operations, we faced a strong bombing and we escaped to Al-Sulaymaniyyah and left all our properties and livestock, and when my daughter ([NAME REDACTED]) and her husband ([NAME REDACTED]) came to visit us, they were arrested and we still do not know about their fate, also they arrested my relatives and we still do not know about their fate. Therefore, I am raising a complaint against Saddam Hussein and 'Ali Hasan Al-Majid, the officer (Ramzi) and all who participated in this crime

**The President**

**(174-963)**





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## The Verdict

**31- Plaintiff / [NAME REDACTED]**

**Date of birth: 1931**

**Address: Al-Sulaymaniyyah, Lower Balkha**

**He gave his statement after being sworn as the following:**

I am a resident of Lower Balkha which is related to Qara Dagh County in Al-Sulaymaniyyah, in the night of 22<sup>nd</sup> /23<sup>rd</sup> March 1988 our village was attacked by chemical weapons, I saw flames rising from (Siwsinan) village. On the next day the army gathered in (Takya, Qara Dagh and Darbandi Khan) regions, we escaped from our village to (Qupi) village, then I and my nephew [NAME REDACTED], whom his fate remains unknown, we climbed the mountain and saw (Lower Balkha, Hasiwi, Diwana, Haji awa and Awaysi) villages burning and flames rising from them; after that we arrived at (Mila Sura) village while the army surrounded and arrested us, then transported us with vehicles type (Iva) to (Qura Tu) region then to (Tupzawa) where they separated men away from women. We were moved to (Naqrat Al-Salman) camp and stayed there for three days without food or water. Three to four thousand individuals were detained in that detention facility, including my wife [NAME REDACTED], my children ([NAME REDACTED]) and my relatives, and until now their fate remains unknown, because we were separated in (Tupzawa). I was released and returned to Al-Sulaymaniyyah. My wife, children and relatives remain with an unknown fate. Therefore, I'm raising a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and all who participated in the crime.

**32- Plaintiff / [NAME REDACTED]**

**Date of birth: 1931**

**Profession: Farmer**

**Address: Jafaran Village, Qara Dagh County**

**He gave his statement after being sworn as the following:**



**The Presiding Judge**

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I am a resident of Jafran village, in Qara Dagħ County in Al-Sulaymaniyyah, in 1988, March 23, at 09:30 in the evening we heard an explosion in our village. The next morning my nephew ([NAME REDACTED]) and I went to (Jafran) village where all the livestock were killed, our eyes started shedding tears and also our mouths watered effected by chemical weapons. I started with my nephew ([NAME REDACTED]) (*T.C: most probably Bistun*) to take the rest of the cattle and walked towards Al-Sulaymaniyyah. We reached (Qaraman) valley and went to (Kala Zarda) mountain, then the army detained me and my relatives ([NAME REDACTED]), the army continued capturing civilians till their number reached 500. We were transferred by cars to the division belonging to the army in Al-Sulaymaniyyah, then to an emergency camp, in this camp we were starving and we remained there for one week. then we were transported to (Tupzawa) in Kirkuk, they separated men away from women and children; They transferred us to (Nuqrat Al-Salman and they did not provide food for 24 hours that led to death of three of us, the detention facility was under the responsibility of the soldier named (Hajjaj), he forced us to stand under the sun for half an hour daily and he tortured the detainees; moreover I saw a black dog disinterring the tombs and eating the corpses, after spending a period of time they released us in groups. Therefore, I am presenting a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and against Hajjaj (unknown father's name).

#### **33- Plaintiff [NAME REDACTED]**


**Date of birth:** 1927      **Profession:** Handicapped  
**Address:** Chamchamal, Al-Sulaymaniyyah

#### **He gave his statement after being sworn as the following:**

I was a resident in (Qashqa) village in (Qadir Karim) County in Al-Sulaymaniyyah, in 1988, the army attachments started to proceed towards our village and aircrafts started shooting on the village, as a result of this shooting, my nephew ([NAME REDACTED]) was killed and also [NAME REDACTED]. My brother ([NAME REDACTED]) was killed by the Army; we were worried so we escaped from the village towards (Qadir Karam) ...

**Presiding Judge**

(176-963)




In the Name of God the Merciful the Compassionate

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## **The Verdict**

... the army isolated the youth from the elderly, then they took the youth to (Al Yadah) village by ZIL cars towards Kirkuk, we the elder individuals stayed in (Qadir Karam). The army destroyed our village; when they detained the youth in (Qadir Karam) and (Al-Yadah), I lost my children ([NAME REDACTED]) and also my brothers ([NAME REDACTED]) who until now remain with an unknown fate. Therefore, I'm presenting a complaint against Saddam Husayn, 'Ali Hasan and all their assistants.

**34- Plaintiff / [NAME REDACTED]**

**Date of birth: 1963**

**Profession: Housewife**

**Address: Chamchamal, Shurish, Al-Sulaymaniyyah**

**She gave his statement after being sworn as the following:**

I am a resident of (Qashqa) village, in (Qadir Karam) County in Al-Sulaymaniyyah, during the springtime of 1988, the army forces attacked our village several times, several residents, were killed, such as [NAME REDACTED]. The women, children and elderly citizens escaped toward (Qadir Karam) but (105) young men couldn't leave the village. I saw the army destroying our village; after issuing the amnesty, the elderly returned back and went to the place where the youth were hiding and extradited them to the governmental authorities. Then the authorities transferred them by governmental cars to an unknown destination and until now their fate remains unknown, including my brothers [NAME REDACTED] also my husband's son [NAME REDACTED] and some of my relatives. Thus, I am presenting a complaint against Saddam Hussein, 'Ali Hasan and all their assistants.

**35- Plaintiff / [NAME REDACTED]**

**Date of birth: 1941**

**Profession: Handicapped**

**Address: Chamchamal, Al-Sulaymaniyyah**

**He gave his statement after being sworn as the following:**

**The Presiding Judge**

**(177-963)**



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## **The Verdict**

I was a resident of (Tup Khana) village in (Qadir Karam) County, on 1988, April 12 the Iraqi military forces proceeded from our village towards (Qadir Karam). Army attachments surrounded us with the support of helicopters; they detained us and took us to (Qadir Karam), they separated men away from women and elderly. Then they released the elderly and women and took the men to an unknown destination and their fate remains unknown; with them were my son ([NAME REDACTED]) and my brothers ([NAME REDACTED]). Therefore, I am presenting a complaint against Saddam Hussein, 'Ali Hasan and all their assistants.

**36- Plaintiff / [NAME REDACTED]**

**Date of birth: 1955**

**Profession: Laborer**

**Address: Zandan Village, Sangaw County, Jam Jamal District, Al-Sulaymaniyyah**

**He gave his statement after being sworn as the following:**

I returned to Iraq on 1988 August 25, after I was captured by the Iranian authorities and after my return to Al-Sulaymaniyyah, my cousin ([NAME REDACTED]) informed me that all these villages are empty because the military forces attacked them and destroyed all the houses, they arrested its residents and detained them in (Tupzawa), when I arrived to my village I found it unoccupied and I did not find my wife [NAME REDACTED], and my kids [NAME REDACTED], I checked with the Party organization and Chamchamal Administrative District, and submitted three petition to the Presidential Diwan to know the fate of my family, they replied with an official letter that my family members were missing during Anfal operations in 1988. Therefore, I am presenting a complaint against Saddam Hussein and all his assistants.

**37- Plaintiff / [NAME REDACTED]**

**Date of birth: 1967**

**Profession: Housewife**

**Address: Shurish Compound, Qadir Karam County, Al-Sulaymaniyyah**

**She gave his statement after being sworn as the following:**

**The Presiding Judge**

**(178-963)**



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### **The Verdict**

I was a resident of (Gula Bakh) village in (Qadir Karam) County in Al-Sulaymaniyyah, on 1988 April 11, the military attachments surrounded our village and detained all residents and transported us to (Sangaw) region and after one day they transported us to (Chamchamal) and (Tupzawa), three days later we were transported to (Dibs) region, we stayed there for 6 months where as our condition was very bad, I also delivered a baby girl and after 6 months we were transferred to Tikrit, then we were released according to an amnesty decision then we were transferred to ('Arbat) in Al-Sulaymaniyyah, and till now I do not know the fate of my brothers ([NAME REDACTED]) and my husband ([NAME REDACTED]), my uncle [NAME REDACTED], my uncle's wife [NAME REDACTED] since they were arrested in our village. Therefore, I am presenting a complaint against Saddam Hussein and all his lieutenants.

**38- Plaintiff / [NAME REDACTED]**

**Date of birth: 1955                      Profession: Housewife**

**Address: Al-Ta'mim Governorate, Qadir Karam**

**She gave his statement after being sworn as the following:**

I am a resident of (Qutalu) village in (Qadir Karam) County in Al-Sulaymaniyyah, in 1988, the villages was a daily exposed to bombardment from the Iraqi army in (Sinkaw and Chamchamal), after two days of artillery bombarding, the aircraft attacked our village, a number of citizens were killed, among these killed persons were my cousin ([NAME REDACTED]), we left the village escaping towards (Muhabaram) village which in (Singaw) County, my sister and I escaped towards (Chamchamal) by a tractor, when we reached (Qadatun), they isolated the men away from women and took men to an unknown place, three days later they transported us to (Chamchamal) then to (Khuyzawa); then the old men and women were isolated as well as the young men, then took the women to (Dibs) detention camp; the halls were not clean and our condition was very bad, three kids died in our hall, then they released us according to an amnesty decision and transported us to Al-Sulaymaniyyah; they arrested my brothers and sisters who are [NAME REDACTED], also detained my husband ([NAME REDACTED]) in (Qadir Karam), and from my family members ([NAME REDACTED])....

**The Presiding Judge**



**(179-963)**



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...[NAME REDACTED]) all of them were arrested and still remain with an unknown therefore I am presenting a complaint against Saddam Hussein, 'Ali Hassan, his lieutenants and counselors (Qasim Dari and Mu'tasim with an unknown father's name).

**39- Plaintiff / [NAME REDACTED]**

**Date of Birth: 1961      Profession: Housewife**

**Address: Al-Sulmaniyyah,**

**She gave his statement after being sworn as the following:**

I am a resident of (Gula Bakh) village which is part of (Qadir Karam) County, in 1988 April, members of the army landed on ('Imam Zanur) mountain. The army attacked our village by using artillery whereas the forces destroyed and burned the village and even though the army was there, we stayed in the village until night and then fled toward (Qadir Karam). The Army started arresting the men. Our relatives transported us to (Haft Taghar) village. My brothers, my husband ([NAME REDACTED]) and my relatives were arrested and until now their fate remains unknown, therefore I am presenting a complaint against Saddam, 'Ali Hasan Al-Majid and his lieutenants.

**40 - Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (1)**

**She gave his statement after being sworn as the following:**

In 1988, members of my family traveled to (Mila Sura) village and then to (Qura Tu) camp. My mother and I stayed with the village residents in (Kutal). In one day the army entered the village with tanks and bulldozers, destroyed and burned the houses. Later on the same day the village was attacked by the artillery and two of its residents were killed ([NAME REDACTED]) and ([NAME REDACTED]). Then we returned to our country we were arrested and moved to (Nawjul) sub district, then to Tikrit where we were put in a hall for five days and then moved to (Nuqrat Al-Salman) and stayed there for seven months, the diseases spread between us (typhoid, measles, diarrhea, fester in the face) and the halls were dirty, what caused the death ...

**The Presiding Judge**

**(180-963)**



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### The Verdict

... of my mother's cousin ([NAME REDACTED]), ([NAME REDACTED]), ([NAME REDACTED]), her children that died in one night and others who I don't remember. There is also a person called ([NAME REDACTED]) he was an officer in the detention camp, he was torturing us as well as the citizens of (Halabja) village whenever he wanted. We were moved to (Al-Samawah) then to ('Arbat). We were released and until now my family's fate remains unknown. Therefore, I am presenting a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and the other suspects.

**41 - [NAME REDACTED]**

**Date of Birth: 1965      Profession: Farmer**  
**Address: Rizgari County-Kalar district-Al-Sulmaniyyah**

**He gave his statement after being sworn as the following:**

I am a resident of (Qulijan Sarhad) village which is part of (Tilaku) sub district, (Kalar) district and used to live with my family. On 1988 April 05, with the support of the National Defense Regiments, tanks and aircrafts the army attachments attacked our village, so we fled toward the nearest lands and valleys and reached (Qala Chulan) village and stayed there for three days. The army entered the village, arrested the citizens and placed them in military vehicles type ZIL (Soviet vehicles). After twenty days I went to visit my village (Qulijan), I found it destroyed and burned. After seven months, my mother-in-law ([NAME REDACTED]) was released, I asked her about my family and relatives, she told me that they took them to (Qura Tu) and then to (Tupzawa), and that they separated men from women and elderly, and she also told me that they were treated badly, they suffered from hunger, and my mother died from diarrhea and was buried. My family's fate remains unknown. Therefore, I am presenting a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and all who participated and cooperated in this crime.

**42 – Plaintiff / [NAME REDACTED]**

**Date of Birth: 1942      Profession: Farmer**  
**Address: Qulijan Sarhad Village-Kalar district-Al-Sulmaniyyah**

**He gave his statement after being sworn as the following:**

**The Presiding Judge**

**(181-963)**



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### **The Verdict**

I am a resident of (Qulijan) village which consists of thirty families. On 1988 April 04, we were forced to leave the village as the army was attacking other villages. Our village was the highest village therefore, we witnessed other villages being burnt (Faqi Mustafa, Kurdi, Quljan Amin, Surusht, Khan Rustam, Kani 'Ubayd, Hawara Raqi, Iskandar, , Sarkal Najjar, Hawara Barza, Turka and Chircha Qila), so we decided to escape using our tractors. While we were fleeing towards (Al-Sumud) complex, we were arrested by the army. We moved to (Qura Tu), then to (Tupzawa) camp where they separated women away from men and elderly. Since then my family's fate remains unknown because we were moved to (Nuqrat Al-Salman). The children's situation was very bad; they were infected with ulcer in their mouths and heads. Many of the arrested persons died. After six months of detention we were released. I am presenting a complaint against 'Ali Hasan Al-Majid and all who was responsible during that time.

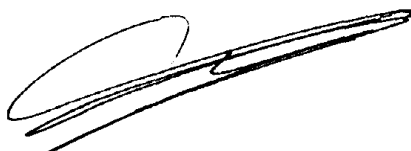
**43 - Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (4)**

**She gave his statement after being sworn as the following:**

I am a resident of (Mahmud Pariza) village, in 1988 April, we were working in our farms, when we were informed about the army moved towards our village, so we left the village and fled towards the nearest plain lands leaving our children with the citizens of (Mahmud Pariza) and (Zarda) villages. Later we returned to find all our houses destroyed and our children were missing, and then the army took us to the place where our children were placed, at the brigade of (Chamchamal) then moved us by cars to (Tupzawa). Four days after, they separated the men away from women. My daughter ([NAME REDACTED]) and my nephew ([NAME REDACTED]) died due to a severe sickness. We stayed in the halls for six months. We were moved afterwards to ('Arbat) and then to (Chamchamal). I was released but my husband was paralyzed due to the detention...

**The Presiding Judge**

**(182-963)**





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... in (Nakrat Salman). I lost my daughter in (Dibis) detention facility and my son ([NAME REDACTED]) was separated with the youth and taken to the mass graves. My son ([NAME REDACTED]) was arrested while he was grazing the sheep with my brother ([NAME REDACTED]) and my brother-in-law ([NAME REDACTED]). Until now all of them remain with an unknown fate. Therefore, I am presenting a complaint against Saddam Hussein, 'Ali Hasan Al-Majid, his lieutenants and all who participated in Anfal operations.

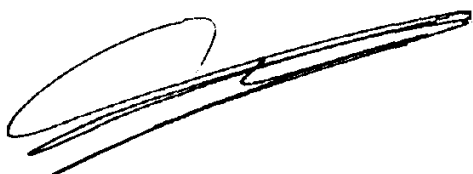
**44 - Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (2)**

**She gave his statement after being sworn as the following:**

At the end of April 1988, the Iraqi forces attacked our village, surrounded it, gathered the village citizens in one of the houses and burnt all houses, animals and birds. On the next day, we were moved by military cars type ZIL (Soviet vehicles) to (Tupzawa). The army was arresting and transporting any Kurdish person they encounter on their way. In (Tupzawa) men were separated from women, and there they took my son, father, and mother; they still remain with an unknown fate. I stayed with my grandfather and grandmother who died in the detention facility. We were badly treated in the detention facility. And once while we were standing in line waiting for food an officer named (Ja'far Al-Halawi) tore the clothes of a pretty girl and asked for the presence of her parents and raped her in front of her parents and the people, and killed her after that, by shouting her in the head and then we were taken to (Nuqrat Al-Salman) detention facility. We were treated very badly; they separated men away from women and young women away from elder ones. In (Nuqrat Al-Salman) detention facility I was in a hall with six other girls, [NAME REDACTED] from (Kirkuk), ([NAME REDACTED]) from (Hawraman), ([NAME REDACTED]) from (Kuysinjaq) and there were guards and officers who used to enter the room and assaulted all girls in the room and their names are (Hajjaj), (Shawqi) and (Sakhr) who were (Hajjaj) guards. (Hajjaj) used to rape the girls in front of the other girls. He raped me and raped (Sazan)...

**The Presiding Judge**

**(183-963)**




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### **The Verdict**

...we shouted and resisted, and once I put my nails in his face, he hit me in the face and until now the marks of the wounds are still on my face and then we were moved to (Tupzawa) camp. I am presenting a complaint against Saddam Hussein, suspects and the officers who raped us.

**45- Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (1).**

**She gave a statement after being sworn as the following:**

I am a resident of (Kura Mura) village in (Qadir Karam) County. In April 1988, our village was attacked by artillery during night, so we fled to the mountains where we were attacked by the army from three places (Qadir Karam, Chamchamal and Kirkuk). They took my husband and other village citizens by military vehicles (Type: Zil). They delivered us to the army in (Bariq) and moved us to (Khalid) camp, then to (Tupzawa). We were in a miserable situation and they did not provide food until the next day. Four days after, we were moved to (Dibis) camp, the halls were dirty and effected with diseases whooping cough, vomiting and number of kids died there. With me was my relative ([NAME REDACTED]) who gave a birth in detention facility after putting under tree leaves, the baby was wrapped with a piece of canvas which stuck with the baby body and the umbilical cord was cut by a piece of glass. After we were released, we were taken to (Bayinjan) then to (Chamchamal), then I knew that (14) of my family members, my husband and relatives were missing and their fate was unknown until now.

I am presenting a complaint against Saddam Hussein, 'Ali Hasan and all who participated in Anfal operations.

**46 - Plaintiff / [NAME REDACTED]**

**Date of Birth: 1951**


**Profession: Housewife**

**Address: Kurdistan region**

**She gave his statement after being sworn as the following:**

**The Presiding Judge**

**(184-963)**



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### **The Verdict**

In April 1988, the army surrounded (Mahmud Pariza) village and the aircrafts were flying all over it. The citizens of (Mahmud Pariza) and (Zarda) villages were gathered and transported by military vehicles to (Chamchamal) brigade and then to (Tupzawa) detention facility. They were treated badly, men were separated from women, and they took all children for one night and on the next day and they returned some of them. We were left in the detention facility for a week. After moving us to (Dibis) detention for five months, many of the children and women died of hunger, thirst and diseases. My family members were (12), they took four of them [NAME REDACTED]. My father and mother died in (Nuqrat Al-Salman) detention facility, the dogs ate the bodies and I don't know the fate of my four family members until now. We were moved to (Tikrit) and then to ('Arbat) and released. When we were in (Dibis) detention facility, the officers used to take the girls to their rooms. Therefore, I am presenting a complaint against Saddam Hussein, 'Ali Hasan and all who were involved in the crime.

**47 - Plaintiff /** [NAME REDACTED]

**Date of Birth:** 1953

**Profession:** Housewife

**Address:** Kurdistan Region

**She gave his statement after being sworn as the following:**

I am a resident of (Kani Qadir) village in (Qadir Karam) County. Our village is composed of (40) families. In April 1988, springtime, our village was attacked by artillery and aircrafts and as a result to this attack three citizens died; [NAME REDACTED] she was pregnant in her last month, she died with her baby, [NAME REDACTED] and the young girl ([NAME REDACTED]) lost one of her hands. There were also wounded individuals [NAME REDACTED] and others. We had to flee to (Rida Shaka) valley, the attack was still on and we heard the sound of a light bomb followed by seeing its smokes in the village, they asked the...

**The Presiding Judge**

**(185-963)**



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### **The Verdict**

...men to go to high places and cover their heads with wet blankets and we were told that it was a chemical bomb. ([NAME REDACTED]) arrived and his face was red and tears flowing out of his eyes. It started raining and then we moved to (Razyana) valley; all the village citizens were locating there and the attack was still on. Near (Ibrahim Kalam) village a helicopter landed and took (12) of our men we know 8 of them; they were farmers and poor people. Until now their fate remains unknown; then we moved toward (Qadir Karam) while planes were still flying around us boosted with a big crowd of the army, there my husband ([NAME REDACTED]) was arrested and my husband's relatives ([NAME REDACTED]), ([NAME REDACTED]), ([NAME REDACTED]) and ([NAME REDACTED]) and till now their fate remains unknown. We entered (Qadir Karam) district, the army was calling people who did not have a place where to stay and who were hungry to give them food and as they approached they arrested them and until now they remain with unknown fate, among them was my husband's brother ([NAME REDACTED]). Then I moved with my husband's brother ([NAME REDACTED]) toward Kirkuk then to Kifri and did not go to anyplace and when they released the prisoners I returned with my bother's family to (Al-Sumud) complex. I am presenting a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and all who collaborated in this crime.

**48 - Plaintiff / [NAME REDACTED]**

**Date of Birth: 1950**

**Profession: Housewife**

**Address: Kurdistan Region**

**She gave a statement after being sworn:**

I am a resident of (Wadi Lak) village in (Sangaw) sub district, (Chamchamal) district. in 1988 April, I saw the army surrounding our village so we went to (Awa Spi) village and stayed there for four days then we went to (Sar Qala) for three days, we got surrounded and arrested by the army and taken to Chamchamal then to (Tupzawa) camp. They separated elderly from youth and young girls form women and elderly...

**The Presiding Judge**

**(963-186)**



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... and the soldiers treated us badly, then they took the men in vehicles to an unknown area and in the same day they transferred us to (Dibis) where we stayed six months. Diseases was all over the place, two of my kids died, [NAME REDACTED] two years old and [NAME REDACTED] five years old, they also took my son ([NAME REDACTED]) and till his fate remains unknown, and my husband disappeared ([NAME REDACTED]), his brothers [NAME REDACTED] and also they took my sister [NAME REDACTED] with her husband and five children. I want to inform the court that in Dibis detention facility, they used to take the girls in order to rape them and return them after midnight and after that, we were released in Chamchamal. I am presenting a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and their lieutenants.

**49 - Plaintiff / [NAME REDACTED]**

**Date of Birth: 1956      Profession: Laborer**

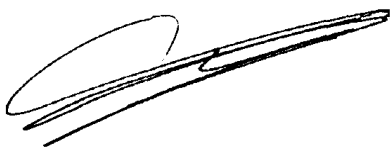
**Address: Darana Village, Nawjul County, Tuz region, Tikrit Governorate**

**He gave a statement after being sworn:**

On 1988 April 04, I used to live with my family in (Darana) village where the military forces attacked our village and (Dawda) region, so the people had to leave and flee to the valleys. In 1988, April 04 (Dawda) was attacked by the army and its people had to go to (Qulijan Sarhat) in (Zangana) region. The attack was from two sides which led the people to surrender to the army, but I didn't do that because I am a member of Pishmarga. My father, sister ([NAME REDACTED]) and brother [NAME REDACTED] fled toward (Mullah Surah) to surrender. In 1988 I turned myself and when I was going to (Tuz Khurmatu) I asked my father about my brother and sister, he told me that the Iraqi forces moved them to (Qura Tu) then to (Tupzawa) detention facility, where they separated the men from the elderly, and since then.....

**The Presiding Judge**

**(963-187)**



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...No one knows anything about them and my father told me that he was in (Nuqrat Al-Salman) detention facility for six months, I also had a brother [NAME REDACTED] turned himself over to (Ba'qubah) security and his fate remains unknown. I will give you two rosters of my family members and village citizens. Therefore, I am presenting a complaint against Saddam Hussein, 'Ali Hasan and all who participated in the crime.

**50- Plaintiff / Razaw Baba Yaba**

**Date of Birth: 1956**

**Profession: Housewife**

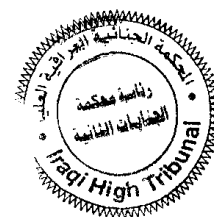
**Address: Kalar County, Al-Sulaymaniyyah Governorate**

**She gave a statement after being sworn:**

I am a resident of (Kani 'Ubayd) village, a part of Kalar district, in 1988 April we were surrounded by the army so we left the village and fled toward the mountains by trucks through the high way that joins between (Tilaku) and (Kalar) regions, and on our way we were arrested by the military forces. In the meantime, aircrafts were flying over us. They took us to (Tupzawa) and they separated women away from men there and put us in halls for one night and then we were transferred to (Dibis) camp. Our village consists of 40 families, fifteen of them did not return and remains with an unknown fate. We were moved to (Nuqrat Al-Salman) detention facility and stayed there for four months. One of my kids died ([NAME REDACTED]) four years old; I have another child [NAME REDACTED] who died on our way after the detention. One day, water tankers were brought to the detention facility, all the detainees who drank this water had diarrhea, cholera and started vomiting, the water tasted very bitter and poisoned, many people died, among them my son ([NAME REDACTED]), three of my children were effected and a women named [NAME REDACTED] with her son, and many others. There was an officer named (Hajjaj) used to rape women and I used to see him taking a girl named [NAME REDACTED] to his room rapping her constantly. There was a deaf woman that (Hajjaj) used to tie her hands...

**The President**

**(963-188)**



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...and threw her among the two corpses and placed her between the dead bodies till late hours in the night. After that, we were released. I present the complaint against Saddam Hussein and his lieutenants. .

**51 - Plaintiff / [NAME REDACTED]**

**Date of Birth: 1964      Profession: Housewife**

**Address: Kifri Sub District region, Diyala Governorate**

**She gave a statement after being sworn:**

I was a resident in (Sikhakaran) a part of (Kalar) district, in April 1988, our village was attacked and we moved toward (Mila Sura) village. We were arrested by the army and transported by tractors to (Qura Tu) and then to (Tupzawa) after one night. Men were separated away from women and aged women from young ones. Then we were transported to (Dibis) camp where we spent three months. We were suffering from the bad conditions and many kids died; we were then transported to Nuqrat Al-Salman detention facility where our situation was very bad. They brought a water tanker, and whoever drinks from it gets swelling in the head and dies later. The surnamed (Hajjaj) used to beat us by cables, and one day he hit my mother which caused diseases to her heart. I saw him once taking a girl to his room and tying another one to dead bodies. Many prisoners died, among them was my aunt [NAME REDACTED], and I will provide the court with a roster of 31 names of my relatives whose fate is remaining unknown. Then we were moved to (Al-Sumud) complex where my uncle picked me up. I am presenting a complaint against Saddam Hussein, 'Ali Hasan Al-Majid, Officer (Hajjaj) and all who participated in Anfal operations.

**52 - Plaintiff [NAME REDACTED]**

**Date of Birth: 1932      Profession: Farmer**

**Address: Jalmurd Village, Aghjalar Sub District, Chamchamal region**

**He gave a statement after being sworn:**

**The Presiding Judge**

**(963-189)**



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Date: 2007 June 24

### The Verdict

I am a resident of (Jalmurd) village which used to be consisted of (112) families. In May 1988, one of our relatives whose name was [NAME REDACTED] and lived at (Mam Raysi) Village informed us that (Gup Tapa) Village was attacked by chemical weapons, and in that evening, all the left the village towards a deep valley called (Bayrasha) valley, wherein we stayed for four days, hiding away from the army; then we were attacked by the army attachments by all kinds of weapons where two citizens were killed [NAME REDACTED].

We were all arrested and taken to (Taq Taq) area by military vehicles (Type ZIL) then to (Tupzawa) detention facility where they divided us into three groups, females and children, youth and elderly. My daughter ([NAME REDACTED]) was pregnant and she gave birth to hey infant in the vehicle. They moved us to (Al-Samawah) where we got separated from the vehicles carrying the ladies and babies and since then I know nothing about them or their fates; we reached (Nuqrat Al-Salman) where the conditions were very bad and people were dying of starvation, among them were my brother [NAME REDACTED] and his wife [NAME REDACTED].

The next day, three other three died, and we saw their corpse eaten by dogs, and then we were released. I will provide the court with a list of 37 relatives, five of them only returned. I am presenting a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and their lieutenants.

**53 - Plaintiff / [NAME REDACTED]**

**Date of Birth: 1932**

**Profession: Handicapped**


**Address: Jalmurd Village, Aghjalar Sub District, Chamchamal**

**He gave a statement after being sworn:**

In 1988 May 05, the residents of (Gup Tapa) escaped to our village after they were attacked, we panicked and headed towards (Bayrasha) Valley, which is located between (Jalmurd) and (Jaqbaja) villages where we were hiding for three days and on the fourth day, the army surrounded us from three ...

**The Presiding Judge**

**(190-963)**





In the Name of God the Merciful the Compassionate

Iraqi High Tribunal  
Second Criminal Court  
Baghdad-Iraq

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### **The Verdict**

... directions and started attacking, then they took us out from the shelters and we walked to (Jalmurd) Village; when we reached our village we found it destroyed, after that we were transported by vehicles (Type: ZIL) to (Taq Taq) area where they placed us in a poultry farm. They separated men away from women, youth from elderly, and transported the youth to (Tupzawa). When we reached there, they divided us into three groups: young women, young men and elderly; and since then I know nothing about their fates. We stayed there for three days and then we were transferred to (Nuqrat Al-Salman) detention facility where the conditions were very bad, we were tortured by the surnamed (Hajjaj). Around three detainees were dying daily from starvation and water shortage. After that, I was released, and the names of my relatives that were missing during Anfal operations are: my wife [NAME REDACTED], my children [NAME REDACTED], my brothers ([NAME REDACTED] along with their wives and children) and my cousins. I am presenting a complaint against Saddam Hussein, 'Ali Hasan Al-Majid, the surnamed Hajjaj and their lieutenants.

**54 - Plaintiff / [NAME REDACTED]**

**Date of Birth: 1935**

**Profession: Farmer**

**Address: Qasruk Village, Aghjalar Sub District, Chamchamal District**

**He gave a statement after being sworn:**

I am a resident of (Qasruk) Village, a part of (Aghjalar) Sub district. On 1955 May 05, we noticed smokes coming out of our village due to the bombardment, so we took our families to (Khalkhalan) mountain and after two nights, we moved to (Simaqa) mountain then to (Kanbank) Valley where the army captured us and took us to (Taq Taq) and placed us in a poultry farm. On the evening of that day, they transferred us to (Tupzawa) detention facility, where they divided us into three groups: youth, females, kids and the elderly.

I saw two men that were handcuffed, and I was told that the youth were cuffed and transferred to an unknown location where after spending two nights in (Tupzawa) detention facility, wearing only underwear.

And since then, I have not seen my family members and their fates remain unknown, mentioning that my family is composed of my wife...

**The Presiding Judge**

**(191-963)**



In the Name of God the Merciful the Compassionate

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### **The Verdict**

... [NAME REDACTED] my children ([NAME REDACTED] along with three of her children), and also my brother [NAME REDACTED] family.

Then we were moved to (Nuqrat Al-Salman) detention facility after we spent two nights at (Tupzawa) where we suffered from the bad treatment, starvation and the unhealthy water; mentioning that I spent for five months and a half in (Nuqrat Al-Salman) detention facility where there were death cases. One of the detainees told me that the total number of dead individuals was 770 and I will provide the court with a roster of 194 individuals that were missing during Anfal operations. I am presenting a complaint against Saddam Hussein, Ali Hasan Al-Majid, and their lieutenants.

**55 - Plaintiff / [NAME REDACTED]**

**Date of Birth: 1936**

**Profession: Laborer**

**Address: Takya Kaka Mad, Aghjalar Sub District, Chamchamal**

**He gave a statement after being sworn:**

I am a resident of (Chughlija) village in Chamchamal. In May 1988, the Iraqi forces attacked our village from three directions and the army burned (Qasruk, Kujina and Ju Ghulayjah) villages; three days after, the military attachments attacked (Chughlija) village and destroyed it by the bulldozers. They arrested the citizens and sent them to (Taq Taq), and then attacked (Bayusha) valley while I was hiding in a shelter with my wife who gave birth a day before. The army located us, I was afraid they will kill me and my family members, and then they took us back to our village which was completely destroyed.

They transported us by the military bulldozers to (Karukhapa) village then to the organization in (Taq Taq) where we stayed for one night before being transferred to (Tupzawa) where we stayed for three days before, they then transferred us to (Nuqrat Al-Salman) detention facility where the conditions were bad, and my wife died from starvation. My brother [NAME REDACTED] and I went to a person named (Hajjaj) who beat us with a cable, then my 20-25 days old baby died from starvation, and then I was ....

**The Presiding Judge**

**(192-963)**



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## The Verdict

released. I am presenting a complaint against Saddam Hussein, Ali Hasan Al-Majid, their lieutenants and the surnamed (Hajjaj).

**56 - Plaintiff "Protected" (TC: The name had been veiled for plaintiff's security), which had been given code No (1).**

**He gave a statement after being sworn:**

I am a resident of (Khidir Rayhan) village in Qadir Karam Sub district. On 1988 April 09, there was an attack on the whole area and due to the heavy attacks and the military attachments presence, we moved towards Qadir Karam Sub district, on our way, we found an armored group, we didn't recognize if they were Pishmarga or a group of the National Defense Regiments; they transported us by SUV's (military color) to a police station where we were arrested then we were transferred to the Brigade Headquarters in Chamchamal, then to (Tupzawa).

In one of days they divided us into two groups and moved us to Al-Mawsil then Al-Ramadi. We were suffering from thirst. I saw a group of military members in SUVs shooting at the people. In the vehicle, there were people I knew such as ([NAME REDACTED]) from (Qashqa) Village, [NAME REDACTED], [NAME REDACTED] and [NAME REDACTED]. Our vehicle was exposed to gun shots and people started to fall one after the other, and I got into a coma. They were shooting at us from a distance of one meter, two corpses were lying on, of them was ([NAME REDACTED]) and I don't remember the other one, I got out of the car and started running till I fall in a pit full of corpses, I saw a corpse of someone I know [NAME REDACTED].

I was trying to escape by following the light; the whole area was full of covered pits. So I went to Al-Ramadi Complex then to Kirkuk through Al-Ramadi and Baghdad. I am presenting my complaint against Saddam Hussein, Ali Hasan Al-Majid and their lieutenants as well as the person who arrested us named (Qasim Agha Kuya).

**26- Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (2)**

**He gave a statement after being sworn:**

**The Presiding Judge**

**(193-963)**



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### The Verdict

I am a resident of (Kani Qadir) village in Qadir Karam Sub district. On 1988 April 06, the army attachments attacked the region using all types of weapons. The attack was on the north side of our village and injured four individuals, mentioning that two young girls [NAME REDACTED], six years old and [NAME REDACTED] escaped to our village. We left the village to hide in the caves. The next day the army attachments attacked (Shazasha and Shaykh Hamid) villages, and I saw the army destroying these villages including ours, since we were located on a hill, then we left to (Qadir Karam) Sub district where the government loudspeakers were asking the people to surrender. I did surrender along with a person named [NAME REDACTED], we were transferred to ('Alyawa) area then to the Brigade Headquarters in (Chamchamal) by coasters without supplying water or food.

In the evening, we were taken to (Tupzawa) detention facility where we were beaten right after entering the facility; there, I met my brother and spent two nights and one day without food or water, we were suffering from the bad conditions. They brought around 17 vehicles and started to call names, my name was one of the last names that were called. The cars started moving, the weather was very hot and we were thirsty, and after one hour of driving the vehicles stopped, and we heard shooting and sound of bulldozers, at that moment we knew that we are going to be killed, we were about 500 persons. Three soldiers approached our vehicle so we decided to attack them and when one of soldiers tried to approach one of us in order to cover his eyes and take him for execution, we attacked him and we were able to control him, but the other soldiers started shooting at us, I got injured in my waist and a number of detainees were killed ...

The Presiding Judge

(194-963)



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## **The Verdict**

... among them were [NAME REDACTED] and others that I did not know.  
After I got injured, the other two soldiers were injured too, so I left the vehicle and I started running in the opposite way to the mass grave until I reached a house where, the hosts gave me food and cured my wound, and then they drove me to the garage in Al-Ramadi, then I went home. I am presenting a complaint against Saddam Hussein, Ali Hasan Al-Majid, and everyone who participate in Anfal operations.

**58- Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (1)**

**He gave a statement after being sworn:**

I am a resident of (Gup Tapa) village. On 1988 May 13, I was out of the village as I am working in the agriculture when I saw a squadron of four aircrafts moving ahead to ('Askar) village and other four were moving towards (Surqashan) village. They attacked both villages. The attack was carried from a low level of altitude and the wind direction was towards our village which brought the smell of the chemical weapons that smells like rotten apple. Some people were affected by the chemical weapon, after that we brought three agriculture vehicles and took the injured persons, females and kids to (Sutka and Mayla) villages.

When we reached (Saruchawa) and (Gupala) areas, the army surrounded the vehicles and arrested the people who tried to escape back to our village. They gathered the people in three military vehicles (Type ZIL). The army escorted the people who were transported by agricultural vehicles to (Kirkuk-Chamchamal) Road, and then we moved towards (Qal'at Susi) Susi Castle where they transferred us to the Emergency Directorate in Al-Sulaymaniyyah then to (Tupzawa) detention facility. They divided us into three groups: females, males and children, and in the next morning I saw them taking the men to an unknown direction, and they transferred us to (Nuqrat Al-Salman) detention facility. We were suffering from starvation and thirst where many detainees died as a result to that, and ...

**The Presiding Judge**

**(195-963)**



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### **The Verdict**

... I participated in burying 20 persons including [NAME REDACTED] that died because of the bad conditions in the detention facility. The total number of the death people was 1800 detainees. I was released after spending 4 months and 7 days in the detention facility. Therefore, I am presenting a complaint against Saddam Hussein, his lieutenants and against consultants (Majid Al-Shaykh Hasan), (Qasim Agha) and (Fattah Agha)

**59- Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (2)**

**He gave a statement after being sworn:**

I am a resident of (Jalmurd) village in (Aghjalar) Sub district. On 1988 May 05, we were informed that (Gup Tapa) village was chemically attacked and that half of its residents were killed. That night we left the village to (Baya rasha) Valley, we saw a smoke coming out from there and we stayed there for four day. After that the army attacked us with all kinds of weapons and killed two of us, my nephews [NAME REDACTED], then we moved back to our village (Jalmurd). When we reached there, the soldiers were destroying the village by bulldozers.

After that, they transferred us to (Nuqrat Al-Salman) detention facility and divided us in halls where the situations were very bad. The cholera and diarrhea spread between us and we were suffering from starvation, after that we returned to (Tupzawa) then to (Chamchamal) and finally they took us to (Al-Sulaymaniyyah). I provided the court with a list of my family members that were missing and also a list of the persons that were detained.

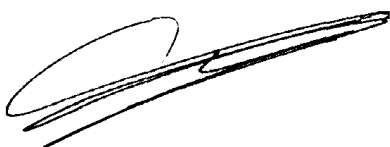
**60- Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (1)**

**He gave a statement after being sworn:**

On 1987 April 16, I was with my family which is consisting of my father [NAME REDACTED], my mother [NAME REDACTED], my brother ([NAME REDACTED]) and my sisters [NAME REDACTED] in (Tutma) village. Before the sunset, several aircrafts flew over Balisan area and attacked several villages using chemical weapons. The villages were (Shikhwasanan, .....).

**The Presiding Judge**

**(196-963)**



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### The Verdict

... Balisan, Tutama and Khati), I heard about these villages but I witnessed my village.

The next morning, the inhabitants' eyes were shading tears, and after ten minutes, we smelled something like garlic or rotten apples, mentioning that the number of citizens in our village ranged between 80-100 families. The citizens started vomiting and having difficulties inbreathing, among them was my cousin [NAME REDACTED] and my relative [NAME REDACTED] who were burned and the bubbles started to appear on their skin. Then, I left the village along with my family to (Wari) village, I had dyspnea and my eyes started shading tears. After five or six months, we went to the compulsory complexes in (Shikarta).

On 1988 May 18, the aircrafts hovered over (Wari) and (Balisan) villages where I witnessed bombs falling on (Wari) village and neighboring areas. The wind direction was towards (Shikarta) complex, after ten minutes we started smelling a bad smell like rotten apples then the inhabitants of (Shikarta) Complex started vomiting and having dyspnea. Before entering the village I saw the corpse of my cousin [NAME REDACTED] who died from the chemical weapons. His nose was bleeding and foam was coming out of his mouth, also I saw the corpse of [NAME REDACTED] and more than 18-20 corpses, one of them was for a one and half year old baby, all died from the chemical weapons. They took me to (Burish) Hospital at (Khati) village, which belongs to the Pishmarga, there was a number injured individuals. When I entered the village I saw dead livestock and no one was there, after that I returned to (Shikarta).


I am presenting a complaint against Saddam Hussein, 'Ali Hasan Al-Majid, their lieutenants and pilots who attacked my village and the organization who soled the weapons.

**61 - Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (2)**

**He gave a statement after being sworn:**

**The Presiding Judge**

**(197-963)**



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### The Verdict

I was living in (Wari) village and on 1988 May 18, I saw eight aircrafts, four of them hovered over (Balisan) village and four went to an unknown neighborhood, then they attacked the village using chemical weapons.

I was out of the village and I went back to help my family and when I came close, I saw two corpses belonging to [NAME REDACTED] and his mother [NAME REDACTED].

The wind direction was towards us and it was carrying chemical gas, I moved in another road where I saw an agricultural vehicle driven by [NAME REDACTED], he was transporting 15 wounded citizens, I knew some of them, the driver told me that he will take them to (Shurish) Hospital. I also saw [NAME REDACTED] and [NAME REDACTED] and I asked them to come with me to the village and when we entered the village we saw the dead livestock and two corpses, one on the street for [NAME REDACTED] and the other one in the mosque water basin for my cousin [NAME REDACTED], and other 18-20 corpses near the spring, I knew some of them. I saw the corpses thrown on each other, some of them were babies. I agreed with [NAME REDACTED] to gather the corpses in order to bury them and to transport them by the agricultural vehicle to (Shikarta) area. The total number of dead and injured persons was around 40. On our way to there, we were stopped by an army checkpoint where there were the National Defense Regiments, they prevented us from passing through, then we went to (Qashan) area and we left the corpses and the injured persons near a water spring. My eyes became red and I had dyspnea due to the transportation of corpses. Our relatives in (Saruchawa), (Chuwar Qurna) and Shikarta) were informed and they went to the [NAME REDACTED] to take his permission for help the injured persons and to bury the corpses.

([NAME REDACTED]) and the families came to the area and buried the corpses. I will provide the court with a list of the individuals that were buried in that cemetery, and their number is ...

The Presiding Judge

(198-963)





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### The Verdict

.....(35) persons, twenty of them are my relatives.  
The injured individuals were secretly transported to the neighboring villages to get treatment and two months after, five or six of them died. After two months, we returned to our village where we found dead livestock and some of the crops were still valid.

On 1988 August 10, our village was again attacked by chemical weapons along with (Tutma) village, and after aircraft bombardment, the army attachments and the National Defense Regiments used all types of weapon in attacking the village. They were destroying the villages, stealing the livestock and destroying the mosques. I am presenting a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and their assistants.

**62 - Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (3)**

**She gave a statement after being sworn:**

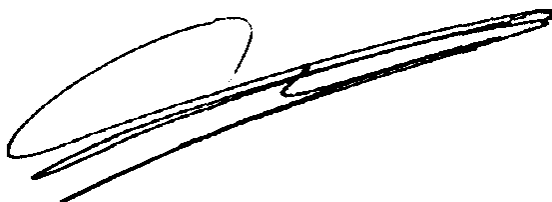
I am a resident of (Tutma) village, which was constantly attacked, the thing that forced us to leave to (Wari) village, where we stayed for a year. The attacks on (Wari) village started on the last day of Ramadan where many civilians were injured and killed. During the aircrafts attack I heard my son calling me and when I approached him, he was lying on the ground and foam was coming out of his mouth where also a person named [NAME REDACTED] died, I fell beside him fainted, they moved me with the dead bodies thinking that I was dead, when I started vomiting they transferred me to an unknown place. They took my brother and my sister ([NAME REDACTED]) to their house. My husband [NAME REDACTED] and my son's wife [NAME REDACTED] were injured and moved to (Khati) hospital. We stayed in (Shikarta) complex, my husband died after three years; I lost my vision and remained in constant pain as a result to the accident. I'm presenting a complaint against Saddam Hussein and his lieutenants.

**63 - Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (4)**

**She gave a statement after being sworn:**

The Presiding Judge

(199-963)



In the Name of God the Merciful the Compassionate

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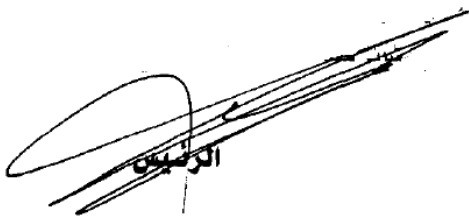
## Verdict Decision

I am a resident of (Sartika) Village. In the beginning of 1988 autumn, we had left the village for being attacked by the aircrafts and artilleries, after going to (Irbil) we stayed there for eight or ten days; my husband had come back to the village and found it destroyed by bulldozers; he told us that we lost every thing and our farms were destroyed. After three days; my husband [NAME REDACTED] went back to the village and the army arrested him there. We were informed about that from (Kuri) Village, I did not get any more information, and his destiny is still unknown until now. I do request to file complain against Saddam Hussein, 'Ali Hasan Al-Majid and their affiliates.

**64- The Plaintiff ((Protected)) who indicated with number (1); he stated the following after being sworn:**

I am from (Tup Khana) Village, (Qadir Karam) Sub District. In the fourth month of the year 1988, the Army detachments attacked the area, our village, where tanks and helicopters supported them. As we were afraid of chemical weapons; we went to (Qadir Karam) Sub District and surrendered to the military forces there, to a unit named (Army of Bariq) (*T.C: Brigadier General Bariq 'Abdallah was the Commander of the 66<sup>th</sup> Special Forces Brigade operation with the Oil Protection Forces*). They moved us to ('Alyawa) area, then to (Chamchamal) Brigade headquarters, and then they took us to Tupzawa camp; where prisoners were tortured there. They put us, my cousin [NAME REDACTED] and me, in cars with a group of people. The cars moved, after that the car turned to a sandy road full of road humps, we were in starving from hunger and many of the prisoners got unconscious, because of hunger and thirst. I saw by my own eyes a prisoner who had urinated in his shoe and drank it; we heard a fire shot noises. After the car had stopped the two guards got down and left us inside the car then they came back and put two prisoners inside the car after they were handcuffed and blindfolded. Then they came back and took two prisoners and we were hearing shooting noises. The number reached to eight persons, at that time I sat beside my cousin, as I wish to be killed with him. They have tied my hands and blindfolded my eyes with a white cloth and one of them pulled me from my hand, as we walked to a short distance he told me to.....

(200-963)



Chief



In the Name of God the Merciful the Compassionate

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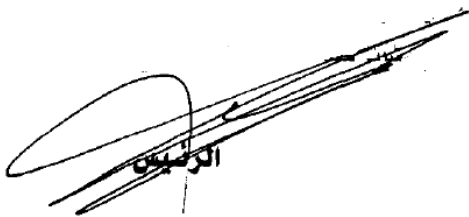
## Verdict Decision

..... (Set down) and (Lay down) besides my cousin and he asked us to lie down on the ground together. The fire shooting started on us and I do not know the number of shots. I did not feel any pain and I pretended that I am dead, and then he pulled us on the ground. This process was repeated several times, the prisoners in the car were (35) prisoners. When I had untied my hands and removed the cloth over my eyes, I saw a big hole where they were throwing the killed prisoners inside it. I made use of their absence, I crawled to the hole, and I saw the dead bodies and a bulldozer. When they had gone away, I jumped out of the hole, ran for a distance, and continued walking until the morning where I reached Al-Ramadi and there, I went to one of the houses there, where I got some food and drink, after that I directed to Baghdad, Kirkuk and Tikrit. I request to file a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and all the persons affiliated in Anfal Crime and the chemical attack.

**65- The Plaintiff ((Protected)) who indicated with number (2); after being sworn, he stated the following:**

I am a resident of (Khidir Rayhan) Village of Qadir Karam. In the fourth month of the year 1988, the Army detachments attacked us from two axes. The loudspeakers were announcing a general amnesty on us; so we decided to surrender to Qadir Karam Police Station, they brought a military vehicles type Zil and moved us to (Chamchamal) Police Station, after tying our eyes and hands. We stayed there for one night then they brought buses and moved us to (Tupzawa) where we stayed for two days. The arrested number was between (500 – 1000) persons, in the morning they had brought (10 – 12) buses and they rided us in the buses, where the bus turned away to a sandy road in a sandy area, where we heard noises of bulldozers and fire shooting. We had stopped in a wasteland, and then a guard holding a Kalashnikov brought down one prisoner from the bus and tied his eyes, where prisoners attacked the guard; during this, the guards started shooting us. I saw my friends falling dead, because of the shooting.

(201-963)



Chief



In the Name of God the Merciful the Compassionate

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## Verdict Decision

I do remember some of their names [NAME REDACTED] and they were in the bus with me. I was saved from the execution and I do not remember how, I had reached to the city knocking the houses' doors, food and drink were provided to me, after that I reached to Kirkuk. I do request a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and all the persons affiliated in Anfal Crime.

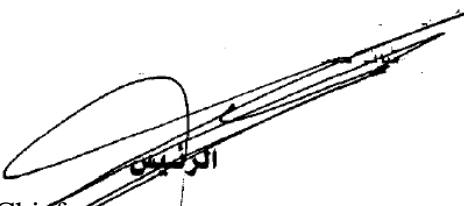
**66- The Plaintiff ((Protected)) who indicated with number (3); after being sworn, he stated the following:**

I was residing in (Hiran) Village; in the early morning of 1988 August 10, the aircrafts started attacking the village and because of that I lost my vision, I was moved to (Kani Maran) Village. At that time, I received no news about my husband [NAME REDACTED] and my son ([NAME REDACTED]). After that, they moved me to Irbil, with my mother and sister, who took me to my father's house. Where, they moved me to a private hospital in Irbil and made a surgery to me there. After the surgery, they took me to house of my uncle [NAME REDACTED] and when the amnesty was issued, my husband came back and told me that my son died as a martyr. I lost one of my eyes and there are slivers in my body. I do request to file a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and their affiliates.

**67- The Plaintiff ((Protected)) who indicated with number (4); after being sworn, he stated the following:**

I am a resident of (Qara Salim) Village of Qadir Karam. In the fifth month of the year 1988, the Military forces attacked our village and arrested some of its people. The arrested people were hidden (they were Anfalized), as part of Anfal operation. Some of those people could escape, including me, as I escaped to Irbil. After one month, we asked about our men who stayed in the village. They were hiding in the surrounded mountains; after a secret general amnesty was issued, my husband [NAME REDACTED] with his cousins [NAME REDACTED] whom are sons of [NAME REDACTED], surrender themselves to the Legal Advisor (Colonel Hamid). I heard that (Colonel Hamid) handed them over to the convict ('Ali Hasan Al-Majid). Since that time, we received no news about them, and I still do not know their fate. Large number was "Anfalized" from...

(202-963)

  
Chief



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## Verdict Decision

... my relatives and my village people. I do request to file a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and their affiliates.

### 68- The Plaintiff [NAME REDACTED]

**Date of Birth: 1975**

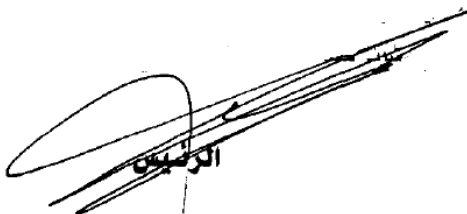
**Profession: Laborer**

**Place of Residence: Raniya District, Hajiyawa Sub District, Sector 4, Near to the Sub District Directorate**

**After being sworn, he stated the following:**

I am a resident of (Wari) Village. In the spring of the year 1988, the Army troops attacked (Balisan) Valley, and on 1988 May 18; I was living with my family in the village, where that day I was out of the village for irrigating the corps and when I came back to the village; four aircrafts intensively attacked our village. The explosion noise was low, I found ([NAME REDACTED]) thrown in a pool of a Milky color-water and I saw people suffering of Eye-Redness, Dyspnea and Runny-Nose. I remember, some of them [NAME REDACTED], he is my cousin, [NAME REDACTED], he is my uncle, [NAME REDACTED], sons of [NAME REDACTED], and their young sister [NAME REDACTED]. Then I escaped with three of the village people and after 45-minute of walking, I had got the infection of the chemicals and found a difficulty in breathing; I fall down and got unconsciousness. Two shepherds found me and took me to Khati Village, after that they took me to my uncle's , [NAME REDACTED] house in Shikarta Complex and there I knew that (35) of my village people were killed by the chemical weapons; (20) persons of my family and (15) of the village people. I submit a names list for those people, whom were buried in Qashan Valley. There were some injured persons; I remember some of them, as my cousin [NAME REDACTED] who was two years old, he was died after that. In addition, my uncle's wife [NAME REDACTED], who was died after three days of being injured, and my uncle [NAME REDACTED] and his sons. After that, some injured....

(203-963)



Chief



In the Name of God the Merciful the Compassionate

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## Verdict Decision

... were moved to Shurish Hospital (*T.C: The Pishmarga Hospital*). I do request to file a complaint against Saddam Hussein, 'Ali Hasan, the pilots attacked the village and the party that sold the chemical weapon to Saddam Hussein.

**69- The Plaintiff** [NAME REDACTED]

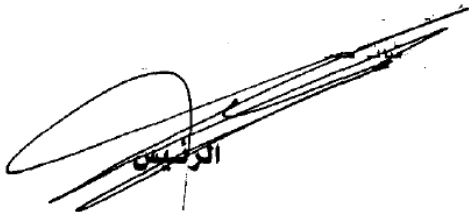
**Birth:** 1954

**Profession:** Pishmarga personnel

**Place of Residence:** Mangish Sub District-Duhuk Governorate stated the following after being sworn:

I am a resident of (Kurimi) Village of (Mangish) Sub District; my village was destroyed several times by the former regime. On 1988 August 25 we tried to go to the Turkish border but we could not do that, because we were surrounded by the soldiers so we went back to our village and found the village was surrounded by the soldiers. Therefore, we all surrender ourselves to the army; who surrounded us and grouped men apart of women; they took the families to unknown destination and took the men for (150 – 200) Meters away of the village. They ordered us to set down, one officer ordered us to set down and another one ordered to start shooting us. We were thirty-three persons and when they had started shooting us, I ran for a distance of (200) Meters and I was shot by two bullets in my leg that was broken during my escapee. In the next day some persons wearing the Kurdish uniform came and moved me to Mangish village, they placed me in a secondary school and left me there for three days without any medicine. As the army was guarding that school, they moved me to (Nazarki) village, where they were torturing us there. My brother ([NAME REDACTED]), my nephews [NAME REDACTED] who are sons of [NAME REDACTED], usually they were taken to the hall, after being tortured. We stayed there for (21) days, I was seeing cars coming every night to take the people. After that, we were moved to (Bahirka) area, where I saw the visit of 'Ali Hasan Al-Majid. We stayed there for three years then we went back to our villages, which we found completely destroyed. Now, I am a handicapped until this moment. I do request to file a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and all the affiliates in this crime. A question asked by the court...

(204-963)



Chief



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... if all persons were killed in the execution process, or there are some survivors? He answered: We were six persons who stayed alive [NAME REDACTED].

### 70- The Plaintiff [NAME REDACTED]

**Birth: 1947**

**Profession: Peasant**

**Place of Residence: Nazari Village Zawita Sub District-Duhuk Governorate**

**After being sworn, he stated the following:**

I am a resident of Nazari Village near to Barjini village. In the eighth month of the year 1988, in the morning, the aircrafts flied in village's sky, we heard noises of four or five explosions that were not loud; as a result, a yellow smoke was raised from it in (Barjini) village. I witnessed the attack operation by my own eyes. I had sent my brother ([NAME REDACTED]) to Bairjini village and he told me that village was attacked with chemical weapons. At that time, I took my family and there was no other way to escape, except through Bairjini village. There, I saw two dead bodies of [NAME REDACTED] and I saw a woman laid down on the ground named [NAME REDACTED], where she was intensively affected with the chemicals. We saw two dead bodies down on the ground beside one of the caves in [NAME REDACTED] that we could not bury them, so we put some grass on them and left them. We passed by (Takya) village near to our village, the people there told us that (15) persons were killed by the chemical weapons, after that we had gone to the Turkish border and crossed to the Turkish land; we stayed there for four years then came back to Duhuk City. When we had gone to our village, we found it destroyed and the gardens were destroyed too. I do request to file a complaint against Saddam Hussein and his affiliates.

### 71- The Plaintiff [NAME REDACTED]

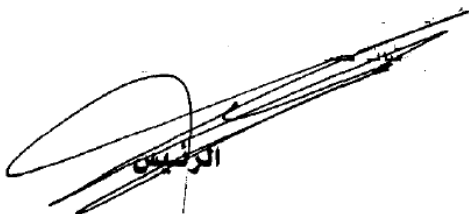
**Birth: 1967**

**Profession: Employee**

**Place of Residence: Duhuk – Karabay Subdivision,**

**After being sworn, he stated the following:**

(205-963)



Chief



In the Name of God the Merciful the Compassionate

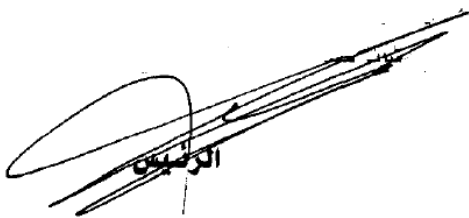
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I am a resident of Kurimi Village. On 1988 August 25; we received news that the government will attack our village; so we had ran away with our families to the caves after that we went to the borders, there was no chance of survival because the army was surrounding all the main roads so we went back to the caves. In 5 o'clock morning of 1988 August 28, we knew that the army was surrounding us from all directions so we surrender ourselves to the army that moved us, about a hundred Meters far from our village. Then they took us in two groups to (Mangish) village; the men with the old people group, women and children group and only (33) men remained in our group. They took us south of the village about (Two hundred Meters) from our place, there were two officers that ordered us to stop and set down. Order issued to the soldiers to start shooting, the shooting started and I was in the middle of the row. When the shooting ended, I found myself under the dead bodies. After that, an order of shooting one bullet on each dead body was raised to soldiers, where the shoot injured my shoulder. I came out of the dead bodies after soldiers had gone away. I saw my clothes affected by many shots, but it did not affect my body. I saw ([NAME REDACTED], who survived from the execution and the four of us went towards the caves. In the next day, the National Defense Regiments moved us to the headquarters of the Party Command in (Mangish), where we heard about an amnesty. We saw families that surrender themselves to the brigade headquarters in (Batufa) area, where they were separated. They took the four of us to the Military Intelligence prison that belongs to the brigade, then they took us to (Nazarki) fort in (Duhuk), where the food and drinks were in so bad condition. We were moved by cars to (Bahirka) in a flat desert area, and there I saw my mother and father, so many children died there because of hunger and sickness. In 1991 we came back to our village; we found it ruined and without any mosques. I submit to the court a names roster...

(206-963)



Chief





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## Verdict Decision

... for the people who were hidden as a part of Anfal operation (Anfalized). I do request to file a complaint against Saddam Hussein, 'Ali Hasan Al-Majid, all of the involved persons in this crime and the officers who shoot us.

**72- The Plaintiff** [NAME REDACTED]

**Birth:** 1954

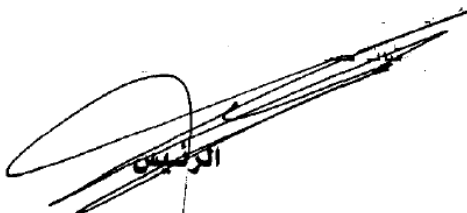
**Profession:** Peasant

**Place of Residence:** Kurimi Villlage Mangish Sub District- Duhuk Governorate

**After being sworn, he stated the following:**

I am a resident of (Kurimi) Village. On the night of 1988 August 25-26; we knew form the close villages that the Iraqi forces will make Anfal operations. Therefore we had run away and reached to the street leading to (Kani Masi) but we could not cross it, the people had come back and hidden in the farms and craves that we were living in. In 5 o'clock morning of 1988 August 28; we were attacked and surrounded by the army from all the directions, therefore we surrender ourselves to them; they had taken us to our village and grouped men apart of women and children, they took the women and children to Mangish way. (33) Men of us remained, the officer asked us to get in one row, and they took us south of the village where I saw 16 soldiers, the two officers ordered an order to set down and another one to shoot us, the soldiers shot us and we all fall down. After that, the officer ordered to shoot one bullet on every one of us; and he wounded me in my forehead, and I show it to the court (And the court noticed a clear mark of that on it). When the soldiers had gone, I tired to get up and I saw my father, brothers [NAME REDACTED]and (18) of my relatives, and they were all dead. I saw my cousin ([NAME REDACTED]) wounded in his legs and I put him in a big hole, also I saw [NAME REDACTED] coming out of the dead bodies. I submit to the court a names roster of the people who were killed in the execution operation, and I saw my uncle named ([NAME REDACTED]) whose leg was broken. After that I went with the named ([NAME REDACTED]) to hide in the curves, ([NAME REDACTED]) reached there too, and we stayed there until 1988 September 07 without food or water, then we went to (Ni'lafa) Village where there was the...

(207-963)



Chief



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...national defense regiments who told us that there is an amnesty; so we went to them and they took us to the headquarters of the Ba'th Party in (Mangish) area. Then they moved us to the brigade headquarters where they beaten and humiliated us before moving us to Nazarki Camp in Dahuk. I saw thousands of men and women in the castle; and then they moved us to (Bahirka) desert area; children died there and I participated in their burial. Cars were coming and taking the Christians and Yezidis to unknown destination, and we do not know their fate until now. After the issue of the amnesty, I took my family to Duhuk. I do request to file a complaint against Saddam Hussein and his group.

**73- The Plaintiff** [NAME REDACTED]

**Birth:** 1942

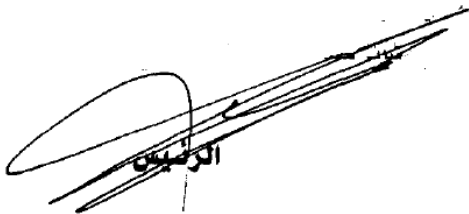
**Profession:** Housewife

**Place of Residence:** Kani Area-Al-'Imadiyyah District- Sarsanq Sub District

**After being sworn, he stated the following:**

I were residing in (Kizi) village; in August 1988, I went to (Sarki) village along with a woman and three men to bring a bride; and once we got there, we saw a squad of airplanes, so we hidden between the trees, and we heard heavy bombardments where the airplanes stroke twice. Moreover, when we got to (Sarki) village, we saw the bad situation of the people there and their noses was flowing with fluid. We started feeling the same symptoms, so we took the bride back to our village; and my health started recovering there. As we were afraid of attacking our village, we ran to the highway to Turkey, and the people there told us that all the cross points were blocked. Therefore, we turned toward (Kara) Mountain where we stayed in caves. The army moved forward toward (Kara) Mountain and they asked us to hand ourselves over, they grouped and transferred us to (Kani) area and picked us by the vehicles to (Nazarki) Castle, where the soldiers begun attacking us. The number of the arrestees was 96 men; and the next day they brought two windowless military vehicles; they got us in the vehicles including my husband ([NAME REDACTED]), my son ([NAME REDACTED]), and my brother ([NAME REDACTED])...

(208-963)



Chief



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...[NAME REDACTED]), my nephew ([NAME REDACTED]), my husband's nephew ([NAME REDACTED]) and my daughter's husband ([NAME REDACTED]). The vehicles took them to the west, we received no news about them until now, including these people there was (27) men of my cousins and they still missing until now. After that, they moved us to (Bahirka), the situations was so bad there, where (23 - 24) kids were died including ([NAME REDACTED]). I went to Duhuk after the amnesty was issued. I do request a complaint against Saddam Hussein, 'Ali Hasan Al-Majid, all the persons affiliated in this crime.

**74- The Plaintiff** [NAME REDACTED]

**Birth:** 1949

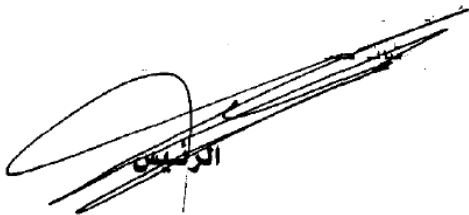
**Profession:** Handicapped

**Place of Residence:** Duhuk Governorate

**After being sworn, stated the following:**

I was living in (Bairjini) village of (Zawita) Sub District in Duhuk. In the morning of the 1988 August 25 I heard noise of aircrafts, I saw eight aircrafts flying over our village on low height, it launched some rockets on the village, which resulted in low noises explosions with a white and yellow smoke of fruity-smelled, we got Dyspnea with Eye-Redness and Runny-Nose. I saw birds and flies falling down after the chemical attack, the attack process lasted for (30 – 35) minutes. We, the village people, had gone to the high areas where we found missing persons of the same family, they are ([NAME REDACTED]) and ([NAME REDACTED]). I remember some persons whom were affected; who are '[NAME REDACTED] and my daughter [NAME REDACTED], also I witnessed the death of some persons, who I remember some of them ([NAME REDACTED], as we covered the bodies of the last two persons with tin and tree leaves. Then we all escaped to Turkey, as we passed by several abandoned villages, I was affected by the attack, I was shivering strongly with a terrible headache. When we had reached (Tuyka) village, we saw (15)...

(209-963)



Chief



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... Corpses in the village, including ([NAME REDACTED]), who is a citizen of Zakhu. After that, we crossed the Turkish borders and dwelled over there until 1991.

At the time when we fled away, and during our march, a number of my family members died, including my daughter [NAME REDACTED], my nephew [NAME REDACTED], my cousin [NAME REDACTED] and my uncle [NAME REDACTED]. When I returned to my village, it was destroyed and unoccupied.

I provide the court with a list of people, who were killed or missed during Anfal operations. I want to take legal actions against Saddam Hussein, 'Ali Hasan-al-Majid and all the individuals, who conducted the attack, including pilots and their commanders.

**75- Plaintiff** [NAME REDACTED]

**Date of Birth:** 1966

**Profession:** Pishmarga

**Place of Residence:** Kani Complex, Al-'Imadiyyah District.

The plaintiff stated the following after he took on oath:

In the morning of 1988 Aug 27, I was a member in Al-Pishmarga at Kizi village. We received orders to gather in our village and move toward Sarki village. When we stopped in front of the village, we saw an aircrafts squadron. I saw two aircrafts bombarding Sarki and Bari Kara villages. By my own binoculars I saw 18 missiles were being launched toward the village, they were emitting three types of smoke; White, Black and Green. After half an hour, we smelled a good scent like apple odor. Shortly there after, our eyes were tearing, our noses were runny and we had breath-shortness. We covered our face with our head dresses. Some members of our group vomited, including the [NAME REDACTED]. After one hour, we carried out the orders and moved toward Rawina village. We noticed that the smoke was still emitting from missiles. We arrived to Shirana Orchard and saw the corpse of [NAME REDACTED] inside it. We returned to our families and houses. After that, we started walking toward the Turkish and Iranian borders. My brother ([NAME REDACTED]) and I crossed the borders towards the Turkish territories, but my father, mother and my brother Sha'ban did not succeed crossing the borders.

I arrived to the Turkish territories. I was transferred to Iran. I stayed in Iran until 1991; then I returned to ...

Chief



(210-963)



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my father, mother, uncle and his spouse and I inquired about my brother [NAME REDACTED], my uncle [NAME REDACTED], his sons [NAME REDACTED]. I was informed that they were missing since 1988. I returned to my village and found out that it was completely destroyed. I provide the court with a list of names of Kizi village citizens, who were killed or missing. I want to take legal actions against Saddam Hussein, 'Ali Hasan Al-Majid and all defendants.

**76- Plaintiff Tawfiq** [NAME REDACTED]

**Date of Birth: 1957**

**Profession: Pishmarga**

**Place of Residence: Maqlabi Complex, Duhuk Governorate**

The plaintiff stated the following after he took on oath:

On 08 August 1988, after the end of Iranian-Iraqi war; the Iraqi government launched a full attack on Bahdinan Area from two axes. In the night of 22-23 August 1988, we received news about a certain assault against our village, which will be carried out from two axes. All the village inhabitants escaped toward the Turkish borders. We returned in the night to our village because we could not cross the borders. Two aircrafts flew from Matin Mountain toward the village. The village was bombarded, and approximately four to five missiles were launched. We looked at the bombardment site and saw missiles emitting yellowish smoke. Our eyes became red, so we knew that it was a chemical weapon. I went back to the village to bring supplies, where I found a person named [NAME REDACTED], his eyes were tearing and his nose was runny. We found three burnt corpses inside in the house. The three corpses were for [NAME REDACTED], his spouse and [NAME REDACTED]. We buried the corpses without wrapping them with cloth.

All families were going toward the Turkish borders. We succeeded in crossing the Turkish borders on 02 September 1988. We were transferred to Kithri Complex then to Mushya Complex. A lot of people died because they were exposed to chemical weapons, including [NAME REDACTED]. I have a list of my village people, who were infected.

In 1991, ...

The President



(211-963)



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we returned to our village. It was destroyed; all houses and orchards were destroyed. The livestock were killed. The remains still exist until now. I want to take legal actions against Saddam Hussein, 'Ali Hasan Al-Majid and their collaborators.

**77- Plaintiff Taymur** [NAME REDACTED]

**Date of Birth: 01 January 1976**

**Profession: Laborer**

**Place of Residence: USA, Washington.**

The plaintiff stated the following after he took on oath:

On April 1988, I was living in Kulaju village, Tilaku Sub district, Kalar District. We received news that the Iraqi troops were concentrating near our village. We left the village; we went to Mila Sur village and stayed there, for three years. We decided to return to our village, but the army and National Defense Regiments were moving forward toward our village. They detained us along with other villages' inhabitants. We were transferred by vehicles from Kalar to Qura Tu Area. The detention camp was extremely dirty and we were left out with out food or water for ten days. After that, we were transferred to Tupzawa detention camp. The conditions were very bad and we were treated brutally. After thirty days, they transported us, using closed vehicle that did not have any windows. Two little girls died because of the lack of ventilation. After driving for a while, all vehicles changed the route. We were taken into uneven unpaved road, when the vehicles stopped and their doors were opened, we saw a big hole full of women and children corpses.

Bulldozers were removing the sand in order to bury the corpses. We were kicked brutally and forced to get out of vehicles. We were taken to the hole, which were surrounded by armed soldiers. One of the soldiers shot the people inside the hole. I was shot in my shoulder but I pretended that I was died. I saw a pregnant woman, which was shot in her head. I was with my mother [NAME REDACTED] and my sisters, in the hole.

I will provide the court with a list of victims' names. I saw my mother and sisters getting shot. The shooting were intensive as rains drops and the hole was full of blood. After the firing stopped, the soldiers walked away from the hole. There was a little girl inside the hole, who survived from shooting.

The hole was not big ...

The President



(212-963)



## Verdict Decision

and the height was less than one meter. I was moving from one hole to another. I fled from the area. While I was walking, I saw a tent. The owner of the tent came out when his dogs attacked me. I asked him for help. He gave me clothes, food and water. He took me to an adjacent village, where I was provided with medical care.

After that, I moved to Kalar Area, Al-Sumud Complex. I resided with my uncle [NAME REDACTED], but after that intelligence knew that I came back; one of my uncles ([NAME REDACTED]) sent me to one of the destroyed villages. I resided there until 1991 then I came back to my uncle's house.

I want to take legal actions against Saddam Hussein, 'Ali Hasan Al-Majid and every one, who participated in Anfal Campaign [*T.C: His story was reported in the 1993 annual report of the Human right Watch and many local and international books were published on him such as (Cruelty and Silence by Kan'an Makkiya)*].

### (Summary of the prosecution witnesses' statements)

#### 1- Witness [NAME REDACTED]

**Date of Birth: 1969**

**Profession: Laborer**

**Place of Residence: USA, Virginia**

The witness stated the following after he took on oath:

He stated that he surrendered after he informed by one of the Pishmarga men, about the amnesty. He was taken to the Northern Kurdish Affairs Organization. He was mistreated. After we were detained, we were transferred by vehicles. We were informed that we were being taken to Baghdad. After the vehicles started moving, they stopped and detainees were taken out of the vehicles. I was the seventh detainee, who was taken out of the vehicle. They took us far away from the vehicle. We were ordered to sit down. When I sat down, I saw a hole.

When I sat down, I was hit on the back of my head, where I fall down inside the hole. I saw one of the guys inside the hole and I lost my consciousness. When I regained my consciousness, I found lower half of my body was buried under the sand, I saw the shovel went away in order to bring more sand. I tried to leave the hole, benefiting from the dark, dust, ...

Chief



(213-963)



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Where guards were busy in bringing detainees. I left the hole. I believe that they did not shot detainees, but they were put inside the hole and they were buried alive.

**2- Witness** [NAME REDACTED]

**Date of Birth: 1970**

**Profession: Laborer**

**Place of Residence: USA, Virginia**

The witness stated the following after he took on oath:

On May 1988, the Iraqi aircrafts bombarded our area (Balisan), particularly Warti village.

The chemical weapons were used in bombardment and more than 300 persons were killed. I do not know their names because I did not reside in this village at that time, but I was a member in Pishmarga and our headquarters was near this village.

**3- Witness** [NAME REDACTED]

**Date of Birth: 1948**

**Profession: An Educational supervisor in the Ministry of Education**

**Place of Residence: Al-Sulaymaniyyah**

The witness stated the following after he took on oath:

I am a resident of Gup Tapa village. On 03 May 1988, I noticed the movements of the army, which raised my suspicions at that time. We felt that our lives in danger. In that day, I saw the aircrafts, which I cannot remember its number. They bombarded other villages. Our village was bombarded and the smoke was rising from it. The noise generated from the bombing was minor. The wind was still. I was standing opposite to the wind direction. I yelled and called the village inhabitants. I realized that the village was bombarded with chemical weapons because I served in the army, in the chemical classification unit. I was trained on the chemical weapons. At that time, I lost 25 of my family members; I remember my mother [NAME REDACTED], my wife [NAME REDACTED] and my kids [NAME REDACTED]. Only my daughter [NAME REDACTED] survived...

The President



(214-963)





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I also lost my two brothers [NAME REDACTED] and [NAME REDACTED], their wives and all their kids, who killed in this incident. All of them resided in Gup Tapa village. After ten minutes from the bombarding, we went toward the village. I was accompanied by my brother in law and my friends. We were four people. I asked them to use their Kurdish textile belts as masks after soaked them in water. I covered my mouth, nose and my eyes with a cloth in order to protect them. In the middle of road, I met one girl, who told me "no one left for you", which means in Arabic "All your family members died".

The village was bombarded from three sites, which form a geometrical shape of a triangle because the majority of houses are located there. The village was bombarded in Ramadan at the sunset time, because all people fast and they gather to eat food. In addition, the village was bombarded in the night time because people cannot be rescued easily and the army intended to cause many casualties. My family tried to reach the stream to use the water. I heard the moaning of a little kid. I had a portable electrical lamp with me. I was checking casualties, where I saw more than seventy persons of my family lied down on the ground within an area of 500 square meters. I could not count the number of casualties accurately. All of them were my family members. They were infected by chemical weapons. I saw a woman, who was laid down in the stream on her chest. I heard the moaning of her baby, who was laid down close to her. She was trying to protect her baby. I carried the baby and took him inside the house. I took his clothes off, washed him and covered him with a blanket, and then I left the house.

I saw a woman laid down on her chest in the stream. When I turn her body around, I figured out that she was my mother. After I saw the rest of my family members, I left the village. After five days, I was starving and I did not know where to go. I was accompanied with five persons. I tried to return to the village but I realized that the army is gathering in the village. They were detaining the inhabitants and burning their villages. We walked away from the army and hid behind the big rocks. I saw the so called [NAME REDACTED], who is from Jalmur Village ...

The President



(215-963)



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he was in a hurry. We asked him what he saw, he answered that a lot of military troops are combing the villages and arresting the inhabitants. He warned us that the army will come here; therefore, we have to run and save ourselves from them. I asked him about my father, he told me that all inhabitants were arrested.

### 4- Witness [NAME REDACTED]

**Date of Birth: 1957**

**Profession: Surgeon**

**Place of Residence: Al-Sulaymaniyyah**

The witness stated the following after he took on oath:

Since 04 April 1982 until 1989, I worked as a doctor in Pishmarga forces at Kurdistan Area. We had a hospital named "Shurish". Since I have started working in the hospital in 04 April 1982 until 17 April 1987, all the casualties I treated were caused by conventional weapons. In the night of 17-18 1987, I was in Birki village, which is considered as a part of Sar Chinar village. I was waken up and informed that we had a casualty caused by a chemical weapon. I saw the man, whose name was [NAME REDACTED], he was blind because his eyes were red, swollen and continuously tearing. His face was red and he was suffering from dyspnea. According to my medical knowledge, this person was infected by Mustard Gas. After two days, in the night of 19-20 April 1987, we left Birkli village and went to Bargalu village. We planned to go through Qizla village, but we took another route because it was contaminated with chemical weapons. On 21 April 1987, I arrived to Bargalu and started working in a hospital located inside the village. [NAME REDACTED] and I were treating affected people. There were a lot of people, who were infected by chemical weapons. I treated eight people out of the thirty, and I found out that they were infected by chemical weapons. There was a little kid, who was eight to nine years old; he was also infected by chemical weapons. During my work in the hospital, by the Walkie-Talkie device of the commander of Pishmarga forces, they informed me that Qara Dag, Warin, Jafran Areas ...

The President



(216-963)



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were bombarded by chemical weapons. After ten days, I returned from Bargalu to Qara Dagh. I was shocked when I saw casualties, whom were infected by chemical weapons. They were four individuals. One of them was called [NAME REDACTED]. All of them were infected in their eyes, as they were infected in Qara Dagh village, by chemical weapons. It is my duty to illustrate to the court that since 1985, we deserted our villages and established headquarters for Pishmarga forces. These headquarters were located far away from villages.

**As he Stated: On** 1987 February 27, at 3:00 pm, a group of aircrafts flew over Qara Dagh. We felt that the aircrafts are going to bombard the area and in fact that what happened. The noise of explosions was minor. I left the shelter, which I was hiding inside. I saw a lot of smoke rising in the air. The smoke was around 700 meter far away from our location. I smelled a scent similar to the odor of rotten apple. I called all the people inside the shelter in order to leave it because the used weapon is a chemical weapon. I informed one of Al-Pishmarga members to go to Balk Jar village, in order to warn the inhabitants that chemical weapons are the weapon being used. After 30 minutes, I was informed that Balkha, Takya and Balk Jar were bombarded by chemical weapons and hundreds were infected by these weapons. The mustard gas was used in these weapons. This gas penetrates certain areas of the body (Eyes, skin and digestive system). This gas has a direct effect on the respiratory and digestive systems in addition to eyes. It also causes cancer after 12 years from the first infection; moreover, it weakens the immune system and causes blood cancer. In the night of 22-23 March 1988, I was at my house in Imam Hamzah listening to the radio. I heard an odd suspicious sound. I left the house and went to an elevated place ...

The President



(217-963)

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I was sure that the sound was coming from Siwsinan Area. It was winter time. It took place at the sunset time. I was able to see a light looks like fire coming from Siwsinan Area. There was a smoke rising in the sky. After 30 to 45 minutes, [NAME REDACTED] came to my house and told me that Siwsinan Area was bombarded by chemical weapons and I have to go to the hospital. There were around 70 casualties infected by the nerve gas. We gave them medicines and no body of them died. I recognized one of them, his name was [NAME REDACTED] but I do not know his father's name. His spouse and four kids died from the chemical bombardment. In addition, there was a person called [NAME REDACTED], whose spouse and all his family members died. I also recognized two persons, who are [NAME REDACTED]. We were informed at that night that 72 people died in Siwsinan Village. It is worth mentioning that all the inhabitants of this village work in agriculture and has nothing to do with politics.

There was one member in Pishmarga forces, called [NAME REDACTED]. I can remember that his mother was always asking him to leave Pishmarga forces because she was worried that he gets killed. A missile targeted his house at that night and killed all his family members. He was the only survivor. In the same night, Dukan village was bombarded by chemical weapons. The bombardment on Qara Dagh Areas did not stop until 26 March 1988. The Katyusha missiles, which are provided with chemical weapons, were launched from Dirbandi Khan Area toward Qara Dagh, including Michu, Siburi, Takya, Bafran, Diwana, Balkha, Balak Jar and Bijar Riskur Villages.

**In addition, he stated:** On 03 May 1988, around the 7 o'clock and 15 minutes (Summer time), the aircrafts flew over Quzlu and we heard the sound of explosions, which were minor. We knew that it was chemical weapons bombardments. After 30 minutes, I was informed that Kani Hanjir and Gup Tapa Villages, which are located with Agha Bilal District, were bombarded...

The President



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Some other villages, which are located within the same district of (Agha Bilal), were also bombarded. I realized that from the casualties that were brought from these villages. After half an hour, 'Askar Area was bombarded by chemical weapons. The wind carried the chemical gases from 'Askar village to Quzlu Area. A group of my friends and I were infected by the chemical weapons. We suffered from cough, sore throat and itchy eyes. I went after that to a hospital located close to Khati village. I stayed there from 18 to 20 August 1988. I cannot remember the exact date when the aircrafts flew over our village. I was very happy because the aircrafts did not bombard the area and I did not hear any explosions. At 11:00 pm, some of the Pishmarga told me that some casualties, who were infected by chemical weapons, were brought to the hospital. When I went out the hospital, I found a military vehicle (Type Zil) in front of the hospital door. The vehicle was full of casualties. The number of casualties was around 30 persons.

After I treated the casualties, I found out that they were infected by nerve gas. I worked all the night in order to provide them with medical care. Next day, around 30 casualties were brought from Wari Village by a truck to the hospital. I checked the casualties and found out that they were infected with nerve gas. I found an old woman and a little kid among the casualties. I treated the little kid first, and then when I went back to the truck to bring the woman inside the hospital, she was dead.

I confirm to the court that all the villages mentioned in my statement were bombarded using Katyusha missiles or launchers, which was provided with chemical weapons. In addition, none of the Pishmarga forces headquarters were established in these villages and none of the battles took place in it, in particular Siwsinan, Gup Tapa and Gulan Villages.

**5- Witness [NAME REDACTED]**

**Date of Birth: 1972**

**Profession: Employee**

**Place of Residence: Shurish Sub district, Jam Jamal District**

The witness stated the following after he took on oath:

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On 15 April 1987, I was living in (Sangaw) Sub District and under a decision from the Government that states that the inhabitants must evacuate the area within (15-20) days; otherwise they will destroy the house over our heads. I have no idea about the decision number. After that, we moved to (Chamchamal) District where we stayed around a month, there. Then, the Government informed us that we had to take a piece of land and some tents to live in. They also told us that they would build the (Shurish) modern city for us; on the contrary, we were living in tents and the military posts with no services like electricity or water surrounded us. In April 1988, the Government decided to evacuate the inhabitants from (Sangaw) area and the surrounding villages.

### 6- The witness [NAME REDACTED]

**Date of Birth: 1972**

**Profession: Employee**

**Place of Residence: Chamchamal District, Shurish Sub District. He said by oath:**

In 1987, I was living in (Sangaw) and in 15 April 1987, the Government obliged us to leave (Sangaw) Sub District and to move to Chamchamal, informing us that they would destroy the houses in (15-20) days over our heads if we do not leave them. We went then to Chamchamal with a hope to find suitable houses to live in, some of us went at his relatives' and others sought for houses. I rented a house with my uncle's family in Chamchamal and after a period, the authorities ordered us to move to the Administrative District for receiving tents to live in (Shurish) Complex. The Authorities also informed us that we would be deprived from rights such as food and Civil Department services if we do not get tents and they will arrest us. When we were in (Sangaw) they told us that we will be moved to a modern complex, but unfortunately, we were transported to a wasteland with no electricity nor water in Shurish Complex.

### 7- A ((protected)) witness said by oath:

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On 11 April 1987, I was a doctor in the (Bargalu) Hospital. This area was being continuously bombarded; but on that day, it was different because we did not hear the missile explosions as we used to. We were afraid and we thought that there were no casualties, but after (15) minutes, some patients came to the Hospital suffering from diseases such as: (redness of the eyes and skin). After checking them, I discussed the issue with the rest of Doctors in the Hospital and we found that these were symptoms caused by the use of chemical weapons, mainly, (Mustard Gas). The majority of the casualties were from the inhabitants of the Bargalu village, where the hospital is located.

After a period from the first bombardment and while I was on duty in the external clinic, I heard the bombardment noises on the area. At that moment, a patient came in and told me that they were bombarding. I walked out with him and saw the smoke rising and going down and after that expanding on the ground. The sound was low and this is what distinguishes the chemical bombardment from the ordinary one, because the smoke of the regular bombardment was grey and goes up. I shouted saying that it was a chemical bombardment and we had to take the necessary protection measures. I left the hospital with the rest of the employees and went to the valley, which was safe..., and I saw some farmers of this area's inhabitants who were hurt while they were working on their lands. The attack was in the areas of (Sargalu, Bargalu, Duli and Jafayati) and it was an artillery bombardment.

#### **8- A ((protected)) witness said by oath:**

I am a doctor since 1981. I graduated from the Faculty of Medicine in 1979 and on 16 April 1987 I was on duty in (Khati) Dispensary in the (Balisan) Valley of the Khalifan District, which is one hour and the half drive from the city

The President



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of Irbil and it is two hours drive from the Iranian Borders. We received information on military gatherings on the rivers of the (Khalifan) and (Chuwar Qarna) Valley and we took the necessary precautions. Before it got dark, I was standing on the Dispensary yard in Khati Village when I saw a huge number of helicopters and war aircrafts coming from (Irbil). I counted around ten helicopters flying on low height and counted the aircrafts that were about (6-8) flying higher than the helicopters, we did not understand that. The aircrafts hovered over the villages, on the valley and I saw them targeting (Balisan, Shaykh Wasanan). I also saw the helicopters throwing down the bombs on the roads that are leading to the valley and I saw an aircraft throwing down a bomb that made a low sound and released a dense smoke. This bomb fall onto roads leading to Khalifan. I saw the same type of bombs falling behind the mountain and we heard low noises coming from Balisan, Shaykh Wasanan villages. After ten or fifteen minutes, some quietness prevailed. I saw the aircrafts coming back to Irbil and the wind was blowing to the west where we were. There was a strange odor that filled the air, resembling the flowers odor. I went to Tutma village and saw with my eyes the aircrafts bombarding Balisan, Shaykh Wasanan and the road leading to Khlayfan. I wanted to go to the Pishmarga Command Headquarters because I affiliated to this Force as a doctor treating all the residents and the Pishmarga Personnel. When I arrived to the Command Headquarters, they assured to me that Balisan, Shaykh Wasanan was struck. I returned after that to the Khati Dispensary, it had got already dark, and we stayed until three o'clock am, as I waked up by the noise caused by some people and the sounds of the agricultural tractors were loud. I saw tens of people from the children, women

The President



(963-222)



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and men; and they were walking towards the dispensary asking help. They had symptoms that I had neither seen nor heard about before. All of them lost the sight and stopped seeing anything, their eyes were swollen and reddish and their skins peeled off. I also remarked big bubbles on the bodies of some of them and several of them were vomiting out or coughing blood. At that time I knew some of them who were from the inhabitants of (Balisan, Shaykh Wasanan)...we had nothing we could do to cure such kind of symptoms. At four and the half o'clock; they began the land attack on the villages that we were in. In addition to the screaming of the wounded people, we could hear the tanks advancing on the street. There was an intense bombardment by the tanks and the artillery on us, which caused confusion among people. Some of them surrounded to the army, others ran away to the mountains. I ran to the mountains along with some of the medical staff taking with us some people who were able to walk and the situation was so difficult that we had to drag them because some of them lost their sight. We went to Shaykh Wasanan Villages, which was abandoned, everything in there was dead even animals, birds, plants and tress. I saw a lot of animals which lost the sight while they were grazing; and we saw holes caused by the air strike....The attack was over after two days and the forces retreated after burning and destroying all the area. We returned to the villages and we saw the damage; all the houses were burned down in our village and we saw nobody, but some strayed animals that lost the sight.

The President



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## Verdict Decision ((The documents relative to the Anfal Operatins))

The Court has viewed several documents that were shown to them by the Prosecution during the trials sessions. The originals were attached with the Prosecution documents and considered as a part of the prosecution's evidence. The following is a briefed show of these documents related to Anfal case:

### **After the Court has reviewed the documents of this prosecution that consist of these documents:**

The letter issued by the General Military Intelligence Directorate (GMID) No. S3 / Q3/885 on 23 March 1987 addressed to the Presidency of the Republic-the Secretary-the subject is about the use of Special Ammunition which includes:-

1. A study was made on the places where the Headquarters of the Iranian Agents are situated and the selection of the below mentioned targets, that should be according to the existence of the hostile party, and also the effect of this existence on the internal security in the Northern Area and according to the available facilities of the Special Ammunition:
  - A- Headquarters of the Iranian Agents in the Balisan outskirts (Villages of Balisan, Tutama, Khati, Shaykh Wasanan) which are located near the main road of Chuwar Quna-Khalifan
  - B- Headquarters of the Iranian Agents in the Villages of (Takya, Balak Jar and Siwsinan) that belong to Qara Dagħ Sub District.
2. The above mentioned targets are of significance for Iranian Agents Headquarters and Personnel of the Iranian enemy. In addition to the effect of this existence on the internal security in the Northern Area, for being far enough from our Sectors' sites (as Special Ammunition targets) which is considered more appropriate than others for the use of this ammunition. Because it is located in low areas, which helps the sedimentation of the smoke of the chemical factor and which could be treated with the available means (air force, tubular ejectors and helicopters by night)

The President



(963-224)

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3. because of the limited quantity of special ammunition that is available at present, it is better to use one of the alternatives below:
  - a- **First alternative:** striking the selected targets during this period, this way we should use two thirds of the available special ammunition (the Sarin factor) and one third of the special ammunition (the Mustard factor). The remaining quantity of these special ammunitions is to be kept for the emergency cases in the operation sectors.
  - b- **Second alternative:** delaying the strike to the mid-April 1987 until enough amount of the special ammunition is available and the productivity gets better.
4. We agree on the first alternative....

This document contains the signature of the indicted (Sabir 'Abd-al-'Aziz Al-Duri), the Director of the GMID at that time.

**In addition, the Court has reviewed** the document issued by the Presidency of the Republic ((the Secretary)) No. 953/965/ K on 1987 March 29, addressed to the GMID. The subject was the use of the special ammunition ((it was agreed to carry out the strike... provided that the action should be invested...and the aim was not only to hurt the saboteurs. Please take the necessary action with the coordination with concerned Corps and inform us before starting the strike)). This document is signed by the Secretary of the President of the Republic, who was the accused Hamid Yusif Hammadi, at that time, according to statement of accused Sabir Al-Duri. The document also includes a marginal note written by the accused Sabir Al-Duri which is ((Yes, I suggest a coordination with the Chief of Army Staff, as considered the responsible Department)).

**Likewise, the Court reviewed** the document issued by the Presidency of the Republic ((the Secretary)) No. 7/ J2/ K on 12 March 1987, addressed to the GMID. The subject was giving information ((the President ordered that your Directorate have to study, together with the specialists,

The President



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Directing a sudden strike (on the Khomeini Guard Bases that located within the First Branch headquarters of Al-Barzani Group), with the special ammunition; and study the possibility of its implementation using any of the following means (Air Force, Army Aviation, and Artillery). The Secretary of the President of the Republic Hamid Yusif Hammadi, at that time, signed this document.

**The Court has similarly reviewed** the document issued by the GMID No. M1/ Sh3/Q2/ 6414 on 15 March 1987, addressed to the Presidency of the Republic-the Secretary and the subject is the use of special ammunition. It includes-

**1. below are the options available for us, in order to use the special ammunition against the Khomeini Guard Bases in the party headquarters, the first branch of Al-Barzani Group:-**

- a- The weather condition is not supporting the use of (Sarin) factor at this time, because the concerned targets are covered with snow, which leads to dissolution of the factor and its transformation to a non-poisoning material. This also applies on the (Tabun) factor.
- b- We have enough amounts of the (Mustard) factor, yet the expected effects are considerably weak, except in case we receive a concentrated dose, in addition to its slow evaporation in the snowing areas.
- c- It is possible to use the air force, the piped ejectors and the helicopters by night for this goal.

**2. we suggest the following:**

- a- the strike on the Khomeini Guard Bases in Al-Barzani Groups Headquarters is to be delayed until the next month of June. Also, because the targets are situated in the Iraqi-Turkish borderline area, it is better to select the targets that are located out of the anticipated effect range on the Turkish border-sectors or Turkish villages.

The President



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b- Start on making plans to carry out similar limited operations, against Iran agents' headquarters. This document is signed by the accused (Sabir 'Abd-al-'Aziz Al-Duri). Moreover, **the Court has reviewed** the document issued by the Presidency of the Republic- the Secretary- in No. 7/ J3/ 177 on 19 March 1987, addressed to the GMID with the subject of "the use of the special ammunition" and which contains " in reference to the clause (2-A-B) of your letter No. M1/Sh3/Q2/6414 on 18 March 1987. It was agreed on the two suggestions imported in this letter". The Secretary of the President of the Republic, at that time Hamid Yusif Hammadi, signed this document.

**The Court has reviewed** the document issued by the GMID No. 737 dated 31 March 1987, addressed to the Army Chief of Staff, including the subject of the use of the special ammunition and which contains:-

1. The President has ordered that your Directorate have to study, together with the specialists, directing a sudden strike (on the Khomeini Guard Bases in the Party headquarters, the first branch of Al-Barzani Group), using the special ammunition; and to study the possibility of its implementation using any of the following mean (Air Force, Army Aviation, and Artillery).
2. the President's recommendation was studied with specialists and we suggested the following:-
  - a- The strike on the Khomeini Guard Bases in Al-Barzani Groups Headquarters is to be delayed until the next month of June. Also, because the targets are situated in the Iraqi-Turkish borderline area, it is better to select the targets that are located away from the anticipated effect on the Turkish border sectors or Turkish villages.
  - b- Making plans to carry out similar limited operations, against Iranian agents

The President



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3. It was agreed on the two (2) above-mentioned suggestions. Our Directorate has thereby studied locations of the Iran Agents' Headquarters and the elicited the below mentioned targets. This elicitation is according to the size of the hostile forces there, effect of their existence on the internal security in the Northern Area, suitability to the available facilities of the special ammunitions and its launching means:-
  - a- Iran Agents' Headquarters in Balisan Outskirts Area, the villages of (Balisan, Khati, Shaykh Wasan), which are located on the main road near Chuwar Qurna-Khalifan.
  - b- Iran Agents' Headquarters in the Outskirts of the villages of (Takya – Balak Jar- Siwsinan), which belong to Qara Dagh Sub District.
4. The aforementioned targets in paragraphs (a, b) of the above-mentioned clause (3), are among the significant headquarters for Iran's Agents and the Iranian enemy Personnel. They are (as Special Ammunition targets) far enough from troops' sites and considered appropriate more than others targets, for using this ammunition. This is because it is located in low areas, which helps the sedimentation of the chemical factor's smoke. In addition, theses targets could be treated with the available means (air force, piped ejectors and the helicopters by night)
5. our Directorate recommended a strike against the above-mentioned targets in (3) during this period, using two thirds of the available special ammunition (the Sarin factor) in addition to one third of the special ammunition (the Mustard factor); and keeping the rest of special ammunition for the emergency cases in the operation sectors.
6. The Presidency of Republic Letter-the Secretary, which was marked Top Secret, Confidential and Urgent, numbered 953-962/K on 29 March 1987; it contains the following:- ((it was agreed to carry out the strike... provided that the action should be invested...and the aim was not only to hurt the saboteurs. Please take the necessary action with the coordination with concerned Corps and inform us before starting the strike)). Kindly,

The President



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Acknowledge and issue your order to implement what was imported in the letter from the Presidency of the Republic-the Secretary. This document includes the accused Sabir Al-Duri's signature, of which he had admitted to the Court.

**The Court has reviewed** the Army Chief of Staff Letter No. 3656 on 05 April 1987, addressed to the 1<sup>st</sup> and 5<sup>th</sup> Corps' Commands. The subject is about the use of special ammunition, which includes-

1. It was decided to fight saboteurs, Iran's Agents and Khomeini Guard in your Sectors. And by using the special ammunition, as follows:-
  - a- Iran's Agents Headquarters in the outskirts of Balisan (the villages of Balisan - Tutma -Khati - Shaykh Wasanan), which are located on the main road of Chuwarta-Khalifan (*T.C: the correction is Chuwar Qurna which was mentioned in the rest of the file and it is the real town close to Khalifan, But Chuwarta is far and close to Al-Sulaymaniyyah*)
  - b- Iran's Agents Headquarters in the outskirts of the villages of (Takya - Balak Jjar-Siwsinan) that belong to the (Qara Dagh) Sub District
2. in reference to the Conference held in our Presidency on 05 April 1987, we ordered the following:-
  - a- The 1<sup>st</sup> Corps prepares the plan in what concerns the clause (b) of the Paragraph (1) above, and hand it over to us to be discussed during our visit to your Headquarters on Thursday 09 April 1987.
  - b- Both of your Commands are to prepare the necessary joint plan for executing what was imported in the clause (a) of the Paragraph (1) mentioned above. In addition, send that plan in two copies to our Presidency, in custody of two commissioners, in order for us to approve it. This document is signed by the Staff General (Sa'd-al-Din 'Aziz Mustafa), who was the Army Chief of Staff Commander.

**The Court has also reviewed** the document issued by the GMID/ First Deputy/ Third Section; which addressed to the Intelligence Deputy Director, who is responsible of the Iranian and Northern Affairs at that time, named (Wafiq 'Ajil Al-Samarra'i). The subject

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of the document, as notification, is about using the special ammunition. This document included the indication to issue that " According to the suggestion provided by the General Military Intelligence Directorate's (GMID); the Republican Presidency-Secretary approved on aiming a strike using the special ammunition, which is directed to the Iranian Agents headquarters, as they call it at that time. This is located in Takya basin- Balak Jar, which related to Qara Dagħ Sub District and (Balisan) Outskirts at the main Road of Chuwar Qurna-Khlifan. This document signed by (Walid Nayif Shibib) the Director of the 3<sup>rd</sup> Section of the (GMID). In addition, accused Sabir 'Abd-al-'Aziz Al-Duri recognized signature of (Walid Nayif Shibib).

**Also the court reviewed** the document that issued by the Chief of Army Staff, (Chief of Army Staff Office), number 5890 dated 11 June 1987, which addressed to the 5<sup>th</sup> Corps Command. The letter subject is about Air Strike, and includes the following: ( the (GMID) informed the Army Chief of Staff, reporting that at the end of 05 July 1987, an air strike (with the special ammunition) was directed to the 1<sup>st</sup> Branch Headquarter of Al-Barzani Group in (Ziwa) Area. (Ziwa) Area is located at the northeast of Al-'Imadiyyah district of Duhuk Governorate and it is close to the Northern Sector Headquarter (Badinan Sector Headquarter) of the Communist Party Group. This document signed by Staff Major General (Tariq Husayn Majid) the Senior Secretary of the Army Chief of Staff.

**And also the court reviewed** the (GMID) letter No. 12703 dated 10 July 1987, addressed to the Command of the Northern Organization Office. The letter subject is about air strike and importing the following: At the dusk of 05 July 1987, an air strike with the special ammunition was directed to the 1<sup>st</sup> Branch Headquarter of Al-Barzani Group in (Ziwa) Area which located at the Northeast of Al-'Imadiyyah District-Duhuk Governorate

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And close to the Northern Sector Headquarter (Badinan Sector Headquarter) of the Communist Party Group. The document signed by the accused Sabir 'Abd-al-'Aziz Al-Duri and he admitted that at the court.

**And the court reviewed** the Ministry of Defense Letter No. 1374 dated 01 May 1987, addressed to the Army Chief of Staff, which included the following issue" Minister of Defense reviewed the issues that were imported in the (GMID) letter No. 8357 on 24 April 1987. He instructed the following: - (Strike all of the Agents' headquarters with the Air Force's conventional, special weapons and all the weapons within the range). Staff Major General (Mahmud Shukr Shahin), who is Depute of the General Secretary of the Ministry of Defense, signed this document).

**And also the court reviewed** the document issued by the Army Chief of Staff, numbered 15787 dated 12 May 1987, addressed to the (GMID). The letter includes the request of the Army Chief of Staff from the (GMID) to provide the Air Force Command and the Air Defense with locations and headquarters of the Agents. This is in order to destroy them. In addition, the court looked into the (GMID) reply letter No. 9819 dated 03 May 1987, which addressed to the Army Chief of Staff. The letter includes the following: Maps for Al-Sulaymaniyyah, Qal'at Diza Qara Dagh- Kuysinjaq 1/100000

In reference to your secret and confidential letter 15787 on 02 May 1987:-

- 1- We provided the Air Forces Command and the Air Defense with the locations and headquarters of the Iranian Agents to strike it with conventional ammunition which are:
- |                 |        |
|-----------------|--------|
| A- Hawara Barza | (1283) |
| B- Dula Bi      | (1278) |
| C- Yakhiyan     | (1577) |
| D- Guma Zal     | (1875) |

The President



(231-963)

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
Baghdad-Iraq

Ref.No.:1/ 2<sup>nd</sup> Criminal / 2006  
Date: 2007 June 24

### Verdict Decision

E- Sharistin	(0882)
F- Chalawa	(1971)
G- Sargalu	(1569)
H- Bargalu	(SATTS G M)
I- Yagh	(2264)
J- Qizlar	(2657)
K- Takya	(4095)
L- Balak Jar	(4294)
M- Siwsinan	(4596)
N- Warta	(7838)
O- Warta resort	(7736)
P- Qirnaqa	(0134)
Q- Pisht Ashan	(0233)

- 2- We suggest ordering the specialist committee to study the subject of striking the Iranian Agents' Headquarters with the special ammunition, kindly look into and inform us your orders.....With appreciation.

The document signed by the Accused Military Intelligence Director (Sabir 'Abd-al-'Aziz Al-Duri). The accused (Sabir 'Abd-al-'Aziz Al-Duri) admitted about that document, when it was shown to him.

And the court looked into the document issued by the Air Operations Directorate No. (: / Q X)/707 dated 12 May 1987, addressed to the (GMID) concerning striking the Iranian Agents' Headquarters as the following:-

The President



(232-963)

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In reference to your secret and confidential letter M/S3/Q2/10319 dated 10 May 1987; the following are the names and grid coordinates of the Iranian Agents' Headquarters and locations which were confirmed by your representative Staff Lieutenant Colonel Walid...and were stroked by missiles and included is the kind of the ammunition used to each target,... kindly look into:-

1- The targets were struck with the conventional ammunition.

1- Hawara Barza	1283	04 May 1987
2- Yakhiyan	1577	04 May 1987
3- Yagh Samar	2264	04 May 1987
4- Qizlar	2657	04 May 1987
5- Dula Bi	1278	08 May 1987
6- Guma Zal	1875	08 May 1987
7- Sharistin	1882	08 May 1987
8- Chalawa	1971	08 May 1987
9- Sargalu	1569	08 May 1987
10- Bargalu	(SATTs M4)	08 May 1987

2- The targets were treated with the special ammunition:-

1- 635665	07 May 1997
2- 5082	07 May 1997
3- 5975	07 May 1997
4- 665615	07 May 1997

The President



(233-963)

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5- 665575                      07 May 1987  
6- 865605                      07 May 1987

Providing that the document signed by the previous Staff Air Vice Marshall (Hasan Khidir Al-Hajj Ahmad) the Air Force Intelligence Director.

**And the court looked into** the document issued by the (GMID) No. 19330 on 08 September 1987, addressed to the Northern Organization Office Command containing:-

- 1- At 16,00 o'clock on 03 September 1987 a concentrated artillery strike (with special ammunition) was directed to three of the Iranian Agents' group Headquarters, which located at the East of the main road Dukan-Pira Magrun. This includes that headquarter of the group, in which criminal Jalal Al-Talabani and some of his group leaders are existing. Their casualties were two killed and twelve wounded Iranian Agents in additional to a number of killed and wounded saboteurs and villagers next to the headquarters.
- 2- Dimension of the air strikes (with the special ammunition) which were directed to some of the Iranian Agents Group Headquarters, on April 1987....., and this document signed by the accused Sabir 'Abd-al-'Aziz Al-Duri and he admitted that.

**Also the court looked into** the document issued by the 3rd Section of the 1<sup>st</sup> Directorate of the (GMID), addressed to the (GMID) Deputy Director. The letter subject is (Striking Headquarters).

And this document consists of a report that was presented by the Third Section Director to the (GMID) Deputy Director. Its second paragraph containing:- the Deputy Commander of the Armed Forces -in-Chief and the Minister of Defense ordered the following about the mentioned subject:-

The President



(234-963)

In the Name of God the Merciful the Compassionate

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The Ministry Diwan letter, at the paper (2), to be studied with the Military Intelligence for aiming a strike with the special ammunition to the villages where the saboteurs exist, at the end of the day if possible, and informing me the details before carrying out, and this document signed by the 3<sup>rd</sup> Section Director, and after it was shown to the accused Sabir 'Abd-al-'Aziz Al-Duri, he admitted that the signature for the Called Walid Nayif Shibib.

**Also the court looked into** the telegram issued by Al-Sulaymaniyyah Intelligence Director to the Intelligence System of the Eastern Zone containing your secret and confidential letter No. 11163 on 24 June 1987, the information mentioned in the 1<sup>st</sup> paragraph/ supported/ wherein some of the journalists who witnessed the bombarding of the areas with the chemical weapons, went to Sargalu, and there is possibility to distribute them on the areas were bombarded to show it to the international public opinion (the 2<sup>nd</sup> paragraph) there is no available information about the mentioned person because he is not known to our sources.

**Also the court looked into** the Chief of Army Staff letter No. 322/127 on 08 March 1988, addressed to the Ministry of Defense Diwan and containing:-

- 1- The orders of the Deputy of the Armed Forces Commander-in-Chief and the Minister of Defense were carried out by doing two strikes with the special ammunition to support Anfal Operation.
- 2- The 1<sup>st</sup> Corps didn't find what can help to use another time for the currently bad weather conditions in the area, kindly look into, and this document signed by the Staff Major General (Nabil 'Abd-al-Qadir Husayn) on behalf of the Senior Secretary of the Chief of Army Staff.

**Also the court looked into** the document issued by the Secretariat Office of the Armed Forces General Command No. 177 on 20 March 1988, addressed to the Deputy of the Armed Forces Commander-in-Chief and the Minister of Defense and the Chief of Army Staff and its subject is instructions and containing:

The President



(235-963)



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On Saturday 19 March 1988, the president, the Armed Forces Commander-in-Chief (may God protect him) ordered during the Armed Forces General Command meeting the following:

- 1- Must thinking from now about the required arrangements in (Anfal Operation) Sector at the beginning of the summer to prevent the saboteurs' existence there, and may be we will need more additional or alternate troops.
- 2- At Darbandi Khan Sector and Anfal operation Sector, we must keep striking the enemy and the saboteurs with, Artillery and Air Force, and not giving them any chance for stability or recovery. And its better to strike the special ammunitions with artillery at night, suddenly or impregnating the ordinary artillery strikes with special ammunition strikes.
- 3- Starting from tomorrow, every thing will be established after going the General Command Members to the 1<sup>st</sup> Corps Command and after reviewing the required plans.
- 4- It's important to extract the lessons and warnings from this battle to prevent the dangerous' occurrence again.
- 5- When the weather become bad, use the artillery in different ranges at the place which was specified to the Air Force, in order to not giving the enemy a chance for breathing , and this document signed by the Staff Lieutenant General ('Ala'-al-Din Kazim Hammad) the General Secretary of the General Command of the Armed forces at that time.

**And the court looked into** the document issued by the Chief of Army Staff No. 154 on 22 May 1988, addressed to Ministry of Defense Diwan and its subject is Anfal Operation/5 and containing:-

1- Article (1) of your above mentioned letter:-

The President



(236-963)

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**A-** It was studied what came at the (GMID) secret and Confidential and urgent letter No. 9282 on 08 May 1988, and the required procedures was taken according to our secret and confidential letter No. 402 on 11 May 1988.

**B-** One 15 May 1988, strikes with special ammunition were carried out at the sabotage groups' headquarters in the 5<sup>th</sup> Corps Sector, which mentioned at the letter of the above mentioned directorate.

**2-** Article (2) of your above mentioned letter:-

The operations of chasing and destroying the sabotage's groups at the 1<sup>st</sup> and 5<sup>th</sup> Corps Sectors is continuous according to the plan designed for this purpose (Anfal Operations) and Anfal Operation/5 at the 5<sup>th</sup> Corps Sector will be carried out in next stage. And this document signed by the Staff Major General (Nabil 'Abd-al-Qadir Husayn) and he signed it on behalf of the Senior Secretary of the Chief of Army Staff.

**And the court looked into** the document released by the (GMID) No. 11325 on 10 Jun 1988, addressed to the Chief of Army Staff and its subject is Anfal Operation and containing at the 5<sup>th</sup> paragraph the following:

The sabotage groups' losses which we counted until 08 June 1988 were as the following, and it's the minimum level of losses:-

**A-** 58 killed and 72 wounded saboteurs and their families and villagers due to the special strike.

**B-** (42) Killed and a number of the wounded saboteurs due to the activities of our troops.

Containing also the (GMID) suggestion to agree and order the branches with an operation to strike and destroy the headquarters and bases of the agents in Balisan Outskirts, and Al-Simaqulyat Area.

The President



(237-963)



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supporting the 5<sup>th</sup> Corps situation with suitable volume of the troops and artillery effort according to the situation. And this document signed by the (GMID) director at that time, the accused (Sabir 'Abd-al-'Aziz Al-Duri) and he admitted that when it was shown to him in the court.

**And the court looked into** the telegram sent from the Intelligence System of the Eastern Zone to the 3<sup>rd</sup> Section of the (GMID), telegram No. 13613 on 06 August 1988 and containing: we known from our source (Sami) the following: on 06 August 1988 Balisan was bombed with the special ammunition....., and this document signed by the Intelligence System of the Eastern Zone Director at that time, the accused Farhan Mutlak.

**And the court looked into** the document issued by the Chief of Army Staff – (the Chief of Army Staff Office) No. 122 on 21 August 1988, addressed to the 1<sup>st</sup> and the 5<sup>th</sup> Corps Commanders and its subject is instructions and concerning the meeting with you which held in the 1<sup>st</sup> Corps Headquarter in (Kirkuk) on 20 August 1988 and the presence of the Deputy of the Chief of Army Staff, the Military Movements and Army Aviation Directors to discuss the plans of Anfal Operations, and ordered the following:

- 1- Defining the concentrations of the population in the 5<sup>th</sup> Corps Sector and treating it with the intensive special strikes 48 hours prior to carrying out the operations, to create panic and prevent them to cooperate with the saboteurs and following their movements in the area, and be strongly careful of striking the housing villages at the Iraqi-Turkish borders, and this document signed by the Chief of Army Staff at that time, Staff Lieutenant General (Nazar 'Abd-al-Karim Al-Khazraji).

**And the court looked into** the document issued by the Chief of Army Staff No. 349 on 27 April 1988, addressed to the 1<sup>st</sup> Corps Commander (Staff Major General Sultan Hashim Ahmad).

The President

(238-963)





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And the 5<sup>th</sup> Corps Commander, Staff Major General (Ayad Khalil) and its subject is instructions and concerning the conference held in (Kirkuk) on 27 April 1988.

**2 E:** Carrying out the 4<sup>th</sup> Anfal Operation in Shuwan-Chami Rizan Outskirts according to the suggested plan which was discussed at the Planning Directorate and the adjustments were made on the plan.....

**F:** Using the special ammunition at the enemy concentrations whenever its possible whether with the Air force or with the Artillery / MRL (multiple rocket launcher - adjective) / before the enemy starting its operations against our troops, and also it can be striking the saboteurs headquarters with the special ammunition, and this document signed by Staff Lieutenant General (Nazar 'Abd-al-Karim Al-Khazraji) the Chief of Army Staff at that time.

**Also the court looked into** the Intelligence System of the Eastern Zone letter No. 384 on 02 November 1987, addressed to the 3<sup>rd</sup> Section of the (GMID) and its subject is eliminating villages, attached (1) a special list of the villages were eliminated in the range of our system from 15 October 1987 to 31 October 1987, which are nine villages. And this document signed by the Intelligence System of the Eastern Zone Director, the accused Farhan Mutlak Al-Juburi.

**Also the court looked into** a document consisting of a telegram issued by the Intelligence System of the Eastern Zone to the 3<sup>rd</sup> Section of the (GMID) No. 4122 on 01 March 1988 and containing at one of its paragraphs ((100-120) between killed and wounded of the saboteurs and the civilians living in the area, due to striking the Main Iranian Agents Headquarters with our plans with the special ammunition) and this telegram signed by Staff Colonel, the Intelligence System of the Eastern Zone Director at that time, the accused (Farhan Mutlak Al-Juburi).

The President



(239-963)



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**The Verdict**

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**The court had reviewed** the telegram that was issued by the Intelligence System of the Eastern Zone sent to the General Military Intelligence Directorate (GMID)/ Third Branch, reference number 13613 on 1988 August 06, in which it contains in one of its parts dated 1988 July 28 that Balisan area was bombarded with the special munitions. Because of this, some were killed and (32) saboteurs were wounded. This telegram was signed by the Director of the Eastern Intelligence at that time which was Staff Colonel, Convict Farhan Mutlak Al-Juburi.

**The court had reviewed** the document issued by the command of the Northern Organization Office/Secretary Office number (5083) on 1987 July 22 and addressed to the First Corps Command. Its subject was regarding an execution of criminals and included your secret and personal letter (352) on 1987 July 08. Comrade 'Ali Hasan Al-Majid, the head of the Northern Organization Office, gave a comment on the above-mentioned letter as follows

(We do not have any objection on cutting the heads of the traitors, but it was better if they were sent to the security for further investigation; as more information they have might be useful before the execution), and this document is signed by the convict (Tahir Tawfiq Al-'Ani)

**The court had reviewed** the document issued by the Diwan (Bureau) of the Ministry of Defense, number 8574, dated 1988 April 26, and addressed to the Chief of Army Staff with a subject of (Procedures) mentioning that

(The deputy of the General Commander of the Armed Forces, the Minister of Defense had reviewed the secret, personal and immediate letter of the General Military Intelligence Directorate dated 1985 April 23, and ordered the following:

- 1- To make a greater psychological affect than the expected there is no objection to carry on an attack with the special ammunition, if there was a target that deserves the punishment.
- 2- Continuing the operations is required, and I believe this point will be discussed today with comrade, ('Ali Hasan Al-Majid)...

The Presiding Judge

(963-240)



In The Name of God All Merciful All Compassionate

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-----  
This letter is signed by the Staff Vice Admiral ('Abd Muhammad 'Abdallah), the secretary of the Ministry of Defense.

**The court had reviewed** the document issued by the Commander of the Air Operations Directorate addressed to the Diwan of the Ministry of Defense that includes the Iranian agent locations and stating:

(Arial strikes were carried out by the usage of conventional weapons using 20 aircrafts and another 44 aircrafts using the special munitions against these locations mentioned in the letter of the General Military Intelligence Directorate)

Knowing that the letter is referenced with the number 690, dated 1987 May 09, and signed by (Hamid Sha'ban).

**The court had reviewed** the letter issued by the General Military Intelligence Directorate with number 6414 dated 1987 March 18, and addressed to the Presidency of the Republic- The Secretary, regarding the usage of special ammunicions which also contains the following:

1- The following are the available capabilities for using the special munitions against Khomeini Guard bases that are existed in the first branch of the saboteurs' headquarters for Al-Barzani Group:

- The weather is not helping to use the current Sarin element since the snow is covering the targets, which lead the element to dissolve, and converting it into a non-toxic substance. This process is also applied for the Tabun factor.
- We have a good amount of the Mustard element even though its expected effects is considered as a (Miracle) unless using a concentrated dosage of it, in addition that it evaporates slowly in snowy areas.

C. Air force, multiple rocket launchers, as well as helicopters, can be used at night for such purpose.

2- We suggest the following:

The Presiding Judge



(963-241)

**In The Name of God All Merciful All Compassionate**

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**The Verdict**

- 
- A- The date of attack against Khomeini Guards bases existed within Al-Barzani group locations is to be postponed until next June. As the targets are located on the Iraqi-Turkish borderline, it will be better to choose targets that might not have an effect on the Turkish border's troops or the Turkish villages.
- B- Start planning to execute similar operations against the Iranian agent locations, please be acknowledged, and inform us with your advice, with appreciation. Knowing that this document is signed by the Military Intelligence Director, (Sabir 'Abd-al-'Aziz Husayn Al-Duri)

**The court had reviewed** the document issued by the Diwan of the Ministry of Defense with number 1374 dated 1987 May 01, addressed to the Chief of Army Staff for Operations, which states:

The Deputy of the General Commander of the Armed Forces had acknowledged the letter's content of the General Military Intelligence Directorate and ordered the following: (All the locations of the agents must be attacked by conventional and special air force weapons and by the usage of all the weapons within the range).

This document is signed by Staff Major General (Mahmud Shukr Shahin) Deputy General Secretary of the Ministry of Defense.

**The court had reviewed** the document issued by the Office of the Secretariat of the General Headquarters of the Armed Forces with number 2057 dated 1988 April 05, addressed to the Presidential Diwan with a subject of (Honoring) stating:

The President, the General Commander of the Armed Forces ordered to grant the two officers mentioned below Medals of Bravery for their great efforts in leading the first and the second Anfal operations in the First Corps Operation Sector

1. Infantry Staff Major General Sultan Hashim Ahmad – the leader of the First Anfal Operation

The Presiding Judge

(963-242)



**In The Name of God All Merciful All Compassionate**

**Iraqi High Tribunal  
Second Criminal Court  
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**The Verdict**

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2- Armored Staff Major General, Ayad Ahmad Zaki - the leader of Second Anfal Operation This document is signed by Staff Major General, ('Ala'-al-Din Kazim Hamad Al-Janabi), General Secretary of the Armed Forces General Command.

**The court had reviewed** the document issued by the Chief of Army Staff, number 1182 dated 1988 August 28, addressed to the command of the first and the fifth corps with a subject of (Directions) stating:

The Deputy of General Commander of the Armed Forces (The Minister of Defense) released these instructions during discussing Anfal operations that is carried out in your sectors as follows:

1- Eradicating all villages and houses within the one village, as it was noticed that a house or more had been left in the previous eradicated village, the air force will be assigned to control that process.

2- Controlling the rations given to the National Defense Regiments and to make sure that they are not given but replaced with allowances, this document is signed by Staff Lieutenant General (Nizar 'Abd-Al-Karim Faysal Al-Khazraji), the Chief of Army Staff. It was mentioned at the end of this document that a copy must be sent to the Operation Department by mentioning "The General Commander of the Armed Forces and the Minister of Defense had ordered updating the maps of all scales with the latest topographic information)

**The court also had reviewed** the document issued by the disbanded Revolutionary Command Council number 674, dated 1986 August 19, which states "According to clause (A) of the article (Forty two) from the law, the Revolutionary Command Council had decided on 1986 August 19 the follows:

The Presiding Judge

(963-243)



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- 
- 1- Assignment of (Tahir Tawfiq Yusif), the advisor of the Public Organization Affairs Office as a Secretary of the Northern Affairs Committee
  - 2- The involved authorities will be responsible in applying this decision.

This document was signed by the convict (Saddam Hussein); Chief of the Revolutionary Command Council at that time.

**The court also had reviewed** the document issued by the disbanded Revolutionary Command Council, which is represented by the issuance of decision number 160 dated 1987 March 29, which contains:

### Decision:

In reference to clause (A) of the article number (42) and clause (A) of the article number (43) from the constitution, and to implement what was decided in the joint meetings for the State Command of the Arab Socialist Ba'th Party and the Revolutionary Command Council that was held on 1978 March 29, decided the following:

**First:** 'Ali Hasan Al-Majid, the state command member of the Arab Socialist Ba'th Party will represent the state command for the Ba'th Party and the Revolutionary Command Council to implement their policies in the Northern Area including the Autonomous Kurdistan area to maintain security, discipline and stability and to implement the Self-Ruling law in the area.

**Second:** To achieve this decision's goals; the comrade, State Command Member, will have the decision making authority and validity on all the state security, civil and military systems, especially the authorities related to the National Security Council and Northern Affairs Committee.

The Presiding Judge

(963-244)



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## The Verdict

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**Third:** The below-listed entities are affiliated to the comrade, State Command Member in all the northern area, it should comply with the decisions and instructions issued by him and that must be implemented based on this decision:

- 1- The Executive Board for Kurdistan Autonomous Area
- 2- The governors and the heads of the administrative units that are related to the Ministry of Autonomous Ruling.
- 3- The Intelligence Services, Internal Security Forces, and the Military Intelligence
- 4- The Command of the People's Army

**Fourth:** The military commands in the area are to comply with the orders of the State Command Member in all what is relating with (First) of this decision.

**Fifth:** This decision should be implemented until further notice and suspending the appliance of legal laws that is in contradiction with the orders of this decision.

This document is signed by convict (Saddam Hussein) then President of the disbanded Revolutionary Council

Also, **the court had reviewed the document** issued by the Revolutionary Command Council which it is a decision issued by the Revolutionary Command Council numbered 244 dated 1987 April 20, which contains:

### Decision:

According to clause (A), article number (42) of the constitution, the Revolutionary Command Council decided the below on 1987 April 20:

- 1- 'Ali Hasan Al-Majid will have the authority to do whatever relates to the duties of the Northern Affairs Committee for the purpose of implementing the verdicts of the decision issued by the Revolutionary Command Council numbered 160 on 1987 March 29.

The Presiding Judge

(963-245)



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2- Performing pursuant to this decision since the date of issuance  
This document is signed by the convict (Saddam Hussein), Chief of the (Disbanded) Revolutionary Command Council at that time.

Additionally, **the court had reviewed the document** number 4151 on 1987 June 15, issued by the Revolutionary Command Council (Northern Affairs Committee), and addressed to the Chief of Army Staff with a subject of (Relocation) that includes:  
(An approval has been acquired upon the suggestion in your abovementioned letter and we confirm on relocating all the saboteurs' families to them, according to the rules applied before.)

This document is signed by convict Tahir Tawfiq Al-'Ani, who occupied the post of Secretary of the Northern Affairs Committee

**Moreover, the court had reviewed** the telegram issued by the Northern Organization Office Command, addressed to the First Corps Command, Second Corps Command, Fifth Corps Command, Chief of Army Staff and the General Military Intelligence Directorate No 4008, that includes:

((In regards to expiration of the official proclaimed period for gathering the security-prohibited villages; which will be ended on 1987 June 21, we decided to work starting from 1987 June 21 with the following:

1. All the security-prohibited villages, which are not destroyed yet, are considered as whereabouts for saboteurs, agents of Iran, members of the Kurdish Democratic Party, and the traitors alike them from Iraq.
2. The existence of any human or animal is completely prohibited, and this area is considered as a prohibited operation area, where conducting firing at, is permitted and not restricted to any instructions unless these instructions came from our headquarters.
3. Traveling from and to these areas, farming or agricultural, industrial, or raising livestock investments, are completely prohibited, and it is the duty of the concerned authorities to follow-up on these matters seriously and within each of their specialty.

(246-963)

The Presiding Judge

The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official seal. The seal contains Arabic text around its perimeter and in the center. The signature is written over the seal.



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4. The corps's commands are to carry out special strikes from time to time; during night and day, using artillery, helicopters, and airplanes, in order to kill the largest number of individuals possibly existed in these prohibited areas.
5. All individuals arrested for being found in the villages of the prohibited area should be detained and interrogated by the security authorities, and a death sentence should be carried out against individuals aged between the years 15 and 70 after taking useful information from them, and inform us.
6. The security authorities should interrogate with whoever surrenders himself to the governmental or Ba'th Party authorities for a maximum period of three days, and if the interrogation will take 10 days, we should be notified in that case, and if the interrogation will take more than this period, they should take our approval either by telephone or telegram, and through comrade (Tahir Tawfiq Al-'Ani)

**Additionally, the court had reviewed** the document numbered 79223 dated 1987 December 05, issued by the General Security Directorate including: According to the order of the respectful Secretary of the North Organization Office:-

- A- An execution order had been carried out against the below mentioned criminals, who participated in the riot incidents of Shaqlawa District on 22 May 1987 and a roster is prepared consisting of 29 names that starts with the name 1- Majid Hasan Wasu and ends with the serial number (29) Basim 'Abdallah Mustafa Wasu.
- B- The below mentioned individuals were released for not participating in the riot incidents and they are (11) persons, and the roster starts with the name Fakhriyyah Mustafa and ends with the name Basim Hamid Rashid Silaywah.

**Additionally, the court had reviewed** a document numbered 9914 issued by Al-Baldah Security Directorate on 1988 July 23 to all deputy directorates including (The respectful, Comrade, Secretary of the Northern Organization Office on 1988 July 18...

The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official stamp. The stamp contains text in Arabic and English. The Arabic text at the top reads 'الجمهورية العراقية' (Republic of Iraq). The center text reads 'القضاء العالي' (High Tribunal). The English text at the bottom reads 'Iraqi High Tribunal'. The signature is written over the stamp.

(247 - 963)

The Presiding Judge

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...ordered to gather crops belonging to the villages' inhabitants relocated by us, who cultivated it before their relocation.

Additionally, the court had reviewed the telegram of number 13069 dated 1988 August 31, issued by Irbil Security Directorate to Divisions Security Directorates:

- 1- There are members from Al-Shabak (*TC: Name of a tribe*) recruited in the civil defense, who changed their nationalism from Arab to Kurdish and resided in Ninawa governorate.
- 2- Comrade, 'Ali Hasan Al-Majid, head of the Northern Organization Office ordered to demolish all the houses and relocate them in residence compounds without any compensation at all.

This document is signed by the Deputy Director of Irbil Security.

Furthermore, the court reviewed the telegram number 14636 issued on 1987 November 01 issued by Irbil Security Directorate to Autonomous Ruling Security including:

- 1- Our sources and collaborators affiliated to this department had been directed to observe the cultivation and agriculture in the prohibited areas, whereas we did not notice this kind of situation.
- 2- There are still fields of crops scattered around the villages in Irbil plains and the military sector had been notified about it, where it is responsible to eradicate it successively along with the villages. This document is signed by Director of Irbil Security.

Also, the court had reviewed the letter number 19541 dated 1987 December 23, issued by Irbil Security Directorate addresses to all Divisions Security Directorates (According to directions of the Northern Organization Office that ordered to prohibit cultivation and agriculture of winter crops in the security-restricted areas

Please direct your sources and collaborators to observe that, and in case of discovering; officially inform the security committees in your areas.



(248 - 963)

The Presiding Judge

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And this document is signed by the Director of Irbil Security.

Additionally, the court had reviewed the document number 4041 dated 1987 February 21, issued by Al-Sulaymaniyyah Security Directorate and addressed to the Head of the Hostile Activities Counter Committee including:

- 1- Our special detachments and official bodies are arresting some people in the outskirts of the cities, sub districts and some other unidentified areas for being security-restricted. Who carry foodstuff or fuel, and some of them after investigation confessed that their intention was to reach some of the security-restricted areas and villages in order to move these materials and sell it or deliver them to the inhabitants of these security-restricted areas and villages. This document is signed by the Director of Irbil Security.

Furthermore, the court had reviewed the telegram numbered 457 dated 16 March 1988, issued from the Hostile Activities Counter Committee to the First Corps / Internal Security Intelligence following the telegram and letters of the North Organization Office

(Detention of the saboteurs' families, who resorted to our troops in special protected camps prepared for this purpose and under the supervision of intelligence agents from the first and fifth corps. This telegram is signed by (Ja'far 'Abd-al-Karim Al-Barzanji), Head of the Hostile Activities Counter Committee, in Sulaymaniyyah.

Additionally, the court had reviewed the telegram number 1334, issued by the (Al-Tuz) Intelligence Center to the Eastern Intelligence System about eradicating (17) villages.

Moreover, the court had reviewed letter numbered (1555) issued by the Eastern Intelligence System, which includes:

- 1- Our center in (Al-Tuz) notified us that two families had been arrested from the one's who had escaped to Al-Tuz District from the security-restricted areas, during the period of general amnesty for Kurds.

The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official stamp. The stamp contains text in Arabic and English. The Arabic text reads 'الهيئة القضائية العراقية' (Iraqi Judicial Body) and 'القسم الثاني' (Second Section). The English text reads 'Iraqi High Tribunal'. The stamp also includes the date '2007' and the number '963'.

(249 - 963)

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- 2- The two families were relocated from our center in (Al-Tuz) to Al-Tuz Security Deputy Directorate. This document is signed by Director of the Eastern Intelligence Directorate; Staff Colonel, Convict (Farhan Mutak Al-Juburi)

Additionally, the court had reviewed telegram numbered 1181 dated 1987 May 10, issued by the Internal Security Section of the First Corps including a confirmation on expediting the relocation operation and demolishing of villages.

In addition, the court had reviewed the letter numbered (1074) on 1987 July 04, issued by (Rawanduz) Division Command about circulating and transferring directions of the disbanded Ba'th Party to the party sections and divisions, which confirms the importance of returning the families fled from the residency compounds. And in case they did not return; necessary actions will be taken and they will be treated as traitorous and saboteurs. This letter holds signature of the Division's Secretary ('Abd-al-Wahid Husayn).

Also, the court had reviewed letter number 1346 dated 1987 July 01, issued by the Eastern Intelligence System addressed to the Third Section of the Military Intelligence Directorate, which covered the subject of demolishing villages, it enclosing three rosters depicting (38) villages within their system's sector that had been demolished during the period from 1987 June 16 to 30. This letter is signed by (Khalid Muhammad 'Abbas)

Furthermore, the court had reviewed document No 3170 dated 1988 Oct 28, issued by the Hostile Activities Counter Committee in Shaqlawa addressed to (Shaqlawa) district-administration, Shaqlawa Division, Shaqlawa Police Directorate and Shaqlawa Security Directorate. That is concerned with relocating villages which includes: An approval is acquired to eradicate the following villages of (Shaqlawa – Khalifan – Rawanduz – Qal'at Ziza) sectors and to locate its inhabitants in compounds existing in those areas...

The image shows a handwritten signature in black ink, slanted upwards from left to right. Below the signature is a circular official stamp. The stamp contains Arabic text: 'الجمهورية العراقية' (Republic of Iraq) at the top, 'القضاء' (Judiciary) in the center, and 'المحكمة الجنائية العراقية' (Iraqi Criminal Court) at the bottom. The signature is written over the stamp.

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The Presiding Judge

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... because it became as a safe refuge for saboteurs for gathering information and getting rations from there that facilitates their sabotage acts. This document is signed by the Director of (Shaqlawah) Security

Moreover, the court had reviewed the document numbered 363 dated 1987 June 10, issued by (Darbandi Khan) Intelligence Center and addressed to the Eastern Zone Intelligence Directorate, attaching names rosters of 18 demolished villages, with their coordinates, administrative boundaries and date of demolition. This rosters starts with the village (Chamchamal) belonging to (Zarayan) Sub District, date of demolishing 1987 May 25 and ends with the village (Yakhshi Haji Dara) belonging to (Zarayan) Sub District, date of demolishing 1987 Jun 05. This document is signed by the Deputy Commander of (Darbandi Khan) Intelligence Center.

Besides, the court had reviewed the document numbered 1097 dated 1987 June 09, issued by Al-Sulaymaniyyah Intelligence Center and addressed to the Eastern Zone Intelligence System (Section 3), attaching a roster depicting names of the demolished and relocated villages within the Al-Sulaymaniyyah Intelligence Center's sector. This attached roster starts with the sequence number 1- (Nawjul) village and ends with sequence 38 - (Al-Nahrawan) village. This document is signed by the Commander of (Al-Sulaymaniyyah) Intelligence Center.

Additionally, the court had viewed letter number 1487 dated 1987 July 17, issued by the Eastern Zone Intelligence System and addressed to the Third Section of the General Intelligence Military Directorate about demolishing villages that included: A special roster related to the 5 villages within our system's sector that had been demolished during the period 1987 July 01-15. This document is signed by the Staff Brigadier General, (Khalid Muhammad 'Abbas Al-Juburi), who was the Director of the Eastern Zone Intelligence System, during that period.

Also, the court had reviewed the letter numbered 9922 dated 1987 June 04, issued by the Eastern Zone Intelligence System and addressed to the Third Section of the General Military Intelligence Directorate...

The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official stamp. The stamp contains text in Arabic and English. The Arabic text at the top reads 'الهيئة القضائية العراقية' (Iraqi Judicial Body). The English text at the bottom reads 'Iraqi High Tribunal'. In the center of the stamp, there is more Arabic text: 'القسم الثاني' (Second Section) and 'الدرجة الثانية' (Second Degree).

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.....that includes destroying villages and relocating its inhabitants, there is an indication that the demolition was done by the tanks. This document is signed by Staff Brigadier General Director of the Intelligence System of Eastern Area.

**The court had reviewed** the letter issued by the Intelligence System of Southern Area of number 1598 dated 1987 July 30 to the GMID (Section 3) and addressed (Demolishing of villages) that included: (1) A list of 14 villages that had been demolished within our sector for the period 1987 July 15-30. This document was at that time signed by Staff Brigadier General Director of the Intelligence System of the Eastern Area (Khalid Muhammad 'Abbas Al-Juburi).

**The court also had reviewed** the letter of Salah Al-Din Section Command of number 2116 dated 1987 July 31 sent to the commands of all divisions and offices that includes:

The party system should increase the carefulness level at this period of time and to be alert and ready to hit back any sabotage incidents hardly with no mercy, to comply with the released orders of crushing the traitors and the agents of Khumayni and Zionism, and to destroy the saboteurs' houses with confiscating all their liquid and fixed assets. This document is signed by the Secretary of Salah Al-Din Section Command ('Ashur Shihab Ahmad) of the disbanded Ba'th Party at that time.

**Furthermore, the court had reviewed** the telegram issued by Al-Sulaymaniyyah Security Directorate to the Autonomy Security Directorate, the Intelligence, the Governor (Head of the Security Committee), and to the Al-Sulaymaniyyah Branch Command of the Ba'th Party No 25484 dated 1981 September 08 that includes:  
Searching or burning all the villages by the army and destroying all the houses that were newly built

  
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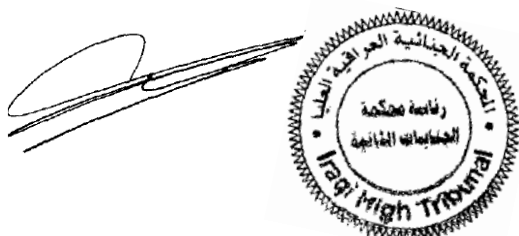
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**Additionally the court had reviewed** the telegram issued by (Dahuk) Security and addressed to the Autonomy Security numbered. 13075 dated 1987 September 15 that includes: According to the directions issued by the Command of the Northern Organization Office regarding deportation and detention of saboteurs', escapees' and deserters' families. We are listing below the daily status as on 1987 September 15 of the deported families who were detained within our governorate after taking pictures of them and taking away all the legal documents that prove their Iraqi nationality. The total number of deported families as shown in the lists attached to the telegram is (67) one of (Sarsang) sub district in (Al-'Imadiyyah) district residents.

**The court had reviewed too** the telegram issued by Dahuk Security to the Autonomy Security Directorate of number 13094 dated 1987 September 16 that includes: Following up to our letter number 13075 dated 1987 September 15. We list below the daily status of 1987 September 16 for the families who were deported and detained within our district after taking pictures of them and taking away all legal documents that prove their Iraqi nationality. The telegram included, **first:** A list of the deported and the detained individuals, residents of (Sumil) district and they are four families, **Second:** A list of the deported individuals, residents of Al-'Imadiyyah District Center and they are fourteen families, **Third:** The deported of Zakhu District residents, and they are six families. **Fourth:** The deported from Al-Quds Compound belonging to Sarsang Sub District in Al-'Imadiyyah District and they are nine families, **Fifth:** The deported and detained, residents of Al-Duski precincts of Duhuk District and they are five families.

**Moreover, the court had reviewed** the letter issued by the Eastern Intelligence Systems No 2022 dated 1987 September 18 to the General Military Intelligence Directorate/ 3<sup>rd</sup> section, that includes: (1) A list of villages that were demolished within our systems' sector from 1987 June 01 until 15 of the same month which are six villages, and this...



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...the document is signed by Staff Brigadier General (Khalid Muhammad 'Abbas Al-Juburi) Director of the Eastern Intelligence System at that time.

**The court had reviewed:** was the letter issued by Salah Al-Din Section ref. no. 1271 on 25 May 1987 that is addressed to the Commands of all Divisions and that includes: Salah Al-Din Section Command decided in their meeting that took place on 15<sup>th</sup> of May 1987, the following:

1. Cells of members and security committees are to take responsibility of the transported families from the security embargoed villages and transfer them to new compounds and in case these families refused to stay they will be compelled to stay and will be treated strictly according to the last decisions and directions.
2. The Commands of the Parties Divisions are each doing accurate inventories of the families who were deported from the security embargoed villages and did not reside in the compounds that were made for them, to know where they live and force them to go back and live in the compounds that were especially created for them.

This document was signed by the Secretary of Salah Al-Din Section Command ('Ashur Shihab Ahmad).

**The court had reviewed:** was the telegram issued by the Southern Intelligence System that is addressed to the (3<sup>rd</sup> Section). Number of origin 9206 on 23<sup>rd</sup> May 1987 that includes: villages elimination, blowing buildings of Qara Chiwar Mosque and School, the removal of concrete buildings of 'Ilyawah mosque and the removal of the following villages: (Sulaymana, Miramar, Ashkawtan, and Huz Kawama). Their residents were relocated to Zarayan compound, Ghulam Kawa and Biya Rash villages were also removed, as also was noted in the telegram that Biwila, Barkh, and Daskara villages were removed as well.

The Presiding Judge



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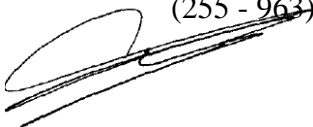
**The Verdict**

**The court had reviewed:** was the telegram issued by the Southern Intelligence System that is addressed to the General Military Intelligence Directorate/3<sup>rd</sup> section. No. of origin 9204 on 23<sup>rd</sup> May 1987 that includes the deportation of families according to the following schedule:

Below are the families who were deported to Al-Nasr compound which is interrelated to Zarin Subdistrict and the name of their villages:

<b>Name of village</b>	<b>Number of deported families</b>
Chinara	78
Birki	40
Qashti	8
Bani	109
Alan	65
Hasil	71
'Azaban	19
Kani mard	426
Daskara	1
Ahmad birnaw	12
Baraw Di	29
Kani hamza	6
Sufi	1
Zala rash	4
Bakhshi	42

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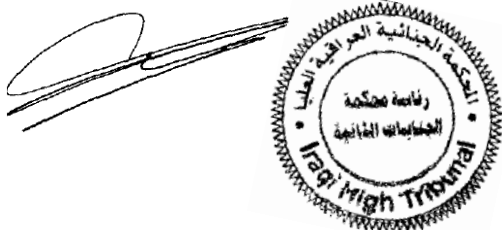
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Name of village	Number of deported families
Dari Qalan	16
Kani Kuchukh	30
Qalbiza	46
Qillija	10
Kani Kawa	5

**The court had reviewed:** was the letter of Al-Ta'mim Governorate Health Department ref. no: 783 on 12<sup>th</sup> of June 1988 that is addressed to Al-Ta'mim Governorate – Interior Affairs Directorate its subject is, corpse and includes: below is the Emergency Hospital letter ref. no. 44 on 6<sup>th</sup> of June 1988 and at the end of the document is a text of the Emergency Hospital letter that includes: every now and then we receive corpses of dead individuals of Kurdish families that are detained in (Tupzawa and Dibis) except that the sent corpses that do not meet the legal requirements. So, we kindly request to the camps that in case of sending corpses, an official letter addressed to the Medical Justice of our Hospital should be attached clarifying about burying the corpse or handing them to their families or keeping them sealed with the cap's stamp until the investigation is completed, and the full name of the camp's commander or his official deputy to take necessary actions and prevent mistakes of happening regarding this subject. This document is signed by Doctor Mumtaz Faraj Hindi director of Emergency Hospital.

**The court had reviewed** was some letters addressed to the Medical Justice that was issued from (Tub Zawa) and we mention for example ref no. (Non given) on 3<sup>rd</sup> of May 1988 and it included: We send you the corpse of the dead Sirwan 'Uthman Salih, kindly take necessary actions.

The image shows a handwritten signature in black ink to the left of a circular official seal. The seal has a serrated outer edge and contains Arabic text: 'القضاء الجنائي العراقي' (Iraqi Criminal Justice) at the top, 'رئاسة محكمة' (President of the Court) in the center, and 'الجنائية العراقية' (Iraqi Criminal) at the bottom. Below the Arabic text, the words 'Iraqi High Tribunal' are written in English.

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Also, another letter numbered (without number) dated 1988 June 10, includes the following: We send you body of the deceased person (Muhammad 'Aziz), kindly to bury him and take necessary procedures.

Also, another letter number (without number) dated 1988 June 20, which includes the following: We send you bodies of the deceased persons, their names listed bellow, kindly receive them, take necessary procedures to bury them and inform us.

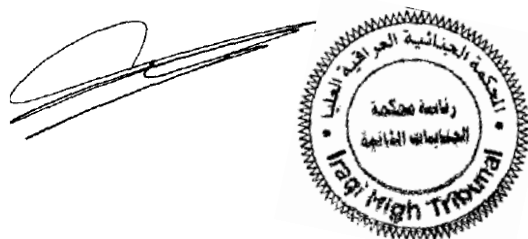
**Names:**

- 1- Nasrin Muhammad
- 2- Khatun Hamid
- 3- Sarkawt Majid

Also, the court reviewed the telegram issued by the Committee for Fighting Hostile Activity in Al-Sulaymaniyyah governorate, sent to the Committee for Fighting Hostile Activity in (Bazyan/ 'Arbat), reference number (Committee/ 92) that includes the following:

- 1- Detain all families coming to the cities and compounds, those who emigrating from the security-restricted villages.
- 2- Activate all of the Party, Military and Security Organizations. Inform us about their details with names. The Security Directorate is charged with detaining them.
- 3- It is decided that Security, Military and Party organizations to carry out detention duty for them all and immediately hand them over to the Al-Sulaymaniyyah Security Directorate. You must provide us with daily status report to take necessary action, the Subsidiary Committee held responsibility for any remaining family in the cities or compounds, for implementation. Chief of the Committee for Fighting Hostile Activity in Central County of Al-Sulaymaniyyah Governorate is the one who signed this telegram.

**Also, the Court reviewed** the telegram number 626 that issued from the Committee for Fighting Hostile Activity in Al-Sulaymaniyyah Governorate to the Subsidiary Committee for Fighting Hostile Activity in (Jam-Jamal/ the center) county, which includes the following: There are large number of persons, who currently located in compounds near the Bazyan area, mainly the Allahy compound...

The image shows a handwritten signature in black ink, followed by a circular official seal. The seal contains Arabic text: 'المحكمة الجنائية العراقية العليا' (The Iraqi High Tribunal) around the perimeter, and 'رئاسة المحكمة الجنائية العراقية العليا' (President of the Iraqi High Tribunal) in the center. Below the Arabic text, it says 'Iraqi High Tribunal' in English.

The Presiding Judge  
(963-257)

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There is large number of persons, who are currently located in compounds near Bazban area, mainly the Allahy compound, Bayban-al-Jadidah (new Bazyan) city, Al-Salam city as well as Baynjan, Kani Shaytan, Darkazi and Hamawand villages. Kindly to take necessary actions in order to apprehend all of the infiltrated families and send them to the Al-Sulaymaniyyah Security Governorate. This telegram is signed by the Chief of the Committee for Fighting Hostile Activity in Al-Sulaymaniyyah Governorate, Ja'far 'Abd-al-Karim Al-Barzanji, dated on 1988 April 18.

**Also, the Court reviewed the document** issued from the Army Chief of Staff numbered 6545 dated on 1988 April 22, sent to the Ministry of Defense Diwan.

A- We studied what we got of information that included in the letter from the Ministry of Defense and we take the necessary actions.

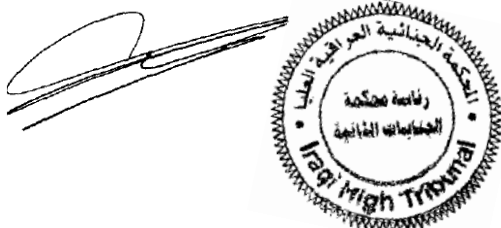
B- We carried out strikes, using special munitions, dated on 1988 June 15 against the sites of the sabotage groups in the fifth sector.

This document is signed by the Staff Major General, Nabil 'Abd-al-Qadir Husayn, on behalf of the Senior Secretariat of the Army Chief of Staff.

The court also had a acknowledgment on the telegram issued from the Northern Intelligence System to the General Military Intelligence Directorate / 3<sup>rd</sup> Section, its number of origin 11356 on 1988 June 28 that includes the burning and demolishing the following villages: (Kani Layla, Umar Kand, Sikar Kan, Sikani, Shaytan Rahman, Umal Mirka and Binlaklar). The telegram also states that the force could burn the villages of Barda Si and Mirga and other separated houses in Shalghah valley.

The Staff Colonel Director of the Northern Area Intelligence Organization to the Military Intelligence Directorate signed this document.

**Also, the Court reviewed the document** issued from the Eastern Area Intelligence Organization, numbered 1289 dated on 1988 August 05, sent to the Command of the North Organization, which included the following: To execute the death sentence ...



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At 10:00 on 1988 August 1988, the death sentence was executed by shooting against the criminals, who are the subject of your secret letter number 2927 on 20 June 1988.

The Staff Colonel Director of the Northern Area Intelligence Organization to the Military Intelligence Directorate, convict Farhan Mutlak Al-Juburi signed this document.

**Also, the Court reviewed the letter number 12207** dated 1988 August 15, sent from Irbil Security Directorate to Shaqlawa Security Directorate. The letter subject was relocating specified villages; as the approval issued for relocating the inhabitants of the following villages, as to be located in one of the new cities, then removing their villages. We instructed the Security Committee in Al-Siddiq and the Military entity, in order to take the necessary action. Villages names are: ( Bukran Shaykhan, Buyal, Diyana, Marsa Kada, Nazari Kulsi). Irbil Security Director signed this document.

**Also, the Court reviewed the document** that issued from the Military Intelligence Directorate, numbered 5940 dated on 1987 March 11, sent to the Eastern Area Intelligence Organization. The letter subject was relocating villages, that belong to the Qadir Karam subdivision, as represented in the attached list that includes (40) villages starting with Qalkhalu-al-Kubra village and ends with the Byanli village.

**Also, the court reviewed the document** issued from the Eastern Intelligence Organization, number 643 dated on 1987 April 04, sent to the Al-Sulaymaniyyah Intelligence, about removing villages. The letter says that the approval is made on removal of the following villages:-

- 1- Sargalu village
- 2- Bargalu village
- 3- Yagh-Samar village
- 4- Ziwa village



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- 5- Haladan village
- 6- Chalawa village
- 7- Sharistin village
- 8- Shadala village


The Deputy of the Eastern Intelligence Organization Director signed this document.

The Court reviewed a copy of the Northern Organization Office Command letter, number 2713/1 dated on 1987 April 1, which includes the following: Based on the authorization given to the Comrade 'Ali Hasan Al-Majid, his Excellency instructed not to listen for lawsuits submitted by inhabitants of the security-restricted villages as well as lawsuits that concern saboteurs, whatever the case is. He also instructed to freeze processing lawsuits that were signed by the Comrade Radi Hasan Salman, the Deputy Secretary of the Northern Organization Office Command.

**Also, the court reviewed** the Irbil Governorate letter number 995 dated 1987 April 14, sent to the Procedure Implementation Divisions in all of the Security Directorates.

- 1- To intensify measures that applied for imposing commercial embargo on all of the security-restricted villages, in order to prevent essential nutrition materials from reaching these villages. Inform use with daily situation reports provided by the checkpoints and submitted at the end of each week, as the date you start applying these measures.
- 2- Observing fuel stations, hawkers and concerned entities should supervise the selling processes, in order to prevent the fuel from reaching these security-restricted villages in anyway. Irbil Security Director signed this document.

**Also, the Court reviewed** the notification note from the Eastern Area Intelligence Organization/ Third Section that was sent to the Section Director. The letter subject is implementing a sentence, it's saying.....



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1- The Responsible Comrade for the North Organizations Office Command approved on implementing people's sentence on filed, against the listed criminals, according to the approvals recorded next to each criminal's name.

3- Suggesting sentence filed implementation on Monday 1988 August 01, kindly for review and issue your instructions.

The Captain Nasrat Sulayman Musa signed this document.

**Also, the Court reviewed** the letter from the Eastern Area Intelligence Organization, number 1289 dated on 1988 August 15. The letter subject is implementing sentence, as follows:

On 1988 August 15 at 10:00, the death sentence by shooting was implemented against criminals who are the subject of your secret and personal letter number 2927 dated on 1988 May 20 and your both immediate secret letters number 1596 or 1733 dated on 18 and 21 July 1988.

Staff Colonel, Director of the Eastern Area Intelligence Organization, the convict Farhan Mutlak Al-Juburi, signed this document.

**Also, the Court reviewed** the letter from the Army Chief of Staff, number 5051 dated on 1987 May 16 that addressed to the General Military Intelligence Directorate, which includes the following: It was not approved to execute strikes, due to the shortage in the special munitions quantity, as a result of executing several strikes recently, directed against Iran Agent Headquarters. It is possible to make use of the available real munitions, in firing within available ranges, by artillery or air force.

The Staff Major General Tariq Husayn Majid, who is the Senior Secretary of the Army Chief Staffs, is the one who signed this document.

**Also, the Court reviewed** the letter from the Presidency of Republic – Secretary that numbered 1016 dated 1987 April 02, which addressed to the Army Chief Staff. The letter subject is using the special munitions....



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.....that includes the following: ....Do not carry out the strike, before informing us about how to invest its results. The convict Hamid Yusif Hammadi, who was the President's Secretary at that time, is the one who signed this document.

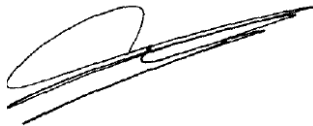
**Also, the Court reviewed** the document that issued by the General Military Intelligence Directorate, number 13002 dated 1987 June 15, which addressed to the Second Deputy. The letter subject is (air strike), which includes the following: ...at end of day light on 1987 June 05; an air strike (using the special munitions) was directed against the First Branch Headquarter of the Barzani group and against the Northern Sector Headquarter in (Bahdinan Sector) of the traitor Iraqi Communist Party at Ziwa area that is located in the Northern-East for the Al-'Imadiyyah County.

The Staff Brigadier General signed this document, as on behalf of the General Military Intelligence Director.

**Also, the Court reviewed** the letter issued from the Military Intelligence Directorate, numbered 8859 dated 1988 April 03, which addressed to the Presidency of the Republic-Secretary. The letter includes the following:

1- After Anfal operations, which our troops carried out recently for striking headquarters and bases of the sabotage groups and after special strikes that directed against these bases and headquarters; after that all sabotage groups in the Northern area became sensitive from these operations, and they expect that our troops may carry out another similar strikes.

2- In the Iraq-Turkey border line; there are bases and headquarters for saboteurs of the first branch of the Sons of Treason and Treachery (T.C: Kurdistan Democratic Party KDP) - Barzani group. They became extremely sensitive to that our troops may (including the National Defense Regiments) attack their bases and headquarters, using special munitions, as the case in Anfal. Therefore, they took some measures for facing those possible attacks, as they evacuated part of their bases and headquarters going toward villages close to the Turkish lands. It was not confirmed that saboteurs are coming approaching our units in that area.



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In the Name of God the Most Merciful, the Most Compassionate

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And this document is signed by the Staff Major General Director of the General Military Intelligence, and which was in that time the convict Sabir Al-Duri.

**Also the court reviewed** on the document which was issued by the General Military Intelligence Directorate No. 9540 dated 12 May 1988, addressed to the Chief of the Army Staff, and contained the result of Anfal Campaign for the period from 26 February 1988 till 10 May 1988.

**Also the court reviewed** on the letter of Irbil Security Directorate No. 19299 dated 17 December 1988, addressed to the Directors of Security Sections, and contained: ((...it was decided to give the letters which including information on the production of chemical weapons in a high importance of secrecy)).

**Also the court reviewed** about the letter of the Chief of the Army Staff No. 1156 dated 24 August 1988, addressed to the Office of the Secretariat of the General Headquarters of the Armed Forces, and contained: ....intended by villages among the prohibited areas, and where the saboteurs are present or what is called by popular resistance, and which were the armed men by the saboteurs from inhabitants of village.

This document is signed by the Staff Lieutenant General Nizar 'Abd-al-Karim Chief of the Army Staff at that time.

**Also the court reviewed** about the document issued by the General Military Intelligence Directorate No. (7980) dated 29 June 1988 and addressed to the General Military Intelligence Directorate.

1. In the beginning of the current June, a group of the General Security Emergency under the command of the fighter Sabir Bichkul left for inspection duty to the flattened Shaykh Tawil village, and which is affiliated to the cancelled (Pibaz) District.
2. The above mentioned group arrested the named Fattah Muhammad Rasul who's from the inhabitants of the village mentioned, it is noteworthy that the above mentioned person is retarded, so they killed him, and behead him and take

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In the Name of God the Most Merciful, the Most Compassionate

Iraqi High Tribunal  
Second Criminal Court  
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Date: 2007 June 24

**The Verdict**

.....Them to the General Security Directorate, and left his corpse pretending that he is an agent from Iran, the family of the murdered entomb him in Pibaz Sub District. This document is signed by the Staff Colonel and then Director of the Intelligence System of the Eastern Zone, the convict Farhan Mutlak Al-Juburi.

**Also the court reviewed** the document issued by the General Military Intelligence Directorate no. 10497 dated 29 May 1988, addressed to the Ministry of Defense at that time and which was including:

1. We received the following information which was practiced by the Staff Brigadier General Bariq 'Abdallah, the Commander of Protection Oil Forces.
  - On 12 May 1988, three saboteurs jumped from a plane, and in high altitude above Kuysinjaq Sector Command, and in front of the fighters of the National Defense Regiments.
  - On 11 May, they tied a man and woman by a rope, and putting them in a vehicle trunk.... The soldiers of the protection start beating them in front of the inhabitants.
  - A force ordered by him to inspect the houses of the National Defense Regiments' advisors, they captured all money, and jewelry:
2. As mentioned..... We suggest approving forming an investigation council regarding the officer mentioned... in our Directorate according to the reasons referred to the first article.

This document is signed by the Staff Major General the Director of the General Military Intelligence Directorate, and which was at that time the convict (Sabir 'Abd-al-'Aziz Al-Duri).

The Presiding Judge

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**Also the court reviewed** the document issued by the General Military Intelligence Directorate No. 11144 dated 20 May 1987, addressed to the Diwan of the Ministry of Defense, and which was about Iran agent headquarters, and included:

- 1) The headquarters of Iran agents which were attacked by air is (10) targets from total of (17)...and which was only treated by conventional munitions, and which are (Hawara, Barza, Yakhayan, Yagh Samar, Qizlar, Dulabi, Guma Zal, Sharistin, Chalawa, Sargalu and Bargalu).
- 2) For the other targets which were attacked by air and by (44) helicopters, by special munitions, are assemblies for Iranian sector in the region located in the North and the East of Chuwarta.
- 3) And concerning the use of the special munitions to treat the headquarters of Iran Agent.

**Also the court reviewed** the telegram issued by the Intelligence System of the Eastern Zone, **and addressed** to the General Intelligence Directorate (Third Section) No. 19579 dated 29 October 1987, and including that on 28 October 1987, a group of the First National Defense Command Forces went with an arranged force to pull down and remove the following villages: 'Ali Mansur, Qalal Injan, Chalka, Shura Awa, Maluma, Hanjira and Kani Sard. This telegram is signed by the Director of the Intelligence System of the Eastern Zone, and who was at that time the convict Staff Brigadier General Khalid Muhammad 'Abbas Al-Juburi.

**Also the court reviewed** about the document issued by the Chief of the Army Staff (Office of the Chief of the Army Staff) No. 183 dated 20 March 1988, and addressed to the First Corps Command and the subject was directions that includes in one of its paragraphs:...

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.....((Separation of requests for the special air attacks, and other attack to the committee composed according to our secret letter No. 646 dated 18 March 1988, and focusing on the choice of ditches which used by the enemy in Khurmali, Nawsud and Girdishkan)).

This document is signed by the Staff Major General Nizar 'Abd-al-Karim Al-Khazraji, the Chief of the Army Staff at that time, and a copy of this document was given to the Secretariat of the General Headquarters of the Armed Forces, the Diwan of the Ministry of Defense, Operations Department and the General Military Intelligence Directorate.

**Also the court reviewed** the document issued by the Chief of the Army Staff - Office of the Chief of the Army Staff No. 1076 dated 16 August 1988, and addressed to the Commander of the First Corps, the Commander of the Second Corps and the Commander of the Fifth Corps and which was about instructions, and including the meeting which was held with you on 14 August 1988 in the main Center of the General Command of the Armed Forces with a presence of the Deputy of Army Staff Operations and the Directors of the Military Movement, and Air Army in order to exchange views regarding the future plans for Anfal Campaign in your sectors, we confirm the following: **a collection of instructions pertaining to the future operations of Anfal**. This document is signed by the Chief of the Army Staff in that time the convict (Nizar Al-Khazraji).

**Also the court reviewed** the document issued by Irbil Security Directorate no. (15067) dated 14 August 1987, and addressed to Shaqlawa Security Directorate, included the detention of the deceased member of the criminal (Sulayman 'Abd-al-Rahman), and their houses should be pulled down.

**Also the court reviewed** the letter issued by the General Security of Irbil Governorate No. (4183) dated 12 March 1988, and addressed to Shaqlawa Security Directorate, and including the decision of money confiscation effectuation of the families belonging to the saboteurs mentioned below and which were ([NAME REDACTED]).

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**Also the court reviewed** the document which was issued by Shaqlawa Security no. (5114), dated 18 September 1988, and including that in this morning Ajnadin Division Command with the presence of the Security Committee in Al-Siddiq District started to deport and remove (Chula Mirg) village, according to the Northern Organization Bureau, and it was deported (48) families in this day to (Basirma) compound, and the rest of families will be deported next day, and this statement is signed by Shaqlawa Security Director.

**Also the court reviewed** the document no. 12310 dated 28 September 1988, which was issued by Al-Baldah Security Directorate, Al-Sulaymaniyyah Security Directorate and addressed to all deputy directorates. The document includes the orders, which were sent to all checkpoints; regarding the prohibition of families to reside in compounds from transferring their furniture or relocating from one compound to another without obtaining an official permission. In addition to toughen the checking procedures in checkpoints of Dukan Sulaymaniyyah, and Chamchamal Sulaymaniyyah road, and do not give them permissions to control these cases, and for the sake of informing the command with exact way, and sending this document signed by the Director of Al-Baldah Security.

**Also the court reviewed** the document which was issued by the committee in charge of counter-hostile activities no. 157 dated 30 September 1988, and addressed to Al-Ta'mim Branch Command of the Socialist Arab of Ba'th Party, enclosing a list of saboteurs' names, whose families are not included in an amnesty during the deportation to the locations of their sons. Please review it and order to the Section Command to control their houses, and arrest the persons from the mentioned families, this statement is signed by the Deputy of Al-Ta'mim Governor. The list attached with this document includes one hundred and twenty family names.

**Also the court reviewed** about the document which was issued by the Intelligence System of the Northern Zone, and which is consisting of reviewing to the Director of the System on making statistic and includes:

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1. It was effectuated the execution verdict from our System on (18) saboteurs since the joining of the Office Secretary ('Ali Hasan Al-Majid) and till now.
2. The estimated number of Kurds who left to Turkey during the end of Anfal Operations was (50) thousand persons, and the estimated escapees to Iran (2000) families, and this document is signed by the Deputy Director of the Third Section.

**Also the court reviewed** the document issued by Rawanduz Division Command no. 497 dated 30 May 1988, and addressed to all members and including:

1. All the families coming to the cities or compound, and emigrate from the restricted villages should be detained.
2. Energizing of all security, party and military authorities, the Security Directorate assume their detention, and this document is signed by Rawanduz Division Secretary named (Zidan 'Atiyyah).

**Also the court reviewed** the telegram issued by Northern Organization Bureau, Secretary Office, and addressed to the Intelligence System of the Eastern Zone numbered 1546 dated 18 July 1988, and including: it was approved to effectuate the population verdict concerning the subject of your letter mentioned above, and to confirm the arrest of his brother, and the destroy of his house because he gave him a refuge, and did not inform the authorities about it. This document is signed by the Secretary of the Northern Affairs Committee 'Abd-al-Rahman 'Aziz Husayn.

**Also the court reviewed** the document issued by the General Military Intelligence Directorate numbered 10311 dated 10 May 1987, and addressed to the Air Force and Air Defense Command, and including their request of providing the names, and the assemblage presence and headquarters of Iran Agent which was attacked, the date of that, and name of used munitions for each target in the objective to specify the effect of our Air Force attacks.

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This statement is signed by the director of the General Military Intelligence Directorate (GMID); he was at that time the convict (Sabir 'Abd-al-'Aziz Al-Duri).

**The court also reviewed** the letter number (87), dated on 01 June 1987 of the Security Committee for Pishdar District, which addressed to all the committee members and included ((Specify the status of the four actions for accelerating the mission of deporting and destroying the villages and in its specific time as per the decision of Member of State Command ('Ali Hasan Al-Majid). and this statement is signed by the Security Committee of Pishdar District.

**The court also reviewed** the telegram number (4067), dated on 08 July 1987, issued by Al-Sulaymaniyyah Intelligence Center and addressed to the Intelligence System of the Eastern Zone, which included ((.....)) while number of journalists came to see the effects of the Iraqi chemical bombarding to (Sargalu) and probably they will distributed them among the regions which had been bombard, for transmitting these actions to the general international opinion)).

**The court also reviewed** the document issued by Irbil Governorate Security Directorate numbered (5507), dated on 23 June 1987 and addressed to the security of the departments, districts and sub districts, in which included:

The telegram of the Northern Organization Bureau on 20 June 1987, as the official announced period for assembling the security prohibited villages which its date will be finished on 21 June 1987, so we decided to work on the following started from 22 June 1987 and above:

- 1- Considering all the security prohibited villages which still, till now the places for the Iran agent saboteurs, the KDP (sons of treason and treachery) and their fellows of Iraq traitors.
- 2- Absolutely prohibition for any human or animal existence in it, this is considered as banned operations area and the shooting will be free without any instructions unless there's an order issued from our headquarters.

The Presiding Judge

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- 3- The traveling to and from it, is banned as well as the agricultural, industrial and animal investment; for all the involved organizations should seriously follow up on this issue for each group according to its authority.
- 4- The corps command should prepare from time to time special strikes by artillery, helicopters and aircrafts to kill the largest number as much as possible of whom who will be in this prohibited areas, during all the times day and night.
- 5- Detaining all who will be arrested in the villages of this region and the security organizations will investigate him and execute those who will be above 15 years up to 70 years after extracting their information from them.
- 6- The involved organizations will investigate those who surrendered themselves to the governmental or Party authorities for a period maximum of 3 days and if it is requested to be 10 days they should inform us about these cases, if the investigation should take more than this period they should request our approval or telegraphic and through the Comrade (Tahir Tawfiq Al-'Ani).
- 7- Considered all what obtained by the advisors of the National Defense Regiments or their fighters be in possession of them except the heavy, supported and mid weapons, but keep the light weapons and should inform us with the number of this weapons only.

This statement is signed by the Deputy Security Director of Irbil Governorate.

**The court also reviewed** the telegram issued by Kalar Intelligence Center and addressed to Al-Sulaymaniyyah intelligence System, Eastern Advanced Intelligence System and Al-Eastern intelligence System / 3<sup>rd</sup> Section/ origin number (2268), dated on 01 June 1987 which included:

((.... At 10:00 on 01 June destroyed the following villages by the tanks of Al-Hakam tank battalion, two artillery batteries and with guidance of air observation post: Dahang Kura, Kani Zad, Bawa, Du Khiran, Zariin, Zarda.....

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Mahmud Qadir, Talka Al-Sughra, Faraj Waysa, the estimated number for the families of the above villages is (96) family, who escaped with the saboteurs)).

**The court also reviewed** the statement issued by the security committee in Irbil, number (2755) dated on 26 July 1987, which included: - according to the authorities given to us as per the Northern Organization Command Bureau number (2396) dated on 06 April 1987, it is decided confiscating the property of the saboteurs listed in the attached list and settlement for their money within one month started from the date of this letter. This statement is signed by (Irbil) governor, the director of the security committee and in this time (Ibrahim Muhammad Hasan). Attached with the statement is a list including 19 names of the persons who are applied for money confiscation. Also, the letter of the Intelligence System of the Eastern Zone number (1745) dated on 17 August 1987, addressed to the General Military Intelligence Directorate (GMID) which included:

Attached is a list number (1) for the names of 21 villages which had been destroyed within our System Sector during 01 August 1987 till 15 August 1987; attached to this statement is a list of the destroyed villages' names.

**The court also reviewed** the statement issued by Intelligence System of the Eastern Zone number (1863) dated on 31 August 1987, addressed to the General Military Intelligence Directorate (GMID) which included:

Attached is a list number (1) for the names of 9 villages which had been destroyed within our System Sector during 15 August 1987 till 30 August 1987 and this statement is signed by...

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The director of the Intelligence System of the Eastern Zone, who is at that time Staff Brigadier General, the convict (Khalid Muhammad 'Abbas Al-Juburi); Attached to this statement is a list of the destroyed villages' names.

**The court also reviewed** the telegram issued by the Northern Affair Committee, which included: The responsible director of the Northern Organization Bureau 'Ali Hasan Al-Majid confirmed on implementing the subject of our secret and urgent telegram number (4008) dated on 20 June 1987 for the violators. Knowing that the inspection will be took place by aircrafts to check the safety of implementation; in case of occurring any cultivating or winter agriculture works inside the lands of the security restricted villages, the involved security committee will be totally responsible in front of the comrade who is in charge of the Bureau, then the military sectors will implement the orders included in the above mentioned telegram; this statement is signed by the criminal (Tahir Tawfiq Al-'Ani) the Secretary of Northern Affair Committee.

The committee also listened to the vocal audio and video recordings which presented by the General Prosecution in the trial sessions, in which some criminals talked about the essential procedures that should be taken in the northern region and in Anfal campaigns; the following is copying for these tapes which they listened to it during the trial sessions :

**In the 34<sup>th</sup> session dated 09 January 2007 of the trail for the case number (1/ Second Criminal/ 2006) (Al-Anfal), the General Prosecution presented 16 parts form the vocal recording of the convict ('Ali Hasan Al-Majid), as follows:**

**The 1<sup>st</sup> Vocal Part:** ((This what I submitted to you Sir and I said to him so many times this is from the support and I will bring to you the names which I have it, between you and the Mustashar we will disband them, I want you to know that, and this is the finance, but after we complete the deportation and we want to start the programmed military attacks in the harsh places, we will open and take from every party 1/3 of his land or .....

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.....half and if we repeated we will take 2/3, I will corner them in a place and strike them with chemicals and cause them huge damages; this will not be only for one day or even for 14 days but I will bombard them with chemical weapons till they come and surround themselves with their weapons, by the amnesty I will print a pamphlet and distribute it in the northern region by the Kurdish, Surani, Caldanian and Arabic languages and I will show them that it is from the Iraqi State, but will never let any state sheltering them, as I will tell them, any one who decide to return back is most welcomed but those who will not return I will bombard them again with the new eradicating chemical weapons, this is the only solution for me and I will continue in bombarding and threatening them with the chemical weapons and I will see them in this time, when any country could not talk or support them; I expect (God willing) that all who escaped will return back and I asked the specialized individuals to form gangsters, those good ones in Europe, in order to kill them whenever they found))

**The 2<sup>nd</sup> Vocal Part:** by the voice of the convict ('Ali Hasan Al-Majid): ((then the turn comes to the other governorates, they was tendency towards gathering in the compounds, in which every 4 or 5 families shared in one house)).

**The 3<sup>rd</sup> Vocal Part:** by the voice of (Saddam Husayn) about the military law and beheadings. ((We apply the military law, in which this law concerns with the defense situation from the psychological side, not with if we fight or not, so if a committee came during the war and noticed that the defense posts was prepared although all the capabilities were provided, the responsible would be executed; we apply the military law to avoid any interpretation in this issue; if the commanders retreated from their sites during a critical situation, so we should beheaded them and they were already beheaded....

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So, when you say is this a saboteur or not, then the truth will be lost, so lets then return to the military law and apply without me.

**One of the leaders:** when they arrested a person, they all stand up.

**The 4<sup>th</sup> Vocal part:** by the voice of the convict Saddam Husayn) about the Kurdish ethnicity genocide

**One of the leaders:** Sir, pardon me, Rawah they had a suggestion

**(Saddam Husayn):** ((let them come to work in Tikrit, they came before and worked in it; I mean that, this meaning I heard it from the Kurdish who working in it, and with time we convert them to 'Arab, Isn't the family of [NAME REDACTED] became 'Arab?))

**One of the leaders:** You are right Sir

**One of the leaders:** the comrade 'Abd had a story about one from [NAME REDACTED] family was living in Tikrit for 40 years, and the people keep calling him [NAME REDACTED]; and after few days from the Revolution.

**The 5<sup>th</sup> Vocal part:** the voice for one of the military leaders, where as he describes the peculiarities of the Kurdish (related to the convict Saddam Husayn).

**One of the leaders:** the factor of surprise was giving security... but indeed it is scary.

**One of the leaders:** all of them should have tribal name, from the age of two years, there is no body did not have the tribal name in his identity card, another point they totally believe in rumors, they are humble and like the tale bearing, they are immoderate, while the draftee sometimes assassinate the civilians, so they did not consider any compromises.

**Convict (Saddam Husayn):** This is the effect of hastiness.

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**One of the leaders:** your nephew said that he was involved in three investigation councils finished by execution.

**One of the leaders:** your nephew said that he was involved in three investigation councils all finished by the right form

- **The sixth vocal clip:** (concern the convict Saddam Hussein) question addressed to the convict Saddam Hussein about using the chemical weapon.

- **One of the in charges:** professor I have a military question

- **Convict Saddam Hussein:** Go on.

**One of the in charges:** is the chemical weapon active as we the civilians imagining? -

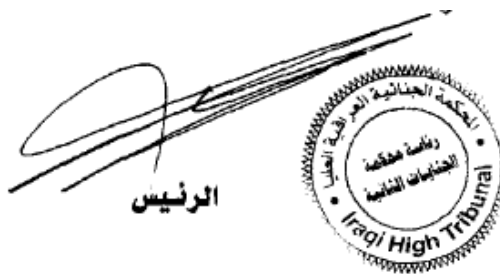
- Convict Saddam Hussein: yes active on the people who don't use the safety mask as we the civilian imagine

**One of the in charges:** you mean this weapon could kill thousands

- The convict Saddam Hussein: yes kills thousands and make them not being able to drink or eat from the available so that they have to leave the city for long period until disinfect it totally, he will not be able to sleep, eat or drink, they go out naked.

- **The convict ('Izzat Al-Duri):** I have a note on this, I agreed on everything but concerning the chemical weapon, in my opinion we can't save the quantities in the front lines because in the front its possible some doesn't hit within the active range for the weapon we imagine which Dr. Sa'dun had mentioned because...

- **The seventh vocal clip:** (concern the convict Saddam Hussein)



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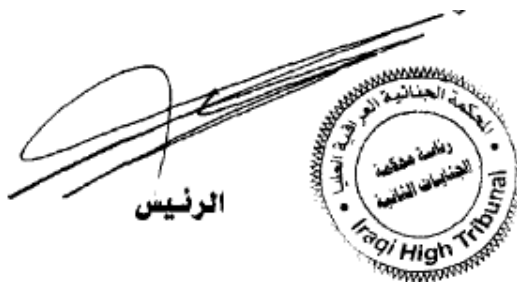
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- **Convict ('Izzat Al-Duri):** it is circumstantial but if production wasn't enough to aim a strategic hit when in need, then we better save this weapon to collect the required need, I rely on such attacks that no one in the world will ask us why you hit this kind of strikes.
- **Convict (Saddam Hussein):** However Comrade ('Izzat) – I don't know if you know or not that using this chemical weapon must be based on an order from me.
- **Convict ('Izzat Al-Duri):** yes, I know that
- **Convict (Saddam Hussein):** I have all the vision of course showing the affection of quantity and quality to the end all that side for sure on my mind, how much we save, how much we spend, what kind we use, what kind we destroy and how.

▪ **The 8<sup>th</sup> vocal clip (concerning convict Saddam Hussein)**

Saddam Hussein mentioned that the chemical weapon used against the Kurds during a meeting with the leaders

- **Convict (Saddam Hussein):** Is this your new order?
- **One of the leaders:** This is a common trial and also I will tell you the details of this idea we studied before and applicable to execute by supplying Yushin Aircraft (76) with gas bombs then compress it in containers, each container according to the dimensions by us then we fill it by firecracker phosphor to light the material, in each aircraft we put three containers until we reach the average between (99 – 120) containers then throw it on them, we still have another issue to modify the bombs they are working now to find a way concerning pull the fuse of the bomb.



The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official seal. The seal has a double border. The outer border contains the text 'القضاء الجنائي العراقية العليا' at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة محكمة الجنائيات العراقية' in the center.

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▪ **The ninth vocal clips (concerning convict Saddam Hussein) about the chemical weapons during a meeting with the leaders.**

• **One of the leaders:** It will spread in the air and will be visible to see it but we have to choose the suitable area to avoid harming anybody I mean aircrafts hold 120 bombs.

• **Convict (Saddam Hussein):** In Al-Hashr Area, it might be good

• **One of the leaders:** like the cluster bomb.

• **Another leader:** maybe a military camp in the area I swear will harm them based on weapons (57) millimeter, and since they have it will be hit

▪ **The tenth vocal clip (concerning convict Saddam Hussein) order the leaders to hit the Kurdish villages.**

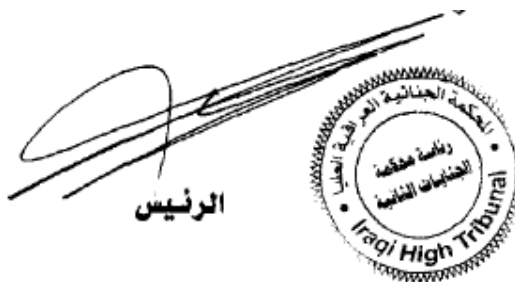
• **One of the leaders:** North of the city there are three camps and on the road we are flying on low altitude there was people going and coming back but suddenly the road got empty because our troops caught them and those who entered the camp couldn't get out since we hit them by 9 bombs

• **One of the leaders:** this terrified them

• **Convict (Saddam Hussein):** it has a big psychological affection more than any other thing when they come to see the dig as size as the republican palace.

• **One of the leaders:** Mr. President who want to make it on city or village will see the big affection of the sound, dig and trembling

▪ **The eleventh vocal clip (concerning the convict Sabir 'Abd-al-'Aziz Husayn) talking to the convict (Saddam Hussein) describing the Kurds by saboteurs agents**

The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is the word 'الرئيس' (The President) in Arabic. To the right of the signature is a circular official seal. The seal has a double border. The outer border contains the text 'المحكمة الجنائية العراقية العلية' (The Iraqi High Tribunal) in Arabic at the top and 'Iraqi High Tribunal' in English at the bottom. The inner circle contains the text 'رئاسة محكمة الجنائيات العلية' (President of the High Criminal Court) in Arabic.

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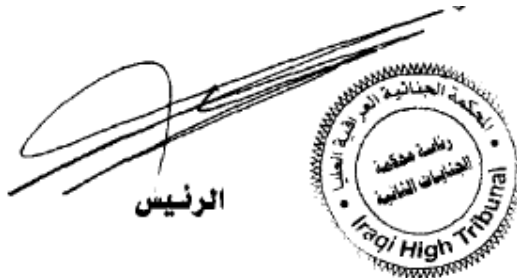
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- **The convict (Sabir 'Abd-al-'Aziz Husayn):** it becomes more important after the leadership relocated the villages and destruct it, it's exploited by the saboteurs have their agents who hid inside the towns and cities where also agents inside the national defense regiments, they exploited this case and they will take advantage of it in the coming operations worsen the security in the towns and cities specially (Al-Sulaymaniyyah) and Chuwarta which is the most important this period.

### ▪ **The twelfth vocal clip (concerning the convict Saddam Hussein) mentioning the attack by chemical weapon**

- **Comrade (Thabit):** Mr. President, the commander of the 1<sup>st</sup> Corps before the events was (13) Brigades as our friend mentioned when some of our troops exposed to cutting and surrounding so that I suggest to re-evaluate the status of the first corps to discover where are the peaks that we need to leave or those we need to control, where to be strong at reinforcement and where as reserve, we need more troops, the chemical hits in the depth and wasn't useful, and also on (Qara Dagħ) wasn't useful enough and didn't exploit well, I agree with you that we caused loss and fear but our production of (Mustard) which we count on the future is few although the quantity we sent to Kirkuk and the amount we left.



The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official stamp. The stamp contains Arabic text: 'المحكمة الجنائية العراقية العليا' (The Iraqi High Tribunal) around the top edge, 'رئاسة المحكمة' (President of the Court) in the center, and 'القضايا الجنائية' (Criminal Cases) around the bottom edge. The English text 'Iraqi High Tribunal' is also visible at the bottom of the stamp.

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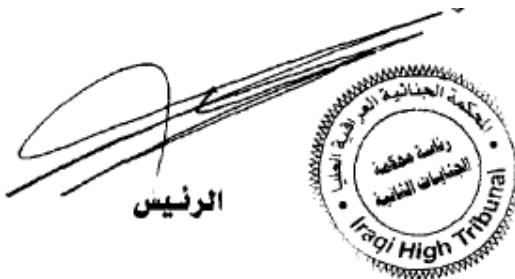
and other subjects such as the fire support 18 artillery battalions except the light strikes.

▪ **The thirteenth vocal clip (for the convict Saddam Hussein) issue order to execute members in the local security.**

• **One of the leaders:** sometimes they not arrive sometimes or they stay at the same place and sometimes they jump from the car during transfer, we assigned Division Command Member at the checkpoints and we allow the vacations up to 10% this percent is not including vacations of the internal security, at the checkpoints the division command members will ask the soldier if he is in vacation or not, we expect to increase our troops by 2000 soldiers and 400 soldiers for the special forces.

• **Convict (Saddam Hussein):** you execute many bad members who joined the internal security through relations especially those who came during the war circumstances to avoid serving in the military, anyone you arrest relegate him to the military court and give him a chance but if he belongs to the internal security don't give a chance punish him without mercy cut his head because half of them don't deserve to be in the internal security and they employed according to their relations and relatives, who wants to be an officer in the internal security must be an opponent to Iran and concentrate how to fight the Iranian agents, now when they come to the front it is their mission to fight Iranian directly, tell them so fight.

**One of the leaders:** Mr. President - some of them are traffic police.



(963 – 279)

The Presiding Judge

## PDF Page 1

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Dated 2007 June 24

### The Verdict

**The accused (Saddam Hussein Al-Majid):** Everyone enrolled after the war, especially anyone whom you see his enrolment deserves, even aging 15 years old, chop his head because he came to the traffic department, police and security after the war. Most of them came to avoid serving in the army; I know them and saying that according to my knowledge. They are giving bribes to accept their son in such jobs after the war.

**One of the commanders:** what I am saying, that some troops have good commanders that had the opportunity to make a good administrative re-organization.

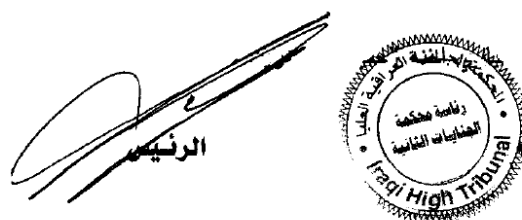
**The 14<sup>th</sup> Audio Portion:** ((Conversation between the accused Saddam Hussein and 'Amir Rashid regarding the hiding of chemical weapons))

**'Amir Rashid:** Raw material of the chemicals in the previous activity, and based on what I believe in that we can deal with this issue and put an end to it.

**The accused (Saddam Hussein):** What's the financial budget?

**'Amir Rashid:** For example Mr. President, we had imported this much of chemical materials and produced this much of chemical ammunitions, this means that the sum of the total should be accurate, and the results should be matching which means that if this plant receives such amount of materials then it should produces such amount of weapons and ammunition. So, from his point of view if there was a mistake with this sum, then it might be that Iraq is hiding part of the material and deliberately mistaken in the sum to hide parts for any prohibited activities in the future. Actually we have long experience with them and we can manage it. But still there was a marginal 8% mistakes; they backed off after our validation? But I do not want to bother you as well as the members of the Revolutionary Command Council, I would say that we want to comfort them on their next trip or after a week or two the chemical program, we are controlling in control.....

(280 - 963)

The image shows a handwritten signature in black ink, which appears to be 'الرئيس' (The President). To the right of the signature is a circular official seal. The seal contains the text 'الجمهورية العراقية' (Republic of Iraq) at the top, 'مجلس القضاء الاعلى' (Supreme Council of the Judiciary) in the middle, and 'القضاء الجنائي' (Criminal Court) at the bottom. The words 'Iraqi High Tribunal' are written in English around the bottom edge of the seal.

The Presiding Judge

In the Name of Allah, the Most Merciful, the Most Compassionate

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Very good as well as the nuclear weapon but regarding the biological, we need to discuss it with your Excellency, could handle the biological issue within two months, more or less than that. We must settle on one way or another. In my opinion if we move.....

**The 15<sup>th</sup> Audio Portion:** ((Speech between the accused Saddam Hussein and 'Amir Rashid and Tariq 'Aziz concerning the biological weapons)).

**The accused (Saddam Hussein):** I do not think, O.K what is objecting? Now before your arrival comrade Tariq said that we produced biological, which means biological weapons, so if he looked for a real thing in our previous programs. I would say that your answers in the chemical weapons are not all accurate. You introduced him numbers to be convinced and it is apparently that he is convinced in the final out come.

**The 16<sup>th</sup> Audio Portion:** ((Speech between the accused 'Ali Hasan Al-Majid and the accused Saddam Hussein))

**The accused 'Ali Hasan Al-Majid:** That is between Baghdad -Kirkuk day and night and between Baghdad -Al-Sulaymaniyyah day and night, while in the past some main roads that are located between Baghdad -Kirkuk – Al-Sulaymaniyyah were closed after 4 p.m. We have some main roads [Kirkuk (Irbil) Ninawa], in the next operations after we leave this meeting, we need your help in this case with three and four brigades in addition to the efforts of the 5<sup>th</sup> Corps when we will accomplish it with Gods will.

**The accused (Saddam Hussein):** But we will attack in the 2<sup>nd</sup> Corps (T.C: 2<sup>nd</sup> Corps) with 10 and attack in the 3<sup>rd</sup> (T.C: 3<sup>rd</sup> Corps) with 17 divisions that are outside the local reserve defenses not from the attacking sectors in the 1<sup>st</sup> Corps.

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الرئيس



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and the attacking sectors in the 5<sup>th</sup> Corps and also attacking sectors in the 1<sup>st</sup> Special Corps and also the attacking sectors in the 6<sup>th</sup> Corps. On the right wing, we will send you 10 divisions.

**The accused 'Ali Hasan Al-Majid:** The fact is Mr. President.....

In the 35<sup>th</sup> session dated 2007 January 11 of the trial in the case numbered 1/2<sup>nd</sup> Criminal/2006, the prosecution presented an audio portions that the accused 'Ali Hasan Al-Majid talks in it according to what's following:

#### **The 1<sup>st</sup> Audio portion:**

**The accused 'Ali Hasan Al-Majid is talking to Duhuk Governor"**

**Governor of Duhuk:**

I want to inform you about Danaluk issue and the groups that Shilanzi Surik describes. Actually, the events that happened in Danaluk, of course you are aware of it, and regarding to what existed are four regiments all (Raykanis) [*T.C: National Defense Regiments (Mustashars) from the Kurdish tribe of Rikani*] and they were immoral. Short while ago, we held the security committee's meeting in this regard and we called upon the (Mustashars) and told them "you didn't resist during this period, and why you are trying to slow down", actually the area is very important and contains a large number, that is why they are collapsed, in fact till yesterday, some of them came to us and to the Ba'th Party, but we rejected them.

**The accused 'Ali Hasan Al-Majid:** Four Regiments

**Governor of Duhuk:** Four regiments formed of the (Rikanis) as well as an addition of two other regiments from outside the area to protect them, as they said that "are bombed and we don't have the weapon to retaliate", in fact they are immoral. This point was debated in the meeting for three hours with them and there was no bombing.

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**One of the Commanders:** from these thirteen, which one was not bombed?

**'Ali Hasan Al-Majid:** if they leave them, they will be dislocated. Why bombing them and run out of the ammunitions, the ammunition is very inadequate.

**The governor of Duhuk:** the area is so historically important to us. We know actually as well as my subordinates know about this area. So, we sent a letter to you regarding this issue.

**The accused 'Ali Hasan Al-Majid:** When did you write to us?

**Governor of Duhuk:** nearly about 10 days or 15 days.

**The Accused 'Ali Hasan Al-Majid:** I saw the mail yesterday and did not come to me and today I did but I did not see it. What are your suggestions?



**Governor of Duhuk:** we suggested for example according to the army concerning some heavy weapon to be given to them for retaliation.

**The accused 'Ali Hasan Al-Majid:** they give these heavy weapons to the saboteurs.

**Governor of Duhuk:** Based on what Mr. 'Ala' said, to protect these weapons, the army will decide to forms one company, but they are as it and we didn't provide them yet.

**The accused 'Ali Hasan Al-Majid:** you need to give the list of the six regiments to Mr. (Tahir Al-'Ani). You and the branch secretariat bring them and tell them that today's punishment in this stage is a reduction of 25% of every regiment's personnel in the first day. If they said "We can't", their regiment will be dissolved. But this punishment is for you as you gave the saboteurs a success. The six regiments will be reduced by 25% punishment, for not retaliating against the saboteurs and their collapse in front of the saboteurs' rumors and not in front their bombs. Abu Muhammad, you write them the 25% reduction.

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الرئيس  
  
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**Governor of Duhuk:** till yesterday, a part of them came to us and I expelled them saying it is shame on you. You disgraced us.

**The accused 'Ali Hasan Al-Majid:** tell him that, and if he tells you that we can't, put him in prison immediately. Anyway, work on that and after one week, tell them you make a reduction of 50% and after two weeks, tell them that the regiments are disbanded. You tell them after that this is the first time (25%) of your regiment. You are scared of the saboteur's mortars. Why you should be scared of the saboteurs taking your mortars? I need you to bring me some mortars from the saboteurs.

**Governor of Duhuk:** Their number is about 6000.

**The accused 'Ali Hasan Al-Majid:** these 22 (*T.C: most probably the National Defense Regiment number 22*) are Iraqis. Comrade Tahir these people because you were able to train them, but we haven't got a chance to train the others. Also, we were only able to recognize the fighters through their Mustashars. And in this meeting you meet with these fighters and replace those Mustashars with six honest Ba'th Division Party Members, and you will find out how you can liberate this place by them, because these are fighters but their Mustashars are cowards. So tell them that the punishment decision against you was because of your collapse in front of the saboteurs' propaganda. After that, if you could not bear, go ahead and every one says that he could not bear, put him in prison after meeting with in the Governor's office in the attendance of the Branch Secretariat.

**Duhuk Governor:** I told them that we are in a state of war, shame on you; you disgraced the tribes, are you fighters, what do they have (*T.C: the saboteurs*) they are only quarter of a quarter of your numbers

**The 2<sup>nd</sup> Audio Portion:**

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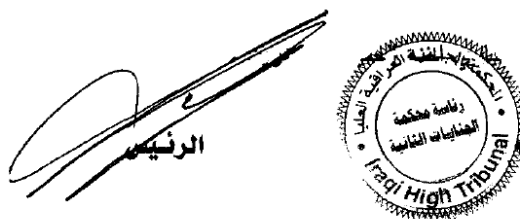
Reference: 1/2<sup>nd</sup> Criminal/ 2006

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**The accused 'Ali Hasan Al-Majid:** in next summer, where will the saboteurs be after there are no villages here or there and every village is living on its own. You don't see the animals how they live. For example, the chicken is holding its eggs until it becomes big. We will not let the villages incubating the saboteurs and live inside them. We have two stages; building the complexes (*T.C: Mujamma'at ie the concentration camps*) and how to supervise them. I met with the oil products committee. I told them we need to approach in the opposite direction, today the migration is from the country side to the city in the northern area which should be beneficial from the village to the town. We are not giving the village anything in order to force them to move from the village. In the same time, when he immigrated to the town, I educate him patriotically. Therefore, why should I give him four bottles of kerosene weekly? I will give him one bottle only and let him use wood. The women are spoiled, they stopped collecting wood for heating, and we keep delivering fuel and gas during this tough time, while they fill the heaters with kerosene. How many villages are getting fuel for heating? There will be no heating by wood or else, swear to God we are looking forward for the shovels, and we will build fire places and enjoy burning wood in them. So where did the fuel go? The wood became past and we don't feel, what are we doing is a matter of destructing Iraq? We also don't give them wheat, sugar, oil and electricity. I let him stay beside me putting in his mind patriotic and national thoughts. Why should I let him stay there not knowing any thing like a deaf, I work to deprive him with the full basins for 5 years. I don't need to export your wheat 5, 20 years, we have been importing wheat, lets add another 5 years, I will prevent the areas..

(285 - 963)

The block contains a handwritten signature in black ink, which appears to be 'الرئيس' (The President). To the right of the signature is a circular official seal. The seal has a double border. The outer border contains the text 'الهيئة القضائية العراقية العليا' (The Iraqi High Tribunal) at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة محكمة' (President of the Court) and 'القضايا الجنائية' (Criminal Cases).

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the large areas along with forbidding the existence in it from Qara Dagh and from Binin to Kifri to Diyala to Darbandi khan to Al-Sulaymaniyyah, I don't need them what are the supplies that we are getting from them?

**One of the attendants:** But it's dangerous.

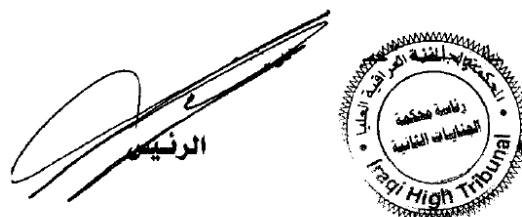
**The accused 'Ali Hasan Al-Majid:** Let us be merchants and let us see how much we spend on it and how much we profit from it. Our people are all rotten here. Here is not big, tours in Qadir Karam? The precursor's of Prophet Muhammad, they are the relatives of Ja'far Al-Barzanji (*T.C: he was the Governor of Al-Sulaymaniyyah Governorate*) who is sitting in front of me, some of them are worse than the traitors. They were spoiled by the patriotic tendency and the time...etc. The citizen here needs to read God's book in order to understand this all and not to read atheism, they read God's book and then make sabotage acts. What is it; this is an introduction for praising (*T.C: this sentence is not understandable*) the sanctity of Iraq. Is there any sacred place except for Iraq?

### **The 3<sup>rd</sup> audio portion:**

**The accused 'Ali Hasan Al-Majid:** I remember Jalal Al-Talibani, and I sent you a message. He sent me one of his people and said that we are ready for negotiations, there were a lot of yields and was a chance to take advantage of, but under the main condition that we should stop demolishing the villages. After that, the officer went there.

I the evening I was informed by Salah-al-Din Intelligence Directorate that wrote me a message through the Iranian Kurdistan Democratic Party "he said and I said". Then I asked him to document the letter. I gave that good answer but I know his inclination because this is not a personal issue but it is a political one. I informed Mr. President that I had received such a message and he gave a comment that made me glad. Mr. Abu 'Ali on God we depend, and some of the Corps Commanders were not serious and they asked in one of the General Command of the Armed Forces meetings that.....

(286 - 963)

The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official seal. The seal contains Arabic text: 'الجمهورية العراقية' (Republic of Iraq) at the top, 'دعامة محكمة' (Court Seal) in the center, and 'القضايا الجنائية' (Criminal Cases) at the bottom. The words 'Iraqi High Tribunal' are written in English around the bottom edge of the seal.

The Presiding Judge



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that they attended to delay for one more month, I told him: not for a day, not for a day, not for a day. I frankly spoke to them and to all the attendants; told them: brothers, this is our stage, from now you consider the slogan of the end of Relocation and not Arabization, losses and minimization. (*T.C: means that accomplishing the relocation is the fastest solution than Arabization*). The ones, who can not go with this slogan, let me know personally and I will keep it secret, as well as the ones who can not bear their responsibility.

#### **Fourth audio clip:**

The accused 'Ali Hasan Al-Majid: 300 armed individuals came and told me that they surrendered. I played the video film taken of the village and I said they owe the Arabs revenge. So that I feel strong (to punish and not to pardon them) and I would not be driven by the political seduction that a group of traitors would live and grow up in the Great Iraq. I worked faithfully and seriously in a race with myself. When the Amnesty Decree came, it nearly shocked me; but it was synchronous. This is our people, and who ever is useful, even though we did not find any one useful among them, let the best one just be useful for himself, and we will appreciate that. If you ask me now about the prominent Employees, except (Irbil) and Al-Sulaymaniyyah Governors, I absolutely do not trust any Kurd.

#### **Fifth audio clip:**

The accused 'Ali Hasan Al-Majid: Comrade Abu-'Ali the Mujamma'at (*T.C: concentration camps*) have increased in number. We thought in how to protect them, from the security aspects. Of course the camps are still, I said still I have to fence them all with fences (*T.C: barbed wires*) and prohibit entering or getting out from one or several doors. Based on that, I assigned one thousand and five hundred individuals from the army and volunteers from the security and police and one hundred and fifty volunteers. I assigned all these for fencing the Mujamma'at, but I see it now as illogical, immoral and inhumane to put an enemy in Mujamma'at, whereas they ask you for money, they do not comply



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if you put a fence, they break it, and break the law, the officers then will slaughter them. But when I provide them with means of living and they still deviate, that is intolerable and they deserve to be cut in 100 pieces or even more if they are big.

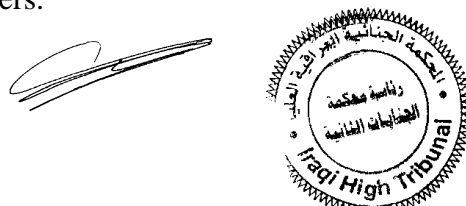
**Sixth audio clip:**

The accused 'Ali Hasan Al-Majid: Four Rikani regiments can not protect themselves, yet we want them to protect others, isn't it.

An attendant: yes.

The indicted 'Ali Hasan Al-Majid: good, you sentence him to (25), and you see what happens after fifteen. Tell him you won't get the (25%) back unless you proved an aptitude. If you prove it, then you'll get the (25%) back; you see that he will fight as you want him to do. Because the Mustashars loyalty is opportunist and not Iraqi patriotic; and has nothing to do with all this. So, Comrade s don't be surprised if there are some ones who belong to this group, who are opportunists. Because the ones who belong tie builders are opportunists, and this will change their doctrinal faith and they belong to the defense regiments; and change the faith of their doctrine. The notes that you stated I know them, and sometimes know even in details. The area needs such kind of strikes that make effect; but as the authorities, the army and enlightenment are absent since twenty or thirty years, they began to get used to. It is so wrong being afraid of telling the Mustashars that he has to go to jail, fearing that he will escape to the saboteur's side. I tell him go, go to your bodies, go to the saboteurs, Curse your mustache (*T.C: a dishonor curse*), nobody speak to him, let him till he goes, what made the saboteurs numerous, you don't scientifically calculate to see how the saboteurs increase in number. The saboteurs are a part of the finger, from 10 fingers.

**Seventh audio clip:**



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### Verdict Decision

The accused 'Ali Hasan Al-Majid: we said that the saboteurs concentrate in the dispersed villages and there are sites where some of them are provided with ammunition and information, etc. therefore, all the villages that are securely restricted we re-gather them so that the saboteurs will be isolated. We did it on two stages, the first phase begins on 21 April and ends on 21 May, and the second begins on 21 May and ends on 21 June. Whoever passes the areas will be beheaded without question according to the instructions. These instructions are still and will remain in effect. They said such and such about robbing the weapons from it, but these villages are prohibited and will remain prohibited; we are free in prohibiting the area (S)

#### Eighth audio clip:

The accused 'Ali Hasan Al-Majid: No, yesterday, it means that when I say a thread is not detailed information from the Islamic Movement. I asked them what they have, and they brought it to me yesterday. I signed against thirty five and I told them to hang (*T.C: execute*) them, and I want to carry on with the rest today and we will follow up on the rest.

#### Ninth audio clip:

The accused 'Ali Hasan Al-Majid: There is a point we want to talk about it Sir regarding Kirkuk, when I came with the Comrade (Radi) to Kirkuk, we asked for the census in which Arabs and Turkmen were forming (51%). Their existence in Kirkuk is despite the circumstances and spending on them sixty million Dinars and the details now are clearer, what happened is clear providing that the incoming Arabs to Kirkuk make, in fact, the least proportion. But regarding those who reside there, I (extracted) them all (*T.C: meaning the Kurds of Kirkuk*). We issued instructions and they were still valid, not only that, I also prohibited work in Kirkuk, its outskirts and villages on those who are not from Kirkuk; I detained some of them, collected them together and beat them, they couldn't say why because they know why.



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## Verdict Decision

In the 36<sup>th</sup> hearing dated 23 January 2007 of the trial of the case No. 1/ 2<sup>nd</sup> Criminal/2006, the General Prosecutor has presented recorded audio clips, which contain:

**First audio clip with the voice of the indicted (Tahir Tawfiq Yusif):**

(( I have a suggestion if you don't mind, Mr. Abu Hasan...I see that the National Organizational Committee discusses the subject of the situation that the Organization faces with the diligence of the National Command Member when requires the formation of any permanent committee, because there is a way for the election of the Deputy official when you expect it is not flatter, when you expect a clear and confident organizational status. Which is based on interaction and love we don't need organization...now we can say...(not clear) (T.C: the audio sound is not clear)...we don't argue with an official when you have substantiation that convince us or we can convince you...and as you said the charm of our journey and our greatness. (T.C: the audio sound is not clear), Mr. the President and your Excellency...great whatever you see of the tiny things is a natural status. When we compare our situation, thanks to God, with Europe in the World War 2 people don't believe...but the Deputy Official's mode...you know these situations...(T.C: the audio sound is not clear)...sometimes they want to assign the Comrade X as a Deputy Official...they can make it during elections...i.e. present a Deputy Official...(T.C: the audio sound is not clear)...this might not be prepared...the mode depends sometimes on the organization with the Comrade's diligence))

**Second audio clip:**

**An attendant in the meeting:** Pardon me Comrade Abu-Hasan...In fact I deduced concerning those who are Arabs and they were registered in (77) (T.C: the census of the 1977) as Arabs and now they want to become Kurds. Thus, all of us persist on the (77) registration, because this situation has to be stable to preserve their ethnicity and because the today's issue in...

**'Ali Hasan Al-Majid:** the Yezidis are Arabs and the Christians are Arabs....we start to teach and assure this matter...we have laws brother....tomorrow if we find someone here, we'll tell him aren't you Arab



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..?? He will say: no, I am Kurd...we say: you are a deserter from the army ...you are a deserted...take him as a target, kill him and beat him...you have your law...two or three cases...and we totally put an end to this matter.

#### Third audio clip, the voice of the accused ('Ali Hasan Al-Majid)

We said that on the (X) day we begin the relocation...and I recommended my soul to God...all went...on the same day they occupied Qara Dagh... as a response...on the same day I received a phone call at around (11) in the morning... Dukan Regiment Commander wants your Excellency on the phone...I said put him through what does he want...he said...we have a captain...he was detained by Jalal (T.C: *Jalal Talabani the PUK leader*) and he has just arrived...before...a little bit...and he said he has to see you today...I said keep him don't send him to anybody...a plane will arrive and fly him...I called the Corps Commander I told him that any helicopter is returning...has to land on in Dukan...there is someone called X pick him and put him in the Corps Airport...not clear (T.C: *the audio sound is not clear*) ...he came to me at lunch...I told him to stay for lunch...common stay for lunch...he recited for his story how he went till they caught him...he said they came at sunset...and yesterday in the afternoon...they told me that we want you in the leadership...and I went to the leadership ...to X location and I don't know...we arrived to the location...and two came at three by night...told me to sit...he said I sat down...they said we want to take you to see Mr. X you salute him and tell him ...('Ali Hasan Al-Majid) :To be in the whole picture...I told him (T.C: *the freed Captain*) continue...he said they spoke to me...I told them can I write notes on a paper so as not to forget, they said O.K ... he said after I finished they said tell us (T.C: *repeat to us the notes you took which you supposed to deliver to 'Ali Hasan Al-Majid after your release*) ...I told them and they brought a paper...the summary states the following: we lay the blame on the Authorities who led us to our coordination with the Iranians, because of the negotiation's discontinuance between us...this is on one hand...we have two claims: a truce or a negotiation...we have no any requests but negotiations that he knows (T.C: *'Ali Hasan Al-Majid*) ...if there is neither truce nor negotiation we will increase our coordination with Iran.....('Ali Hasan Al-Majid): I told him (T.C: *the freed Captain*) he would not answer you on this, will not going to return back to them (T.C: *as a liaison*) he said sir



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**The Verdict**

I am ready...if you want I will take back the answer...I told him, no I am going to take the response for them today...I saw him too hopeful...where are your relatives?? He said in Al-Tuz...what is their telephone No.?? he said this is the No...I told the operator put me through his relatives...I spoke to his mother and sister I told them your son is coming back to you after a week by God willing...he spoke to them and they cried....I said may be I will be rewarded for that...we brought a car to drive him back home...They (*T.C: the PUK letter to 'Ali*) if he approves the provisional truce...we will immediately stop the military operations...and if the army wants...we are ready to cooperate with the military against Iran to occupy any peak mountain they want...but you have to stop the relocation...I said this is good...curse your religion I caught you from where it is painful to you (*T.C: the relocation*) ...look brother...they came humiliated as dogs...not clear (*T.C: the audio sound is not clear*) ...I said here we are...no negotiations not truce and no relocation stoppage...at 7 o'clock evening...they told me the Brigadier General Walid in the Corps wants you...he told me sir...Mr. X from the Intelligence wants to talk to you while I was going out...I told him: no...I am going to the Military Divisions...I promised you to come on the basis of...and I didn't come that day...I will call you on the military phone...I will see what he got...I phoned him...he said: there are two men X and Y...the same men came to the Kurdistan-Iranian Democratic Party. They say such and such...I said what...remove the...not clear (*T.C: the audio sound is not clear*) ...my brother...I can't understand you well...I said return back to the public line: say it again so that they hear it and you write the reply properly...I went to...not clear (*T.C: the audio sound is not clear*)... and now I spoke as I wanted...I told him write down the reply...and I want it to be sent today...on the same day to the Iranian Democratic Party...tell them this is urgent to Jalal...and pass my greetings to Mr. X...tell him to send someone...and I



The Presiding Judge



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know what to tell him...and write the following...I told him the reply with no back down ...and while I was in the meeting even without telling the Command or his Excellency Mr. President....Immediately.... so that they know this...such decisions are not a minor thing...they believed that the Leadership is sitting and doing nothing...I made decisions. Not clear (*T.C: the audio sound is not clear*). I told him they sent me a captain and he arrived at noon...you called me in the evening...I said: I sent someone to them...and you calling me in the evening...First no negotiation and no truce with the collaborators with Iran. Second: Regarding their increased coordination with Iran, it is not some thing new by the agents...we fought Iran in Al-Hasad Al-Akbar Battles with five hundred thousand...lets make it five hundred and twenty thousand...we will still fight them...Three: In the case they ask for coming back but as persons not as politicians, as simple persons...go ahead and open a bracket and write this phrase: (we might think in accepting them as Iraqis with a second priority (*T.C: second class citizens*) ..., and close the bracket...Four: The Kurdish nobles have to be isolated from the Kurdish agent in this way and we won't stop this...this is the reply. I wrote it to the President it is over...and I requested to circulate to you...not clear (*T.C: the audio sound is not clear*)...I forgot what I wanted to tell you...not clear...this is it...I told him this and that and replied to them and may be I replied well. He gave his good comment...I said to make it clearer this is our direction...they called me before the fourth or the fifth day...they said Jalal say....he wanted a direct contact between him and me... between him and me only. I told them he should write to me officially...I don't act secretly...I replied on the following day by night...that I went to Al-Sulaymaniyyah...at seven and a half...struck them with the special ammunition. This is my answer...it was put into effect and we started the relocation...and now he wanted... between me and him. Without informing the Party...as he sent this officer (*T.C: the captive captain*) that the topic remains between the three...Jalal, Mr. X and Mr. Y...and he knows that we are those people on basis



The Presiding Judge



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not clear (*T.C: the audio sound is not clear*)... I had summoned the Mustashars of the National Defense Regiments, and I told them: Yesterday, Jalal sent me such message and I answered him like this...and completely explained it... he never called back. (Not clear)..I told them (*T.C: his subordinates*) go and tell them do not be embarrassed of the regiments and who tells you that our village will remain, you can tell them: My brother what do you mean that your village will remain. I cannot leave you; because I will strike with chemical weapons then you will die along with your people. You must leave, so that I will strike them with chemicals... leave with what... From now my brother leave ... No.... never, not even any human, (Unclear)...tell them that they should leave because I will strike then... and I will strike them with chemicals and kill them all.... What they will say? The International (*TC: the International Community*). curse the International along with the everybody who comes for help... stop this, ... see how wicked is this pimp Jalal...what happened to his mind and requested a truce for one day... he agrees even on one day truce...(Unclear)... then he would become the savior of all Kurds, because he stops relocation... then I swear by God...even if the war stops, I swear by Quran even if the war stops and Iran withdraws from the occupied lands...and at the same day, it stops... I will never stop, because Jalal would turn at the time a patriot.... That act will turn him from an agent to a patriot.... I rather be sent abroad or will leave no Kurdish speaking in Kurdish...and stop... no March (*T.C: He will not honor the agreement of establishing the fictitious Autonomous rolling region issued in March 1974*) nor the cries from the sky or anything

**The Fourth vocal phrase with the voice of the accused ('Ali Hasan Al-Majid)**

We complete the relocation...then we start striking with systematic military operations...into very harsh positions...where we break into...we take from every group the third of his occupied land or its half...and if we could we take the two thirds...surround them in a place... and when I strike them with the chemical I will cause them high casualties...and I will not strike them with chemical not only one day, but (15) days, two days, ten, five and so on ...then I would come and offer amnesty for the one who lay his arm down and surrender...and I will tell them there is an amnesty. I will also type one million pamphlets in Kurdish, Surani, Bahdinian, and Arabic languages and spread it in the north... and I would never say it is from the Iraqi State. Which one of them is easier, and never let the state notice them...and I will tell them, the one who come back now, you are most welcome...and the one who

(963-294)



The Chairman



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does not, will be struck with another two rounds of the new fatal chemicals. I will not say: with the chemicals, because it is recorded...I would say with the new weapon that would wipe you by Gods welling...I will send and tell them... (Unclear)...see my brother this time...all the vehicles of God will not be able to hold them...I am hoping for this with Gods welling...that means I swear by God... as I see you now...but the same as I have confident in myself...(Unclear)... this time when I went there I told the specialists... I told them I need gangsters... groups from these fine-men (Professionals) in Europe... and the place that they find them in, they kill them... we must do it by Gods welling... what are these fagots... we surround them.... Only in Iran... and in Iran I point on them Mujahidin Khalq.

**The Fifth vocal phrase with the voice of the accused ('Ali Hasan Al-Majid):**

Since the relocation, removal, and the boarders decisions.... (Unclear)...between us and the saboteurs and others... the first compliant was addressed before the President was from Comrade, Tali' Al-Duri. Moreover, the first one I was scared of is Tali' Al-Duri... and until now the impact of Tali' still remains concerning the villages that were not removed which I requested from him...since that time. (Unclear), the senior cadre of the Party in the Military Establishment, might convince others who are in lower rank than him and resolve the Kurdish issue and kill the saboteurs...(Unclear)...they say show them on television. Those are the one who surrendered... brother; this means I will let them survive. In addition, if they showed them up on television... what would I do with them? (Another person speaks: they call them captives) and a telegram is then comes to me from this great man (The Father) (*T.C: Saddam Hussein*) mentioning to take care of the prisoners... taking care of the saboteurs families and etc from the General Command...they bring them... I told him it is easy, you just command me..., but there care would be by burying them with bulldozers... and some comes requesting names of the captives to publish them? I told them haven't you had enough with the newspapers? And with television? (Unclear)...good ...Where

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The Chairman

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alright...where I can put them..? all those people? I tried to distribute them among the governorates...I then will send Poclains (*T.C: is a brand of Bulldozers*) and shuffles to them.

**((Accused Testimonial Summaries Through out the Investigation and Trial))**

**((Testimony of accused Tahir Tawfiq Yusif Al-'Ani during the investigation))**

The accused Tahir Tawfiq has stated before the investigative judge that in late 1986 or early 1987 he was appointed Secretary of the Northern Affairs Committee, announcing that he fulfilled his position until he was appointed Governor to (Ninawa) Governorate on September the 15<sup>th</sup> 1987, declaring that he held this position until November the 15<sup>th</sup> 1991. Before the investigative judge he denied any relation to ('Ali Hasan Al-Majid) or having been an attribute of thereof, also denying being dispatched on behalf of 'Ali Hasan Al-Majid to commit any unlawful acts.

**The Investigatory Judge asked:** Who is in charge of (Ninawa) Governorate?

**He Replied:** In view of my duties in my job as Governor of (Ninawa), I am number one administrative figure for the (Ninawa) Governorate, the geographical patch within and all matters that occur within.

He also mentioned that districts and sub districts interrelated to Al-Mawsil among which is Al-Hadar, are all within his specialty and fall into the administrative jurisdiction that he was assigned.

**Before the Investigatory Judge, he denied** acknowledgement or having heard of the existence of mass graves that were discovered in Al-Hadar that is interrelated to (Ninawa) Governorate, or any connection what so ever.

**The Investigatory Judge stated** that the fact of the graves indicates that whoever was responsible for it had government assistance in the governorate and required a long period of time and coordination with the side responsible for the arrest and burial of all those people who's numbers were between (1000-4000)



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which required means of transportation, machinery, bulldozers and means of security, as well as the fact at the site of the crime where empty cartridges were found indicate a number of individuals responsible for the killing process.

**When the Accused was asked** how he would explain the presence of empty cartridges at the scene of the crime and how he would explain this according to his knowledge?

**He Replied** I have no knowledge on this matter, I did not commit this crime, and I have no knowledge of this despite the fact that I am the governor of (Ninawa) and I was occupying the position of chief of the security committee in the governorate.

**He was asked by the Investigatory Judge:** in event of the occurrence of any emergency or security situation, is the governor informed?

**He replied:** Yes, the governor is informed in such situations.

**The Investigatory Judge asked:** who is responsible for the murders and dislocation in the northern area?

**He replied:** It is the accused 'Ali Hasan Al-Majid according to his authorities by the ruling of the Revolutionary Command Council's decree no. (160)

**((Testimony of accused Tahir Tawfiq Yusif Al-'Ani during the trial))**

**He sated before the court** when he was asked by the court, who was responsible for the Northern Affairs Committee?

**He replied:** The Northern Affairs Committee is a government institution and not a party post, and it is headed by Deputy Chairman of the Revolutionary Command Council ('Izzat Al-Duri) and its job was to take care of social figures and Sheikh's and occasionally request for formations of national defense regiments were submitted to the committee when there is



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a need by the army, then the matter is reviewed after the approval of the security authorities and then formations take place.

**Questioned by the court:** who was responsible for following up the procedures of formations of the national defense regiments?

**He replied:** The Secretary is responsible for following up on regiment formations since an application form exists for this purpose within the Secretariat.

**With a question from the court:** who are the members of the Northern Affairs Committee?

**He replied:** The Minister of Defense, the Minister of Interior, the Minister of Planning, the Secretary of the Northern Organization Office, the Heads of both the legislative and Executive Councils in the Kurdistan area, heads of security systems, the Security Director, the General Intelligence System Director, the General Military Intelligence Director and the Army Chief of Staff is also a member of this committee.

**The Court asked the accused:** when the committee signs, gathers and reaches a decision at which stage its role end, it become the Secretary's role, in other words the Secretary will follow up executing the rulings of the committee?

**He replied:** Yes, and added that the committee did not meet during the period in which I was the Secretary, and that the committee met five times over a period of seven years.

**The Court asked the accused:** What are the jurisdictional duties of the Northern Affairs Secretary?

**He replied:** The execution of orders that emerge from the Northern Affairs committee, and he admitted before this court that he was responsible for the formation of one of the regiments which was (Rashid Al-Sindi's) regiment.

**The Court asked the accused (Tahir Tawfiq Yusif):** In your role as Governor of (Ninawa), are you the foremost figure in command of Ninawa Governorate, keeping in mind this was your original statement?

**He replied:** Yes, I was an (open minded) Governor and I was informed of everything, anything that reached the residents, certainly reached me. My relationship with all Administrative officials was of a good nature.



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**The Court asked the accused (Tahir Tawfiq Yusif):** Is Al-Hadar part of Ninawa Governorate?

**He replied:** Yes, Al-Hadar is a district that belongs to Ninawa Governorate that lies (80) km away from the Governorate.

**The Court asked the accused (Tahir Tawfiq Yusif):** In accordance to being the Governor of Ninawa and an official, this would put you in command of the Security Committee, Correct?

**He replied:** yes

**The Court asked the accused (Tahir Tawfiq Yusif):** Did Al-Mawsil municipality, belong to you?

**He replied:** Yes, including machinery (Bulldozers, Drillers and other machines)

**The Court asked the accused (Tahir Tawfiq Yusif):** You mentioned before this court that you participated in meetings held by the Northern Organization, right?

**He replied:** Yes, I did.

**The Court asked the accused (Tahir Tawfiq Yusif):** In accordance to being the Governor of Ninawa, were you a member of the Northern Organization office?

**He replied:** Yes, for purpose of correlation.

**The Court asked the accused (Tahir Tawfiq Yusif):** What do you mean ("yes, for purpose of correlation")

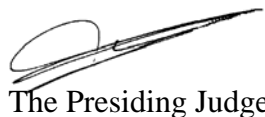
**He replied:** I am one of the members of the Northern Organization Committee and it was my duty to correlate between within Al-Mawsil branches and the Secretariat of the Northern Organization Office.

**The Court asked the accused (Tahir Tawfiq Yusif):** Did you attend Northern Organization Office meetings?

**He replied:** Yes, I attended, yet I also missed them, for every meeting I attended I missed five.

**((Statement of accused Farhan Mutlak Salih Al-Juburi during the investigation))**

The accused Farhan Mutlak Salih Al-Juburi stated before the court that in 1985 he was appointed the director of the Northern Zone Intelligence System that specialized in gathering Intel concerning the Iraq/Iran war and after the Northern area was divided between the Eastern Zone and Northern Zone, which specifically occurred in 1986, and it became

  
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the duty of the Northern Zone Intelligence System to gather Intel about Syria, Turkey and a part of Iran in addition to acts that they labeled as "Acts of Sabotage" by the Kurds.

**He also stated** that the Northern System had ten intelligence stations spread out in the area that gathered information in accordance to sources, and before the Presiding Investigatory judge, it emerged that both organizations were correlated to the General Military Intelligence Directorate were both System duties were to gather Intel on what was called the "Enemy" and "Suspected Enemy" which was then sent to the Genral Military Intelligence Directorate.

**He Sated** that correlation between the two System s and the General Military Intelligence Directorate continued until the issuance of decree no. (160) dated 1987 March 29<sup>th</sup>, from the so called the Disbanded Revolutionary Command Council and which empowered ('Ali Hasan Al-Majid) with all the authorities of the President of the Republic and obeyed all Security and Intelligence systems to report to him.

**The accused Farhan Mutlak Stated** before the Investigatory Judge that ((any order issued by 'Ali Hasan Al-Majid was implemented immediately as stated in the decree at the time as I remember from the General Military Intelligence Directorate that 'Ali Hasan Al-Majid is considered the ruler of both Systems, by both Systems I am referring to the Northern and Eastern Systems, and with this we were correlated to him yet still working in our previous work)) He continued on to say ( in the event of carrying out any orders issued by the accused ('Ali Hasan Al-Majid) we would comply and send a copy of the response to the General Military Intelligence Directorate (GMID) for review))

**The accused stated** before the Investigatory Judge: after that another order was issued by the Military Intelligence Directorate changing the way of sending the accused individuals to



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the Northern Organization Office instead of the (GMID), that office was under the command of the accused ('Ali Hasan Al-Majid).

**And stated** that there is no one can disobey an order issued by 'Ali Hasan Al-Majid, and (the accused Farhan Mutlak) denied any role of the Two Intelligence Systems in Al-Anfal Operations, and he mentioned that Al-Anfal Operations are military operations and were carried out by the 1<sup>st</sup>, 2<sup>nd</sup> and the 5<sup>th</sup> Corps.

**And stated** before the Investigating Magistrate that ((our system, he means the Intelligence System of the Eastern Zone, didn't receive or extradite any Kurdish family, whereas the operations orders issued by the Chief of Army Staff stated that these families to be sent to the Northern Organization Office))

**And also stated** before the Investigating Magistrate that ((I saw those families driven in military convoys going towards the People's Army Commands in Kirkuk, where these families were collected there, and the Northern Organization Office was responsible for those families fate)). And he denied before the Investigating Magistrate any role of the Intelligence System which he was in charge of (Eastern System) in collecting the families and transferring them to the Northern Organization Office, and when he was asked about his response to what have been said by the accused (Sabir 'Abd-al-'Aziz Al-Duri) before the Investigating Magistrate that the Accused Farhan Mutlak was in charge of receiving the families and sending them to the Northern Organization Office, he answered ((the Accused Sabir Al-Duri statement is not true regarding my responsibility for receiving the families, and I have no relation with that matter)).

**And the Accused Farhan Mutlak Salih stated** before the Investigating Magistrate when he was questioned about the fates of those Kurdish Families who were transferred from their villages and disappeared during Al-Anfal Operation. **He answered:**



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((Those families were transferred by the security systems in the area, in addition to our system, there are other security systems such as the security directorates, the Intelligence, the Northern Zone Intelligence System and Security Staff of the Corps and Divisions)).

((The Statement of the Accused Farhan Mutlak Salih Al-Juburi during the trial))

**The Accused Farhan Mutlak stated before the court** that he was working as a Director of the Northern Zone Intelligence System from 29 March 1987 to 02 November 1987 and then a director of the Intelligence System of the Eastern Zone, and he continued occupying this position until November 1988.

**The court questioned the accused** Farhan Mutlak about the nature of the intelligence work?

**He answered:** The intelligence work is collecting the information about the enemy and potential enemy and the friends, fearing of becoming enemies one day. **And also stated** that the (GMID) consists of five directorates, and the fifth directorate of those directorates called Iran and North Deputy Directorate and its director at that time 1987-1988 was Staff Major General (Wafiq Al-Samarra'i) and according to his position, he was considered as the Deputy of the (GMID) director, and this Deputy includes the Third Section which is the Section of the North and its director was Major General (Walid Nayif), **and he stated** that the Third Section Director is the direct responsible on the Northern and Eastern Zone Intelligence Systems, and when the information become available to me, I send it to the Third Section, and the same to the Eastern Zone Intelligence System, when information become available it send it to the Third Section, and he mentioned that the Eastern Zone Intelligence System was containing nine centers connected with the system headquarter, and those centers were spreading over different areas where the Eastern System was covering.



The President



(302-963)



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**And the court questioned the accused:** What is the duty that was imposed on the system?

**And he answered:** The main duty is collecting the information, and the accused mentioned that Colonel (Fadil 'Ali Sulayman) and Captain ('Abd-al-Karim Salih Juwad) worked with him in the Intelligence System.

**And the court questioned the Accused:** If Captain ('Abd-al-Karim Salih Juwad) is the specialist of the executions committee? **And he answered:** Definitely, because he is the only person in the Section of Kurds.

**And the court questioned the Accused:** If the role of the Intelligence System is the same role of the (GMID)? **And he answered:** The main duty of the Intelligence System is collection the information about the enemies and potential enemies and the friends.

**And the court questioned the Accused:** If the Intelligence System is working on transferring the information which comes from the (GMID) and asking if the results are true or founs?

**The Accused answered:** Yes. And he clarified to the court the way of work, whereas he clarified that he was meeting the individuals who were working with Pishmarga and then writing the reports with all the details that the source informed him.

**And the court questioned the Accused:** Do you mention the grid coordination at the letters you are sending to the Military Intelligence? **He answered:** we mention the maps above the report we write, and we write the maps so that the responsible can drop the grind on the maps because its his guide in the operation chamber, when he drop the information on the map he knows that these locations are exist and where its position at the maps.

**And the court questioned:** Did you send something like that before? **He answered:** Yes.

**And the court questioned:** If the Accused ('Ali Hasan Al-Majid) is considered the commander of the Eastern and Northern Zone Intelligence Systems? **He answered:** The connection of the Eastern and Northern Intelligence Systems passed with two eras, the first era was before issuing the Revolutionary Command Council Decree No. (160).

  
The President

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The Two Intelligence Systems were connected to the Third Section which was connected to the (GMID) Director, but in the second era which I mean that after issuing Decree No. (160) on 29 March 1987 they became (The Eastern and Northern Zone Intelligence Systems) connected to the Northern Organization Office according to decree No. 160.

**And he stated** before the court: according to the applied system in the army since 1968 until 1987 that the Intelligence System was conducting the interrogation with any arrested individual and transferring him to the Investigation Judge who validates his testimonies and then transfers him to the (GMID) where he would be trailed, but after issuing the decree No. 160 of year 1987, this system has changed and every arrested individual was transferred to the Northern Organization Office to carry out the field sentences against him, and by that, the applied systems in the army were disabled.

**And the court questioned the Accused** (Farhan Mutliq Salih): What were the orders that were issued from ('Ali Hasan Al-Majid) to you and within your specialization?

**He answered:** I did not receive any thing except the subject of the accused individuals and we referred them to him, and they were counted on the fingers of one hand.

**And the court questioned:** Considering that you are the director of the Intelligence System and you have all the information about Al-Anfal Operations, were there villages had been destroyed and eliminated?

**He answered:** The villages were eliminated by the army.

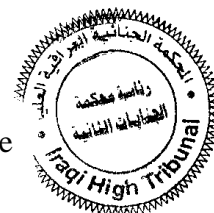
**And the court questioned:** were the inhabitants of the villages dislocated?

**He answered:** They were dislocated and handed over to the Security Directorates in the Northern area according to the Northern Organization Office's Instructions.

**And the accused stated before the court:** that the villagers of the eliminated villages were dislocated and forced to live in residential complexes.



The Presiding Judge



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**As he testified** that it was confirmed at the operations Orders that every division prepared a camp for the inhabitants to transfer and extradite them to Security Directorates.

**The court questioned:** Who are the Executions Committee's members and what are their names?

**He answered:** A representative from the Intelligence System, Security Officer from Kirkuk Military Hospital, a Physician Officer and a representative from Northern Organization Office. The committee members are Ibrahim Shu'ayr Jibarah a physician residing Kirkuk Military Hospital, and the representative of Eastern Zone Intelligence System Captain 'Abd-al-Karim Salih Juwad.

**When the accused (Farhan Mutlaq Al-Juburi) was questioned by court:** Did you carry out Convict 'Ali Hasan Al-Majid's orders concerning the execution of suspects without trial, were you convinced with such punishment or you were not, but carried out orders fearfully?

**The convict answered:** I didn't carry out orders because the Quadruple Committee is in charge of implementation, formed prior to my arrival.

**He was asked by court:** But the Military Intelligence Representative is affiliated to you, **he answered:** yes, I agree with you but let's discuss it. This committee was formed before I come and this scheme was applied before I come. When I arrived [let any of you stand in my shoes], it was impossible to directly dismiss the committee or to state that 'Ali Hasan Al-Majid orders will be denied. I mean is it logic, does any of you act in such manner? I said, I will continue with such scheme, the committee was already formed, and as you used to operate ... continue operating. The only difference is that officers bring me the report and I signed it, to refer it to Northern Organization Office. I'm facing orders which if disobeyed will cause my execution.

**The convict testified in front of court** that Al-Sulaymaniyyah Military Intelligence Center is one of the centers under his command (Eastern Zone System) and this center's director takes orders from him directly and is one of Al-Sulaymaniyyah Governorate Security Committee's members.

**Convict Farhan Mutlik Salih testified**



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**when questioned:** Where did the executions been carried out? **He answered:** At the Corps, specifically at Military Police Company Headquarter. I didn't witness that but what I know is they took them to the Corps.

**When the court showed** the document that was issued by [GMID], from Eastern Zone Intelligence System, holding Ref No[15055] on 21 October 1988, containing "there are two Kurdish families who had been arrested by Al-Tuz Military Intelligence Center and transferred to Security Directorate despite their surrender after the amnesty, **the convict testified, in front of court, that** His work was transferring information ""whatever info I receive from the source, I refer it to the Directorate".

((Testimony of Convict Sabir 'Abd-al-'Aziz Husayn Al-Duri within investigation))

**Convict Sabir 'Abd-al-'Aziz Husayn** testified before Chief of Investigative Judges that in 1987, as he was Staff Major General, he was assigned as GMID Director, **and testified** that the latter includes five Deputy Directorates, one of them called (Iran Deputy Directorate) headed by Staff Brigadier General Wafiq 'Ajil Al-Samarra'i, and a section known as (North Section) was attached to this Deputy.

**He testified as well** that, as being GMID Director, he was Armed Forces General Command's member.

**The convict testified** before Chief of Investigative Judges that from the basics of GMID tasks is collecting data on enemy, potential foe and friends, presenting suggestions or correspondences to Ministry of Defense and Chief of Army Staff, as well as suggestions to Armed Forces General Command, and sometimes Presidency of the Republic.

The Presiding Judge



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**He testified** that Eastern and Northern Zones Military Intelligence Systems, after issuing Decree No. (160) ((Bygone Revolutionary Command Council's Decree)), were directly linked to North Organization Office, headed at the time by Convict 'Ali Hasan Al-Majid. Both systems were directly getting orders from him as, in fact, the order was carried out.

**When he was questioned by Chief of Investigative Judges** "As being Armed Forces General Command's member, how Al-Anfal Operations' decision had been taken?"

**The convict responded:** The big plans correlated to big operations are prepared by appropriate parties within Chief of Army Staff, specifically at the Operation Directorate headed by Chief of Army Staff's Deputy for Operations at the time, Convict Husayn Rashid, to be approved by the Commander of Armed Forces General Command for requiring, sometimes, a huge forces deployment considering that Al-Anfal is one of the biggest operations. Hence, I believe that Al Anfal had been approved by the Commander of Armed Forces General Command.

**He testified as well** before Chief of Investigative Judges about GMID role in Al-Anfal Operations. Convict said "our role was delivering Intel info in addition to suggestions relied on our secret sources". **When he was questioned** "Did you, as being Intelligence Director and directorate's higher official, referred any suggestion regarding the use of special ammunition [chemical weapons] in the Northern Zone?".

**The convict answered:** Concerning the signatures submitted to me, at the interrogation's start, by Chief of Investigative Judges, I admit that they are true but I don't remember referring suggestions regarding the use of special ammunition in the Northern Zone. When document issued by GMID, holding No 5809 dated 10 March 1987, addressed to Chief of Army Staff, had been showed to him, he admitted his signature and pointed his deputies' including Deputy Wafiq 'Ajil Al-Samarra'i. The document contained

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... an elaboration over the possibility of using special ammunition, as well as prior strikes which had very limited effects.

**When he was shown** document issued by Presidency of the Republic – Secretary, holding No 808, dated 13 March 1987, containing "may your directorate study, along with experts, the possibility of directing unpredictable strikes with special ammunition, to be carried out via Air Force, Army Aviation, or artillery". **The convict testified affirmatively:** "The signature at the bottom of the document is mine, but I do not remember presenting such suggestion". The defendant admitted as well, in front of the chief judge that document No 6414, issued by his Military Intelligence Directorate on 18 March 1987, is issued by his directorate and holding his signature.

**Vis-à-vis a question by Chief of Investigative Judges** "You submitted another suggestion on 25 March 1987, telling that special ammunition's usage over Northern area, and the possibility of its implementation or delay as per listed articles scanned in front of you and holding your signature.

**The defendant answered:** ((I repeat my previous answer by confirming that the signature is mine, acknowledging that by being a general director, I represent the whole directorate, meaning these suggestions are the directorate's, reflecting it, and me as being the higher official within this directorate, I approve these suggestions. If there is any objection I reconsider the objection, analyze it and refer the issue to higher authorities. Signing on any letter means my approval on it".

**When he was shown** document No 7371, addressed to Chief of Army Staff, regarding notifying it about Presidency of the Republic's approval on suggestions referred by GMID, regarding type of special ammunition that must be exploited and the mechanism of raids and targets.

**The defendant answered:** ((I repeat my answer ...

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that the signature on the scanned document is mine)). Still, he denied in front of Chief of Investigative Judges giving any suggestions resulted to murdering civil inhabitants.

**He testified** in front of Chief of Investigative Judges that he doesn't remember whether Al Anfal Operations had been discussed as a large scaled military operation, in Armed Forces General Command, before being carried out, or not acknowledging that such big-sized operations can't be implemented unless approved by Commander of Armed Forces General Commander, who was Convict Saddam Hussein.

**Convict Sabir 'Abd-al-'Aziz Husayn testified** that Armed Forces General Command's members jurisdictions is limited to attend meetings and discuss important matters related to Armed Forces.

**The convict answered** when questioned by Chief of Investigative Judges about individuals' fates, those who were arrested during Al-Anfal operations: ((Our duty as Intelligence was to handle military captives. As for Al-Anfal Operations, Northern and Eastern Zones Intelligence Systems were directly responsible for arresting people. I don't remember any person relocated to Baghdad due to the fact that the aforementioned intelligence systems were correlated to Convict 'Ali Hasan Al-Majid, where they used to hand those families or individuals to Northern Affairs Committee – Secretary, where Convict Tahir Tawfiq Yusif was a member. The aforementioned committee was directly commanded by Convict 'Ali Hasan Al-Majid.

**The defendant answered** when questioned by Chief of Investigative Judges about the many times chemical weapons were exploited throughout Al-Anfal Operations: ((I do not remember the number of strikes, though I do remember one village which is still stuck in my memory, when the Kurds veered toward Turkish areas, as I feared such raid could have consequences on Turkish territories. However, I don't know the type of gas used as this is none of our expertise.

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When asked about who gave orders to use chemical weapons? He answered: These weapons are considered as strategic weapons. Only the armed forces commander or his deputy has the authority to issue orders of exploitation. At the time, he was (Saddam Hussein).

**When he was shown the** document issued by Military Intelligence Directorate, numbered 8859, dated 30 April 1988, and addressed to Presidency of the Republic- The Secretary, regarding the use of special ammunitions in Al-Anfal Operations, he answered: The signature is mine as the proven documents are the same to those we use while corresponding with higher authorities.

**He testified as well**, when asked by Chief of Investigative Judges about individuals' fates, those who were arrested by Army units. **He answered:** we did not inquire the officer (Director) of Eastern and Northern Zones Intelligence Systems about the fate of those detained people, as he did not provide lists of their names considering that the issue in none of our concern, acknowledging that both intelligence systems received direct orders from 'Ali Hasan Al-Majid. Therefore, Southern and Eastern Intelligence Systems Officer, 'Ali Hasan Al-Majid and other systems were responsible for those internees.

**((Convict Sabir 'Abd-al-'Aziz Husayn Al-Duri Testimony at Court))**

Convict Sabir 'Abd-al-'Aziz Husayn Al-Duri testified in court that Intelligence had two main duties. The first is to provide the army, in particular the Chief of Army Staff, with information concerning enemy movements in all sectors. The second is to provide the military commanders with military operations' results.

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Convict Sabir 'Abd-al-'Aziz Al-Duri testified an elaboration to court that all plans prepared by the Corps or any other parties, depend on the information gathered by Intelligence. When the Intelligence provides information, it does that when necessity calls.

He testified that Intelligence's mission is to collect information, particularly military information relevant to enemies, possible foes, and sometimes other, by precaution facing any emergencies.

In addition, Convict Sabir Al-Duri testified that Intelligence operated for seven years, supplying the Corps with information, and was invested upon due to the data base passed over by Military Intelligence. In case of upgrade, the latter supply accurate information to them.

Convict Sabir 'Abd-al-'Aziz Al-Duri testified that Intelligence System notifies Ministry of Defense and Chief of Army Staff as well as submitting a copy of intelligence reports to Presidency of the Republic.

The convict continued that the dislocation of inhabitants from villages was not carried out by Intelligence, rather by military units, as per orders issued to them by their new reference 'Ali Hasan Al-Majid, handing detained villagers to the Security directorates in the north or Northern Organization Office. Moreover, he revealed to court that Presidency of the Republic's secretary was at the time Hamid Yusif Hammadi.

The convict also testified that Intelligence's duties are to provide grid coordinate on maps when defined targets are to be stroke by Air Force or whenever troops wanted to hit with artillery. Hence, when Intelligence representative attend the committee, he do not make a difference or influence decisions for the information had been already delivered.

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He testified as well that those in charge of implementation [executing strikes] are: Air force, Army aviation and artillery. Those are affiliated to Ministry of Defense and Chief of Army Staff, whereas the chemical classification is correlated to Chief of Army Staff Training Department.

He testified to court ... (It is a study. This is the highest reference in government. And, in a state of war, I mean he did not order me to carry a mortar or use chemical weapons. He asked me to prepare a study, while an officer affiliated to the 3<sup>rd</sup> Section contributed, with them, in this study ... Does any soldier, in state of war, argue military orders while the commander has the authority to do that?)

Convict Sabir 'Abd-al-'Aziz Al-Duri testified that ... Actually, the appropriated committee held a meeting putting down a study, proposing its opinion which was lifted by Intelligence in its letter No. 6885, dated 15 March 1987, where strike's targets had been identified against enemy's gathering centers. The aforementioned targets were marked by Chief of Army Staff as per Intelligence submitted, including details over enemy's locations, size and grouping.

The convict testified that Intelligence did not take part in special ammunitions' usage, other than an administrative mediator assigned to submit study results to Presidency of the Republic as well as to pass the highest reference's orders, under his supervision, regarding the issue [special ammunitions' usage]. This role is none but coordination status and link only.

The convict testified that ... The study, which was assigned to Intelligence, as well as all other documents, is not archived in the Military Intelligence archives, rather at Chief of Army Staff and Planning Directorates Only an Intelligence representative is in the appropriated committee as only a representative is to be sent.

Convict Sabir 'Abd-al-'Aziz Al-Duri mentioned to court that, as execution to of Ministry of Defense order, Army Staff's chairmanship required, as per its secret and urgent letter No. 15787 ...

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... on 02 May 1987, the intelligence to provide information regarding enemy's headquarters whereabouts, telling Air force to carry out the mission.

**The Court asked the convict:** ((You say in this letter, "our duty is to provide Air Force and Air Defense with headquarters (*T.C: The concentration of the enemy*) whereabouts. You mean its your [as individual] duty. He answered: ((Of course this is our duty. I mean, you Excellency Chief of Investigative Judges, is it possible to tell them we do not provide you, you are going to strike with special ammunition so we do not want to be involved. Orders will be issued and people will implement.))

The convict testified to court that GMID responded, as per its letter No. 9819, on 03 May 1987, the Chief of Army Staff, that it [GMID] provided Air force and Air defense Commands with information about hostile headquarters, asking to be handled with conventional ammunitions, without identifying targets to be treated with special ammunitions. The GMID suggested an analysis of these targets by the specialized committee.

For the Court's question "Do these numbers (mentioned in document 9819) means "Squaring". He answered: Yes, "Squaring" means precise targets.

When Convict Sabir 'Abd-al-'Aziz Al-Duri was asked by Court "Does the Intelligence gathers information and provides it to Army? The convict answered affirmatively. He mentioned as well, in front of court, that Sargalu and Bargalu areas were targeted with conventional ammunitions, rather than special ammunitions.

The convict testified when asked by Chief of Investigative Judges judge about the period he stayed as GMID director. He answered: The period from May 1986 until 1991 March 3.

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By another court's question: Is GMID Director a member Armed Forces General Command? The convict answered: yes, as being a GMID director, I was member in Armed Forces General Command.

**He testified to court:** We provide information concerning all fronts, including Northern zone. However, during Al-Anfal, we submitted the first important report. This was what we submitted, when new incidents occur we lift them from al fronts including Northern zone to appropriated authorities.

**He testified as well:** We write down suggestions to Chief of the Army Staff and other references higher than Chief of Army Staff, including Armed Force General Command, Presidency of the Republic's Secretary, Ministry of Defense ... These are the followed procedures while submitting a report.

**When Convict** Sabir 'Abd-al-'Aziz Al-Duri was asked by court: You stated in front of Chief of Investigative Judges that large scaled military operations such as Al-Anfal cannot be initiated unless approved by General Commander of Armed Forces or another directly authorized by the latter. We, as general command members, our jurisdictions are limited to attend meetings and discuss some issues while the final decision is that of the General Commander of Armed Forces.

**The convict answered:** Yes, the General Commander of Armed Forces has the authority to make decisions, but not necessary after a general command's meeting, maybe he gives his approval by mail and it will be submitted. I remember a number of plans which were discussed in Armed Forces General Command's meetings, such as Al-Faw Liberation operations. We discussed it for days but Al-Anfal Operations were not discussed at all.

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**The convict Sabir Al-Duri testified to court:** The intelligence actually lifted a report concerning the advantages and disadvantages of Al-Anfal Operations, as well as casualties. This report was submitted to the Presidency of the Republic.

When the convict was shown document No. 6885, on 25 March 1987, issued by Military Intelligence Directorate, the court asked him whether the signature on the bottom of the document is his or not? **The convict answered:** I cannot remember, though this is my signature. It might be counterfeited but me, when I discussed any report, I assumed its originality.

**The convict admitted** to court that the handwritten note on the original document No. 6885, dated 25 March 1987, which was issued by GMID regarding special ammunition's usage, belongs to him.

**When asked by Chief of Investigative Judges:** Does this handwritten note belong to you? **He answered:** yes, I assume that these documents are not counterfeited.

**Via a question from court to Convict Sabir 'Abd-al-'Aziz Al-Duri ...** The minister's ordered to provide Air Defense and Air Force with hostile agents' locations to be destroyed. He answered: Yes, they usually provide us with information and in return, the intelligence provides the Air force with information on the targets that are going to be bombarded using conventional weapons.

**The court asked the convict:** as being an officer, I want to expose Ministry of Defense – Air force Command's letter to GMID, titled "In reference to your letter No. (M)/( O)3/( S)2/10319 on 10 May 1987", regarding Iranian agents' headquarters, which had been defined by your representative Staff Lieutenant Colonel Walid Nayif and was attacked and documented by date and the type of ammunition. This illustrates that there is cooperation between the intelligence and the Air force Command. Did the Intelligence representative act on his own, although you assigned him? He answered that: these are routine tasks, as for this letter's procedures, it is part ...

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... of the chain of command that I am trying to explain. The Minister of Defense issued orders as to initiate an attack and the Army Chief of Staff gave his orders to pass information to Air Force Command; they ordered to strike when getting the information. And now, if anyone was standing in my shoes, as a Director of Intelligence, even though it is a red-tape operation, would have acted the same way. Is there any Intelligence Director, in state of war, who would object passing on information, fearing to be a contributor? I am a contributor then, and did my duty as per right military procedures.

**Convict Sabir Al-Duri testified:** The Intelligence is the one to give information and they act. When the Minister of Defense gives his orders to us requesting to pass on information, we have to do it because this is our job.

**The Chief of Investigative Judges asked Convict Sabir 'Abd-al-'Aziz Al-Duri:** Is the Intelligence considered part of the experts committee? In other words, does the Intelligence have representative in the committee? He answered: Of course, there is a representative from the 3<sup>rd</sup> Section. The intelligence contributes to all committees because we are in charge of passing on information.

**The Court asked Convict Sabir 'Abd-al-'Aziz Al-Duri:** Which parties are in charge of chemical weapon? He answered: There are people who analyze the case which are plan [Planning Directorate], others who execute and are Air forces and Army aviation, and thirds who produce and warehouse such as Military Industrialization Commission. This information can be found in the documents.

**Commenting this saying, the court asked convict:** What was Military Intelligence role in this operation? **He answered:** The intelligence role is limited to gathering, so that when being asked about enemy and its whereabouts, it can answer back.

**Convict Sabir 'Abd-al-'Aziz Al-Duri testified that 'Ali Hasan Al-Majid was in charge of framing military captives' fates, as he repeated that no prisoner was handed ...**

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## Verdict Decision

To Baghdad and I add that, after my arrest I knew from a group of army commanders including (Sultan), that not a single soldier was captured. On the contrary, fifty seven families were transferred to the Intelligence System, who transferred them to the Northern Affairs Committee. They were handed over to the security not to the Intelligence System.

((The statement of the defendant Husayn Rashid Muhammad))

The defendant Husayn Rashid stated in front of the Judge: In 1987, I was assigned as the deputy of Chief of Army Staff for Operations Affairs. At that time, I was a Staff Lieutenant General. In September 1990, I was promoted to the Chief of Army Staff. I worked for the Operation Affairs from 1987 until September 1990.

**He stated** that the chief of Army Staff at that time was Nazar 'Abd-al-Karim Al-Khazraji, who had four deputies. I was one of them. The three others were, the Administrative deputy, Training deputy and Logistics' deputy.

**He was asked by the Judge:** With regard to the fact that you were the Deputy Chief of Army Staff for Operations Affairs, were you a member in the General Command of Armed Forces?

**He answered:** Yes, I was the deputy of Chief of Army Staff and I was a member in the General Command of Armed Forces.

He stated that the Department of Operations is one of four departments, which work for the Chief of Army Staff. The Operations Department follows-up and implements the orders of the Chief of Army Staff. The Chief of Army Staff orders will be implemented if they are within his area of responsibilities. The accused added in front of the investigating Judge I would like to emphasize a very important subject regarding the Department of Operations. The Department of Operations prepares plans to confront regular armies not civilians or sabotage operations, and planning is only

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based on an Intelligence report to the Chief's of Army Staff by GMID. Any threatened Corps is requested to submit a plan to Chief of Army Staff which in turn refers it to Department of Operations, in order to be revised and determine the type of support, guided by the need requested by appropriated corps, and the Directorate of Planning will be assigned to respond.

**The convict stated** that the Directorates affiliated to Directorate of Operations are those of Planning, Mobilization, Armament and Supply, Cadastre, Signal, and Organization.

**The convict testified that** if a Corps was in needs to redeploy a Division from a sector to another sector, and after analyzing the status in the given sector and taking the advice of Military Intelligence, as the latter representative is available, the order will be issued to deploy military troops. I would like to indicate that Chief of Army Staff jurisdiction is to deploy one brigade, if more than the order should be lift to Minister of Defense, as to deploy division or more, General Commander of Armed Forces must be called. Sometimes, in order to save time, the Directorate of Planning and other directorates send representatives to appropriated Corps to study the needs and plans in the headquarter and then refer them to Chief of Army Staff.

**The Convict testified:** The Directorate of Operations is responsible of implementing and following up the orders issued by related authorities regarding the deployment of any military unit, on behalf of any party. The Directorate of Operations, which is a subsidiary directorate, gives a detailed report to the Department of Operations. We also notify the Chief of Armed Staff.

**The convict testified** that Chief of Army Staff's Deputy for Operations attends Armed Forces General Command's meetings, giving technical opinion, advice and consultation to the Chief of Army Staff, who has jurisdictions to implement orders. Despite, the Chief of Army Staff doesn't issue orders related to military operations unless we submit our study, which might be approved or rejected, depending on ...

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... available status at Operations Directorate. In other words, any order issued by Chief of Army Staff or General Commander of Armed Forces, as per jurisdictions, should be prioritized by Operations Directorate.

**When asked by Chief of Investigative Judges:** as being Chief of Army Staff's Deputy, from 1987 until 1990, and Al-Anfal Operations occurred in 1988, tell me about Al-Anfal Operations preplans and who ordered? **He answered:** The First Corps prepared the study, following usual procedures, as the Chief of Army Staff (Nazar 'Abd-al-Karim Al-Khazraji at the time) referred the study to Operations Directorate. We, in turn, submitted the study to our aforementioned directorate in order to give our technical and military expertise regarding the availability of human and military resources. We submitted our study and comments to the Chief of Army Staff but the military operation's scale was bigger than jurisdictions granted to the Chief of Army Staff. Hence, the case was referred to Ministry of Defense, but since it was the General Commander of Armed Forces' jurisdictions who was at the time Convict Saddam Hussein it was lifted to him. The General Command of Armed Forces did not hold a meeting to discuss Al-Anfal Plan. The General Commander of Armed Forces approved the plan.

**He testified** that in that time headquarters was established for al-Anfal Operation. Orders were given to Convict Sultan Hashim, Sixth Corps' commander at the time, to form the aforementioned headquarters and lead the operations. Indeed, this was what happened.

**The convict stated** in front of Chief of Investigative Judges, as per 2<sup>nd</sup> Anfal Operation, that Operations Directorate sent a representative to the 1<sup>st</sup> Corps in order to fully study the plan. The representative of operations returns to the directorate before giving his military expertise. After the study was completed, it was submitted to Chief of Army Staff and General Commander of Armed Forces. No meeting was held ...

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...The General Command of the Armed Forces or study the plan, but the approval was issued to carry out and it's actually carried out by the assigned headquarter that was leaded by the accused (Ayad Khalil Zaki).

When the investigation judge **questioned** the accused what is the meaning of using the special amammunitions or special strikes? The accused **answered** saying: According to the military terms, the special amammunitions are the chemical weapons and the special strikes are the attacks by using the chemical weapons.

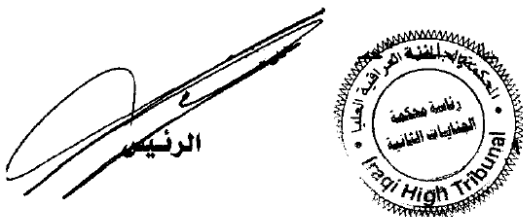
In addition, the accused **added** that the chemical weapons are not allowed to be in use unless the president issued an order to use it because such weapons are considered as strategic weapons.

The investigation judge **addresses** his speech to the accused "you mentioned that Anfal operations attacked the Armed Forces and Kurdish fighters, while the witnesses reported that no Iranian troops were existed and the operations targeted villages populated with civilians". The accused **answered**, "I would like to clarify before the tribunal that the department of operations prepares its report and study regarding Anfal based on the intelligence report that was submitted by Chief of Army Staff and we gave our opinion on that in details.

The accused also **stated** that the Iranian Forces started withdrawal in July 1988 and no one left behind, but the presence in the Kurdish area was for the armed individuals around the mountains, however the last operation of Anfal started on 1988 August 28 and continued until 1988 September 6 to get rid of the sabotage.

The investigation judge **questioned** the accused "according to the letter number 1122 dated 1988 August 21 that was addressed to the 1<sup>st</sup> Corps and the 5<sup>th</sup> Corps that was referring to the conference held in the 1<sup>st</sup> Corps and was signed by you dated 1988 August 20, in which the first paragraph indicates that (defining the population concentrations in the 5<sup>th</sup> Corps Sector, and to be treated by intensive special strikes 48 hours prior to the implementation.

(320- 963)

The image shows a handwritten signature in black ink, which appears to be "الرئيس" (The President). To the right of the signature is a circular official seal. The seal contains the text "المحكمة العراقية العليا" (The Iraqi High Tribunal) at the top, "رئاسة المحكمة" (President of the Court) in the center, and "القضايا الجنائية" (Criminal Cases) at the bottom. The words "Iraqi High Tribunal" are also written in English around the bottom edge of the seal.

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... to create panic among them and prevent them from collaborating with the saboteurs, and to observe their movements in the area (S). The accused **answered**, "I confess with the conference held on 1988 August 20 and with all the included instructions in the paragraph number (2) about the coordination with the Turkish side according to the Cooperation Protocol that was signed with them particularly by the Iraqi Foreign Ministry, except for clause (1) that was talking about intensive special strikes which never exist and it was not discussed at all.

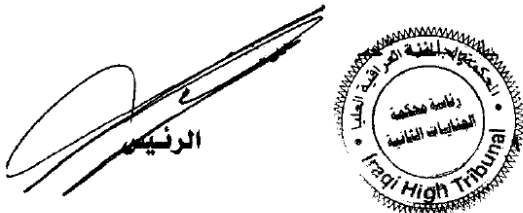
The investigation judge **questioned** the accused "who was the military, Party and security supreme leader in the Northern Zone?" the accused **answered**, "according to the decree number (160), Ali Hasan Al-Majid is the Head of the Northern Organization Office who was given all authorizes of the president of the Republic. Consequently, the military forces in the area were under his command and obeyed his orders because he was the supreme leader in the area.

The investigation judge **questioned** the accused "who issued the orders to destroy the villages, knowing that most of the villages were not border ones?" He **answered** if there are military necessities to destroy the villages, the orders will be issued by Chief of Army Staff, or Minister of Defense, or the supreme leader of the Kurdish Northern Zone (the accused 'Ali Hasan Al-Majid).

Furthermore, the accused **stated** to the investigation judge, "after the end of the Iraq- Iran war, Minister of Defense ('Adnan Khayrallah) ordered to destroy the rest of villages during his visit, the accused Chief of Army Staff (Nazar 'Abd-al-Karim Al-Khazraji then ordered the 1<sup>st</sup> and 5<sup>th</sup> Corps to destroy all the villages and the houses of each village. However, the army was destroying the villages during the Anfal operations which were the Corps Commander's authority".

The investigation judge **questioned** the accused "you mentioned in the clause number (2) of the special plan of the last Anfal operations to use the extreme cruelty against the saboteurs and their collaborators. what you meant.....

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The image shows a handwritten signature in black ink, which appears to be 'الرئيس' (The President/Judge). To the right of the signature is a circular official seal. The seal contains the text 'الهيئة القضائية العراقية' (Iraqi Judicial Body) at the top, 'رئاسة المحكمة' (President of the Court) in the center, and 'القضايا الجنائية' (Criminal Cases) at the bottom. The words 'Iraqi High Tribunal' are written in English around the bottom edge of the seal.

The Presiding Judge

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In the Name of God, All Merciful, All Compassionate

Iraqi High Tribunal  
2<sup>nd</sup> Criminal Tribunal

Reference No.: 1/ 2<sup>nd</sup> Criminal/ 2006

Date: 2007 June 24

Baghdad- Iraq

#### The Verdict

by the saboteurs and their collaborators, knowing that, you were playing a part in laying down this plan with the accused Nazar Al-Khazraji"? He **answered** that this order was issued by the Chief of Army Staff at that time, Nazar Al-Khazraji. In regards to the saboteurs, it means anyone who lifts arm against the state, or the collaborators who are related to the saboteur's family, his relatives or his village. However, this matter is not right and it is against the law, but we could not object this order according to the military procedure".

The investigation judge **questioned** the accused "were you attending all special meetings that related to discussing Anfal operations with the accused Nazar Al-Khazraji and the field commanders, whereas you gave suggestions about the military plan starting with the first Anfal operations in February until September 1988? Moreover, is there any illegal orders were issued without legal justification? He **answered** yes, I was attending and fully playing my role in giving suggestions and opinions, but I couldn't disobey any order that was issued by the accused Nazar Al-Kazraji even if it was a violation of the law, and most of the villages were destroyed against the law?

The investigation judge **questioned** the accused "who was in charge and the first responsible for all crimes that were committed in Al-Anfal, and did you issue orders for crimes during Anfal operations (murdering, destroying villages, killing the families after being relocated)?" He **answered** "the first responsible was the accused Saddam Hussein because he was President of the Republic and the General Commander of the Armed Forces, and he issued orders to carry out those operations. The orders were also issued by 'Ali Hasan Al-Majid because he was a second responsible, in addition to other orders issued by the accused Chief of Army Staff Nazar Al-Khazraji about what happened in the Northern Zone, even the orders that were issued by 'Ali Hasan Al-Majid, were put out during or after the implementation and I don't have power to issue such orders to the authorities who carried the implementation.

(322- 963)



The Presiding Judge

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#### The Verdict

##### **(The Statement of the accused Husayn Muhammad Rashid before the tribunal)**

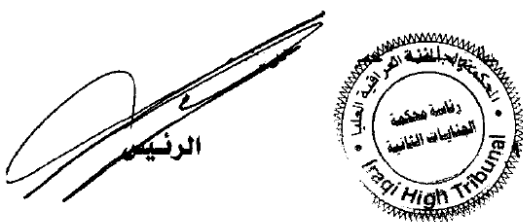
**The tribunal questioned the accused** Husayn Rashid “what was the position that you occupied during (1987- 1988)”? He **answered**, “I was the deputy of Chief of Army Staff for Operations since July 1987 until September 1990”.

**The tribunal questioned the accused** “From 1987 March 29 till July 1987, what was your position?” He **answered** “during 1987 March 29 until July I was assigned as Chief of Army Staff, I was the Commander of the Republican Guards Forces, while the Chief of Army Staff at that time was Lieutenant General (Nazar Al-Khazraji)”.

**In another question directed to the accused**, were you the only deputy of Chief of Army Staff or were there other deputies? He answered, the Chief of Army Staff had four deputies and I was one of them where I was occupying the position of Chief of Army Staff for operations from 1987 to 1988.

**The tribunal questioned the accused** (Husayn Rashid Muhammad) “what does the General Command of the Armed Forces mean? What are the authorities and the roles of this command? Who were the members of this command during 1987- 1988, and were you a member?” He **answered** “the General Command of the Armed Forces was formed after Iraq –Iran war and it was the middle headquarters between the Ministry of Defense and the General Commander of the Armed Forces (President of the Republic). Moreover, this command had no authorities but to discuss matters related to the war and the big operations with the General Commander of the Armed Forces in case of any war occurrence, in order to ask his opinion or his decision and he reviews the suggestions of commanders of the Naval, Air and Army Aviation Commander”.

He also **stated** before the tribunal, that the members of the Armed Command during 1987- 1988 are the General Commander of the Armed Forces, the accused (Saddam Hussein) and the Deputy of the General Commander (Minister of Defense)...  
(323- 963)

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The Presiding Judge

### The Verdict

...(‘Adnan Khayrallah), Chief of Army Staff (Nazar Al-Khazraji), the four deputies of Chief of Army Staff, Military Intelligence Director (Sabir ‘Abd-al-‘Aziz Al-Duri), Air Force Commander (Hamid Sha’ban), Aviation Commander (Al-Hakam Hasan ‘Ali), Air Force Commander (Gha’ib Hassun), General Command Secretary (‘Ala’ Kazim Al-Janabi), and I was Deputy of Chief of Army Staff for Operations”.

**The tribunal questioned the convict** “what are the authorities of the General Commander of the Armed Forces that he had?

**He answered**, “There are many cases are to be discussed in the general command and is to be submitted to the general commander, however the secretary combine these all cases and topics then he invites the command members for a meeting and introduces these topics in attendance of the General Command of the Armed Forces who makes the decision”.

**The tribunal questioned the convict** “what was your role in the meetings of the General Command of the Armed Forces?

**He answered** “if there was a time to speak I did, because my position is complementing with the position of Chief of Army Staff, while he recognizes my role more than other deputies and sometimes he issues orders then he discusses with me”.


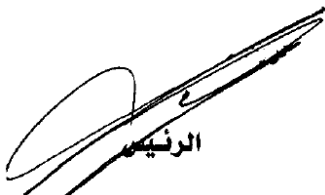
**The tribunal questioned the convict** “as long as the a decision was made by Chief of Army Staff or by the General Commander of the Armed Forces, is it a must to be preceded with an opinion from the Operations Department?”

He answered, “Yes it is, and if the Chief of Army Staff submits a prepared study by a Corps Commander to me, and the chief asked me about the sources I just give my opinion”.

**The tribunal questioned the convict** “if corps commander requests for military supplies in order to be prepared for a specific attack and he needs a plan, in this case do you discuss it with the Chief of Army staff?”

The President

(324- 963)



### The Verdict

He **answered**, “The corps commander refers to the Chief of Army Staff, and the chief of Army Staff refers to the operations department before taking a decision if these supplies are available or not”.

**The tribunal questioned the convict** Husayn Rashid “you mentioned to the investigation judge that the operations department is related to the Chief of Army Staff and receives the orders from him, and then this department carries out these orders, that means that this department were assigned to carry out the orders after coordinating with the corps, is this true? In addition, how they could coordinate and carry out operations”?

He **answered**, “The corps reports the status while the deputy of operations holds the device. There are special directorates for planning and it has the same tasks of operations department, they follow and arrange the movements of troops then they locate that on maps and finally they discuss any study with planning department. However, the deputy of operations does not address to the corps, at the same time, the corps does not address to the deputy, and the daily status was to be sent to the operations departments”.

**The tribunal questioned the convict** Husayn Rashid “how many directorates are related to the operations department of the Chief of Army Staff?”

He **answered**, “Six directorates, which are (Planning, Operations, Arming and Supplying, Organizing, Communications, and Survey)”

**The tribunal questioned the convict** “what are the tasks of the directorate of planning?”

He **answered**, “The planning directorate has an operation room provided with maps, and this room contains all the assignment of troops, in addition to records for all the troops' arrangements around Iraq.

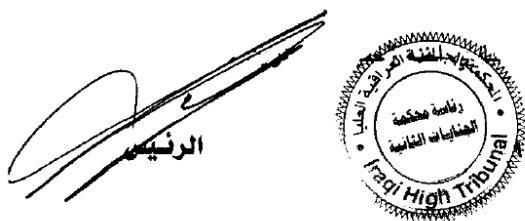
Moreover, the discussions were executed within this room especially when we receive a study from the Chief of Army Staff or from Corps about availability of human and physical resources”.

**The tribunal questioned the convict** Husayn Rashid Muhammad “If the Chief of Army Staff requests the Planning Directorate to put a military plan, does the Planning Directorate abide by the request?”

He **answered**, “The Chief of Army Staff has the power to issue orders for any unit even it was related to discussing corps' study”.

**The President**

(325- 963)



The image shows a handwritten signature in black ink, which appears to be 'الرئيس' (The President). To the right of the signature is a circular official stamp. The stamp contains the text 'القضاء العرفي' (Customary Court) at the top, 'رئاسة محكمة' (President of the Court) in the center, and 'القضايا الجنائية' (Criminal Cases) at the bottom. The words 'Iraqi High Tribunal' are written in English around the bottom edge of the stamp.

### The Verdict

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As he **reported** before the tribunal (...) “when I mention (participate) during my report, it means when the study is received by the planning directorate and it gives the opinion about the availability of sources, so this is the meaning of (participation)”.

**The tribunal questioned the convict** “if the military plans issued by the corps, does it go by the Chief of Army Staff then go by the planning and operations directorates”?

He **answered**, “Yes it does, and the planning directorate notes down the technical opinion, and then submits the military plans to Chief of Army Staff, which puts forward these plans to the Presidential Diwan”.

**The tribunal questioned the convict** “who does undertake carrying out the order that issued by the Chief of Army Staff to assign brigades or divisions to take locations”?

He **answered** “The operations”.

The convict **added** to the tribunal, “Following up the force operations means what time the operation started and where is the location to be informed with locations of the forces. After that, the status report comes and includes the brigades’ commands; however, this status is to be circulated on all the departments that belong to the Ministry of Defense and not only the operations department”.

**The tribunal questioned the convict** “what are the assignments of Arming and Supplies Directorate?”

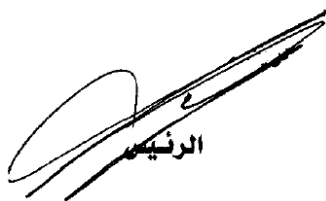
He **answered**, “To be aware of the army’s requirements such as importing the required war equipment and submitting a request to the Chief of Army Staff then to the Ministry of Defense to sign contracts with the suppliers. Finally, when the equipment is received, it was put in the Supply and Ordnance Storages”.

He also **reported** before the tribunal, “The Communication Directorate provides the connections via wireless devices”.

**The tribunal questioned the accused** “Did you study the plan during Anfal operations that was put by the 1<sup>st</sup> Corps”? He **answered**, “Yes, we did, and then we sent the study back to the Chief of Army Staff and after three or four days he got the approval and the corps was informed with that.

the President

(326- 963)





### The Verdict

**The tribunal questioning the convict:** Was the plan of the 1<sup>st</sup> Anfal operation organized by the 1<sup>st</sup> Corps and was handed over to you later?

**He answered:** the Chief of Staff handed it over and we gave our technical opinion as usual.

**The tribunal questioning the convict:** It is not possible to transfer any military unit from one place to another if the Operation Directorate is not aware of it? **He answered:** of course they have to be informed because they have to know the status.

**The tribunal questioning the convict:** Did the Chief of Staff tell you that the approval on Anfal operation was given?

**He answered:** a letter came to the Corps and a copy of it went to the Operation saying that the approval has been given.

**The tribunal questioning the convict:** Did the Operation have an opinion upon Anfal operation before the decision of the Chief of Staff and the general Commander was issued?

**He answered:** Definitely I mentioned that any study of Chief of Staff of the Army cannot be presented to the Ministry of Defense Office unless the Operation Directorate is sure of his sources, and it is always according to the chain of administration.

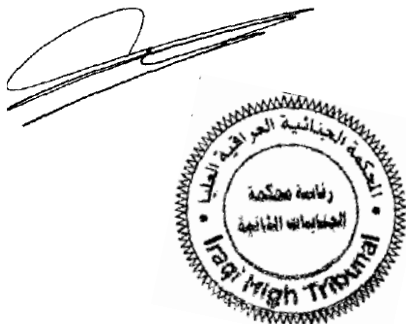
**The tribunal questioning the convict:** Was the study of the 1<sup>st</sup> Anfal operation and that was laid down by the 1<sup>st</sup> Corps Commander sent to the Chief of Army Staff then it was presented to the Operation Directorate where it was studied and sent back to the 1<sup>st</sup> Corps?

**He answered:** Yes.

**The convict also stated before Tribunal:** We received Anfal operation study and we gave our remarks on the Human and financial sources but afterwards, it was sent according to the chain of administration.

**The tribunal questioning the convict:** Did the Operation Directorate provide the assigned Headquarter with maps? **He answered:** The Administrative Officer is handed document No. (102) and leaves. The Land survey Department is interrelated to me.

The President



(327-963)

### The Verdict

**The tribunal questioning the convict:** When military units are being transferred to join the assigned Headquarter shouldn't they pass through the Operation Directorate?

**He answered:** Yes if the transfer is from different sectors the Operation takes control of the transfer.

**The tribunal questioning the convict:** Who was the Commander of the assigned Headquarter?

**He answered:** He is the Lieutenant General Sultan Hashim Ahmad for the 1<sup>st</sup> and 2<sup>nd</sup> Anfal operations.

**The tribunal questioning the convict:** You mentioned in your testimony before the Judge that you sent a representative to the 1<sup>st</sup> Corps regarding the 2<sup>nd</sup> Anfal operation at the beginning of the operation to study it completely, and it is normal that the operation representative comes back to the Directorate before giving his military opinion, so after the study on the operation was completed, it was presented to the Chief of Army Staff and to the general Commander and the order was given to execute, so it was executed in the assigned Headquarter?

**He answered:** This is an assigned Headquarter, and to save time, Lieutenant General Ayad Khalil Zaki asked me as well to send a representative if he has an opinion regarding if there are sources or not, and that representative was from the Planning Directorate who had the maps and documents of the sources.

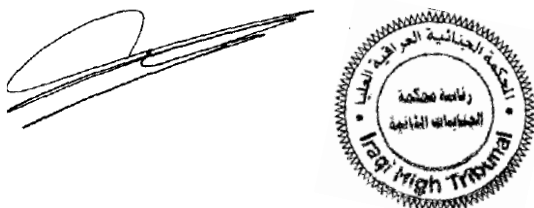
**The tribunal questioning the convict:** There is the letter No (1182) on the 28<sup>th</sup> of August 1988, issued from the Chief of Army Staff, addressed to the 1<sup>st</sup> and 5<sup>th</sup> Corps, and its subject is directions of removing all villages and houses within them, so is the status achieved by razing houses, removing villages and deporting citizens? Where a copy of this letter was sent to you?

**He answered:** a copy of the letter was delivered to me to adjust and fix some of the military matters and maps.

**The tribunal questioning the convict:** Does the Operation Directorate know about the Divisions and their locations and positions in the Anfal operation?

**He answered:** Yes.

**The President**

The image shows a handwritten signature in black ink on the left. To its right is a circular official seal. The seal has a serrated outer edge. Inside the circle, the text 'القضاء الجنائية العراقية العليا' (Iraqi High Tribunal) is written in Arabic at the top. Below that, in smaller Arabic, is 'رئاسة المحكمة' (President of the Court). At the bottom of the seal, the words 'Iraqi High Tribunal' are written in English.

### The Verdict

**The tribunal questioning the convict:** Were you at Kirkuk Conference on the 20<sup>th</sup> of August 1988?

**He answered:** I usually attend all conferences with Chief of Army Staff especially the ones in Kirkuk, and I remember once that the minister of Defense was in one of them, but this date I cannot recall.

**The tribunal questioning the convict:** There is a document issued by Chief of Army Staff No. 349 on the 27<sup>th</sup> of April 1988, addressed to 1<sup>st</sup> and 5<sup>th</sup> Corps, and the subject is directions of Kirkuk conference that was held on the 27<sup>th</sup> of April 1988 that includes:

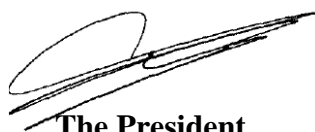
1. About the direction of the administrative work.
2. Tactics of the coming work and it explains that during a period of July we have to defend in the northern area continuing limited attacks against targets of a tactical value.
3. The execution of the 4<sup>th</sup> Anfal that pertains to (Shuwan) according to the suggested plan that was discussed in the Planning Directorate and after that the Anfal operation within the 5<sup>th</sup> corps sector will start.
4. Using the special ammunitions against the enemy's gatherings whether by air force or artillery and strike their locations with special ammunitions.

A copy of this letter was sent to the Operation Directorate, were you aware of this subject? And did you discuss these issues in Kirkuk?

**He answered:** We have discussed everything but the special ammunitions.

**The tribunal questioning the convict:** (Husayn Rashid Muhammad) you were close to the Chief of Army Staff at that time, do you deny that the army at that time did not use the special ammunitions?

**He answered:** there are documents signed by the Minister of Defense that say proves it, how can I deny that?



The President



### The Verdict

**The tribunal asks the accused:** According to documents and testimonies of the ones who lodged a complaint it was clear that there were destruction villages and deportation of people?

**He answered:** the Accused ('Ali Hasan Al-Majid).

**The tribunal asks the convict:** which was the Directorate that was responsible of marking the villages? **He answered:** the marking, the map updates and sectors as comes from the Planning Directorate, when they print a map to the army they write the removed villages and towns. And the Planning Department is interrelated to the Operation Department.

**The tribunal asks the convict:** there is a daily status report that is sent every morning by the Commander of the Corps, to whom is it addressed to?

**He answered:** to the Operation Directorate.

**The tribunal asks the convict:** It has been mentioned before the investigation judge in your testimonies during the investigation (if there was an order whether it is legal or illegal, we had to obey it)?

**He answered:** Yes even if it was antitrust laws we could not complain we are soldiers.

**The tribunal asks the convict:** Is the order given to the Operation as well?

**He answers:** The execution is our job they just give us the status reports for example: they say destroy villages and say that they have destroyed this and this village, and then they record it with the status of the troops.

**The tribunal asks the convict:** did you attend all the meetings that pertain to Anfal?

**He answered:** yes.

**The tribunal asks the convict:** Does your role start from here? **He answered:** If Chief of Army Staff is not present, in this case I should be present, but this is not the point because while I was attending the meetings and an order was issued even it was antitrust laws;

The President



(330-963)

### The Verdict

...I could not disobey this order, however, this matter is not related to my department, but if it was, of course I would have discussed it.

**The tribunal questioned the convict:** what is your opinion regarding Anfal operation, did it go the way it was planned, did it achieve the goal and was it right?

**He answered:** I have received orders from a higher reference with more legal authority and the subject is specified regarding my department, I believe that the order I received is legal, and Anfal operations have achieved their goals by driving the Iranian army out of Iraq along with the traitors and armed rebellions.

**The tribunal questioned the convict:** Is it possible to execute Anfal operation without using the special ammunitions?

**He answered:** The army is capable of doing every thing it has flexibility and it has alternatives.

**The tribunal questioned the convict:** Is the Operations Directorate responsible of the army transportation considering it interrelated to Operation Department, and do you remember the orders that were issued regarding transferring troops and joined them with the 1<sup>st</sup> and 5<sup>th</sup> corps?



**He answered:** the Chief of Army Staff is the one who gives orders regarding moving units, I remember that moving units took place but I cannot remember any of the divisions and who joined the 1<sup>st</sup> and 5<sup>th</sup> Corps and I don't know the number, and divisions (44) and (24) were transferred according to the documents.

**The tribunal questioned the convict:** Did any enforcement of moving military units from other sectors to the 1<sup>st</sup> and 5<sup>th</sup> corps?

**He answered:** Definitely it happened.

The accused informed before the tribunal (...) Again I say, plans of Anfal Operations are available and it was studied, I did not say there were no studied plans, and the Operation Department assignments are based on the plan. However, I am not aware that the Northern Organization Office is issuing different orders and assigning duties to the troops, I am not aware of the plan or the study that includes the operations, and according to that I noted down my technical opinion.

The President



(331-963)

### The Verdict

...regarding the plan, and it was issued to the Corps but there are two courses; the military and the organizing course, there might have been a confusion from another side. The accused also informed before the tribunal ... "I attend the summit as long as it pertains to operations, I might give my opinion or not, but who ever approaches of my directorates for an opinion I would give it.

**The tribunal questioned the convict:** What was the role that the summit played?

**He answered:** The summit is a is a military effort to help instruct the troops for example "I want you to be alert, the enemy is before your lines, what are your capabilities, or for example I require you to penetrate deep into enemy territory".

**The tribunal questioned the convict:** What is the meaning of the special strikes?

**He answered:** Well if he had said with special ammunition, it would have been clearer than special strikes, for they might be programmed, as in programmed strikes when the army fires (annoying fire) by hurling a round of artillery on enemy army.

**The tribunal questioned the convict:** Was the Directorate of Land Survey responsible of supplying the army with maps?

**He answered:** Yes, the army receives maps from us.

**The tribunal questioned the convict:** the Military Intelligence Directorate and the Chief of Army Staff are two independent departments that means, when the Military Intelligence wants to issue a correspondence, so it sends directly to the Head of Army Staff. Is that correct?

**He answered:** That is correct, for example: the Head of Army Staff requires that we cooperate with the corps as the accused Husayn Rashid reported that the Chief of Army Staff was issuing an order to the crops to study a plan, which means that he was coordinating between the corps and us, and this subject is related to Anfal,

**The President**



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**The Verdict**

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**((Testimony of accused Sultan Hashim Ahmad according to the investigation))**

**The investigation judge questioned the convict** (Sultan Hashim Ahmad)

"What was the position you occupied in the years 1987 and 1988?"

**He answered:** In the year 1987, I was the commander of the 6<sup>th</sup> Corps in Maysan Governorate, and in year 1988 in February, I was summoned to the Armed Forces General Command, where I met the Chief of Army Staff (Nazar 'Abd-al-Karim Al-Khazraji) back then and he told me that I was assigned for the position of Anfal Operations Commander in addition to my duties, as he informed me after that of the mission assigned to me and asked me to head to Al-Sulaymaniyyah Governorate in the north, where he put under my command three divisions: 33<sup>rd</sup> and 4<sup>th</sup> divisions, in addition to another force called: 1<sup>st</sup> Legion [*T.C: Regrouped with (Jahfal)*] Command it is a big number of division that are in Command of the National Defense regiments composed of Kurds, where a location was set for me along with a number of officers of the staff as I was informed to reorganize the forces, re-equip and train them according to the nature of the location, weather and duty, where the mission that was assigned to me was force out the saboteurs (all those who take arms against the Government that are both of our own Kurdish people and Khumayni Guards).

The area north-east Al-Sulaymaniyyah which is east of Pira Magrun that has the following villages: (Bargalu, Sargalu, Haladan, Chukhmakh) and other villages in the direction of the borders with Iran.

**The investigation judge questioned the convict** (Sultan Hashim Ahmad) "what was your role in the 1<sup>st</sup> Anfal operation and the other operations? Answer us in details".

**He answered:** I would like to make clear some of the points that may help the investigation, one of the things that I would like to point out is the Regiments of National Defense, and those Regiments were formed and named in the days of the former Government and it stayed on its name as Regiments of National Defense in the year 1980 and was (200) Regiments, each Regiment consists of (300) up to (5,000) soldiers as they were supervised by their tribal Chief , but they military commanded by the corps they were joined with, where it was divided for two sectors, Al-Sulaymaniyyah sector.

**The President**



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It's called the Command of the First Light Legion which is considered on the level of the Division Command and the Command of the 5<sup>th</sup> Light Legion which considered on the level of the Division Command in (Irbil) Sector and Duhuk.

There is a matter I would like to clarify as a background of some issues which is as follows: In 1978, I was working as a regiment commander in (Pinjwin) Area and my military rank was Staff Lieutenant Colonel.

And in that time the government deported the inhabitants of the villages along the borders line at Al-Sulaymaniyyah and the areas beyond the Iranian borders and they were gathered at complexes I added that the military declarations and orders were issued directly by the Chief of Army Staff; whereas the approval of the followed military plans is issued either by the Chief of Army Staff, specifically by the Operation Department in case the plan is related to military operations through the directorates of Operation and Planning where the General Husayn Rashid is the Deputy Chief of Army Staff.

All the plans regardless if it was prepared by the interested corps or the Operation Directorate were not executed before the negotiation between the departments and an order by the Chief of Army Staff is to be issued before.

These are the procedures used that time.

**The convict (Sultan Hashim Ahmad)** reported before the investigation judge that all the details of these operations including Anfal were registered by reports and recorded and analyzed by the Military Movements and Planning Directorate, the Operations Directorate and the interested corps.

I would like to clarify generally the fact of Anfal Operations which was started by the end of February 1988 and ended by Anfal final operation in 23 August 1988.

Some of these operations executed as a special mission by a command that was prepared for a special mission and that was the 1<sup>st</sup> and 2<sup>nd</sup> Anfal Operations.

Other operations were executed by the 1<sup>st</sup> and 5<sup>th</sup> Corps or the 1<sup>st</sup> and 2<sup>nd</sup> Corps or by one corps such as Anfal first Operation which was called the First after they wanted to execute the 2<sup>nd</sup> operation.

I was assigned by the Chief of Army Staff and I was called immediately at the mid of January and I meet by.

**The President**



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The Chief of the Army Staff and the Chief of the Army Staff Deputy the General Husayn Rashid and he gave me a summary on this operation which was prepared earlier by the 1<sup>st</sup> Corps and the Operation Department.

The Chief of the Army Staff asked me to receive the operation's file and to move immediately to Al-Sulaymaniyyah Area and to establish a command.

For this operation they put the 4<sup>th</sup> Division and the 33<sup>rd</sup> Division under my commander along with the Command of the 1<sup>st</sup> Light Legion and between 70 and 80 National Defense Regiments.

After two days I left to Al-Sulaymaniyyah as I was ordered to do.

And the Chief of the Army Staff ordered me to study the military operation's file and to give my recommendations and my notes about it.

The Chief of the Army Staff informed me that a staff officer was elected to organize headquarter for Anfal Operation and I was informed that the Chief of Army Staff deputies are supervising on the accomplishing the preparations and discussing the plan.

The 4<sup>th</sup> and the 33<sup>rd</sup> Divisions were mobilized at (Susa) Area (Surdash) intersection and the Command of the 1<sup>st</sup> Light Legion was at (Dukan) Dam, while the 4<sup>th</sup> Division was mobilized at (Mawat) Area.

A number of the National Defense Regiments were assigned under the commander of these divisions.

The mission of these forces was located (10-15) Kilometers between Southeast Al-Sulaymaniyyah and left along to (Dukan) toward the Iranian depth.

Mentioning that the center of the area and the operation was (Sargalu and Bargalu) Villages. After these sectors were brought to the area and trained for 15 days on the mountains war and increasing the physical capabilities of the fighters, we were informed that the execution of this operation must be at the 22<sup>nd</sup> or the 23<sup>rd</sup> February 1988, while the snow was covering the mountains.

I was assigned to this mission and it was the duty of the 5<sup>th</sup> Corps

The fighting lasted for 20 days before occupying the mountains' tops to reach (Sargalu and Bargalu) Villages.

Our forces reached to villages and we didn't find anyone in the area.

After that we were assigned to open the roads for the area and that was after a month when the weather became better.

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The convict reported before the investigation judge that during that period between February and March, I didn't meet any official from the Northern Organization Office and I was only receiving or delivering orders between me and the Chief of the Army Staff and his Deputy. The convict (Sultan Hashim Ahmad Al-Sayyid) also reported before the investigation judge: After I became the commander of the 1<sup>st</sup> Corps and after the execution of other Anfal Operations, the coordination between me and the Northern Organization Office was ruled by the order No. (4008) in 20 June 1987 and signed by the convict ('Ali Hasan Al-Majid) the Secretariat of the Northern Organization Office.

The value of the coordination between me and the Office was about one subject which was that after occupying the villages which are aims of the Military Sectors of the 1<sup>st</sup> Corps.

The residents of this area (Operation Area) will be moved by military vehicles.

Mentioning that the ones who were in charge of this were militant and they took the residents to the Military Intelligence System in Kirkuk and after the organizing with the system they were moved to the Northern Organization Office and no one of the militant knows the fate of these people after being moved there.

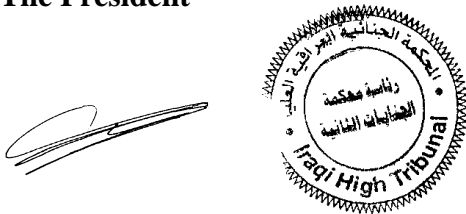
And I meant the females, kids and males along with there property, and I would like to mention that according to the order issued by the convict ('Ali Hasan Al-Majid) which was about dealing with the security restricted villages in case of finding any movement or appearance at that area and the military sectors are dealing with that movement directly by the fire shooting or by the gun shooting or by using the light weapon.

And the order was clear and prohibiting the presence days or nights in the security prohibited area, mentioning that the orders authorized the execution of any arrested person from 15-70 years and the execution operations were not executed by the military forces.

Mentioning that I don't have any contact with the security committees formed by 'Ali Hasan Al-Majid but sometimes a representative from the Corps is requested, so an Internal Security Staff Officer or the Corps Intelligence Officer and in case of anything related to our work.

The President

(336-963)



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### The Verdict

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They informed me to take the needed procedures.

And regarding Anfal 2<sup>nd</sup> Operation, I was not assigned for it neither the 1<sup>st</sup> Corps because this corps was assigned to (Shimiran) Battle and the mission of Anfal 2<sup>nd</sup> Operation was including (Qara Dagh).

And regarding the other Anfal Operations, all took place through the 1<sup>st</sup> Corps separately or by the support of the 2<sup>nd</sup> or the 5<sup>th</sup> Corps.

Their duties were to expulse the saboteurs and purging the area and moving the persons and families from these security prohibited areas and delivered them to the Northern Organization Office through the Intelligence System and destroying their houses without any amount paid instead.

Regarding Anfal Third Operation it was near (Qadir Karam) and ('Umar Bil) belongs to Kifri Sub District along to (Sankaw) area on the Iranian Borders.

After execution of Anfal 5<sup>th</sup> and 6<sup>th</sup> Operations at the area between (Dukan, Kuysinjaq and Chamchamal) including (Cham Rizan) Village and the treatment in these villages was the same as before because it was considered as a security prohibited according to the government orders.

Regarding Anfal Final Operation that took place at the end of August after the cease-fire and these operations were executed by the 1<sup>st</sup> and the 5<sup>th</sup> Corps and the main aim of the 1<sup>st</sup> Corps at (Qal'at Diza) Area was to spread the government authority on the last part of the area and that was for political purposes.

The mission was accomplished by destroying the houses and deporting the persons regardless the cease-fire.

**By a question from the investigation judge to the convict:**

Did the Air Force Command ask the command of the Corps the names of locations to be shelled?

**He answered:**

The Air Forces didn't ask but a support of the helicopters was requested in case the weather was good because they were attacking the mountains' views as a major target.

**By a question from the investigation judge,** the convict (Sultan Hashim) was asked the following:

As you occupied several positions, answer us about the methods of using the special ammunition and who was authorized for issuing the orders in using these ammunitions?

The President

(337-963)



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**He answered:** I occupied many positions starting from an officer up to corps commander and the Deputy of the Chief of the Army Staff/Operations, then the Defense Minister and during that long period I don't know the authorized entity for using these special ammunitions and I didn't know that there are special weapons or ammunitions until the United Nation affiliates came.

The Commands of the corps are receiving the orders from the Chief of the Army Staff and the Chief of the Army Staff is receiving his orders from the Defense Minister or the General Command of the Armored Forces,

**Question by the Investigation Judge:**

Is there any role for the General Military Intelligence Directorate in using the special ammunitions or any rule in Anfal Operations?

**He answered:**

The mission of this directorate is intelligence work and presenting information about everything related to the military operations and plans, also providing information on movements of the enemy and the land.

All these information are presenting as intelligence reports to the Defense Minister or the Chief of Army Staff.

We notice that the high importance information is to be referred to the General Command or the Defense Minister. These two persons are able to give suggestions but they are not the decision makers.

**Question by the Investigation Judge:**

As you are the Commander of the 1<sup>st</sup> Corps and most the operations executed under your supervision, is there any information about the fate of these families or the place they were taken to?

**He answered:**

My responsibility was just to pass the orders then to transport the families and the kids of this area by vehicles to the Intelligence System then to the Northern Organization Office according to the orders of 'Ali Hasan al-Majid and we don't know anything about their fates after that

The Northern Organization Office is directly responsible of dealing with these families in accordance with the privileges granted to the Office Secretary.

**Question by the Investigation Judge:**

Mass graves were found at Al-Sulaymaniyyah and Al-Hadar Area at Al-Mawsil which include whole babies, males and females from..

The President



(338-963)



### The Verdict

The residents of Al-Sulaymaniyyah Governorate including (Sidar) Village, mentioning that these villages are included in Anfal Operations In despite of the attendance of the internal Security Staff Officer and the intelligence Officer, and these two are working under your supervision.

Is it possible that they didn't know about these mass graves, is it possible that no one arranged with them regarding the graves?

**He answered:**

I don't know about these graves and I never heard about it.

Mentioning that dealing with the families after delivering them to the Northern Organization Office is the responsibility of the office itself and no one of them informed me about these graves and I was hearing about it through the Kurdish broadcast and I never knew about it formally.

**Question by the Investigation Judge:**

What were the orders issued to you regarding eliminating the villages and who issued these orders and how many villages you took action against?

**He answered:**

The orders were issued directly by the Chief of the Army Staff and this thing doesn't come in contradiction with the orders issued by 'Ali Hasan Al-Majid, which means that we execute any order received from the Chief or the Army Staff or from 'Ali Hasan Al-Majid

And these orders were executed at the security prohibited areas which were including group of villages such as (Sarglu and Barglu, Haladan, Chukhmakh, and other villages)

After receiving the orders we executed and after controlling the villages and in case of the present of civilians or families they were transferred by military vehicles to the Intelligence System of the Northern Area to be delivered to the Northern Organization Office and after that the Military Sectors Eliminate the village.

The operations were assigned to my corps and under my supervision were limited between west (Sangaw and west Qadir Karam) along to Kifri Area.

This operation was shared between the 1<sup>st</sup> Corps which was under my command and the 2<sup>nd</sup> Corps, while the other operation was limited between (Cham Rizan) along to (Sad Dukan) then to (Kuysinjaq) and this operation was under the supervision of the 1<sup>st</sup> Corps and under my command, mentioning that four divisions participated in this operation.

While the final operation in September.

**The President**

**(339-963)**



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1988, which was called (Khatimat Al-Anfal) Anfal Final Operation or Closure, which took place after the cease-fire between Iraq and Iran and this operation was including (Qal'at Diza) -Balisan) to the east, which was to inspect the borders line east (Qal'at Diza) and at that operation we didn't find civilians in the villages.

While at the operations before we found civilians and we executed the order which was about transporting them by military vehicles to the Intelligence System of the Northern Zone in order to be received by the Northern Organization Office and this order was issued by the Northern Organization Office and the one who was in charge is ('Ali Hasan Al-Majid) This was issued as instruction and spread over the corps and in my order I spread it to the divisions affiliated to it.

#### **Question by the Investigation Judge:**

According to you, the orders issued for eliminating the villages and transporting the residents by military vehicles are legal or illegal?

#### **He answered:**

In case of war and when I receive a military order I don't think of it as legal or illegal because this order is issued from my higher source which I have to obey and I'm executing according to this or I 'm might be executing according to the military law.

#### **Question by the Investigation Judge:**

You are convicted of destructing the Kurdish villages during Anfal Operation and conducting forced evacuation operations of civilian as well as contributing with 'Ali Hasan Al-Majid by killing the Kurdish Civilians.

((Statement of the convicted Sultan Hashim at the Tribunal))

**A question from the tribunal** to the convict Sultan Hashim Ahmad:

What is the General Command of the Armored Forces? And what are the issues that discussed within it? And who are its members during (1987-1988)?

**The President**



**(340-963)**

### The Verdict

**He replied** the General Command of the Armed Forces were utilized in the Iraqi-Iranian war and routinely replaced the Supreme Defense Council taking over its responsibilities and duties among which are the duties of discussing military tactics, administrative matters, planning / transportation matters and all military responsibilities that are primarily of four kinds (Operations, Administration, Supplies, Training) and these four responsibilities cover all Military responsibilities.

When there is a time where the General Command requests a meeting in accordance to a work schedule they summon those individuals and discuss whether the training, operations, administration, supplies or anything else for that matter, with a purpose of taking suitable decisions.

**The convict also stated:** The members of The General Command for the following two years (1987 and 1988) are, The General Commander of the Infantry Forces, Republican President (Saddam Hussein) – Deputy of the General Commander and Defense Minister ('Adnan Khayrallah) – Chief of Army Staff (Nazar Al-Khazraji).

The assistants that attend the General Command of the Infantry Forces meeting are formed of four assistants: Administration Assistant Lieutenant Colonel ('Abd al-Sattar Al-Ma'ini), Supplies Assistant Lieutenant Colonel (Diya' Al-Din Jamal), Training Assistant (Ni'mah Faris Al-Muhayyawi) and Operations Assistant (Husayn Rashid), the Directors of Operations and Planning also attend all meetings.

**The convict was questioned by the tribunal:** whether he was one of the members of the Infantry Forces General Command?

**He replied:** Yes, I am a member of the Infantry Forces General Command.

**The convict was questioned by the tribunal:** does the Corps Commander of the General Command attend the meetings or does he only attend when requested to attend?

**He replied:** No, he is not a member and he does not attend, yet if his presence was requested, in a matter that concerned him, then he would attend and be included in the Infantry Forces General Command meetings.

**The President**



(963-341)

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**The convict was questioned by the tribunal:** what are the jurisdictions of the Chief of Army Staff?

**He replied:** The Chief of Army Staff is responsible for the army administration and he applies his jurisdictions on the Naval Forces too, and that all orders issued to the Naval Forces are issued by the Chief of Army Staff.

**The convict was questioned by the tribunal:** what are the jurisdictions of the Chief of Army Staff Assistant in regards to operational matters?

**He replied:** The Office of Chief of Army Staff consists of four departments: (Operations, Administrations, Supplies and Training) and I am able to say that each of the four assistants is an adviser to the Chief of Army Staff concerning matters within their department, for he hands-in his recommendations to the Chief of Army Staff.

in every Department of these departments there are directorates that comply with their directorate, which are correlated to the Chief of Army Staff who is responsible for them, so when the Chief of Army Staff requests recommendations from any of the departments or from the Assistant then the assistant passes it in to the director of the specified directorate or if the Assistant is familiar with the questionable matter he responds and returns it to the Chief of Army Staff.

**Questioned by the Tribunal** in regards to which Directorates are correlated with the Department of Intelligence?

**He replied** that the Department of Intelligence is correlated to the following departments: (Operations, Planning, Arming, Supplying, Organization, and Military Surveillance along with the Intelligence Directorate).

**Questioned by the Tribunal** in regards to what the Planning Departments' specialty was?

**He replied:** Its title explains it more specifically, any task, Military Planning or any task that requires any planning. Military Planning in Military terms is recognition of situations where there are specified tasks that are discussed by the plotter who reaches a plan meaning that the plan is the substance for recognition of the situation.

**Questioned by the Tribunal** in regards to the first circumstance the plan contravenes the Corps and is this is based on a request from Chief of Army Staff?

**He replied:** It is presented to the Chief of Army Staff who is in charge of the decision; he then transfers it to the operations requesting a report with their opinion on the matter.

**The President**



(963-342)



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The decision is in the hands of the Chief of Army Staff who either agrees, or not or may modify it. The decision will be issued by the Chief of Army Staff and no one else.

**Questioned by the Tribunal** whether the National Defense Regiments are correlated with the first Corps, of around (60 to 70) Regiments?

**He replied:** In this operation only (The 1<sup>st</sup> Anfal Operation) the National Defense Regiments' numbers in the country were (205) Regiments, and this estimated number includes (all) of the Northern Sector, the (Suran) Sector, the (Bahdinan Sector), and parts of (Irbil), Dahuk and Al-Mawsil. These Regiments led by Tribal leaders assign an advisor (*T.C: MUstashar*) for the Regiment. The Defense Regiments have supporters there with the first Corps, which is known as the 5<sup>th</sup> Light Legion (*T.C: Jahfal Khafif*) Command. Every Command divides the numbers among them. All these Regiments belong to the Legion Command.

**The convict was questioned by the tribunal** to which they would belong in battle?

**He replied:** In battles, they belong to the Command yet if this Command was part of the operation, they received their orders from the Corps Commander and if it was not part of the operation it received its orders from the Commander that is present amid the battle.

**The convict was questioned by the tribunal** if the National Defense Regiments participated in the 8<sup>th</sup> Anfal Operation? In addition, whether the National Defense Regiments were responsible for the first attack (who led before the army troops)

**He replied:** It was one of the chief dependencies where the National Defense Regiments were spread throughout the 3 Corps (The 2<sup>nd</sup>, 5<sup>th</sup> and 1<sup>st</sup>) in all operations and the aim of the Chief of Army Staff to rely on them, and the troops advance and occupy targets, this was the goal.

**The convict was questioned by the tribunal** if the Military Intelligence Directorate provided you with reports with the location of villages and residential areas and Military targets that they used in Anfal operation?

The President



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**He replied:** (The principle of the Intelligence Department is to provide intelligence to who requires it). Therefore, the reports are handed up to the Office of Chief of Army Staff or in the case where the reports are sent to the Chief of Army Staff transferred from the Ministry Diwan or even if the report comes directly to the Chief of Army Staff, where it is reviewed to find out what it is exactly that concerns certain Corps's which is then summarized in accordance to required Intelligence and is forwarded to the Corps's explaining what the report contained, and this is the course of work in Al-Anfal.

**The convict was questioned by the tribunal:** How many Corps's were present in the Northern District in the years (1987-1988)?

**He replied:** Three, the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps.

**The convict was questioned by the tribunal:** How many Divisions were affiliated with the 1<sup>st</sup> Corps at the time of Al-Anfal?

**He replied:** The 1<sup>st</sup> Corps at that time had contained more than (10-11) Divisions, which I will state them commencing from the right, the (36<sup>th</sup>) Division that was responsible of Darbandi Khan, (28<sup>th</sup>) Division, (34<sup>th</sup>) Division, (27<sup>th</sup>) Division, (39<sup>th</sup>) Division, (44<sup>th</sup>) Division and the (10<sup>th</sup>) Division, however in regards to the Command of the 1<sup>st</sup> Legion, it was originally under the command of (Ayad Khalil Zaki) then handed over to Lieutenant General (Sa'd Shams-al-Din) and this Division was on the front line deep in battle against Iran.

**The convict was questioned by the tribunal:** Who is responsible for transferring a Division when required by your section, keeping in mind that you have stated that in an offensive situation the Corps is formed of 3 to 5 Divisions, who would have jurisdiction to order the transfer?

**He replied:** The Corps are controlled from The Office of Chief of Army Staff.

**The accused was questioned by the tribunal:** Which authority was responsible for giving the order to wipe out the villages and expel its residents?

**He replied:** The orders were issued from The Office of Chief of Army Staff (Diwan of the Defense Ministry) and from the Northern Organization Office.

**The convict was questioned by the tribunal:** Quoted in your statement before the Investigatory Judge that the plans, whether prepared by the Corps, the Operations Office, or even a joint preparation by both, will not be executed until it has been discussed by the Operations Office, correct?

The President



(963-344)

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**He replied:** They may discuss it among themselves being Operational Offices and then pass it on to The Office of Chief of Army Staff or The Planning Department and in some cases the file may be presented to the Operations Deputy, which he may forward in an official letter, where the Planning Department is in charge of discussions, meaning that it is the office responsible of reviewing the presented case, which is then forwarded to the Operations Deputy.

**The convict was questioned by the tribunal:** Are details of the Anfal operations or any for that matter illustrated in detailed reports within the Military Staff Directorate, Planning Directorate and Operations Department?

**He replied:** It is obvious within army regulations that there exists a morning status report and an evening status report which daily state, nothing can be accomplished in the army if it is not stated on paper.

**The convict was questioned by the tribunal:** Do the Status reports mention the destruction of the villages and deportation of its residents?

**He replied:** It is mentioned, for all activities are stated within this report, which is forwarded to the Office of Chief of Army Staff. If any activity is missing even of one day, a call is made questioning how and why the activity was not mentioned.

**The convict was questioned by the tribunal:** At what precise time was a Commander coordinated for the 1<sup>st</sup> Corps?


**He replied:** The order was issued on the 1<sup>st</sup> of April and the Corps was under the command of (Kamil Sajit) on the 2<sup>nd</sup> of April.

**The convict was questioned by the tribunal:** Anfal operations are formed of eight operations, Can you state to the tribunal, which operations you led and which troops participated?

**He replied:** I would like the following taken into account: In the 1<sup>st</sup> Anfal I was in command of my assigned station and under my command were three divisions, which are: the 33<sup>rd</sup> Division, the 4<sup>th</sup> Division and the Light Legion Command that included (60 to 70) National Defense Regiments.

As for the 3<sup>rd</sup> Anfal operation in which the 1<sup>st</sup> and 2<sup>nd</sup> corps participated within the area from (Sinjar to Kifri and Kalar), which was a sector under responsibility of the 2<sup>nd</sup> Corps. Also participating in some way or another were the Light Legion Command, the Oil Protection Command.....

**The President**



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.....and the Artillery Directorate. As for the 4<sup>th</sup> Anfal operation, in which the 1<sup>st</sup> Corps led alone that also participated with the 10<sup>th</sup> Division I previously mentioned.

I also participated in the 8<sup>th</sup> Anfal operation, which the 5<sup>th</sup> Corps also took part in.

As a matter of fact, the sector was that of the 5<sup>th</sup> Corps sector, for my Corps and I were charged with assisting the 5<sup>th</sup> Corps in taking a sector of the 5<sup>th</sup> Corps's sectors and carrying out operations there, I was also charged to assist in planning and commanding its Military Units in order to expand their operational area.

**The convict was questioned by the tribunal:** Declared in your statement before the Investigatory Judge that you were summoned in mid January 1988 where you were met by the Chief of Army Staff (Nazar Al-Khazraji) and Chief of Army Staff Operations Assistant Lieutenant (Husayn Rashid) who briefed me on this operation, previously prepared by the 1<sup>st</sup> Corps and the Operations Agency, is this true?

**He replied:** when I was summoned by the Chief of Army Staff, I met with him in the presence of the Operations Assistant, the Planning Director then greeted them and took a seat, at which time the Lieutenant told me this is the situation, and you have been charged by us to take part in the Anfal operation and this file (which was in his hand) take it and read it and return to your Corps today and tell them that you have been assigned a mission.

Your group will be equipped in a day or two, you will go to Al-Sulaymaniyyah and open your headquarters, and this whole conversation was with The Army Chief of Staff.

**The convict was questioned by the tribunal:** Who is responsible for following up and executing orders in transferring a Corps once they have been issued by the Army Chief of Staff?

**He replied:** (Corps activity is the responsibility of the Operations Department) that tracks its activity, therefore (the duty of the Military Operations Directorate).

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(963-346)

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**The convict was questioned by the tribunal:** Did the assigned headquarters provide you with backing?

**He replied:** The Headquarters assigned to the Operations Command fell under my command and once our duties were fulfilled, an order was issued that everyone was to return to their original unit.

**The convict was questioned by the tribunal:** Declared in your statement before the Investigatory Judge that during the 1<sup>st</sup> Anfal operation you claimed to have had no communication with this department and that you had never met with any of its affiliates, yet after assignment of Command of the 1<sup>st</sup> Corps, the coordination was the Northern Organization Office in accordance to order 4008 dated 1987 June the 20<sup>th</sup>, is this correct?

**He replied:** I said that in the 1<sup>st</sup> Anfal I did not meet with anyone, the reason I never met with anyone and never had any relationship with the Northern Organization Office, was because we never found anyone in the 1<sup>st</sup> Anfal to take and send off to the Northern Organization Office, this is the reason we had nothing to do with it, yet in other operations families were present, therefore we carried out our orders (among which was letter No. (4008)).

It was about sending the families that were found, to the appropriate authorities and the Northern Organization Office.

**The convict was questioned by the tribunal:** Did the villages that were considered a prohibited zone contain only men of the (Pishmarga) Forces or did it also contain families?

**He replied:** According to our Intelligence, it was inhabited, yet we had not actually witnessed the situation in detail until the Anfal operation was carried out.

The operation was to begin by occupying its high grounds first and then work their way inside.

Whenever this occurred, families were seen and I saw them on more than one occasion, people, families, I mean men, woman and children, I would tell them to transfer them by car , I swear neither shackled nor captive.

**The convict was questioned by the tribunal:** What are the orders that were issued to the army sectors in regards to the treatment of families and their property within the prohibited villages? And did you carry out the issued orders?

The President



(963-347)

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... He answered: I had replied for two points, the first one regarding the people case; it is clear; if you find them, send them to the Northern Organization Office, that order has been issued by the Northern Organization Office.

The convict was asked by the tribunal about the order's execution.

He answered: yes, I had stated that this order was issued to the detachments and I informed the divisions that executed the order to do so, and took them to the Northern Organization Office of Kirkuk, the order was clear.

The people took whatever they could load in the vehicles, and they gave him so many vehicles that I witnessed, weird things could be happened in everywhere. Concerning the houses, an order of demolishing all the houses in the security-prohibited area was issued. The divisions gave back the document that had received by telegram from the Chief of Army Staff, No. (1182) dated on 1988 August 28 and stated that; The General Commander of the Armed Forces-Minister of Defense- ordered to (A) Demolishing all the villages and houses of each village by leaving one house or more in the previously-demolished villages, the army's air-force is assigned to control that.

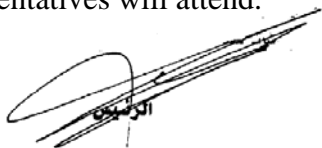
**A question was raised by the tribunal to the convict:** It was mentioned in your statement before the investigating magistrate that you have no connection with any member of the security committees related to the convict 'Ali Hasan Al-Majid.

However, sometimes a representative of the corps is being called and either a corps's staff officer or intelligence officer is attending, and if there is any issue regarding our task, it would be informed to me and the necessary action will be taken regarding it, is it true?

**He answered:** it is true, yes, sometimes if there is any issue related to our corps', a representative will go to the security committee.

**A question was raised by the tribunal to the convict:** about who is your corps' representative and do you know him?

**He answered:** that there is no permanent one and that one of the corps' internal security representatives will attend.



The President



(348-963)

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**A question was raised by the tribunal to the convict:** do you remember, for instance, one or two of the villages that been demolished in the Anfal operation?

**He answered:** for example there were many villages in (Simaqulyat) sector that been demolished by the army in the Eighth Anfal Operation, and that he mentioned its names in his statement.

**A question was raised by the tribunal to the convict:** It was mentioned in your statement before of the investigating magistrate that due to the bad weather and snow and rainfall; the air force was not used, but helicopters were called for support, it means that the weather was convenient?

**He answered:** what you said is right, but the helicopters cannot fly in the deep areas to avoid falling, it was flying over our detachments attacking the tops and it cannot reach the deep and the villages because it will be brought down if it reached there.

**A question was raised by the tribunal to the convict:** you said that you had received orders of moving the individuals found in the security-prohibited area by vehicles to the system, after that the vehicles started moving them to the Northern Organization Office where our relation with them will be finished there and when the cycle and the related documents is completed.

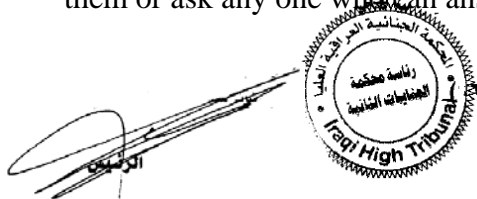
Therefore, do you mean that the army had arrested the individuals and handed them over to the Northern Organization Office; who is in its turn submitting them to the security authorities? So some individuals will be died during the investigations, some will be sent to mass graves, and others will be released, do not you think that the whole process is like a cycle starting from the army and arresting the people, and ending with the security?.

**He answered:** my answer concerning this point that; if I knew that those people will be treated in that way and I sent them; I will be an associate in the crime. But; I knew that they were moving them from the fight and the military operations areas to Kirkuk for saving their lives, that what I has been informed and I has not been informed about any thing else.

**A question was raised by the tribunal to the convict:** Was the transferring process by force or willingly?

He answered with a question, is there any one leaves his house willingly?

**A question was raised by the tribunal to the convict:** When you had submitted them to the Northern Organization Office, did you inquire about them and their fate? I never ask about them or ask any one who can answer me about them...



The President

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second Criminal Tribunal  
Baghdad-Iraq

Ref.No.:1/ 2<sup>nd</sup> Criminal / 2006  
Date: 09 Jumadah Al-Akhirah 1428  
Coincided with 2007 June 24

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... If I asked, and I know nothing about them, but if you ask me whether I heard in the radio any news about them? Yes, I was listening daily to the Radio of Democratic Party and Patriotic Union, and I heard much news about the mass graves, but I have no idea whether those people, buried in the mass graves, were the same who we moved to Kirkuk.

**A question was raised by the tribunal to the convict:** After the end of Anfal operation, had you been honored by the government at that time?

**He answered:** in the First Anfal Operation (One Medal of Bravery) as I am a corps commander that was assigned in a mission, if I success it, I will be honored, and if I fail it, my head will be cut. This is what I meant by the honoring, so when I said that they honored me, it would be against my efforts in accomplishing the mission assigned to me without any diligence, objection or negligence.

**A question was raised by the tribunal to the convict:** Did the orders of demolishing the villages and moving the people by the military vehicles, which was assigned to you, were legal in your point of view?

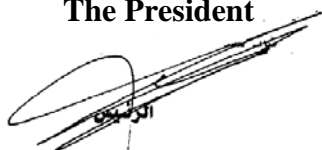
**He answered:** I think that you already read my answer to the investigating magistrate; I am receiving the orders from the deputy commander, the chief of army staff will inform the corps to order the division. I cannot ask him about the legality of that order especially that the country is in a war, it is a military order that to be executed.

**A question was raised by the tribunal to the convict:** If you were asked about your evaluation of the Anfal operation, are you satisfied about what happened in it?

**He answered:** For me as a soldier in that day of Anfal operation; the situation in the front was attack from two sides on the Iraqi front from (Mawat) and (Shimiran) sides, the evaluation of the Anfal operation for the soldiers was success, this is my answer, I'm a military soldiers who was assigned to a mission.

**A question was raised by the tribunal to the convict:** There is a correspondence numbered (349) dated on 1988 April 27 that was issued from the chief of army staff addressed to Staff Major General Sultan Hashim and Major General Ayad Khalil, its subject was ...

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... the directions of the conference held in Kirkuk on 1988 April 27 including article (F) of using the special ammunitions on the enemy's assemblies, also about the possibility of attacking the saboteurs headquarters by special ammunitions attacks, you are saying that you have no idea about that, but that correspondence was addressed to you?

**He answered:** It was addressed to me, but there were copies of it that sent to the others; some were sent to the Fifth Corps, to the First Corps, to the Fifth Corps Sector, to the First Corps Sector, and to all the other concerned parties.

**A question was raised by the tribunal to the convict:** A mass grave was found later in Al-Sulaymaniyyah area in the sector that was under your command during Anfal operations, bodies' remains and skeletons of Kurdish citizens of Anfal victims were found there.

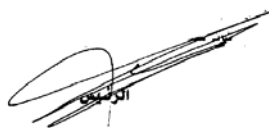
The grave included too; infant' toys and house plates, but you claim that you do not know about that, how do you explain it? He answered: I have no idea about the mass grave, and if I do, I will not keep silent.

**A question was raised by the tribunal to the convict:** And if you know this matter, it will be under the orders assigned to you, and you had mentioned before that if you have received an order, you have to execute it; either it is legal or illegal?

**He answered:** that differs; there is an order to kill the infants and one to attack the enemy.

**A question was raised by the tribunal to the convict:** How many artillery battalions under your control? He answered: three; each division has four battalions, but the light group does not have so we provide them from the other divisions, it means two divisions and each division contains four battalions so the total will be eight battalions.

**The convict Sultan Hashim also stated to the tribunal:** I am the Anfal commander within five commanders associated in Anfal operation and a commander in each part of it, I do admit my responsibility since the first day of the trial, and I said that in front of your Excellency. The second point; each action I had done is documented and I do not deny any of it, but during the time limits...



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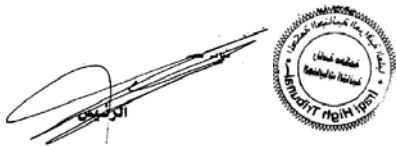
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...that I had mentioned from date to date in Anfal operations, and all the orders issued by the chief of army staff during that time either of demolishing houses or moving people to Kirkuk, and I really do not any idea on any other orders.

### ((Convict statement of 'Ali Hasan Al-Majid before the tribunal))

A question was raised by the investigating magistrate to the convict: When you were nominated to be in-charge of the Northern Organization Office?

**He answered:** I do not remember the exact date but it was in the beginning of the year 1987. After that the decree 160 had been issued by the Revolutionary Command Council on 1987 March 29 by which I was been granted the area's command in Kurdistan that is; the command of the security and military services and the state services, which means; the authorities of the National Security Council and the Northern Affairs Committee. In addition, I was in charge of the cities; (Duhuk, Al-Sulaymaniyyah, (Irbil), Al-Mawasil and Al-Ta'mim); my headquarters was in Al-Ta'mim governorate, my duty, at that time, was the Party Organization in the area and ensuring the public security in these governorates. I stayed in that position until April 1989, and during that time; I was controlling directly the security committees that was managing the security affairs in these governorates. Concerning what had been happened in the Anfal operations; the military detachments were responsible, in addition to the national defense regiments that were receiving orders from the General Command of the Armed Forces. The convict Sultan Hashim was commanding the operations in Al-Sulaymaniyyah. My relation with these military forces was only in housing the people who were moved from the security-prohibited areas and the borderlines to the housing complexes. In effect; the villages residents been deported and housed in the housing complexes, which been arranged for that, and the families that been settled in it were deported unwillingly by the military detachments, the national defense regiments, and the security committees according to the orders issued by me, ...



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... also orders and other instructions regarding demolishing the remaining of the village's houses in the area were issued by the army to the military detachments, and it was executed by them and it was became bare ground. After the deportation of the villages' residents, instructions been issued according to correspondence (4008) on 1987 June 20; that banned completely any human or animal existence there, and that area been considered a restricted one. I believed in these orders when I had issued it, in spite of its toughness.

A question was raised by the investigating magistrate to the convict: Tell us when was the deportation operation of the Kurdish villages' families been started?

**He answered** that regarding the deportation; the states' plan had been started in 1978 and was continued, and the people were got the compensations. During the period that I was in-charge of the North Organization Office; housing complexes were constructed by the Ministry of Housing of which individuals and families were moved to by the army and National Defense Regiments through the security committees.

**A question** was raised by the investigating magistrate to the convict: It was mentioned in the convict Sultan Hashim's statement that after controlling the villages during the Anfal operations, the families-that were living there of men, women, and infants- were moved to the Northern Organization Office, give us details about that? **He answered:** At that time, an order was issued by the General Command of the Army Forces to hand over these families to the security committees that in its turn and for its responsibilities; had issued an order to the security committees to receive the families.

**A question** was raised by the investigating magistrate to the convict: Concerning the demolishing of the Kurdish villages, who was the authority that issued these orders? **He answered** that the army was responsible for demolishing the villages located outside the cities, but the ones close to the cities; it was under the responsibility of the army and the national defense regiments, and I don't know the demolished village's numbers.

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Question addressed by the investigating magistrate to the accused: - according to vocal record for you during one of the meetings showed that you scattered families of women and children to different governorates then buried them in mass graves by bulldozers.

He answered: - I was saying that just for purpose of terrifying and psychological affection.

The investigating magistrate asked the accused: - you issued the order (4008) in 20 June 1987 to the 1<sup>st</sup>, 5<sup>th</sup> and 2<sup>nd</sup> Corps includes clear order to arrest anybody available in the security restricted area especially those ages between (15 – 70) what you say?

He answered: yes I issued this order not to restore the destroyed villages that they were compensated.

The investigation magistrate asked the accused: could you specify the range of the area was under your authority?

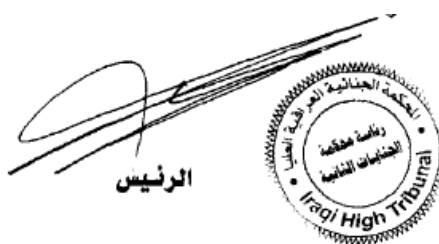
The accused answered: Based on my positions as a responsible for the Northern Organization Office my I'm responsible for five governorates Ninawa, Al-Ta'mim, Duhuk, Irbil and Al-Sulaymaniyyah in addition after execute the order concerns the security restricted Kurdish Villages I issued another order to empower the security committees in the above-mentioned governorates stating exploit the agricultural lands, the security committees was within my authority which means I was the direct In Charge to follow up these villages, my secretary in this committee Tahir Tawfiq Yusif.

Question addressed by the investigating magistrate to the accused: did you receive any instructions from the central government at that period in your authority area within Kurdistan region?

The accused answered:- according to appointment decision I was fully authorized to execute any operation in addition all the instructions issued that period were issued by me directly not by any other central side I have plenipotentiary.

Question from the investigating magistrate to the accused: - what was your plan rather than relocate the Kurdish families from the north?

He answered: our plan was gathering the families in compounds and after the 8 operations of Al-Nafal, the plan was...



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To destroy the villages, kill saboteurs, kill anybody resist or refuse the orders and destroy the Kurdish armed forces, according to the families we found in the region they sent compulsory by the army to deliver them to the security committees.

The investigating magistrate asked the accused: during some of your private meetings you mentioned that you were planning for confine the Kurds at limited areas to simplify attacking them by special weapons

The accused answered: I used to use these terms just for terrifying and I didn't use the chemical weapons in any area of Kurdistan region.

Question by the investigating magistrate to the accused: - through the documents we have it's indicate that you issued execution orders against some people were arrested in the restricted area, why you issued such these orders?

He answered: - I didn't issue any execution order except the order number (4008) concerning kill who was available in the limited area by the letter addressed to the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps which was amended after that.

Question from the investigating magistrate to the accused: - according to the witness testimony ('Umar Fattah) reported that during one of the meetings and through negotiations you inquired about the destiny of the Kurdish families who disappeared after year 1988 while you were occupying position of In Charge for the Northern Organization Office, what you say beside that?

He answered: this subject wasn't mentioned in these negotiations and I'm not responsible for Anfal events.

### ((Testimony of the Accused 'Ali Hasan Al-Majid in the Tribunal))

Question addressed from the tribunal to the accused 'Ali Hasan Majid: - what was your last position?

He answered: member in Iraqi Revolutionary Command Council and member of State Command in Ba'th Party



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Question addressed from the tribunal to the accused: - the tribunal has received two terms the first Northern Organization Office, the second Northern Affairs Committee, what do you mean by the Northern Organization Office?

He answered: Ba'th Party Office responsible for five governorates its Al-Ta'mim, Ninawa, Duhuk, Irbil and Al-Sulaymaniyyah

The tribunal asked the accused: - what is the Northern Affairs Committee?

He answered: the Northern Affairs Committee formed in 1970 presided by the Deputy of Secretary State Command, the Deputy of President of Revolutionary Command Council who occupy this position is the director of Northern Affairs Committee the members are Interior Minister, Defense Minister and the directors of security organizations such as the Intelligence and General Security, and when I entrusted to duty the In Charge of Northern Organization Office the committee's activity has suspended but its secretariat continue working by order from the Northern Organization Office and this is the Northern Affairs Committee

Question addressed from the tribunal to the accused: - in 29 March 1987 this committed suspended and the secretariat office became connected with the Northern Organization Office.

He answered: it's suspended but not dissolved because the decision 160 grants constitutional competences to the Revolutionary Command Council, Northern Affairs Committee and the National Security Council and granted to the In Charge of Northern Organization Office.

The tribunal asked the accused: - according to the documents the secretary of Northern Affairs Committee is the accused (Tahir Tawfiq Yousif) the secretariat became practice its work with Northern Organization Office.

He answered: after this decision the secretariat connected with issued supplementary instructions stating that the secretariat office connected with the Northern Organization Office and Tahir Tawfiq Al-'Ani is the secretary.

The tribunal asked the accused: by decision 160 what are the competences entrusted to you according to the decision number 160 issued by the dissolved Revolutionary Command Council for the year 1987.

He answered: all that mentioned in the decision is within my competences and I was working through these competences when I issued.

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Order dealing with the northern area by special way according to the exceptional circumstances in this area such as the internal rebellion of mutiny and the outer danger so that I was a must to declare the emergency state.

The tribunal asked the accused: - according to the decision 160 what was the authorities connected with you?

He answered: in the north all the authorities connected to me whether they were military or civilian such as (the Legislative and Executive Council, Governors, Corps Commanders, Security Directors, Intelligence Directors, Education Directors and others military and civilian organizations) all these are competences granted from decision issued by Revolutionary Command Council.

The tribunal asked the accused: what is the meaning by this paragraph (Member of State Command the comrade 'Ali Hasan Majid representing the state command of Ba'th Party and Revolutionary Command Council through execute its policy), what is the meaning by execute its policy?

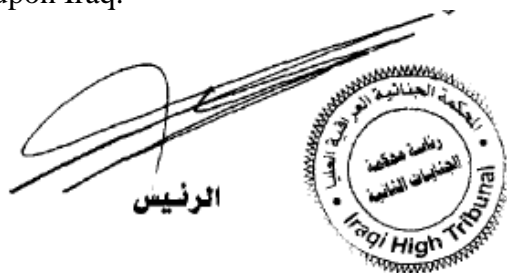
He answered: any thing decided by the council or the leadership toward execute the new or old policies, I'm the one who responsible for executing this policy

The tribunal asked the accused: did you really execute the policy of the party and Revolutionary Command Council in the region?

He answered: if I wasn't the right leader I wouldn't be in my position that time.

The tribunal asked the accused: are convinced that what you preformed was during the competences entrusted to you by Revolutionary Command Council and Ba'th Party?

He answered: I already informed the tribunal by yes I'm convinced according to the circumstances were facing Iraq that period and I'm not regretted ever on all what I did, I apologize for anybody harmed because my intention wasn't to harm anyone but to defend upon Iraq.



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The tribunal asked the accused: the Eastern and Northern Intelligence Organization was under your authority?

He answered: yes and receiving orders from me, the two organizations as any governmental department in the northern area belong to the Northern Organization Office.

The tribunal asked the accused: what was the reason of coercive relocation for the villagers?

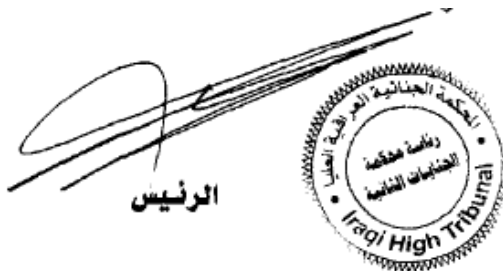
He answered: the relocation was based on two methods, it wasn't a relocation but gathering the villages which includes two directions the borderline villages and security prohibited villages, the borderline villages include all the borderline governorates such as: (Al-Mawsil, Duhuk, Irbil, Al-Sulaymaniyyah, Diyala, Wasit, Al-'Amarah and Al-Basrah), the security prohibited villages are each village becomes security prohibited by the leadership.

The tribunal asked the accused: which year the villages had been relocated on the borderline?

He answered: villages' relocation started since 1975 and continued until I came and realized that my responsibility is to end the saboteurs in the north and this is the country's policy whether it was set by Ba'th Party or by Revolutionary Command Council, I have to distinguish between who working for the country and others those working against it then relocation matter was necessary and based on this operation the government constructed compounds to start the relocation from Al-Sulaymaniyyah first before Irbil Governorate then Duhuk Governorate.

The tribunal asked the accused: as a secretary for the Northern Organization Office where you receive the orders and instructions?

He answered: all the in charges of party offices in Iraq connected to the secretariat of sate command of Ba'th Party where we receive the orders when there is an order sent from the Director of Sate Command Secretariat.



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The tribunal asked the accused: - national defense regiments receive the orders and instructions from the army to participate with the army in Anfal operations; did you participate in the army?

He answered: yes

The tribunal asked the accused: did the Command of the Legion [*T.C: Regrouped with (Jahfal)*] Command connect to you?

He answered: I confirm that all the employees whether they were civilians, militaries or security officers belong to the Northern Organization Office and if have any instructions I will direct it according to the functional sequence.

The tribunal asked the accused: through the plaintiffs testimonies and the documents exposed front of the tribunal what is the meaning of (Security Committees)?

He answered: in each governorate in Iraq there is a security committee consists of chief and members, the chief is the governor and members are Ba'th Party members, security director, intelligence director and police director, the committee is responsible for fighting the security activity in the governorate where its belong as well as responsible for all the security events which cause security violation, its available in each part of Iraq with subcommittees.

The tribunal asked the accused: these security committees were belonging to you also?

He answered: each employee or director represents these committees receive the orders from the official of Northern Organization Office.

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**A question from the court to the defendant:** the security had detainees in custody, so if one of the detainees died during the investigation or released, would you be notified about it or not? **He replied:** of course, it is a must; for I am the one who issued the detention order on the first place.

**A question from the court to the defendant:** was there any means of communication between you and the troops that were stationed in the geographic area covering your jurisdiction, and did you exchange views on the military situation or gave them orders? **He replied:** I did not issue any order, except in the Eighth Anfal, the 5<sup>th</sup> Corps Commander asked me about the way he should handle the civilians, I told him to deal with them according to the orders given during previous operations, as to hand over any detainee to the security.

**Additionally; the defendant stated before the court:** I was present at the Kirkuk meeting and I remember that the 5<sup>th</sup> corps commander, Yunis Al-Dharb, and the Army Chief of Staff Nazar Al-Khazraji were present too.

**A question from the court to the defendant:** what decisions did you take in the meeting? **He replied:** as for the civilians, it is exactly as I mentioned to you earlier, however I was not involved with the military aspect.

**A question from the court to the defendant:** as for the villages within the parameter prohibited zones for security reasons, were they inhabited at the time by its residents (women, children, elderly and men) and had they been deported? **He replied:** these villages were inhabited by its residents who were all assembled and then transported to housing complexes.

**A question from the court:** had the residential complexes open and easily accessible or were they manned by guards or the army? **He replied;** there was no such a thing as a town without guards in the northern part of Iraq. Every town and every complex is within a jurisdiction of all branches of the security services following a plan drawn out by the security committees on the governorate level. The families move freely except in the case when they are transferred to other complexes



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At such time they should get an approval, and if otherwise an approval was not secured, they will be held responsible, detained and prosecuted to the fullest extent of the law.

**A question from the court to the defendant:** you stated before the investigating judge that you issued other orders and instructions to the army troops to raze the remnants of the buildings of these villages in the area, were these orders to raze the buildings so that to prevent them from becoming hiding places? **He replied:** I issued those orders so that to eliminate any possibility for people to hide or weapons to be stored.

**A question from the court to the defendant:** did you issue memorandum number 4008 of 1987 June 20 in which you gave directives and orders outlawing the presence of the residents in these area? **He answered:** yes I did issue this memorandum.

**A question from the court to the defendant:** in this memorandum there are clear and direct orders as to kill anyone caught in this area between 15 to 70 years old, so what is your take on this? **He replied:** I reiterate to the court that this memorandum is issued by me, and I corroborate its contents, furthermore; I stick by my orders as we speak under similar circumstances prevalent at the time and should the situation warrant now, under wartime conditions, I would do the same as a result as I did in the past.

**A question from the court to the defendant:** were the orders and instructions, in the very beginning, designed for the army to attack the village, put it under control and if there were any individuals present, they would be deported and handed over to the Intelligence Service (*TC: the Eastern Zone Intelligence System*) for a month? **He replied:** at the end of the specified period, the army stepped in to carry out the orders by moving to the prohibited zones to quell any resistance, if any, this is (their job), should there was no resistance or



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they would then have them transferred for detention in the complexes; for they did not comply with the orders. The intelligence Service was at the receiving end from the Army. Later on, the army's responsibilities expanded and we did not foresee the number of civilians to be much higher than anticipated; we decided that the security committees would take over directly from the Army; this way we took the intelligence out of the process and passed this responsibility to the security committees.

**A question from the court to the defendant:** where did you detain the individuals who did not obey the orders and remained in the prohibited security zones? **He replied:** yes, the security would interrogate them, and if one did something that calls for a punishment to be handed down; if he, for instance, followed the saboteurs path; he would be detained, and if he was proven innocent, he will be set free to live inside the complex.

**A question from the court to the defendant:** who gave the orders to the army as to flatten the villages in the area? **He replied:** The Northern Organization Office gave an order; not for the villages to be destroyed, but once the residents are moved along with whatever they chose of their belongings, the remnants of those villages would have been demolished. I gave that order, I reiterated that in the past and do affirm it now; the decision was mine and we took it as a last resort.

**A question from the court to the defendant:** did you issue the document of reference number 4008 and had those individuals been arrested and executed? **He replied:** yes, the order was put into action whereby any individual came into sight would have been killed I do not remember the exact number of persons were killed but I would like to confirm to the court that the order was carried out in such a way that they would be interrogated. A judge would preside over the process and if it was proven that the individual had been caught with the intent to commit subversive acts. This process was established in accordance with the emergency laws that I talked with you earlier. It stipulates that the death sentence would be carried out without having to go through court system process. This has been widely publicized, it is not a secret and the public is cognizant of it.



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**In addition, the defendant stated before the court.....**Tahir Tawfiq was the Secretary of the Committee. When decree number (160) was issued, incorporating the secretariat with the Northern Organization Office, he became Secretary of the Northern Organization Office; he sometimes comes by, whenever something comes up, I would write to the Secretariat who would put it into action.

**A question from the court to the defendant:** who was the chief of the security committee in Al-Mawsil Governorate, was he the governor and were the security committees reporting to the Head of the Northern Organization Office? **He replied:** all security committees in the governorates reported to the Head of the Northern Organization Office and each security committee in a governorate is headed by the governor.

**A question from the court to the defendant:** as evidenced by the documents presented to the court that include cases of field execution for those individuals branded as saboteurs; which required your approval and following an investigation presided by a judge as you claimed, so what was the entity which had been entrusted with carrying out these executions, was it the security committees in the governorates or the Intelligence Service? **He replied:** there was a committee overseeing the responsibility of the execution, burial according to Sharia Law and the issuance of the death certificate. I am not familiar with that committee. I gave my order to the competent authorities whose responsibility was to follow it through.

**A question from the court to the defendant:** there is a document addressed to you, in which there is a reference to the fact that they had carried out executions following which they reported the action to you. Document number 1289, addressed to the Northern Organization Office, contains information on executions of criminals by a firing squad. You know that when you give an order to some authority, it becomes a solemn duty to see it through, do you remember this incident or not? **He replied:** I can not deny it but whom did you say wrote to me. (TC: no question mark).



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**The defendant testified before the court:** I am solely responsible for executing decree number 160 and all civilian, military and security government authorities in the Northern Region were reporting directly to me and I did not deny that.

**A question from the court to the defendant:** you listened to the audio tape-recording in which you threatened to launch chemical strikes, so what is your comment on this? **He replied:** most of the tape-recording carries my voice and now I reiterate before you that it was only for scare tactics and for the purpose of psychological warfare in an attempt to keep casualties to a minimum, therefore I have never used chemical weapons.

**A question from the court to the defendant:** In document number 4008, paragraph four, there is a reference to the killing of a large number of individuals, so what did you mean by this sentence? **He replied:** had they been present, special attacks were designed to kill the largest number of individuals present in the prohibited zones and this directive is clear.

**A question from the court to the defendant:** did you issue orders restricting on the conditions on the families of the so called saboteurs? **He replied:** yes.

**A question from the court to the defendant:** you had been granted broader powers as a result of decree (160), did you or the Revolutionary Command Council have authority to execute persons without due process? **He replied:** I have the authority of the Revolutionary Command Council and the Revolutionary Command Council has the authority to act should domestic security situations warrant an action, therefore; the Revolutionary Command Council has the authority to hand down the death sentence in two situations, in the case when there is a conspiracy to overthrow the regime or a conspiracy to carry out subversive acts against the country.

**A question from the court to the defendant:** did you give directives and orders as to confiscate funds and detain families? **He replied:** yes, I detained families and confiscated their funds so that to ward off others from daring to act similarly, and to stem the tide of subversive attacks; this way I would rather lose (10) than a (1000).



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#### **An Abstract of the Illustrative Brief Presented by the Defense Attorneys on Behalf of the Victims; Acting as Empowered Proxy for the Plaintiffs Pursuing Rights in Personam and the Lawyers' Requests as Shown herein:**

1. Attorney Mustafa 'Askari – Al-Sulaymaniyyah
2. Attorney Muahmmad Salih Amidi – Duhuk
3. Attorney 'Abd-al-Rahman Zibari – Arbil
4. Attorney Mustafa 'Ali Ahmad – Arbil
5. Attorney Guran Adham Ibrahim – Al-Sulaymaniyyah
6. Attorney Hidar Zubayr Barzani – Arbil
7. Attorney Ayad Isma'il Kakayyi

Stated in public during session (51) on 2007 March 26 by Attorney (Mustafa 'Askari) on behalf of the attorneys referred to above; comprising of (115) pages in addition to (14) pages for illustrations and maps portraying Al-Anfal campaigns together with charts depicting the military and security apparatuses involved in Al-Anfal campaigns.

Page (15) carries the attorneys' signatures. The brief contains the following:

Pages (2 and 3) point to the decision of referral and the names of the defendants who would stand trial for the crimes they are charged with which have been referred to in the decision of referral; appended as follows:

1. Genocide; pursuant to the provisions of clauses (A, C and E) of article (11) of the Iraqi High Tribunal Law No. (10) for the year 2005.



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2. Crimes against Humanity, pursuant to clauses (A, C and E) of article 12 of the same code.
3. War Crimes, pursuant to clauses (A, D and L) of article 13 of the same code.
4. All legal proceedings will be, conclusively, dropped against defendant (Saddam Hussein Al-Majid), pursuant to articles (300 and 304) of the amended law on criminal proceedings number (23) for the year 1971 in light of the death sentence that was carried out on 2006 December 30.

The brief outlined, in pages (3, 4, 5, 6), a history synopsis of the Kurdish people, the minorities living in the country, the former regime's uncompromising view of having them blended into the Pan-Arab Nationalism; considering the theory of national superiority and ethnic disintegration; pursuing all ruthless practices against these ethnic groups, in the process, to deny them even their basic rights. Mass graves number (2 and 9) in Al-Hadar district represent the clearest evidence of such brutal practices purported by the former regime against the Kurds who were accused of defiance and pledging allegiance to Iran. The brief also touches on the formal objections and challenges filed by the defendants and their legal counsels; ranging from the illegality of the court going, through the irrelevance of the criminal code when it is applied retrospectively, to the immunity the defendants claim for themselves and its' rebuttals with an emphasis on the cassation ruling number (24/ (T)/ 2006) of 2007 September 7 pertaining to the Iraqi High Tribunal and that the ruling realized legal credence.

**The brief continued, in pages (7-16),** articulating historical events as of the founding of the state of Iraq up to the 1970 March 11 Agreement and the positions the successive Iraqi governments had taken towards the cause as well as the emergence of the armed movements in Kurdistan starting from 1918 under the leadership of Al-Shaykh (Mahmud Al-Hafid) and the calamities and afflictions that beset their villages and towns; ranging from burning to destroying to displacement of residents and the fact that all governments were incapable of quashing these revolts despite the brutality of the repression. The brief referred to the 1970 March 11 Agreement, following the Ba'this regime's taking control of Baghdad on the heels of the 1968 July 17 Coup

  
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and the ensuing unjust economic siege imposed on Kurdistan with all the media blitz that surrounded the 1970 March 11 Agreement, however the clandestine and surreptitious practices on the ground were targeting the agreement by knocking down its provisions. Later on, it became abundantly clear that the agreement was considered as a ruse to buy enough time for the regime to regain control and strengthen its oppressive apparatus the likes of the (Intelligence and the Security Services) and then unleash an assault at the so called Kurdish rebellion that culminated in the revocation of the Iraqi citizenship, the displacement and the confiscation of property of more than half a million Kurdish Faylees on the pretext of their Iranian descent. On the other hand, the campaign of Arabization took off in (Kirkuk, Sinjar, Shaykhan and Khanaqin among other Kurdish areas). Then along came the assassination attempt at the life of Al-Mala (Mustafa Al-Barzani) in his residence in Haji 'Umran by a delegation of clerics, who were unaware of being booby-trapped. Although, the bomb was detonated remotely, nevertheless it was miraculous for Al-Mala (Mustafa) to narrowly escape that attempt on his life. When the Kurds sensed that the regime was procrastinating and dragging its feet in order to rid itself of its commitment as far as the agreement is concerned, the fighting resumed in Kurdistan and it intensified more than ever after the 1975 Agreement, when (Saddam Hussein) relinquished half of Shatt Al-'Arab to Iran. The Kurds demanded a few basic rights under the banner of (Democracy for Iraq and real autonomy for Kurdistan) that would have served Iraq as a whole. Here we ask ourselves a question, would not have been much better, more appropriate and beneficial for the Iraqi people, (Saddam Hussein) himself and the Ba'th Party to reach out and come together; not to go as far as calling on the Kurdish revolution, led by the late (Mala Mustafa Al-Barzani), to surrender but rather to resolve the differences between the two sides and settle their disagreements peacefully in search of a solution for the cause to remain above the fray, away from the battlefield clatter and foreign intervention. Doesn't the ceding of Iraqi soil to a foreign power, in itself, constitute a crime of a grand scale pursuant to the provisions of the repealed provisional constitution and article (156) of the penal code; stipulating that (It is a crime punishable by execution for any individual who, deliberately, commits an act that adversely affects the independence of the country, its unity or its territorial integrity whereby that very act may lead to such end result). With this illicit agreement the Kurdish Revolution suffered a setback.



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and most of the Kurdish armed men surrendered their weapons to the Iraqi regime and some of the Kurdish leadership took refuge somewhere overseas, nevertheless the Iraqi regime under the leadership of Saddam Hussein, who was the Vice Chairman of the Revolutionary Command Council and head of the Military Office, instead of embracing, treating the returning Kurds kindly or fulfilling his promises, to say the least, he set out to launch a vengeful (chauvinistic) campaign against the Kurdish people; outlined as follows:

1. To transfer and exile all returning citizens along with their families to the southern governorates and set strict surveillance measures on their movements around the clock, pursuant to Presidential Decree number (24) promulgated on 1975 April 23.
2. To set about displacing the residents of the villages along the borderline of the Kurdish region beginning with the districts of (Badra, Jassan, Khanaqin, Halabja, Chuwarta and Qal'at Ziza) all the way through the eastern town of Haj 'Umran and from (Haj 'Umran, Sidakan sub district, Mirga Sur, Barzan, Nirukan and Barwari to the northern town of Zakhu and from (Zakhu to Sinjar westward), a stretch of 25-kilometer wide, the razing of all villages located in these areas. The transfer and displacement of the Kurds from these areas and have them detained in human warehouses; built on a grand scale yet chaotically using stones, mud and straw, the sole purpose of which was to seize control and maintain a firm grip over the civilians.
3. To enter into two security agreements that allows the military forces of Turkey and Iran of the Shah to enter into Iraqi territories as far as 5 kilometers in pursuit of the Kurdish members of the opposition.
4. To dislocate the members of Al-Silivani, Al-Kuchar, Al-Hasyani, Al-Miran, Al-Shabak, Al-Harkiya, Al-Kakayyi, Al-Mila and other clans permanently and have their estates and arable lands, estimated at 25 Dunums (*TC: a dunum equals 2,500 square meters*), confiscated. Arab clans to settle on their lands once modern complexes are built for them.



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5. To relocate the residents of all Kurdish villages located within the parameters of (Shaykhan, 'Aqra, Ba'shiqa, Bahzani and Al-'Asha'ir Al-Sab'ah counties, also Garmiyan, Dawda, Salayyi, Talaban, Zangana, Shuwan, Jaf, Mirga, Qala Siwka, Shikh Bizini areas and Kuysinjaq, Qaraj, Kandinawa, Quwir, Dashti Dizayyi areas), the areas of (Baranati, Sharazur, Shar Bazir, Hawraman), (Al-Bayat) and other villages and areas. To have the civil status records transferred and to have members of the Arab clans replace their Kurdish compatriots whereby each Arab family is granted a lot of land and ten thousand Dinars to build a house.
6. To label Yezidis as Arabs and require all competent civil status directorates in their respective regions to have their ethnicity in the records changed despite the fact that they represent a religious minority of the Kurdish nation who perform their religious duties using the Kurdish language.
7. To tag Al-Shabak as Arabs, to use brutality, tactics of terror and forced relocation methods against them in case that they declare their affiliation to the Kurdish nation.
8. Rather than honoring the provisions of the 1970 March 11 Agreement, the now defunct Revolutionary Command Council, decreed a law outlining self-governance whereby two branches of government were established for the autonomous region; a legislative and an executive. These two branches did not have legislative or executive powers. At one hand, the legislative branch did not pass a bill authorizing the construction of a new school or a kindergarten in (28) years, on the other hand the executive branch did not exercise its authority, unless the Northern Affairs Committee nods its approval. A single policeman in (Irbil) or in Al-Sulaymaniyyah or in Duhuk had the power to take into custody all the members of the council without any of its members was able to defend himself.
9. To connect all the governorates, located within the parameters of the autonomous region, directly with the Ministry of Interior in an attempt to deny the General Secretariat in the region of its jurisdiction.



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10. The Redistricting of the Kurdish governorates; a process whereby the boundaries would be redrawn in such a way that districts are detached from Kurdish governorates and attached to Arab governorates so that to have a full control over them, dilute and disintegrate the Kurdish majority. Case in point is the Kifri district that was attached to the Diyala governorate; the Tuz Khurmatu district was attached to the Tikrit governorate as well as dispersing the Kurdish majority in the city of Kirkuk. This came as a direct result of these chauvinistic campaigns against the Kurdish people. The Kurdish leadership started a drive towards reorganizing and regrouping its forces and returned to the Mountains of Kurdistan to defend its people. Hence, the leaderships of the Party, the Government and the Army, at that time, took an advantage of that opportunity to carry out its policy of (genocide). The army was ordered to use the chemical weapons against the Kurdish civilians and the residents of the villages.

**The brief referred to the following in pages (17-23):** In order to define clearly the responsibilities of each defendant that requires identify the jurisdiction of their pertinent department. The deadlock surrounding the administrative process at the former regime's Presidency is attributed to the following reasons:

1. The acute sense of centralization of the administrative process of the Presidency, where the responsibilities and authorities were exclusively centered with the President (Saddam Hussein).
2. The secretive nature of the administrative process. The most important reasons in attaching the security, military, intelligence and special services to the Presidential Secretary or the Presidential Diwan stem basically from the nature of the secretive nature of those services; including the murder of opponents and citizens, manufacturing the materials which are prohibited nationally or internationally, the manufacturing of materials banned domestically and internationally such as the chemical, biological or nuclear weapons.
3. Presidential orders are carried out swiftly and secretly in contrast to the constitution, applicable laws and the International Law and its legal system, the bombing of Halabja, for instance, the killing of the Barzanis, the use of chemical weapons, the destruction of Al-Dujayl, the killing of victims of the 1991 Uprising or the decision of ...



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the liquidation of some dissents or political figures. The decision would, therefore, be carried out by the competent Authorities; each according to its relevant function without having to refer the matter to the Ministries or other Directorates and without any question asked.

4. The vast and unlimited resources available to these authorities that allowed them to carry out the orders swiftly, secretly and fully.

Exhibit number (1, 2 and 3) was presented publicly (of which a copy is enclosed herewith). It is a matter of fact that (Saddam Hussein) was the Vice Chairman of the now defunct Revolutionary Command Council, however, he was the de facto President of the country as he ruled for over (35) years without a permanent constitution but rather an interim one; using semi-martial laws as an autocrat. He ran the affairs of the state as he was holding the following posts and positions:

1. President of the Republic.
2. Chairman of the Revolutionary Command Council.
3. Prime Minister for a long time.
4. General Commander of the Armed Forces.
5. In charge of the following Security Services: (Intelligence Service, General Intelligence Directorate, Special Security Directorate, General Commander of the Special Guard and General Commander of the Republican Guard). Whereas the Partisan Positions the executed (*TC: a disparaging reference to Saddam Hussein by current government officials following his execution*) was holding are:
  - a. State Command Secretary of the now defunct Ba'th Party.
  - b. National Command Secretary General of the now defunct Ba'th Party. As for the legislative branch, it had never been able to pass a single bill unless the approval of the Chairman of the Revolutionary Command Council; i.e. Saddam Hussein himself, was granted.



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**The brief stated the following:**

Following the Iranian Revolution under the leadership of the late Ayatollah Al-Khumayni in 1979 and the collapse of the Shah Regime, Saddam Hussein took an advantage of the weakness of the new regime in Iran to back away from the agreement and his commitments to which he gave his approval as referred in the Agreement of Algeria. He had unilaterally revoked the agreement, mobilized his troops alongside the borders with Iran. He broke out a fierce war labeled as (Al-Qadisiyyah) on 1990 September 22 under the banner of "In protection of the Arab Nation's Eastern Gate" that lasted for eight years. Iraq and Iran lost more than one million individuals between casualties, injured and disabled. The overall Military Expenditure of war amounted to more than (250) billion Dollars which came to a conclusion on 1988 August 08.

The Iraqi-Iranian war had, in fact, come to a conclusion but the wars of (Saddam) did not end. Besides his military theory and ideological concept of annihilating and diluting every ethnic group that rejects his doctrine, he had other objectives of stamping out and eradicating the Kurdish Nation, as a result Al-Anfal campaigns were launched.

(Al-Anfal) is a word that means the spoils of war; it means the money, the weapons, the food and other stuff the Muslims laid their hands on during the Battle of Badr in addition to the captives. Al-Anfal campaigns, launched by the executed Saddam Hussein, joined by the defendants standing trial here before you and the participation of all branches and services of the army, Internal Security Forces and the ranks of their party. Those campaigns had affected all facets of the Kurdish Society's daily life; the human, the political, the economical, the social, and the psychological. It was exposed to abuse, destruction and the murder of the residents of the Kurdish villages; using, in the process, a range of various weapons; among which the chemical weapons and the internationally-prohibited toxic gases. The rest of the survivals among the residents of those villages; old, men, women and children including infants, were assembled and then transported to special camps. They were killed according to age and sex. The old were sent to secluded prisons such as (Nuqrat Al-Salman). As for those between the ages of (15-70) they were executed and eliminated in series of campaigns operated by special execution squads who would, later on, be buried in pre-arranged mass graves dug for this purpose...

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and cover their traces by getting rid of any evidence. The percentage of children affected by these actions reached 80% in some massive graves. These Military campaigns, as clearly evidenced, became genocide of an oppressed nation.

**The brief discussed the following, in pages (24-32):**

The defense team on behalf of Al-Anfal victims (*TC: the text here seems to be referring to the attorneys for the victims*) is inclined to cite the International Criteria for the crime of genocide and draw a comparison to the vicious crimes, perpetrated by the defendants and their accomplices. Jurists of International Law have outlined them into eight phases; taking the following into account:

1. The defendants divided Kurdistan into eight regions where each region was defined by delineating the villages, the mountains and the roads.
2. The defendants' actions had intersected throughout all those phases whereby they corresponded with articles (11) Genocide, (12) crimes against humanity and (13) war crimes, of the Iraqi High Tribunal Law number (10) for the year 2005.

**First: The Stage of Classification**

This is what the State and Army Leaders in the Ba'thist regime led by Saddam Hussein did. They branded the people and positioned the Kurdish Nation on the side of the enemy, for which they trained their Military personnel and Party members and had them indoctrinated to antagonize the Kurds. A clear example of that is the killing and the burying of the Kurdish children; saving not even the infants, at mass graves by fervent soldiers and Security personnel.

**Second: The Stage of Symbolization**

A name or a symbol may be forced upon unwilling members of a pariah group; profiled based on one's color, gender, national origin, religion or native attire, hence introducing new causes for hatred and rejection. This is what exactly the defendants did...



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and their accomplices, accordingly they called the Kurds saboteurs, traitors or descendents of treason. The purpose of this discrimination is to spread a spirit of hatred and rejection against the Kurds.

#### **Third: The Stage of Dehumanization**

It means that one group denies the humanity of another whose members are equated with animals or vermin that draws sarcasm and disparages the group; for a fighter in the ranks of the Pishmarga, which means guerrilla, is a saboteur in the eyes of the defendants.

#### **Fourth: The Stage of Organization**

This stage is always organized and carried out by the State's often trained and well-armed special army units or militias whereby well-prepared plans are set up for the genocide operations. In comparison with Al-Anfal operations, it turned out to be consistent with each other because a detailed organized plan was made, maps, and specialized forces were used to put it into action; including all branches of the military; infantry, tanks, equipments, artillery, various types of missiles, various types of conventional, special and internationally-prohibited munitions. It all started from the highest authority at the helm of the party and the state citing decree number (160) of the State Command and the Revolutionary Command Council dated 1987 March 29 in which defendant ('Ali Hasan Al-Majid) was given definitive powers to put the policies of the above-mentioned commands into practice. The mere reference to the phrase "executing its policy" means, unequivocally, that there was a study in place outlining Al-Anfal operations. The full potential of the state's resources of all its various services were dedicated for that purpose. Furthermore, a decision was made to link the Executive Council of the self-autonomous region of Kurdistan with the Governors of the rest of the governorates, the Directors of Administrative Units, the Security and Intelligence Services, the Military Intelligence, the Popular Army Command. All military units based in the region were commanded to follow the defendant's ('Ali Hasan Al-Majid) orders and all of that...



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signifies the platform for the crime of genocide. At this junction, we kindly request the Court to take the following points into consideration:

1. Do all the claims, stated by the defendants and their legal counsels, justify the use of the internationally-prohibited chemical weapons?
2. Does the killing and annihilation of defenseless and peaceful civilian villagers, transferring them from their homes to secluded areas, or displacing them to the desert, setting up mass graves for this purpose, holding them in secluded prisons, the suffering from malnutrition, the lack of medical treatment, the destruction of villages, farms, even their water springs and wells in the region were not spared... does the commission of these crimes come under the banner of "fighting Iran"? Or was it an accessory of that war? We would like to ask this question, where was the Iranian Army located, against which they claimed they were waging a war, when women, children and the elderly were killed in the area of (Badinan)? Which is hundreds of kilometers away from the Iraq-Iran Borders? At a time when the hostilities were ceased and the war had come to an end on 1988 August 08. The court has examined the documents portraying the launching of Al-Anfal operations in (Badinan) on 1988 August 25. You have also seen during the inspection in the (Nazarki Fort) (the villages of Kurima, Barjini and others) the impact of the chemical attack and you saw the remains of some victims and the destruction that befell the region. You have listened to testimonies of a number of witnesses on location; reviewed reports prepared by experts and documents signed by the defendants as well as the films; all of which substantiate the fact that the defendants and their accomplices had committed the crime of genocide against the Kurdish Nation at a time when the Iraq-Iran war had long been over.

#### **Fifth: The Stage of Polarization**

This took place in Kurdistan before and during the eight campaigns of Al-Anfal whereby the State's and the party's entire media machine was set aside to serve that very purpose; chief among which was the dissemination and broadcasting of propaganda; exploiting the faith in their criminal acts by dubbing these campaigns "Al-Anfal"; portraying the Kurds, in the process, as infidels who must be eradicated.



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This demonstrates, very clearly, what had these leaderships been preparing; as far as the propaganda of seeding reasons for hatred and polarization against the Kurds is concerned.

#### **Sixth: The Stage of Identification**

The victims are identified and separated out because of their race or religious identity, death lists are prepared, victims are grouped in concentration camps or detention centers where they are exposed to disease or starvation and we saw that happening to the Kurds by the defendants and their accomplices; as exemplified in the case of the detainees in (Tupzawa, Dibis and Nuqrat Al-Salman).

#### **Seventh: The Stage of Extermination**

It is extermination, the defendants and their accomplices have directly carried out Al-Anfal operations (the genocide). Given that the state was the sponsor; all state authorities, the popular army, the emergency forces, the security service, the security committees had taken part in these operations. The cruelty reached the point of taking a decision to attack the villages with huge bombs; which was, actually, carried out. Were the villagers, rebels raising arms in defiance of the state or were they agents of Iran's?

#### **Eighth: The Stage of Denial**

It's the last stage following the genocide in which the killers try to cover the evidence, frighten the witnesses, deny that they committed the crime, cast the blame on the victims and preclude any investigation into the crimes. By drawing a comparison between what took place during Al-Anfal operations with these standards, it becomes abundantly clear to the court how did these massacres take place, how the mass graves were dug in secluded areas and the evidence was covered in the same manner as in the cases of the mass graves in Ninawa and Al-Muthanna. The expert who testified before the court explained in detail how the mass graves were dug in secluded areas



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whereby they were away from the sight of the public. The defendants tried to put the blame on the victims and did make an effort to preclude any investigation into their crimes as it is evidently clear in the order issued by defendant ('Ali Hasan Al-Majid) in the Northern Office circular number (2713) dated 1987 April 10, disseminated by Al-Sulmaniyyah Security Directorate in its circular number (3131) dated 1987 May 10; in which he directed that under no circumstances should litigation or complaints; including those of civilian nature, be entertained in the areas where Al-Anfal operations took place.

The crime of genocide has been committed against the Kurdish people and established in all its elements- the immaterial element means the criminal intent- that is evident in decree number (160) of 1987 March 29, which contains the phrase "to implement its policy" this means that the intent was manifested in all its elements. The contents of the file demonstrate that there was a specified intent behind the acts of the defendants in carrying out the crime of genocide against the Kurds. As for the physical element, the court has the evidence; represented by the experts' reports, films (TC: Videos) attached to the file, audio recordings, mass graves, remains of the victims, unexploded bombs, plaintiffs' testimonies, witnesses' testimonies, documents, exhibits and correspondence bearing the defendants' signatures; all of which clearly constitute the material evidence of the crimes committed by the defendants. On 1959 January 20, Iraq ratified the 1948 December 9 Convention on the Prevention of the Crime of Genocide. The second clause of article No. (11) of the law of this court defines the punishable acts as follows:

- 1- Genocide.
- 2- Conspiracy to commit genocide.
- 3- Direct an overt incitement to commit genocide.

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- 4- An attempt to commit genocide.
- 5- Participation in genocide.

As for the connection between the defendants' intent for the annihilation of the Kurdish Nation and the crimes they actually committed, it is evident; had it not been for the defendants' intent to exterminate the Kurds, such a dreadful plan would not have been materialized with a scheme designed for systematic murder, burning and destruction; using all resources at hand, on land, in the air and all conventional and non-conventional and internationally-prohibited weapons.

**The brief covers the following; in pages (32-52):** elements of the crime in using weapons of mass destruction in Kurdistan. The crime of genocide was committed against the Kurdish Nation using two approaches. First, by using chemical weapons (non-conventional weapons) and second, by applying the method of Al-Anfal campaigns.

#### **First: Genocide by using Chemical Weapons**

##### **(1) Hard Copies**

Secret correspondence Ref. No. (SATTS M1/:3/Q2/5809), dated 1987 March 10, from the General Military Intelligence Directorate Secret, Personal and Urgent, to the Army Chief of Staff; copying the Office of the President. The Office of the President replied by correspondence number (SATTS 7/J2/808/K) dated 1987 March 12, contains the following (the president directed that your directorate (the General Intelligence) is to study, with the competent experts, a surprise attack targeting the bases of Al-Khumayni Guard, first branch, Al-Barzani's faction, using special ammunition and keep your options open as to carry it out using (the Air Force, the Army's Air Force, the Artillery). The general intelligence Directorate's correspondence directed to the Office of the President, Top Secret and Personal Ref. No. (SATTS M1/:3/Q2/6414) dated 1987 March 18 reviews the resources available to them in using special ammunition.



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(A) The weather is not cooperating in using the Sarin agent at the present time because the target areas are covered with snow which leads the agent to degrade and becomes a non-toxic substance and the same applies to the Tabun.

(B) We have good amounts of the (Mustard) agent, yet its potential effects are considered (miraculous); unless a concentrated dose is received; besides it evaporates slowly in snowy areas. The Top Secret correspondence (SATTs M A S ") Ref. No. (:3/Q2/6885) addressed to the Secretary – the Office of the President, Subject: The use of Special ammunition; it contains the following:

The targets referred to above are vital headquarters to the Iranian agents and members of the Iranian enemy. The presence of the enemy affects internal security in the Northern region. Its locations are far enough (being targets of special weapons) from our troops and they seem more suitable for the use of the chemical weapons and they could be deployed by the resources now at hand (the air force, tube rocket launchers, helicopters at night time).

Due to the limited amounts of the special weapons on hand at present time; it is recommended that one of the following two options is to be pursued:

- (A) **First Option:** To attack the two identified targets at present time by using two thirds of what is available of the special weapon (the Sarin agent) in addition to one third of what is available of the special ammunition (the Mustard agent) with the balance to keep and use in case of emergency at the operations sites.
- (B) **Second Option:** To defer the attack until mid of April 1987, when the amounts of the special weapons are available and the production has improved.

We are in favor of the first option. The correspondence was signed by defendant (Sabir 'Abd-al-'Aziz Al-Duri). The Office of the President – the Secretary replied with a Top Secret, Personal and Urgent correspondence



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Ref No. (SATTS 953/965/K) dated 1987 March 29, which contains the following: the approval was given for the strike to be carried out on condition that we must capitalize on the results. For your action and prior coordination with the competent Corps. We must be notified in advance of the time the strike is carried out.

#### **(2) The Crime Instrument (Unexploded round and bomb fragments)**

In light of the on-site probe this court has carried out in the below-mentioned villages affected by the chemical attack the Iraqi regime had launched:

- (A) The village of Barjini, of the Mangish Sub-District, the villages of Ikmala and Shiranah, of Al-'Imadiyyah District.
- (B) (The villages of Balisan, Tutma, Khati, Shaykh Wasanan close to the main road, of Chuwar Qurna and Khalifan).
- (C) (The villages of Takya , Balak Jar and Siwsinan) of the Qara Dagh Sub-District.
- (D) (The villages of Gup Tapa and 'Askar) of the Aghjalar Sub-District.
- (E) As well as others of the populated Kurdish villages that was inspected.

Dozens of unexploded bombs and missiles were found in those villages; the majority of which were designed to carry special ammunitions or chemical canisters. The toxic substances and chemicals were manufactured with the help of a Dutch expert (France Vanan Rad) (*TC: the name must be verified for accuracy*) known as (Faris Rashid) after he received the Iraqi citizenship. The use of chemical weapons against the populated areas such as the villages and the concentrations of the population as it occurred in Kurdistan is evidence by it self that demonstrates the intent of the perpetrators to commit the crime of genocide.

#### **(2) The report by the International Expert Doctor (Isfandiyar Ahmad Shukri)**

The report of the International Expert and member of Doctors for Human Rights, submitted to this court on 2006 November 29, contains the following: on 1988 August 25; that is



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Seventeen days to the day the Iraq-Iran War had come to an end, Iraqi warplanes, flying on low altitude, attacked the valley of villages of (Ikmala, Haysi and Baljan), of the Kani-Masi Sub-District using the Chemical Weapons that led to the killing of large number of the residents, animals, livestock and poultry; causing a large number of them suffering from the following symptoms:

- Eyes irritation, copious secretions/tearing
- Irritation and blistering of the skin
- Dyspnea and difficulty in breathing
- Complications and related-problems in the digestive system

In addition, the afore-mentioned expert stated to this Court that the symptoms observed on the exposed persons in (Diyar-Bakr) and (Mardin) refugee camps are the same symptoms diagnosed by the physicians upon examining those who were exposed to the Chemical weapons used by the Nazi Germany during the Second World War.

#### **(4) Medical reports issued by International Committees**

In reviewing the third volume of the investigation papers; pages (474 to 490), it becomes clearer to the court that the below-mentioned Kurdish citizens:

- [NAME REDACTED] – born on 1967 February 01
- [NAME REDACTED]– born on 1963 May 08
- [NAME REDACTED]– born on 1964 May 25
- [NAME REDACTED]– born on 1965 March 18
- [NAME REDACTED]– born on 1963 May 16



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had severe wounds as a result of the Chemical attack against the villages of the Kurdistan region. Their situation was so serious that the Humanitarian Organization had to send them to the Federal Republic of Germany for treatment. It had been proven as result of the medical treatment from the medical committees in Germany, that the injured were exposed to chemical weapons, specially (Mustard Gas), as included in the medical reports attached with the case documents.

In addition, the testimony of the eye-witnesses, [NAME REDACTED], provided their testimony to your honorable Court. They treated hundreds of Kurdish village's inhabitants affected by the chemical weapons.

**5) Court's on-site probe's reports**

On 2006 November 22, your Court issued order to conduct on-site probe of the village exposed to the premeditated chemical attacks by the Iraqi Army. The Court found remnants of the tubular-launchers or launchers from the bombardment by fighter jets or helicopters, on the civil villages in the three governorates of (Al-Sulaymaniyyah, Irbil, Duhuk) in addition to the reports provided by experts in the chemical sciences, assured the existence of chemical weapon's traces, mainly the Mustard Gas and Sarin Gas.

**6) Testimonies of the witnesses and statements of the plaintiffs**

It becomes clear to your honorable Court after reviewing investigation records and court records related to this case, that materialistic evidence, written statements and official documents submitted to your Court, during the trial session, are matching with the witness testimonies and plaintiffs statements submitted to your Court. We will submit for example:

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1- The plaintiff ([NAME REDACTED]) in the fourth session on 2006 September 11, she assured that she saw four Iraqi aircraft type Sukhoi, launching chemical bombs in the (Gali-Siwa) area, which led to kill each of ([NAME REDACTED]) and her sons ([NAME REDACTED]) and ([NAME REDACTED]). In addition and to kill comrade [NAME REDACTED] who is a leading person in the Iraqi Communist Party. This was confirmed by the document number, M1/ Sec 3/Div 2/ 13022 dated 1987 June 15.

2- Plaintiff ([NAME REDACTED]) in the fourth session dated 2006 September 11, as he stated on 1987 September 3, the ('Arbat, Darbarula) villages were chemically stroke.

3- Plaintiff ([NAME REDACTED]) in the same session stated his brothers ([NAME REDACTED]) died as a result of the chemical attack on their village 'Azaban.

4- Both witnesses ([NAME REDACTED]) and ([NAME REDACTED]) from (Gup Tapa) village related to the (Aghjalar) area, both assured that their village was exposed to chemical attack. To mention, the aforementioned village is extremely far from the Iranian border and it is close to (Chamchamal).

5- In addition to dozens of eyewitness and testimonies confirmed that the Iraqi Army exposed their villages to chemical strikes. Moreover, more than 76 plaintiffs and witnesses confirmed to your Court, that their villages were affected with chemical strikes which killed a large number of civilians. They all confirmed that there was no headquarters for the (Pishmarga) and they did not see any of the Khumainy Gurds, did not hear of any existence of Iranian Army personnel or the Pasdar (*T.C: Iranian revolutionary Guards*) in that area. Therefore, the Defending Committee (attorneys) for Victims Rights confirms to your court the following issues:

The General Military Intelligence Directorate had the leading rule, in planning for the crime of using chemical weapons in Kurdistan region. The convict (Sabir 'Abd-al-'Aziz Al-Duri), is the one who.....

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....was trusted by convict (Saddam Hussein) and he was the first Secret Supervisor of the program of using chemical weapons in Iraq. His allegations that he mentioned to your honorable Court are absolutely false; therefore his criminal act of using the internationally prohibited chemical weapons against the civil inhabitants of the peaceful Kurdish villages, is an act that (Saddam Hussein) was accomplished with support of the following convicts:

- Convict ('Ali Hasan Al-Majid): since he is the First Responsible Person of the Northern Organization Office, as he clearly admitted in audio tapes his insistence on using chemical weapons once, twice and even ten times,. He cursed all the oppositions, including the International Community and he admitted in session (35) that he is not regretting his deeds.
- Convict (Sabir 'Abd-al-'Aziz Al-Duri), who is the direct supervisor on planning and preparing for the crime of using chemical weapons against the civil inhabitants, in order to perpetrate the crime of genocide.
- Convict (Husayn Rashid Al-Tikriti): is the actual participant in planning and implementing, as he was Chief of Staff of the Army for Operations Affaires. He participated in meetings of the General Command of the Armed Forces and Presided over meetings of the Military Command in Kirkuk. This command was charged with planning the Anfal operations, according to documents. He ordered the Military units including the 1<sup>st</sup> and 5<sup>th</sup> Corps to execute the orders of the accused (Saddam Hussein) regarding the usage of chemical weapons and he was an important element in laying down the military plans.
- Convict (Sultan Hashim Ahmad): The 1<sup>st</sup> Corps Commander, the actual On-field Commander for operations in the Kurdistan region who requested along with the 5<sup>th</sup> Corps Commander to use chemical weapons against the civil inhabitants in the Kurdish villages, according to the official documents.

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issued by the Army Chiefs of Staff and the Presidency of the Republic. Convict (Saddam Hussein) awarded him with four medals of bravery, granted him the Alias of Al- Anfal Hero, honoring him for his heroic rule in killing Kurdish civilians and for relocating the remaining Kurds from their villages, destroying villages, farms and removing them. Moreover, his criminal intents are clear in the telegram he submitted to the President of the Republic at that time.

- Convict (Farhan Mutlak Al-Juburi), The Eastern Zone Intelligence System's Director who participated in planning for the Chemical strikes through his letters and his military security reports that were adopted by the General Military Intelligence and were submitted to the Presidency of the Republic. He also supervised the Intelligence Units that participated in Al-Anfal, by relocating villagers, detaining them and handing them over to the Security Committees at the concentration camps of Anfalized (whom are missing). In addition, he supervised destroying, demolishing and flattening the villages.

- Convict (Tahir Tawfiq Al-'Ani), who played a main rule in circulating and executing the decree number (4008), dated 1987 June 20, according to which, dozens of the peaceful villagers were executed. Based on that, acts of the aforementioned convicts are forming the genocide crime as they used weapons of mass destruction to murder members of the Kurdish ethnicity in several areas of Kurdistan.

Second: Genocide Crimes by Military operations:

As an implementation for the organized plan of eradicating the Kurdish ethnicity, and in order to carry it on; the now defunct Revolution Command Council held a joint meeting with the State Command of the Ba'th Party, requested by (Saddam Hussein) on 1987 March 18, in the presence of the Army Chief of Staff accused (Nazar Al-Khazraji), the General Military Intelligence Director accused ( Sabir Al-Duri), and Army Chief of Staff Deputy for operations accused (Husayn Rashid Al-Tikriti),. In this meeting it was decided .....

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to lay down the plan of the genocide against the Kurdish nation with all types of conventional and chemical weapons under the slogan of countering rebellions from the agents of Iran (*T.C:PUK*) and the off springs of treason (*T.C: KDP*) and also to end the Kurdish problem for ever. In light of the meeting, the Revolutionary Command Council issued decree number (160) on 29 Mar 1987, and the following was carried out in accordance to it:

- 1- Considering the Autonomous Ruling Area of the Iraqi Kurdistan security and military locked, and prohibited area.
- 2- Appointing the accused ('Ali Hasan Al-Majid), Member of the State Command in the bygone Ba'th Party, as the official in charge of the Northern Organization Office including the Kurdistan Autonomous Ruling Region in order to present their policies, which is the policy of the bygone Revolutionary Command Council and the State Command of the Ba'th Party. Right after his appointment the accused 'Ali Hasan Al-Majid started his new post and took (Kirkuk) City as his headquarters carrying the decree number (160) for the year 1987, that contain plenipotentiary over the army, internal security forces, party and other security systems and in order to execute the genocide plan, he decided:

1<sup>st</sup>- Forming security committees in the following governorates (Diyala, Kirkuk, (Irbil), Sulaymaniyyah, Dahuk, Ninawa, Salah-al-Din), headed by the governor and the membership of Security Director, Police Director, Secretariat of the party's branch and representatives from the General Military Intelligence Directorate and the Iraqi Intelligence Service (according to the attached chart number 4) that was enclosed and its mission was specified by the following:

- 1- Carrying out instruction of the Northern Organization Office by implementing the genocide plan against the Kurdish nation
- 2- Supervising the relocation, demolition and eradication of villages and towns

  
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- 3- Security supervision over all the Kurdish cities and arresting any person suspicious of being an inhabitant of the flattened villages.
- 4- Receiving detained families from the military troops and transferring them to Anfalized collection centers in (Tupzawa, Dibs, Chamchamal, Nazarki Fort and Salamiyyah).
- 5- Preventing Kurds from entering their farms for plowing and farming, and incase of finding any person investigate him and kill him immediately without any trial
- 6- Arresting families of the Pishmarga and sending them to Anfalized collection centers aiming to distribute them on mass graves or sending them to death centers in Nuqrat Al-Salman.
- 7- Carrying out execution against any person suspicious of having direct or indirect relation with Pishmarga members.
- 8- Intensifying economic siege on areas from where villages have been eradicated, and prohibiting entrance and exit of anything including food, fuel and medicine
- 9- Preventing courts from reviewing cases related to the locations included in the Al-Anfal Campaign and avoiding cases related to the relocated families and allowing only after an approval from the security committees
- 10- Set a complete plan by every security committee for its geographic borders and prepare requirements such as staff and vehicles in order to receive Kurdish families from the army and intelligence according to the designated plan.
- 11- Allocating necessary expenses for each security committee in the governorate
- 12- Obligating all security committees in the governorate to establish similar sub-security committees in districts and sub-districts that fall in their geographic boundaries.



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13- Granting full authorities to the security committees to punish any employee who procrastinate orders where the punishment could reach immediate execution in the case of collaborating with or covering up for the relocated individuals.

2<sup>nd</sup> – Forming a special military command in Kirkuk, assigned to execute the detailed military plan for Al-Anfal operations. According to the documents that came into sight, a meeting was held in Kirkuk attended by a majority of the military commanders, especially the fugitive convict (Nazar Al-Khazraji), convict (Sultan Hashim Ahmad) Chief of the 1<sup>st</sup> Corps, convict (Husayn Rashid Al-Tikriti), convict (Farhan Mutlak Salih Al-Juburi), convict (Sabir 'Abd-al-'Aziz Al-Duri) and others.

3<sup>rd</sup> – Freezing laws including Penal Codes and criminal procedure law implemented in Kurdistan as per the authorities granted to the convict ('Ali Hasan Al-Majid) in the last passage of the decree number 160 in the year 1987, of the bygone Revolutionary Command Council and considering his written and verbal directions and orders as legislative laws according to circular number (4008), dated 20 Jun 1987 and issued by the Northern Organization Office.

Stages of Al-Anfal Operations as shown in schedule in pages (53-108), are as follows:

### **The First Stage of the Anfal Operation Started from 09 Feb 1988 until 23 Feb 1988**

#### **Geography of Crime Scene**

In the (Sargalu and Bargalu) mountainous area in Surdash, sub-district of the Dukan district and the areas neighboring it, consists of (150) villages spread out in tough uneven mountainous valleys. This valley is called

  
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Jafayati and the following forces had participated in that major crime under the command of convict (Sultan Hashim Ahmad).

### The 1<sup>st</sup> Corps

- 1- The 38<sup>th</sup> Infantry Division ('Umar Bin 'Abd-al-'Aziz Forces) is constituted of the 18<sup>th</sup> Infantry Brigade, 447<sup>th</sup> Infantry Brigade, 130<sup>th</sup> Infantry Brigade, Tanks Battalion and Commandoes Regiment.
- 2- The 5<sup>th</sup> Mechanized Division (Muhammad Al-Qasim Forces) is constituted of the 15<sup>th</sup> and 21<sup>st</sup> Infantry Brigade, 20<sup>th</sup> Mechanized Infantry and the 2<sup>nd</sup> Armored Brigade.
- 3- The 2<sup>nd</sup> Artillery Infantry Division (Al-Muthanna Forces) is constituted of the 22<sup>nd</sup> Infantry Brigade, 48<sup>th</sup> Infantry Brigade and the 44<sup>th</sup> Infantry Brigade.
- 4- The 2<sup>nd</sup> Infantry Division (Khalid Bin Al-Walid) is constituted of 4<sup>th</sup> Infantry Brigade and the 36<sup>th</sup> Infantry Brigade.
- 5- Three brigades from the Republican Guard with all its advanced equipment.
- 6- Badr Forces
- 7- The 4<sup>th</sup> Infantry Division (Al-Qa'qa')
- 8- 33<sup>rd</sup> Division
- 9- Al-Mu'tasim Forces
- 10- Other participating units: (Chemical ranks, Army Aviation, Air Force, and combat units which are the 5<sup>th</sup> Corps, engineering efforts in eradicating villages, special combat efforts in opening routes and mountainous passageways, and military intelligence units.)

### The Criminal Plan

On 6-7-8 Feb 1987, the military units laid a siege to the crime scene in (Sargalu and Bargalu), with areas and villages belonging to it, from three directions, the north, south and west, and on 2 o'clock in the rainy and cold night of 23 Feb 1988, some of the Kurdish villagers .....

  
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..... woke up due to explosions of rocket launchers and long range artillery especially in the (Yakhsamar and Sargalu) villages where there was concentrated bombardment until early morning. In the dawn of 23 Feb the helicopters and jetfighters completed the specified targets in that location, and bombed any target which was moving targets, no matter whether the target was a human or an animal. Then the military units moved towards Sargalu and the civilian inhabitants started leaving their houses for caves due to the fear of chemical and conventional bombardment. The offense remained for several days and the army blockaded the villages. The families were gathered in villages' squares by the direct supervision of the intelligence and names of villagers were recorded. After this, they were transferred by military vehicles to the (Chamchamal and Al-Sulaymaniyyah) Camps. From there they were transferred to the Anfalized Collection Center in (Tupzawa), which is a camp related to the Popular Army under the direct supervision of the security committee in the Al-Sulaymaniyyah governorate. The women were separated from children and adults without food, drink, or medical service and received harsh treatment from individuals affiliated with the security committees of the General Security Directorate and the General Military Intelligence Directorate, waiting their unfortunate fate. Please, look into the attached graph number (7) related to the transfer of Kurdish prisoners.

And after the transfer of families and looting of the village, the engineering effort grouping with the military forces, demolished and exploded homes, schools and mosques in the affected villages, and leveled all to the ground. Additionally, the springs, wells and other water sources were filled up, and mines were laid on the villages' borders which were considered prohibited. After this, the Eastern Intelligence System marked the village in the operations room's maps as eradicated and its report was referred to the General Military Intelligence Directorate.

A large number of villagers fled to the areas adjacent to the Iraqi-Iranian border, to include those fearing death, especially, after hearing news of their relatives and the unfortunate fate of those who surrendered to the army, but the regime with the Eastern Intelligence System's arrangements .....

  
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widely announced amnesty through circulars written in Kurdish and Arabic. This was distributed using airplanes to all who wanted to surrender to the army. As a matter of fact, many of those families responded and surrendered to the sectors that were there, but they encountered the same aforementioned unfortunate destiny.

### **Firstly: the proving evidence of the Al-Anfal First Crime**

The General Prosecutor has presented before your Honorable Court dozens of convincing documents which undoubtedly prove that Saddam Hussein and the defendants who appear before you, committed the disgraceful Al-Anfal Operations according to a previously schemed methodological plan. And among these documents:

- 1- The Revolutionary Command Council Decree No. 160 dated 29 March 1987.
- 2- The letter No. 4008 dated 20 June 1987 issued by the Northern Organization Office, signed by the defendant 'Ali Hasan Al-Majid and generalized by the defendant Tahir Tawfiq, which includes the Scorched Earth Policy in Kurdistan and the execution of every arrested Kurdish who were (15-70) years without trial.
- 3- Dozens of military documents-which were presented before your Court-were issued by the General Military Command and the Chief of Army Staff to strike the Kurdish Villages with conventional weapons (and the special ammunition) i.e. the chemical weapon.
- 4- Audiovisual clips of the defendants.
- 5- The documents issued by the two Intelligence Eastern Organizations which proved that the army destroyed all the villages, with the direct management of the Intelligence Personnel.

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- 6- The Document U 3/Q 2/ 4122 date 01 March 1988, issued by the Intelligence Eastern Organization signed by the defendant Farhan Mutlak Al-Juburi and addressed to the Third Intelligence Section, proves the use of the special ammunition with aircrafts. Around (100-120) were killed or wounded among the saboteurs and the residents of the targeted villages in Al-Anfal First and Second Operations.

### **Secondly: admissions of the defendants in the investigation and Prosecution stages**

**The defendant ('Ali Hasan Al-Majid)** has admitted: before your Respected Court many times that he was the responsible of the Al-Anfal Operations and that he put them all in effect with their details; he also told in the Session (33) that he is not regretful concerning what he did, on the contrary, he did it as a national duty. He said verbally (if I am back in the authority, I'll do it again).

**The defendant (Sultan Hashim Ahmad):** has admitted before the Investigation Judges that he managed the first stage of the Al-Anfal Operation and he boasted in that role which he considered as a heroic one. **He also admitted** that he carried out the orders of the defendant 'Ali Hasan Al-Majid and all the military orders of his superiors, whether a legitimate order or not (page 8181 of the case file). As a result, he was honored by the Presidency of the Republic with his accomplice, the escaping defendant (Ayad Khalil Zaki) according to the document no. (A/14-57) dated 05 April 1988, issued by the Secretariat of the General Command of the Armed Forces.

**The defendant (Husayn Rashid Muhammad Al-Tikriti) has admitted:** during the investigation and prosecution that he occupied the position of the Army Chief of Staff Deputy Commander for a long period, Member of the Iraqi Armed Forces General Command; and that he participated in planning and implementing Al-Anfal Operations, for being a honorable military operation that defends the nation against the Iranian Forces intervention.

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**The admissions of the defendant (Sabir 'Abd-al-'Aziz Al-Duri):** were clear and frank during the investigation and Prosecution, as he confirmed before your Respected Court that the documents presented by the General Prosecution are signed by him and he denied only two documents. Whereas, after making a comparison of the signatures, it appeared that the denied signature was one of his. He also confirmed before the Respected Court that Iraq was producing chemical weapons and the Regime already handed the rest of it over to the United Nations Committees after the Kuwait invasion war.

**The defendant (Farhan Mutlak Salih Al-Juburi):** the Director of the Eastern Intelligence System. It was undoubtedly clear that his inciting role was prominent and that the document No. (4122) dated 01 March 1988, directed to the General Intelligence included serious and seditious information. This document which comprises (22) information clauses, provokes the Armed Forces General Command for taking quick military measures in the Kurdistan Province. Because the Kurdish Commands began their cooperation with the Iranian Army and the Khomeini Guard, as a preparation to invade the Northern Area and gain a power over the dam of Dukan and Darbandi Khan, bringing the frogmen for this purpose. Immediately after that, the General Command speeded up their Anfalization and extermination program against the Kurdish people.

**The defendant (Tahir Tawfiq Al-'Ani):** was the Secretary of the Northern Organization Office. With his responsible and sensitive security position, he generalized the Decree of the Northern Organization Office No. (4008) dated 20 June 1987 issued by the defendant ('Ali Hasan Al-Majid), which includes the execution of the Kurdish Villagers of ages between (15-70) years without trial. Following this Decree, thousands of Kurdish people were executed. He also occupied the position of Ninawa Governor and became the Chief of the Security Committee there; he also ruled the Center of the Anfalized people in Al-Salamiyyah. Moreover, thousands of families were buried in the

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Al-Hadir Area which belongs to his Governorate. The ('Aqarah and Al-Shaykhan) counties belong to his Governorate as well; and the 8<sup>th</sup> Al-Anfal crime was carried out there, hundreds of Kurdish villages were destroyed and the residents were relocated and killed according to the mentioned Decree No. (4008); he was also an active accomplice in the genocide crime like his partners.

#### **Third: International experts' reports:**

The American expert ([NAME REDACTED]) presented his photographed report as an anthropologist and specialized in the forensic medicine during the 26<sup>th</sup> session on 2006 November 30, where he clarified for the Court that the 3 graves were mass graves and they have never been disinterred before him. It was proved by the data collected from the 2<sup>nd</sup> Ninawa grave, by which the expert clarified that he got the following facts:

- A- The remains of 123 individuals were found all of whom had been shot dead
- B- The remains of (25) adult females were diagnosed.
- C- The remains of (98) kids were less than 13 years old.

The international expert mentioned that the victims of the 1<sup>st</sup> group were handcuffed with ropes and their heads were bending to the east and lied down one after the other. The other group was shot dead while they were on the other edge of the grave. He also showed, a photo of a woman aged (30-40) years, that was pregnant during her execution and a photo of a child covered with a blanket and encompassed in his mother's lap aged (6-12) months. His skull was hit with bullets. The victim's clothes were Kurdish.

- (69%) of them were blindfolded.



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- (69%) were hit on their heads
- (72%) were hit in their vertebrae
- (66%) were hit in hands and legs

The expert indicated that he found many identity copies and documents belonging to the residents of the villages where the 1<sup>st</sup> Al-Anfal was carried out in the Surdash Area. He took an oath that he found the identity copies in the graves when he opened them.

### **Fourth: victims' medical reports:**

1- The plaintiff [NAME REDACTED], born in 1960, stated that after the Halabja bombardment with chemical weapons on 1988 March 16, they withdrew from their position for the civilians safety. On 1988 March 20, they arrived to the destroyed Shanakhsi Village and on 1988 March 22, aircrafts flew around (Mawat, Dashti, Awa, Kani Bardi, Qashan) areas and bombed them with chemical weapons by which the plaintiff's companion ([NAME REDACTED]) martyred. In the afternoon of the same day, the Iraqi military aircrafts bombed them again for the second time, both of ([NAME REDACTED]), [NAME REDACTED] and ([NAME REDACTED]) martyred. He also saw the bodies of kids, women and old men killed by chemical weapons. Moreover, my client was injured in his eyes and body, lost his consciousness and was transferred to Al-Khumayni Hospital in Asfahan, where he stayed for 6 months suffering the tortures and pain, according to his description of himself and to the medical reports which were shown before your respected Court. (20) people died in that hospital. Furthermore, the infected people were suffering, among them was ([NAME REDACTED]), who is the governor of Al-Sulaymaniyyah Governorate. The check-ups proved that he was infected by the chemical weapon and he is suffering from allergies during the heat and high light. His lungs



The President



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were infected and he lost one of them; that is mentioned in the medical report attached to his case folder. He also complained against the convict (Frans Fan Ann Rad), who is Swiss by origin and a Dutch citizen, he is a chemical weapons merchandiser who was sentenced by the Lahay Court to 15 years of imprisonment. The attorney showed a copy of the sentence decision No 9/751003/04 issued in 2005 December 23 pursuant to Articles 57-48 of the Dutch Criminal Law and by virtue of Article No. 8 of War Crimes Law.

2- Also there are dozens of medical reports regarding the infected by the weapons of mass destruction, especially mustard gas, which are attached with the case folder.

#### **Fifth: The testimonial proofs and plaintiffs statements**

For Example:

- 1- The plaintiffs ([NAME REDACTED]), stated in the 5<sup>th</sup> session on 2006 September 12, in the 6<sup>th</sup> session on 2006 September 14, in the 7<sup>th</sup> session on 2006 September 14 and 10<sup>th</sup> session 2006 September 20 where their villages were attacked by the chemical weapons. During the attack many were killed and the rest ran to the borders.
- 2- The plaintiff ([NAME REDACTED]) from Maluma village, stated in the 6<sup>th</sup> session on 2006 September 13 that his sons ([NAME REDACTED]) were subject to the crime of the forcible harboring and their destiny is unknown until now.



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- 3- The plaintiff ([NAME REDACTED]) stated in the 8<sup>th</sup> session on 2006 September 18 that her village Sarmurd that belongs to Dukan County, was attacked with chemical weapons launched by planes and artillery. The army also burned her village and arrested them and then transferred them to Qal'at Susi. They took her husband and her sons ([NAME REDACTED]) and her mother-in-law ([NAME REDACTED]) to the (Tupzawa) complex and stayed one night. They were then separated to a place. Their identifications and personal things were found in Al-Hadar graveyard in Ninawa Governorate.
- 4- Whereas ([NAME REDACTED]), from the Dula Bi Village, who was present during the disaster...stated in the 10<sup>th</sup> session on 2006 September 20 that his village was attacked by air bombardment and artillery, the fact that forced them to run to the Iranian border with his father. After 10 days they surrendered to the Iraqi forces in the (Suni) Village and they were transferred by IVA military vehicles with 9 other families to the (Chuwar Qurna) Division. They stayed there for 10 days and were transferred to (Tupzawa) and stayed there for 10 days. Then his father and his brother [NAME REDACTED] transferred to the (Nuqrat Al-Salman) detention camp and stayed for 6 months and 15 days. He clarified that the only reason for their detention was because they were Kurdish and that he never committed any crime. The detention camp was supervised by Arab soldiers.

### **Second stage of Al-Anfal operation in Qara Dagh Area From 1988 March 22 to 1988 April 01**

#### **The crime scene geography:**

The Regime selected Qara Dagh as a target for the 2<sup>nd</sup> Anfal operation targeting the Kurdish people who lived in their ancestors' villages expanding 70 miles to the Eastern South by the (Gila Zarda) mountains



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and Al-Sulaymaniyyah City and from the Eastern South (Darbandakhan dam), Also from the west (Basara mountains and Nakaw Area) occurred by dozens of villages like( Baha, Balak Jar, Siwsinan, Takya, 'Alyawa, Mirat and Qara Dagh center and others).

The military plan included the formation of civil command called as (organized headquarter) for the 2<sup>nd</sup> Al-Anfal operation in Qara Dagh Area under command of Staff Major General (Ayad Khalil Zaki) the commander of the 2<sup>nd</sup> Corps which is known as (Al-Yarmuk Forces) and with the participation of the following units:

1- 15<sup>th</sup> Infantry Division, Al-Faruq Forces which comprises:

A- 436<sup>th</sup> Infantry Brigade

B- 14<sup>th</sup> Infantry Brigade

C- 76<sup>th</sup> Infantry Brigade

D- Tank Battalion

2- 34<sup>th</sup> Infantry Division, Al-Harith Forces combined of:

A- 502<sup>nd</sup> Infantry Brigade

B- 504<sup>th</sup> Infantry Brigade

C- 90<sup>th</sup> Infantry Brigade

D- Tank Battalion

3- 3<sup>rd</sup> Armored Division (Salah-al-Din Forces) combined of:

A- 8<sup>th</sup> Mechanized Infantry Brigade

B- 12<sup>th</sup> Armored Brigade

C- 6<sup>th</sup> Armored Brigade

D- Commandos Regiment

The President



(963-398)



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- 4- (50<sup>th</sup>) Division under the command of the Brigadier General Zuhayr Yunis 'Ali.
- 5- Command of regrouped light forces (*T.C: National Defense Regiments*) / under command of Staff Brigadier General Sa'd Shams-al-Din.
- 6- 1<sup>st</sup> Forces Command
- 7- 3<sup>rd</sup> National Regrouped forces Command
- 8- Qara Dagh Sector Command
- 9- Al-Sulaymaniyyah Emergency Force

Also other units participated like:


- A- The Chemical Ranks
- B- Army Aviation
- C- Air Force
- D- Engineering Effort charged of destroying the villages.
- E- Party Effort specialized in opening roads and mountain's paths.
- F- Military Intelligence Units.

### The Criminal Plan:

On 1988 March 22 military units moved to the their planned targets to surround the (Qara Dagh) Area to execute the military plan of the Army Forces General Command and Chief of Army Staff under the direct command of (Husayn Rashid Al-Tikriti)

### The crime executing:

- Chemical Bombardment:

  
The President



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At 18:30 hours sharp, on 1988 March 22, fighter jets bombed the villages of Gumata, Hastawi, Upper Kushka, Balak Jar, Takya and the big village Siwsinan located in Qara Dagħ area, with conventional weapons. After, the military forces raided those aforementioned villages with chemical weapons via Rocket Launchers, long-range artillery forcing the inhabitants to run for their lives.

#### **Carrying out the crime via land attack:**

Then, the military forces launched, on 1988 March 29, a large scale attack from all available axes at Qara Dagħ, intensively supported by Air Force, army aviation, tanks and armors, leading to a dislocation of inhabitants (from their villages), fleeing away, leaving behind all their belongings. The slopes and valleys had been suffocated by panicked people, especially after spreading news about Siwsinan, Balak Jar, and Takya being bombed by chemicals delivering a large death toll. One of the survived plaintiff's (from Jafaran village) described before this court that the situation was identical to Armageddon. On the other side, security forces at Al-Sulaymaniyyah, as well as the military intelligence forces affiliated to the Eastern Zone System, seized all passages leading to Al-Sulaymaniyyah and nearby compounds preventing the refuge of inhabitants, as they arrested any one found. Under these circumstances, villagers of Qara Dagħ were dislocated to many groups:

#### **1- The First Group:**

The biggest group had moved toward southern Qara Dagħ, toward Garbiyan precisely, as most of them were villagers from south and eastern Darbandi Khan. From the moment they had been arrested by the army, their relatives never saw them again, as they were transferred to Chamchamal Camp. From this location, they were handed over to security committees to be placed at Tupzawa and Dibs Centers for Anfalized where...



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...men had been segregated from women, elderly from youngsters as each group took its bite of black fate according to a framed plan laid down by Convict 'Ali Hasan Al-Majid. Some were taken with their children to mass graves at Al-Hadar and Al-Samawah, [both enclosed in case's file on pages 678-679]. Others were thrown in death camps at Nuqrat Al-Salman [their testimonies recorded in third and fourth volume of the Compaq Disk (CD)].

**2- The Second Group**

They surrendered to the Government forces and faced the same pattern used in the above section.

**3- Third Group**

They secretly infiltrated Al-Sulaymaniyyah and nearby residential compounds such as Al-Sumud or Pira Magrun. However, the security systems (Intelligence and Security) laid down a plan to entrap them as they announced, via loud speakers and leaflets distributed all over Al-Sulaymaniyyah Governorate, that a General Amnesty has been issued regarding each surrendered person, adding up offering them shelter [in the same residential compounds] and food supplies. Both men and women started heading toward declared centers as each neighborhood elementary school had been used as a gathering center. All were arrested, dislocated, and their fates remain anonymous.

**The mentioned list, starting page 75, elaborated the committed crimes during Al Anfal Second Operation [Qara Dagh Anfal]:**

The Second Anfal Operation was carried out at Qara Dagh, between 1988 March 22 and 1988 April 01. The convicts standing before you perpetrated many crimes which can be categorized as follow:

**First: Genocide**

The image shows a handwritten signature in black ink on the left. To its right is a circular official seal. The seal contains the text 'القضاء الجنائي في العراق' (Criminal Court in Iraq) at the top, 'رئاسة المحكمة' (President of the Court) in the center, and 'المحكمة الجنائية العراقية' (Iraqi Criminal Court) at the bottom. The words 'Iraqi High Tribunal' are also visible at the bottom of the seal.

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- 1- At 18:30 hours, on 1988 March 22, the Iraqi forces bombed the villages of Balak Jar, Siwsinan, Jafaran, Balkha Lower Kushak, and 'Alyawa, among other villages located in Qara Dagh, with chemical weapons using artillery and multiple rocket launchers [MRL], from Tangaru and Kuran Camps in Darbandi Khan, as well as Kani Sard Camp, causing the death of hundreds of citizens [men, women, and children], exterminating the animal wealth, poultry and bees in that area. Due to the fact that chemical weapons are internationally forbidden, its usage against residential villages is a proof of the convicts' determination to murder and eradicate all existing inhabitants within this area through genocide. Therefore, the basics of genocide are applicable over the described act, in an unquestionable way, with a solemn aim: to totally eradicate through inhabitants of Kurdish villages.
- 2- Murdering group members: Where the military units' Armed Forces, which participated in leading Al Anfal Second Operation under the leadership of the fugitive Staff Major General Ayad Khalil Zaki, attacked, while coordinating with the security systems, villages in Qara Dagh Neighborhood. They gathered families and transferred them to Tupzawa Gathering Center, to murder a ghoulis number [estimated more than 21911 Kurdish citizens between men, children and women] in Mass Graves. Hence, Genocide basics are bright as the sky through carrying on Al Anfal Second Operation, between 1988 March 22 and 1988 April 01. Convicts, along with their henchmen from officers, soldiers, and internal security forces' members had committed many other crimes, including:
  - A. Transferring and dislocating citizens of Kurdish villages at Qara Dagh, detaining them at Nuqrat Al-Salman Camp, cutting off basic food supplies such as potable water, prohibiting treatment...



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...for ills, psychologically and physically torturing and subduing them, deliberately, to harsh living conditions, aiming to partially or totally eradicate them.

- B. Torture, ravage, and organized terror against detained and arrested villagers, exposing them to serious mental and physical damages, constituting acts of genocide.
- C. Segregating women and men, preventing sexual reproaches, in large numbers and for long periods exceeding nine months, constituting an act of Genocide

**Second: Crimes against humanity**

Through direct criminal acts committed by convicts, orders issued on their behalf, or contributing in one of the crime's basics resulting from Al-Anfal operations, convicts have committed crimes against humanity through a large scale and systematic attack, targeting inhabitants of Kurdish villages in Qara Dag, under acknowledgement of such violent attack.

- 1- Premeditated murder without trial
- 2- Coercive dislocation of Kurds from their villages to residential compounds, subduing them to harsh living conditions.
- 3- Detention and extreme deprivation as it happened in the Anfalized gathering centers of Tupzawa, Al-Sulaymaniyyah Emergency Center, Dibs, and Nuqrat Al-Salman.
- 4- Torture, as it had been implemented by Officer Hajjaj, and his deputy Shamkhi, in Nuqrat Al-Salman and Tupzawa Camp
- 5- Rape at Nuqrat Al-Salman, by the abovementioned Hajjaj and Shamkhi
- 6- Oppressing inhabitants of Kurdish villages in Qara Dag for being of Kurdish origins
- 7- Forced harboring of the Anfalized in Al Anfal Second Operation

The image shows a handwritten signature in black ink to the left of a circular official seal. The seal contains Arabic text and the words 'Iraqi High Tribunal' at the bottom.

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**Third: War Crimes**

Though Iraq joined the Geneva Convention dated on 1949 August 12, pledging commitment to all articles pertaining to war crimes, as well as not perpetrating such crimes, the country's record was black dotted as per crimes of external war or launched against internal opposition movements. By inspecting the acts carried out by soldiers and officers who were subordinated by the convicts standing before your court, it becomes clear that they committed acts considered as crimes per Article [13] of this court's Code, including:

- 1- Premeditated murder of detainees and arrestees without trial
- 2- Torture and inhuman treatment
- 3- Demolishing villages and looting properties
- 4- Other acts committed by the Army and Security Forces

**The Third Phase of the Criminal Al Anfal Operations**  
**Between 1988 April 07 and 1988 April 20**

**Crime scene geographical factor**

The third Al Anfal operation was carried in Garmiyan located in Kirkuk, Tuz, Khurmatu, Kifri, Takya, southern Darbandi Khan, and Chamchamal where no Prohibition Zones or Kurdish resistance [known by the previous regime as Kurdish Rebels or Iran's Agents and offspring of treason – Al-Barzani clan] are available. These villages were hundreds of kilometers away from the Iranian borders, taken as safe villages where its inhabitants perform farming and animals' breeding. Elementary and secondary schools, clinics, mosques in addition to an agronomic directorate are found, all administered by official government's systems. The inhabitants also assisted...

The image shows a handwritten signature in black ink, followed by a circular official stamp. The stamp contains the text 'القضاء الجنائي' (Criminal Court) in Arabic and 'Iraqi High Tribunal' in English.

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... the Iraqi army in the Iraq-Iran war, why did the regime carry out his brutal crime and eradicated them? With no guilt except being Kurds! Planning for Al Anfal Third Operation was set down a long time ago, correlated closely to the Arabization of Kirkuk and its rural administrative districts.

**Military Forces contributing to the crime**

**First:** Second Corps forces commanded by General Kamil Sajit, constituted of:

- 1- 15<sup>th</sup> Infantry Division
- 2- 34<sup>th</sup> Infantry Division
- 3- The 3<sup>rd</sup> Mechanized Armored Division

**Second:** First Corps Forces commanded by Convict Sultan Hashim Ahmad, constituted of:

- 1- Light Legion Forces commanded by Major General Sa'd Shams-al-Din (*T.C: The Command of National Defense regiments of Kurdish Mustashars and their followers*)
- 2- 10<sup>th</sup> Armored Division commanded by Major General Khalid Al-Dulaymi
- 3- Oil protection forces commanded by Staff Brigadier General Bariq 'Abdallah
- 4- 1<sup>st</sup> Corps' Posts Commandment commanded by Major General Mundhir Ibrahim

**Third:** Engineering Efforts in destroying villages

**Fourth:** Intelligence Army Staff Commission affiliated to Corps and Divisions

**Five:** Chemical Rank

**Sixth:** Army Aviation

**Seventh:** Air Force

**Eight:** Security Units belonging to Kirkuk and Al-Sulaymaniyyah Forces

The image shows a handwritten signature in black ink on the left. To its right is a circular official seal. The seal has a double border. The outer border contains the text 'الهيئة القضائية العراقية' (Iraqi Judicial Body) at the top and 'القضاء الجنائي' (Criminal Court) at the bottom. The inner circle contains the text 'رئاسة المحكمة' (Court Presidency) at the top and 'القضاء الجنائي' (Criminal Court) at the bottom. Below the inner circle, the text 'Iraqi High Tribunal' is written in English.

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**Crime's execution:**

At the first daylight of 1988 April 07, the army units, which were grouped at Tuz Khurmatu County, moved followed by additional forces from Kirkuk, Balan (*T.C: most probably Maydan*), Chamchamal, and Sangaw where all had been mobilized at Qadir Karam Town, as per plan, dividing the column into 3 forces:

- 1- First Force: deployed at eastside of Nawjul toward Awasi
- 2- Second Force: deployed east along the river's sand valley, supported by an Air umbrella of jetfighters and helicopters which intensively raided villages located within their targets.
- 3- Third Force: Launched a vicious assault on Taza Shar village which was exposed to a chemical strike by air force, besieging the three villages, Upper Kani Qadir [Al-'Ulya], Lower Kani Qadir [Al-Sufla] and Shaykh Hamid, located in the aforementioned area. After arresting those villages' inhabitants, looting their properties and transferring them, via military vehicles, to Qadir Karam and then to Tupzawa gathering center, the whole zone had been ruined down. The second column deployed at Qadir Karam town, toward the northern west side, encircling villages like Ibrahim Ghulam, pushing the residents to abandon their houses to take refuge in nearby hills. All those refugees turned themselves back to the army and 51 from Zangana clan disappeared. As of the third column, it deployed toward Sangaw and Chamchamal destroying all villages within its scope, arresting escapee families who were scattered in the valleys, referring them to Qadir Karam police station, and then to the Center for Anfalized (*T.C: the people subdued to Anfal operations*) in Tupzawa. These villages included Tibarz and Pari Zada reaching Takya Al-Jabari and Bangul till Laylan.



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In the morning of 1988 April 20, the last village was destroyed in Garmiyan, known as Faqi Mustafa where almost all its inhabitants were detained. The Iraqi Forces returned back to their bases reporting all missions were accomplished, as per telegram numbered [11386], dated 1988 April 21, issued by Second Corps Intelligence to Northern Organization Office. As a conclusion, villages were destroyed, wiped out, and eradicated from inhabitants who were driven to an anonymous fate.

**Crimes committed in Al Anfal Third Operations**

**First: Genocide**

- 1- Murdering groups' members: Plaintiff [NAME REDACTED] testified in the 13<sup>th</sup> hearing, dated 2006 October 09, that his pregnant wife along with his mother ([NAME REDACTED]), small children and relatives were arrested in Tiligan village. This village, which is consisted of 30 families, was totally anfalized and eradicated. The plaintiff's brother's Nuri identity card of his sister's 'Ismat were found in Al-Muthanna Cemetery down at Al-Samawah.
- 2- Through executing Al Anfal Third Operations, convicts and their henchmen, from officers, soldiers and internal security forces affiliates, committed many crimes, including:
  - A. Dislocating and relocating a large number of Kurdish villages' inhabitants, from Garmiyan, detaining them at Nuqrat Al-Salman Camp, as it had been reassured by more than 15 plaintiffs before your court.
  - B. Torture, tyranny, and organized terror; as detainees and arrestees had been exposed to mental and physical severe damages. Among those, plaintiff's [[NAME REDACTED]] husband who had been partially paralyzed and his daughter murdered.
  - C. Segregating women and men, preventing large numbers from any sexual intercourse for long periods exceeding nine months, constituting acts of Genocide.



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**Second: Crimes against humanity**

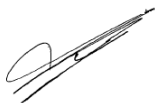
Through direct criminal acts committed by convicts, orders issued on their behalf, or contributing in one of the crime's basics resulting from Al-Anfal operations, convicts have committed crimes against humanity through a large scale and systematic attack, targeting inhabitants of Kurdish villages in Garmiyān, under acknowledgement of such violent attack.

- 1- Premeditated murder without trial
- 2- Coercive dislocation
- 3- Detention and extreme deprivation
- 4- Torture
- 5- Rape
- 6- Oppression
- 7- Forced harboring

**Third: War Crimes**

After the corroboration of acts that were committed by soldiers and officers subordinated by convicts summoned before this court, it becomes clear that they committed War Crimes:

- 1- Premeditatedly carrying out attacks against Kurdish villages' civilians who participated in war actions (*T.C: most probably who did not participate in war actions*)
- 2- Premeditatedly carrying out attacks against buildings appropriated for educational and religious purposes
- 3- Issuance of orders to relocate and dislocate civil inhabitants



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**Victims' Proxies, through the brief, mentioned as well:**

**Fourth Al Anfal Crime Operation**  
**Between 1988 May 3 and 1988 May 8**

**Crime scene geographical factor:**

The Military Command undertook commenced Fourth Al-Anfal crime in Lower Zab valley [Al-Asfal] including Aghjalar, Gup Tapa and 'Askar, as well as Shikh Bizini, Digala, Kuysinjaq, Khalakan, and Dukan.

**Contributory Military Units:**

First: 1<sup>st</sup> Corps Command consisting of:

- 38<sup>th</sup> Division
- 5<sup>th</sup> Mechanized Infantry Division
- 8<sup>th</sup> and 2<sup>nd</sup> Infantry Divisions

Second: Al-Nasr Forces commanded by Staff Brigadier General Khalid Ahmad Ibrahim

Third: 46<sup>th</sup> Forces commanded by Staff Brigadier General 'Ali Ahmad Muhammad

Forth: Oil Protection Forces commanded by Staff Brigadier General Bariq 'Abdallah Al-Haj Hunta

Fifth: 1<sup>st</sup> Corps Command commanded by Staff Brigadier General Ala' Muhammad Taha

Sixth: Emergency Detachments for Al-Sulaymaniyyah and Kirkuk Securities

Eighth: Intelligence Staff Commission affiliated to the Corps and Divisions

Ninth: Chemical Classification

Tenth: Army Aviation

Eleventh: Air Force



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Twelfth: Military Intelligence

**Fourth Al-Anfal criminal operation's execution:**

At the afternoon of 1988 May 3, an aircraft formation flew at low altitude over Gup Tapa, and then eight successive explosion (not sturdy) were heard followed by white smoke, smelling rotten apple or garlic (as was described by the plaintiff). This smoke invaded the village as condensed colored cloud. When the cloud broke down, villagers were shocked to know that many inhabitants were dead due to chemical weapon's usage. Perhaps, gazing at plaintiff '[NAME REDACTED]' is the best eyewitness, the clearest and most accurate, offered to your court, pertaining to children, women and old men saying their last breathes.

Other aircrafts shelled 'Askar Village by special ammunition [TC: chemical weapons] martyring many citizens while injuring others. The same aircrafts attacked Chami Rizan by chemical weapons, as well as Gup Tapa and 'Askar, arresting those who survived as the rest escaped to nearby hills or Takya and Bayinjan compounds. A third group managed to run away from 'Askar but was arrested, by the army, on 1988 May 4, and referred to Susa Camp. On the other axis, known as Taqtaq campaign, the army followed the technique of besiegement and containment against forces located within Taqtaq Basin. Convict Sultan Ahmad Hashim is the one who created this plan, as being mountainous war planner. The forces infiltrated on many sides, whereas Shaykh Bazini village was destroyed, down to the ground as survivors were arrested. On 1988 May 4, military units moved toward other zone's villages where an immense number of families had been detained by Iraqi forces, the thing that made the latter call 700 affiliates, from the emergency forces, to handle those families. On 1988 May 6, the army reached Guma Shin, after ...



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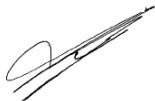
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...crossing Al-Zab River, burning and destroying everything. Middle East Human Right Organization's report mentioned lists of 1680 missing people with anonymous fate only in Kalisa, Buka Kanabi, Tuzla, Kani Hanjir, and Guma Shin. In addition, the village's plaintiffs in [Gup Tapa] submitted a list of nearly 500 missing people from their village. All statistics show that 75 villages belonging to Aghjalar Neighborhood, 24 to Kuysanjaq, 52 to Taqtaq, and 61 to Shwan were destroyed by the army during Fourth Al Anfal Crime.

On 1988 April 7, 1<sup>st</sup> Corps Commander, Convict Sultan Hashim Ahmad, sent a secret and instant telegram, numbered [1807], to Northern Organization Office Official, Convict 'Ali Hasan Al-Majid, and Chief of Army Staff's Deputy, Convict Husayn Rashid Al-Tikriti, and General Military Intelligence Directorate Director Convict Sabir 'Abd-al-'Aziz Al-Duri. The below is the text of the aforementioned telegram, as included in page 92 of the list:

"By God's help and fighters' will, from Iraqi sons, 1<sup>st</sup> Corps command and all units correlated from Al-Nasr Forces Command commanded by Staff Brigadier General Khalid Ahmad Ibrahim, 46<sup>th</sup> Forces Command commanded by Staff Brigadier General 'Ali Ahmad Muhammad Salih, Oil Protection Command commanded by Brigadier General Bariq 'Abdallah Al-Haj Huntah, Forces Command of National Defense Legion commanded by Staff Brigadier General Sa'd Shams-al-Din, Command of the 1<sup>st</sup> Corps Posts commanded by Staff Brigadier General 'Ala' Muhammad Taha, and Al-Sulaymaniyyah Emergency Detachments, were able to carry out Fourth Al Anfal Operation via attacking saboteurs whereabouts and gathering cells which they referred to after destroying their headquarters in the previous Al Anfal operations. Our troops were deployed over more than 13 sides, crashing the traitors in Sur Qawshan, Gup Tapa, Hasaka, Chami Rizan, Kalisa, Bukird, Gawra Di, Bul Qamish, Kilil Ghaj, Shikh Bizin, Faqi Mirza, Tapa Garus, Girdakan, Shukir, where some of them were arrested while others murdered, as well as confiscating ...



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...a large amount of weapons, vehicles, equipments, food and medical supplies provided by their masters from abroad, in addition to a serious scanning of forests and valleys, destroying villages through the Fourth Al Anfal Operation, thanks to God for his victory, he is the true Lord, the true Supporter".

**Crimes Committed during Fourth Al Anfal Operations:**

Convicts, standing before your court, and their fugitive partners, committed several crimes as follow:

**First: Genocide**

- 1- By committing murder and putting an end to one's soul via chemical weapons aiming to totally eradicate Kurdish villagers in this region, constituting a genocide crime.
- 2- Murder groups' members, where Military Units' Armed Forces contributed to Fourth Al Anfal Operation's command while coordinating with security systems affiliated to Security Committees at Al-Sulaymaniyyah and Kirkuk. They raided villages correlated to Aghjalar, Shuwan, Taqtaq, and Kuysanjaq. They gathered the inhabitants and referred them to Tupzawa gathering center to murder them after, in large numbers exceeding 28550 Kurdish citizens, in mass graves excavated by International Expert Dr. Michel Treble at Al-Samawah.
- 3- Relocating and dislocating villagers from their homes, detaining them at Nuqrat Al-Salman camp, cutting down basic food supplies, potable water and preventing patients' treatment.
- 4- Torture, assault, and organized terrorism, furthermore, the detainees were exposed to severe physical and mental damages. Hence, it really constitutes genocide crimes, as segregating ...



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...men and women, preventing any sexual intercourse is considered another criminal act taking as genocide.

**Second: Crimes against humanity:**

Through direct criminal acts committed by convicts, orders issued on their behalf, or contributing in one of the crime's basics resulting from Al-Anfal Fourth Operations, through a large scale and systematic attack, targeting inhabitants of Kurdish villages, under acknowledgement of such violent attack.

- 1- Premeditated murder without trial
- 2- Coercive murder *[TC: most probably they are talking about dislocation rather than murder]*
- 3- Detention and extreme deprivation
- 4- Torture
- 5- Rape
- 6- Oppression
- 7- Forced harboring

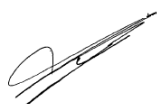
**Third: War Crimes**

**Victims' Proxies elaborated within their brief at page 96 on:**

**Fifth, Sixth and Seventh Al Anfal Crime Operation**  
**Between 1988 May 15 and 1988 May 26**

**Crime scene geographic factor:**

In Balisan, Hiran, Shaqlawa, Simaqli, Duli Alan and Rawanduz, the three operations tackled the biggest areas, covering approximately half of Kurdistan region and included ...



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... the villages of Kuysanjaq County, Digala sub district and Altun Kupri, in addition to villages at the vicinity of Irbil, Shaqlawa, Rawanduz, Chuman, Qindil Mountain and Ranya Counties, as well as Chwar Qurna sub district, Hizup , and Bawaji mountain. The 5<sup>th</sup> Corps was assigned to carry out the three operations in addition to the following units:

**First:** 5<sup>th</sup> Corps (Al-‘Ammuriyyah Forces) commanded by Staff Officer *T.C: most probably Staff General*) Yunis Muhammad Al-Dharb, constituted of:

- 1- 16<sup>th</sup> Infantry Division (Dhu-al-Fiqar Forces)
- 2- 4<sup>th</sup> Infantry Division (Frogmen [Al-Dafadi'] Forces)
- 3- 1<sup>st</sup> Infantry Division (Abu ‘Ubaydah Forces)
- 4- 7<sup>th</sup> Infantry Division (Al-Mansur Forces)

**Second:** units from the 1<sup>st</sup> Corps

**Third:** Engineering Efforts

**Forth:** Army Forces

**Fifth:** Air Force

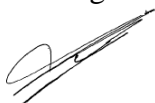
**Sixth:** Chemical Rank

**Seventh:** Special Ammunition Group

**Eighth:** Military Intelligence Units

**Fifth, Sixth and Seventh Al Anfal Operations' Criminal Plan:**

The regime gets used to strike and eradicate civilians with chemical weapons. Hence on 1988 May 15 [at dawn], while Warti villagers were preparing themselves to celebrate a feast, they were surprised by a chemical attack carried out by two jet fighters, raiding the village dressing the feast's joy a robe of cries and moans, as tens of villagers were immediately dead. One of the eyewitnesses said in your court ...



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..."when we entered the city to offer help, I noticed that the feast's food was still there, intact, as we buried 37 bodies in a mass grave. On 1988 May 23 [morning], the villages of Balisan, Hiran, Malakan and the surrounding valleys were exposed to chemical attacks, more fierce than the first time, as the gas effect reached Shaykh Wasanan Village. Then, the military units invaded those villages, detaining many families to dislocate them at anfalized gathering centers, never to be seen again. Furthermore, the Engineering Effort destroyed villagers' houses transforming these regions into haunted, lonely ones.

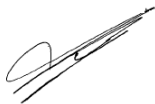
**Finally, the brief included at page 101:**

**Eighth Al Anfal Crime Operations**  
**Between 1988 August 25 and 1988 September 6 at Bahdinan**

**Crime scene geographic factor:**

The Iraq-Iran War came to an end 1988 August 8, however, Saddam Hussein and present convicts exploited this chance to continue on the genocide crime, referring Al Anfal Closure's responsibility to the 5<sup>th</sup> Corps commanded by Staff General Yunis Al-Dharb. The 5<sup>th</sup> Corps was consisted back then of the following units:

- 1- 16<sup>th</sup> Infantry Division (Dhu-al-Fiqar Forces) including:
  - A- 1<sup>st</sup> Infantry Brigade
  - B- 505<sup>th</sup> Infantry Brigade
  - C- 606<sup>th</sup> Infantry Brigade
- 2- 4<sup>th</sup> Infantry Division (Frogmen Forces [Al-Dafadi']) including:
  - A- 29<sup>th</sup> Infantry Brigade



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- B- 96<sup>th</sup> Infantry Brigade
- C- 5<sup>th</sup> Infantry Brigade
- 3 – 1<sup>st</sup> Infantry Division [Abu 'Ubaydah Forces] including:
  - A- 1<sup>st</sup> Mechanized Infantry Brigade
  - B- 27<sup>th</sup> Mechanized Infantry Brigade
  - C- 34<sup>th</sup> Infantry Brigade
- 4 – 7<sup>th</sup> Infantry Division [Al-Mansur Forces] including:
  - A- 38<sup>th</sup> Infantry Brigade
  - B- 39<sup>th</sup> Infantry Brigade
  - C- 116<sup>th</sup> Infantry Brigade

The number of units, which participated in Al Anfal Closure, is 38 Infantry Brigades, 2 Tank Brigades, 3 Artillery Battalions, in addition to mobilized Military Units, which are:

- 1 – Engineering Effort
- 2 – Army Aviation
- 3 – Air Force
- 4 – Chemical Rank
- 5 –Special War Effort to Open Mountainous Roads
- 6 – Military Intelligence Units

**The Criminal Plan**

At two in the afternoon sharp, on 1988 August 23, Iraqi warplanes and helicopters began raiding over villages located at Nahilya Basin – Diraluk – Al-'Imadiyyah Sub district, using chemical weapons ...



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Among these villages were Shirana, Ikmala Sarki Bi. On 1988 August 24, aircrafts repeated their strikes over most of Bahdinan in preparation for a massive land offensive. On 1988 August 25, forces took control over major roads, blocking all passageways in front of residents civil inhabitants residing this vast mountainous area which included Zakhu, Al-'Amadiyyah, 'Aqra, Shaykhan, Sumil, Mirga Sur, Barzan, Suran. Iraqi forces concentrated their efforts on complete, swift control over borders, separating between Iraq and Turkey, firmly dominating it. . On the same morning, 1988 Aug 25, the aforementioned forces bombed the villages of Kani Masi, Bikuva, Mangish, Tuka, Gul Naski, Birjini, Talakru, Ramila, Mazi, BaliJan, Bani, as well as Ikmala, Shirana Kizi, Yarish, Radini, Kurki, Banaya, Ziki, chemically containing more than just villages. The death toll reached the thousands. Despite all procedures, military violence, and chemical strikes, 80 thousand residents somehow managed to flee to areas at the proximity of the Turkish border. Some crossed over the borders before blocking the routes, others were captured by Iraqi forces and transferred to Nazarki Fort never to be seen again till this day as others disappeared into the valleys and mountains where they watched Iraqi forces looting their properties and torching their homes.

### **Documented Evidence of 8<sup>th</sup> Al Anfal Crime (Al Anfal Closure)**

#### **1<sup>st</sup>: Written Documents**

There exists tens, rather thousands of decisive documents that emerged from the Republic Presidency, Northern Organization Committee (*T.C: most probably Northern Affairs Committee*), Northern Organization Office, and other Military Command posts all confirming that Al Anfal Closure occurred indeed at Bahdinan area, the following are our chosen most important ions:



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- 1 – Document No. [1122], dated 1988 August 21, issued by Chief of Army Staff's Office, labeled top secret and personal, directed to 1<sup>st</sup> and 5<sup>th</sup> Corps' commands, headlined instructions, handwritten, where the 1<sup>st</sup> article included the following:

"Identifying the concentration of the population within 5<sup>th</sup> Regiment's (*T.C: most probably 5<sup>th</sup> Corps*) Sectors, as they are to be treated with fierce special strikes, 48 hours prior to the deadline of starting the operations, to create state of phobia within their ranks, preventing them from collaborating with the saboteurs, in addition to keeping their movements under control within the area, as well as extreme precautionary measures from the villages situated along the Iraqi-Turkish borders". We elucidate to the court that this document is formed of (13) articles where each one is a misdemeanor in itself. The document is signed by Convict Husayn Rashid Al-Tikriti, meaning he overviewed this decree's creation. Convict Nazar 'Abd-al-Karim Al-Khazraji is stamped also which definitely prove that the document was preparing genocide.

**2<sup>nd</sup>: Convicts' Testimonies:**

Convicts 'Ali Hasan Al-Majid, Sultan Hashim Ahmad, Husayn Rashid Al-Tikriti, Sabir 'Abd-al-'Aziz, Farhan Mutlak Al-Juburi and Tahir Tawfiq Al-'Ani confessed committing Al Anfal crime, in all of its eight stages, indicating each one's role.

**3<sup>rd</sup>: International Experts Reports**

In which convicts' crimes had been elaborated as of chemical weapons' casualties and its applications in killing village's residents within the area.

**Al Anfal all 8 Phases' Outcome was:**

- 1 – The destruction of 2451 villages and erasing their very existence

The image shows a handwritten signature in black ink on the left. To its right is a circular official stamp. The stamp has a double border. The outer border contains the text "القضاء الجنائي العراقي" (Iraqi High Tribunal) at the top and "Iraqi High Tribunal" at the bottom. The inner circle contains the text "رئاسة المحكمة" (President of the Court) and "القضاء الجنائي" (Criminal Court).

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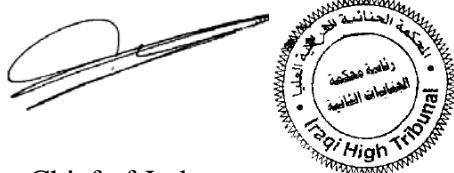
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- 2 – The destruction of more than 1344 Primary and Secondary Schools
- 3 – The destruction of more than 2027 Mosques and religious sites.
- 4 – Anfalization of 182000 residents of Kurdistan between murdered, executed and missed.
- 5 – The fleeing of hundreds of families to Iran and Turkey.
- 6 – Seizing citizens' properties among which were stored agronomical crops. .
- 7 – Destruction of natural environment, torching pastors, orchards and forests.
- 8 – Extermination of livestock treasure.
- 9 – Destruction and filling in water wells and destroying their sources.
- 10 – Following scorched earth policy
- 11 – Land mining the area, against individuals and vehicles, to prevent any change of life rebirth in the area.

### **Compensations**

In this wide scale eradication and total destruction, the total number of families affected by the criminal Anfal operations attained the tens of thousands, whether plaintiffs, seeking civil rights or victims inheritance. The attendance of all those victimized wishing to take legal action to be present at the Investigatory court or the current trial in progress was unquestionably impossible, despite being subject to physical, tangible and psychological damage. To guarantee the rights of the victims who could not be present at the trial were to sustain their rights in order to claim compensation in accordance to the fundamentals and law rulings, which was established by the Iraqi Law, which contained a clause within the ruling that is a matter of justice. However, due to these crimes categorized under International requirements, which comply with specifications of International Human Rights in regards to tangible or moral compensation resulting from crimes committed by a political system, a nation predominant against its people or victims under the cover of an opposition movement whether it was armed or not, the examples are many ...



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... in this matter, such as the historic verdict of German Nuremburg Court No [AA33/947/534], dated 1947 April 27, which imposed tangible and morale compensation on German Federal Republic, for the aggrieved (tangibly and morally) as a result of Jewish genocide which occurred in Germany as [The Holocaust]. The mentioned court reserved every victim's tangible and moral rights, granting them the right to claim compensation before civil courts located within victims' permanent residential areas, by the new authority that was established after the fall of the former which perpetrated genocide. The new government was responsible as a successor of the former one vis-à-vis the international community or its citizens.

**Finally, the brief dealt on pages 113 – 115 with victims' proxies requests:**

**The Demands**

The modern history did not witness such immense, ghoulish and barbarian crimes as those committed by the convicts and their henchmen. Therefore, as to apply the right, fair and just, for the hundreds of thousands of victims' souls, as well as to prevent other criminals, we ask your honorable court to inflict the strictest sentence against victims, as follow:

- 1 – To incriminate them as per Clauses [(A, B, C, D)] of Article [(11/1<sup>st</sup>)] of Iraqi High Tribunal Law No.10 for the year 2005, for approving their perpetration of genocide and identifying the sentence as per Article [406] of Iraqi Penal Code by virtue of Article [15] of this court's code.
- 2 – To incriminate them as per Clauses [(A, B, D, E, F, G, H, I, J)] of Article [12/1<sup>st</sup>] of Iraqi High Tribunal Court and identifying sentence as per Iraqi Penal Code for perpetrating crimes against humanity by virtue of Article [15] of this court's code.



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- 3 – To incriminate them as per Clauses [(A, B, C, D, G, H)] of Article [13/First] and Clauses [(A, B, D, E, F, I, L, M, O, P, Q, R)] of Clause [Second] of the same article, and Article [D] of Clause [Third] of the same Article also, according to Articles [(A, D, E, F, H, J, L)] of Clause [Fourth] of Iraqi High Tribunal Laws for perpetrating War Crimes, an identifying the sentence by virtue of Article [15] of this court's code.
- 4 – Instigating the complaint against individuals whose names emerged from among the cases' information forms or the enclosed lists for contributing to the perpetrated crimes against citizens of Kurdish origins, informing the Investigative Judge to interrogate and refer them to court to receive their sentences.
- 5 – Confiscation all fixed and non fixed assets pertaining to convicts, inside Iraq and outside, labeling them "frozen" until the end of the case, to guarantee covering all expenses.
- 6 – To preserve, for all those aggrieved from Al Anfal Operations, starting 1987 Mar 10, the right to demand compensation before Civil Courts.

The verdict against convicts is the beginning of a suffering's end pertaining to thousands of victims' relatives, Anfalized and executed, buried in mass graves and who survived from Kurdish ethnicity waiting nonchalantly, from a long time, the instant when they will here your just verdict.

**Attachments:**

- 1 – A list of villages eliminated during Al Anfal operations.
- 2 – A list of those who participating in Al Anfal operations.
- 3 – Maps for all Al Anfal operations

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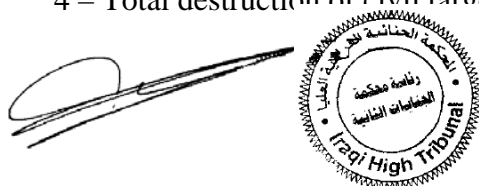
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4 – Elucidation Plans

**((General Prosecution's Brief Summary as well as enclosed demands))**

Publicly recited in hearing [53], dated 2007 April 2, containing 52 pages, opened, in the introduction, that the victims' souls shall not rest in peace as well as victims' relatives' conscience which won't calm down if your honorable court does not issue the severest penalties against these crimes perpetrators. We were expecting, after acknowledging the convicts about this huge amount of compact documents, decisive evidences, and plaintiffs' and witnesses' testimonies, to make a public apology not only to their victims but also to the human race, seeking mercy. Yet, the court noticed their persistence, stringency, justifications, selfish egos, and outrageous and provocative comments to prosecutor which indicated their lack of respect for both dead and survivors of mass graves. The crimes which took place due to the authorization granted to Convict 'Ali Hasan Al-Majid from 1987 March 29 to 1988 September, headlined him as the ultimate man behind these eradications of the Kurds as active sectors under his command included both 1<sup>st</sup> and 5<sup>th</sup> Corps of Iraqi Regular Army, General Security Directorate, Military Intelligence, Kurdish Militias affiliated to the Government known as (National Defense Regiments) and Civil System all under Northern Organization Office's command. The Anfal Campaigns (1987-1988) were distinguished by the following obvious violations:

- 1 – Instant mass executions, harboring tens of thousands of non-fighters including immense numbers of women and children.
- 2 - The wide scale chemical weapons' usage [Mustard Gas, Nerve Gas and Sarin Gas], causing the death of thousands of civilians mainly women and children.
- 3 – Mass destruction of thousands of villages mentioned within the documents, as well as districts and sub districts.
- 4 – Total destruction of civil targets such as schools and Mosques.



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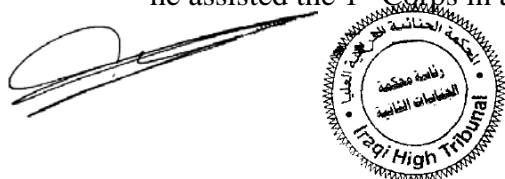
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- 5 – Looting civilians' properties, livestock and farms on a large scaled scheme
- 6 - Random detention of all arrested villagers
- 7 – Random imprisonment, detaining thousands of women, children and elderly for excessive months in conditions of prevention, coerciveness, malnutrition and ailments without a judiciary trail.
- 8 – Coerce dislocation of hundreds of thousands of villagers
- 9 – Destruction of Kurdistan's economy and its country side infrastructure when attacked by Iraqi forces as the latter were not intercepting other country's soldiers, rather were intending to harm their own people using the most destructive weapons (Chemical weapons)

The brief enforced its views referring back to one of the official documents sent to Convict Sabir 'Abd-al-'Aziz, handwritten, quoting "the use of chemical weapons requires coordination among authorities and Chief of Army Staff because it is the office in charge of such acts".

Evidences emerged regarding the role played by convicts – ex-commanders as they had planned operations, issued orders, forwarded operational reports and results straight to their leaders as they helped other units raiding over civilians, accepting spoils and remunerations headlined by the previous regime as their heroic acts. The Attorney General continued ...."We request this honorable court to take in account the individual responsibility of each of the convicts in light of the crimes they committed in the Al Anfal operations. Those convicts that had been accused via evidences represented to the court, and are:

- **Convict Sultan Hashim Ahmad:** In early 1987 until September 1988, he held the post of Commander of the 1<sup>st</sup> Corps. The convict was a military officer who served a term of (41) years in the Regular Army and reached a rank of Lieutenant General, he was promoted to Minister of Defense in sight of the crimes he committed with his soldiers during Al Anfal Operations as he assisted the 1<sup>st</sup> Corps in all campaigns, reinforcing authority ...



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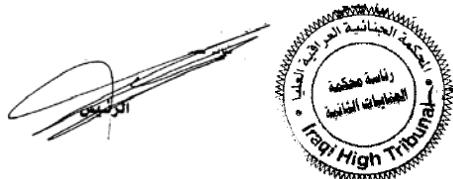
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... over his troops which contributed, under his command, in Al Anfal operations referring to chemical raids in Bahdinan and other places. His soldiers were responsible for dislocating inhabitants, coercively, from their houses, totally devastating their villages and confiscating their properties, detaining them under inhuman conditions and transporting them to camps where they were exposed to torture, rape and famine.

**\* Convict Farhan Mutlak Al-Juburi:** He was the Director of Intelligence System of the Eastern Zone, directly in-charge in front of Convicts Sabir Al-Duri then 'Ali Hasan Al-Majid. The convict put down a series of memos, to his commanders, tackling the erased villages which prove his prior acknowledgement about Al Anfal Operations as a wide and systematic attack. He had complete knowledge of the civilian's numbers who had been forcefully dislocated from their villages, during the aforementioned operations, and the treatment they had witnessed. He had been given full authority while investigating detainees, as well as carrying executions within the premises of his system, after the approval of Northern Organization Office. All this is proved in the document "Secret and Confidential", numbered [1289] on 1988 Aug 5, under serial [005165], found in the box file.

**\*Convict Husayn Rashid Muhammad:** He was Chief of Army Staff's Operational Deputy in the Iraqi Armed Forces. He was a participant in planning and concocting military operations during Al Anfal campaigns the thing that is proved via official documents presented before the court, acknowledging that the Operation Directorate includes other sub-directorates like Planning, Provision, Movements, and Survey. By that, he will be in charge of supplying the units in Kurdistan with internationally-prohibited weapons, aside attending conferences related to Al Anfal Operations, laying down suitable plans to ruin down villages and murder the biggest possible number of inhabitants.

The image shows a handwritten signature in black ink on the left, and a circular official seal on the right. The seal contains the text 'رئاسة محكمة الجنايات العراقية' (President of the Iraqi Criminal Court) in Arabic and 'Iraqi High Tribunal' in English.

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**\*Convict Sabir 'Abd-al-'Aziz Al-Duri:** He was General Military Intelligence Directorate Director. Many evidences and documents were presented before your honored court which revealed the eminent role that the convict carried in supporting Al Anfal Operations, analyzing and lifting results pertaining to each operation aside. He confessed the legality of these documents and recognized his own signature, reassuring the use of chemical weapons as the aforementioned documents included sent to Presidential Diwan and Convict 'Ali Hasan Al-Majid.

**\* Convict 'Ali Hasan Al-Majid:** He was the Official of the Northern Organization Office and the Supreme Leader responsible over activities carried on by civil and military officials in the aforementioned office. His actions and decisions granted him the alias of "Chemical 'Ali" ['Ali Kimyaw] which rendered him internationally known.

**The prosecutor had clarified in his brief:** Every one of those convicts is responsible, individually, over crimes which he incited, supported, instigated, or assisted in its perpetration as documents and evidences reinsure the contribution and acknowledgment of those convicts about Al Anfal campaigns. They operated as a group implementing a public criminal act to eradicate the Kurdish people. Every one took official steps, already prepared, to support the group's criminal aim, in addition to carrying on a supervisory overview of the crimes perpetrated by other executors. Each one of those convicts had committed genocide, crimes against humanity, and War Crimes through an internal conflict, violating Articles [11, 12, and 13] of Iraqi High Tribunal. They were aware of the political objective behind eradicating the Kurds, attacking their villages, and quashing their style of living. Hence, they disposed a precise, exhaustive plan, which execution and phases had been roundly designed, to be recognized later as Al Anfal operations. To prove genocide, it is a must to prove the special intention behind eradicating a patriotic, ethnic, or racial group. Still, it had been proved for your court that raids occurred in Kurdistan region, against Kurdish patriotism only ...

The image shows a handwritten signature in black ink, slanted upwards to the right. To the right of the signature is a circular official seal. The seal has Arabic text around its perimeter and in the center. The text in the center includes 'القضاء' (Judiciary) and 'الدراسة' (Study/Review). The outer ring of the seal also contains Arabic text.

Chief of Judges

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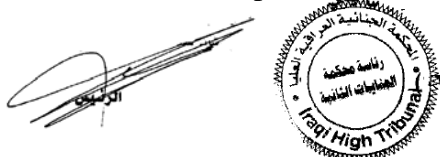
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... as this attack was not targeting exclusively Kurdish fighters (Pishmarqa), but rather all Kurdish villages, striking chemical weapons as well as a diversity of other arsenal. Those who had miraculously survived had been detained in special camps, prepared for this purpose, and then driven away to mass graves (children, women, youngsters, and old men). This is clear evidence headlining the provisional special intent to totally or partially eradicate this patriotism (*T.C: ethnicity*), for being Kurdish solemnly, as it had been elaborated through documents and other evidences. Accordingly, these actions match with Article [11] of Iraqi High Tribunal Law No [10] for the year 2005, in its following clauses:

**(A) Murder:**

The legal requirements to prove such crime is that the murderer should have killed or caused in killing one or more individuals. The elements of proof are the ultimate evidence that the attackers have encircled and contained the place, throughout the group's presence, as it really occurred proven by documents and evidences. There is another legal requirement which is the condition that victims are affiliated to a given patriotic, ethnic, racial, or religious group. This is also proven as Kurds are a patriotic community residing northern Iraq [Kurdistan territory], having a legal bound or publicly recognized identity. As for the other legal requirement, ethnicity is pertained as Kurds speak one language, contributed to all, as they [meaning the Kurdish patriotic community] have special physical and genetic features, all residing one geographically defined area. On the other hand, the crime's perpetrator's intent to eradicate totally or partially this patriotic community, as well as its elements of proof, which is the fact that convict had spoken out hatred, cursed or racist humiliation against these people, are elaborated through audio tapes pertaining to some of the convicts. Finally, the systematic pattern's requirement, as well as the elements of proof correlated with this requirement, is the availability of evidence over repetitive ...



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... coordinated, and systematic pattern of raids. Thus evidence is proved via the numerous, repetitive raids over Kurdish villages.

**(B) Causing physical or mental damage to group's members**

The legal requirements of such crime are that the murderer causes physical or moral damages to an individual or more. This requirement's elements of proof are the availability of an encouragement, implemented by the convict, to cause physical damages through his stance and expressions. This had been confirmed through encouraging the perpetrators, describing them as heroes by their commanders, granting them bravery medals. Another requirement is the proof that the convict ordered causing severe physical or morale damages. Such acts occurred against Kurdish inhabitants, executed by individuals who were commanded [subordinated], as their commanders did not take penal measures against them or even try to prevent them. A third requirement, which element of proof must be provisioned, is the victim's statement where he threatens murdering the members of a given patriotic group. This is unquestionably stated in Convict's, 'Ali Hasan Al-Majid, audio tape where he lanced that he will chemically strike, killing them all, this, in addition to other evidences of the aforementioned requirement such as demolishing houses, murdering the father-mother-brother-children [meaning the whole family] who are of Kurdish origins. As for the evidence of sexual violence and rape, as it is a must to be limited against Kurdish community, it had been proved, facing your court, through plaintiffs and witnesses' testimonies, the application of violence against Kurdish girls detained in special camps, designated to concentrate Kurds only, like Nuqrat Al-Salman, where a girl had been raped in front of her brother and other detainees. Another identical incident was marked at Tupzawa Camp.

**(C) Premeditatedly subduing the group to living conditions intended to partially or totally eradicate them**

The image shows a handwritten signature in black ink, which appears to be 'الرجبي' (Al-Rajbi), written over a circular official seal. The seal contains the text 'القضاء العالي' (The High Court) and 'القضاء الجنائي' (Criminal Court) in Arabic, with 'Iraqi High Tribunal' written in English around the bottom edge.

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The legal requirements for such crime are that the murderer imposes certain living conditions, on one or more individuals. The elements of proof are the availability of evidence identifying an enough period of time or imposing certain living conditions which lack medical care or a shortage in this care which provision is obligatory. All the aforementioned elements of proof are found in the case's file as per period of detention and living conditions which were imposed on camps including shortage in services, hygiene, and medical care. This is proved by plaintiffs' testimonies. If by "living conditions" is meant the partial or total eradication of this detained community, it would not be logic unless the intent of that imposed detention is a partial or total eradication of detainees. This is affirmed by non provision of potable water and medical care causing death for many.

**The prosecutor also clarified in his brief:** The crimes against humanity, committed during Al Anfal operations, had occurred within a systematic, organized and large scaled attack, based on the ruling authority's orders, against a group of civil inhabitants. Such acts match with Article [12] of Iraqi High Tribunal Law with its following clauses:

**First:**

- (A) Premeditated murder.
- (B) Genocide.
- (C) Deportation or coercive dislocation of inhabitants
- (D) Imprisonment and extreme deprivation of any other kind of physical freedom in a way which contradicts the basic legal rules.

The image shows a handwritten signature in black ink on the left, and a circular official seal of the Iraqi High Tribunal on the right. The seal contains the text 'القضاء العظمى' (The High Tribunal) in Arabic and 'Iraqi High Tribunal' in English.

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- (E) Torture.
- (F) Rape.
- (G) Persecuting any specific group of inhabitants for political, racial or ethnic reasons.
- (I) Coerce harboring of inhabitants.

**(A) Murder:**

It occurs when the perpetrator murders an individual or more. This crime's elements of proof are mass graves discovered in Al-Hadar at Al-Samawah governorate next to Nuqrat Al-Salman, aside the mass graves located in Kurdistan as proved by documents and special experts' declarations. All these acts were carried out with a preconceived malice within a systematic, organized and large scaled attack.

**(B) Genocide:**

The Genocide, which constitutes a crime against humanity, is basically provisioned as it is proven in the case's file; where a group of civil inhabitants was murdered while survived victims were forced to live in conditions which lead to eradicate a major part, later on. This conduct had been carried as part of a systematic, large scaled attack targeting civil inhabitants, or that these crimes were directly executed by convicts. The murder's evidences are the mass graves, plaintiffs' testimonies, and experts' declarations. The legal requirements for proof of this crime are that the perpetrator must murder one or more individuals as well as imposing, over the victims, living conditions which will surely lead to their partial eradication. The elements of proof pertaining to this requirement emphasize on the provision of a proof elaborating a victim's death. There is no clearer evidence than the mass graves, as the proof of handing victims to militias and armed groups for settling them down is also marked via killing detained civilians in different regions ...

The image shows a handwritten signature in black ink on the left, and a circular official seal on the right. The seal contains Arabic text and the words "Iraqi High Tribunal" in English.

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... of Iraq and burying them in mass graves. Regarding the other legal requirement, the action will be considered as genocide against a given group's members of civil inhabitants, or to be part of such act. The elements of proof is the foundation of massive murders with an approximate number of victims which is appropriated as experts mentioned that each opened mass grave included 500 victims or more, murdered by the armed forces using a diversity of weapons, as proved by the acquired evidences.

**(C) Coercive relocation or dislocation of inhabitants**

One of the legal requirements of this crime is that the convict relocates or dislocates coercively an individual for reasons not justifiable by the International Law. The elements of proof are provisioning evidence elaborating an applicable dislocation executed without the approval of concerned parties, as well as denying the military necessity of such act. This is proved to your court, as dislocation had been adopted after seizing and encircling the villages, coercively and forcefully moving the inhabitants, brining villages down, after being evacuated, with no military necessity whatsoever. All the aforementioned had occurred with the full awareness of convicts as within an organized, large-scaled attack.

**(D) Imprisonment and extreme deprivation as contradictory to physical freedom, against basic legal rules:**

All of this crime's basics are provisioned and proved to your court, due to the ghoulish conduct and leaders' awareness, as detention was contained in a large scaled attack, against civilians. The evidence of detention or arrests is the existence of camps such as Tupzawa, Dibs and Nuqrat Al-Salman as well as others. All detainees were civilians in bad health conditions as many died due to such circumstances during the detention period.

The image shows a handwritten signature in black ink on the left, and a circular official seal on the right. The seal contains the text 'رئاسة المحكمة' (President of the Court) and 'المحكمة الجنائية العراقية' (Iraqi High Tribunal) in Arabic, with 'Iraqi High Tribunal' written in English at the bottom.

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**(E) Torture:**

This crime's basics are also provisioned and proved by causing severe pain and suffering, physically or psychologically, on the victim. That is what really happened and been proved by plaintiffs who had been assaulted physically (severely beaten), forcing some victims to stand naked, depriving them from hygiene, obliging them to witness the torture of their sons and relatives as well as sexual molestations against their sisters. All these acts occurred during the detention period, under the supervision of the perpetrators.

**(F) Rape:**

The legal requirements for such crime are the assault of the crime's perpetrator over another's body, described as a conduct, resulting in the penetration of a sexual organ in any part of the victim's body, no matter how slight this penetration was, as committing the assault by force, threat or coercion. This is what had been proved to the court from the testimonies as some plaintiffs mentioned being exposed to rape after threats and slaps. Even if convicts did not apply rape themselves or give direct orders, the leader is in charge of his subordinates' acts, as putting women in camps supervised and surveyed by men only will render the possibility of rape incidents more probable, aside the convicts' negligence of what may be conducted by their henchmen against the victims. They did not take mandatory precautionary measures to prevent such assaults placing them in charge of this crime's occurrence [Probable Intention Theory].

**(G) Persecution of any given group of inhabitants for political, ethnic or racial reasons:**

The legal requirements for such crime are that the committer strictly deprives an individual or more from their basic rights, in contradiction to the International Law. The elements of proof are acts which constitute persecution such as illegal imprisonment and detention of civilians ...

The image shows a handwritten signature in black ink, which appears to be 'السيد' (Al-Sayid), written over a circular official stamp. The stamp contains the text 'القضاء العالي' (Al-Qadiah al-A'la) at the top, 'الهيئة القضائية' (Al-Hay'ah al-Qadiah) in the middle, and 'Iraqi High Tribunal' at the bottom.

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... assaulting other's freedom, murder, relocation, coerce dislocation, total devastation of houses and properties, looting, destroying and sabotaging educational and religious establishments, as well as sexual violence. All these facts are proved for your court as being implemented within a prior organized, large scaled attack rendering the intention or criminal aim provisional for convicts.

**(I) Coerce harboring of inhabitants:**

All basics for this crime are provisioned as follow:

- 1- Arresting one or more individuals
- 2- Denial to provide information concerning the fate and whereabouts of précised individuals
- 3- This arrest was supported and decreed by the government
- 4- This conduct was part of a large-scaled attack

These basics were proved to your court as an immense number of inhabitants had been detained without delivering any info regarding their fates or whereabouts. Those were the Anfalized Kurdish sons meaning the lost with no trace till now.

**The prosecutor also clarified in his brief:** Concerning the crimes which occurred during Al Anfal Campaign, they match Article [13] of Iraqi High Tribunal Law, in its coming clauses, guided by Clause [Fourth] of the aforementioned article of the court's code stating dangerous violations of laws and customs, imperatively applicable on non-international armed disputes within the pertained International Law's scope, precisely any of the following acts:

- (A)** Premeditatedly targeting attacks against civil inhabitants, following this description, or against civil individuals directly uninvolved in war operations.

The image shows a handwritten signature in black ink on the left. To its right is a circular official seal. The seal has a double border. The outer border contains the text 'الهيئة القضائية العراقية' (Iraqi Judicial Body) at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة المحكمة' (President of the Court) at the top and 'القضايا الجنائية' (Criminal Cases) at the bottom.

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- (B) Intending attacks over buildings appropriated for religious or educational purposes, conditioned not to be military targets
- (C) Looting any town or place even if it had been confiscated by force
- (D) Rape
- (E) Issuing orders to dislocate civil inhabitants due to reasons related to the confrontations, unless such action was executed for the benefit of those civil inhabitants or urgent military necessities.

**A- Premeditatedly attacking civil inhabitants:**

The legal requirements of this crime and elements of proof are provisioned in the case's file, as the first impose that the perpetrator direct a raid targeting civil inhabitants directly uninvolved in war operations. The element of proof requires an evidence of dead or injured among the targeted civil inhabitants. Indeed, this occurred and had been proved via plaintiffs' testimonies and official documents, acknowledging that most of the victims were not soldiers, rather women and children who lost their lives during air and land strikes, were directly uninvolved in war operations, and did not lift arms. Another requirement is to define the conduct along non-international armed dispute or any other conduct correlated with it. The elements of proof of such requirement are the availability of evidence highlighting an armed disputed between government's authorities and armed groups [Pishmarga]. A third requirement is that the perpetrator must acknowledge the factual conditions that frame an armed dispute. The element of proof in this case is elaborated via letters and official documents given to the court, proving the acknowledgment of convicts about this ...



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... conflict as the other side [Pishmarga] was an organized, armed force based on commands to receive orders from. This is what had been proved from the convicts' testimonies themselves.

**B- Intend raiding buildings appropriated for religious or educational purposes:**

The legal requirements of this crime and elements of proof are provisioned in the case's file, as the following legal requirements must be provisioned:

The perpetrator must direct attacks. The elements of proof is the availability of evidence elaborating the damages or ruins, as well as targeting one or more buildings of those appropriated for religious or educational purposes which are not considered as military targets by nature. The raided buildings must not be used by armed forces, as premeditatedly taking these buildings as targets solemnly. This will take us to the fourth requirement as its element of proof is the availability of evidence concerning the executed acts which indicate a premeditated intention of damage or destruction. This had been proved via documents, passed to the court, which order the devastation of schools and mosques as mentioned by some plaintiffs' testimonies. On the other side, to prove the intention is emphasized through orders issued concerning the demolition of the aforementioned buildings, carrying on these orders, and reporting back the outcome.

**C- Looting any town or place even if forcefully confiscated:**

The legal requirements of this crime and elements of proof are provisioned in the case's file, and are as follows:

When the perpetrators confiscate specific properties, gaining public or private ownership illegally, at a time when looting is carried by soldiers aiming at personal gain. The evidence that organized property confiscation was performed through a framed systematic and economic abuse of the region's valuable assets ...



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... as the war necessity to not legitimize looting . The represented legal requirements and their elements of proof are emphasized for the court through granting soldiers and national defense regiments the right to loot Kurdish villages' civil inhabitants' properties. This conduct is marked by documents passed to the court and only excluded heavy weapons. Hence, livestock animals and furniture are the property of forces who enter the village. As of the last legal requirement, it is the confiscation without the owner's approval. Its element of proof is when affirmation had been given away under coerciveness, fear, or any other type of oppression. The aforementioned is elaborated by the detention of the civil inhabitants while confiscating their wealth, forcing them to eyewitness the burn down of their houses using dynamite or bulldozers.

**D- Rape:**

It occurs when the perpetrator assault another person's body, conducting a behavior which results in penetrating the sexual organ in any part of the victim's body, or penetrating any other body or organ in the anus or sexual organ's overture [vagina], however trivial this penetration was. The element of proof is the availability of evidence concerning the penetration of bodies in overtures available within the victim's body. This had been proved via some plaintiffs' testimonies that were exposed to rape, supported by witnesses' authentications in front of the court. The other legal requirement, for this crime, is that the rape being conducted using force or threat. The elements of proof are available by the coerced conditions such as armed dispute, victim's detention, loss of virginity, and exposed to being beaten while resisting the perpetrator, as one victim mentioned that her jawbone had been broken (due to a tight punch), leading to the conclusion that the act had been forcefully conducted.



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**E- Issuing orders to dislocate civil inhabitants for reasons correlated to the dispute, unless such conduct is for the sake of concerned civilians or mandatory military reasons:**

The legal requirements and elements of proof of this crime are represented by issuing orders to dislocate civil inhabitants for reasons correlated to the dispute, unless it is due to concerned inhabitants' security or mandatory military reasons. This requires an evidence that the dislocation's order had been executed without choice, the thing that is elaborated through issued orders enclosed in documents, passed to the court, pertaining to the dislocation of villagers whose villages were more near to Baghdad, aside those located on border-lines, to different places, with no necessity to protect or secure them.

**The prosecutor also clarified in his brief:** The mass graves and Defense Commission's incapability to describe it, especially after what experts stated in legal and scientific terms, contented by these details and descriptions, as well as the doctors' testimony, in the court, attributed as experts and witnesses, describing the chemical injuries and treating the villagers, denying the existence of any Iranian or armed element among the victims, contrary to convicts' pretends that the north was controlled by Iranians back then.

Destroying the villages after being attacked, coercively dislocating the inhabitants and murdering them throughout Al Anfal Campaign, was not related to Iraq-Iran War. The organization and implementation of Al Anfal Campaign highlight the intention of raiding a preplanned war which words can not describe. The pattern adopted in executing the aforementioned campaign holds ghoulis scenes as estimations indicate a total loot, burn, and devastation of villages using bulldozers, explosives and raids, easing somehow 4000 villages as per a preplanned and organized attack. Each village had been destroyed based on a document issued by the Presidential Diwan; where each detailed document is sent to high forces commands' headquarter ...



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... including a detailed description of the whole operation and its results. Al Anfal torn apart the Kurds' life as the Kurdish people suffered unbearable circumstances. The organization and execution of this operation indicate a criminal intention with no doubt.

**Requirements:**

Genocide, crimes against humanity, and War Crimes occurred due to a large-scale attack where an organized plan had been laid down. Anyone who assisted, instigated or helped, in any way, facilitating or contributing to perpetrating the crime, including the provision of crime's tools, is held responsible as per Article [15/second/(C)] of Iraqi High Tribunal. Therefore, all convicts are taken for original actors, vis-à-vis these crimes, hence, we recommend their incrimination as per Article [11] of the court's code with its clauses:

**First:**

- Clause [(A)] Murder by virtue of Article [15] of Iraqi High Tribunal, identifying the sentence as per Article [406/1/( A)] of Iraqi Penal Code contributed to Article [24/First] of Iraqi High Tribunal Law
- Clause [(B)] causing serious physical or mental damages against group's members by virtue of Article [15] of Iraqi High Tribunal, identifying the sentence as per Article [413] of Iraqi Penal Code contributed to Article [24] of Iraqi High Tribunal Law
- Clause [(C)] subjugating the group, premeditatedly, to certain living conditions with the aim to partially or completely eradicate it as per Article [15] of Iraqi High Tribunal Law, identifying ...



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... the sentence as per Article [406/1/(A)] of Iraqi Penal Code contributed to Article [24] of Iraqi High Tribunal Law.  
As well, incriminate them as per Article [12] of Iraqi High Tribunal Law via its clauses.

**First:**

- \* Clause [(A)] premeditated murder as per Article [15] of Iraqi High Tribunal Law, identifying the sentence as per Article [406/1/A)] of Iraqi Penal Code contributed to Article [24] of Iraqi High Tribunal Law
- \* Clause [(B)] genocide as per Article [15] of Iraqi High Tribunal Law, identifying the sentence as per Article [206/1/A)] of Iraqi Penal Code contributed to Article [24] of Iraqi High Tribunal Law
- \* Clause [(D)] relocation or coercive dislocation of inhabitants as per Article [15] of Iraqi High Tribunal Law, identifying the sentence as per Article [24] of Clause [Fifth] of this court's code.
- \* Clause [(H)] persecuting any given group of inhabitants for political, ethnical or racial purposes as per Article [15] of Iraqi High Tribunal Law, identifying the sentence as per Article [24], Clause [Fifth] of this court's code.
- \* Clause [(I)] Coercive harboring of inhabitants as per Article [15] of Iraqi High Tribunal Law, identifying the sentence as per Article [421] of Iraqi Penal Code contributed to Article [24] of Iraqi High Tribunal Law as per Clause [Fourth]



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- \* (A) premeditatedly leading attacks against civil inhabitants, in their current status [TC: as being civilians], or against civil individuals uninvolved directly in war operations as per Article [15] of this court's code, identifying the sentence as per Article [406/1/A)] contributed to Article [24] of this court's code.
- \* (D) Intend to raid over buildings appropriated to religious or educational purposes as per Article [15] of this court's code, identifying the sentence as per Article [478/2] of Iraqi Penal Code contributed to Article [24] this court's code.
- \* (E) Looting any town or place even if it had been forcefully confiscated as per Article [15] of this court's code, identifying the sentence as per Article [445] of Iraqi Penal Code contributed to Article [24] of this court's code.
- \* (F) Rape as per Article [15] of this court's code, identifying the sentence as per Article [393/2/C)] of Iraqi Penal Code contributed to Article [24] of this court's code.

Finally, the prosecution committee recommend, from your court, to lay down the strictest sentence against 'Ali Hasan Al-Majid, Sultan Hashim Ahmad Al-Ta'i, Sabir 'Abd-al-'Aziz Al-Duri, Husayn Rashid Muhammad and Farhan Mutlak Al-Juburi, who ravaged the land with corruption, eradicated the harvest and posterity, did not pity an old man, woman, or child, even all God's creatures from animals, trees, natural environments. None escaped their tyranny and cynicism. The faithful says, honorable and gracious in his umpire Noble Book, In the Name of God All Merciful All Compassionate, "And if someone aimed trough the land to corrupt, eradicate the harvest and posterity, as God does not favor corruption" [Al-Baqarah: 205]  
Hence, as the strictest sentence is the one which should be applicable, Article [406/1/(A)] will be adopted, stating the death sentence as the Article recommended.



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Regarding Convict Tahir Tawfiq Al-'Ani; the submitted evidences before your court, limited to the two documents No. [3744] and [3972] on 1986 Aug 26 and Sep 6 consecutively, issued by Northern Affairs Committee to Presidential Diwan, included a proposal to execute 10 detainees from the Patriotic Union of Kurdistan [included in the first document]. The second document contained a proposal to Northern Affairs Committee concerning saboteurs' money and relatives, acknowledging that the aforementioned documents' date is prior to that of this case. As for the advisory order issued by Northern Organization Office, holding the Ref No [4008] on 1987 June 20, Clause [6] does not contain a document or proof corroborating that the aforementioned convict used this jurisdiction, rather it is an order by Convict 'Ali Hasan Al-Majid. Concerning document No. [5083] on 1987 July 22, it encircles Convict's, 'Ali Hasan Al-Majid, comment over chopping off the traitors' heads. This comment is not correlated to Tahir Tawfiq Al-'Ani. As of the mass graves, found in Al-Hadar and Al-Salamiyyah Police Camp, where Kurdish detainees were arrested, there was no evidence that the convict played a role but rather a presumption as the aforementioned mass graves and police camp are located within the administrative area of Ninawa governorate. Hence, a presumption is never determined evidence. For all these reasons, the general prosecution commission recommends from your court to dismiss charges and release him for lack of sufficient evidences as per Article [183/(C)] of Criminal Trial Procedures law.

Finally, the human conscience is highly counting on your honorable court to fulfill justice through your just judgment, so that justice will shine victorious in the end. This court is the first, in contemporary history, as being a national court looking in International Crimes, questioning and prosecuting former statesmen for carrying massacres against their own people. The law is stronger than combined evils which Al Anfal organizers caused to the Kurdish people ... Your just verdict will reunite the sons of our populace together, granting them all, once again, hope.



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Therefore, General Prosecutor's commission requests to refer all names mentioned in documents and evidences, which had been proffered before your court, and were designated as involved in Al Anfal campaigns, to take legal charges against them, in each case, with all other fugitives away from this case's prosecution.

**[Charges against convicts as per indictment document]**

**Background**

On 1987 March 18, a meeting, between bygone Revolutionary Command Council and State Command of the Ba'th Party, had been held to discuss the Kurds' situation in Northern Iraq. Both commands draw a clear policy of targeting the Northern area. As a consequence, a decree had been issued, holding Ref No [160] dated 1987 March 19, granting 'Ali Hasan Al-Majid immense jurisdictions to implement the policy identified in the decree.

**Decree [160] on 1987 March 29:**

Based on Clause [(A)] of Article [42], and Clause [(A)] of Article [43] of the constitution, as per implementation of the joint meeting's outcome, between Revolutionary Command Council and State Command of the Social Ba'th Party, held on 1987 March 18,

The Revolutionary Command Council had decided in its session, on 1987 March 29, the following:

First: Comrade 'Ali Hasan Al-Majid, State Command Member in the Social Arab Ba'th Party, will be representing the Party State and Revolutionary Commands Council, implementing their policies all over the Northern area, including Kurdistan Autonomous Ruling area, aiming to preserve security, order and stability, applying the Autonomous Ruling law within the area.



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Second: Comrade, State Command Member, to attain this decree's objective, will be the one who all government's civil, military and security systems will report to, granting him the jurisdictions of National Security Council and Northern Affairs Committee.

Third: The following authorities will be correlated, all over the Northern area, by Comrade-State Command Member, abiding by decrees and directions issued by him, imperatively applied as per the aforementioned decree.

- 1- Kurdistan Autonomous Ruling Executive Council
- 2- The governorates governors and administrative units' leaders affiliated to Ministry of Local Administration.
- 3- Intelligence systems, internal security forces and military intelligence
- 4- People's Army commands

Fourth: the region's military commanders have to comply with the Comrade-State Command Member's orders, in everything related to Article [first] of this decree.

Fifth: This decree is effective from its issuance until further notice as all legal articles which contradict this decree will be frozen.

The decree is signed by Convict Saddam Hussein Al-Majid, the bygone Revolutionary Command Council's Commander. The dangerous crimes committed in Al Anfal operations and the concept of eradicating the Kurds as a national ethnic group in Northern Iraq had been instigated right after issuing Decree [160] for the year 1987. The planning and preparations, guided by the highest point of authority [Convict Saddam Hussein] as being head of the bygone Revolutionary Command Council and State Command of the Ba'th Party General Secretary. This is manifested in the aforementioned decree, emphasizing on their policy's implementation in the region. Convict Saddam Hussein expressed his intention, during his audio-taped conversation passed for this court on 2007 January 08, where he lanced "we will convert them into Arab now, as Salah 'Umar Al-'Ali's relatives ...



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... became Arabs". In another passage, he added "they gained their bad characters from the 'Ajam (*T.C: the Persians*) ", meaning the Kurds gained their bad characters from the Persians. These offensive words, against the Kurds as a national ethnic group, highlight Convict Saddam Hussein disdain for this community. What occurred in Decree [160] for the year 1987, and commensurate issued directions recognized as Letter No. [4008] on 1987 June 20, as well as letter correlated with chemical gases' usage in Kurdistan; reveal the domination of a plan or policy, on the national level, desiring the eradication of Kurds as a national and ethnic group, carried by Revolutionary Command Council and the Ba'th Party, whereas Convict 'Ali Hasan Al-Majid is member in both and in-charge of Northern Organization Office Bureau which is empowered to employ their policies against Kurds in Northern Iraq. The latter took of Kirkuk headquarter, putting all states civil, military and security's systems under his command. He is the supreme leader of Northern Area as per Decree [160] for the year 1987. It is worth mentioning that before the designated convict took power, as absolute ruler of the Northern Area, there were raids targeting civil inhabitants, using a diversity of weapons [conventional and prohibited], but were not concentrated. After the issuance of the aforementioned decree, Convict 'Ali Hasan Al-Majid translated the Council and Party's intentions to acts launching massacres, coerce dislocation of inhabitants, destroying villages, using conventional and chemical weapons against villages' civil inhabitants, field executions, economic besiegement, and prevention of human and animal existence in the area. The military forces attacked using all type of weapons such as artillery, rocket launchers, armors, infantry, airplanes and helicopters against the Kurdish villages. Then, they burned them to ashes, arresting all the inhabitants, killing those who tried to escape, transporting them in military-governmental vehicles to North Organizing Office and then to detention camps in Tupzawa



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Dibs, Nazarki and Al-Salamiyyah or to security committees in the governorates. The detainees were exposed to harsh living conditions, torture, rape, humiliation, famine, and segregation of men and women, young and older females, young and older males. Some were transferred to Nuqrat Al-Salman prison camp while others were buried in mass graves at Al-Hadar in Al-Mawsil, and Al-Samawah desert in Al-Muthanna Governorate. These mass graves were located and excavated by international experts, under the court's supervision. There are documents and official letters which the convicts approve its authentication or had been proved through forensic evidences, as example but not exclusively: letter No. [4008] on 1987 June 20, issued by Convict 'Ali Hasan Al-Majid, headlined "Handling villages within the Prohibited Zone", including many vital issues as: preventing human and animal existence, banning in and out travel, agronomy, agricultural and industrial investment, allowing free shooting with no restrictions whatsoever, murdering any individual arrested whose age-range is included between 15 and 70 years old, as well as granting jurisdictions to national defense regiments to confiscate civil villagers' properties. On the other hand, tens of official documents and letters were released from Presidency of the Republic, Armed Forces General Command, Chief of Army Staff, General Military Intelligence Directorate [GMID], Ministry of Defense, Corps Commanders, and Security Directorates concerning methods of execution, on a large scale basis, of attacks eradicating the Kurds as a national ethnic community via chemical gases targeting civilians, destroying their villages, carrying field executions and coercive dislocation, raiding over residential compounds. As an example, we mention General Security Directorate's [GSD] memo No [9223] directed to 45<sup>th</sup> Directorate, including the implementation of Convict 'Ali Hasan Al-Majid to execute 28 individuals from Shaqlawa for participation in sabotage acts, including 4 women. Another example is GMID letter directed to North Organizing Office, holding Ref No [1933] on ...



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... 1987 September 08, which included the output of a concentrated artillery strike using special ammunition [meaning chemical weapons], and North Organization Office's letter No [5083], on 1987 July 22, directed to 1<sup>st</sup> Corps, including a comment by Convict 'Ali Hasan Al-Majid "we do not object cutting off the traitors' heads, but it had been better of sending them to Security for investigation, maybe they would have useful Intel info, before executing them". Ministry of Defense Diwan's letter No [8574], on 1988 April 26, directed to Chief of Army Staff, including what Armed Forces General Commander's Deputy lanced "To accrue a psychological influence bigger than that achieved, we do not object a strike via special ammunition if there is a target which deserves punishment". Chief of Army Staff letter No [349], on 1988 Apr 27, headlined to 1<sup>st</sup> Corps [Sultan Hashim Ahmad], and 5<sup>th</sup> Corps [Ayad Khalil], including "it is possible to lead strikes via special ammunition against saboteurs' forces". Armed Forces General Command letter is granting (Sultan Hashim Ahmad) and (Ayad Khalil) medals of honor; for their participation in Al-Anfal Operations. The correspondence of Chief of Army Staff No. 1122 on 1988 August 21, which is addressed to the 1<sup>st</sup> Corps and the 5<sup>th</sup> corps, and indicates to the meeting of Chief of Army Staff and the deputy for the operations in (Kirkuk), (The concentration of the population will be determined in the 5<sup>th</sup> Corps sector, and it will be treated by the fierce special attacks 48 hours prior to starting the operations, to create a panic situation in their side, and to prevent them from helping the saboteurs). The correspondence of General Command of the Armed Forces No. 177 on 1988 MAR 02, which delivered the instruction of the convict (Saddam Hussein) to the deputy of General Command of the Armed Forces, and the Chief of Army Staff, in the meeting of the General Command on Saturday 1988 MAR 19, including continuing the attacks against the enemy and the saboteurs, by the artillery and air force, and put special ammunition attacks among the conventional artillery attacks (its preferable to use the special ammunition at night), The correspondence of Chief of Army Staff No. 654, on...

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... 1988 May 22, addressed to Ministry of Defense, included the following article "Strikes were executed via special ammunition on 1988 May 05, over saboteurs' headquarters within the 5<sup>th</sup> Corps' sector". Presidency of the Republic – Secretary's correspondence with GMID, holding Ref No [808], dated 1987 March 12, including a study tackling President Commander Saddam Hussein decree to raid Al-Barzani clan's headquarters with special ammunition. The respond [GMID to Presidency of the Republic – Secretary], numbered [6885] on 1987 March 25, included suggestions over special ammunition usage. Presidency of the Republic – Secretary's letter back to GMID, holding Ref No [965] on 1987 March 29, granted an approval over the aforementioned suggestion, targeting the Kurds. Finally, Health Directorate - Kirkuk Governorate letter, headlined to Internal Affairs - Al-Ta'mim Governorate, numbered [783] on 1988 June 12, included receiving Kurds' corpses coming from Dibs and Tupzawa prison camps, not adequate to legal conditions.

### **Summary:**

After we briefly reviewed the bygone Revolutionary Command Council's Decree No. [160] for the year 1987, and letter [4008] dated 1987 June 20, issued by North Organization Office, as well as all other letters and documents affiliated with special orders to raid the Kurds, in Northern Iraq, methods of usage pertained to chemical gases, their relocation and dislocation toward prison camps, destroying down their villages, and after reviewing some victims' testimonies, how they have been murdered, chemical gases' usage, devastating their villages, dislocating them to camps, without mentioning the exposure to torture, mistreatment, humiliation, harsh living conditions, leading to the death of some due to famine or torture, and the diversity of persecution, torture and rape, due to all the aforementioned, it had been referred to experts' opinions vis-à-vis what they examined in the mass graves ...



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... and accomplished analysis, matching what they witnessed to what they drew as outcome, after listening to victims' testimonies, exploring the mass graves' status, as well as proving the chemical weapons' usage.

For what had been mentioned, it becomes certain to the court, that the previous Iraqi regime committed dangerous crimes against the Kurds in Northern Iraq, handling them as national ethnic group, specifically against civilians. These crimes included genocide, crimes against humanity, and war crimes, as we will elaborate the legal requirements of each crime, as well as its elements of proof, in a detailed manner:

#### **Convict 'Ali Hasan Al-Majid**

Born in 1941, occupied the following positions:

1. General Security Director for the year 1986.
2. Northern Organization Office's General Secretary from 1987 till 1989.
3. Minister of Interior for the year 1990.
4. Kuwait Governor from 1990 till 1991.
5. Minister of Defense from 1991 till 1995.
6. Bygone Revolutionary Command Council's member.
7. State Command of the bygone Social Arab Ba'th Party's member.

#### **Charges against Convict 'Ali Hasan Al-Majid as per indictment form**

On 20 February 2007, in the 46<sup>th</sup> hearing, the court incriminated the convict with the below charges:

##### **First: Genocide**

##### **Article [11/ first]:**

##### **A. Murdering a given group's members.**



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- B. Causing severe mental and physical damages to a given group's members
- C. Subdue the given group, premeditatedly, to harsh living conditions, aiming to partially or totally eradicate them.

By virtue of Article [15/First, Second, Third, and Fourth] of Iraqi High Tribunal Law No [10] for the year 2005.

**Second: Crimes against Humanity**

**Article [12/ first]**

- A. Premeditated murder.
- B. Genocide.
- C. Enslavement.
- D. Relocate or coercively dislocate the inhabitants
- E. Imprisonment or extreme deprivation of any other manner of physical freedom contrary to International Law's basic regulations
- F. Torture
- G. Persecuting any given group or given community for political, racial, patriotic, ethnic, cultural, religious or gender purposes or for other reasons not legitimized by International Law, correlated with any aforementioned act of sexual violence on this level of danger.
- H. Coerce harboring of individuals.
- I. Other inhuman acts, holding identical characteristics, which premeditatedly cause severe sufferings or serious damages, affecting the body or physical or mental health.



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By virtue of Article [15/First, Second, Third, and Fourth] of Iraqi High Tribunal Law No [10] for the year 2005.

#### **Third: War crimes**

**Article [13]** means war crimes for this code's purposes, as follow:

**Fourth:** other dangerous violations of codes and customs crucially implemented over non-international armed conflicts, within International Law's logic scope, precisely any of the following acts.

#### **Article [13/ Fourth]**

- A. Premeditatedly target attacks against civil inhabitants, as per their current situation [TC: for being civil inhabitants], or against civilians uninvolved directly in war activities.
- B. Premeditatedly target raids over buildings appropriated for religious, educational, artistic, scientific or charitable purposes, or against historical monuments, hospitals, and injured and patients' gathering centers, conditioned that all the aforementioned were not military objectives.
- C. Looting any town or place even if it had been forcefully confiscated.
- D. Issuing orders to dislocate civil inhabitants for reasons correlated with the dispute if not for their safety or necessary military reasons.
- E. Devastate or seize hostile properties, if it was not a matter forced by the necessities of war, by virtue of Article [15/First, Second, Third, and Fourth] of Iraqi High Tribunal Law No [10] for the year 2005.

**Article [15/First]:** an individual, who commits a crime within the court's jurisdiction, is held responsible as an individual, exposed to sentence as per this court's codes.



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**Second:** an individual is held responsible as per this court's code and Iraqi Penal Code, if he carried the following:

- A. If he commits the crime as an individual, contributor, or via another person regardless if the latter was responsible or not criminally.
- B. To order the perpetration of a crime as an individual, contributor, or via another person regardless if the latter was responsible or not criminally.
- C. To help, incite, or assist in any other way aiming to facilitate the perpetration of the crime, or its attempt of the commission, including the provision of crime's tools.
- D. To contribute in any other way, with a group of individuals, with a common criminal intention, aiming to perpetrate or instigate a crime, conditioned that this contribution is premeditated and be implemented:
  - a. Either to reinforce group's criminal act or purpose, if the activity or aim enclosed perpetrating a crime within the court's jurisdiction.
  - b. Or with the acknowledgment of the group's intent to perpetrate the crime.
- E. Direct and public incitement of perpetrating the crime as if correlated to genocide.



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F. Instigate a crime through commencing the execution, intending to commit it, hence, the crime does not occur for reasons far beyond the perpetrator's reach, is considered an exonerated reason if the committer spared effort to prevent the crime's implementation or accomplishment. He will not be charged for instigation, as per this law, if he [the perpetrator] abandoned, completely and willingly, his criminal project.

**Third:** the convict's official position will not be an exempt or moderator of punishment, whether the convict was a statesman, Revolutionary Command Council's member or commander, Prime or Minister in the Cabinet, or Ba'th Party Command's member. Immunity must not be considered as allegation to get rid of charges for committing the crime mentioned in Articles [11], [12], [13] and [14] of this code.

**Fourth:** The supreme leader will not be exempt from criminal responsibility over crimes committed by his subordinates, if the first was aware, have reasons to be acknowledged that his henchmen committed such acts, or were about to commit them, and he did not take necessary and appropriate measures to prevent the occurrence of these acts, or referred this incident to the appropriated authorities to carry investigation and prosecution.

#### **1- Resume of plaintiffs' (victims) testimonies and eyewitnesses':**

The Iraqi army launched a systematic wide-scaled attack, starting March 1987 till Al Anfal Closure [Al Anfal Eighth Operation], stretching over vast regions in Kirkuk, Al-Sulaymaniyah, Irbil and Duhuk governorates. The court authenticated more than 70 Plaintiffs' (victims) testimonies, as the majority of victims described the attacks as Armageddon. Most of them asked accusation against ...



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... Convict 'Ali Hasan Al-Majid, even though they did not see him murdering, imprisoning, beating up, or dislocating villages' inhabitants and Kurdish towns ... They asked accusation against him for being the ultimate ruler of Northern Zone, as per Decree [160] for the year 1987, as well as issuing orders to military, civil and security commands, in addition to party and intelligence systems which perpetrated genocide, crimes against humanity and war crimes, before and through Al Anfal operations. All these perpetrations were carried by direct orders from the aforementioned convict, as per letter [4008] dated 20 June 1998. They also accuse him for being in-charge of prison camps in Tupzawa, Dibs, Nazarki and Al-Salamiyyah where Kurdish men, women and children were detained for being part of a national ethnic community, driving them away, harboring and burying them in mass graves which had been later explored and included thousands of Kurds ... Below, we enclose examples of victims' complaints and testimonies [plaintiffs and witnesses]. Plaintiff [victim] Najibah Khidir Ahmad mentioned, in the 2<sup>nd</sup> hearing, dated 2006 August 22, that, when she was detained in Rashkin Camp with other villages' inhabitants, she watched many people dying, identifying some residing her hometown who died from chemical strikes against the village. The victims were identified as [NAME REDACTED].

Plaintiff (victim) [NAME REDACTED] included in his testimony, dated 2006 September 11, in front of this court "on 1987 September 03, Emergency Forces invaded our village, burning it down and detonating the electricity, as they confiscated all livestock belonging to the villagers. My seized share contained 100 goats and sheep. All villagers were arrested and moved to Al-Sulaymaniyyah Security Directorate and then back to Al-Sulaymaniyyah Emergencies. At one night, 9 names were called [[NAME REDACTED]]...



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... and [NAME REDACTED]] as well as two of Kalar inhabitants. All the aforementioned were executed behind the prison's fence. After getting them outside, I heard shootings and acknowledge from guards that those were executed for being arrested within the Prohibited Zone".

Plaintiff (victim) [NAME REDACTED] mentioned in his testimony, dated 1987 September 12, in front of this court "in the second month of 1988, ours and nearby villages had been bombed for seven consecutive days, and then the state's forces raided from 3 axis over village, arresting 90 villagers, while the rest managed to escape. The village's properties had been looted by the offensive forces, burning the village to ashes. I escaped to Iran as my brother's wife and 5 of her children were arrested. After 6 months, when I returned back from Iran, I knew from elders coming back from Nuqrat Al-Salman Camp that she, and her children, were taken to an anonymous place when segregating women and men at Tupzawa Camp. In 2004, I came to court, and was informed that 4 identification cards belonging to my brother's children were found in the mass graves, by the court ..."

Plaintiff (victim) [NAME REDACTED] stated, on 2006 September 14, in front of this court "in 1988, I was residing Sidar village, which was under the regime's control, wherein it was bombed intensively. The children and women moans reached the skies as inhabitants took refuge in basements and caves. When the Iraqi forces launched a multi-axis, I escaped the village, accompanied with my 9 years old child, and hid in one cave. I gazed, from that location, at my village using a periscope. I saw those gathering children and women in the mosque's hall, packing them in vehicles while the bulldozers are devouring the village. I ran away to Iran, where I stayed for six months, until the amnesty's issuance. I turned back to Iraq and surrendered to the authorities. They put me in Al-Salam Camp, and managed to visit my mother released from Nuqrat Al-Salman Camp ...



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...She told me that she recognized my wife and children at Tupzawa Camp, before being released, but does not know their fate. When I met Saddam Hussein inquiring my family's fate, he responded [Shut up! They were lost in the Anfal]"

Plaintiff (victim) [NAME REDACTED] mentioned in his testimony, dated 2006 September 15, before this court "On 1988 March 22-23 [nighttime], my village had been exposed to chemical attacks, as I eye-witnessed Siwsinan smoking out. I was sure that the raid was a chemical one as I was ill for breathing toxic gases. I was hospitalized at Shursh where I was treated. Afterward, I escaped to the mountains. The very next day, I recognized mine and other villages burning down as a raid's consequence. I ran away with the families towards Kirkuk as I saw many families reaching Mila Sura where we had been encircled by the army, arrested, and dislocated to Qura Tu Camp, and then to Tupzawa camp. There, they segregated women and men, youngsters and elders. I saw my daughter [NAME REDACTED] crying bloodily. All possessions and rings were taken away from youngsters. I was moved to Nuqrat Al-Salman as my wife and five children's fates remain anonymous, not knowing anything about them...etc".

Plaintiff (victim) [NAME REDACTED], one of the survivors from the mass graves, testified in the 23<sup>rd</sup> hearing, dated 2006 November 27, "I eye-witnessed soldiers standing on edge of a hole, holding guns ... One of them shot down the people in the hole ... I was shot in my shoulder ... I saw a pregnant woman in that hole, shot by soldiers as blood was pouring out of her head ... I saw my sister [NAME REDACTED] in the hole while being shot, as well as my mother who had been shot in the head cutting down part of the veil covering her head ... I saw my maternal uncle's wife [NAME REDACTED] when she was shot ... The ...



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... shooting lasted for a time on those in the pit ... It was like rain bullets ... The pit was full of blood ... as if sitting in a sea-blood.

Plaintiff (victim) [NAME REDACTED] testified, on 1987 June 5, that I was one of the Pishmarga Forces, affiliated to Iraqi Communist Party, was positioned in Gali Siwa. Around seven o'clock nighttime, four Iraqi SUKHOY aircrafts raided over, striking with chemical bombs. She followed the inhabitants to the basement accompanied by comrade [NAME REDACTED], and her sons [NAME REDACTED] and [NAME REDACTED]. After a while, the aircrafts raided a second time. She told [NAME REDACTED] "I smell something", while recognizing that [NAME REDACTED] was wounded, [NAME REDACTED] was crying out of pain, and [NAME REDACTED] vomiting,. She asked what's going wrong and responded that they smell gunpowder. [NAME REDACTED] was lying on the floor near the hospital fainting while bombs continued to hit targets. After midnight, they were attacked by chemical weapons. They identified condensed smokes surrounding people who were crying, vomiting or aching. [NAME REDACTED] died, [NAME REDACTED] got blind due to chemical substances, and [NAME REDACTED] died. Bubbles started to appear on the plaintiff's skin, while many individuals went blind. Bombs were exploding into white to gray smokes. They were not that noisy. They acknowledged a march of Irqi forces as people were in mess. It had been agreed to withdraw to the Turkish borders, taking a period of 10 days. The victim showed a picture of a 40-days-old child named ([NAME REDACTED]), a retarded child who witnessed all these operations and is residing Danmark. Another, 2-years-old [NAME REDACTED], was in my arms when raiding chemicals, had turned blind. When we were in refuge camps ...



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... in Turkey, they were exposed to a severe diarrhea, as the victim was close to dying. This was the situation of many human [men and women] as well as animals. Plaintiff (victim) [NAME REDACTED], from Balisan, testified the following "I am Iraqi, Kurdish by origin. The Ba'th Regime attacked our villages several times via a diversity of aircrafts and weapons including chemicals. On 1987 April 16, at noon, around 6:15, villagers came back to their homes as well as their livestock. Suddenly, a group of aircrafts soared over Balisan, mounting between 8 and 12, and bombed both Balisan and Shaykh Wasanan. The sounds of bombs were low, but the smokes invaded Balisan skies. We smelled something like rotten apples or garlic. After few minutes, most of the villagers' eyes turned red as many started vomiting. Each family went apart hiding in caves or beneath trees. Some remained home. My family, made of eight individuals, saw some wounded and others screaming. At night, we lost sight or visibility and our bodies were burned. We had no one but God to rely on. Two women were moaning, as one pregnant delivered her baby who died immediately due to chemical toxics. They called the baby Chemical [Kimya'] [NAME REDACTED]. We were blind, not able to see anything. They segregated me from my wife who I don't know where they took her. After, we were all detained somewhere ... I was not able to see. They seized all our possessions, not turning them back. We were hospitalized and treated as we recognized that we were ailed from chemicals. At the hospital, we were detained by Security systems". The victim mentioned that someone called [NAME REDACTED] was martyred once they had them hospitalized, affected by chemicals. The plaintiff's wife told him that she and her daughter were detained in (Irbil) after segregating men ...



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... and women. His uncle, [NAME REDACTED], disappeared and his fate remains anonymous and the security men confiscated all they own.

Plaintiff (victim) [NAME REDACTED] testified before this court, in the third hearing dated 2006 August 22, that "on 1988 August 24, Iraqi Forces, in collaboration with National Defense Regiments, surrounded Kurdish civil inhabitants in Dahuk, Zakhu, Sarsang, Sumil, Al-'Amadiyyah, Diyar 'Ajm, Batufa, from two sides, preventing any individual from escaping while arresting many ... All the arrestees were civilians, no one was from Pishmarga. I saw two SUKHOY aircrafts bombing a number of villages which are Ikmala, Mirkaji, Habsi, and Kharba ... I saw many wounded moaning from pain, vomiting with jutting out red eyes. I went to my brother's Salih village to know his fate as well as that of his wife [NAME REDACTED] and his son [NAME REDACTED]. I was accompanied with my other brother [NAME REDACTED], relative [NAME REDACTED]. When we reached nearby my brother's house I saw him and his son lying on the floor, hugging each other [dead], hundred meters away from the porch. His wife's corpse was meters away. The prepared mule was still standing waiting to move them away while the poultry was gone.

Plaintiff (victim) [NAME REDACTED], resident of 'Azaban County, proclaimed that "In 1987, the Republican Guard's brigade attacked our village with tanks. They were equipped with bulldozers and military (Lorry) trucks ... Our village had been destroyed, as demolition acts carried on from morning till six o'clock afternoon, though our village was not a Prohibited Zone ... There was no reason to attack other than being Kurds. On 1987 September 8, 20 Security Forces' squads raided over Sharbazir Village. Me and my brothers, [NAME REDACTED] and [NAME REDACTED], were in the aforementioned village and were ...



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... arrested by security squads ... Our village and livestock had been looted, as we were arrested and transported by their vehicles. On the road, they shot a number of mules, killing some as the livestock pertaining to the villagers was dislocated. We were handed to Al-Sulmaniyyah Emergencies, called out by Major Taha who was in charge of the Emergencies at the time. When we entered the prison camp, we were 16 from 'Arbat village. We remained under detention for three months, we were extremely tortured. Our food was poisoned causing diarrhea and vomit ... There was 126 detainees where 58 were moved to another cell. I was among them as my brothers [[NAME REDACTED]] remained in the camp and their fates are anonymous.

Plaintiff (victim) [NAME REDACTED], resident of Balisan, mentioned, in the third hearing, dated 2006 August 22, that she and others of her hometown's inhabitants, including cousins [NAME REDACTED], were detained in Irbil Security Directorate, by security systems, and 3 were dead in the prison.

Plaintiff (victim) [NAME REDACTED], resident of Siwsinan, mentioned in front of the court, on 2006 September 20, "At sunset, two aircrafts soared the village's sky ... We headed to the basements ... bombing started ... After half an hour, it stopped ... I asked my daughter to go to the roof to know what happened ... Then, I went out and identified 14 corpses ... 7 are from [NAME REDACTED]family ... The remaining belongs to my daughter [NAME REDACTED]and her five children, 2 are those of [NAME REDACTED]wife and his son [NAME REDACTED]... I found the so called [NAME REDACTED]alive ... All injured, mounting to 41, were transported to a nearby clinic ... The number of martyrs was 81 ... 70 died from chemical weapons as the court applied a field examination of the mass graves where they had been entombed.



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Plaintiff (victim) [NAME REDACTED], a resident of Kurji village, included his testimony, while facing the court [21<sup>st</sup> hearing] on 2006 November 7, "On 1988 August 26-25 [nighttime], we received news from neighboring villages informing that Iraqi forces will implement Al Anfal Operations, that no one will survive. All our village's inhabitants gathered, thinking what to do. We left everything behind and tried to escape. We reached the road leading to Kani Masi and Turkish Borders after ... We realized that the road had been cut down before us. We couldn't overpass and many inhabitants turned back, hiding in farms ... On 1988 August 27-26 [nighttime], we tried another time crossing over this street but in vain ... The army took control over it so we hid back in caves ... On 1988 August 28 [morning], at 5 in the dawn, we were bombed ... The army encircled us from all sides ... We surrendered ... They retook us to our village ... They gathered us all [men, women and children] ... They ordered 33 men, me included, to line up ... They took us to the bottom of the hill ... They ordered us to look them in the face ... I saw 16 soldiers standing opposite our side ... Two officers forced us to sit on the ground ... The other officer issued the order to shoot ... He said "Shoot!" ... The soldiers shot us with fire ... We all hit the ground ... They refill their guns 3 times ... When running out of ammunition, he refills till the third one when the officer ordered them [soldiers] to shoot one shot on each one of us ... He shot me in the head, hit my forehead, and then all the soldiers retreated back to the tree where they could not see us ... In that instant, I tried to stand up and check on my father ... I saw him dying ... I saw my brothers, [NAME REDACTED] and [NAME REDACTED] dying ... I saw 18 of my relatives dying ... When I checked on all of them, they were all dead except my cousin [NAME REDACTED] who was injured in his legs. I moved and placed him in a big pit. I tried to escape. Meanwhile, I saw [NAME REDACTED], from my hometown, emerging from beneath the corpses. Each of [NAME REDACTED]...



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...and [NAME REDACTED], from Jalka and [NAME REDACTED], survived. We remained hidden in caves until 1988 September 7, without food or water. Plaintiff (victim) [NAME REDACTED], testified in front of the court, on 2006 August 22, stating "on 1987 April 16, I was with my family, constituted of my husband [NAME REDACTED] and five children. I heard aircrafts roaring in the air, so I took my children down to the basement. My husband followed me. We heard bombs and smelled rotten apple. My children started vomiting and aching. My health degraded and started vomiting. When my husband came back from the mosque, he informed me that the army is aiming an attack against us, as many groupings are waiting orders. The villagers left, using animals, toward the mountains taking some food items. We moved along with them to the caves. I was blind. Late at night, others came and took us to Raniya, by trucks. The situation there was as if Armageddon. There, I was acknowledged that chemical strikes reached Shaykh Wasanan. I lost my husband and his uncle. They put me and my 5 children in a room then Security Systems moved us to Irbil, where Balisan and Shaykh Wasanan families were concentrated in one camp. They did not give us food supplies or treatment. After 9 days, they gathered us in the camp's patio. I could not afford to walk due to burns in my legs and body, as my skin was flayed. I still bear scars till now. The soldiers segregated women and children. They bring big vehicles, called out 29 names and drove them away to an anonymous side. Then, they brought the women inside the camp, brought military vehicles and transported us Khalifan. Down the road, two women died. I came back to Siwsinan with my brother-in-law. Till now, my children are ashamed of the scars from chemical weapons' deformations. Plaintiff (victim) [NAME REDACTED], a sergeant, testified in the 28<sup>th</sup> hearing, on 2006 December 6, "On 1987 April 21, we reached Bargalu village which was bombed by ...



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... chemical weapons ... I reached the hospital along with [NAME REDACTED]... 30 injured individuals were laying in the hospital ... among them 8 injured by chemical weapons including a 8 or 9 years old child whose body was burning and his eyes swollen ... He died after two days despite the therapy ... On 1988 [TC: month not included] 22-23 [nighttime], [NAME REDACTED] told me that Siwsinan was chemically bombed ... We reached the hospital ... They brought us 70 casualties including someone called [NAME REDACTED]... The latter 4 children and wife ... Also [NAME REDACTED], [NAME REDACTED] were martyred ... We knew that 72 individuals from Siwsinan were dead by chemical weapons.

Witness Yunis Haji Haji, one of the mass graves' survivors, says "I was one of the Pishmarga and prior to 1988, there was a vicious fight between the army and Pishmarga forces, which lasted for two and a half months ... After a cease-fire between Iraq and Iran ... The government withdrew all military troops from the south to be deployed in the north. I was injured back then and couldn't take part in the battles which occurred after this date between both sides ... The competency was null ... I stayed in Khalifan ... My family turned me to Suran Security Directorate, after hearing about the amnesty on 1988 August 15 ... I was 19 years old ... I was transferred to Irbil Security Directorate with 97 other individuals ... they recorded our names and confiscated our official documents ... We were exposed to torture ... We were all Kurds ... They moved us toward Kirkuk ... The vehicle stopped beside a building headlined Northern Affairs Organization ... They drove us in ... It included two big halls ... One is designated for women and children, so they took us to the other one ... In the first three days, the torture was excessive ... They used to take us to one of the rooms filled with broken glass and order us to walk, backward and forward, on the glass. Also, they bounded us over



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... to a platforms, placing bags of icy cold water on our heads, slightly perforated. Small drops of bloody cold water splash on our foreheads weighting like a mountain ... They used to order us to be taken to toilets where the guard started counting from 1 to 3, and God have mercy on that who's late ... They used to give us two loafs of bread per day ... We were afraid to eat, not to go to toilets and be beaten up there ... One day I went outside the hall and saw 3 hanged individuals ... On each one's sexual organ was tied a gas bottle ... Once, they brought 3 affiliated to Pishmarga. They were calling them Qashmar, Zawj, and Tartur (*T.C: bad cursing words in Iraqi Arabic dialogue*) ... If they called them and did not answer, they were beaten ghoulishly ... After 1988 Sep 6, we reached 180. They evacuated the hall containing the women and children and then they called out our names, one after another, filling three buses outside ... They tied, blindfolded and placed us in vehicles, notifying us that we are to be taken to Baghdad ... After driving for 5 minutes, the vehicles diverged from main road and took a dirt side road .. We started being worry ... We knew at the moment that we are going to die ... I managed to unite mine and took off the bandage off my eyes ... The cars stopped and we were 7 to be taking out of the vehicle ... I recognized a long pit and made me sit at its edge ... I felt strike at the back of my head ... I fell into the pit ... Dark was spreading its wings ... I fainted ... When I woke up, I realized that the lower part of my body is entombed ... I freed myself from the sand, though inside the pit ... I took advantage of the bulldozer's return to take sand ... I moved out of my place to the other side of the pit. When I got certain of the guards engagement, I escaped and turned away from the pit ... The pit's depth is between 15 and 20 meters, with 1.25 meters width. When I turned away from the pit, I heard numerous gunshots ... With us, was a retarded called [NAME REDACTED]who took an identical share of torture ...



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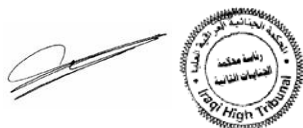
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... like us. The latter is from Karwan village. My powers were fading and exhausted due to starvation and thirst. I reached the main road...etc.  
Witness [NAME REDACTED], in the 27<sup>th</sup> hearing, on 2006 December 04, elaborated "I am a resident of Gup Tapa village. I was there in 1988 and lost 25 members of my family who are my mother [NAME REDACTED], my wife [NAME REDACTED] and my children [NAME REDACTED]. Only, my daughter [NAME REDACTED] survived ... I also lost my brothers [NAME REDACTED] [a teacher], [NAME REDACTED] and his wife [NAME REDACTED], as well as the first's wife [NAME REDACTED] and their children [NAME REDACTED], and Shilan, those of [NAME REDACTED], adding up my brother's [and his wife] [NAME REDACTED] children who had been killed affected by chemical weapons. On 1988 May 03, we witnessed army deployments, dropping over Kurka Smagh and Aghjalar mountains ... We felt danger ... I had already served in chemical classification, in the army, and obtained training on chemical weapons, as I used to have in my house 21 Anti-Atropine Injections which are anti-agents against toxic gases, particularly Nerve Gas ... Half an hour before sunset, we were bombed via aircrafts holding chemical weapons ... our village was exposed ... Smokes and dioxides invade its skies ... The bombardment was of little noise, so I shouted that the bombs are chemical ones ... I advised the people to use Kurdish traditional belts as a mask, after moistening it. They did not take my advice seriously. I put one on my nose and mouth, as well as my eyes, so not to be infected. On the road to the village, one girl told me "Woe, nobody is left for you" meaning all my family is vanished ... The time of strike was that of sunset, as the inhabitants will be gathered for lunch [during Ramadan], aiming to score the highest possible death toll ... My family wanted to reach ...

The image shows a handwritten signature in black ink to the left of a circular official seal. The seal contains Arabic text and the words "Iraqi High Tribunal" in English.

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... the stream to use water ... I heard a child's moan, I had a flashlight to check the injured as I saw more than 70 individuals, from my family, in a 500 m square, down on the ground, affected by chemical weapons. I saw a woman down the stream [her face covered by water] and heard a child's moan right next to her. When I checked over her, she turned to be my mother. I wanted to kiss her but couldn't, fearful to be contaminated by chemical gases. I saw my 10 years old daughter [NAME REDACTED], passed away and left beside the stream, as well as my brother [NAME REDACTED] laying dead on his back as liquids flew out of his mouth. Two meters away, was my wife embracing the ground, hugging my 6 years old daughter [NAME REDACTED], while holding the other [NAME REDACTED]. The latter was dead but my wife still alive and vomiting. I injected my brother [NAME REDACTED], who was still alive, and many children whom passed away, in addition to my father who was alive, with Atropine, took him by an agricultural truck, and parted away to Tutafil. We lift the corpses of 4 children, mine and my brothers'.

### **The Documents:**

Numerous documents and files, left by the former regime in its archive, had been provided to the court. All these files prove that Convict 'Ali Hasan Al-Majid, a contributor with other convicts, committed savage crimes against Kurds as a national ethnic community. As example, we mention letter No [4008] on 1987 June 20, issued by the convict himself ordering First, Second, and Fifth Corps, as well as the rest of bygone Arab Socialist Ba'th Party systems, Security directorates, governors, and military intelligence systems in the area, to implement the instructions enclosed in the aforementioned letter such as prohibiting the existence of animals and humans in the area, banning ...



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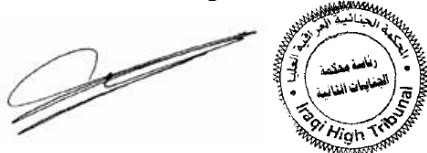
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... in and out travel, agronomy, industrial and agricultural investment, permitting shooting with no restrictions whatsoever, killing any person within the Prohibited Zone or arrest him if his age range is between 15 and 70 years [included]. Letter No [79223] on 1987 December 05, issued from GSD to 45<sup>th</sup> Security Directorate, including an implementation of Convict 'Ali Hasan Al-Majid order to execute 28 individuals from Shaqlawa locals including 4 women. The GMID letter, addressed to the North Organization Office No [1933], on 1987 September 08, includes info tackling a concentrated artillery strike's [via special ammunition] outcome. As well, the Northern Organization Office letter No [5083], dated 1987 July 22, directed to the First Corps, including the convict's comment "We have no objection in regard of cutting off the traitors' heads, though it was preferable to refer them to Security for investigation, hoping to extract useful information prior to their execution". Ministry of Defense Letter No [8547], on 1988 April 26, addressed to Army Chief of Staff including what Armed Forces General Commander's Deputy [Minister of Defense] attributed "To induce a psychological effect bigger than that achieved ... We do not object a strike by special ammunition if there is a target which deserves such punishment".

Army Chief of Staff Letter No [349], on 1988 April 27, addressed to First Corps – Convict Sultan Hashim Ahmad and Fifth Corps - Convict Ayad Khalil Zaki which included "It is possible to strive an attack via special ammunition against the saboteurs". Armed Forces General Command's special letter granting Convict Sultan Hashim Ahmad and fugitive Convict Ayad Khalil Zaki medals of bravery for their eminent role throughout Al Anfal Operations. Army Chief of Staff letter No [1122], on 1988 August 21, addressed to First and Fifth Corps, indicating the meeting attended by Army Chief of Staff and Military Operation Chief Staff's Deputy in Kirkuk, where its first article stated " concentrated population are being identified within Fifth Corps' sector and is handled by fierce special ...

The image shows a handwritten signature in black ink on the left. To its right is a circular official seal. The seal has a double border. The outer border contains the text "الهيئة القضائية العراقية العليا" (Iraqi High Tribunal) in Arabic at the top and "Iraqi High Tribunal" in English at the bottom. The inner circle contains the text "رئاسة محكمة" (President of the Court) in Arabic and "القضاة" (Judges) in Arabic.

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... strikes, 48 hours prior to starting operations, to create a state of fear within their lines". GMID letter, directed to Northern Organization Office, headlined "Information" and including "At 16:00 hours, on 1987 September 3, a concentrated artillery strike, using special ammunition (Chemical), was directed to three of Iran's agents' henchmen's headquarters, located east of Dukan-Pira Magrun Main Road. Their casualties were 2 dead and 12 injured, as well as a number of dead and wounded from their [saboteurs] supporters and nearby villages, located at the vicinity of the aforementioned headquarters. Letter No [12703], dated 1987 June 10, issued by GMID to Northern Organization Office, titled "Air strike", including "On 1987 June 05 [sunset] an air strike had been directed using chemicals [special ammunition] over the first branch of Al-Barzani clan in Ziwa area, located north eastern Al-'Imadiyyah County – Duhuk Governorate which next to it is located the Northern [Bahdinan] Sector's headquarter belonging to the henchmen of Iraqi Communist Party. The strike was efficient as their casualties reached 31 dead and 100 injured". In the 34<sup>th</sup> hearing on 2007 January 08, over an audio tape, Convict 'Ali Hasan Al-Majid said "I will strike them with chemicals and eradicate them". In another passage, he elaborated "We strike them with chemicals and score high casualties". Moreover, in another passage of the same audio tape, submitted to the court in the 53<sup>rd</sup> hearing, Convict 'Ali Hasan Al-Majid reveals "Yesterday, I signed the papers of 35 individuals and told them: Hang them!". Also, Army Chief of Staff letter No [15787], on 1987 May 12, addressed to GMID, including Army Chief of Staff request to supply Air Force Command and Air Defense with traitors' locations and commands to destroy them. The Court had examined the response of GMID in Letter No [9819], on 1987 May 03, which was addressed to the Army Chief of Staff which includes



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a request to provide them with maps of Al-Sulaymaniyyah towns, Qal'at Diza, Qara Dagah, Kuysinjaq with the scale 1 / 100000 along with the villages as follows:

1- Hawara Barza	1381
2- Dula Bi	1278
3- Yakhiyan	1577
4- Guma Zal	1875
5- Sharistin	882
6- Chalawa	1971
7- Sargalu	1569
8- Bargalu	(unknown)
9- Bagh	1264
10- Qizlar	1657
11- Takya	4095
12- Balak Jar	4294
13- Siwsinan	4596
14- Warta	7738
15- Wasf Warta	7736
16- Qaranqa	134
17- Pisht Ashan	233

The telegram issued from al-Sulaymaniyyah Intelligence Directorate to the Eastern Intelligence System, which includes briefing the journalists on the areas, attacked by chemical weapons (Sargalu)

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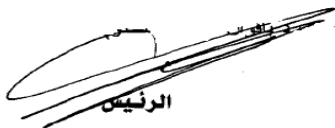
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Telegram number (11163) dated 1987 June 24, and telegram number (13613) dated 1988 August 06, sent from the Eastern Zone Intelligence System to the Military Intelligence Directorate, containing attacking (Balisan) area by special ammunition on 1988 July 28, in addition to the Eastern Zone Intelligence System's letter 384 dated 1987 November 02, that was addressed to the General Military Intelligence Directorate and its subject was to remove villages (attached are the villages that were removed from 1987 October 15 until 1987 October 31, and are 9 villages). In addition; the letter of Office of the Chief of the Army Staff number 1182 dated 1988 August 28, addressed to the command of the 1<sup>st</sup> and 5<sup>th</sup> Corps, and its subject was (the directions of the General Commander's Deputy of the armed forces, Defense Minister..... removing all villages and all houses of each village). Furthermore; Irbil Security Directorate letter numbered (19541) dated 1987 December 23, addressed to all directorates and departments, it includes the Northern Organization Office's directions of prohibiting the plowing and winter crop growing in lands of the security prohibited villages.

#### The experts:

The court was serious from the beginning in depending on international qualified experts who have wide specialty expertise in their field, additionally; they did their role under oath and supervision of the court. Additionally; the court also summoned some of these experts stand before the court and give their testimonies.

It was mentioned in the expert (Snow's) statement before the court on 2006 November 28, that he has excavated the mass grave in Kurmi village in Dahuk governorate, and lifting 27 bodies of those were executed by the army forces, additionally; he confirmed that all victims were in the sitting position and this matches the survivor's statements from the execution operation (as he confirmed that there was 84 shooting bullets, 10 head shootings, 24 shootings in the upper part of the chest, 65 in the hip bones and a small number in the limbs, since the victims were ordered to sit in front of the execution team). Additionally; it was mentioned in statement of the expert (Snow)



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that when he was in the area, he learned from the youngster ([NAME REDACTED]) that his mother and his young sister ([NAME REDACTED]) had died in Jaznikan in Irbil when they were arrested with thousands of women and children, they died because of the bad circumstances and malnutrition, additionally; he was able to persuade the young man to guide him to the grave, moreover; he informed us that his mother breast milk had dried up after few weeks of detention, and during examining the child, it was found that the child was 7 month old but the skeleton structure was abnormal as he noticed the effect of severe malnutrition of the bones, which gives the idea of the harsh life for the detainees specially the children.

The expert (Snow) then moved to Barjina village which is small village near to Kurmi that exposed to chemical Bombardment on 1988 August 25, among the victims was an old man called ([NAME REDACTED]) and his five year old grandson ([NAME REDACTED]) whom mistakenly escaped towards the bottom of the valley instead of going up to the top of the hill. We excavated the grave and found the skeleton of that old man and his grandson wearing their clothes. The expert has also observed some places for bomb explosion, and he took samples from the ground which was send to the United States of America, then it was confirmed from the lab examination, that mustard and Sarian gas were used in this area.

It was mentioned in the statement of the witness, physician expert [NAME REDACTED], before the court on 2006 November 29, that he visited the two Turkish refugee camps of (Diyar Bakir) with (13000) and (Mardin) with (5000) refugees, and the individuals whom he met were from the villages of (Balisan, Ikmala, Hibis, Barjina) and all those who were interviewed stated that they were injured during the Bombardment by:

- a- Eyes inflammation
- b- Problems in the respiratory system.



The president

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- c- Problems in the digestive system.
- d- Burns and irritation in the digestive system.

In addition to the injuries that he saw on the wounded bodies [it was identical with marks of colored injuries of the skin, the center was less dark, this part of the injury was identical to the type that Nazis (Germans) used in the 2<sup>nd</sup> World War]. The physician added that one of the girls who was exposed to chemical explosion was examined, he added; we examined the girl and we found swelling in her chest and in between her small breasts....there was a trace of cirrhosis of healed wound in the lower lip, injury under the left eyebrow, healed injury on the left cheek, whereas the light color was in the middle while the dark color was around the injury, and this is the morphological shape of using mustard gas. Therefore the expert reached a conclusion that (Sarin and mustard gas) were used in Kurdistan, furthermore; the use of mustard gas was in a wide range.

The expert Michael Trumple stated that his work was a result of two years of efforts under the supervision of the Iraqi High Tribunal, together with the aid of experts from the United States, Australia, Costa Rica, and Canada. He added that he supervised digging three mass graves (Ninawa/2) (Ninawa/9) (Muthanna/2), the expert stated that the two graves (Ninawa/2) (Ninawa/9) located in a talus and small valleys that intersect with a big valley, in such a manner that the persons who are walking towards the south can't see the persons and equipments that are working in these graves as they are in a talus. The expert added that he excavated the mass grave (Muthanna/2) and 123 victims (who were executed) were lifted. Moreover; this grave contains children and women only, there were 25 adult women, and 98 children, and 90% of these children were under 13 years of age. The expert also added that there were different scenarios for executing the victims:

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- 1- Small groups were pushed towards the talus of the hole in to inside the grave then were shot on head from the back by one pistol bullet, while they were standing.
- 2- And by the same aforementioned style, the victims were kneeling down and shot from the back.
- 3- Groups of the victims were pushed towards the grave's edge and were shot falling down in the grave or the grave forced them to bow where the shooting took place.

The expert added that these victims had a life, fears, happiness and feelings....a woman had necklace and some jewelers, and there was a ring and finger ring. Moving to another case, where a (6-7) month embryo was in his mother's uterus. Then the expert added that during his experience period, he never saw a grave in this depth (3, 5 meters) and done by this way, to avoid being discovered. Additionally; the expert added that he found personal belongings and identity cards that were given to the court. Additionally the tribunal's commission would like to clarify that the statement of the victim's relatives were in no doubt identical, and the victims were the inhabitants of the Kurdish villages and were coerced to the mass grave during the Anfal operations.

The expert said further that he lifted 64 individuals from the mass grave (Ninawa/9) whom were all adult males, and were executed by automatic weapon. In regards to (Muthanna/2) mass grave, the expert added that 114 individuals were lifted among them were 27 adult women, 2 adult men, and 85 children. The expert added that all the victims were executed while they were standing. Furthermore; the expert added that most of the victims whom were lifted from the mass grave in (Ninawa/2), (Ninawa/9) and (Muthanna/2) were wearing the Kurdish traditional cloth, and adds that all the mass graves were prepared on the same style and were organized.



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#### The mass graves:

There are tens of mass graves that include thousands of victims of Al-Anfal operation and distributed over different areas of the Iraqi land. The court has received the files of (Muthanna/2) ,(Ninawa/2) and (Ninawa/9) mass graves since these graves were opened by international experts of, anthropologists, physician specialized in the forensic medicine, humanitarian organizations, specialized technical and administrative cadres and specialized laboratories in this field and under the Iraqi High Tribunal's supervision.....in (Muthanna/2) mass grave, 114 bodies were lifted and under direct supervision of the international expert (Kaufman Michael Trumple), they were all executed by shooting from automatic weapons while they were standing....among them were 85 child, 27 woman, 2 adult males... The expert added that 95% of the children were under age of 13 years...all the victims were wearing Kurdish traditional cloths....50 types of the documents that were attached with the bodies were recovered, some were Iraqi currency, typed subjects..16 personal identification cards were found along with Jewelers brasless, home utensils, and detergents that were found from 93 buried bodies in the mass grave; among them were 7 necklaces, 14 beautification boxes, and 14 perfume bags... The clothes and educational subjects for the victims indicate that the persons in (Al-Muthanna/2) grave were of the Kurdish ethnicity...The expert mentioned that bullets were found with males and females bodies of variable ages... bullets were extracted from 21 bodies, and bullets cartridges were extracted from 37 persons and 79 bullet, there were 83 bullets and 28 bullet cartridges attached to the clothes of the dead... bullets punctures were found in all the dead people's clothes and it was more clear in the clothes that covers the torso such as shirts, dresses, and jackets...ropes that were used for hand cuffing the victim were extracted as well as blindfolding



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Which is a piece of textile...The expert further said that analyzing the evidence clarify that the victims were pushed to the mass grave and killed once. In the mass grave (Ninawa/9), 123 remains bodies were lifted, and they were 25 adult woman and 98 child, and 90% of them were below 13 years old and all were executed... 145 document were found between the remains bodies of the two mass graves (Ninawa/2) and (Ninawa/9), and these documents are personal identifications cards, military identification cards, salary certificates, pictures, letters and personal documents, from the documents, 63 identification cards, 10 of it related to persons from Al-Sulmaniyyah area. The expert added that after analyzing parts of the clothes that were recovered from the two graves (Ninawa/2) and (Ninawa/9), it was clarified the origin, age and social ethnicity, the analysis was for 123 case which clarified that they are of Kurdish origin, the most apparent cloth was the Kurdish uniform that convolute around waist. Furthermore; the international expert (Snow) opened the mass grave in Kurmi village, and he stated his testimony before the court in its session 24 dated 2006 November 28, and this grave included 27 body from 33 persons that were executed by shooting.

**A brief for the statement of the convicts against the convict ('Ali Hasan Al-Majid)**

**1- A brief for the statement of the convict (Husayn Rashid) against the convict ('Ali Hasan Al-Majid):**

it was mentioned in the statement of the convict (Husayn Rashid) before the investigative judge on 2005 September 12, that the first responsible in Al-Anfal operation and what was committed in, is Saddam Hussein, as he was occupying the head of state and General Commander of the Armed Forces, and he was the one who gave the order of implementing these operations, additionally; their was no entity could execute anything without an order from him or ('Ali Hasan Al-Majid) as he was the second responsible after the convict (Saddam Hussein) for all what was happening in the northern area as he had all the authorities of the president.

**2- A brief for the statement of the convict (Sabir 'Abd-al-'Aziz Al-Duri) against the convict ('Ali Hasan Al-Majid):**



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The following was mentioned in the testimony of convict Sabir 'Abd-al-'Aziz Al-Duri before the investigating judge on the 2005, May 06: After taking the authority of the Northern Organization Office, convict 'Ali Hasan Al-Majid became the direct commander for the Northern and Eastern systems; The families were transferred by the Intelligence systems to the Northern Organization Office which was headed by the convict 'Ali Hasan Al-Majid, and their fate was up to him, as it was stated in his testimony before this court on 2007, December 12, the task of removing the villages from the restricted security areas was assigned to military units that carried out these operations after receiving orders from the Northern Organization Office ... then he says, the operation of relocating the inhabitants from the villages and deliver them to the Security Directorate of the Northern Governorates and the Northern Organization Office was carried out by military units pursuant to the orders issued from their new reference 'Ali Hasan Al-Majid.

### 3. Summarized testimony of Convict Farhan Mutlak Salih against Convict 'Ali Hasan Al-Majid:

The following was mentioned in the testimony of Convict Farhan Mutlak Salih before the investigating judge on 2005, October 14: after the issuance of Decree No (160) for the year 1987, we received a letter from the General Military Intelligence Directorate stating that 'Ali Hasan Majid is the Commander of both systems; than he says, I personally witnessed the families being moved in military convoys towards the People's Army buildings in Kirkuk where all the families were gathered, and that the Northern Organization Office was responsible for the fate of these families. As for the court's question on 2007, February 15 (The court understands that you are stating that 'Ali Hasan Al-Majid executed 182 thousand individual) he answered (you are the ones stating that, and the press is saying that 182 thousand individuals were executed in Al-Anfal, and if that information is correct, who will stand in front of 'Ali Hasan Al-Majid and tell him, I am not executing your order, let us be reasonable Mr. President of the Tribunal)

And in another question from the court during the same session; are you convinced with these field executions? the convict answered

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Farhan answered; these three decrees of the Revolutionary Command Council are to be executed with out any reference to the court, this is the country's policy and I follow this procedure, so is it reasonable for me to say that this policy or these decrees are wrong?

### 4. Summarized testimony of Convict Sultan Hashim Ahmad against Convict 'Ali Hasan Al-Majid:

The following was mentioned in the testimony of convict Sultan Hashim Ahmad before the investigating judge on 2005, March 20 and before this court on 2007, February 11: the coordination between our department and the Northern Organization Office was processed under order No. 4008 in 2007, June 20, signed by 'Ali Hasan Al-Majid and states that after occupying the target, the families present in the operations area were to be transported by military vehicles with protection of the army personnel to the Military Intelligence System in Kirkuk, then to the Northern Organization Office. And no one knows their fate afterward. The Northern Organization Office "headed by Convict 'Ali Hasan Majid" is responsible for the mentioned families.

### ((Inspections and Reports))

To insure certainty the court decided to conduct field inspection and view the locations in order to find the truth. Therefore, the court committee with its all members accompanied by the general prosecution committee traveled to the northern area and inspected the following locations:

#### 1- Nazarki Fort in 2006, November 21

It is a building that consists of two floors, built from bricks and cement in a rectangular form, centered with a big yard; the ground floor consists of 26 halls and 53 rooms, and the 2<sup>nd</sup> floor consists of 19 halls and 36 rooms. The court noticed six control towers on the building, and now this castle is inhabited by poor Kurdish families.

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and this fort was used as a detention facility to retain the Kurdish families that were brought from Kurdish villages that were under attack and forced relocation during 1987-1988.

### 2- Bahirka Area

When the court inspected the Bahirka Area in 2006, November 22, this location appeared to be a residential neighborhood because of its newly established houses; it is 15 Km away from the center of Irbil Governorate and located on a level land where no buildings were established previously, and far from the mountains. The former regime used this area as a detention facility to retain the Kurdish families that were brought from Kurdish villages that were under attack and forced relocation during 1987-1988.

Villages Inspection Report (Balak Jar, Takya, Siwsinan and Shurish Complex), dated 2006, November 23:

When the court committee arrived to Siwsinan Village, they noticed a graveyard on the eastern side of the main street; the graveyard was surrounded by fence and the tombs were organized by the victims' names. The committee also noticed that the names on the tombs were identical to those mentioned in the plaintiff testimonies during the court sessions. It became clear that the buried victims were those killed by the chemical attacks during Al-Anfal operations.

Then the court committee proceeded to Balak Jar and Takya villages, and noticed that the area was surrounded by a mountain chain near Qar Dagh Mountain. Takya village is located on a mountain versant, with 20-25 houses, and Balak Jar village is located on Qar Dagh valley with 12-20 houses.

Approximately 500 meters away from the village the court committee noticed an unexploded rocket planted in the ground, and an other 2 meters long unexploded rocket about 1000 meters away from the village.

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After that the court committee proceeded to Shurish Complex. When the committee arrived to the complex in 2006, November 23, they noticed that it is a very big residential complex, located on the side of the main road that connects Al-Sulaymaniyyah city with Chamchamal. An inspection operation was carried out and a drawing of the area was prepared.

After that the court committee proceeded to Birjina village which is located 27 km away from Dahuk governorate and 50 km away from the Turkish Iraqi borders, in a mountainous area, surrounded from four sides by a mountain chain. The court noticed that all houses and the mosque were completely demolished; the court also noticed the mass grave that contains the corpse of the victim [NAME REDACTED] and his grandson [NAME REDACTED] whose name was mentioned by the plaintiffs. The court also noticed remaining rocket pieces containing a yellow solid material; after a lab examination, it appeared that these materials were chemical.

The court conducted site inspection on Shaykh Wasanan area, Balisan area and Wara village; the committee noticed unexploded fragmental bombs, containers of cluster bombs, and remaining covers for chemical bombs; they found unknown remaining materials in some of its parts, found between Biraw and Kani Bard villages, a sample was kept with the Engineering Brigadier General in order to perform lab examinations, knowing that the Military Engineering Brigadier General accompanied the court commission, and the type of remaining weapons was defined by the mentioned expert.

The commission moved to inspect Wara village and the its grave, this village is located on the eastern side of the main road that leads to Balisan, 2 km away from the grave. The village consists approximately of 40 houses and it is located on Qashan River. The tombs were still earthy and on its original condition when the victims' corps were buried, where the tombs appeared to be for the victims of Al-Anfal operations.

Briefed defense report of the convict 'Ali Hasan Majid and his Attorney:

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1. The convict 'Ali Hasan Al-Majid denied all the charges directed to him whether during the investigation process or the court, claiming that his deeds or issued orders were not crimes according to his conviction due to the prevalent circumstances back then, although he acknowledged the memo No. 4008 in 1987, Jun 24, however he claimed that the orders of killing, demolishing villages, citizens relocation, and preventing the human and animal existence that were included in the mentioned memo are not crimes to deserve punishment for, as he also denied knowing about the detention camps or the ravishment, torture, indignity, death from starving, lack of medical care and cleanness that the victims were subject to; As he also denied knowing about the mass graves.
2. During investigation, the convict stated that in the beginning 1987 he was assigned as a General Commander for Kurdistan Area after the decree (106) for the year 1987 was issued, and he was granted the power to lead the security, military and state systems (the authority for the National Security Council and the Northern Affairs Committee). The convict mentioned that his task concentrates on two sides, which are the party organization and providing general security for the area and I was occupying this position till 1989, July.
3. The convict indicated that his connection with the military units was only to accommodate the families that were moved from the restricted areas for security reasons to the residential complexes provided by the state.
4. The convict stated in his testimony that by his orders, the security systems moves the citizens to the residential complexes, after that he issued orders to the military units to remove the remaining buildings from those villages; and after relocating the citizens from their villages, he issued instructions according to the memo No. 4008 in 1987, July 02 to prevent the existence of human beings or animals, and those areas were considered redistricted, etc...  
I believed in these orders although they were severe, and I also issued instructions about the agriculture and irrigation.

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5. The convict denied his relation with Al-Anfal operations to exclude accommodating the families in the residential complexes "I did not take part of Al-Anfal operations"

In his testimony before this court in 2007, February 07; the convict answered... the Northern Area was facing exceptional conditions such as internal insurgence and foreign aggression, state of emergency must be declared. The Iranian enemy declared that the coming year will be decisive; therefore I reacted and declared the state of emergency in the Northern Organization Office and in Kurdistan in particulate. He added ... all the current civil and military authorities were attached to me (such as the Legislative Council, Executive Council, Governors, Corps' Commanders, Security Directors, Intelligence Directors, Intelligence Systems, Education Directors and all the state civil and military systems).

In a question from the court ... Did you actually execute the policy of the party and the dissolved Revolutionary Command Council in the area? He answered ... if I was not a good leader, the command would have discharged me.

In another question ... are you confident that your actions were planned by the Revolutionary Command and the Party? He answered ... yes, I was confident at that time according to the conditions we were facing, and I am not going to deny what I mentioned; I did not do anything without my conviction, I do not regret what I did and I did not mean to harm any human being if it was not for defending Iraq.

In another part of his testimony, the convict denied acknowledging the existence of the detention facilities in Dibs, Tupzawa and the black dog.

In a question from the court: if one of the detainees is released or dead, do you get notified? He answered ... yes, it is a must because I am the one issuing the arrest orders.

In another part of his testimony, the convict stated ... I was questioned by the commander of the 5<sup>th</sup> Corps about how to deal with the civilians, I answered him: just like in the previous operations, if a family is found you transfer them to the Security and if it is a prisoner, he will be investigated by the security systems.

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And the accused stated in front of the Court... I declared that, this letter (4008) dated on 20 June 1987 issued by me, I confirmed on its contents and I believe in all what I issued, I am still till these moments believe in all what I did... however this according to the dominant circumstances during this period... and if the war repeated again with the same circumstances, I will do what I did before.

### **The Argument from the attorney of the accused ('Ali Hasan Al-Majid):**

1. The attorney of the accused is insisting in his declaration that his client did not have the intention to commit the crime of genocide he was accused of... since the special purpose was not proved.
2. The attorney insisted that his client was not aware about the detention of the civilians and that was conducted by the security organizations.
3. The attorney also insisted that his client was not aware of the usage of the chemical weapons in Al-Anfal campaigns... and all the accusations that were directed to his client during his speech appearances in the tapes are only a kind of a psychological war.
4. The attorney of the accused pleaded that his client was not involved in what occurred in the mass graves ... pointing out that the experts who presented in the court on 28<sup>th</sup>, 29<sup>th</sup> and 30 June 2006 did not define a date for the victims' death.

### **Summary of the defend witnesses' testimonies for the accused ('Ali Hasan Al-Majid):**

The accused could not introduce any defend witness during the investigation and trial, although the court gave him chances many times.

### **The evidences and proofs available against the accused ('Ali Hasan Al-Majid):**

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The evidences and proofs available in the case against the accused ('Ali Hasan Al-Majid) about the crimes affiliated to him according to the accusation paper which addressed by the court on 20 February 2006, as follows:

1. The accused ('Ali Hasan Al-Majid) was a member in the disbanded Revolutionary Command Council, State Command of the Ba'th Party, and the Northern Organization Office's Official for the period of (1987-1989), he was given wide authorities according to the decree No. 160 for the year 1987 and he was commanding all the state civil, military, security and party organizations... and he had the president's authorities according to the other defendant's statements.
2. The official documents which prove the accused ('Ali Hasan Al-Majid's) knowledge about what happened in the northern region of crimes that considered as (genocide crime, crimes against humanity and war crimes).
  - A. The decree of the disbanded Revolutionary Command Council No. (160) on 29 March 1987 which gave the accused ('Ali Hasan Al-Majid) wide authorities and authorized him to implement its policies in the northern region, which means implementing the policy of the Party and the Revolutionary Command Council.
  - B. The letters No. (2008) dated on 20 June 1987 and No. (3650) dated on 03 June 1987 which were issued by the Northern Organization Office and signed by the accused ('Ali Hasan Al-Majid) as he confirmed its contents during the periods of investigation and trail and its title (dealing with the prohibited zone villages), including several subjects, such as prohibiting the existence of the humans or animals in the region and banning in and out travel, also the agricultural and , industrial investment, free shooting with no restriction, and murdering any detainee between the age of 15 years (included) to 70 years (included), in addition to his orders to the Corpses commands to prepare special attacks from time to....

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time with the artillery, helicopters and air crafts to kill the largest possible numbers of those who are presenting within these prohibited areas, during all times day and night... and he gave the permission to the National Defense Regiments to take over all the properties belonged to the villager civilians.

- C. The disbanded Revolutionary Command Council's decree no. (244) dated on 02 April 1987, which includes authorizing the accused ('Ali Hasan Al-Majid) implementing the decree no. (160) for the year 1987
- D. The General Security Directorate's letter no. (9223), which was addressed to the 45<sup>th</sup> directorate and included implementing the order of the accused ('Ali Hasan Al-Majid) to execute (28) persons including 4 women of (Shaqlaw) residents for participating in the riot events.
- E. The letter no. (5083) dated on 22 July 1987, from the Northern Organization Office to the 1<sup>st</sup> Corps that included the comment of the accused ('Ali Hasan Al-Majid) (We have no objection for beheading the traitors... but it is better to send them first to the security and interrogate them, they may find with them more useful information before their execution).
- F. The General Military Intelligence Directorate's letter no. (12307) dated on 10 June 1987, which was addressed to the Northern Organization Office and titled as Air Strike: (1. in the dusk of the day 05 June 1987, a special ammunition attack was carried on against the 1<sup>st</sup> branch headquarter for Al-Barzani group in Ziwa... 2. The attack was effective, their casualties were (31) dead and (100) injured)
- G. The 1<sup>st</sup> Corps's letter no. (352) dated on 08 July 1987, addressed to the Northern Organization Office, titled as (Executing Criminals); which included executing 7 persons.

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- H. The General Military Intelligence Directorate's letter no. (19330), dated on 08 September 1987, addressed to the Northern Organization Office, included information regarding the results of an artillery attack (by using the special ammunitions).
- I. The telegram issued by Irbil Security Directorate and addressed to all the involved departments (2. Comrade 'Ali Hasan Al-Majid has ordered to destroy all their houses and dislocate them to the residential compounds and will never be compensated...)
- J. Irbil Security Directorate's letter dated on 23 June 1987, which addressed to all the directorates of the departments...and included (according to the Northern Organization Office's instructions... all plowing or planting winter crops within the prohibited villages are prohibited).
3. The audio tape presented in the session No. (36), dated on 23 January 2007 with the voice of ('Ali Hasan Al-Majid); in which he said [...alright...where I can put them..? all those people? I tried to distribute them among the governorates...I then will send Poclains (*T.C: is a brand of Bulldozers*) and shuffles to them]. The accused is describing how to transport the victims to the other governorates and sending the gravedigger and shuffles from the northern region to the other governorates for burying the victims in the mass graves.
- In another part of the audio tape, the accused ('Ali Hasan Al-Majid) says [we may be thinking about accepting them as Iraqi individuals...with 2<sup>nd</sup> priority (*T.C: second class citizens*)]... and in another part he said (...They said...Jalal said... I need a direct channel between me and him...I went to Al-Sulaymaniyyah on 7:30 and I bombarded them with the special ammunitions, this is my reply...done and starting the relocation...)
- In another part he said (when I strike them with the chemical I will cause them high casualties...and I will not strike them with chemical not only one day, but (15) days, two days, ten, five and so on...).

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And in another part he said (I will tell them there is an amnesty...I will print a million pamphlet and spread them in the north...and I will not mention that it is from the state of Iraq)...in another part he said... (I will tell them with the new weapon which will eradicate you, God willing) then he said (all God's vehicles are not enough to carry them...) then he said (I told the specialists, I need gangs...the good ones in Europe to kill them wherever they catch them)

4. The legal responsibility for the accused ('Ali Hasan Al-Majid): according to the accusation paper addressed to him, his legal responsibility will be in compliance with the verdicts of article (15/ 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>) of the Iraqi High Second Criminal Court law no (10) for the year 2005, in which the article (15/1<sup>st</sup>) stipulates that: every individual is criminally responsible in his personal peculiarity and will be subject to punishment for committing any of the crimes that are under the Tribunal's jurisdiction authority.

And the article (15/2<sup>nd</sup>) stipulates that: every individual is criminally responsible in his personal peculiarity for committing a crime based on the following responsibilities:

- A. If he committed a crime in his personal peculiarity.
  - B. Ordered to commit a crime through another person
  - C. Providing support or provoking to commit any crime.
  - D. Contributing by any means with a group of people in a joint criminal intention for committing a crime or commencing it...as it is deliberated and actually provided.
5. And the article (15/3<sup>rd</sup>) stipulates that: there is no official immunity or immunity based on official peculiarity for the accused who committed crimes under the Tribunal's jurisdiction authority.

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And the article (15/4<sup>th</sup>) considers; the supreme leader or the persons who are occupying leadership or command positions as criminality responsible as per the leader theory for the criminal acts which are committed by their subordinates under particular circumstances.

And the article (15/2<sup>nd</sup> and 4<sup>th</sup>) confirmed on the definite theories about the responsibility of committing crimes, when the accused is criminality responsible for the crimes he was accused of according to the article (15/2<sup>nd</sup>) through:

- A. Committing a crime as personal peculiarity and directly.
- B. Issuing an order, or tempting, or prompting for trying to commit a crime.
- C. Providing support- provoking- or helping with any means to facilitate committing or commencing a crime, including providing the means of committing the crime.
- D. Contributing by any means with a group of people in a joint criminal intention for committing a crime or commencing it, and must be deliberate and its purpose based on enhancing the criminal activity for a group, if this activity or purpose lead to a crime that is under the Tribunal's jurisdiction authority. The accused will be considered also responsible for the crime, according to the leadership responsibility theory that is stipulated in the article (15/4<sup>th</sup>) for the actions committed by his subordinates under particular circumstances.

Thus the accused ('Ali Hasan Al-Majid) as he was considered during the event (1987-1988) as a (supreme leader) for the northern region...according to the decree (160) for the year 1987, in which he was given wide authorities and became in charge of all the military, civil, security and party organizations in the northern region, a horrid crimes were committed by orders issued from him to his subordinates...

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and his participation in committing those crimes with the aforementioned individuals in a joint criminal intention since he was the supreme leader in the region, this responsibility is stipulated in the article (15/2<sup>nd</sup>/4<sup>th</sup>) of the Tribunal's law...according to it the accused will be responsible for the crimes committed by the individuals working under his command especially if he was aware of it, or there were reasons indicating that his subordinates had committed such actions or were going to commit it and the leader did not take the necessarily procedures to prevent such actions...Thus the military units in the northern region would not implement actions such as the ones took place in Al-Anfal campaigns without the order or the knowledge of the accused ('Ali Hasan Al-Majid)...The documents and the evidence that were presented in the trial sessions confirm his knowledge of what happened in the northern region, such as the letter no. (4008) dated on 20 June 1987; also the letters and correspondences that were sent between the Northern Organization Office which was under his command and the military commands related to using the chemical gases, summary executions, destroying village, coercive dislocation of residents, along with the audio tapes which presented during the trial sessions, in which the defendant mentioned that he used the chemical weapons or he threatened using them...also his acknowledgement of all the contents of the letter (4008) during the investigation and trial... It was also proved to the tribunal the correctness of the aforementioned documents during the interrogation and trial periods by the confessions of the defendants or the reports of the forensic evidence's experts.

It was also mentioned in the letter no (5083) dated on 22 July 1987, sent from the Northern Organization Office to 1<sup>st</sup> Corps that included the comment of the accused ('Ali Hasan Al-Majid (We have no objection for beheading the traitors... but it is better to send them first to the security and interrogate them, they may find with them more useful information before their execution).

And the General Military Intelligence Directorate's letter no (12307) dated on 10 June 1987, addressed to the Northern Organization Office, titled as air strike (in the dusk of the day...

The President



(486-963)

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05 June 1987, a special ammunition attack was carried on against the 1<sup>st</sup> branch headquarter for Al-Barzani group in Ziwa... The attack was effective, their casualties were (31) dead and (100) injured).

And the General Security Directorate's letter no (9223) dated on 05 December 1987, addressed to the 45<sup>th</sup> Directorate, which included implementing the accused ('Ali Hasan Al-Majid's ) order to execute (28) persons among them were 4 women of (Shaqlawah) residents.

**The accused also confessed** several times to the tribunal that all the military, security, civil and party organizations were under his command, he also confessed that he ordered the security organizations to dislocate the residents to the residential compounds...he confessed in front of the court that he gave instructions to the military units to destroy what was left of the villages...during the session he was asked by the tribunal: are you convinced that what you have done was a plan laid down for you by the Party and the Revolutionary Command Council? The accused answered, I am convinced (during this time) according to the circumstance we were living in...and I will not back off on it...I did not do any thing out of my conviction and I am not regretting what I have done.

He said in another part of his statement...the commander of the 5<sup>th</sup> Corp asked me about how to deal with the civilians... I told him...like the previous operations, everyone you will find must be sent to the security, if it is a family but if it is a captive, the security organization will investigate him... in the audio tape presented in the court the accused said ((alright...where I can put them..? all those people? I try to distribute them among the governorates))

In another part the accused said (when I strike them with the chemical I will cause them high casualties...and I will not strike them with chemical not only one day, but (15) days, two days, ten, five and so on...)

The President



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It is clear from the aforementioned that there are several evidences and facts proves that the accused ('Ali Hasan Al-Majid) issued orders to commit acts considered as genocide crime, crimes against humanity and war crimes, as he was the supreme leader for the region...and responsible for the actions of his subordinates.

### ((Genocide))

The Iraqi High Tribunal's law does not provide any idea whether the definition of the group, that was the target of the criminal intention of the accused, must be defined according to the objectivity or non objectivity criteria, or according to a text, consists of mixed criteria; thus different International Tribunal Court had found that the definition of whether the group comes under any protection, must be evaluated based on each single case referring to the objective terms for specific social or historical context and through a personal view for the criminals (the verdict of the International Tribunal Court in Rwanda on 15 May 2003, clause no.317) according to it, the protected group will be defined according to individual cases by using the objectivity or non objectivity criteria. Genocide is considered as it is aiming the sedentary groups; the sedentary groups objectively known as those groups which the individuals are affiliated to, regardless to their personal interests, such as the groups that are permanent by its nature, and the individual is affiliated to it by birth, and not the voluntary enlisted such as the religious group... (Yilizitish...The verdict of the International Tribunal Court for former Yugoslavia on 14 December 1999), the ethnic group is generally known as a group that its members are sharing the same language or culture (the verdict of the International Tribunal Court in Rwanda on 12 September 1998) with its above description, meaning that an act of the listed actions must be committed against nation or ethnic or race or religious group because of nationality or ethnicity or religion or the race of the group...

The President



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and the action must be committed against the group as a whole, not against the individual (the International Tribunal Court in Rwanda on 16 May 2003. clause no. 410). Subduing the ethnic group to a political program that practically fuse the political and ethnic identity will not annul the intention of the genocide which drive (a specific accused); on the contrary the definition for the individuals as enemies of the country by connecting them with the political opposition only because of their ethnicity, will emphasize that their affiliation to an ethnic group was the only reason for targeting them (Nahimana, Barayaghinis, Nighayzi), the International Tribunal Court in Rwanda on 03 December 2003, clause no. 969) in which the two phrases (totally and partially) are referring to the scale of annihilation compared to the actual devastation of the group, so it is obvious that any action committed intending to annihilate part of the group with its peculiarity will be considered as a genocide action (the 1<sup>st</sup> verdict of the International Tribunal Court for former Yugoslavia dated on September 2004, clause no. 700) also the International Tribunals always considered the intention to annihilate the group even if it was partially as annihilation to a special part of the group against isolated individual of it. The International Tribunals had agreed upon in (the International Law Committee Declaration) that the purpose must be annihilating the group with its particularity, which is considered as a separate and distinguished entity and not only annihilating some individuals because of their affiliation to a specific group, and if the intended annihilation did not need to be directed to each individual of the targeted group, then the tribunal considered that the annihilating intention must aim at least an important part of the group (Baghilibashmiya, verdict of the International Tribunal Court for Rwanda 07 June 2001). The Kurds are considered as a national and ethnic group living in the northern region of Iraq and their region named as (Kurdistan Region), as the Kurds share a language, culture and history and the Kurdish language considered as an official language in Kurdistan region since 1970, right after signing the peace agreement between the Kurdish movement and the Iraqi government back then, and it became the official language in Iraq beside the Arabic language according to the valid permanent constitution for the year 2005, also the Iraqi temporary constitution on the year...

The President



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1970 ratified that the Kurdish nationality is occupying the second rank after the Arab in Iraq. The Kurds were targeted for their ethnicity. The Kurds in northern Iraq were exposed to attacks by murder and cruel harm (chemical attacks) along with being subdued to live in a deadly living conditions that aimed at annihilating the Kurdish group in northern Iraq (coercive dislocation of the inhabitants, destroying the ability to continue living, inability to return to their villages and homes, taking them to detention centers besides of exposing to a very grievous conditions and executing the civilians in order to reduce the crowds in the detention centers to create conditions leading to annihilating the Kurdish group).

### **A – The role of the accused ('Ali Hasan Al-Majid) in killing Kurds as genocide: Crime Elements:**

The murder as genocide requires providing the following bases:

- 1 – The crime perpetrator should kill an individual or more.
- 2 – These murdered individual or individuals should belong to a particular national, ethnic or religious group.
- 3 – The crime perpetrator should have an intention to annihilate partially or wholly this national, ethnic or religious group because of this nationality.
- 4 – This behavior should be translated into an effective act against this group or leading to annihilation for this group.

To provide the base of murder in the genocide crime, it's necessary to provide the elements of the premeditated murder that was performed in preconceived malice with aiming of several victims. Consequently, a criminal behavior must exist, done by the perpetrator or the partner. This act or behavior is represented in murder act or being a cause for it. Additionally, there will be a criminal result that is represented in murdering the victims.

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There is a causative connection between the act and the result (death) and by providing these elements; the tangible base is formed for the murder crime. Additionally, the objective base for this premeditated murder crime should be provided representing in the criminal intention of the perpetrator, and that also requires providing an element of the perpetrator's intention to partially or totally annihilate a national, ethnic and religious group for this reason, considering that the criminal intention is the will to achieve the criminal result through a behavior that is in the framework of identical and clear behavior directed against this group. In the International crimes generally, the circumstance of premeditate intention is considered through the joint preparation and previous planning to commit the crime and also through providing the element of calmness of mind. In the second base of the premeditated murder as genocide the intention of the perpetrator and his criminal behavior must be directed in achieving the premeditated murder's result as genocide with an intention of partially or totally annihilating a national, ethnic or religious group as it is. The proof elements against the accused '**Ali Hasan Al-Majid** for committing a murder crime as genocide is many. These elements include the wide-range authorities that were granted to him by the virtue of the decree (160) for the year 1987 to achieve the targets of the State Command of the toppled Ba'th Party and Revolutionary Command Council considering putting his as the absolute roller in the northern area.

The decree obliged all military, civil and security government entities especially the vested authorities of the National Security Council, Northern Affairs Committee to bind with the accused and also binding the Executive Council of the Autonomous reign, Governorates' Governors, and administrative units' heads relating to the Ministry of Local Rolling besides of the intelligence entities, internal security forces and also the people's army commands.

In the fourth clause, the decree obliged the area military commands with the accused orders whereas he was representing the State Command for the toppled Ba'th Party and Revolutionary Command Council in performing its policies in whole northern area as Kurdistan Autonomous reign. Implementing decree number (160) for the year 1987, the accused ('Ali Hasan Al-Majid) issued his famous letter numbered.....

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(4008) on 1987 June 20 that was addressed to the command of 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps under the subject of "dealing with the security restricted villages" including a group of instructions and orders like banning the human and animals in the area which is considered as forbidden operation area and the shooting in it is unrestricted and free. The travel to and from it is banned as well as the cultivation, investment of agricultural, industrial or animal. All the involved entities have to follow this object seriously according to the authority of each entity. There's an order according to the clause (Fourth) of the letter of the Corps commands in order to prepare special attacks between time to time using the artillery, helicopters and aircrafts to kill the largest possible number of those who exist within these restricted areas day and night. In the fifth clause of the letter, the accused ('**Ali Hasan Al-Majid**') decided to detain those individuals who are arrested for their existence in these villages and to be investigated by the security authorities along with applying the execution sentence for everyone whose age is in between 15 (included) to 70 = years old (included) after extracting useful information from them. The accused ('**Ali Hasan Al-Majid**') disseminated the contents of his letter to the Legislative Council Presidency, Executive Council, Intelligence Service, Army Chief of Staff along with the governors (security committee chiefs) besides of Diyala, Salah-al-Din, Al-Sulaymaniyyah, Irbil, and Duhuk Governorate Ba'th Party Branch Secretariats. Moreover, he disseminated his orders to the General Military Intelligence Directorate, General Security Directorate, Autonomy Zone Security Directorate, Northern Zone Intelligence System, and Eastern Zone Intelligence System along with the security directors of Ninawa, Al-Ta'mim, Diyala, Salah-al-Din, Al-Sulaymaniyyah, Irbil, and Duhuk Governorates. He ordered them all to execute what's mentioned in the letter according to the authority of each entity with knowing that the area boundaries of executing the decree (160) for the year 1987 and the letter (4008) of the year 1987 June 20 was in the northern area whose most inhabitants are Kurdish and this is a national and ethnic group. The most important elements to proof the murder as genocide is:

The existence of the group members in a particular place, the attackers surrounded them and prevented them from escaping from the area, using the weapon in the attack, issuing orders for killing and organizing the murder, in addition to the issuance of verbal phrases and words from the accused.....

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to his subordinates as proof of the intention to kill .... It is also evidence that the members of the group are sharing legal or sexual ties or exchanging the rights and duties among the group, existence of a united language and official classification of the group based on its personal identification. There are other elements, include the destruction of the electricity and water net, usage of violence against the victims, illegal detainment for the men and coercive dislocation for the women and children out of the region. There were also the bad words that were pronounced by the accused as humiliation, or curse, or discrimination against the group. Also the participation of the accused in separating individuals from the group away from other individuals of the same group, besides of separating the men away from the women and separating the men who are in the military service age away from the others. The other evidence as elements to proof the murder as genocide also include, repeating and harmonization and systemization of the attack style, and the victims were transferred by government vehicles and harmonization in the type of the weapons used , using identical methods in the investigation, the existence of places and holes that were previously prepared for execution, and the existence of a policy that was put in place on the national level, the murdering individuals of the group regardless of their positions as civilians or fighters.....there was also the similarity in the style of the acts along with targeting the group's possessions, and spreading the body injury. All those elements match with the committed acts before and during Al-Anfal operations by the accused '**Ali Hasan Al-Majid** and other military leaders and the security entities that were under his command in the northern area, and we will study all these elements. The Kurds are a national and ethnic group living in Kurdistan area for many thousands of years in the northern Iraq and the Iraqi temporary constitution in 1970 had endorse them as second nationality in Iraq, Al-Anfal operations were targeting the Kurds in northern Iraq. These (8) (Anfal) operations with all the different weapons of aircrafts, tanks, artilleries, helicopters, rocket launchers, armors and infantry, besides of the civil efforts of the state and a group of special ammunitions, the capabilities of all the security and administrative entities that were all under the authority of the accused '**Ali Hasan Al-Majid** to carry out attacks against the Kurds considering them a national and ethnic group..... Through out the victim's statements and the official documents..... The tribunal has noticed

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الرئيس  
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the way of besieging the Kurdish area by the military units and using all kind of weapons carrying out direct orders from the accused '**Ali Hasan Al-Majid**' as the supreme leader to the military leaders and the security and party entities. The tribunal also noticed that the attacking troops prevented any individual from the national or the ethnic group from escaping. That was shown in the plaintiff's statements (victim), [NAME REDACTED], the survivor of Kurimi massacre where he said, "they tried escaping to Turkey but they were not able to cross the borders since the Iraqi forces were controlling the boarder strip, and did not allow them to cross, they then surrendered to the troops that executed the men after separating them away from the women and children where 27 persons from Kurimi village were executed and whom were excavated by the international expert (Snow). The tribunal committee conducted field detection in the accident's location on 2006 November 21. That claim was supported by the letter (1076) on 1988 August 16 that was issued by the Army Chief of Staff and addressed to the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> corps that pertaining to banning the Kurdish families from fleeing to Turkey. Additionally, the evidence of issuing killing orders systemizing it by the accused 'Ali Hasan Al-Majid is his issuance of the letter number (4008) on 1987 June 20 which included banning of human or animal existence along with killing every individual from 15 years old (included) to 70 years old (included) besides of giving instructions to the corps leaders to prepare special attacks using the artilleries, aircrafts to kill the largest possible number. In fact the chemical weapons had been used and thousands of children, women and old ages were also killed. The plaintiff, [NAME REDACTED]– from village of Warti relating to Balisan in Al-Sulaymaniyyah, said before the Tribunal on 2006 October 20 that on 1988 May 18 at 17:30, four aircrafts bombed us using the chemical weapons. [NAME REDACTED]and his mother [NAME REDACTED]were killed...he resumed saying, "the animals were perished as if it's the last day of the world, then I watched two dead bodies near the mosque and the other was in the street. These bodies were for [NAME REDACTED] and [NAME REDACTED]". Also, I watched a woman called, [NAME REDACTED]



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and her son, [NAME REDACTED] while they were injured by the chemical weapons. He added saying, "then I entered the village and watched around 18 – 20 dead bodies near the water well including the following dead, [NAME REDACTED]) and her daughters, [NAME REDACTED] besides of others I cannot remember..... Additionally, I watched these bodies were laid over each other, I watched the dead children while they were still holding feeding bottles and other still hold the feast candies as that day was the eve of the feast holly Ed"..... He also added, "The account of the dead and wounded was around 40 individuals holding marks of the injuries and suffocation. When we tried to transport the dead and wounded, the army prevented us from doing that and we left them near the water well in that night. After that, one of the Mustashars (T.C: National Defense Regiment advisors) interfered in the matter and gave us a permission to bury the dead whereas around 35 individuals were buried, 20 of them were my relatives who were all killed by chemical weapons". The investigation committee of the tribunal carried out a discovery mission to the accident place on 2006 November 21.

The plaintiff, [NAME REDACTED]- from the village Siwsinan related to Qara Dagħ / Al-Sulaymaniyyah - gave her statement before the tribunal on 2006 September 20.... She said that on March 22, the aircrafts bombed the villages and we entered the shelters. We went out after a while and I watched 14 dead bodies including 7 ones of [NAME REDACTED] family and the rest of the bodies were for my daughter, [NAME REDACTED] and her five sons and other two dead bodies of the wife [NAME REDACTED] and his son [NAME REDACTED].... then, I took a night lamb to make sure and I watched the dead and wounded, the 41 wounded were transported to Shursh Hospital.... she added saying, "the account of the martyred people was 81 individuals including 70 individuals that were killed by chemical weapons". The tribunal carried out a field discovery on the grave that the victims were buried in.

The witness, [NAME REDACTED] says before the tribunal on 2006 December 04 – He is an inhabitant in the village of Gup Tapa. He resumed saying, "our villages was bombed" on 1988 May 3. Around 25 individuals were killed from my family including my mother, [NAME REDACTED] and my wife, [NAME REDACTED]. The victims also include my sons.....



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the victims also include my sons [NAME REDACTED]. The only survivor in my family was my daughter, [NAME REDACTED], my brother [NAME REDACTED] and his wife [NAME REDACTED] and their children ([NAME REDACTED]), and my brother Umid and his wife [NAME REDACTED] and their children ([NAME REDACTED]) were also killed, also my sister's children and her husband ([NAME REDACTED]) were killed...He also added, "I watched around 70 individuals of my family members in a square area of 500 meters while they were fallen on the ground". The important elements to prove the murder as genocide include also the letter numbered 9223 on 1987 December 05 that was issued by the general security to Directorate-45 including implementing the order of the accused, 'Ali Hasan Al-Majid to execute 28 individuals including four women of Shaqlawa inhabitants.

The other element to prove the special intention of the accused, 'Ali Hasan Al-Majid was a the letters or verbal phrases that were encouraging the killing of the Kurds as a national and ethnic group whereas the accused, 'Ali Hasan Al-Majid says in the audio tape that was presented before the tribunal on 2007 January 23, (when I strike them with the chemical I will cause them high casualties...and I will not strike them with chemical not only one day, but (15) days, two days, ten, five and so on...) In another audio portion, (I told the specialists, I need gangs...the good ones in Europe to kill them wherever they catch them). The troops actually carried out attacks killing thousands of Kurds using chemical and conventional weapons based on orders or encouraging letters from the accused, 'Ali Hasan Al-Majid while the others were transported to the detention camps and some of them to the mass graves where they were executed by shooting. This was confirmed by the survivors from these mass graves along with the reports of the international experts who excavated three of these graves. Regarding the responsibility of the accused, 'Ali Hasan Al-Majid of murder crimes in the detention camps within the northern area such as (Tup Zawa, Dibis, Nazarki, Al-Salamiyyah and others), it is a direct responsibility pertaining to the knowledge, intention and the will, because he was the absolute leader in the northern area. In regards to his responsibility of Nuqrat Al-Saman detention camp....



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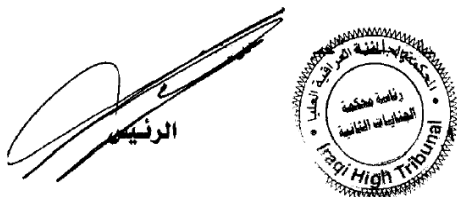
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because he had knowledge of all details of what happened to the victims when he confessed of transporting them to the governorates along with transporting the gravediggers from his area to the other governorates....whereas he says in the audio tape presented before the tribunal. [...where I can put them..? all those people? I tried to distribute them among the governorates...I then will send Poclains (*T.C: is a brand of Bulldozers*) and shuffles to them], It was found by the tribunal that there's an official classification for the national and ethnic group that was done by the officials whereas it was mentioned in the statements of the plaintiffs (victims) that identity investigation was conducted for each detainee and then, they were classified into men group, women and children group and then classifying the men into young and old people.

The decision of the toppled Revolutionary Command Council numbered (160) for the year 1987 is an evidence that there was a strategy and prepared policy by the regime to target the Kurds as a national and ethnic group and the letter numbered 4008 on 1987 June 20 is another evidence on planned strategy by the regime that was carried out by the politicians and military leaders represented by the accused ('Ali Hasan Al-Majid) as he was a member in the Revolutionary Command Council and also a member in the Ba'th Party Leadership, in addition to representing the president of the state in the northern area along with the military leaders such as the chief of army staff, his deputies and the Corpses Commanders. The flee of the Kurds to Turkey and Iran and creating humanitarian crisis back then, is just another evidence among the proof elements of this crime where it's mentioned in the report presented by the expert physician, Isfandiyar Ahmad Shukri about the Kurdish refuge camps in which he watches closely humanitarian suffering.

The change in the population status of the prohibited villages and other areas is another proof and the policy of changing the demographic status for wide areas in Kurdistan especially Kirkuk city is a proof of the premeditated real intention against the Kurds. It's mentioned in the audio tape for the accused ('Ali Hasan Al-Majid) regarding his assault on the Kurds saying, "the Arab newcomers to Kirkuk city are....."

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The image shows a handwritten signature in black ink, slanted upwards to the right. To the right of the signature is a circular official seal. The seal has a double border. The outer border contains the text 'الجمهورية العراقية' (Republic of Iraq) at the top and 'القضاء' (Judiciary) at the bottom. The inner border contains 'مجلس القضاء الاعلى' (Supreme Council of the Judiciary) at the top and 'الهيئة القضائية' (Judicial Body) at the bottom. In the center of the seal, there is a smaller circle with the text 'رئاسة المحكمة' (President of the Court) and 'القضايا الجنائية' (Criminal Cases). Below the seal, the words 'Iraqi High Tribunal' are printed in English.

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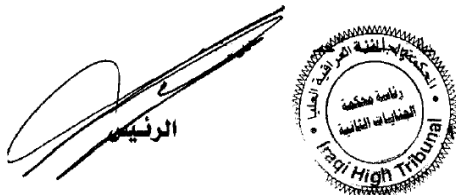
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..... actually less, but existing people there, (meaning Kurds), I extracted them, I banned them from working in Kirkuk, its outskirts and villages. I arrested some, detained some others, and tortured them).

The former regime also prevented the humanity organizations from entering Kurdistan to be find out the circumstances of the victims, this was confirmed by the physician, [NAME REDACTED] whereas it's mentioned in his statement before the tribunal that the Iraqi authorities prevented him with his team from entering Iraq in 1988 as a fact finding team from the Human Rights Organization. The attacker troop's acts of destroying the electricity and water nets is another element of proofs of this crime, whereas the military troops destroyed Dar Barula Electricity Station along with closing the water springs using concretes. Maximum cruelty and violance were used against the inhabitants of the Kurdistan villages whereas the animal and human existence was prohibited in the restricted areas. The shooting is free (killing is allowed) in these areas and this is what's mentioned in the letter (4008) on 1987 June 20 issued by the accused ('Ali Hasan Al-Majid). Many Kurdish civilians are still suffering from injuries, pains for being injured by the chemical weapons and some of them died after Al-Anfal operations as a result of being affected by these weapons. The contempt and abuse phrases that were meant to humiliate and curse against this national and ethnic group is an essential element to proof the discrimination intention of the accused, in addition to what the convict Saddam Hussein said in the audio tape presented before the tribunal, [the Kurds learned their bad habits from the 'Ajam (*T.C: the Persians*)] and what the accused 'Ali Hasan Al-Majid said in the audio tape presented before the tribunal on 2007 January 23 saying regarding the Kurds , [We may accept them as Iraqis but as second priority (*T.C: second class citizens*)], and in another audio tape, he says "I don't trust Kurds except the governor of Al-Sulaymaniyyah and Irbil" besides of the assault and contempt phrases that were pronounced by the official guards in the detention camps (Tup Zawa and Nuqrat Al-Salman) and others or even abuse phrases that were said by the execution teams...

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The block contains a handwritten signature in black ink, which appears to be 'الرئيس' (The President/Judge), and a circular official seal. The seal has a decorative border and contains text in Arabic: 'المحكمة العراقية العليا' (The Iraqi High Tribunal) at the top, 'دائرة جنائية' (Criminal Division) in the center, and 'القضايا ذات الطابع العرقي' (Cases of an ethnic nature) at the bottom. Below the Arabic text, the words 'Iraqi High Tribunal' are written in English.

The Presiding Judge

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.....against their victims while implementing the execution in the mass graves and that's what the mass graves survivors confirmed, that is a proof of the existence of the discrimination intention in the accused 'Ali Hasan Al-Majid against the Kurds as a national or ethnic group.

The accused ('Ali Hasan Al-Majid) was conducting a clear systematic method to target the Kurds as a national and ethnic group as mentioned in the letter numbered (5083) on 1987 July 22 whereas he says, "No objection to behead the traitors...but after taking information from them". This means that any arrested person in the security restricted area will be executed by shooting in all cases. This is a clear plan for genocide; moreover the evidence for the repetition along with the harmonization and systemization of the attacks is in dividing the Anfal Operations into eight phases, besides of following the same style and system in all phases concerning the attack and usage of chemical weapons, village demolition, coercive dislocation of the population, prohibiting the human and animal presence in the area, death from starvation in the detention camps, the similarity in digging the mass graves and the means of execution along with the timing and places. Whereas the accused 'Ali Hasan Al-Majid said in front of the tribunal on 2007 February 07 that when the 5<sup>th</sup> Corps Commander asked him on how he could deal with the civilians...he advised him to deal with them like the previous operations, anyone is found, they must be sent to the security if they are a family...but if he is a captive, he will be investigated by the security entities. The style of the investigation was distinguished during the implementation of Al-Anfal operations and this is what the accused, Farhan Mutlak emphasized before the tribunal and in several sessions, he said, "before starting Al-Anfal operations, the applied style in the investigation was recording the statements of the suspects and then transferring him to the General Military Intelligence Directorate, but after starting the operations, the suspect's statement was recorded and the Northern Organization Office was informed to get a permission for summary execution". The real intention for the regime that was represented by the head of the regime, convicted Saddam Hussein in achieving his policy was honoring all those who committed the most dangerous crimes in the current age, through granting a bravery medal to each of Hashim Sultan and Ayad Zaki for their distinguished roles in Al-Anfal operations as they were considered.

(499 - 963)

  
الرئيس  
The Presiding Judge



In the Name of Allah, the Most Merciful, the Most Compassionate

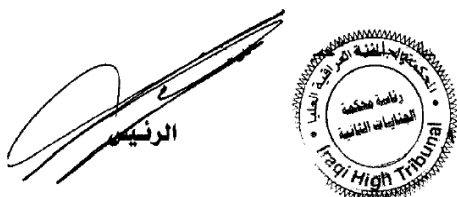
Iraqi High Tribunal  
2<sup>nd</sup> Criminal Court  
Baghdad – Iraq

Reference: 1/2<sup>nd</sup> Criminal/ 2006  
Date: 9<sup>th</sup> of Jumadah Al-Akhirah 1428  
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the Corps Commanders. The attackers designated specific places to execute some of the victims and that's what was mentioned by the accused, Farhan Mutlak before the tribunal, where he said that the executions were carried out in the Corps shooting field. Another proof is the mass graves where the victims were executed by shooting from the execution teams, whereas that tribunal noticed throughout the statements of the survivors including the plaintiffs ([NAME REDACTED]), they all emphasized that when they were transferred to the prepared places for their executions, they saw the gravediggers in the place and the holes were ready and then they were pushed towards these holes where the execution teams were shooting them dead. The gravediggers and shuffles then covered these holes with dirt. All these crimes and killings were committed as a result of a plan or designed general policy on the national level that targets the Kurds as a national or ethnic group. This is shown in the decision of the toppled Revolutionary Command Council numbered 160 for the year 1987 that includes an implementation of the policies of government and the Ba'th Party. The accused, 'Ali Hasan Al-Majid carried out an implementation for his policy and issued a letter numbered (3650) on 1987 June 03 and the letter numbered (4008) on 1987 June 20 along with putting all the civilian, military and party government entities in the northern area under his command to achieve the target. The tribunal also noticed that the troops and the security entities that attacked Kurdistan and started killing and detaining, did not distinguish between the victims either being civilians or fighters (Pishmarga). That's actually what happened when they executed around 27 individuals (men) in Kurimi village after they were separated from the women without being sure if they are all civilians or fighters. A meeting was held in Kirkuk and was attended by the Chief of Army Staff and his deputy for operations dated 1988 August 21. This meeting produced the following, (The concentration of the population in the 5<sup>th</sup> Corps sector will be designated and dealt with by fierce special attacks 24 hours prior to the attack start in order to create panic among them). This is a proof that the attackers were targeting all the population either they were civilians or fighters.

(500 - 963)

The image shows a handwritten signature in black ink, which appears to be 'الرئيس' (The President). To the right of the signature is a circular official seal. The seal contains the text 'الهيئة القضائية العراقية العليا' (The Supreme Iraqi Judicial Body) around the top edge, 'رئاسة محكمة' (President of the Court) in the center, and 'القضايا الجنائية' (Criminal Cases) around the bottom edge. Below the seal, the words 'Iraqi High Tribunal' are printed in English.

The Presiding Judge

In the Name of God All Merciful All Compassionate

**The Iraqi High Tribunal  
Second Criminal Court  
Baghdad-Iraq  
Ref.No.:1/ (C) Second/ 2006  
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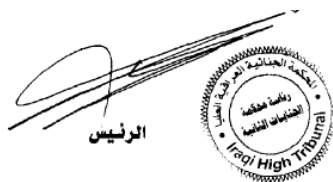
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... children or women, the court has noticed, through the events and plaintiffs' testimonies, that officials in-charge of prison camps taking away the detainee's identification cards [I.D]. This is what one, who stood before court, confirmed saying "I saw a hill of I.D's" as convict 'Ali Hasan Majid asserted in court.

The attackers followed a systematic way in planning through similarity in crimes' active patterns and geographic deployment as International Expert Snow corroborated an organization, planning and similarity in all mass graves excavated at Ninawa [2 and 9] Muthanna [2]. This matching in these actions' patterns is a proof on the provision of a plan or policy to raid over the Kurds as a national ethnic community, within limited period of time [1987 – 1988], as some sources estimated Al Anfal victims to reach 182 thousands.

It had been clear, to the court, that Al Anfal Operations stretched over most of Kurdistan, within its four governorates [Kirkuk, Al-Sulaymaniyyah, Irbil and Duhuk], devastating and dislocating vast regions [more that 3000 villages], murdering, relocating and arresting tens of thousands of victims, preventing the human and animal existence as well as agronomy, and shutting down fountains via reinforced concrete. Targeting this part of civil inhabitants, which is not to be considered easy, is evidence over the partial eradication's intent of Convict 'Ali Hasan Al-Majid.

The court noticed as well that attackers didn't differentiate among their victims, neglecting facts such as gender, age, health status or pregnancy ... This is obvious through murdering women and children by toxic gases during the raids over Kurdish villages, asserted by International Expert Michael Trample, in the court, on 2006 November 20 "27 women, two elders and 85 children" found in Ninawa [2] mass grave "were exhumed" ... He added "The embryo's status ...



Chief of Judges

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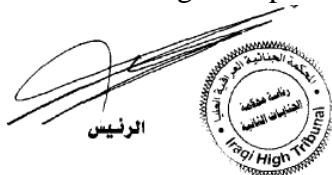
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... belonging to the lady on whom we carried examination ... a fetus or embryo aged 6 to 7 months. This victim [female], with her embryo, was beneath Ninawa [2] mass grave's remains. All those who survived the mass graves, when transported to the execution fields, were carried via government's vehicles, most of them were blindfolded and handcuffed, always at sunset. Hitting against the Kurds physically and targeting their properties is none but another evidence over the intent or veiled aim against this community ... As most of the plaintiffs confirmed, in their testimonies facing the court, the murderous operations and properties' oppression, elaborated through Convict 'Ali Hasan Al-Majid instructions, enclosed in Letter [4008], dated 1987 June 20, granting National Defense Regiments the authority to seize villagers' civil properties. Despite thousands of victims who were executed by fire-shots and were contained in mass graves, as well as civil executions, famine while detained in camps, and toxic gases. Hence, numerous victims are still suffering from theses raids' consequences, as some stood before this court, exposing chemical weapons' scars over their bodies.

#### **B- Convict 'Ali Hasan Majid role concerning genocide by causing severe mental or physical damages:**

Causing severe mental or physical damages [genocide] require the following basics:

- 1- The perpetrator's act will cause a sever physical or morale damage in an individual or more.
- 2- The individual – individuals are affiliated to a given national, ethnic, racial or religious community.
- 3- The perpetrator intends to partially or totally eradicate the aforementioned community as for its given specs.



Chief of Judges

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4- The behavior results within a similar obvious conductible pattern, headed against this community or when the behavior, itself, creates such eradication.

We have already mentioned that the ex-regime waged a large scaled military attack over Kurdistan within an elaborated and systematic plan or policy targeting Kurds as national ethnic community ... Most of the victims mentioned the fall of thousands of dead from civilians while destroying and ruining down thousands of villages ... Then, coercive dislocation of inhabitants, driving them away to detention in Tupzawa, Nuqrat Al-Salman, Nazarki and Al-Dibs camps, or to mass graves ... This correlated severe mental or physical damages in civilians as officials in-charge of the aforementioned camps, especially Convict 'Ali Hasan Al-Majid, did not exert any effort to prevent the killing ... That's what the court concluded through correspondences between health and administrative directorates in Kirkuk Governorate with prison camps' supervisors and in-charge officials [Al-Dibs and Tupzawa] ... We recall Letter [783], dated 1988 June 12, issued by Kirkuk Health Directorate, addressed to Kirkuk Governorate, including handling Kurds' corpses available in prison camps, as being incompetent with legal conditions ... Convict 'Ali Hasan Majid, as being the ultimate ruler of Northern Region and Kirkuk Governor Convict Mundhir Nusayyif Jasim, as being in-charge of the Security Committee, didn't exert any effort to prevent murder or even granting the issue their awareness, though their headquarters were located in Kirkuk.

The court also noticed cases or rape [against Kurdish women] in Tupzawa and Nuqrat Al-Salman camps ... As protected plaintiff (.....) included in her testimony that she had been exposed to rape and watched another woman committing suicide for being raped by Shamkhi [one of Nuqrat Al-Salman Camp's officials]. Another protected plaintiff confirmed that Convict Hajjaj [Nuqrat Al-Salman Camp's commander] had forced pretty women to visit his room at night ... The detainees were exposed to a diversity of physical and psychological tortures. As it had been included ...



Chief of Judges

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... in Victim [NAME REDACTED] statement in front of court, on 2006 September 11, that she witnessed her aunt's [[NAME REDACTED]] death, and others [NAME REDACTED]. She also witnessed the death of a man called [[NAME REDACTED]] due to torture and another [NAME REDACTED]... Witness [NAME REDACTED] mentioned, in front of court on 2006 November 27... "they used to drive us to one of the rooms which is full of smashed glass, ordering us to walk backward on forward ... they tied us on a platform" ... He adds "One day, I went out of the hall to see three individuals hanged ... their sexual organs were tied to gas bottles" ... The court identified that all detainees were exposed to unbearable starvation as Victim [NAME REDACTED] revealed, in front of court on 2006 November 27 ... that they remained in Qura Tu Camp for ten days with no food or water ... all detainees confirmed that their meal was one or two loaves of bread per day. International Expert Snow opinion came identical and affirmative to victims' testimonies, as he conducted a medical exam on 7-months-old child's [NAME REDACTED] remains who died along with her mother due to malnutrition ... The aforementioned expert informed the court, on 2006 November 28 ... "The skeleton was way too retarded ... A retardation in bones development ... I noticed the severe bones' malnutrition" ... Plaintiff (victim) [NAME REDACTED] mentioned in front of court, on 2006 October 17, that his wife died at Nuqrat Al-Salman prison camp due to famine because she couldn't eat the dry loaf of bread ... Her teeth were gone and she had permanently a fever ... she delivered 20 days before dying ... Her baby's cries roared the detainees' cells ... He [the victim] took the child to the prison commander but dismissed him ... the newborn baby died of famine as well. The detainees were exposed to a diversity of torture's techniques aiming to oppress, humiliate, disdain, and harm their dignities ... As Plaintiff [NAME REDACTED] told the court on 11 October 2006 ... "The officials in charge of the prison camp ordered ... the men to bark like dogs or imitate donkeys".



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In the audio tape, pertaining to Convict 'Ali Hasan Majid, contained while being proffered n court ... "Maybe we think of accepting them as Iraqis ... as a second priority community (*T.C: second class citizens*)" ... As it occurred in the audio tape passed to court and pertaining to Convict Saddam Hussein "they earned their bad characteristics from 'Ajam (*T.C the Persians*)".

The court acknowledged, when some of the plaintiffs stood before it, the chemical gases' poisonous effects, as most of them suffer from problems in their respiratory systems, scars over the body, and psychological damages caused by these horrible prisons.

Victim [NAME REDACTED]narrated in court, on 12 September 2006 ... [NAME REDACTED]cousin died at Nuqrat Al-Salman prison camp due to famine ... The black dogs disentombed the grave and ate the corpse. When his sister [NAME REDACTED]saw the aforementioned incident, she went crazy and died after. These are few samples, chosen to reinforce facts of what the Kurds, as national ethnic community, were exposed to. Al Anfal Operations' damages are heavier than a human conscience could ever imagine. If the court wanted to tell the details of each crime, it would be in need of volumes and volumes of books. Rather, the court has chosen specific samples to prove the former regime leaders' involvement, as well as Ba'th Party, in shameful crimes. Convict 'Ali Hasan Majid was the main responsible for all committed crimes which caused big damages to community' members, due to the provision of intent, acknowledgement and will as being the highest official in Northern Zone with all state's security, military and civil systems under his command. As for crimes perpetrated in Nuqrat Al-Salman camp, he is criminally responsible through intent, acknowledgement and will as well. The convict, said in an audio tape passed to court that he is the one who sent victims to governorates along with bulldozers and shovels "I partitioned them over governorates ... shovels will be induced from there ... and Pocleins (*T.C: brand of shovels*) ". So, Convict 'Ali Hasan Majid is legally responsible over crimes committed as per Article [15 \ Second \ ...



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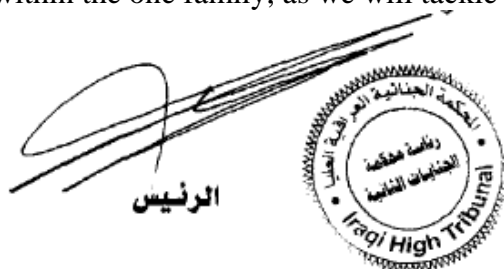
... Fourth] of this court's law No [10], for the year 2005, as being the higher commander in the Northern area, issuing detention orders, instigating such acts, and contributing with other individuals with a contributory criminal intent to perpetrate a crime, aiming to reinforce Ba'th and Security systems' criminal activity or purpose.

**C- Convict 'Ali Hasan Al-Majid role in genocide by subduing the community to harsh living conditions, aimed for material eradication:**

To submit the community, premeditatedly, to harsh living conditions, aimed for material eradication, considering it genocide requires the following basics:

- 1- To impose [by the perpetrator] certain living conditions on one or more individuals.
- 2- Individual – individuals must be affiliated to a specific national, ethnic, racial or religious community.
- 3- The perpetrator must intend to partially or totally eradicate the aforementioned community [included are the specs].
- 4- The imposed living conditions must intend a partial or total material eradication of the community.
- 5- The conduct must be the result of a sequential similar behavioral pattern obviously targeting the community, or to create, itself, that eradication.

Genocide's elements of proof are subduing, premeditatedly, the community to harsh living conditions, aiming to eradicate it materially, taking into consideration the sufficient period of time, the average of imposing such conditions which lack suitable medical care and hygiene, shortage in provisioned health services, famine evidence, the adopted pattern to force out inhabitants from their homes, living conditions destitute of suitable clothes, segregation within the one family, as we will tackle the adaptation of such factors in reality ...



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... proving that Convict 'Ali Hasan Majid was intending to materially eradicate the Kurds as national ethnic community. The former regime was adopting, as general policy, an economic besiegement imposed on territories under Kurdish Forces [Pishmarga] control. Hence, during 1987 – 1988, the blockade became stricter over the aforementioned territories, until banning in and out travels. Everyone within this zone was to be killed as per letter number [4008] issued by Convict 'Ali Hasan Al-Majid which prohibited agronomy as well as agricultural and industrial investment ... The military forces launched a vast attack, known as Al Anfal Operations [8], dislocating the civil Kurds to prison camps and governorates' security committees. The peak of this attack occurred in spring 1988 and lasted till autumn of the same year. Families including men, children and women were detained, from 1988 April till September of the same year, in prison camps supervised by security committees commanded by Convict 'Ali Hasan Al-Majid. The detainees suffered harsh living conditions in these prison camps lacking suitable health care as most of the plaintiffs confirmed the non-existence to such thing which encouraged the flow of ailments such as diarrhea, vomiting, and skin illnesses. This situation led to the death of hundreds as Victim [NAME REDACTED] testified in front of court, on 2006 October 17 ... "The death toll at Nuqrat Al-Salman attains sometimes the 20, on a daily basis" ... As, Victim [NAME REDACTED] testified in front of court, on 2006 October 9, describing the aforementioned prison camp, "halls were filthy, full of lice, as many ailments spread like rubella, typhoid, diarrhea, vomiting and skin disease".

The other element of proof ... is that those in charge of these camps did not provide the minimum of essential health services ... Plaintiff [NAME REDACTED] revealed, on 2006 November 27, in front of court, that one of the women at Tupzawa camp was having ...



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...her period and the soldiers were mocking her. Women were relieving nature, next to halls while guards looking at them ... Another victim said "We were extremely beaten while relieving nature, if we are one minute late in toilets". Most of the plaintiffs affirmed the unavailability of any kind of medicine or doctor, inside the camp. Victim [NAME REDACTED] mentioned to court, on 2006 October 11, "At Nuqrat Al-Salman Camp, they brought us water via tankers, which we found later on that it wasn't potable after many detainees fell ill ... Ailments included diarrhea and vomiting causing the death of many. I recall [among those who died] my son [NAME REDACTED], a woman and her two sons, as well as three of my other sons who drank from that water." All detainees, who were at Tupzawa, Nazarki, and Nuqrat-al-Salman among other camps, mentioned that the daily personal ration was one and half to two loaves of bread. The shortage in food supplies led to a hysterical famine's situation within the camps, especially at Nuqrat Al-Salman where Plaintiff [NAME REDACTED] stated in court, on 2006 October 17 ... "Usually, 6 to 7 persons died each day. During my detention at Nuqrat Al-Salman, 770 detainees died, as the gross number is 7000 detainees at this camp" ... The evidence of perpetrating such acts [expel pattern] is emphasized by civil inhabitants' dislocation to camps, carried on by the army and attackers ... entombing another part. Convict [NAME REDACTED] had confirmed, in the tapes submitted to court, more and more the evidence "The Fifth Corps' Commander asked me about a way to handle civilians. I told him to act the same as in previous operations ... Whomever you find, you send to Security if a family or to Security systems for investigation is a captive". As for suitable clothes, which is another element of evidence, detainees of Kurdish nationality and ethnicity did not get any ... Even those who died in camps were buried with no respect to Islamic legislative customs [burial and cerements ... As for the living ... The new born was wrapped in one piece ...



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... of sackcloth [TC: known as guniyyah which is a manual hard fabric used mainly for packing bags] instead of textile ... Victim [NAME REDACTED] mentioned to court, on 2006 October 10 ... "One of my relatives, Nasrin, was detained along with me. She delivered a baby there. We put her in the bathrooms, placed underneath her plant leaves, to deliver the infant on them ... Due to lack of textile or clothes ... we wrapped the baby with sackcloth which agglutinated to his skin ... We cut the umbilical cord via a piece of glass.

Detainees were exposed to another type of harm ... rape inside camps ... Victim [her name is protected], revealed to court, on 2006 October... that she had been exposed to rape by Convict Hajjaj in Nuqrat Al-Salman camp ... She mentioned that 6 other girls were also raped by convicts Hajjaj, Shawqi and Sakhr, who are guards and officials at Nuqrat Al-Salman camp. The 6 aforementioned girls were 3 from Kirkuk, 2 from Al-Sulaymaniyyah and 1 from Kuysinjaq [the court retains the girls' names for social aspects]. The convict continued "When Convict Hajjaj raped me, I graved my nails in his face, but he hit me back on my face and the scars remain ... Convict Hajjaj used to rape one girl in front of the other girls" ... The Court identified an element or harm of other type which is the segregation within one family ... Most of the victims confirmed segregating women and children from men ... Victim [NAME REDACTED], brought up to court, on 2006 August 22 ... "When we were detained at Rashkin camp, men were segregated from women. I saw my brother [NAME REDACTED] holding his wife's, [NAME REDACTED], begging her not to leave him ... One of the guards kicked him in the face, and threw him inside a car carrying men who drove him to an anonymous place" ... Plaintiff (victim) [NAME REDACTED] pointed out to court, on 2006 September 15, when he saw his daughter [NAME REDACTED] in Tupzawa Camp, crying badly, while the officials ...



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... in charge of the camp, were segregating men and women. The plaintiff does not know anything about his wife and 5 children's fates, including [NAME REDACTED]. What victims faced ... Whether raids executed by attacking forces, using chemical weapons and permanent effects of these lethal weapons, physical and psychological torture they faced, death of hundreds from starvation at Nuqrat Al-Salman, Tupzawa, Dibs, and Nazarki camps [among others], humiliation, disdain, lack of hygiene and medical care, and segregation within one family; all of the aforementioned facts are considered elements of evidence and cogent proves on subduing this national ethnic community to harsh living conditions aiming at a physical eradication. Convict 'Ali Hasan Al-Majid is held criminally responsibility for subduing this national ethnic community to harsh living conditions intending a physical partial or total eradication, as being the ultimate ruler of the region, issuing detention and arrest orders, instigating the perpetration of these offenses, contributing with other individuals [contributory criminal intent] to commit a crime to reinforce Ba'th Party as well as his security, military and civil systems' criminal activity or purpose. Being the ultimate ruler of the Northern Zone will not immune him against criminal charges over crimes committed by individuals operating under his command [subordinates], if he had been acknowledged, or had from the reasons to be aware of his subordinates perpetration or intent to commit such acts, and he [the higher commander] did not take necessary or appropriated measures to prevent the occurrence of these activities, or did not refer the case to appropriated authorities to implement investigation and prosecution. Therefore, Convict's 'Ali Hasan Al-Majid legal charges will be derived from Article [15/First, Second and Fourth] of Iraqi High Tribunal Law No [10] for the year 2005.



Chief of Judge

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In light of correspondences, between Presidency of the Republic and General Military Intelligence Director, dated 1987 March, including the provision of an intelligence report to Presidency, regarding Kurdish fighters' activities and the impact of air strikes against them, Convict Saddam Hussein replied by forming a committee of specialists to strike with special ammunition. The General Military Intelligence Directorate [GMID] specified targets in Balisan basin including Balisan village, Tutma, Khati and Shaykh Wasanan, and Qara Dagb basin including Takya, Balak Jar and Siwsinan. It also reviewed the probability of 3 different agents Mustard, Sarin, and Tabun. Convict Saddam Hussein approval had been granted using chemical weapons. On this background and information, the bygone Revolution Command Council met with Ba'th Party State Command to discuss the Kurds situation in Northern area, in order to draw an obvious policy or plan targeting those [Kurds] as a national ethnic community. All these circumstances had prevailed Decree [160] for the year 1987; granting Convict 'Ali Hasan Al-Majid large scaled jurisdictions, as he commanded all state's civil, military, security and party's systems. On the other hand, he had been granted the full authority to dismiss personnel as per Decree [244] for the year 1987 by virtue of Decree [160] for the year 1987. The implementation of Ba'th Party and Revolution Command Council's policy, in Northern Iraq, had been passed to the convict, especially after issuing Decree [160] for the year 1987, focusing on eradicating Kurdish villages sheltering Kurdish fighters (Pishmarga). The plan has serious consequences over immense residential concentrations. However, its implementation imposed coercive dislocation of inhabitants, far from their homes, into government compounds. This operation was headlined "Villages' Regrouping". It included the execution of Kurdish civilians, as the letter dated 1987 May 1, from Autonomous Ruling Security to Al-Sulaymaniyyah Security, answering one individuals' inquiries ...

The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official stamp. The stamp contains Arabic text: 'المحكمة الجنائية العراقية العليا' (The Iraqi High Tribunal) around the top edge, and 'رئاسة محكمة الضحايا' (Presidency of the Victims' Court) in the center. The English text 'Iraqi High Tribunal' is written along the bottom edge of the stamp.

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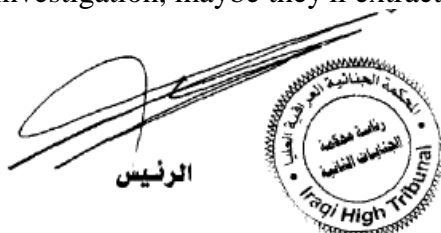
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... about the whereabouts of their brothers and parents ... The answer came that his brother was executed for being a saboteur. As for his parents, they were also executed due to Comrade 'Ali Hasan Al-Majid orders. In another memo, from Halabja Security to Al-Sulaymaniyyah Security, holding Ref No [3329], dated 1987 May 14 ... "based on Comrade 'Ali Hasan Al-Majid request, First Corps' Commander issued an order of execution against wounded civilians, after that Party Organization, as well as Police and Security Directorates affirmed the hostility of the aforementioned wounded to the regime. It also included the devastation of Kani-Ashqani neighborhood via bulldozers. All the aforementioned are none but introductory phases to ghoulish crimes which shook humanity's conscience, carried by Convict 'Ali Hasan Al-Majid and others, framed within a contributory criminal plan targeting Kurds which started in 1987 June and lasted till 1988 November.

Based on Decree [160], Convict 'Ali Hasan Al-Majid issued instructions, enclosed in the 2 letters [3650] and [4008], dated 1987 June 3 and 1987 June 20 consecutively. These two letters are considered the pillars upon which all attacks, after 1987 April 6, were based. In other words, the attacks implemented after that Convict 'Ali Hasan Al-Majid was assigned in charge of the Northern area. Letter [4008], dated 1987 June 20, included highly important issues "All prohibited villages are considered dens for saboteurs. Therefore, an human or animal existence is totally prohibited within the area, as well as in and out travels, agricultural and industrial investments, as Corps' commands must carry out special strikes [Chemical Weapon], from time to time, to kill the biggest possible number of individuals residing this area. Whoever arrested will be detained and executed if his age range is between 15 and 70 years old [included]". The convict granted National Defense Regiments the right to seize villagers' properties. Letter [5083], dated 1987 July 22, from North Organization Office to First Corps, included Convict 'Ali Hasan Al-Majid quotation "We don't have objection on cutting off traitors' heads, but it would have been better if they were referred to Security for investigation, maybe they'll extract important info prior ...

The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official stamp. The stamp contains Arabic text: "المحكمة الجنائية العراقية العليا" (The Iraqi High Tribunal) around the top edge, and "رئاسة محكمة الضحايا الناجمة" (Presidency of the Court of Victims) in the center. The English text "Iraqi High Tribunal" is written along the bottom edge of the stamp.

Chief of Judge

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... to their execution". There are countless documents which confirm orders to demolish villages, carry out chemical attacks, handing families [women, children, and elders] to Security committees and detention centers in Tupzawa, Dibs, Nazarki, Qura Tu, and Al-Salamiyyah camps [among others]. All of them were exposed to harsh inhumanity, torture, humiliation, famine, and lack of appropriated hygiene and medical care. Hundreds faded away in these camps due to famine, adding up field executions without trials. All these orders were issued according to Letter [4008], dated 1987 June 20. GMID letter, dated 1987 June 10, directed to North Organization Office, informed Convict 'Ali Hasan Al-Majid that a special strike was carried out over Ziwa causing high casualties [31 murdered and 100 wounded]. Another Military Intelligence letter, dated 1987 September 8, to Convict 'Ali Hasan Al-Majid, informed the latter that a special ammunition [chemicals] attack targeted Pira Magrun, assuring that nearby villages' inhabitants were killed. Letter No [9223], on 1987 December 5, included the implementation of Convict 'Ali Hasan Al-Majid's order to execute 28 persons, including four women from Shaqlawa, as no indication of a trial had been spotted. Hence, Convict 'Ali Hasan Al-Majid admitted to the court, that executions were carried without trial, since he was authorized of doing so, by Revolution Command Council. All of the aforementioned is a proof of a plan or policy, laid down on the national level, targeting the Kurds as national ethnic community in Northern Iraq, led by bygone Ba'th Party and Revolution Council Commands. This plan or policy was preplanned and reviewed by Convict Saddam Hussein and his Command's Members, including Convict 'Ali Hasan Al-Majid. Where as the correspondences which took place between Presidential Diwan, Military Intelligence Directorate, North Organization Office and Army Chief of Staff, concerning chemical strikes [chemical weapons] prove convicts' acquaintance ...



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... Saddam Hussein and 'Ali Hasan Al-Majid. The Ba'th Party and regime's policy is marked throughout the regime's lead, Convict Saddam Hussein, statements, as he says in the submitted audio tape, within your hands "we will render them Arabs ... as Salah 'Umar Al-Ali clan ... turned to Arabism". In another passage, he lances "The Kurds earned their negative characteristics from the 'Ajam (*T.C: the Persians*) ". As for Convict 'Ali Hasan Al-Majid, in the audio tape submitted to court, he stated "Except Irbil and Al-Sulaymaniyyah governors, I do not trust any Kurd at all" to "Maybe we will accept them as second priority Iraqis (*T.C: second class citizens*) " and "Strike them chemically and eradicate them all ... They thought International community will rescue them ... Damn this International community ... And any of God's States who back them". The court realized criminal arrogance, challenge, and excessiveness with Convict 'Ali Hasan Al-Majid challenging the International community.

The disdain, vituperation, and blasphemies are clear evidences on Ba'th organization's real intent, headed by Convicts Saddam Hussein and 'Ali Hasan Al-Majid. For the submitted, the court becomes absolutely convinced that Convict 'Ali Hasan Al-Majid dully acknowledged, in details, the murder, relocation, starvation, humiliation, coercive dislocation of civil inhabitants, harsh living conditions which victims suffered from, adding up the intention [special intent] to partially or totally eradicate the Kurds due to chemical weapons' usage, coerce dislocation of civil inhabitants [women, children and elders], carry field executions without trials, driving them to detention and arrest centers or mass graves which 3 of them had been excavated at Ninawa [2 and 9] and Muthanna[9] by International Experts. All the aforementioned prove Convict 'Ali Hasan Al-Majid vicious intentions.

We deliberately elaborated legal requirements and elements of proving murder, severe damages, subduing the community to harsh living conditions aimed for partial or total eradication, while illustrating convict's role ...



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... ['Ali Hasan Al-Majid] in these crimes through an intent of discrimination and eradication over a systematic pattern of perpetration, as well as a provisional plan or policy to commit genocide, military troops' performance following orders from Convict 'Ali Hasan Al-Majid using chemical and conventional weapon against Kurdish civil inhabitants, killing thousands, demolishing and burning down their houses and villages, transferring children, women and elders to prison and detention camps, driving some to mass graves after being executed. The court recognized that Al Anfal Operations veered into a new path, throughout 4<sup>th</sup> and 5<sup>th</sup> operations, when there was no excuse to dislocate inhabitants. The latter were been massacred, from the 5<sup>th</sup> operation onward Kurimi village's massacre devoured 27 executed individuals from civil inhabitants. These incidents are evidence over Convict 'Ali Hasan Al-Majid real intentions. The court noticed, also, that weapons were largely used in Kurdistan, not differentiating between civilians and fighters. They were used at specific times aiming to psychologically, physically and emotionally hurt the Kurds, when villagers gather to eat dinner at night, or throughout Ramadan. Convict 'Ali Hasan Al-Majid denied, in front of the Court, using chemical weapons or acknowledging such conduct. However, through submitted audio tapes, passed to the court, he threatened by chemical weapons many times. His allegations were an intention to scare the Kurds. Such pretends were falsified in Letter [4008], dated 1987 June 20, where he ordered corps commanders to use ammunition at all times to kill the biggest number of those within Prohibited Zones. The convict affirmed the authenticity of the letter, in addition to other letters and correspondences between Northern Organization Office, headed by Convict 'Ali Hasan Al-Majid, corps' commanders and GMID enclosing special ammunition's usage.



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Accordingly, Convict 'Ali Hasan Al-Majid had the intention to partially or totally eradicate Kurdish civilians due to their ethnicity. Most of the victims testified that they had been exposed to murder, dislocation, starvation and humiliation for being Kurds only.

Convict 'Ali Hasan Al-Majid contributed, with Convict Saddam Hussein, in carrying on their joint criminal plan, aim and intending to eradicate the Kurds in Northern Iraq which are aged between 15 and 70 years old [included]. In addition, Military Troops attacks over Kurdistan, following Saddam Hussein and 'Ali Hasan Al-Majid's orders, using all types of weapons from aircrafts, helicopters, armors, infantries, rocket launchers and chemical weapons against civil inhabitants. These villages were raided by all kinds of weapons, causing the death of thousands. Whereas survivors ran away to the mountains as another part [children, women and elders] were moved to police camps or mass graves. Convict 'Ali Hasan Al-Majid is a member in the bygone Revolutionary Command Council and Ba'th Party Command, and cousin of Convict Saddam Hussein. Al-Ba'th Party Command and the Revolutionary Command Council found that the only trustable person able to carry their policy in Northern Iraq is none but Convict 'Ali Hasan Al-Majid. It's impossible to execute such a horrible crime as genocide the government's contribution. Hence, Convict 'Ali Hasan Al-Majid is one of those who administrated and managed genocide, added up to his contributory criminal intent to perpetrate genocide, resulting in the individual responsibility, such as 'Ali Hasan Al-Majid, as for genocide committed via murder, causing severe mental or physical damages, subduing the community to harsh living conditions, aimed for eradication following the pattern of responsibilities indicated in Iraqi High Tribunal Law No [10] for the year 2005 in Article [15/ Second]. In other terms, Convict 'Ali Hasan Al-Majid conduct can be described as perpetrated it [the crime], as in individual, reinforced it, and contributed ...



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... joint criminal intent to partially or totally eradicate the Kurds in Northern Iraq through premeditation and issuing orders or perpetrating genocide as per Article [15/ Second/ (A-B)]. Convict 'Ali Hasan Al-Majid and his attorney debated over the military necessity for defense. But any court clarifies rejection to adopt genocide as mean of military defense, the reason why the court do not discuss this motive because it is not a legitimate one to conduct genocide or crimes against humanity.

For what had been represented, the Court sees that Convict 'Ali Hasan Al-Majid contributed, individually, in executing joint criminal plan with others as well as contributing in joint intention to totally or partially eradicate the Kurds in Northern Iraq, premeditatedly, through issuing orders to murder, cause severe physical or mental damages, and subdue them to harsh living conditions aiming to exterminate them all. These were the orders implemented by his subordinate leading to the death of a vital, immense majority of Kurds inhabitants in Northern Iraq, killing them, causing severe physical or mental damages and subduing people to harsh living conditions, aimed for eradication.

Accordingly, Convict 'Ali Hasan Al-Majid is guilty for genocide which had been committed between 1987 June and 1988 September, stipulated in Article [11/ First/ (A-B-C)] and Article [11/ Second/ (A)] by virtue of Article [15/ Second/ (A-B)] and Article [15/ First/ Second/ Fourth] of Iraqi High Tribunal Law No [10] for the year 2005, by virtue of Article [406/ 1, (B-F)] and by virtue of contributory Articles [47, 48 and 49] of Iraqi amended Penal Code No [111], for the year 1969, It had been decided to charge and identify the sentence accordingly, as the verdict is issued on 2007 June 24

Chief of Judge  
Muhammad 'Iraybi Majid Al-Khalifah

Member

Member

Member

Member



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**Crimes against Humanity**

On 2007 Feb 20, the Court charged Convict 'Ali Hasan Al-Majid with committing crimes against humanity as per Article [12/ First (A, B, C, D, E, F, H, I and J)] by virtue of Article [15/ First/ Second/ Third/ Fourth] of Iraqi High Tribunal Law No [10], for the year 2005. In crimes against Humanity, it is conditioned to have a systematic large scaled attack against civil inhabitants, violating Iraqi High Tribunal Law ... Through Article [12/ Second], attack is defined as a conduct enclosing repetitive perpetration of acts contained within its [Article] 10 clauses, against any group of civil inhabitants following the state's policy. When the term "attack" is used to describe a crime against humanity, it will be different than the one used along War Codes, Attack Conceptualism or Armored Disputes ... These concepts are different and separated ... When an attack occurs either on a large scale or systematic scheme ... Because the attack is not a must to be on a large scale or systematic at a time ... Hence, Iraqi High Tribunal Law ... requires one of the two conditions [either a wide-scale or systematic] ... As the large scaled or systematic nature of an attack is basically a relative theory. Therefore, analysis will be framed if the attack is described as large scaled, systematic, or both, as it is the court's duty to interact with the individuals on whom such attack occurred, enlightened by tools, techniques, conditions and attack's outcome on the aforementioned group will be sure if the attack was indeed large scaled or systematic ... The systematic attack is that which occurred as per a policy or preplan [Special International Tribunal for Rwanda] in the case ...



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... of Karshima, dated 2001 June 01, Clause [23] conditioned that the large scaled or systematic attack target civil inhabitants, as there is no need for a complete inhabitants existence. In other terms, the targeted inhabitants must be, by majority, civilians ... Elaborating over the probability of saying that the attack was targeting civil inhabitants ... The court will consider tools and techniques used throughout the attack as well as victims' situation and casualties ... without forgetting the deployment nature of the attack.

**A- The Assault:**

The Court finds that the committed acts against Northern Iraq Kurds and Kurdish villages, in the period between 1987 March until 1988 September, was a series of actions using massive Military Force and mistreatment. These actions constitute an attack within the concept stipulated by Article [12/ Second - (A)] of Iraqi High Tribunal Law.

**B- Wide-scale or Organized:**

The Court finds that attacks carried throughout the operations known as Al Anfal, and before and during Al Anfal, were large scaled and systematic

1. Dr. Snow and others witnessed that Al Anfal Operations consisted of large scaled attacks, guided against more than three thousand villages, causing as much damages as casualties among civil inhabitants
2. According to available evidences, in the case, the executed attack, dated 1987 March until 1988 September, relied on organized plans laid down and applied by officials in the former regime.

**C-** The aforementioned attack, which occurred prior to 1987 end of June, was implied in an organized way via a technique which accredits a preplan.



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**D-** All attacks, which occurred after 1987 June, were an implementation of a stipulated policy enclosed in the instructions issued by Convict 'Ali Hasan Al-Majid according to Letter [4008], dated 1987 June 07, adopted in Al Anfal and other Security Systems' Operations.

**Convict 'Ali Hasan Al-Majid role in murdering as a crime against humanity:**

**Crime Basics:**

- 1) The perpetrator must murder one or more individuals.
- 2) The conduct must be committed as part of a systematic large scaled attack against civil inhabitants.
- 3) The perpetrator must be aware that such conduct is informed part of a systematic large scaled attack against civil inhabitants, or to intend such act as part of the attack.

The perpetrator must acknowledge, in crimes against humanity, that his conduct or act is part of systematic large scaled attack against civil inhabitants, or must intend this act as part of the aforementioned attack. These crimes must be correlated to preconceived malice and nature of committed crimes, throughout the attack, vis-à-vis attackers' resistance and the attacking forces' degree of commitment or attempt to abide to war codes' requirements. One of the main basics of murder as crime against humanity is the factual existence of the community, as well as a known policy targeting a given society, involving high political and military commands, adding up the distinguished nature of the attack and exorbitance of the schemed nature of the committed acts, without forgetting the shooting over an unspecified group of people, followed by orders of segregation and violation of war codes' requirements.

Since Convict 'Ali Hasan Al-Majid is the Supreme Leader of Northern Zone according to Decree [160] for the year 1987, as we previously brought up his Legal Responsibilities as per Article [15/ First, Second, Third and Fourth] of this court's code, where the Military Forces raided ...



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... along with Security Systems, a large scaled attack over Kurdistan, during (1987-1988). All state's military and civil capabilities were exploited in the aforementioned attack where bombing started via aircrafts, artillery, rocket launchers, special ammunition and conventional weapons, causing the death of thousands of Kurdish civil inhabitants and injury of other thousands due to chemical and conventional weapons' usage. On the other hand, thousands faded away in camps or were driven to mass graves or field executions. Kurds, as a national ethic community, resided Kurdistan in Northern part of Iraq, and have their own language, culture and traditions. Decree [160] for the year 1987, issued by Revolutionary Command Council, granted Convict 'Ali Hasan Al-Majid vast jurisdictions as he commanded all government's civil, military, security and party systems, freezing all codes which contradict with the aforementioned decree. Accordingly, the convict issued instructions to all military commanders in the region, as per Letter [4008] dated 1987 Jun 20, prohibiting the existence of any human or animal nature within Prohibited Zone, killing any person found there ... ect ... Decree [160] and Letter [4008] prove, with no doubt, especially from their outcomes [destruction, calamities, murder, dislocation, famine] after being carried by appropriate systems, the availability of a known policy targeting the Kurdish society. The embroilment of high political and military commanders such as convicts Saddam Hussein and 'Ali Hasan Al-Majid, Corps' Commanders, and Staff of Army Chief and his Lieutenants, is none but another element of proof in this systematic large scaled attack. The attack's distinctive nature is also another element of proof as chemical weapons were used against Kurds for the first time in Iraqi history where all humanity didn't witness a regime eradicating his own populace ...



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... using chemical gases such as Al-Ba'th Regime and convicts Saddam Hussein and 'Ali Hasan Al-Majid. These weapons were used against civil inhabitants in Kurdish villages. As for the schemed perpetrated acts' exorbitance, the immense military force engaged in Al Anfal Operations, whether in the first or eighth, had exploited all available sorts of weapons in the government, including chemical weapons, as villages had been raided, in a condensed manner, killing who had been killed, injuring who had been injured, followed by an arm march to arrest who survived, from civil villagers, carrying them via military vehicles to detention camps. This pattern had been repeated all along Al Anfal Operations. Convict 'Ali Hasan Al-Majid confirmed such schemed nature in front of court, on 2007 February 07, by saying "when the 5<sup>th</sup> Corps' commander asked me how to handle Kurdish families through Al Anfal Eighth Operations ... I requested as before in previous Al Anfal Operations". On the other hand, the other criminal basic [shooting an unspecific group of people] was elaborated when officers gathered 33 men in the village of Kurimi and shot them down, murdering 27, without investigating whether they were civilians or Pishmarga fighters.

Another element of proof resides in the hope to segregate a group from the other; all victims who stood before Court testified that they witnessed or had been segregated themselves over many groups as women and children from men, young ladies from elders, young men from elders, driving young men to mass graves, shooting down or executing them.. The Court recognized that from Ninawa [2 and 9] and Muthanna [2] mass graves. Hence, the attackers did not comply with war codes' requirements, as military forces carried out their systematic large scaled attacks over Kurdistan without respecting the mere war laws' requirements ...



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... when using toxic gases, murdering thousands with this lethal weapon and wounding thousands, as victims described that day as if it was Armageddon.

The Court has noticed, from tangible and morale evidences, as well as submitted documents and victims' testimonies, that the strikes against civil inhabitants grew more aggressive as of Al Anfal Fifth Operations onward, where Kurdish civil inhabitants were exposed to massacres, and Kurimi Village's massacre is none but a sample.

So, through elements of proving murder as a crime against humanity, the attack over Kurdistan was systematic and on a large scale considering the attack's nature, immense military exploited to raid, organized murder of civil inhabitants, letter No. [4008] dated 20 June 1987] including the order to kill anyone found within Prohibited Zone ranging from 15 to 70 years old [included], and instructing corps' commanders to prepare special strikes, at all times, in order to kill the biggest possible number of residents within the aforementioned zone. Letter [12307], dated 10 June 1987, issued by the Intelligence to Northern Organization Office indicates "in the last dawn of June 05, Al-Barzani group's Branch Headquarter was air bombed with special ammunition; the strike was efficient as casualties reached 31 dead and 100 wounded. 1<sup>st</sup> Corps' Letter No [352], dated 1987 July 08, to Northern Organization Office which was headed by Convict 'Ali Hasan Al-Majid, included the execution of seven persons. Security Directorate's letter No [9223], dated 1987 December 05, contained carrying on the order of Convict 'Ali Hasan Al-Majid to execute 28 persons, among who were four women from Shaqlawa.

The above mentioned documents and letters prove the existence of intent and will, regarding Convict 'Ali Hasan Al-Majid ... Thus, he would have issued orders of murder and contributed, with others, in a joint criminal intent aimed to reinforce Ba'th Regime and its Security and Military Systems' criminal activity and purpose ...



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... as per Article [15/ First/ Second] of Iraqi High Tribunal Law No [10], for the year 2005.

**Verdict of Convict 'Ali Hasan Al-Majid for premeditated murder as crime against humanity:**

On 2007 February 20, the Court charged Convict 'Ali Hasan Al-Majid for premeditated murder as crime against humanity as per Article [12/First-(A)] by virtue of Article [15/First/ Second/ Third/ Fourth] of Iraqi High Tribunal Law No [10], for the year 2005; reviewing provisional evidences in the case, issuing the following verdict:

The Court has reviewed provisional evidences pertinent to the case, from documents, victims, witnesses and convicts' testimonies, experts' reports, examinations and everything correlated to the case. It noticed that military sectors and Security and Party Systems, affiliated to Convict 'Ali Hasan Al-Majid, carried a systematic large scaled attack against Kurdish civil inhabitants, between 1987 and 1988. The outcome was thousands of dead Kurdish civilians and tens of thousands dislocated into detention and prison camps. These latter were exposed to all sorts of psychological and physical torture and famine. Many were driven mass graves where they had been executed via fire-shots then buried in. All these tragedies and calamities, which affected the civil Kurds, were the result of orders issued by Convict 'Ali Hasan Al-Majid to his henchmen to attain his criminal intent as per a joint criminal plan, according to Decree [160], for the year 1987, granting Convict 'Ali Hasan Al-Majid vast jurisdictions [National security Council's jurisdiction included], assigning him for bygone Ba'th Party and the Revolutionary Command Council's policy implementation. To effectuate this plan or policy, Convict 'Ali Hasan Al-Majid issued Letters [3650] and [4008], dated 1987 June 03 and 1987 June 20 consecutively, which are considered the basics of launching a systematic large scaled attack against Kurdish civil inhabitants ...



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... in Northern Iraq. The two aforementioned letters, both issued and signed by Convict 'Ali Hasan Al-Majid, comprised highly dangerous orders such as prohibiting any human or animal's existence in the area, killing any person available within Prohibited Zone with an age range from 15 to 70 years old [included], instructing Corps' Commands to concentrate strikes with special ammunition (chemical weapons), day and night, to kill the biggest possible number of those residing the aforementioned zone, as well as preventing agronomy agricultural investment, irrigation, and food supplies, murdering any human or animal available within the area.

Consequently, Convict 'Ali Hasan Al-Majid ordered military units and other security services to carry a systematic large scaled attack against civil inhabitants in Kurdish villages in Northern Iraq. Field executions had been applied with no trial. The convict testified before Court that he issued these orders because he was authorized by Revolutionary Command Council to do so, as he claimed. As an implementation of his orders, 28 persons, including 4 women from Shaqlawa, were executed, according to Letter No. [9243], dated 1987 December 05, issued by Security Directorate. Furthermore, the Military Sectors led large scaled attacks, during Al-Anfal eight operations, using all sorts of government's available conventional and chemical weapons. Most of the victims described these attacks as being Armageddon. The raids' outcome devoured thousands of children, women and elders, whereas many other thousands were driven away, by military vehicles, to Security Committees or Northern Organization Office and then to detention and prison camps at Tupzawa, Dibs, Nazarki, Al-Salamiyyah [among others]. Women – Children and men, youngsters and others, were segregated from each other and transported, via governmental vehicles, to mass graves where execution's divisions shot them down prepared pits, burying them beneath as bulldozers inundated them with sand. All this had been confirmed by survivors ...



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...from the aforementioned mass graves, whose testimonies are documented before court. Other Kurdish civil inhabitants, who had been dislocated at Nuqrat Al-Salman or remained under detention in Dibs, Tupzawa, and Bahirka camps [among others], had been exposed to unbearable inhumane sufferings such as humiliation, disdain, torture, famine, and lack of hygiene; where hundreds died as result of starvation, especially in Nuqrat Al-Salman where black dogs gulped down their bodies, in front of their relatives' eyes.

Accordingly, the Court has been convinced that Convict 'Ali Hasan Al-Majid ordered the murder of all those found within the Prohibited Zone, as per letters [3650] and [4008], dated 03 and 20 June 1987 consecutively; as he ordered to carry on systematic large scaled attacks against Kurdish civil inhabitants in Northern Iraq. Convict 'Ali Hasan Al-Majid knows and premeditates the murder of civil inhabitants, through execution of his orders by his subordinates, aiming for a joint criminal plan as he acknowledged and intended a crime against humanity as part of a systematic large scaled raid over Kurdish civilians in Northern Iraq. This had been stated in Letter No. [1122], dated 21 August 1988, issued by Army Chief of Staff concerning Kirkuk Conference, which the convict attended, which contained the clause "there must be a total devastation of sabotage in the Northern Zone". These are irrefutable evidences proving that civil inhabitants were exposed to murder as per Convict 'Ali Hasan Al-Majid direct orders which imposed civilians' execution without trial, as well as pushing Corps' Commanders to use chemical weapons, which constitute undistinguishing weapons (WMD), against civil villagers in Northern Iraq. Plaintiffs and witnesses' testimonies, those who were exposed to conventional and chemical weapons, tackling how thousands of them had been killed, come to add another certainty of conviction.

**The Court is convinced that Convict 'Ali Hasan Al-Majid contributed in carrying on a joint criminal plan, with others, with a joint intent and purpose to murder Kurdish civilians in Northern Iraq and totally or partially eradicate ...**



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... them. As part of this joint intent and plan, he premeditated and ordered the murder of civil inhabitants as part of a systematic large-scaled attack against civil inhabitants in Northern Iraq. The aforementioned orders had been carried by his henchmen [subordinates] causing countless number of dead victims, by virtue of provisional charges against Convict 'Ali Hasan Al-Majid, this latter is found guilty of premeditated murder as a crime against humanity, between 1987 and 1988, as per Article [12/First-(A)] by virtue of Article [15/First/Second/Fourth] of Iraqi High Tribunal Law No [10], for the year 2005.

Member    Member    Member    Member



Chief of Judge

Muhammad 'Iraybi Majid Al-Khalifah



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**Convict 'Ali Hasan Al-Majid role in genocide as a crime against humanity:**

The Court has charged Convict 'Ali Hasan Al-Majid with genocide as a crime against humanity, as per 2007 February 20 Letter, according to Article [12/ First-(B)] of this Court's Code.

**The crime's elements:**

1. The perpetrator must murder one or more individuals, enforcing victims to live in harsh conditions which will lead to the eradication of a part of inhabitants belonging to a given community.
2. The conduct must constitute a massacre activity against community's members [civil inhabitants] or part of this activity.
3. The conduct must be perpetrated as part of a systematic large scaled attack against civil inhabitants.
4. The perpetrator must acknowledge that the conduct is part of a systematic large scaled attack against civil inhabitants or intent this conduct as part of the aforementioned attack.

These elements and requirements must be provisioned to be able to say that Convict 'Ali Hasan Al-Majid is criminally in charge of those crimes.

The genocide proof elements as crime against humanity are; evidence of strike, evidence of causing death, evidence of handing the victims over to an armed group and ordering them to murder the victims, and evidence of murdering on a massive scale, evidence of the relative number of casualties.. evidence of the lists of victims recognized by name, evidence of the use of armed forces having a support center to the attack field, total accumulative evidences used to prove mass murder average, evidence of murder operations and evidence of crimes [by themselves as murder crimes], evidence that the suspect murdered of a large number of targeted individuals as a proof of incrimination and awareness, and evidence that the suspect intended to carry severe physical damage ...



Chief of Judge

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In the Name of God All Merciful All Compassionate

The Iraqi High Tribunal

Second Criminal Court

Baghdad-Iraq

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Date: 2007 June 24

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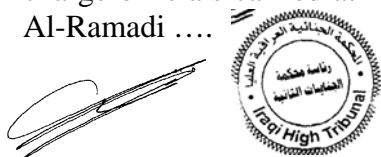
**The Verdict**

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... on numerous targeted individuals, with the reasonable acknowledgment that this murder will probably lead to death.

All these elements are provisioned in the case's file to prove genocide as crime against humanity, during 1988 and 1987. Convict 'Ali Hasan Al-Majid, as being the supreme leader of the Northern area, whose orders can not be argued but rather directly implemented, even though such practice is considered a breach of local laws as well as International Codes and Customs, whereas Convict Farhan Mutlak said in front of court, on 2007 February 15 ... "Is there anyone who could tell [the convict] I will not carry orders? Let's be logic your Excellency, chief of judges". Through tangible and morale evidences provisioned to the case, as well as victims' testimonies, documents, and files which were submitted to court in both investigatory and prosecution phases, it became convincible that Iraqi Army and Security systems carried out large scaled attacks over Kurdistan during 1988 and 1987, using all state's provisioned sorts of weapons, especially after Convict 'Ali Hasan Al-Majid had issued his famous letter titled "Handling Prohibited Zone's villages", numbered [4008] on 1987 June 20, addressed to military commanders, by which any human or animal existence had been prohibited within the aforementioned zone, but shooting was permitted with no restrictions whatsoever [murder is allowed], murdering any individual to be arrested within the area with an average age between 15 and 70 years old [included], instructing military troops to prepare special strikes [chemical weapon] to murder the biggest possible number of those residing the areas. Hence, the element of ordering to carry casualties is provisioned through Letter [4008], on 1987 June 20, which Convict 'Ali Hasan Al-Majid confessed its authenticity in both investigatory and prosecution phases.

As of the proof of handing victims over to a group ordered to murder them, this is what in charge officials carried at Tupzawa Camp where they handed them over to another group at Al-Ramadi ....

The image shows a handwritten signature in black ink on the left. To its right is a circular official seal. The seal has a double border. The outer border contains the text "القضاء الجنائي العراقي" (Iraqi Criminal Court) at the top and "Iraqi High Tribunal" at the bottom. The inner circle contains the text "رئاسة محكمة" (President of the Court) at the top and "القضايا الجنائية" (Criminal Cases) at the bottom.

Chief of Judge

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In the Name of God All Merciful All Compassionate

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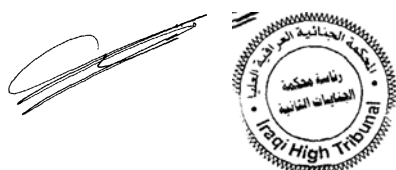
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.... The latter [group] extradited and drove them to the place appropriated for executions in a mass grave at Al-Ramadi. Plaintiff (victim) [NAME REDACTED], one of the mass grave's survivors, from Al-Ramadi, revealed "they put us in vehicles from Tupzawa toward Al-Mawsil then to Al-Ramadi. When we reached Al-Ramadi Police Station, the driver and guards were swapped. The other group drove us to an area outside Al-Ramadi, with two Land Cruisers and two shovels. The vehicles stopped and we heard screams and gun shots, as night had landed. I witnessed lines of humans shot down by the same officers who were in the Land Cruiser. I couldn't imagine people being killed that way. We tried to resist but when they sensed it, while inside the vehicle, they shot us as we were still in there. There were 2 dead bodies over me. One called [NAME REDACTED], while the other I don't remember his name. Three of my friends ran away from the vehicle. I went out of the vehicle. I made a U-turn and tried to escape. I fell down a hole full of bodies including that of [NAME REDACTED], someone I used to know. I saw another corpse. I took of my clothes and ran to a lightened side. While running, I saw heaps of soil and holes that I think were mass graves. What the victim mentioned is an element of proof over handing [camp's officials] victims to armed group and then murdering and executing them in mass graves, a proof that murder was carried on a massive scale. The court didn't reach the exact number of victims due to lack of official statistic and region's vast area, as the large scaled contained the large areas of 4 governorates [Al-Sulaymaniyyah, Irbil, Duhuk and Kirkuk). In addition, the former regime made sure not to reveal information concerning the number of victims. However, the estimated and circulated number, after gathering evidences, victims' testimonies, and case's facts, reaches the 182 thousands, though it is not accurate.



Chief of Judge

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Proving the provision of lists of victims' names, each of the plaintiffs and victims whom attended the court and their testimonies been documented, submitted a list of victims from his village. As for armed forces' usage, the court reviewed the size of used military force in the attack, through documents, and victims, witnesses and convicts' testimonies.

It's been confirmed that the state exploited all its military capabilities, in the attack, from conventional and chemical weapons, aircraft, artillery, launchers and big number of military units which convicts mentioned in their testimonies. As example, we mention the telegram issued by Presidency of the Republic – Secretary, Special Security Organization [SSO] and others, numbered [4/5/28/(SR)], on 1988 March 22, which included the following "it had been approved to attack the enemy by special ammunition of the Air Force, Army Aviation and Artillery alongside the front, prioritizing 1<sup>st</sup> Corps' front".

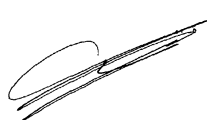
The other element is the center of support to the attack's commander which is implied by Convict 'Ali Hasan Al-Majid according to Decree [160] for the year 1987 by being the ultimate commander of the Northern area.

The other element is the accumulative evidences to prove the average mass murder is the execution of 27 civil individuals at Kurimi village by army officers. The court subdued a site examination on the place of incident. This examination had been supported by International Expert Dr. Snow report which interred the mass grave's corpses at Kurimi.

The court had been informed over the report of International Expert Dr. Trample who supervised the excavation of 3 mass graves at Muthanna [2] (114 victims), Ninawa [2] (123 victims), and Ninawa [9] (64 victims). Most of those victims were fire shot.

General Security Directorate's letter, addressed to the 45<sup>th</sup> Directorate, numbered [9223], on

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Chief of Judge

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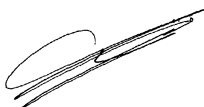
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... 1987 December 05, contained carrying on the order of Convict 'Ali Hasan Al-Majid to execute 28 persons, among who were four women from Shaqlawa.

What we mentioned above is an evidence of mass killing operations and an evidence of the killing as a crime.

The evidence that the suspect killed a big number of targeted individuals as an evidence of the intent and knowledge is the letter number (4008) on 1987 June 20, to kill any one exist in the restricted security area from age (15) to (70) (included) and the convict Farhan Mutlak's confession in front of the court on 2007 February 15 that he executed individuals carrying out the convict 'Ali Hasan Al-Majid's order, which is not but a convincing evidence that 'Ali Hasan Al-Majid was targeting the Kurdish civilians with premeditated intent and acknowledgment to achieve the criminal result.

As for the evidence that the result was aiming to cause a severe physical harm to a massive targeted individuals logically knowing that this action will lead to death. The of evidence of that is taking thousands of victims to the Security Committees or Northern Organization Office then to the detention camps in (Tupzawa , Nuqrat Al-Salman and Nazarki) and they were exposed to harsh conditions such as lack of medical care and food shortage. Most of the victims confirmed that the daily personal ration was one to two loaves of bread and hundreds of them died in those horrible prisons. The victim [NAME REDACTED] mentioned in front of the court on 2006 October 19, we arrived at Nuqrat Al-Salman prison and I saw the prison full of detainees of all ages individuals from elderly men, women and children, even we thought that all Kurdistan people are in this prison. He added they used to give us little food and drink water from the faucet, then they cut the faucet water after that they brought to us water tanker with clean and dirty water. Also our share of food was two loaves of bread per day and we drank the dirty water, some died due to lack of food. We sent 3 individuals to talk to Al-Hajjaj and asking him about ....



(963-532)  
**The President**



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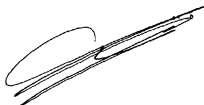
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... our situation, and he said (You been brought here to die not to live). A Question from the court to the victim, do you know names of the individuals whom died in the detention camp? He answered yes, I participated in burying (20) individuals, I remember (18) individual's names and one of them from Qadir Baqir village I don't know his name. The others are ; Mala Fattah from Dujayla village (*T.C: it is a village in Sirwan sub district/Halabja county*) , Sabir Karim Bag from Qamisha village, Dhuha Isma'il from Kuysinjaq, Sufi Salih from Guma Shin, Dana Hasan Rasul from Gup Tapa, Husayn Mahmud form Gup Tapa, Sharif Sharif from Zarda, Kadrin Qadir and his wife Aminah from Haladan. I was handing over the dead individuals' identities to Hajjaj, among the detainees were blinds and madmen, and due to the bad conditions approximately (1800) detainees died in the prison. There were individuals in charge of the holes who were counting the dead continuously. This is a sample that was chosen among tens of victims whom testified in front of the court and confirmed the human suffering and the harsh conditions in the prisons and the psychological and physical harm they were exposed to.

**Verdict of Convict 'Ali Hasan Al-Majid for genocide as crime against humanity:**

On 2007 February 20, the Court charged Convict 'Ali Hasan Al-Majid for genocide as crime against humanity as per Article [12/First-(B)] by virtue of Article [15/First/ Second/ Third/ Fourth] of Iraqi High Tribunal Law No [10], for the year 2005; reviewing provisional evidences in the case, issuing the following verdict

During the years (1987-1988) the Kurdish civilians and the Inhabitants of the Kurdish villages in northern Iraq were subdued to a wide-scale mass murdering due to the orders of convict 'Ali Hasan Al-Majid whereas the Revolutionary Command Council (Bygone) has issued decree (160) for year 1987 by which the convict 'Ali Hasan Al-Majid became the absolute roller of the Northern area who had under his command all....



(963- 533)  
The President





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... state's civil, military, security and Party systems. He had been assigned to carry out bygone Ba'th Party and Revolutionary Command Council's policy in Northern area. When Convict 'Ali Hasan Al-Majid took over, on 1987 April 06, he implemented his plan or policy organizing a systematic large scaled attack against Kurdish civil inhabitants as per the aforementioned decree. He included his orders in letter [3650], on 1987 June 03, and letter [4008], on 1987 June 20, killing and preventing any human, animal or agronomic existence, as well as industrial and agricultural investments, putting an end to anyone arrested within the prohibited zone whose age range is between 15 (included) and 70 years old (included), instructing military troops to prepare special attacks, day and night, to murder the biggest possible number of those residing the area, adding up the verbal orders pertaining to Convict 'Ali Hasan Al-Majid regarding the murder and execution of Kurdish civil inhabitants in Northern Iraq, where 28 individuals [from Shaqlawa] were executed according to letter number [79223], on 1987 February 15, following Convict 'Ali Hasan Al-Majid orders. Letter number [5083], on 1987 July 22, issued by Northern Organization Office to 1<sup>st</sup> Corps, included the convict's comment "We don't object cutting off traitors' heads, but it had been better if they were send to Security for investigation, prior to execution". Accordingly, military and security forces launched a systematic large scaled attack against Kurdish civil inhabitants in Northern Iraq, aiming to totally or partially eradicate them. The military troops raided over Kurdish villages' civil inhabitants using conventional and chemical weapons. Due to concentrated bombing, using these weapons, thousands of Kurdish civilian were murdered inside their villages and houses, as the majority of plaintiffs described the aforementioned attacks as Armageddon. The military units arrested whoever survived the chemical and conventional attacks and transferred them to Northern Organization Office or Security Committees.....



Chief of Judge

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in the Governorates and then to the detention centers in (Tupzawa, Dibs, Nazarki, Al-Salamiyyah ..... ) and others, and some of them were sent to (Nuqrat Al-Salman) Prison, most of Plaintiffs mentioned that the attacking unites destroyed and burned their houses and villages, and blocked the water sources with concert in order to prevent the villagers from returning to their villages. The purpose of the accused ('Ali Hasan Al-Majid) was destroying the civilians physically and psychologically, and he was aware about what happened of killing, massacres, displacement and starvation of the civilians, whereas it was mentioned in the letter No. (8574) on 26 April 1988 issued from the Ministry of Defense's Diwan to the Chief of Army Staff that (1- There is no objection to strike with the special ammunition in order to create more psychological effect, 2- It is required to Resume the operations, and I think the subject is now under discussion with 'Ali Hasan Al-Majid)... It is clear that the convict ('Ali Hasan Al-Majid) is the perpetrator and commander of all the mass murder cases whether through field executions or using the undistinguishing weapons (WMD) (chemical) against the civilians to kill and eliminate them. A visible change happened to the attacks progress specially after the Fourth Al-Anfal Operation and at the start of the Fifth Al-Anfal Operation until the end of Al-Anfal closure (*T.C: Khatimat Al-Anfal*) Operations, whereas the Kurdish civilians of Northern Iraq were exposed to genocides, whereas it was mentioned in the General Military Intelligence Directorate (GMID) letter No. (11325) on 10 June 1988, addressed to the Chief of Army Staff ... Their minimum losses (58 killed) and (72 wounded) of the saboteurs and their families and the villagers as result of the special strike (chemical weapon). Also the army carried out a genocide at (Kurimi), a village related to Dahuk by executing 27 civilians by fire shooting them after collecting and deceived them that there is an amnesty decree issued by the convicted (Saddam Hussein), the inhabitants surrendered although they were civilians. The statement of one of the survivors from that slaughter was documented by the court. Other slaughters were carried out through the field executions or bombing with the chemical weapon in addition to thousands of youth were transferred from the security

The President



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departments by governmental vehicles to the mass graves all over Iraq from the north to the south. Three of the mass graves were disinterred by the international experts and under the supervision of the court and they were (Ninawa/2 whereas (123) bodies were picked up, (98) child and (25) woman, and they all were executed), mass grave (Ninawa/9 whereas (64) bodies were picked up, they all were adults, and they were executed by shooting with automatic weapon), and mass grave (Muthanna/2 whereas (114) bodies were picked up, (27) for adult women, (2) for adult men, (85) child, and they were executed by shooting them while they were standing). And also (145) document were found with the corpses in the two mass graves (Ninawa/2 and Ninawa/9) which were personal identifications, military service certificates, salary certificates, photos, letters, and personal belongings. The international expert mentioned that as result of analyzing the age, origin and the gender it was clear that the bodies were for Kurdish origins, and the clothes were more clear because of it were the Kurdish trouser around the waist. Also it was mentioned in the voice tape showed to the court, the accused ('Ali Hasan Al-Majid) confession when he says (what shall I do with that large number of people, I distributed them to the governorates, and I sent the gravediggers and bulldozers from the Northern Zone to those areas). The above mentioned documents and orders confirms that the accused ('Ali Hasan Al-Majid) premeditated issuing orders to carry out genocide against the Kurdish civilian inhabitants in northern Iraq, and he knows and premeditates to make the genocides a part of a wide-scale systematic attack against the Kurdish civilian inhabitants of Northern Iraq according to the criminal joint plan, which he perpetrated with others intending to eradicate the Kurds totally or partially. ('Ali Hasan Al-Majid's) orders of the field executions and killing any person [from 15 (included) to 70 years old (included)], and attacking the Kurdish Villages in Northern Iraq with chemical weapons to kill the biggest number possible of the civilian inhabitants proves his intention and knowledge of the matter, also banning the agriculture in the area, preventing

The President



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any food substance from reaching the area, destroying the houses and burning it, destroying the water wells, demolishing the schools and mosques, in addition to killing any human or animal existing in the area.

**According to the above mentioned, the court finds;** the accused ('Ali Hasan Al-Majid) participated personally and with others in carrying out a joint criminal plan and perpetrated intentionally with a joint aim in order to eradicate the Kurds in Kurdistan of Iraq totally or partially. And as a part of this joint intention and this joint plan he perpetrated orders to kill the civilians on large-scale in Northern Iraq (Kurdistan) as a part of wide-scale systematic attack against the civilians in Northern Iraq, and the orders were carried out by his subordinates and resulted in wide-scale killing.

Based on this, the court finds that the evidences are enough and convinced for condemnation of the Accused ('Ali Hasan Al-Majid) and he is guilty of genocide as a crime against humanity which carried out between (1987-1988) according to the Article (12/First-B) by virtue of Article (15/First/Second/Fourth) of the Iraqi High Tribunal Law No. 10 of year 2005 and by virtue of Article (406/1-B-F) of the Amended Penal Code No. 111 of year 1969.



Member



Member



Member



Member



The President



(537-963)



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### **The accused ('Ali Hasan Al-Majid's) role in the crime of coercive dislocation of the inhabitants as a crime against humanity:**

On 20 February 2007, the court accused ('Ali Hasan Al-Majid) on the crime of coercive dislocation of the inhabitants as a crime against humanity according to the Article No. (12/First-D):-

The crime's bases:

- 1- The accused relocates or forcibly dislocates a person or more to another country or another place or with any other coercive action for reasons that are violating the international law.
- 2- The concerned individual or individuals exist legally in the area that they were relocated or were transferred from.
- 3- The perpetrator knows the actual conditions which prove the legality of this attack.
- 4- The perpetrator's act is a part of a systematic or large-scale attack against the civilian inhabitants.
- 5- The perpetrator knows that this act is a part of a large-scale attack against the civilian inhabitants.

These are the crime bases and the requirements which must be available so we can say that the accused ('Ali Hasan Al-Majid) is criminally responsible for this crime....the proving elements are many. For the first base, an evidence that the displacement carried out without choice, an evidence that the victims were arrested before they were displaced, an evidence on the fear atmosphere... destroying the houses of the displaced inhabitants.....An evidence that the civilians were treated as prisoners....An evidence that deny the military necessity ... and an evidence on transferring the civilians outside of the inhabited zone in contrary to the international humanitarian law...etc. Most of the proving elements we mentioned are available in the case concerning transferring the civilians from the Kurdish villages that were included

  
The President



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by Al-Anfal Operations and forcibly removed from the area where they lived legally (Kurdistan Region) with regard to the fact that they are Iraqi Kurdish Citizens, Farmers, women, children and elderly.....they were living in the area for a long time...whereas the Iraqi Military Forces in (1987-1988) launched its systematic and large-scale attack on Kurdistan Region... and destroyed more than three thousand village and transferred the civilian inhabitants, men, children and women and forcibly dislocating them after arresting them contrary to...the national and international law, whereas they were arrested in (Tupzawa, Dibs, Qura Tu, Nazarki, Al-Salamiyyah) prisons, and a large number of them were transferred to (Nuqrat Al-Salman) Prison in Al-Samawah desert and the other part was taken to the mass graves.... providing that (Tupzawa, Dibs, Qura Tu, Nazarki, Al-Salamiyyah) camps are for the army and People's Army and not prepared for housing families, children and women as the accused confirmed in their testimonies. The evidence for the displacement or forcibly transference of the inhabitant civilians' against their will is clear in all the victims' testimonies before the court in the interrogation and trial stages, and it was conformed by the accused (Sultan Hashim Ahmad) who said before the investigating judge that the procedures of transferring the civilians were illegal and no body agrees to be displaced from the region he was living in for a long time. The evidence of arresting the victims before their dislocation is what was mentioned in the testimony of the victim [NAME REDACTED]....when we arrived our village we found that half of it was destroyed and the bulldozers were demolishing the other half...and an Officer called (Captain Sattar) recorded our names then they brought military vehicle type (ZIL) and transferred us to (Taqtaq) area and they detained us in the poultry farm... then separated the men from the women and the youths from the old...then they transferred us by vehicles to (Tupzawa) and divided us into three groups, the old, the young men and the young women group...after that they transferred us to (Nuqrat Al-Salman).

The President



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The victim ([NAME REDACTED]) mentioned in her testimony before the court on 08 November 2006 that: They collected our village's inhabitants and transferred us to (Kani) Area and they divided us into two groups, a group for the men and another group for the women, they brought military vehicles (ZIL) and transferred us to (Nazarki) castle....our men were exposed to harsh conditions of torturing, assault and beating and they took the men to unknown place. They transferred the women and children to a far barrenness area called (Bahirka) and I stayed there for one year and a half. I remember that the approximate number of the detained in (Bahirka) about (100-200) thousand individual, have no buildings and the people sleep in the open....at the winter we protected only with the tents which ((Irbil)) Inhabitants bought to help and rescue us. The evidence of the existence of fear atmosphere is in the Chief of Army Staff's letter (1122) on 21 August 1988, addressed to the 1<sup>st</sup> and 5<sup>th</sup> Corps and concerning the meeting which the Chief of Army Staff and his Deputies of Operations attended in (Kirkuk), the first paragraph stated: "Defining the concentration of the population in the 5<sup>th</sup> Corps sector and treating them with the intensified special strikes (48) hours prior to the start of operations to create panic between their ranks"...in addition to the usage of chemical weapons by the attacking units at dawn and dusk. That was confirmed by most of victims and plaintiffs, especially in Ramadan month when the villagers are returning to their houses to break the fast, the military forces then were striking them with special strikes, then the military forces besieging the villages and collecting what remained of the families and transferring them to the detention camps by military vehicles, this is a clear evidence of the systematic and large-scale attack against the civilians....most of the victims described the military forces attacks against the civilians in the Kurdish Villages as the Day of Resurrection.

The evidence of destroying the houses of the dislocated inhabitants is that there are documents and evidence such as the Intelligence System of the Eastern Zone's letter Ref. (1745) on 17 August 1987, addressed to the

The President



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**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

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### **The Verdict**

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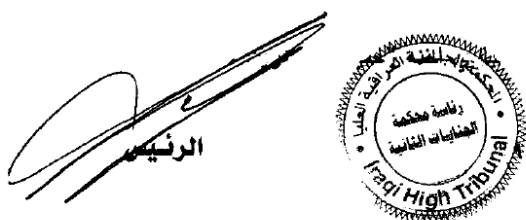
... Military Intelligence Directorate containing a list of 21 demolished villages ... and Eastern Zone Intelligence System's letter No. 1863, dated on 1987 August 31, that was directed to Military Intelligence Directorate, containing a list of 9 burned down and vanished. All convicts admitted before court the aforementioned operation as well as dislocating the civil inhabitants.

The evidence that citizens were considered as detainees ... this is what all victims had confirmed ... as they had been detained and transferred by military vehicles to Northern Organization Office or Security Committees, to be investigated and segregated between men and women, youth and elders, and then put down in fenced camps under restricted security surveillance.

The evidence of un-provisioned military necessity is that the villages' devastation included those of 4 Governorates stretching from east (Al-Sulaymaniyyah) to west (Duhuk), passing by Irbil and toward south (Kirkuk) ... However, the existence of Kurdish resistance (Pishmarga) does not justify such systematic wide scaled attack against more than three thousands villages, exploiting all government's military capabilities from aircrafts, helicopters, armors, rocket launchers and special ammunitions ... All this super power was targeted against civil villagers ... it is not logical or rational to exploit such force against individuals from Pishmarga lifting light to mid ranged arms ... Hence, the court is totally convinced that there was no justification for such attack, especially when questioning the convicts ... Was it possible for Al-Anfal Operations to attain the spotted targets without using special ammunitions? ... The answer came affirmative

The evidence of relocating citizens outside the inhabited region contrary to the International Law for Humanity ... where it really happened when relocating thousands of women, children and elders to Nuqrat Al-Salman camp which is located in Al-Samawah south of Iraq. They were subdued to diverse types of...

(541 - 963)

The image shows a handwritten signature in black ink on the left, which appears to be 'الرئيس' (The President). To the right of the signature is a circular official seal. The seal has a serrated outer edge and contains text in Arabic: 'المحكمة العراقية العليا' (The Iraqi High Tribunal) at the top, 'دعامة محكمة' (Court of Appeal) in the center, and 'القطاعات القضائية' (Judicial Divisions) at the bottom. Below the Arabic text, the words 'Iraqi High Tribunal' are written in English.

Chief of Investigative Judges



In the Name of God All Merciful All Compassionate

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**Baghdad – Iraq**

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### **The Verdict**

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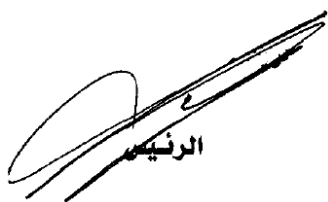
... oppression, physical and psychological torture, degrading the human dignity, famine, rape, lack of hygiene and health care and spread of diseases among families ... All these matters are against national and international laws for humanity ... The elements which we mentioned, correlated with provisioned facts, and physical and morale evidences prove that the attack was systematic and wide-scaled.

### **Convict 'Ali Hasan Al-Majid Verdict concerning coercive dislocation of inhabitants**

On 2007 February 20, the court charged Convict 'Ali Hasan Al-Majid with dislocating or relocating coercively the populace as per article [12/ 1<sup>st</sup> – (E)] and by virtue of article [15/ 1<sup>st</sup>/ 2<sup>nd</sup>/ 3<sup>rd</sup>/ 4<sup>th</sup>] of Iraqi High Tribunal Law No [10] for the year 2005. Additionally, the court discussed provisioned evidences in the case and issued the following verdict:

In early April 1987, Convict 'Ali Hasan Al-Majid became in charge of Northern Organization Office. After the bygone Revolutionary Command Council Decree [160] issuance for the year 1987, which granted him wide jurisdictions, including National Security Council's jurisdictions and executing the bygone Ba'th Party and Revolutionary Command Council's policies in the Northern area, putting under his command all party, security, military and civilian government systems, in order to carry on the aforementioned policy or plan.

Convict 'Ali Hasan Al-Majid issued two letters number 3650 dated on 1987 June 3 and number 4008 dated on 1987 June 20, which included a group of matters like: (It's totally forbidden to deliver any food supplies or human resources to villages within Prohibited Zone included in Phase 2 of villages grouping ... It's not allowed for agronomy to continue on for winter and summer seasons, as well as livestock ... the military force must kill any human or animal to be found within the aforementioned area ... Those included in dislocation to compounds will be informed and held responsible if violating instruction ... instructing military troops to setup special attacks (chemical weapons) to kill the greatest number of those residing the area following such orders issued by Convict 'Ali Hasan Al-Majid ...



(542 – 963)

Chief of Investigative Judges

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**

**Date: 2007 June 24**

### **The Verdict**

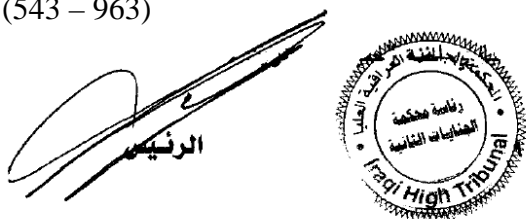
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... according to a systematic plan studied by Ba'th regime, the military troops and security systems launched a systematic wide-scale attack against Kurdish civil inhabitants residing villages in Northern Iraq, after being informed and acknowledged of Convict 'Ali Hasan Al-Majid orders including a threat to civil inhabitants to leave their houses and area or else they will be held responsible, as military troops started attacking the villages via a diversity of weapons, including chemical weapons.

After a concentrated intense bombing over these villages, the troops went forward to carry survivors of imminent death to camps in Tupzawa, Dibs, Qura Tu, Nazarki, Al-Salamiyyah and others, by military vehicles. All convicts including 'Ali Hasan Al-Majid confessed dislocating families [children, women and elderly] to compounds prepared for such purpose, where all victims, who stood before court, confirmed that they were transported by military troops to detention and prison camps after ruining down their houses and villages with bulldozers, burning them down. Huge numbers of civil inhabitants were coercively dislocated as the number of burned down and demolished villages reached more than 3000 villages; with an estimated population of hundred thousands of inhabitants.

Those who had been transported via government and military vehicles to detention and prison camps where partially placed in Nuqrat Al-Salman. One of the victims mentioned to court that there number was somehow 7000 children, women and elders. The other part was detained in compounds or camps such as Dibs, Bahirka and others ... Through victims' testimonies and provisioned evidences in the case, Convict 'Ali Hasan Al-Majid was aware and intended a coercive dislocation of civil inhabitants as part of a systematic wide-scaled attack against civil inhabitants, as mentioned in letters 3650 and 4008, where the convict confessed, during the two stages of investigation ...

(543 – 963)

The image shows a handwritten signature in black ink, which appears to be 'الرئيس' (The President). To the right of the signature is a circular official seal. The seal contains Arabic text: 'الهيئة القضائية العراقية العليا' (The Supreme Iraqi Judicial Body) around the top, 'رئاسة المحكمة' (Presidency of the Court) in the center, and 'القضايا الجنائية' (Criminal Cases) around the bottom. Below the Arabic text, the words 'Iraqi High Tribunal' are written in English.

The Presiding Judge

In the Name of God All Merciful All Compassionate

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**

**Date: 2007 June 24**

### **The Verdict**

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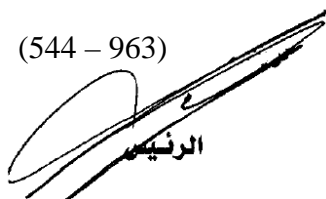
... and trial of all the aforementioned letters contents. Whereas to allege or say that coercive dislocation was implemented for the security of civilians, will not convince the court due to letters number 3650 and 4008, where civil inhabitants escaped their villages after the bombardment with non-distinction (chemical weapon) and conventional weapons. Then the military troops forcedly transported them coercively to compounds or prison or detention camps under state's authority. Hence, no evidence or presumption proves that civil inhabitants' dislocation came as of care to their safety.

The court finds that civil inhabitants in Kurdish villages are Iraqi Kurds, farmers, children, women, employees and students residing this area [Kurdistan Al-Iraq] legally, from a long time, where they were exposed to a sympathetic wide-scale attack, burning down their villages and houses, then were transported to camps after being arrested by attacking units. All those who stood before court confirmed the aforementioned adding up being exposed to all kinds of humiliation, disdain, mental and physical torture as well as a mood of terror where it was mentioned in letter 1122, dated on 1988 August 21, issued by Chief Army of Staff to 1<sup>st</sup> and 5<sup>th</sup> Corps mentioning "population concentration will be defined in 5<sup>th</sup> Corps sector, handled by intensified special strikes, 48 hours prior to attack, to create a state of fear in their ranks"

The civil inhabitants were unwillingly dislocated, as Convict Sultan Hashim Ahmad confirmed, because no one agrees on leaving his own land and farm.

The dislocation of civil inhabitants from their villages, arresting and detaining them in terrible camps where they were exposed to all kinds of oppressions, mental and physical torture, degrading the human dignity, famine and lack of hygiene and health care, all these matters are against national and international laws for humanity. The criminal intent of Convict 'Ali Hasan Al-Majid is proven following that fact that these acts were committed as per orders issued by him directly ...

(544 – 963)



The Presiding Judge

In the Name of God All Merciful All Compassionate

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

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**Date: 2007 June 24**

### **The Verdict**

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... as it is elaborated via provisioned evidences in the case like victims' testimonies, documents and official correspondences.

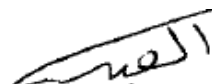
**Accordingly**, Convict 'Ali Hasan Al-Majid contributed individually and with other people, in executing joint criminal plan as well as a joint purpose to totally or partially eradicate the Kurds in Northern Iraq. As part of joint intent, he premeditated and ordered the dislocation of Kurdish civil inhabitants in Northern Iraq coercively, within a systematic large scaled attack, as these orders were executed by his subordinates causing a coerce dislocation for numerous countless civilians in Northern Iraq.

**Accordingly**, the court finds that evidences are enough to charge Convict 'Ali Hasan Al-Majid and he is guilty of coerce dislocation of inhabitants as a crime against humanity, committed between 1987 and 1988, as per article [2/ 1<sup>st</sup> – (D)] and Article [ 5/ 1<sup>st</sup>/ 2<sup>nd</sup>/ 4<sup>th</sup>] of Iraqi High Tribunal law No [10] for the year 2005.

### **Signatures of the tribunal members**



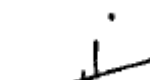
Member



Member



Member



Member



**Chief of Investigative Judges**

**Muhammad 'Iraybi Majid Al-Khalifa**

In the Name of God All Merciful All Compassionate

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**

**Date: 2007 June 24**

### **The Verdict**

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**Convict 'Ali Hasan Al-Majid role as for the charge of unfair imprisonment or extreme deprivation from physical freedom considered as crime against humanity**

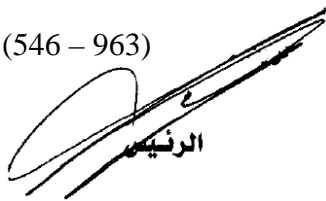
#### **The elements of the crime:**

1. If the crime's perpetrator imprisons one or more individuals or severely deprives one or more individuals from their physical freedom, in another way.
2. If the enormity of the act reaches a limit which is considered as violation of basic International Law regulations.
3. If the perpetrator knows about the factual circumstances which reveal the enormity of the act.
4. If the conduct was perpetrated as part of sympathetic wide-scale attack against civil inhabitants.
5. If the criminal is aware that the conduct is part of a systematic large scaled attack directed against civil inhabitants and to intend such conduct.

The legal requirements, for such elements of proof, proving the perpetration of imprisonment or extreme deprivation from physical freedom, as a crime, are many ... an evidence on arrests ... high average of arrest ... evidence of imprisonment ... detention ... factual detention as well as consideration of age ... evidence of consideration of the health status ... evidence on period of detention ... evidence on the possibility of declaring a release ... an evidence that detainees were searched and registered, once entered detention camp ... evidence of maltreatment and physical damages within detention period ... an evidence of detainees death ... an evidence of exposing detainees to inhuman conditions as evidence of random illegal detention.

Most of these elements were provisioned to court through evidences submitted during both investigation and prosecution ... as it had been mentioned by all victims that they had been transported to camps after a systematic large scaled attack over civil inhabitants residing Kurdish villages and then putting them in detention ... the correspondences which occurred between North Organization Office, headed by Convict 'Ali Hasan Al-Majid, and commanders ...

(546 – 963)



The Presiding Judge

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**

**Date: 2007 June 24**

### **The Verdict**

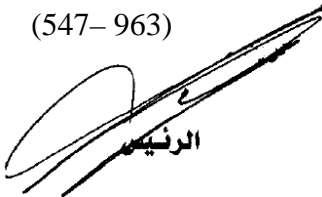
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... of corps and security systems' in charge personnel, over how to handle families or civil inhabitants, transporting them to camps, are none but a plus evidence that Convict 'Ali Hasan Al-Majid was aware of each tiny detail regarding detention and deprivation from freedom that Kurds were expose to ...

All victims confirmed in both investigation and prosecution stages that they were transported from their villages, by military vehicles, to North Organization Office or Security Committees and then to Tupzawa, Dibs, Nazarki and Al-Salamiyyah camps, where women and children were segregated way from elders as well as youngsters and placed in Nuqrat Al-Salman camp south of Iraq or driven to mass graves. Those detainees were exposed to different kinds of oppression, where many died from famine due to harsh living and health circumstances, lack of hygiene, health care and food supplies.

Hence, the victims and plaintiffs did not mention that 'Ali Hasan Al-Majid himself detained and imprisoned any victim as no one heard him ordering his detention ... but from case's facts, provisioned morale and physical evidences, correspondences and letters and civil detainees were treated, especially letter number 4008 dated on 1987 June 20, stating that Convict 'Ali Hasan Al-Majid is the ultimate ruler in the northern area where no one is privileged to object his orders, rising him as criminally in charge of arrests and detentions, as well as deprivation from physical freedom, targeting Kurdish civilians. All these acts are against the law where Convict 'Ali Hasan Al-Majid told the court that no detainee can be released unless he says so. When asked by court if someone of the detainees died or had been released, are you informed? He responded "Absolutely, because the detention order is issued by me as well" This is an absolute evidence over detention and arrest orders are originally the will of Convict 'Ali Hasan Al-Majid.

(547– 963)



The Presiding Judge

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**

**Date: 2007 June 24**

### **The Verdict**

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The proof of arresting people or high average of detainment, is included in letter number (4008) dated 1987 June 20 which included orders to prohibit human and animal existence in the region, detaining any person arrested. As of imprisonment, or real detention, it had been proved by victims who stayed for a variety of periods at Tupzawa, Nazarki, Bahirka or Nuqrat Al-Salman camps. Taking in to consideration the age of the elders is proven when segregating elders and youngsters, youngsters and children, keeping on the elders while driving the young to mass graves and executing them. As for prisoners' health, many victims confirmed the lack of medical care and doctors, in camps. Furthermore, the proof of prisoners' civil situation is revealed in the detention of thousands of children, women and elders, as some attained court, confirming that they are all civil inhabitants residing villages, especially the women and children. Detention duration varied from a camp to another since most of the victims assured that their detention period at Nuqrat Al-Salman started from April 1988 and ended in September of the same year. Detainees at (Bahiraka) Camp remained for a year and half. Additionally, the proof of decreeing a possible amnesty for detainees is accomplished when Saddam Hussein released the amnesty. Most of the detainees were searched and registered once inside the camp, as victim 'Aziz Wahab stated testified "They ordered us to hand over all belongings on us such as pocketknife and brooch, then they gathered us for interrogation. At investigation, the officer asked me about my name, address and relatives. After writing down my statement as well as others, they put us in a hall and soldered the door".



(548- 963)

The Presiding Judge

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**

**Date: 2007 June 24**

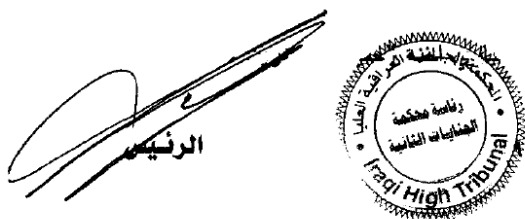
### **The Verdict**

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The proof of committing inhuman maltreatment and physical assault by wardens causing detainees physical damages during the detention period or while investigation them, is the fact of being exposed to beaten and physical damages as it had been confirmed by Victim Yunis Haji Haji, testifying to court, on 2006 November 27, “They were forcing us to walk on smashed glass inside locked rooms”. He added, “One day, I have seen three prisoners tied to their sexual organs gas bottles”. However, the proof of death of hundreds of prisoners was assured by most of victims that describing the terrible circumstances and lack of food supplies or medical care, as Victim ([NAME REDACTED]) clarified, on 2006 October 17, before the court, “6 to 7 prisoners were dying each day, and during my detention period, (770) were dead at (Nuqrat Al-Salman) camp”. Also, we shouldn't forget what occurred in Kirkuk Health Directorate's letter number (783), dated 1988 June 12, addressed to Kirkuk governorate regarding how to handle Kurdish corpses within camps, for not satisfying legal conditions.

Being exposed to inhuman conditions is what most of the victims confirmed due to lack of hygiene and medical care, food shortage, humiliation, disdain, and famine. As of random illegal arrests, it was framed by arresting Kurdish families including children, elders, women and youngsters, without differentiating between children, woman, elder, or youngster. This had been confirmed by all victims and plaintiffs who stood before court, especially the women. All these acts were committed in camps following the order and awareness of Convict 'Ali Hasan Al-Majid as he was directly in charge of these camps within Northern Zone such as Tupzawa, Nazarki, Al-Dibs, Bahirka, and Al-Salamiyyah, for being the ultimate ruler in the area ...

(549- 963)

The image shows a handwritten signature in black ink, which appears to be 'الرئيس' (Al-Rais), written over a circular official seal. The seal contains the text 'القضاء العرفي' (Al-Qadha' al-Arfi) at the top, 'رئاسة محكمة' (Ri'asa Ma'hakima) in the center, and 'القضايا الجنائية' (Al-Qasbiyat al-Janaiyat) at the bottom. The words 'Iraqi High Tribunal' are written in English around the bottom edge of the seal.

Chief of Investigative Judges



**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**

**Date: 2007 June 24**

### **The Verdict**

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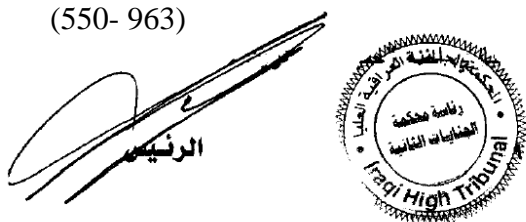
...and he confessed it before court, “No detainees are to be released unless I issue the order”. However, Convict ‘Ali Hasan Al-Majid is fully aware of Nuqrat Al-Salman camp existence as confirmed by the audio tape recording his voice which had been passed to court “Where I could put all these numbers of humans? That number? I will distribute them over governorates, and then I send excavators and bulldozers there”. This is an explicit confession that Convict 'Ali Hasan Al-Majid was fully aware of all camps whether in Northern Zone or other governorates. His contribution with others group with a joint criminal intent to perpetrate this crime aimed to reinforce regime security systems' criminal activity. The court is totally convinced that Convict 'Ali Hasan Al-Majid is responsible for the detention or severe deprivation from physical freedom for those who were detained from Kurdish villagers, as a crime against humanity, as per article [15/ second- (B, F and D)] and Article [15/ fourth] of this court's code, as being the ultimate ruler of Northern Zone for a period of three years.

### **Convict ‘Ali Hasan Al-Majid Verdict for imprisonment and extreme deprivation from physical freedom:**

On 2007 February 20, the court charged Convict ‘Ali Hasan Al-Majid for imprisonment and extreme deprivation from physical freedom as per article [12/ First- (E)], by virtue of article [15/ First/ second/ third/ fourth] of Iraqi High Tribunal Law No [10], for the year 2005. The court discussed provisioned evidences and verdict the following:

As a result of orders issued by Convict ‘Ali Hasan Al-Majid to his subordinates [henchmen], Kurdish civil inhabitants in Northern Iraq were exposed to systematic large scaled attack as military forces raided ...

(550- 963)

The image shows a handwritten signature in black ink, which appears to be 'الرئيس' (The President). To the right of the signature is a circular official seal. The seal contains the text 'المحكمة العراقية العليا' (The Iraqi High Tribunal) at the top, 'رئاسة المحكمة' (President of the Court) in the center, and 'القضايا الجنائية' (Criminal Cases) at the bottom. The English text 'Iraqi High Tribunal' is also visible at the bottom of the seal.

Chief of Investigative Judges

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**

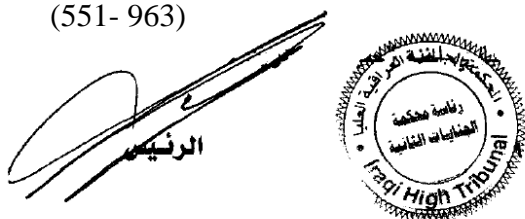
**Date: 2007 June 24**

### **The Verdict**

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... along with security systems over civil inhabitants, dislocating them to camps at Tupzawa, Qura Tu, Dibs, Nazarki, Al-Salamiyyah, and Nuqrat Al-Salman, after arresting and searching them, registering their names and segregating men away from women and children. The detention was random not differentiating between children, women or elders; in addition, most of the detainees were exposed to inhuman conditions with lack of hygiene and medical care, and famine causing the death of hundreds. All these acts were perpetrated against Kurdish civilians. Most of those who attained the court testified that, during the years 1987-1988, they were exposed to systematic large scaled attack, where they were carried via military vehicles to detention centers after being arrested. What those victims witnessed is based on direct orders from Convict 'Ali Hasan Al-Majid via letter number (3650), dated on 1987 June 03, and letter number (4008), dated on 1987 June 20, which both included carrying out the aforementioned attacks against Kurdish civilians. Detainees were subdued to extreme surveillance measures with no one allowed to leave as it had been approved by all victims who attained the court. The convict himself admitted that when he said "It is not permitted to move from one compound to another unless it is permitted by security systems". In another paragraph of his testimony he added "No detainee is to be released unless I issued the order, because I decreed the detention". Those victims were imprisoned via an order from Convict 'Ali Hasan Al-Majid, randomly without trials or considering their rights, violating international principles, as one of the victims mentioned that once investigation is completed with him, he had been put in hall while guards have soldered the gate. Another victim says "They put us in a room and forced us to walk on smashed glass. I have also have seen three prisoners with their sexual organs tied to gas bottles".

(551- 963)

The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official stamp. The stamp contains Arabic text: "المحكمة العراقية العليا" (The Supreme Iraqi Court) at the top, "قائمة بمحاكمة" (List of trials) in the center, and "التهنئات الثانية" (The second congratulations) at the bottom. The English text "Iraqi High Tribunal" is written around the bottom edge of the stamp.

Chief of Investigative Judges

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**



**Date: 2007 June 24**

### **The Verdict**

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Accordingly, the court finds Convict ‘Ali Hasan Al-Majid guilty for contribution, as individual, and with others in implementing a joint criminal plan, as well as contributing by joint intent and aim to totally or partially eradicate the Kurds in Northern Iraq. As per this joint intent and plan, he ordered the dislocation of Kurdish civilians residing in Northern Iraq to detention centers and compounds with no freedom to leave as part of a systematic large scaled attack against civil inhabitants in Northern Iraq. These orders were executed by his subordinates resulting in imprisoning countless civilians without trails or according to proper procedures.

Accordingly, the court had enough provisioned evidences to charge Convict ‘Ali Hasan Al-Majid for imprisonment as a crime against humanity, perpetrated between 1987 and 1988, as per article [12/ First- (E)] by virtue of article [15/ First, Second, Fourth] of Iraqi High Tribunal Law No [10] for the year 2005.



The seal of the Iraqi High Tribunal is circular with a double border. The outer border contains the text 'القضاء العراقي' (Iraqi Judiciary) at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة محكمة' (President of the Court) at the top and 'القضايا الجنائية' (Criminal Cases) at the bottom.

**Chief of Investigative Judges**  
**Muhammad ‘Iraybi Majid Al-Khalifah**



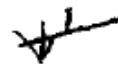
**Member**



**Member**



**Member**



**Member**

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**

**Date: 2007 June 24**

### **The Verdict**

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#### **Convict ‘Ali Hasan Al-Majid role for torture as a crime against humanity:**

##### **Elements of crime:**

- 1- The perpetrator must cause extreme agony or suffering to one or more individuals
- 2- These one or more individuals must be detained by the perpetrator or under his control
- 3- This agony or suffering must not be the result of legislative sentences, enclosed or correlated to them.
- 4- The conduct must be perpetrated as part of systematic large scaled attack against civil inhabitants.
- 5- The perpetrator must acknowledge that this conduct is part of a systematic large scaled attack against civil inhabitants, or intends it to be.

Therefore, the evidences of torture as crime against humanity are many, as follows:

summary executions, beating, solitary confinement for long periods of time while blindfolded, beating all sides of bodies, hang down victims by their hands while being tied to their backs, long periods of food deprivation and hygiene as well as medical care, threatening by torture or murdering relatives, evidence of rape, evidence of obliging someone to witness the assault of his kin, and detaining while under extreme surveillance by security forces.

We have already mentioned that Iraqi army carried a systematic large scaled attack over Kurdistan between 1987- 1988, using all state's available weapons, where the units destroyed villages, dislocated civil inhabitants from those aforementioned villages via government's vehicles, transferring them to Northern Organization Office or security committees in governorate and then...

(553- 963)

  
الرئيس  
  
Chief of Investigative Judges

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

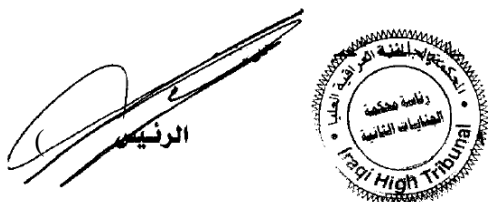
**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**

**Date: 2007 June 24**

### **The Verdict**

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... to detention camps at Tupzawa, Dibs, Nazarki, Al-Salamiyyah and Qura Tu [among others], segregating women and children from men, sending some to Nuqrat Al-Salman in Al-Samarah desert in Southern Iraq, while others were driven to mass graves. The dislocation operations of inhabitants to prison camps were carried following a monotonous scheme, at all stages of the eight Al-Anfal operations. This fact is evidence over the systemization of these perpetrated acts. Moreover, Al-Anfal operations included dislocation of civil inhabitants residing more than three thousand villages, where they were detained in prison camps at Tupzawa, Dibs, Nazarki, Al-Salamiyyah and Qura Tu [among others]. Furthermore, they were exposed to all types of physical and psychological torture at those horrible camps, lacking the basics of life. Convict 'Ali Hasan Al-Majid was fully aware of these factual circumstances which prove the gravity of conduct, shown through letter number (4008) dated 1987 June 20 and other letters and correspondences between Northern Organization Office, commanded by the victim, and other security and Corps' commanders. All the previously mentioned mark Convict 'Ali Hasan Al-Majid intent and acknowledgement of such acts, as he testified to court, on 2007 February 20, "No detainee is to be released unless I say so". The evidence of summary executions is included within letter number (3229) dated 1987 December 05, issued by General Security Directorate [GSD], addressed to 45<sup>th</sup> Directorate, including the name of 28 individuals, among them 4 women from Shaqlawa, to be executed. Adding up, a number of military officers carried out executions against 27 individuals in Kurimi village. The evidence of severe beating all over the body was confirmed by some victims, as Plaintiff [NAME REDACTED] testified before court, "when going to toilets, each one was given one minute only ... if he is late, they will extremely beat him up ...". As for the evidence of long times of food deprivation, hygiene and medical care, all such acts occurred in detention camps, as it had been included in the testimony of victim ...

The block contains a handwritten signature in black ink, which appears to be 'الرئيس' (Al-Rais), and a circular official seal. The seal has a double border. The outer border contains the text 'الهيئة القضائية العراقية العليا' (The Supreme Iraqi Judicial Body) at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة محكمة' (Presidency of Court) and 'الضمانات القضائية' (Judicial Guarantees).

Chief of Investigative Judges

**In the Name of God All Merciful All Compassionate**

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**

**Date: 2007 June 24**

**The Verdict**

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... '[NAME REDACTED] while standing before court, on 2007 Oct 17 "the number of people who died at Nuqrat Al-Salman camp, as a result of starvation and lack of hygiene, reached 770 detainees.

Victim [NAME REDACTED] testified to court, on 17 October 2007, that ailment such as vomiting and diarrhea spread all over the camp ... as 6 to 10 persons were dying on daily basis, including my brother [NAME REDACTED], his wife [NAME REDACTED], and three others who are [NAME REDACTED] as for the third I don't know his name"

When we went to bury them, we saw the graves of yesterday been interred ... we have seen hands and legs [belonging to dead bodies] ... it seems that the dogs ate the corpses". He submitted a list of 35 of his relatives who were missed during the operations as their fates remain anonymous.

Most the victims mentioned in their testimonies before court that their daily share of food, during their detention at Nuqrat Al-Salman prison camp, was one or two loaves of bread, though they stayed from April to September 1988. The plaintiffs and victims mentioned that hygiene and the medical care were completely unavailable in these camps, from the date of detention till that of release.

The threatening to murder or torture a kin was used at camps ... Victim [NAME REDACTED] mentioned before court, on 8 November 2006, "I saw persons wearing military uniforms at Nazarki Fort beating our men with wood or steel covered by plastic hoses. The beat was violent as blood bleeding everywhere. They told them that this is their remedy. I witnessed 6 of the guards, 3 at each side, beating my husband [NAME REDACTED], my son [NAME REDACTED], my brother [NAME REDACTED], my son-in-law [NAME REDACTED], my brother's son [NAME REDACTED], and my brother-in-law's son [NAME REDACTED]. Then, they put them in vehicles and drove them west where no further information had been given since then. Among them were my cousins, around 27 men whose fates are still anonymous.

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The evidence on sexual violence is proven by Nuqrat Al-Salman camp's commander, Hajjaj, and his subordinates Shamkhi and Sakhr, who perpetrated sexual actions against a number of detained ladies in the aforementioned camp. Protected victim (.....) testified that she saw Convict Hajjaj forcing beautiful ladies to visit his room at night, and she had been raped also. She also witnessed one of the women committing suicide after being raped by Convict Hajjaj. Another protected victim testified seeing Hajjaj raping at the camp's yard and murdering her in front of her parents.

The evidence of forcing victims to witness assaults carried on other individuals, most of the victims and plaintiffs mentioned being exposed to beating and humiliation as a number of victims testified that Convict Hajjaj was tying detainees on columns at the camp's yard, beating them [torture], leaving them hanged for long hours.

All victims mentioned being exposed to a variety of physical and mental torture, as well as humiliation and disdain, at camps.

From the aforesaid, it becomes clear that all elements of torture as crime against humanity were realized, facing the camps' commanders where detainees were put. As we mentioned, no one of the plaintiffs mentioned that Convict 'Ali Hasan Al-Majid tortured him personally but all of them requested accusations against him, as being the ultimate ruler of Northern Area (commanding responsibilities), whereas he ordered to arrest and detain them. Therefore, it becomes clear to court that convict 'Ali Hasan Al-Majid is the one who ordered to arrest and detain them. Accordingly, he commanded committing a crime implicitly as per physical and morale provisioned evidences in the case. Hence, Convict 'Ali Hasan Al-Majid will take full criminal responsibility over the torture of Kurdish civil inhabitants as a crime against ...

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... humanity as per article no. [15/Second/( D)] of Iraqi High Tribunal Law No [10] for the year 2005, for provision of possible intent and reinforcing criminal activity and purpose of ruling regime, Ba'th party and Security Systems, which were all commanded by Convict 'Ali Hasan Al-Majid. The convict was fully aware and acknowledged of the intent to perpetrate this crime by subordinates in charge of these systems.

In addition to the aforementioned Convict 'Ali Hasan Al-Majid holds responsibility, based on the principle of higher commander responsibility, stipulated by Article No [15/Fourth] of Iraqi High Tribunal No [10], for the year 2005, where all legal requirements are provisioned to charge Convict 'Ali Hasan Al-Majid.

**Convict 'Ali Hasan Al-Majid Verdict for torture:**

On 20 February 2007, the court charged Convict 'Ali Hasan Al-Majid for torture as a crime against humanity, according to Article No [12/First-(F)], by virtue of Articles (15/First/Second/Third/Fourth) of Iraqi High Tribunal Law No [10] for the year 2005. The court discussed provisioned evidences in the case and issued the following verdict:

During 1987 and 1988, military sectors and security systems launched a systematic large scaled attack over civil inhabitants in Kurdistan Iraq where tens of thousands of children, women, and elders were dislocated, via military vehicles, to Northern Organization Office or security committees in Northern governorates where they were transferred to camps in Tupzawa, Qura Tu, Dibs, Nazarki, and Al-Salamiyyah, after segregating women and children from men, and youngsters from elders, moving some to Nuqrat Al-Salman camp in South Iraq and others to mass graves or execution [by execution squads] groups. Those who stayed in detention centers ...

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In the Name of God All Merciful All Compassionate

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... were exposed to all sorts of oppression, physical and psychological torture, as one of the victims testified to court "We were entered to a room full of smashed glass and were forced to walk, backward and forward, over it". Another revealed "I witnessed three men with their sexual organs tied to gas bottles". A third testimony came "guards were beating when they enter bathrooms". A female plaintiff mentioned that she saw guards beating her husband and son as they were both bleeding like hell. Victims and witnesses at Nazarki camp mentioned seeing guards beating detainees ghoulishly as they were bleeding. Nuqrat Al-Salman prison camp's detainees mentioned that Hajjaj, the prison commander, used to tie women and males to columns inside the camp. A plaintiff mentioned that she was exposed to rape and sexual violence at Nuqrat Al-Salman prison camp. Other females were also exposed to rape and sexual violence as one woman committed suicide due to that.

Hence, Convict 'Ali Hasan Al-Majid is criminally responsible for all these acts and crimes perpetrated in the aforementioned camps as it is clear that the Ba'th Party was a totalitarian regime, highly centralized, where detainees were exposed to torture as a systematic patten adopted by the regime, in all camps and prisons all over Iraq. Convict 'Ali Hasan Al-Majid was, prior to that date, GSD director, as all security and party systems were fully aware of the convict's techniques, aims and intentions. The detainee or arrested must be exposed to torture or humiliation, as one of the guards told a victim at Nuqrat Al-Salman "they brought you in there to die, not to live". The court, through provisioned evidences, acknowledged that the most extreme torture cases occurred in and by the security directorates trained by Convict 'Ali Hasan Al-Majid to implement torture. In addition, letter 4008, on 20 June 1987, included "to be detained who had been arrested, as security systems investigate him and ...

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... will be executed those between 15 and 70 years old [included]". Letter numbered (2083), on 22 July 1987, includes "We don't mind cutting off the traitors' heads, but it had been preferable to send them to security for investigation, hoping to extract some useful info, prior to execution". From the two above letters, it was shown that Convict 'Ali Hasan Al-Majid ordered sending victims to security directorates for investigation, totally aware of the techniques of torture and interrogation used there, adding those who died at Tupzawa and Dibs, both located near convict 'Ali Hasan Al-Majid Command's Headquarter at Kirkuk, but he didn't take any action to prevent these actions.

Convict 'Ali Hasan Al-Majid was aware of every single detail regarding detainees' affairs, even those at Nuqrat Al-Salman prison camp. The audio tape presented to court shows that detainees were distributed over governorates along with shovels and bulldozers, without forgetting the encouragement letters he issued, pushing his henchmen to torture and beat detainees, as he said in the aforementioned audio tape "I deprived them from working in Kirkuk and its neighborhoods and villages, some I imprisoned, detained or beating by stick ". The aforementioned is instigation and provocation to carry out torture in addition to physical suffering. The detainees were exposed to harsh conditions such as humiliation, disdain, famine, as well as lack of hygiene and medical care. All this prove a systematic patter to mistreat and degrade the dignity of prisoners, perpetrating ugly crimes in these camps. All those who perpetrated the crimes were fully aware of the regime's nature, as convict 'Ali Hasan Al-Majid was acquainted to circumstances within these camps and compounds as he factually contributed to the creation of such environment, including causing suffering and torture.

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Accordingly, as per article No [15/Fourth] of Iraqi High Tribunal Law No [10] for the year 2005, stipulating (supreme leader's responsibility) which should have been acknowledged as per comments over investigating detainees, hence, for all the aforementioned, Convict 'Ali Hasan Al-Majid is criminally responsible for crimes executed by his subordinates at Tupzawa, Qura Tu, Dibs, Nazarki and Al-Salamiyyah prison camps, including torture.

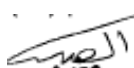
Consequently, Convict 'Ali Hasan Al-Majid is responsible for crimes perpetrated by his subordinates as he was fully aware or there were reasons for him to be acknowledged that his subordinates perpetrated such acts, or had the intent to, and he [the supreme leader] did not take necessary measures to prevent the perpetration of these acts. The convict 'Ali Hasan Al-Majid was aware of these conditions and he didn't take any procedure to prevent it.

**Hence, he will be responsible as per Article No [15/First/Second/Fourth] of Iraqi High Tribunal Law (Responsibility of the supreme leader) and for the provision of evidences against him, he is found guilty for committing torture as crime against humanity, according to Article No [12/First-(F)] of Iraqi High Tribunal Law No [10] for the year 2005.**

Member



Member



Member



Member



(Signature)

Chief of Investigative Judges

Muhammad 'Iraybi Majid Al-Khalifah

(560-963)

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

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**Convict 'Ali Hasan Al-Majid's Role in coerce harboring of individuals as a crime against humanity, charged for Convict 'Ali Hasan Al-Majid:**

#### **The Crime Elements:**

1) The perpetrator must:

**A** - Arrest, detain or abduct one or more persons.

**B** –Not to admit detention, arrest or abduction of one or more individuals or to give information concerning their fates or whereabouts

2)

**A** - When this arrest, detention, or abduction is correlated to a denial of admitting the deprivation of the aforementioned individuals from freedom or delivering information concerning their fates or whereabouts

**B** – This denial must come after deprivation from freedom or simultaneously with it.

3) The perpetrator must be aware:

**A** – That arresting of this/these person(s), detaining or abducting will be followed, as per the normal flow of the events, a denial to admit depriving freedom or delivering information concerning their fates or whereabouts.

**B** - This denial must come after deprivation from freedom or simultaneously with it

4) This arrest, detention or abduction must be carried by a government or political organization or via an approval or support from both of them.

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- 5 The denial to admit depriving that person or those persons from their freedom or to give information about their fates or whereabouts must be carried by a state, or political organization, or via permission or support or confirmation from them.
- 6 The perpetrator must intend to prevent a person or persons from protection guaranteed by law, for a long period of time.
- 7 The conduct must be committed as part of a systematic large scaled attack against the civil inhabitants.
- 8 The perpetrator must be aware that such conduct is part of a systematic large-scaled attack against civil inhabitants or intend it to be that way.

The juridical requirements for coercive harboring are: the perpetrator must arrest one person or more, harbor or detain them, denying to admit arrest, detainment, or harboring, or to deliver information about their fates or whereabouts. This matter must be followed by deprivation of that person or these persons' freedom, or to deliver information regarding their fates. The perpetrator must be fully aware that arresting or detaining those individuals will be followed, in advancement of normal activities, by a denial to admit their deprivation from freedom or delivering information regarding their fates or whereabouts, conditioned that the arrest will be carried by a state or political organization with authorization, support or confirmation from them. The perpetrator must intend to prevent these persons from their legal protective rights.

We previously mentioned that the Iraqi army conducted a systematic large-scale attack on Kurdish villages during (1987-1988). Through this attack, and all of Al-Anfal Operations, based on orders by Convict 'Ali Hasan Al-Majid, authenticated in official documents and audio tapes, confirming that military units transported civil inhabitants [children, women, and elders] to camps ...

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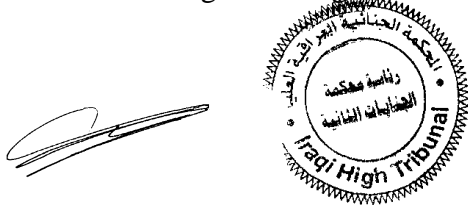
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.... at Tupzawa, Al-Dibs, Nazarki and Al-Salamiyyah, and then to Nuqrat Al-Salman or mass graves. All plaintiffs (victims) testified that once they reached detention centers, in charge systems used to segregate women from men, as well as youngsters from elders and young women from old ones, to put them inside halls available within the camps. Some were dislocated at Nuqrat Al-Salman camp where, as victims mentioned, all were elders, children and women with the youngest aged 60 years old. This situation raises a question regarding the youngsters' fates, those who are within age of military service? Those are tens of thousands of youngsters' whose fates are anonymous.

The court reached a complete contentment that youngsters were driven to mass graves, as witness [NAME REDACTED] mentioned, in his testimony before court, on 27 November 2006, "In Irbil Security Directorate, we were around 97 detainees, then the number reached 180 after 06 September 1988, as they segregated women from men, called out our names, handcuffed and blindfolded us, and put us in vehicles. Once at the execution site ... vehicles were transporting 180 individuals at a time ... They made me sit on the pit's edge ... a man hit me on the back of my head ... I fell inside the pit ... I am the only person who survived from 180 individuals. Victim [NAME REDACTED] mentioned in his written testimony before court, on 11 September 2006 ... "I was in the prison camp, when they took (68) persons from us to an unknown side, including my brothers ([NAME REDACTED]), and I don't know anything about their fate till now". Victim ([NAME REDACTED]) mentioned in her testimony registered on the date of 22 August 2006...that when she was detained at Irbil Security Directorate's prison camp, they recited in front of her eyes names ...

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... of (29) persons who had been driven, in front of all detainees, by big vehicles and their whereabouts turned anonymous.

Victim [NAME REDACTED] mentioned in court, during the hearing of 22 August 2006 ... that her father ([NAME REDACTED]), mother ([NAME REDACTED]), brothers ([NAME REDACTED]), son ([NAME REDACTED]), cousin ([NAME REDACTED]), and uncle's wife ([NAME REDACTED]) and her mother ([NAME REDACTED]) disappeared after being detained by security forces.

Victim [NAME REDACTED], one of the survivors from mass graves, testified to court on 27 November 2006 ... "I remember while being at Tupzawa camp ... that soldiers were driving men, after completely undressing them, to an anonymous side. Among them was my father whose fate remains unknown".

Plaintiff [NAME REDACTED] mentioned to court on 26 September 2006 ... "I was POW in Iran during Al-Anfal operations ... I returned back to my village to find it deserted. I didn't find my family; my wife [NAME REDACTED] and sons [NAME REDACTED] and Rukhush. I asked the party organization, and many high officials, and submitted 2 petitions to Presidential Diwan... they answered back to my petition dated 10 April 1990, via an official letter from Presidential Diwan informing me that my family was lost during Al-Anfal operations... (The plaintiff submitted a copy of the aforementioned letter to court which includes the proved confession of losing his family).

Victim [NAME REDACTED] mentioned to court, on 08 November 2006... "We were dislocated at Nazarki camp, where women were segregated away from men. There were 96 men. In the second day, they brought two military vehicles with no windows and put the men in them ...

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... I saw (6) guards beating them while putting them in the aforementioned vehicles. They were driven on an anonymous side as their fates remain unknown. 26 of them were my relatives; husband ([NAME REDACTED]), son ([NAME REDACTED]), brother ([NAME REDACTED]), nephew ([NAME REDACTED]), husband's nephew ([NAME REDACTED]) and son-in-law ([NAME REDACTED]).

Victim (Plaintiff) [NAME REDACTED], a survivor from mass graves, testified to court, on 18 October 2006 ... where he said ... "We were at Tupzawa prison camp. They brought around (17) vehicles without windows, and put us in them at sunrise. The driver told us we were transferred to another prison. We reached the site appropriated for executions at sunset. Inside the vehicles were around 500 individuals, in ours 35. All of us were young, not handcuffed or tied. One of the soldiers showed at the vehicle. He picked one of us and wanted to blindfold his eyes and pass him to another soldier for execution. We attacked the soldier trying to over control him but the soldiers outside shot at us. I was hit in the waist, as a group of victims died ([NAME REDACTED] are the one I know). Those at the front car were all dead. I left the car, and ran away in the opposite way. I don't know about the fate of (500) persons. I survived by miracle. I remember shovels and pits prepared for victims.

The aforementioned victims and plaintiffs' testimonies are part of what most of the plaintiffs stated, as each victim submitted a list of missing persons from his/her village, called by the Kurds "The Anfalized" indicating those whose fates are anonymous. For what had been delivered, there were orders of detention and imprisonment, as confirmed by Convict 'Ali Hasan Al-Majid facing court, "It is prohibited to release any detainee unless I order so". Hence, there was an order to arrest families and detain them. It had been prove to court through ...

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... victims testimonies, that thousands of them are still missing till now, as Convict 'Ali Hasan Al-Majid and others, refused admitting arresting these victims, as, prior to the denial, freedom's deprivation or delivering any information regarding their [victims] fates were adopted. As well, the court realized, through the case's process, that all state's capabilities had been exploited to implement Al-Anfal campaigns. This is a proof of state's systems contribution in detention, arrest, and coercive harboring operations against thousands of victims from Al-Anfal campaigns. Thus, Convict 'Ali Hasan Al-Majid is considered criminally responsible for Al-Anfal, according to Article [15/ Second/ Fourth] of Iraqi High Tribunal Law No [10] for the year 2005).

**Convict 'Ali Hasan Al-Majid Verdict on Coerce Harboring**

On 20 February 2007, the court charged Convict 'Ali Hasan Al-Majid for harboring individuals, according to Article [12/ First-( I)], by virtue with Articles (15/ first/ secondly/ third/ and fourth) of Iraqi High Tribunal Law No. [10], for the year 2005. It issued the following verdict:

Convict 'Ali Hasan Al-Majid issued Letter No (3650) on 03 June 1987 and Letter No (4008) on 20 June 1987, among other orders to military sectors and security systems, including the implementation of his politics or plan, within systematic large scaled attack over civil inhabitants. Via the two aforementioned letters, the military troops raided over villages in Kurdistan, burning them down and prohibiting any human or animal existence. On the other hand, convicts ('Ali Hasan Al-Majid), (Sultan Hashim Ahmad) and (Farhan Mutlak) mentioned that the military units transported civil inhabitants to appropriated places which are detention and imprisonment centers. More than (70) plaintiffs and witnesses stood before court, submitting lists of missing individuals who were detained by army and security systems, as their fates remain anonymous. Each victim submitted a list of ...

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... (30-70) persons from his village who were arrested by security systems and Iraqi forces, and still their fates are unknown. Plaintiff '[NAME REDACTED]', residing Sidar/ Al-Sulaymaniyyah Governorate, testified before the court, on 14 September 2006, that he saw military troops arresting his family consisted of his wife and seven children, as he did not turn himself down, fearing the execution. After the amnesty he managed to go to Baghdad where he faced Convict Saddam Hussein, as he said: "I said to Saddam Husayn ... Sir ... No light in my world without them ... Saddam asked me, where they were detained? I said in my village (Sidar) so he told me by word "Shut up, they were lost in Al-Anfal campaigns"... then he said to me (go out)". What Convict Saddam Hussein said is clear evidence that the regime, through Al-Anfal campaigns, harbored thousands of victims while denying to admit and confess about their fates. By telling the aforementioned plaintiff to "shut Up and get outside", he confessed his act and denied informing the fate of those victims, facing the law and public opinion.

The Ba'th system was reputed for severity, injustice, and chicanery, wherein security and military systems arrested tens of thousands of civil inhabitants, driving them to mass graves. At the same time, the aforementioned systems played with their lives, withdrawing identity cards, and Iraqi Naturalization Certificate, as per Convict 'Ali Hasan Al-Majid confession. They also rejected registering their names for population statistics for the year 1987, as per Clause [5] of GSD letter numbered (79026), on 04 October 1987, addressed to Security Directorate at the Autonomous Ruling Zone, signed by Comrade 'Ali Hasan Al-Majid instructions.

For what had been elaborated, based on Convict 'Ali Hasan Al-Majid orders, tens of thousands of victims were exposed to coercive dislocation and detention in camps, followed by the disappearance of thousands after arrest and detention. Convict 'Ali Hasan Al-Majid was aware and acknowledged of what occurred to those ...

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...victims as he says on the audio tape, submitted to Court, dated 2007 January 23, "what I do with that huge number of humans. I distributed them over Governorates and I sent shovels and bulldozers ..." In addition, the court realized that convict 'Ali Hasan Al-Majid and others are still denying confessing the aforementioned victims' fates of these victims. Therefore, the Court reached a convincement that thousands of Kurdish victims were disappeared after being arrested prior and within Al-Anfal Operations, to be detained in camps at Tupzawa, Nazarki, Dibs, Qura Tu, Al-Salamiyyah [among others], following the orders of Convict 'Ali Hasan Al-Majid as per the two letters number (4008) and (3650). Thousands of victims were harbored in these camps, after dislocating them to anonymous places. The court believes that most of them had been executed in mass graves, and that the convict, among other contributors to the crime, deny to deliver information regarding them [victims], fearing that victims may get legal protection ... Hence, the Court found that Convict 'Ali Hasan Al-Majid contributed as individual and with others in implementing a joint criminal plan with joint intent and purpose to partially or totally eradicate the Kurds in Northern Iraq, for this attribute [being Kurdish], and as part of this joint intent, he [the accused] premeditated and ordered the harboring of individuals, coercively, within a systematic large scaled attack against civil inhabitants in Northern Iraq. This order had been carried by the convict's subordinates causing the harbor of countless numbers of civil inhabitants. Accordingly, the Court found that provisioned evidences are enough to convict him and he is guilty for coercive harboring as a crime against humanity, as per Articles [12/ First- (I)] and [15/ First/ Second/ Fourth] of Iraqi High Tribunal Law No [10] for the year 2005.



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Member



Member



Member



Member

Muhammad 'Iraybi Majid Al-Khalifah

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**Convict 'Ali Hasan Al-Majid role for other inhuman acts with identical nature, premeditatedly causing severe suffering or critical mental or physical damages, as a crime against humanity:**

Inhuman acts which constitute a crime against humanity occur when the perpetrator causes severe physical or mental suffering, while committing an inhuman act, conditioned that he is aware of factual circumstances which prove the nature of the conduct. The latter must be part of a systematic large scaled attack against civil inhabitants or with intent to be part of it.

The term "Other inhuman acts" distinguish acts such as causing an individual gross sufferings, whether physical or mental, over the person who received the act [plaintiff], as it had been defined by International Law Committee while commenting on crimes against humanity [Clause 18] ... This classification of acts includes only the supplementary acts enclosed in previous second clause: the act must be, in fact, aimed to harm the individual physically or psychologically, or degrading the human dignity as mentioned in Clause [17].

The systematic large scaled attacks executed by Military Troops and Security Systems against Kurdistan, following Convict 'Ali Hasan Al-Majid orders as per instructions mentioned in letter number (4008) dated 1987 June 20 and others [letters] which resulted in crimes of murder, genocide, coercive dislocation on inhabitants, imprisonment, torture, and coerced harboring ... All these crimes were reviewed in details according to charges against the aforementioned convict, adding up other inhuman crimes with similar nature which Convict 'Ali Hasan Al-Majid committed [we will review them throughout the report] such as degrading human's dignity, especially the Kurdish woman, as she was exposed to harsh suffering ...



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A handwritten signature in black ink, consisting of a series of loops and strokes.

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... affecting her, psychologically as well as physically. Plaintiff [NAME REDACTED] testified to Court, in the hearing of 2006 October 10, "one of my relatives, named [NAME REDACTED], was with me in the cell. She was delivering a child at Dibs prison camp. We took her to the toilets and put tree's leaves underneath her to put the baby. Due to a lack of textures, we covered the baby with sackcloth. It stuck to the baby's skin. As of the umbilical cord, we cut it using a piece of glass.

Plaintiff [NAME REDACTED] testified "6 girls were detained with me, one of them from (Kirkuk) named (.....), and two girls (....., .....) from (Hawraman/Al-Sulaymaniyyah), another girl named (.....) from (Kuysinjaq) and two girls (....., .....) from (Kirkuk). The guards and officers were raping us coercively. They molested every 14 year old girl. Those who assaulted us, the 6, were Hajjaj, Shawqi and Sakhr. The latter is a personal bodyguard for Hajjaj. Hajjaj used to have sex with one girl while forcing the other girls to see. He coercively raped me as I pricked his face with my nails. He beaten me up [on the face] for that and still the scars remain ... The court identified the scars on her face.

The Plaintiff added "one day, Officer Ja'far Al-Hillawi caught a beautiful girl who spit on his face. He tore her clothes apart, ordered to bring her family and raped her in front of them, then shot her dead. She passed away after few seconds.

Plaintiff [NAME REDACTED] testified to court, on 2006 October 11, "I was in the prison yard where beside me was a room with two beds. He put the two beds together, called after one of the pretty ladies, brought her young son and put him on the beds. Then he called her to the room and closed the room's window by a curtain. When I tried to look at him from the window, he hit me and I fell



chief of Investigative Judges

(570-963)

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

**Baghdad – Iraq**

**Reference: 1/(2<sup>nd</sup> Criminal) 2<sup>nd</sup>/ 2006**

**Date: 2007 June 24**

### **The Verdict**

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... on the ground, and fainted ... Then she adds ... There was a lady named [NAME REDACTED] that Hajjaj used to take her to his room permanently ... many women were exposed to rape or sexual assault, degrading their dignity. Still, they refused to stand before court and testify for social considerations.

There is harm from other type, as [NAME REDACTED] testified to court ... on 12 September 2006, saying that his cousin [NAME REDACTED] died at Nuqrat Al-Salman camp due to famine while black dogs entered the tomb and devoured the corpse. When his sister [NAME REDACTED] saw that, she lost her mind and died.

All plaintiffs who attended court mentioned that they were exposed to a systematic large-scaled attack, launched by army and security systems, as families were dislocated, after their villages had been raided by military troops, via military vehicles to detention centers and prison camps at Tupzawa, Dibs, Nazarki, Al-Salamiyyah, and others.

The officers in charge of the aforementioned camps segregated women and children from elders and youngsters, as well as young and old women. Some were moved to Nuqrat Al-Salman prison camp where they were exposed to rape by wardens. Convict 'Ali Hasan Al-Majid was aware and acknowledge about all these crimes as part of his criminal plan to segregate females from males, putting them under intensive surveillance of young male guards. Under such circumstances, incidents of sexual harassments are expected to occur against young women, since these were teenagers who know the real intentions of Convict 'Ali Hasan Al-Majid who aims to partially or totally eradicate them.

The last Article of bygone Revolutionary Command Council's Decree No (160) for the year 1987 included the suspension of legal codes which contradict with the aforementioned decree

...

Chief of Investigative Judges



(571-963)

**In the Name of God All Merciful All Compassionate**

**Iraqi High Tribunal**

**2<sup>nd</sup> Criminal Court**

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... preventing these codes from being applicable, clearly informing all contributors to these crimes that they will not be charged legally. In addition, women faced another kind of harm as some were driven with their children to mass graves. The court noticed through interring these graves at Ninawa [2], by the help of International Expert Michael Trimble, that 123 corpses were found, including 25 women and the rest are children.

For the aforementioned, the court found that the Kurdish civil inhabitants in North Iraq, specially the females, were exposed to harsh inhuman suffers, physical and psychological damages, and coercive sexual assault ... Convict 'Ali Hasan Al-Majid held legal responsibility for perpetrating the aforementioned acts as being aware of the factual conditions correlated and proving these circumstances.

**Convict 'Ali Hasan Al-Majid Verdict for other inhuman acts:**

On 20 July 2007, charged Convict 'Ali Hasan Al-Majid for inhuman other activities as per Article [12/First-( J)] by virtue of Article [15/First/Second/Fourth] of Iraqi High Tribunal Law No [10] for the year 2005. The court discussed all provisioned evidences in the case and verdict the following:

Convict 'Ali Hasan Al-Majid issued Letter No (4008) on 20 June 1987, among other orders and letters to military sectors and security systems to execute a systematic large-scaled attack against Kurdish Civil inhabitants' residents of Northern Iraq. Such plan or policy implementation resulted in calamities and bloodshed of civil inhabitants as well as burning down villages, using chemical weapons, dislocating families [children, women] coercively to detention centers and prison camps where they were exposed to inhuman sufferings, inside these horrible camps, segregating women and children from men, and ...

Chief of investigative Judges

(572-963)



In the Name of God All Merciful All Compassionate

**Iraqi High Tribunal**

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... young females from old ones. Women were exposed to humiliation, disdain, dignity's degradation, and coercive rape. Most the female plaintiffs reported sexual harassments, tackling in details the way they were sexual harassed by prisons camps' officers and guards. When elaborating Convict 'Ali Hasan Al-Majid role on inhuman acts, protected plaintiffs testified that she, along with 6 other women, was raped inside prison camps by officers and guards the thing that pushed one of the women to commit suicide.

Another plaintiff testified how officers were bringing pretty women to their rooms ... All these crimes occurred under full awareness and acknowledgement of Convict 'Ali Hasan Al-Majid as he included his criminal plan or policy, the segregation of men and women, putting them under strict surveillance of young guards. The officers in charge of these camps were fully aware of Convict 'Ali Hasan Al-Majid real intentions, as well as Ba'th regime and its security systems, aiming to partially or totally eradicate the Kurds in Northern Iraq.

Convict 'Ali Hasan Al-Majid, when he issued orders to his subordinates to segregate women from men, putting the women in camps missing the least basics to survive, as a guard told one of the victims at Nuqrat Al-Salman prison camp: "they brought you here to die not to live".

Under these circumstances, and the availability of pretty women in these camps, as well as an acknowledgment among wardens of Convict 'Ali Hasan Al-Majid intentions and purpose, it is logic to expect rape cases since all security systems were aware of decree No (160) for the year 1987, which dismissed all legal codes that contradicts the aforementioned decree. In other word, they all know that there will be no legal restrictions to charge them for such perpetrations.

Accordingly, the court finds that convict 'Ali Hasan Al-Majid contributed individually, as well as with others, in executing a joint criminal plan via a joint aim and purpose to partially or totally eradicate the civil inhabitants in North Iraq. As a result of such joint intent

Chief of Investigative Judges

(572-963)





**In the Name of God All Merciful All Compassionate**

**Iraqi High Tribunal  
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he ordered and premeditated the transfer of the families including children, women and elders to those prison camps as a part of a systematic large-scaled attack against Kurdish civil inhabitants residing Northern Iraq.

Accordingly, the court finds Convict 'Ali Hasan Al-Majid guilty for perpetrating the crime of inhuman other activities, stipulated in Iraqi High Tribunal Law No [10] for the year 2005. For enough provisioned evidences against him, the court decided to charge him according to Article No 12/First-(J)] by virtue of Article No [15/First, Second, Fourth] and Article No [24] of Iraqi High Tribunal Law No [10] for the year 2005, identifying the sentence as per Article No [393/1/( C)] of Iraqi Penal Code No [111] for the year 1969.

Member      Member      Member      Member

امیر محمد علی

١٤٢٨ هـ  
الجمع

21

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

پیران / ۷۰۰۷

Chief of Investigative Judges  
Muhammad 'Traybi Majid Al-Khalifah



**(574-963)**

In the Name of Allah, the Most Merciful, the Most Compassionate

Iraqi High Tribunal  
2<sup>nd</sup> Criminal Court  
Baghdad – Iraq

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**War Crimes**

On 20 February 2007, the court charged the accused 'Ali Hasan Al-Majid with war crimes according to the article (13 \ Fourth):- A, D, E, H and L.

**A) The role of the accused ('Ali Hasan Al-Majid) in the war crime exploited to attack the civilians:**

**Elements of the crime:**

- 1- When the perpetrator of the crime implements an attack.
- 2- The target of the attack must be civilians as their status, or civilians who are not directly participating in the military operations.
- 3- When the perpetrator of the crime is intentionally targeting civilians as their status, or civilians who are not directly participating in the military operations.
- 4- When the conduct of the perpetrator performed within non international armed conflict or linked with it.
- 5- The perpetrator of the crime acknowledges the factual circumstances which prove the existence of an armed conflict.

The war crime as attack against the civilians requires the availability of numbers of evidence such as a proof of the death or the injuries among the civilians, the proof that the main picture of the victims is non combatants. Also, none distinction between the combatants and civilians, a proof that the case exceeds being only an internal turbulence, a proof that the insurgent side possesses an organized armed force and an authority responsible for its actions and performing activities in a certain region and having all the methods of respecting and guaranteeing the compliance with Geneva conventions, proof that the committed action was executed in a time and geographic frame during a military conflict, a proof that the military conflict played a vital role.....



The Presiding Judge  
(963 – 575)

In the Name of Allah, the Most Merciful, the Most Compassionate

Iraqi High Tribunal  
2<sup>nd</sup> Criminal Court  
Baghdad – Iraq

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in the perpetrator's capability to commit the crime, and on his decision to commit the crime, and the purpose of committing it, a proof that the perpetrator knows at least some of the circumstances.

Before starting Al-Anfal operations and the wide scale attacks on Kurdistan, there were scattered unorganized attacks violated the war law and international conventions and violated specifically Geneva conventions...but during Al-Anfal the attacks, were more severe and cruel against the civilians. After the decree 160 issuance in the year 1987, the military commanders and security systems in the area became under the command of the accused ('Ali Hasan Al-Majid) as the supreme leader in the area...In the light of the above mentioned decree, he issued letter number (4008) on 20 June 1987, by which he obliged the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps and to the security departments and Ba'th party organizations in the area to implement the instructions of that letter such as; forbidding the presence of the human and animal in the area.

There were correspondences between the accused ('Ali Hasan Al-Majid) and the military commanders such as the letter number (5008) on 22 July 1987 issued from the Northern Organization Office presided by the accused ('Ali Hasan Al-Majid) and addressed to the 1<sup>st</sup> Corps including comment of 'Ali Hasan Al-Majid (we have no objection to behead the traitors), letter number (1933) on 8 September 1987 issued from the Military Intelligence addressed to the Northern Organization Office including the results of concentrated artillery attack by special ammunition (chemical), letter of Chief of Army Staff number (349) on 27 April 1988 addressed to the 1<sup>st</sup> Corps the accused (Sultan Hashim Ahmad) and the 5<sup>th</sup> Corps the accused (Ayad Khalil Zaki) includes (we could direct strikes against the saboteurs using the special ammunitions), letter of Chief of Army Staff number (1122) on 21 August 1988 addressed to the 1<sup>st</sup> and 5<sup>th</sup> Corps in attendance of the of chief of army staff and his deputy for operations in Kirkuk, it was mentioned in the first paragraph of this letter (defining the population's concentrations in the 5<sup>th</sup> Corps sector, to be treated with intensive special attacks

The image shows a handwritten signature in black ink, which appears to be 'الرئيس' (The President). To the right of the signature is a circular official stamp. The stamp contains the text 'القاعدة الجنائية العراقية العليا' (The Supreme Iraqi Criminal Court) around the top edge, 'رئاسة محكمة' (President of the Court) in the center, and 'القضايا الجنائية' (Criminal Cases) around the bottom edge. Below the stamp, the words 'Iraqi High Tribunal' are printed in English.

(963 – 576)  
The Presiding Judge

In the Name of Allah, the Most Merciful, the Most Compassionate

Iraqi High Tribunal  
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.....48 hours prior to the start of operations to create panic among them...and the General Military Intelligence Directorate letter to the Northern Organization Office titled (Information) including the following:- (at 16:00 o'clock in the 3<sup>rd</sup> of September we directed intensive artillery strike using special ammunition (Chemical) against three headquarters for the agents of Iranian .... Their loss was 2 killed and 12 wounded in addition to a number of killed and injured saboteurs and from the neighboring villages' inhabitants.

The letter number (12703) on 10 June 1987 issued by the General Military Intelligence Directorate to the Northern Organization Office entitled air strike mentioned (at dusk of the 5<sup>th</sup> of June 1987, Air strikes was directed against the 1<sup>st</sup> Branch Headquarters of Barzani group using the special chemical ammunitions and the strike was effective.. their losses were 31 killed and 100 wounded.

In light of the orders issued by the accused ('Ali Hasan Al-Majid) and other military commands...the Iraqi troops attacked Kurdistan through Al-Anfal operations where all kinds of weapons were used such as aircrafts, artillery, armors, helicopters, rocket launchers and as a result of that, thousands of civilians were killed and wounded.

The victim (J[NAME REDACTED]) from (Wari) village mentioned on 30 October 2006 in front of the court that he saw 8 aircrafts soaring, 4 over (Balisan) village and shelled the village by the chemical weapons...I was outside the village...when I got closer to the village, I saw two corps related to ([NAME REDACTED])...we survived because of the wind's direction...I couldn't enter the village...there was thick smoke coming out of the bombs...I saw a tractor driven by ([NAME REDACTED]), loaded with 15 injured by the chemical weapons...he told me that he was taking them to (Shurish) hospital and he told me that the people were dead or injured...I saw the livestock dead the scene was like resurrection day...when I got more closer to the village I saw two corpses one beside the pool.



The image shows a handwritten signature in black ink, followed by a circular official stamp. The stamp contains the text 'القضاء الجنائي العراقي العلي' (Iraqi High Tribunal) around the perimeter, and 'رئاسة محكمة' (President of the Court) and 'الضمانات القضائية' (Judicial Guarantees) in the center. Below the signature, the word 'الرئيس' (The President) is written.

(963 – 577)  
The Presiding Judge

In the Name of Allah, the Most Merciful, the Most Compassionate

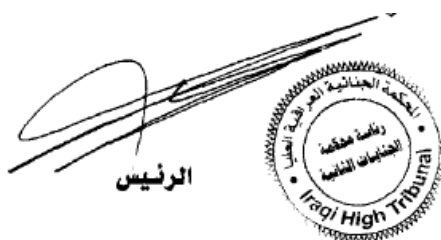
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of the mosque, he was ([NAME REDACTED]), the other was ([NAME REDACTED])...he saw a woman called ([NAME REDACTED]) with her son ([NAME REDACTED]). They were injured...I saw about (18 – 20) corpses near the water...I recognized ([NAME REDACTED]), I can't remember the rest of corpses names...I saw corpses fallen on each other...I saw children holding in their mouths nursing bottles, others holding feast candies...the number of dead and injuries was 40 whose eyes were red...their bodies were black...and because I was removing the corpses, I was infected with redness, vomiting, and eye redness...I present to the court a list of 35 people who were buried there...20 of them are my relatives.

The witness [NAME REDACTED] from Gup Tapa village said in front of the court on 4 December 2006, "I lost 25 members of my family, my mother [NAME REDACTED], my wife ([NAME REDACTED]), my sons ([NAME REDACTED]) I only have my daughter ([NAME REDACTED]) survived, I've lost my brothers ([NAME REDACTED]), his wife ([NAME REDACTED]), Latif's wife ([NAME REDACTED]) their sons ([NAME REDACTED]), and the sons of ([NAME REDACTED]) ([NAME REDACTED])". All of them also killed, and my brother-in-law ([NAME REDACTED]) also was killed...we felt danger when we noticed army movements...before sunset by half an hour, we were bombed by chemical weapons by aircrafts, the sound of the shelling was low...we asked the people to use the Kurdish belts as wet masks but they didn't follow my advice...One girl told me (you poor, you have nobody survived for you), I saw more than 70 persons of my family fallen down the floor...they were effected by chemical weapons as I saw a lady fallen down the floor then I discovered that she is my mother I wanted to kiss her but I couldn't out of fear of infection by the chemical weapon...I saw my daughter ([NAME REDACTED]) dead...I saw my brother ([NAME REDACTED]) while the liquids leaking from his mouth...



(963 – 578)  
The Presiding Judge

In the Name of Allah, the Most Merciful, the Most Compassionate

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I saw my brother ([NAME REDACTED]) still a live...I saw many children dead, I saw my father wounded, then we remove 4 corpses of children, whom they were of my sons and my nephews...

The proof that the general picture of the victims was that they were none combatants is what the abovementioned plaintiffs had mentioned, and we saw that most of the victims were women and children...in addition the military officers executed (27) persons without investigating whether if they were civilians or combatants...it was proven that all of them were civilians...the victim ([NAME REDACTED]) mentioned in his statements that all of us were Kurds...Regarding the conflict between the Iraqi Government and Pishmarga forces it is internationally known...Pishmarga forces are organized in military units having their own command, as per what was confirmed by the accused (Sultan Hashim Ahmad) in front of the court when he said "we were fighting organized, trained armed troops that had its own leadership". Therefore the situation in Northern Iraq must not be considered an internal turbulence. And regarding the Pishmarga's commitment with Geneva conventions, it was mentioned in some of the witnesses statements that they were treating the prisoners good, releasing them, offering them what they need of medicine and food and that confirmed by the victim ([NAME REDACTED]) during her testimony in front of the court.

And it is clear that these crimes were committed in a time and geographic frame during the military conflict (1987 – 1988) linked to the attack on Kurdistan in Al-Anfal operations. The proof that the convicted knew of some circumstances when he used this huge force and special ammunitions is the evidence that the defendants knew some of these circumstances.

Based on that, the court finds the accused ('Ali Hasan Al-Majid) is responsible for these attacks which aimed the civilians by different kinds of conventional and chemical weapons because the military units in that area were under the command of the accused ('Ali Hasan Al-Majid) according to decree 160 for the year 1987, therefore correspondences were conducted between the Northern Organization Office and the Corps commands..



The image shows a handwritten signature in black ink, followed by a circular official stamp. The stamp contains the text 'القضاء الجنائي العراقي العلي' (Iraqi High Tribunal) around the perimeter, and 'رئاسة محكمة الضحايا الناجمة' (President of the Court of Victims) in the center. Below the signature, the word 'الرئيس' (The President) is written.

(963 – 579)

The Presiding Judge

In the Name of Allah, the Most Merciful, the Most Compassionate

Iraqi High Tribunal  
2<sup>nd</sup> Criminal Court  
Baghdad – Iraq

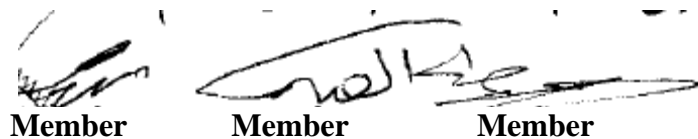
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....including orders issued by ('Ali Hasan) for the usage of special ammunities in addition to the other orders concerning field executions...based on the abovementioned, the responsibility of the accused ('Ali Hasan Al-Majid) is proven according to article 15 \ second of the Iraqi High Tribunal number (10) for the year 2005.

The image shows a handwritten signature in black ink, followed by a circular official seal. The seal contains the text "المحكمة الجنائية العراقية العليا" (Iraqi High Tribunal) in Arabic and "Iraqi High Tribunal" in English. Below the signature is the word "الرئيس" (The President) in Arabic.

**The Presiding Judge, Muhammad 'Uraybi Majid Al-Khalifah**

The image shows three handwritten signatures in black ink, each followed by the word "Member" in English. The signatures are written in a cursive style.

**Member**

**Member**

**Member**

**In the Name of God All Merciful All Compassionate**

**The Iraqi High Tribunal**

**Second Criminal Court**

**Baghdad-Iraq**

**Ref.No.:1/ (2<sup>nd</sup> Criminal) / 2006**

**Date: 2007 June 24**

**The Verdict**

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**Verdict of Convict 'Ali Hasan Al-Majid, charged for premeditatedly leading attacks against civil inhabitants:**

On 20 Feb 2007, the court charged Convict 'Ali Hasan Al-Majid for premeditatedly leading attacks against civil inhabitants as a crime of war as per Article [13/Fourth-( B)] by virtue of Articles [15/First/Second/Third/Fourth] of Iraqi High Tribunal Law No (10), for the year 2005. The court discussed evidences and issued its verdict:

Convict 'Ali Hasan Al-Majid issued orders to conduct attacks against civil inhabitants according to the two letters No (3650), on 03 June 1987, and (4008), on 20 June 1987. The military units carried out his orders and conducted raids over civil inhabitants using conventional and chemical weapons. According to Decree (160), dated 1987, the military units were deployed in Northern Area. Despite convict's denial of issuing orders to the army, his orders and instructions had been delivered to all military commands, through two letters (3650) and (4008) directed to 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps in addition to the chief of Army Staff, it is probable that Convict 'Ali Hasan Al-Majid could have left tactical details for military commanders to make their minds upon. Hence, the attacks against civil innocent inhabitants, by military units and other subordinates, had been implemented as per convict's instructions, as mentioned in the two previous letters.

Attacks against civil inhabitants were linked to an internal conflict between Iraqi army and Kurdish fighters (Pishmarga) in Northern Iraq. Convict 'Ali Hasan Al-Majid issued orders to kill any individual found within prohibited zone, as he did not distinguish between combatants and civilians.

The court considers letter No (4008), dated 20 June 1987, as evidence on the convict's orders to carry special strikes (chemical weapons) at all times to murder the biggest ...

Chief of Investigative Judges

(581-963)





**In the Name of God All Merciful All Compassionate**

**The Iraqi High Tribunal**

**Second Criminal Court**

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... possible number. This is clear evidence on using chemical weapons against his own people, as it is well-known that such weapons do not distinguish between civilians and military individuals; therefore, the intention of targeting civil inhabitants in Northern Iraq will be provisioned. Convict 'Ali Hasan Al-Majid will be individually contributing [as well as contributing with others] in executing a joint criminal plan, as well as a joint criminal aim and purpose to partially or completely eradicate Kurds in Kurdistan (Northern Iraq). As part of this joint intent and plan, he intentionally contributed and issued orders to direct attacks against civil inhabitants in Northern Iraq during a national armed dispute.

Convict 'Ali Hasan Al-Majid's proxy pleaded on his behalf, stating that the use of military operations was necessary. Such plea was completely denied due to the fact that chemical weapons' usage means lack of distinguishing between civilians and fighters.

The court foresees, in these indistinct attacks, a premeditated murder of thousands of civil inhabitants, in a national armed dispute.

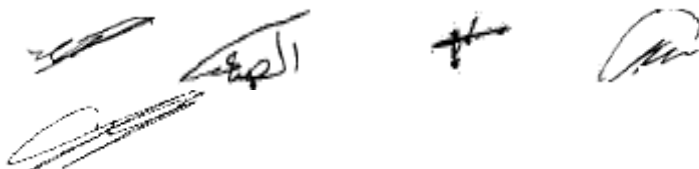
According to the aforementioned, the court found that evidences are sufficient to charge Convict 'Ali Hasan Al-Majid for premeditatedly leading attacks against civil inhabitants as crime of war, perpetrated between 1987-1988, as per Articles No [13/Fourth-( B)] and [15/First/Second/Fourth] of Iraqi High Tribunal Law No (10), for the year 2005.

Member

Member

Member

Member



Chief of Investigative Judges

Muhammad 'Traybi Majid Al-Khalifah



**In the Name of God All Merciful All Compassionate**

**The Iraqi High Tribunal  
Second Criminal Court  
Baghdad-Iraq  
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Date: 2007 June 24  
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**Convict 'Ali Hasan Al-Majid role in crime of war represented by issuing orders of dislocation civil inhabitants for reasons correlated to a dispute, as long as it is not due for concerned civilians' security or other military necessities:**

**Crime elements:**

- 1) The perpetrator must order the dislocation of civil inhabitants.
- 2) The order should not have vindication as to provide security for concerned civilians or military necessities.
- 3) The perpetrator must be willing to engender such dislocation via issuing orders.
- 4) The conduct must be issued within a national armed dispute context and correlated with it.
- 5) The perpetrator must be aware of factual circumstances which prove the existence of armed conflict.

The requirements and elements to prove the crime of dislocating civil inhabitants, as a crime of war, are: issuing orders of dislocating civilians, as long as this/these order(s) are issued due to national armed conflict, whereas the safety of civilians or other military necessities are not taken into consideration. The perpetrator must be willing to engender such dislocation via issuing orders, as well as admitting that such dislocation occurred with no minimum choice. It is well-known that the Iraqi armed forces conducted a systematic large scaled assault over Kurdistan during the years of 1987 to 1988. All state's available resources were exploited, particularly after Revolutionary Command Council's Decree No (160), dated 1987, which granted Convict 'Ali Hasan Al-Majid wide jurisdictions, assigning him as Northern area ultimate ruler. The Decree stipulated the freeze of all codes which contradict with it. As implementation, the aforementioned convict issued instructions via letter No (4008), dated 20 June 1987, which included many issues such as prohibiting any human or animal's existence within the area, as well as instructing corps' commanders to prepare strike ...

Chief of Investigative Judges

(583-963)



**In the Name of God All Merciful All Compassionate**

**The Iraqi High Tribunal**

**Second Criminal Court**

**Baghdad-Iraq**

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**Date: 2007 June 24**

**The Verdict**

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... [intensive] using artillery, special ammunitions and aircrafts in order to kill the largest possible number of people, within Prohibited Zone.

In reference to letter No (4151), dated 15 June 1987, issued by Revolutionary Command Council/ Northern Affairs Committee and addressed to Chief of Army Staff, titled (Your suggestion was approved and all saboteur's families were dislocated according to regulations). The letter is signed by Convict (Tahir Tawfiq), who is Northern Affairs Committee's Secretary. Moreover, Convict 'Ali Hasan Al-Majid confessed in court, on 07 February 2007, saying "I am the one in charge of dislocation or relocation into compounds ...".

Accordingly, it is clear that orders of dislocation and relocation were issued by Convict 'Ali Hasan Al-Majid. These orders are correlated to an existing conflict between Iraqi regime and Pishmarga Forces. This issue got more elaborated through official correspondences, where the word "Saboteurs" reflects Pishmarga Forces. All convicts confirmed the existence of internal armed dispute, as most of plaintiffs and victims stated that civilians were dislocated from more than 300 villages (*T.C: The correction is 3000*) distributed over four governorates (Sulaymaniyah, Duhuk, Irbil and Kirkuk).

Is it logic to claim the destruction of all those villages and dislocation of civilians for military necessities, putting them in camps at Tupzawa, Dibs, Nazarki, Bahirka and Al-Salamiyyah and then to Nuqrat Al-Salman camp or mass graves, as the majority of those victims are elders, children and women?

The second element is: the perpetrator must be willing to generate such dislocation via issuing orders. Convict 'Ali Hasan Al-Majid was the ultimate ruler of Northern Area as well as granting him National Security Council's jurisdictions to implement the government and party's policy. Hence, he was willing to issue such orders. He confirmed that by saying to court that he was in charge of all cases ...

Chief of Investigative Judges



(584-963)

**In the Name of God All Merciful All Compassionate**

**The Iraqi High Tribunal**

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... civil inhabitants' dislocation. He knew about the factual necessity which proves the existence of armed conflict, as he stated, on 07 February 2007, that his mission was limited to two major issues: expel the Iranian enemy and eradicating sabotage, the latter term meaning Pishmarga fighters...

Accordingly, Convict 'Ali Hasan Al-Majid is criminally in charge of dislocating civil inhabitants as a crime of war as per Article No [15/Second/Fourth] of Iraqi High Tribunal Law No (10), for the year 2005. This is due for contribution with other individuals in a joint criminal intent over perpetrating the crime, aiming to reinforce the joint criminal purpose and activity, as being the ultimate ruler of Northern area, at the time or perpetration which stretched from 1987 to 1988.

**Convict 'Ali Hasan Al-Majid verdict for dislocating civil inhabitants as a crime of war:**

The court discussed charges against Convict 'Ali Hasan Al-Majid, as per the bill of indictment dated 1987 Feb 20, for dislocating civil inhabitants as a crime of war as per Articles [13-Fourth-(H)] and [15/First/Second/Third/Fourth] of Iraqi High Tribunal Law No (10), for the year 2005.

Through provisioned evidences, the court concluded that Convict 'Ali Hasan Al-Majid contributed individually, as well as with others, in executing a joint criminal intent, and participated in a joint criminal aim and purpose to partially or totally eradicate the Kurds in Northern Iraq (Kurdistan). As part of this joint intent and plan, he issued orders premeditating the dislocation of civil inhabitants. We realize that the elements of proof in this crime are different on many levels according to those [elements of proof] which constitute the coercive dislocation as crime against humanity, though the court is not required to prove that ...

Chief of Investigative Judges

(585-963)



**In the Name of God All Merciful All Compassionate**

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... the dislocation of civil inhabitants was part of a systematic large scaled attack against civil inhabitants. It had been proven to court that coercive dislocation had been correlated to a national armed dispute. In addition, the crime occurs when orders of dislocation are issued but does not condition the including of dislocation or relocation of all civil inhabitants.

Convict 'Ali Hasan Al-Majid is guilty for perpetrating coercive dislocation of civil inhabitants as a crime against humanity through his orders highlighted letters No (3650) and (4008). Hence, the court had been convinced that coercive dislocation of numerous civilians occurred without being linked to their safety.

As for military necessities, as an allegation for inhabitants' dislocation, such necessities are correlated with military obligations to move civilians from areas of operation for interaction with military operations. Based on that, dislocation will be considered necessary to provide civilians with security far from military operations and expected strikes. Despite Convict 'Ali Hasan Al-Majid allegation, as well as others, that dislocating civilians came as precautionary measures for their safety, was not approved as civil inhabitants were dislocated to detention and prison camps, where they were put under firm surveillance by the Iraqi Government, for political reasons and Arabization of vast regions in Kurdistan, changing the demography of Kirkuk. All these actions are none but evidences against convicts as the military necessity and motives as well as genocide can not be justified. As example, it is prohibited to transfer a group of people, during armed conflicts, to be able to contain them in an area where they can be placed under better governmental surveillance. On other hand, mass dislocation of civilians to detention and prison camps cannot be justified as a military necessity.

According to the aforementioned, the court found that evidences are sufficient to charge Convict 'Ali Hasan Al-Majid for dislocating civil inhabitants as a crime of war, perpetrated between 1987 and 1988 ...

Chief of Investigative Judges



(586-963)

**In the Name of God All Merciful All Compassionate**

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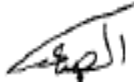
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... as per Articles No [13/Fourth-( H)] and [15/First/Second/Fourth] of Iraqi High Tribunal Law No (10), for the year 2005.

Member



Member



Member



Member



Muhammad 'Uraybi Majid Al-Khalifah



Chief of Investigative Judges  
Muhammad 'Uraybi Majid Al-Khalifah

**In the Name of God All Merciful All Compassionate**

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**Convict 'Ali Hasan Al-Majid role in premeditatedly directing raids over buildings appropriated for religious, educational, artistic, scientific, or charitable purposes or against historical sites, and wounded patients' gathering centers, conditioned not to be military targets:**

**The crime elements:**

- 1) The perpetrator must induct a raid.
- 2) The raid must target one building or more, of those designated for religious, educational, artistic, scientific, and charitable purposes, or against historical sites, or wounded and patient's gathering centers which are not considered military targets
- 3) The perpetrator must premeditatedly make the raid's target one or more buildings designated for religious, educational, artistic, scientific, and charitable purposes, or against historical sites, or wounded and patient's gathering centers which are not considered military targets
- 4) The conduct must be issued within the context of national armed dispute correlated with it
- 5) The perpetrator must be aware of factual conditions which prove the existence of armed conflict

The elements of proof of a crime as that of war are: evidences that the rebellious side have an organized armed force as well as a responsible authority perpetrating acts in a specific geographic sector and respects Geneva conventions, the perpetrated act occurred in a time and geographic frames under armed dispute, damages in civil properties, destruction, religious aspect, evidence that those samples were not used by armed forces for the absence of military establishments seen in naked eyes. Evidence that perpetrated actions designate intent to engender damages or destroying those protected samples.

Chief of Investigative Judges

(588-963)



**In the Name of God All Merciful All Compassionate**

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We have already discussed, in details, the attack over Kurdistan using all types of weapons during (1987-1988). These attacks were initiated according to direct and indirect orders by Convict 'Ali Hasan Al-Majid. He addressed letter No (4008), dated 1987 June 20, to Corps' Commanders in Northern Iraq, prohibiting human and animal's existence, issuing orders to aforementioned commanders to prepare special strikes, day and night, to murder the biggest possible number of victims. In light of these orders and directions, the military forces attacked Kurdistan by initiating Al-Anfal Eight Operations, where more than 3000 villages were totally destroyed, including schools and mosques.

Through victims' testimonies, case's facts, and provisioned evidences, more than 3000 villages, 1000 primary and preparatory schools, and more than 2000 mosques were destroyed, as most of the villages included schools and mosques.

Plaintiff (victim) [NAME REDACTED], residing Sargalu – Al-Sulaymaniyyah Governorate, testified to court, on 2006 September 12, that: "During Al-Anfal First Operation, the Iraqi forces attacked villages, confiscated properties, and looted everything including livestock.... They demolished villages via explosives, as well as mosques and burning to ashes Qurans ..."

Plaintiff Ahmad [NAME REDACTED], resident of Qashqa Village – Qadir Karam Sub District – Al-Sulaymaniyyah Governorate, testified to court, on 2006 September 26 that: "In 1988, the Iraqi Army destroyed our village which included a school, clinic, and two mosques. They were completely down.

The evidence of damages which occurred in civil properties, meaning the evidence of devastation, all villages whose inhabitants were dislocated in Kurdistan, were demolished as per plaintiffs and victims' testimonies, as well as those of convicts 'Ali Hasan Al-Majid, Sultan Hashim Ahmad and Farhan ...

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... Mutlak Salih. Most of those villages contained schools and mosques which were also vanished. As for the evidence of not using those building for military purposes, it is not possible, under all circumstances, to exploit thousands of schools and mosques for such purposes. The evidence that such acts were perpetrated while designating the aim to cause damages as well as destruction on the protected buildings, it is spotted when attackers did not destroy civilians' properties only but rather all villages prohibiting human and animal's existence within the entering area.

Plaintiff (Victim) [NAME REDACTED], resident of Qulijan Sarhad Village, testified to court on 2006 October 09, that: "On 1988 April 05, I was a deserter. When the Army was advancing toward our village, I was monitoring the stance far away from remote location... I saw military units destroying the village and arresting children, women and men... I left the village, coming back after two weeks to find that it had been completely devastated, and wells filled up ... That, who filled up wells with concrete cement, does not target civil properties only but aim to prevent human and animal's existence in the area. The intent of causing damages is provisioned and known as these crimes were perpetrated in a national armed dispute context against organized well-trained forces (Pishmarga). Convict Sultan Hashim Ahmad stated: "We were confronting an organized well-trained military force that owned light and med ranged weapons and had higher commands. The attacks carried out against civil inhabitants and civil establishments came following the orders of Convict 'Ali Hasan Al-Majid, according to correspondences No. 3650 on 1987 June 03, and No. 4008 on 1987 June 20, as well as letters and other correspondences between Northern Organization Office, commanded by the aforementioned convict, and Corps' Commanders. His orders, regarding chemical weapons' usage against civil inhabitants, while not taking into consideration civil buildings, as Convict 'Ali Hasan Al-Majid was fully aware of the factual conditions which prove ...

Chief of Investigative Judges

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... the existence of an armed conflict. Accordingly, it is clear that all elements of a crime of war, represented by raids over protected properties, are provisioned. Convict 'Ali Hasan Al-Majid is in charge of committing these crimes, while contributing with other people, via a joint criminal intent as being the ultimate ruler of Northern Area according to Article [15/first/second/fourth] of Iraqi Tribunal Court Law, for the year 2005.

**Convict 'Ali Hasan Al-Majid Verdict for premeditatedly launching a raid against protected [civil] buildings:**

Based on provisioned evidences in the case, the court identified that Convict 'Ali Hasan Al-Majid contributed individually, as well as with others, in conducting a joint criminal plan, and he intentionally participated in a joint criminal act on purpose of partially or totally eradicating Kurds in Northern Iraq. As part of this joint plan and intent, he aimed and ordered to launch raids over protected [civil] buildings during an internal armed dispute. According to letters No 4008 on 1987 June 20, and No 3650 on 1987 June 03, Convict 'Ali Hasan Al-Majid ordered launching indistinct strikes [chemical] against villages located in Northern Iraq, without taking into consideration protected buildings. The victims, who stood before court, confirmed the aforementioned.

The court noticed that the military forces executed these operations according to orders by Convict 'Ali Hasan Al-Majid despite the latter denial of issuing orders to the army. Hence, letter No 4008, on 1987 June 20, addressed to First and Second Corps as well as Chief of Army Staff, included the victim's orders to military commanders, with a probability that he left them the decision over some tactical details. However, the devastation of villages and indistinct [chemical] weapons' usage, over protected buildings, had been carried out according to orders and instruction by convict 'Ali Hasan Al-Majid. The raids over protected establishments occurred simultaneously with an internal armed dispute between Iraqi Army and Kurds fighters (Pishmarga) in Northern Iraq.

Convict 'Ali Hasan Al-Majid issued his orders to completely destroy villages ...

The President



(591-963)

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... as part of a plan to deprive any combatant from taking those villages as headquarters against Iraqi Army. There is no excuse to justify the total destruction as a military necessity. Convict 'Ali Hasan Al-Majid did not distinguish between civilians and combatants, when he targeted civil inhabitants, and sure not between military targets and protected buildings. The court finds that these raids caused complete damages and devastation in protected buildings ... Accordingly, the court finds that evidences are sufficient to charge Convict 'Ali Hasan Al-Majid as guilty for leading raids over protected buildings as a crime of war perpetrated between 1987 and 1988, as per Article No [13/fourth-( D)] and Article [15/first/second/fourth] of Iraqi Higher Tribunal Law No (10), for the year 2005.

Member

Member

Member

Member

Chief of Investigative Judges

Muhammad 'Iraybi Majid Al-Khalifah



**In the Name of God All Merciful All Compassionate**

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**Convict 'Ali Hasan Al-Majid role in looting as a crime of war:**

The crime's elements:

1. The perpetrator must confiscate particular properties
2. The perpetrator must intend to deprive the owner from his possessions, confiscating them for his personal or private use.
3. The confiscation must occur without the approval of the owner.
4. The conduct must be issued within a national armed dispute context correlated to it.
5. The perpetrator must be aware of the factual conditions which prove the existence of armed dispute.

The proof of looting any town or place, even if it occurred coercively as a crime of war, must be provisioned through many factors to prove such crime. These are as follow: a proof that looting had been perpetrated by soldiers for personal benefit, proof that it occurred as organized properties' confiscation in a frame of systematic economic abuse of a given occupied sector, proof of stolen property's monetary value, proof that military necessity does stand for such acts [does not legitimize the act], and proof of lack of content [coercively]. During (1987-1988), the military units launched a systematic wide scaled attack over Kurdistan, including more than 3000 villages.

Convict 'Ali Hasan Al-Majid issued letter No 4008, on 1987 June 20, including Clause [7], stating the following: "Whatever national defense regiments' consultants and fighters confiscate belong to them, free of charge". As a result, many Kurdish villages were looted by National Defense Regiments and other soldiers. Plaintiff [NAME REDACTED], residing Baranki Village – Al-Sulaymaniyyah, testified to court on 2006 September 19, that: "In 1988 ...

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... military forces attacked (Qalam Pasha) village as well as ours (Baranki). We were dislocated via military vehicles to (Chwar Qurna), where they confiscated all our possessions, including food and blankets. Plaintiff [NAME REDACTED] testified "The officer, whose name I still cannot remember, looted us taking away my money and personal watch". Plaintiff [NAME REDACTED] residing (Gup Tapa) Village, testified to court on 2006 October 17 that: "On 1988 May 05, the military units stormed into our village and gathered us in groups; we were around 300 persons. The soldiers looted us taking our money away". Plaintiff [NAME REDACTED], resident of Tupzawa – Qadir Karam Sub District, testified to court on 2006 September 26, that: "The army stole livestock, which was a load of 4 trucks, from me as well as my relatives".

Part of plaintiffs testified as well in court that they had been looted and robbed by soldiers from the army. Plaintiff B [NAME REDACTED], resident of Chakulat Village near Kirkuk, mentioned that: "On 1988 May 12, the Iraqi army soldiers and security forces coercively looted her money and confiscated her livestock [28 sheep, 2 goats and 3 cows]; the army confiscated also her poultry and agronomic products. Plaintiff [NAME REDACTED], residing Dar Matru Village near Kirkuk, mentioned that: "On 1988 May 20, army and intelligence personnel put their hands on my properties during Al-Anfal operations, confiscating my jewelries ... they took 200 goats, 6 cows, and one tractor.

Through aforementioned plaintiffs' testimonies, the court finds that soldiers, as well as intelligence and security personnel, coercively confiscated Kurds' properties and money as the spoils were declared as their rights, following Convict 'Ali Hasan Al-Majid orders. The looting and robbing operations were carried out through a frame of systematic economic abuse of the sector as Convict 'Ali Hasan Al-Majid aim was ...

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to destroy everything in Kurdistan. It was mentioned in letter number (1122), dated 1988 August 21, issued by Chief of Army Staff to First and Fifth Corps' Commands, as by indication to Kirkuk conference "The Northern Region must be completely destroyed". Regarding the monetary value of looted assets; Kurdish villagers don't own more than jewelries and the money on them, in addition to their livestock, poultry and agronomic products. The court noticed that all these properties well exposed to looting by army and security systems. These actions occurred during an internal armed conflict; therefore, there is no military need to add legitimacy over such acts, whereas Convict 'Ali Hasan Al-Majid was fully aware of factual conditions which impose an internal armed conflict's existence.

**Convict 'Ali Hasan Al-Majid decree for looting as a crime of war:**

On 2007 February 20, the court charged Convict 'Ali Hasan Al-Majid according to Article [13/fourth-( E)] and Article [15/second-(A-B)] of Iraqi High Tribunal Law No (10), for the year 2005.

Convict 'Ali Hassan Al-Majid individually contributed, as well as with others, in carrying out a joint criminal plan. He intentionally and purposely participated in partially or completely eradicates Kurds in Northern Iraq. As part of such joint criminal plan and intent, he premeditatedly incited others to loot. The court reviewed some of plaintiff's testimonies, where in both investigative and prosecution phases, they confirmed being exposed to looting and confiscation of livestock and agronomic vehicles.

The court finds that letter No (4008), dated 1987 June 20, is clarified in Article No. 7, which stipulates "Whatever national defense regiments' consultants and fighters confiscate belong to them, free of charge". The National Defense Regiments are part of the army, and by giving legitimacy to those ...

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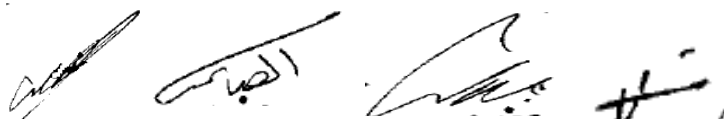
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... granting approval on such acts, have favored looting and robberies against Kurds. The accurate reading of letter (4008) shows the criminal intent of Convict 'Ali Hasan Al-Majid as the letter contained many clauses such as prohibiting human or animal's existence in Prohibited Zones, chemical weapons' usage, murdering any individual to be caught there, and prevent agronomy and industry. Inhabitants who had been exposed to such procedures, the logic sequence in actions would probably be expected to be robbery. As per taking legal measures against perpetrators of such activities, Decree (160), for the year 1987, ordered to freeze all legal codes which contradict with its articles.

Convict 'Ali Hasan Al-Majid permitted robbery, instigating and encouraging on it by granting the right, for National Defense Regiments' fighters, to confiscate Kurdish villagers' properties. This was a clear signal to military and security systems, to perpetrate these acts as they will not be legally charged for it.

Accordingly, the court finds that Convict 'Ali Hasan al-Majid is guilty for looting as a crime of war, perpetrated between June 1987 and September 1988, according to Article [13/fourth-(E)] and Article [15/First/Second/Fourth] of Iraqi High Tribunal Law No (10), for the year 2005.

Member      Member      Member      Member



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Muhammad 'Iraybi Majid Al-Khalifah

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**Convict 'Ali Hasan Al-Majid role in destroying and confiscating the other side's properties as a crime of war:**

**The crime elements:**

1. The perpetrator must destroy given properties or confiscate them.
2. The properties must be confiscated by the hostile side.
3. These properties must be included in the protection from being destroyed or confiscated according to International Law for Armed Conflict.
4. The perpetrator must be aware of factual circumstances which prove the ownership of these properties.
5. The lack of military necessities calling for destroying confiscating those properties.
6. The conduct must be issued within a national armed dispute context correlated with it.
7. The perpetrator must be aware of factual conditions which prove the existence of armed dispute.

The elements of proof regarding hostile side's properties' destruction or confiscation as a crime of war are many, such as burning them down to ashes, deforming them or causing damages, looting the legitimate estate which was rendered legally, and an evidence that such properties were not used for hostile purposes.

Convict 'Ali Hasan Al-Majid issued letter No. (4008) dated 1987 June 20, which prohibited human and animal's existence within Prohibited Zone, instructing Corps' Commanders to prepare special strikes (chemical weapons) at all times to kill the largest possible number of villagers. The Chief of Army Staff issued a letter holding number (1122), dated 1988 August 2, addressed to First and Fifth Corps, including instructions to military troops to prepare special strikes [chemical weapons], at all times [day and night]. Most of the victims who stood before ...

chief of Investigative Judges



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... court, testified that their villages had been exposed to complete devastation via shovels, artillery, and aircrafts.

**Plaintiff** [NAME REDACTED] resident of (Sidar) village, testified to court, on 2006 September 14, that "He saw by his own eyes bulldozers and shovels destroying whole villages, after we escaped the village to the mountains.

**Plaintiff** [NAME REDACTED] resident of lower Balkha– Qara Dagħ, testified to court, on 2006 September 25, that "We were raided by chemical weapons. We escaped to the mountains; I saw my village and neighboring villages [Balkha, Masuy, Diwana, Haji Awa, and Awa Spi all burning down.

**Plaintiff** [NAME REDACTED], resident of 'Azaban – Al-Sulmaniyyah, testified to court, on 2006 September 11, that "In 1987, the Republic Guard Brigade attacked our village with tanks. They were accompanied by bulldozers and LORIE trucks. They demolished our village, as the operation took from morning till 18:00 hours [sunset time]. Then he added "Our village wasn't prohibited, there was no reason to launch such attack other than being Kurdish)

Kurdish villages' civil inhabitants in Northern Iraqi were residing their hometowns from a long time. They were mostly farmers who built these villages and their homes to shelter them from cold winter. The military units attacked their villages, destroying and burning them down, with no military necessities whatsoever. More than 3000 villages, including schools, clinics, mosques, houses, fountains, and electricity stations were burned down.

Convict 'Ali Hasan Al-Majid was fully aware of factual conditions which prove the existence of internal armed dispute, as he mentioned in his testimony "We were facing internal and external danger" ...

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Convict 'Ali Hasan Al-Majid confessed giving orders to destroy Kurdish villages in Northern Iraq, according to a previously designated policy or plan by Iraqi regime. Accordingly, Convict 'Ali Hasan Al-Majid contributed individually, as well as with others, in executing a joint criminal plan, participating in joint criminal aim or purpose to partially or completely eradicate Kurds in Kurdistan (Northern Iraq). As part of this joint intent, the convict intended and ordered the destruction of hostile side's properties without a military necessity.

**Convict 'Ali Hasan Al-Majid Verdict for destroying hostile side's properties as a crime of war:**

On 2007 February 20, the court charged Convict 'Ali Hasan Al-Majid for destroying hostile side's properties as a crime of war, according to Article [13/Fourth-(I)] by virtue of Article [15/First/Second/Third/Fourth] of Iraqi High Tribunal Law No 10 for the year 2005. The court discussed provisioned evidences in the case and issued the following verdict:

The court finds that Convict 'Ali Hasan Al-Majid individually contributed, as well as with others, in executing a joint criminal plan. He premeditatedly participated in a joint criminal aim or purpose to partially or completely eradicate Kurds in Kurdistan (Northern Iraq). As part of this criminal intent and plan, he intended and ordered to destroy hostile side's properties with no military necessities whatsoever.

The court finds that Convict 'Ali Hasan Al-Majid issued orders for indistinct demolition of villages, including fighter's houses (those who were involved in the internal conflict) and civil inhabitants'. Letter number (1122), dated 1988 August 21, issued by Chief of Army Staff to First and Fifth Corps, mentioned an identification of residential compounds, within 5<sup>th</sup> Corps' sector, to be treated with special strikes [Chemical weapons]. In addition, letter number (4008) ...

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... dated 1987 June 20, including instructions to military troops to prepare special strikes [chemicals], at all time [night and day]. Many victims, who stood before court, testified that their villages were destroyed and burned down by air strikes, shovels, or chemical weapons. Even animals were exhausted due to this strike.

Convict 'Ali Hasan Al-Majid confessed many times to court that he ordered the destruction of villages fearing to contain or insure shelter to Pishmarga fighters. In addition, Convict 'Ali Hasan Al-Majid issued his orders to use indistinct [chemical] weapons against civil targets, according to letter (4008) dated 1987 June 20; therefore, the condition of premeditated murder is provision through the aforementioned.

Targeting villages claiming that they provide shelter for Kurdish fighters, does not justify eradication, or total demolition of villages, as military necessities. If we assume that war efforts imposed a security belt, all along Iraqi borders [a presumption far from being true], such condition will not also justify the implementation of murders, massacres, large scaled properties' devastation without differentiation.

Many targeted villages were few kilometers close to governorates and 100 km away from Iraqi-Iranian borders. This means that Convict 'Ali Hasan Al-Majid and others ordered to destroy those villages, accomplishing their criminal objectives rather than for military necessities. Any justification or motive, regarding military necessity, does not rely on scientific or rationale basics because destroying more than 3000 villages in 4 governorates [Kirkuk, Al-Sulmaniyyah, Irbil, and Duhuk] cannot be justified under any circumstances.

**Accordingly, the court finds that provisioned evidences are sufficient to charge Convict 'Ali Hasan Al-Majid, as guilty for destroying hostile side's properties as a crime of war, without favor of military necessity as in war crimes. The crime was perpetrated ...**

Chief of Investigative Judges

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**... between 1987 and 1988 as per Article [13/Fourth-( I)] and Article [15/First/Second/Fourth] of Iraqi High Tribunal Law No (10), for the year 2005.**

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Chief of Investigative Judges  
Muhammad 'Iraybi Majid Al-Khalifah

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**Convict Sultan Hashim Ahmad**

**The background:**

Born in 1945, he occupied the following positions:

1988-1993 Commander of the several Corpses

1993-1995 Deputy of the Chief of Army Staff

1995 Chief of Army Staff

1995-2003 Minister of Defense

**Charges against Convict Sultan Hashim Ahmad as per bill of indictment**

**The Genocide:**

**Article 11/first:**

- A. Killing the group's individuals
- B. Causing physical and mental damages for the group's individuals
- C. Subduing a group of individuals premeditatedly to harsh living conditions aiming to partially or completely eradicate them.

By virtue of Article [15/First/Second/Third/Fourth] of Iraqi High Tribunal Law No (10), for the year 2005.

**Crimes against humanity:**

**Article 12/first:**

- A. The premeditated murder
- B. Genocide

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- C. Enslavement
- D. Relocation or coerce dislocation of inhabitants
- E. Imprisonment or extreme deprivation of any sort of physical freedom which contradicts the basic rules of International Law.
- F. Torturing
- G. Oppressing any specific group or community for political, racial, ethnical, national, cultural, religious, gender or any other reasons which are not permitted by International Law, as if any of the aforementioned are correlated to a form of sexual violence, on that level of seriousness.
- H. Coerce harboring of individuals
- I. Other inhuman actions with similar aspect which premeditatedly cause severe sufferance, or serious physical or mental damages by virtue of Article [15/First/Second/Third/Fourth] of Iraqi High Tribunal Law No (10), for the year 2005.

**Crimes of War:**

**Article [13/Fourth]**

- A. Attacks against civil inhabitants, by attribution, or against civil individuals, who are directly uninvolved in war activities.
- B. To premeditated raids over buildings appropriated for religious, educational, artistic, scientific or charitable purposes, or historical monuments, hospitals, and wounded and patients' gathering centers, conditioned not to be military targets.

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- C. looting any town or place, even if it had been coercively occupied
- D. Issuing orders of dislocating civil inhabitants for reasons related to conflict, as long as it is not due to safety or urgent military purposes.
- E. Devastating or confiscating hostile side's properties as long as both are not imposed by war.

By virtue of Article [15/First/ Second/ Third/ Fourth] of Iraqi High Tribunal Law No (10), for the year 2005

**Article /15:**

**First:** The perpetrator who commits a crime within the court's jurisdiction, is responsible for it, by attribution, and exposed to prosecution as per the law's codes.

**Second:** The person is considered as per this and Penal laws' codes, if the perpetrator carried the following:

- A. Committed a crime by attribution, contribution, or via another person regardless if the latter was criminally charged or not.
- B. Issuing an order to commit a crime which already occurred, instigated, incited or tried to commit it.
- C. Giving assistance, provocation or help, in any way, to facilitate the perpetration or instigation of it, including the provision of useful tools [crime tools].
- D. Contributing, in any other way, with a group of people, to a joint criminal intent, to intentionally commit or attempt committing a crime.

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- 1- Enhancing the criminal activity or intention of a given group, providing both are enclosed in a perpetrated crime within the court's jurisdictions.
- 2- With the knowledge of the group's intention to commit the crime

H. Direct and public inciting for perpetrating a crime as for genocide

I. Instigating the perpetration of crime through commencing execution of an act with intent to commit it. However, if the crime did not occur for reasons that the perpetrator has nothing to do with, this is to be considered as an exonerated reason from punishment if the perpetrator spends effort to prevent the occurrence of crime or its completion. He is not to be charged for instigation as per this law if he [perpetrator] totally abandoned, willingly, his criminal plan.

**Third:** The official attribution of the convict will not be considered as reason of exoneration from punishment or a toll to lighten the sentence, whether the convict was a statesman, commander or member in Revolutionary Command Council, minister or prime minister in the Cabinet, or member in the Ba'th Party, as he can not take allegations in immunity to get away from charges over crimes mentioned in Articles (11), (12), (13) and (14) of this Code.

**Fourth:** The higher commander will not be discharged from criminal responsibility over crimes perpetrated by his subordinates, if the higher commander has been aware, or had reason to be acknowledged that his henchmen will commit, or where about to commit such acts, and he did not take necessary suitable measures to prevent such incidents or did not refer the case to appropriated authorities for investigation and prosecution.

**Summary of victims (plaintiffs) and witnesses' testimonies:**

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Although Al-Anfal campaigns actually started in 1988, however the planning and organizing of it started in 1987, especially after bygone Revolutionary Command Council issued Decree No [160], for the year 1987 and letter No (4008), dated 20 June 1987. The majority of victims and plaintiffs did not complain directly against Convict Sultan Hashim Ahmad, though all of them complained against all those to be proved involved in these perpetrated crimes ... we enclose below samples of accusations and victims and plaintiffs' demands:

It is mentioned in the testimony of Plaintiff (victim) [NAME REDACTED] "In 1988, I was in (Sidar) village with my family consisted of 7 persons [my mother [NAME REDACTED], and siblings [NAME REDACTED]. Our village was affiliated to Bingird Sub District. In the 2<sup>nd</sup> month of 1988, our village was bombarded...the military units were controlling the village, as 1<sup>st</sup> Al-Anfal campaigns broke in (Jafayati) valley. The confrontation started between Pishmarga and government forces ... the government's forces took over the region and approached our village. At midnight, I heard the screams of kids and women, and at dawn, I escaped the village. The government's forces were tracing us from behind while striking; one of the villagers informed me that all inhabitants who remained in the village were dislocated via military cars. When detainees, along with my mother, came back from Nuqrat Al-Salman returned back, I asked them about my mother and family members, they told me that the Iraqi forces segregated them at (Tupzawa) prison camp; [NAME REDACTED] told me that women were segregated away from men. They were among detainees at (Nuqrat Al-Salman), as some of the identity cards found at Al-Hadar belong to my brothers ([NAME REDACTED]). When I checked with the court, they showed me six identity cards for my family members, including that of my father which was with my mother ... and my mother's as well ... along with my sister's [NAME REDACTED] who's still alive, and second sister ([NAME REDACTED]) who was detained with my mother, in addition to the identity cards of ...

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[NAME REDACTED]). All those calamities hit us down because we are Kurds. I take legal actions against former president Saddam Hussein, 'Ali Hasan Al-Majid and all those who participated in Al-Anfal campaigns.

Plaintiff [NAME REDACTED], from (Sargalu), testified to court: "On 13 September 2006, our village was consisted of 500 families, all engaged in agronomy ... bombing was continuous in 1988 exploiting artillery, launcher mortars and helicopters, killing villagers on a daily basis. At night, two helicopters soared over the village; the result of the bombard was 8 dead who were [NAME REDACTED]. Another day, the aircrafts raided over our village prior to Al-Anfal campaigns killing 3 who were [NAME REDACTED] Then Al-Anfal Campaigns started on February of the same year, the forces advanced from 4 axis targeting us. They launched strikes over villages using chemical weapons, artillery, launcher mortars, and aircrafts and lasted for 20 days. Most of the inhabitants escaped to Iran ... it was cold, rainy and we were starving... the forces reached the village and destroyed it, along with its mosque and other villages'. They also burnt the Quran (holy book).

The aircrafts distributed pamphlets deceiving inhabitants to return [back from Iran] claiming an amnesty. Many families did, including 8 of my relatives. After they surrendered, they were put in military vehicles to Chuwar Qurna then Irbil. They were imprisoned; as news about them turned anonymous ... [NAME REDACTED] told me that he saw my relatives at Nuqrat Al-Salman prison camp. They are [NAME REDACTED], his wife [my cousin] [NAME REDACTED] and kids. They told us that both kids died of famine in Nuqrat Al-Salman.

And the victim ([NAME REDACTED]), who is a resident of (Maluma) village, started in his testimony in the court that: "On 13 September 2006, my family members were 9, they were my father, mother ....

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... and brothers [NAME REDACTED], sister [NAME REDACTED] and my grandmother [NAME REDACTED]. I went with my two sisters [Awaz and Barzan], and grandmother to my uncle's house in Al-Sulaymaniyyah. Couple of days later, we heard that our village was ruined down by the army, via Aircrafts and artillery's bombing. The citizens ran to the Iranian borders. Among them were my father and mother, and later they were struck by chemical weapons as livestock were exhausted. We knew about an amnesty, so I returned back to my village. All those inhabitants who returned were arrested by the army, including my mother and father, my uncle ([NAME REDACTED]), my grand mother ([NAME REDACTED]), my brothers and ([NAME REDACTED]) who were dislocated to Irbil). Sardar went to visit them in Irbil but could not find them. We didn't receive any news from them for 6 months, until my grand mother [NAME REDACTED] returned to describe their suffering in prison, the segregation of men from women, children from elders, as youngsters remained at Tupzawa Camp whereas women, children and elders were relocated in another prison. I still ignore the fate of my mother, father or brothers ([NAME REDACTED]), all detained. In 2004, I was summoned to Al-Sulaymaniyyah Court where they showed me some IDs. I recognized those of my brother and father. When I have inquired, they told me that the IDs were found in a mass grave at Al-Mawsil. Hence, I demand accusation against Convicts Saddam Hussein and Ali Hasan Al-Majid and all those inside the cage [cage of conviction]. Victim [NAME REDACTED] resident of Sargalu, testified his authenticated statement, delivered to court on 2006, September 13, "The First Anfal Operation broke on 1988 February 18, where I was one of the Pishmarga fighters. The Iraqi army used all kind of weapons including chemical ones. As we were retreating from the region, I saw a herd of sheep (2000-3000) all exhausted ... And the Shepard was laying dead as well ... holding his stick. The 1<sup>st</sup> Anfal operations occurred following orders by Saddam, while being supervised by 'Ali Hasan Al-Majid ... and

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on the 22<sup>nd</sup> of March 1988, aircrafts bombarded the area with chemical weapons. And they are Iraqi fighter jets ...some of the missiles that the fighter jets launched did not explode... after that I felt pain in my body but I stayed conscious ...I saw that the heads of people, who were with me, without bodies...and I saw chopped legs and arms, including [NAME REDACTED] and Doctors ([NAME REDACTED] and they are all dead, and I saw injured people [NAME REDACTED] Doctor ([NAME REDACTED]) ([NAME REDACTED]) and he is one of the citizens of (Galala), ('[NAME REDACTED]) are brothers from (Shadala) village. Then I left to Iran where I entered the hospital because I was unconscious.

Plaintiff ([NAME REDACTED]) of (Baranki) village says: "The army forces attacked our village with chemical weapons, where we left the village and headed to the mountains; I saw (3) dead people ([NAME REDACTED]), we then moved to (Guma Zil) village where I saw (8) citizen gatherings in the following villages: Qaranmi, Qumri Khan, Chalawa, Sargalu, Bargalu, Qalam Pasha, Sidar, Sikanyan and Dulabi, and then we went to (Shanakhasi) village, where we were struck by chemical weapons, and because we were too scared we went to the Iranian City (Sardashat), the aircrafts dropped pamphlets regarding the amnesty of (Saddam Hussein). The pamphlets stated that will be compensated and plot of lands will be granted to us...when we returned back to the village we found the army...we were then detained and transferred in military vehicles type (Zil), they confiscated what we had with us including blankets, pillows and food. We were taken to the Security Directorate in (Irbil)...where we stayed one day without food...after that we were transferred to another camp between Al-Mawsil and (Irbil). Where men and women were separated, I saw in the hall a number of (Yashmagh) (*T.C: means head cover*) stained with blood... I had my wife with me ([NAME REDACTED]) and my daughter ([NAME REDACTED]). My cousin ([NAME REDACTED]) told me that my wife gave birth to a boy in the hall but then the boy passed away immediately after birth; I named him ([NAME REDACTED]), I want to take legal actions against (Saddam Hussein) and ('Ali Hasan Al-Majid), and every one who participated in the operations.

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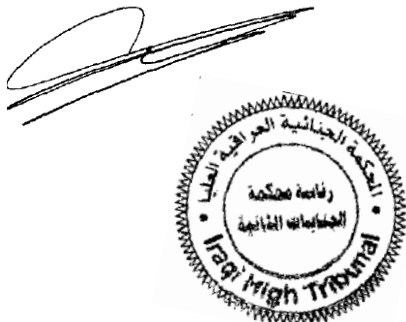
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**Second: The Documents:**

The court reviewed documents and official letters and the correspondences regarding Al-Anfal... We list a number of documents, official letters, correspondences and speeches.

1. The Revolutionary Command Council decree (160), on 1987, by which the Army Commanders of the northern area became under the command of ('Ali Hasan Al-Majid).
2. Letter No.: (3650) dated 3<sup>rd</sup> of June 1987, issued by the Northern Organization Office (accused 'Ali Hasan Al-Majid) that is directed to the command of the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps, Ba'th Party Branches Command, security Directors of the Autonomous Region, the Directorates of GMID and Intelligence System, by which the economical sanctions was imposed on the Northern area, where the supplies of food and medicine to the Kurdish villages were prohibited in addition to agriculture, gas, human beings and animals were all prohibited from entering the area as well.
3. Letter No.: (4008) dated 20<sup>th</sup> of June 1987 directed to the Military Commanders, includes...human beings and animal are prohibited from entering the area... And requesting the Corps Commanders to carry on special strikes (using chemical weapons).
4. Letter No.: (1122) dated 21<sup>st</sup> of August 1988 directed to the 1<sup>st</sup> and 5<sup>th</sup> Corps regarding the meeting that was attended by Chief of Army Staff and his deputy for operations in Kirkuk. The First paragraph of this letter includes the following: "defining the concentrations of the population in the sector of the 5<sup>th</sup> corps and attack them using intensive special strikes 48 hours prior to starting the operation in order to create panic among them ...with taking cautious not to attack any of the villages neighboring to Turkey). The paragraph (4) of the letter states that the recent chance...



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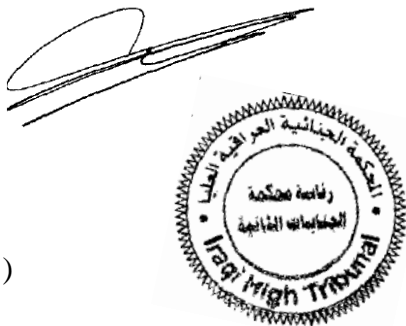
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...to eradicate the sabotage in Northern areas is the best chance and it might not come again in the future.

5. Letter No.: (5083) dated 22<sup>nd</sup> of July 1987 directed to the 1<sup>st</sup> corps from Northern Organization Office that includes the comments of Saddam Hussein: "We have no problem in chopping the traitors' heads... but it would have been better if they were taken to the security directorates to be interrogated, maybe they have some information we can benefit from it before their execution)
6. Letter No.: (349) dated 27<sup>th</sup> of April 1988 issued by the Chief of Army Staff and directed to the First Corps (Sultan Hashim Ahmad) and the 5<sup>th</sup> Corps (Ayad Khalil). The paragraph (F) of 2<sup>nd</sup> Clause includes the following:-  
Using the special ammunition (Chemicals) against the enemy's gatherings as long as it is possible whether by air force or Artillery / Multiple rocket launcher /helicopters / before they start their operations against our troops (preemptive stricks) and it is also suggested to use the special ammunitions against the saboteurs' headquarters).
7. Letter No.: (1182) dated 28<sup>th</sup> August 1988 issued from Chief of Army Staff directed to the command of 1<sup>st</sup> and 5<sup>th</sup> corps...its subject is (directions of Deputy General Commander of the Armed Forces / Minister of Defense...(destroying all the villages eliminating all houses within any village).
8. and Letter No.: (2057) dated 5<sup>th</sup> of April 1988 and that includes orders for granting medals of bravery to ( Sultan Hashim and Ayad khalil) for their role in Al-Anfal 1<sup>st</sup> and 2<sup>nd</sup>.

The accused ('Ali Hasan Al-Majid) mentioned before the court on the 7<sup>th</sup> of February 2007, that Lieutenant general (Sultan Hashim Ahmad) is the Commander of 1<sup>st</sup> corps and he was in charge of sectors of in the governorates of...

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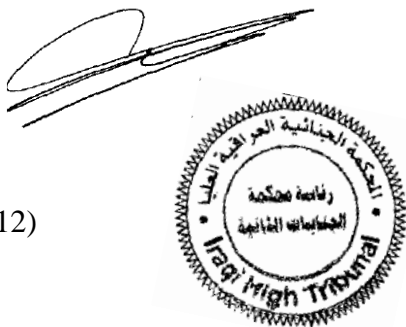
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...(Al-Sulaymaniyyah) and [Al-Ta'mim (Kirkuk)], and all government's Military and civilian systems in the Northern Area, are related to me and I do not deny it.

As accused (Farhan Mutlak) mentioned in his testimony in the court during the court's sessions, that Oil Protection Forces Command is one of the 1<sup>st</sup> corps' formations that is under the command of accused (Sultan Hashim Ahmad) and they receive direct orders from the corps' commander.

8. A letter from Oil Protection Forces Command (Top secret) No.: (295) dated 12<sup>th</sup> of April 1988 directed to Al-Ta'mim Security Directorate with a list of (151) individuals who turned themselves in to the military troops, attached to the letter.
9. And the letter from Oil Protection Forces Command (Top secret) No.: (323) dated 4<sup>th</sup> of April 1988 directed to Al-Ta'mim Security Directorate that mentions sending (39) individuals of whom turned themselves in, to military troops.
10. A letter from Oil Protection Forces Command No.: (287) dated 11<sup>th</sup> of April 1988 Which states sending (139) individuals to (Chamchamal) security.
11. A letter from Oil Protection Forces Command No.: (284) dated 10<sup>th</sup> of April 1988 which states sending (30) individuals to (Chamchamal) security.
12. A letter from Oil Protection Forces Command No.: (304) dated 12<sup>th</sup> of April 1988 directed to Al-Ta'mim Security Directorate that includes Name roster of (155) individual who turned themselves in to the military troops.
13. A letter from Oil Protection Forces Command that states sending (312) individuals to Al-Ta'mim Security Directorate.
14. A letter from Oil Protection Forces Command No.: (338) dated 15<sup>th</sup> of April 1988 states that (69) individuals were sent to Al-Ta'mim Security Directorate.

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15. A letter from Oil Protection Forces Command No.: (361) dated 11<sup>th</sup> of April 1988 states that (47) individuals were sent to Al-Ta'mim Security Directorate.
16. A letter from Oil Protection Forces Command No.: (302) dated 12<sup>th</sup> of April 1988 states that (56) women, (104) children and (4) men, and all were taken to Al-Ta'mim Security Directorate.
17. A letter from Oil Protection Forces Command No.: (304) dated 16<sup>th</sup> of April 1988 states that (89) individuals were sent to Al-Ta'mim Security Directorate.
18. A letter from Oil Protection Forces Command No.: (337) dated 15<sup>th</sup> of April 1988 states that (69) women, (100) children and (10) men who were sent to Al-Ta'mim Security Directorate.
19. A letter from Oil Protection Forces Command No.: (339) dated 15<sup>th</sup> of April 1988 states that (33) individuals were sent to Al-Ta'mim Security Directorate.
20. The sum of the aforementioned individuals in the letters are (1397), they were sent to the Security Directorates and detainment camps where they disappeared and until this day their destiny is still unknown.

**((Examinations and Reports))**

Court decide to gather more evidences by carry out a site examination to make the truth clearer, so the court's jury with all its members accompanied with the General Prosecution jury moved to the northern area and started their examinations on the following locations:-

**1. Nazarki Castle Dated 21/ 11/ 2006**

It is a two floor structure which is built out of Bricks and concrete, has a rectangular shape and a big square... each floor consists of big halls, ground floor has (26) halls and (53) rooms, and the 2<sup>nd</sup> floor consists of (19) halls and (36) rooms...

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...The court recognized the existence of (6) surveillance towers on the building, and in the mean time , poor Kurdish families reside in the castle...this castle was used as a detention camp for the Kurdish families who were brought from their villages during Al-Anfal campaign.

**2. Bahirka area**

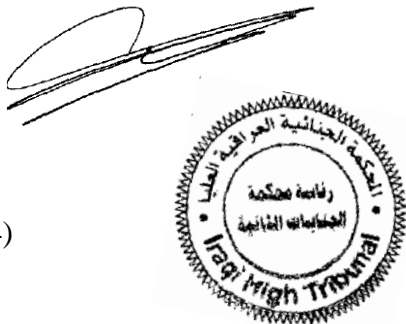
On the 22<sup>nd</sup> of November 2006, the court carried out a survey on Bahirka area, it turned out to be a residential alley as the piazzas look like they were newly built...and it is (15 km) far from the center of Irbil Governorate and is located in a level land area with no buildings and far from the mountains...The previous regime used it as a detainment location for the Kurdish families who were brought from their villages by force during Al-Anfal campaign.

**Examination report of the following villages (Balak Jar, Takya, Siwsinan, Shursh Compound) dated 23<sup>rd</sup> of November 2006:**

When the jury of the court arrived to Siwsinan village, they recognized a mass grave on the eastern side of the main road fenced with a round blockade where graves were arranged...the court had noticed the inscribing on the graves...as it also noticed that the names on the graves are similar to what the witnesses mentioned in their testimonies in some of the court sessions...it turned out that the victims who lay in those graves are the victims of Al-Anfal chemical strikes.

Then the court moved to Takya and Balak Jar villages...they noticed that the area is surrounded by mountains facing mount Qara Dagh. Takya village is located on the summit of mountain where the number of its houses varies (20-25)... Balak Jar r village is located in Qara Dagh valley that contains approximately 12 to 20 houses.

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The court has noticed rocket launcher implanted in the earth away from the village by (500) m as the court noticed another rocket launcher appears on the earth, its length is about (2) meter and it is located (1000) meter away from the village.

Then the court visited Shurish complex...when the committee arrived to the complex in 23 November 2006, they noticed that it is a huge compound located on the main road that linking Al-Sulaymaniyyah with Chamchamal....then the committee surveyed the area.

Then the court moved to Barjini village, which is located 27 kilometers far away from Duhuk (27). It is located in a mountainous area surrounded by mountain chains from four sides, 50 kilometers far away from the Iraqi Turkish borders ...the court noticed that all houses and mosque were totally destroyed as well as the court took a look on the mass grave which includes corpse of (Hasan Salih) and his grandson (Dijwar), who was mentioned by the international expert (Snow) as well as the plaintiffs. In addition, the court saw remains of bombs include solid yellow material. These materials were tested, and the results indicate that they are residues of chemicals.

The court surveyed the (Shaykh Wasanan), (Balisan) and (Wari) villages...the committee noticed remains of cluster and chemical bombs found between (Biraw and Kani Bard) villages, a sample was taken of these remains by the expert engineer of chemical weapons, who was accompanied by the court during this visit, kinds of these remains were discovered by the abovementioned expert.

The committee moved to (Wari) village and its graveyard. The village is located in the eastern area on the main road leading to (Balisan)...the village consists of 40 houses...



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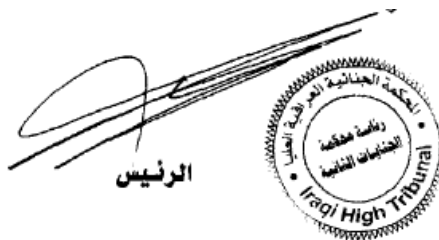
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It is located 2 kilometers faraway from the village. It is situated on (Qashan) River...the corps were still covered with dirt. It was found out that the graves related to Al-Anfal operations victims.

**Experts' reports:**

The court, from the beginning, relied on qualified international experts executing their work under supervision of the court...as well as the court recalled some of these experts to testify in the court.

The expert (Snow) stated in the court on 28 November 2006 that he opened the mass grave in (Kurimi) village in (Duhuk) where he picked up 27 corpses that were executed by the Iraqi troops. He confirmed that all the victims were at sitting position which conforming to the testimony of the survivors, as the victim ([NAME REDACTED]) who survived has said. The expert (Snow) stated that 84 killed by shooting, 10 shooting in the head, 24 shooting in the chest, 65 shooting in the pelvis and few victims were shot by other limbs when the victims were commanded to set in front of execution squads. The expert (Snow) stated that when he was in the area, he was informed by a young man called ([NAME REDACTED]) that his mother and young sister died in (Jaznikan)/Irbil during detention with thousands of women and children because of the harsh conditions and undernourishment. He convinced the young man to guide him to the grave where he told us that his mothers was not able to breast feed his daughter after few weeks in detention. The baby was tested and the results indicated that she was seven months old but suffers from very serious deformation in skeleton as well as the malnutrition. The bones tests showed the severe undernourishment she suffered from. This gives us an idea about the severe living standards existed in the detention camps, especially for babies.



The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official seal. The seal contains Arabic text: 'المحكمة الجنائية العراقية العلية' (The Iraqi High Tribunal) around the top edge, 'دائرة التحقيق' (Investigation Department) in the center, and 'القضايا الجنائية' (Criminal Cases) around the bottom edge. Below the seal, the word 'الرئيس' (The President) is written in Arabic.

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Then the expert (Snow) moved to a small village called (Barjina) close to (Kurimi) village, which exposed to chemical bombardment in 25 August 1988. An old man called (Hasan Salah Hasan) and his grandson (Dishwar Hamid Hasan), who was 5 years old, were killed because they mistakenly escaped through the valley instead of climbing the hill. We dug in the grave and found a skeleton of the old man with his grandson still wearing clothes ...the expert also noticed many gaps occurred as a result of bombs then he took samples of the soil and sent to the United States of America. The laboratory examination shows that mustard and Sarin gases were in this area...

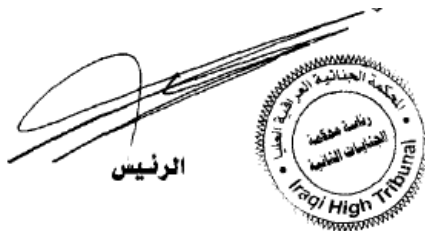
The expert doctor (Asfandiyar Ahmad Shukri) testified in the court in 29 November 2006 that he visited the refugees' camp in Turkey (Diyar Bakr), which included 13 thousands refugees and (Mardin) refugees' camp, which included 5000 refugees.

The expert doctor said that all people he met from (Balisan, Ikmala, Hibas and Barjina) Villages confirmed that they were infected with:

- A- Eye irritation
- B- Difficulties in respiratory system
- C- Difficulties in digestive system
- D- Burns and irritation in digestive system

In addition to the scares, which were seen on the victims' bodies [which were identical with marks of colored injuries of the skin with the center less dark - this part of the injury was identical to the type the Nazis (Germans) used in the 2<sup>nd</sup> World War].

The physician added that one of the girls who was exposed to the chemical explosion was examined, and commented that they examined the girl and found swelling in her chest and in between her small breasts....there was also a trace of cirrhosis of healed wound in her lower lip.



The image shows a handwritten signature in black ink, followed by a circular official stamp. The stamp contains the text 'الهيئة القضائية العراقية العليا' (Iraqi High Tribunal) in Arabic and 'Iraqi High Tribunal' in English. Below the signature, the word 'الرئيس' (President) is written.

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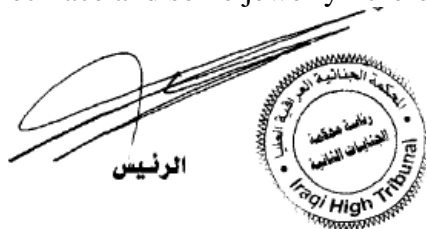
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an injury under the left eyebrow, a healed injury on the left cheek, whereas the light color was in the middle while the dark color was around the injury which is the morphological shape of using mustard gas. Therefore, the expert reached a conclusion that (Sarin and mustard gas) were used in Kurdistan. Furthermore, the use of mustard gas was in a wide range.

The expert Michael Trample stated that his work was a result of two years of efforts under the supervision of the Iraqi High Tribunal, together with the aid of experts from the United States, Australia, Costa Rica, and Canada. He added that he supervised the digging of three mass graves (Ninawa/2) (Ninawa/9) (Muthanna/2). The expert stated that the two graves (Ninawa/2) (Ninawa/9) located in a talus and small valleys that intersect with a big valley in such a manner that the persons who are walking towards the south can't see the people and equipments working in the graves. The expert added that he excavated the mass grave (Muthanna/2). 123 victims (who were executed) were lifted. Moreover, this grave contained children and women only. There were 25 adult women, 98 children, and 90% of these children were under 13 years of age. The expert added that there were different scenarios for executing the victims:

- 1- Small groups were pushed towards the talus of the hole inside the grave and then were shot in the head from the back by one pistol bullet, while they were standing.
- 2- By the same aforementioned style, the victims were kneeling down and shot from the back.
- 3- Groups of the victims were pushed toward the grave's edge and were shot. They then fell down into the grave or were forced to bow where the shooting took place.

The expert added that these victims had a life, fears, happiness and feelings....a woman had a necklace and some jewelry - there was a ring and finger ring.



The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official stamp. The stamp contains the text 'القضاء الجنائي العراقي' (Iraqi Criminal Court) in Arabic at the top, 'رئاسة محكمة' (President of the Court) in the center, and 'القضايا الجنائية' (Criminal Cases) at the bottom. The English text 'Iraqi High Tribunal' is written around the bottom edge of the stamp. Below the signature, the word 'الرئيس' (President) is written in Arabic.

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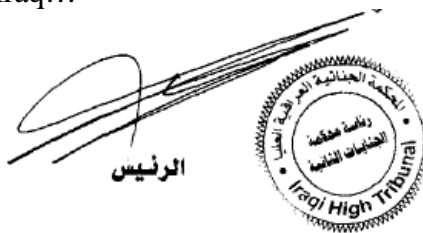
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Another case involved a (6-7) month old embryo in his mother's uterus. The expert then added that in his experience he never saw a grave in this depth (3, 5 meters) and done by this way, to avoid being discovered. He also stated that he found personal belongings and identity cards that were given to the court. Additionally, the tribunal's commission would like to clarify that the statement of the victim's relatives were in no doubt identical, and the victims were the inhabitants of the Kurdish villages who were coerced to the mass grave during the Anfal operations.

The expert further stated that he lifted 64 individuals from the mass grave (Ninawa/9) who were all adult males executed by automatic weapons. In regards to the (Muthanna/2) mass grave, the expert added that 114 individuals were lifted. Among them were 27 adult women, 2 adult men, and 85 children. The expert added that all the victims were executed while they were standing. Furthermore, the expert stated that most of the victims who were lifted from the mass grave in (Ninawa/2), (Ninawa/9) and (Muthanna/2) were wearing the Kurdish traditional cloth. The expert noted that all the mass graves were prepared in the same style and organization.

**The mass graves:**

They are huge mass graves that include men, women and children whom they were victims of the Al-Anfal operation. They were detained in the huge prison camps (Tupzawa, Dibs, Nazarki Castle) or other prison camps run by the security departments in Kurdistan Governorates and Al-Salamiyyah prison camp in Ninawa Governorate...big efforts were spent to discover these mass graves, many international expert and humanitarian organizations contributed in the searching process for these mass graves in different parts of Iraq...

The image shows a handwritten signature in black ink, followed by a circular official seal. The seal contains the text 'القضاء الجنائي العراقي' (Iraqi Criminal Court) in Arabic and 'Iraqi High Tribunal' in English. Below the signature, the word 'الرئيس' (President) is written.

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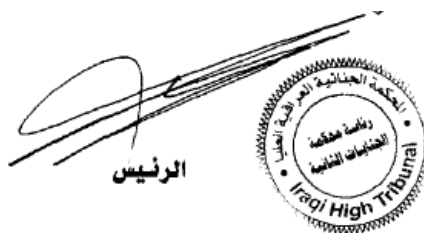
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The Iraqi High Tribunal received 4 bookbinders; the first is about the mass grave in Al-Muthanna, the second about the mass grave in Ninawa and the third about the mass grave in Kurimi village, which included 27 corpses, and was opened by the international expert (Snow), who testified in the court in the 24<sup>th</sup> session, on 28 November 2006.

Concerning the mass grave Muthanna 2, the international expert (Kaufman Trample) said "we pull out 114 corpses during 9 days; all of them were executed or shot by automatic gun at standing position, 85 children, 27 women and 2 adult males. The expert said that 95 % of the children were below 13 years old and all the victims were wearing Kurdish traditional cloths. The expert added that 50 documents were found between the remains, most of the documents were Iraqi currency others were 16 ID's 6 ID's were in good condition in addition to handwritten document...the expert stated that the clothes were related to 73 females and 26 males...from the type of females costumes, we concluded that 28 female were adults, 12 females were minor (13 – 17)...28 children (3 – 7) years old and 5 infants.

From the type of males' clothes, we concluded that they were 4 adults, 13 minors, 27 children and 1 infant.

From the personal belongings we found between the remains in the graves cosmetics, accessories, jewelries and house holds, we regain stuff for 93 victims such as 7 necklaces, 14 cosmetics cans and 14 perfume bags... The clothes and educational items in total for the victims indicate that the people in the (Al-Muthanna/2) grave were of Kurdish ethnicity ...the expert said that we extracted bullets that were with the males and the females from all ages (extracted from the remains), also extracted bullets from 71 corpses...



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... and cartridges from 37 persons, 79 bullets and 4 cartridges from cloths and bones' remains. 83 Bullets and 28 cartridges were found attached to deceased cloths or their personal items. 48 Bullets and 93 cartridges were collected from the tomb. Perforations were noticed all over the victims' clothes ... They [perforations] were more clear within clothes covering torso level such as shirts, dresses and jackets. The ropes used to tie hands as well as textures to blindfold the eyes were found ... From analyzing the evidences, it becomes clear that victims were killed and entombed at one time. Legislative forensic analysis, over skeletons' remains pertaining to some 114 individuals, were carried out after being interred from Al-Muthanna/2, constituting the whole tomb's "assets". From the examination of the whole 114 skeletons, it was concluded that 109 were shot in or near the skull, as it had been proved that the 114 skeletons were exposed to six bullet shots each, most of them in the torso. Ninawa/2 and Ninawa/9 are the names of 2 mass graves at Al-Hadar area. International Expert, Mr. Michael Trample stated that from Ninawa/9 mass grave were interred 123 bodies, including 25 adult women and 98 children ... 90% of them were under 13 years of age as all of them were executed. 145 documents had been found among the dead bodies at (Ninawa/2) and (Ninawa/9) mass graves. Among the found documents are identification cards, military service certificates, salary certificates, photos, letters and other personal items. 10 out of 63 identification cards pertain to citizens from Al-Sulaymaniyyah area. The expert reveals...by analyzing the texture of clothes extracted form both (Ninawa/2) and (Ninawa/9) mass graves, in order to define the origin, age and social gender, 123 bodies were found to be of Kurdish origins, according to clothes' age and couture from (Ninawa/2) mass grave.

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These results matched up with 76 females and 27 males. The clothes identified 36 adult females and 30 young girls, as well as 27 young men [no adult males were found]. At Ninawa 9 mass grave, all clothes identified adults, distinguished by a total absence of females. In this mass grave, deceased individuals were wearing a mixture of Kurdish and traditional Arabic clothes, the clearest outfits to be the Kurdish pants. 9 individuals were found wearing Kurdish traditional waist belt. All these characteristics proved that the bodies found at Ninawa 9 site pertained to adult males of Kurdish origins. At (Ninawa/2) mass grave, 1161 items were taken out from 53 out of 123 bodies. Most of these items suit adult females, such as house utensils, spoons, forks, tailoring tools, detergents and medicines. Jewelries, pertaining to 57 bodies, were found, and, in some cases, extra clothes kept in plastic bags. At (Ninawa/9) site, the male wore many pieces of clothes at a time. 9 deceased individuals were carrying identification cards ... jewelry consisted of 11 watches ... 5 rings. 50 had Iraqi currency, with one victim carrying a wallet, and two others holding keys ... and 5 carried medicines. At Ninawa 2 and Ninawa 9 mass graves, 47 tied ropes were found where adult men, numbering 64, were found either blindfolded or masked. The ties were consisted ropes tied to 48 dead bodies' wrists.

**Third: Convict's 'Ali Hasan Al-Majid testimony brief against Convict Sultan Hashim Ahmad:**

Convict 'Ali Hasan Al-Majid mentioned in his testimony before the Investigative Judge, on 2004 December 18, that the military troops and national defense regiments were responsible on Al-Anfal Operations.

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Convict Sultan Hashim Ahmad was leading these operations at Al-Sulaymaniyyah area. Convict 'Ali Hasan Al-Majid stated in his testimony before court, on 2007 February 7, that Lieutenant General Sultan is First Corps' commander, as well as in charge of Al-Ta'mim and Al-Sulaymaniyyah governorates. Convict 'Ali Hasan Al-Majid says that all state's civil and military systems in Northern area were directly attached to me, as I did not deny that.

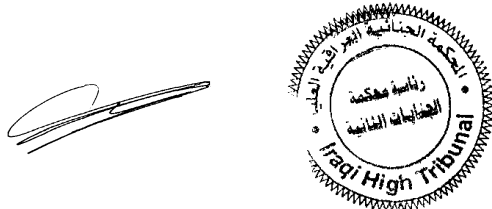
**Fourth: Convict's Husayn Rashid testimony brief against Convict Sultan Hashim Ahmad:**

Convict Husayn Rashid said in his testimony before the Investigative Judge, on 2005 September 18, "I ordered Convict Sultan Hashim Ahmad to lead Al-Anfal first operations which were targeting Sargalu, Bargalu, Kani Tu, and other locations; Convict Husayn Rashid adds: regarding Al-Anfal 2<sup>nd</sup> operations, the Operations Directorate sent a representative to 1<sup>st</sup> Corps to study the plan as a whole.

**Fifth: Convict's Farhan Mutlak testimony brief against Convict Sultan Hashim Ahmad:**

The convict says in his testimony before court, on 2007 February 15, that Al-Anfal operations are pure military operations executed by First, Second and Fifth Corps' troops, along with national defense regiments. It was executed through four main stages:

- 1- 1<sup>st</sup> stage: the preparatory bombardment stage
- 2- Land assault stage
- 3- Villages demolishing stage
- 4- Stage of dislocating civil inhabitants via military vehicles to Northern Organization Office and Security directorates



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**Convict's Sultan Hashim Ahmad defense brief:**

The convict stated in his testimony before the Investigating Judge, on 2005 March 20, that he led Al-Anfal first operation as his mission was limited to (10-15) Km north east Al-Sulaymaniyyah, and left until Dukan towards the Iranian depth, as the operation's center was the villages of Sargalu and Bargalu where Patriotic Union of Kurdistan's headquarter was located. The convict adds that he was following orders from Chief Army of Staff Nazar 'Abd-al-Karim or his deputy for operational affairs, Convict Husayn Rashid. He revealed "Chief Army of Staff Nazar 'Abd-al-Karim, via his deputy for operational affairs, Convict Husayn, handed me Al Anfal First Operations Dossier". Convict Sultan Hashim Ahmad lanced "When I was 1<sup>st</sup> Corps' commander, coordination was between me and Northern Organization Office headed by Convict 'Ali Hasan Al-Majid, according to order (4008) on 1987 June 20. He also stated that part of Al-Anfal operations was carried out by First corps only as other parts were contributory with Second and Fifth Corps. Our mission was to expel the saboteurs, cleansing the area, dislocating citizens and families of those Prohibited Zones, and handing them over to Northern Organization Office, through the intelligence system.

The convict says: "Throughout the operations, I did not exceed the limits of executing orders issued to me by the Chief of Army Staff represented by military operations to cleanse the Northern Area from Iranian enemy forces, Khumayni guards (*T.C Iranian Revolutionary Guards*) and armed Pishmarga coordinating with the enemy and his supporters.

Furthermore, the convict testified before the Investigative Judge that he did not receive or issue orders regarding special ammunition, as he did not know that special weapons or ammunition do exist, as he mentioned while defending himself before court, adding up that he did not murder any civilians.



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The convict stated while defending himself before court "families were dislocated by military vehicles from combat areas to Northern Organization Office, along with their furniture and belongings. As for mass graves, in particular those villagers of (Sidar) at Al-Sulaymaniyyah area where citizens' remains were found, he proclaims his anonymity as his mission was limited to handing over families to Northern Organization Office only. Along a question raised by the Investigation Judge regarding the legitimacy of dislocation and demolishing of villages, the convict responded that he is a military officer who carried orders whether these orders were legitimate or not "If I object to the implementation of any order I will be sentenced to death as per Military law in a state of war".

**Convict's Sultan Hashim Ahmad's Proxy brief:**

The proxy for the accused has shown, in his brief that his client turned himself to Coalition Forces according to an appeal addressed to him in this regard, through a letter to the convict asking to surrender as being a POW [prisoner of war].

The attorney confirmed that the army has nothing to do with the mass graves or genocide. He confirmed that his client does not know any thing about both, elaborating that dealing with civilians was the responsibility of security directorates. The Corps or army has nothing to do, adding up that his client was never the commander or in charge of security or police personnel since they were correlated to Northern Organization Office. He clarified that the responsibility of dislocating civilians had occurred following an order from Northern Organization Office, before being affiliated to First Corps' command. The aforementioned dislocations were carried out without counting, statistics or organized listings. The army's duty and responsibility, regarding those [dislocated families] ended immediately after handing them to Northern Organization Office.

The attorney clarified, as well, that his client had no relation with chemical weapons or mass graves; as he appealed the expert's, Dr. Isfandyar Shukri, when saying: "How can the expert identify that chemical weapons damages are caused by the Iraqi army", affirming that the chemical ...

The President



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... usage is subject to doubt. The proxy rebutted what plaintiffs' attorneys personal right, were mentioning that his client, when he was the 1<sup>st</sup> Corps' commander, ordered chemical weapons' use against Kurdish civilians, in coordination with 5<sup>th</sup> Corps' commander ... responding back that their allegations are missing evidence ... The proxy elaborated that the official plan for Al-Anfal operations does not contain any clause indicating orders to strike villages with chemical weapons. He rebutted the plaintiffs' attorneys' allegations personal right, when he insisted on his client's ignorance of using chemical weapons or weapons of mass destruction [WMD], though he led Al-Anfal first operation at Sargalu and Bargalu areas. Concerning Kurdish civilians, the proxy clarified that no individual [deceased in mass graves] was found within areas under 1<sup>st</sup> Corps' command, as no one was turned to Northern Organization Office, though his client admitted that military troops handed civilians to Northern Organization Office.

Convict's Sultan Hashim Ahmad proxy acknowledges that his client admitted commanding Al-Anfal first operation within designated geographic area in Northern Area, at Sargalu, Bargalu and Mawat villages, but denies his client's involvement in using chemical weapons and WMD, confirming that Al-Anfal operation's plan was vacant from chemical weapons and WMD, quoting United Nations Atomic Energy Commission citation which denied Iraq's possession of such weapons; mentioning that the air force is correlated to minister of defense rather than 1<sup>st</sup> Corps' command which was headed by his client.

Convict's Sultan Hashim Ahmad proxy acknowledges that his client admitted that military troops (not the convict himself) moved citizens along with their personal belongings to Kirkuk and not directly to Convict 'Ali Hasan Al-Majid, elaborating that his client's mission was that much limited, not to stretch over adopted procedures against them [Kurdish] in camps. The convict's proxy revealed ...

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... that his client did not meet or face Convict 'Ali Hasan Al-Majid, or receive orders from him throughout all Al-Anfal operations. He clarified as well, before Investigating Judge, that the client carried orders assigned to him by his commanders, whether legitimized or not, for the mere fact that orders were issued from a commander who must be obeyed, since it was released to him by a commander (Official) that he have to obey, since Iraq was in a state of war. Concerning charges against Convict Sultan Hashim Ahmad, regarding villages' demolition and dislocation of their civil inhabitants, the proxy clarified that his client is a military person that have to obey orders assigned to him, if not, he will be executed, mentioning the Prohibited Zones, defined according to instructions issued by Convict 'Ali Hasan Al-Majid. As for experts' reports submitted to court, the proxy clarified that they can not be legally relied upon [legitimacy and validity] as evidence against his client, insisting that the client has nothing to do with arresting and imprisoning Kurdish civil inhabitants, through Al-Anfal operations, since it is the Northern Organization Office's responsibility along with other security systems. For the usage of chemical weapons, which is charged against his client, Convict's Sultan Hashim Ahmad proxy clarified that no clause, in Al-Anfal operations' plan, indicate the usage of chemical weapons, as his client didn't get such orders or issue one. Regarding the telegram, sent by Convict Sultan Hashim Ahmad to Convict Saddam Hussein, the proxy says that it was merely a report concerning military troops advance, explaining that his client has nothing to do with Al-Anfal fifth, sixth or seventh operations, declaring that they were executed by Fifth corps, commanded by the accused Yunis Muhammad Al-Dhirb. Furthermore, Convict's Sultan Hashim Ahmad proxy had claimed that his client did not commit any of the crimes enlisted in the bill of indictment, as his client's contribution in Al-Anfal operations aimed to intercept Pishmarga Forces attacks which were supported by the Iranian forces who fought by their side. He requested not ...

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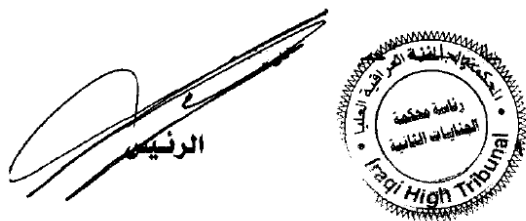
... not to question him for committing any of the crimes referred to him as he is not responsible. He also requests his client to be released for lack of evidences or to lighten the sentence as per clause (5) of Article (15) of Iraqi High Tribunal Law No (10) for the year 2005.

**(Genocide)**

The Iraqi High Tribunal law does not present any idea whether the description of the group's characteristics, which is the target of convict's criminal intention, should be determined according to substantive or non substantive standards or even different ones. Different international tribunals found that determining whether the group comes within a protection range or not must be evaluated as per each case alone, reviewing substantive standard of a particular historical or social context along with non-substantive view of crimes' perpetrators (case / convict Simanza....the verdict of International High Tribunal for Ruwanda/15 May /2003/clause/317). Based on that, the protected group will be determined as per each case alone, via the usage of substantive and non substantive standards. Genocide is always considered as targeting stabilized groups only. The latter are identified substantially as the ones to which individuals are affiliated regardless of their special desires, such as in communities which are naturally permanent and the individual belongs to them [communities] by birth rather than a freewill correlation as in religious group (Case of Yalizich – Verdict of International High Tribunal for former Yugoslavia / 14 December / 1999 clause / 69).

The national group is defined as a group of people that are considered as contributors in legal ties based on joint patriotism besides exchanged rights and duties (Case of Cayizu – Verdict of International High Tribunal for Ruwanda / 02 September / 1998....clause/512).

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The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official seal. The seal has a double border. The outer border contains the text 'القضاء العظمى العراقي' (The Great Iraqi Judiciary) at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة المحكمة' (President of the Court) at the top and 'القضايا الجنائية' (Criminal Cases) at the bottom.

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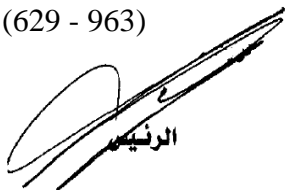
The ethnic group is commonly defined as a group whose members share a joint culture and language (Case of Akayzu – verdict of International Tribunal for Rwanda / 02 September / 1998 Clause / 513).

There are several reasons correlate to the aforementioned definition. These reasons include whether the group members are considered ethnic group or not, or if others like offender or group of offenders who perpetrated genocide, consider this given group as ethnic (Case of Kayishma and Ruzindana ... verdict of International tribunal for Rwanda 21/May/1999 clause/98).

This definition means that an act should be committed against a national, ethnic, racial or religious group due to nationality, ethnicity, religion or race. This act should be committed against the individual since he was a member in a given group and particularly because he belongs to this group whereas the individual is representing the whole group rather than an individual (Case of Lishifka – Verdict of International Tribunal for Rwanda / 16 May / 2003 clause/ 410). In other terms, the act should be committed against one individual or more for his affiliation to a particular group rather than his personal identity which means that the genocide's victim is the group itself rather than the individual (Case Rutaghanda – verdict of International Tribunal for Rwanda) /6 December / 1999 / 2 September 1998 / clause/ 521 and the case of Muzima, verdict of International Tribunal for Rwanda / 26 January/ 2000 clause /165).

It is important to mention that the relation between ethnic group and political program, which practically merge between ethnic and political identities, does not annul the intention of genocide which moves the given convict. On the contrary, by defining individuals as enemies of the state, through linking them to political opposition just because of their ethnicity, emphasize on the fact that their affiliation to such ethnic group was the main reason to target them (Case of Nahimanabar Ifwanza, and verdict of international tribunal for Rwanda / 03 December / 2003 / clause 969). The "partial" or "total" expressions refer to the aim of eradication vis-à-vis the factual one ...

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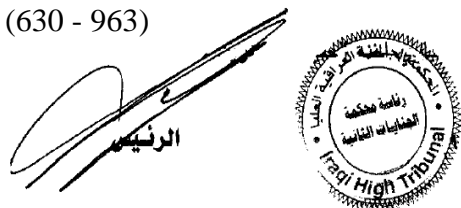
...for the group. Definitely, any action committed with intent to eradicate any part of a group, for such attribution, constitutes eradication (Case of Bardiyanin / verdict of international tribunal for former Yugoslavia / 1 / September / 2004 / clause 700).

The international tribunals agreed, in international law committee's declaration, that the intention must be group's eradication, for such attribution, meaning as a separate and distinguished entity rather than putting an end to some individuals for affiliation to a certain group. If the meant eradication does not need to be directed to each individual within the aforementioned group, the tribunal considers that the eradication intention must at least target an important part of the group (Case of Baghlimishima, verdict of international tribunal for Rwanda / 7 June / 2001 / clause 64).

Hence, to confirm partial genocide, the part must be an important one within the same given group.

(Case of Karstich, verdict of international tribunal for former Yugoslavia / 19 / April / 2004 / clauses 8 and 9) ... By evaluating whether the group's size was important, international tribunals took into consideration an important number of factors including number value, the number to total group's size ratio, and the importance of the targeted group within a given community. Hence, if the particular part represents the whole group, or is eminent for the group's existence, then it will match the following quotation "The part has the eminent part's characteristic" (Case of Karistich, verdict of international tribunal for former Yugoslavia 19 / April / 2004 / clause 14). It's historically sure and known that the Kurds were and still an ethnic national community residing Kurdistan region in Northern Iraq. They were targeted by former Ba'th regime and Saddam Hussein for their ethnicity and nationalism, as this targeting came partially. They were exposed to genocide and severe damage through ...

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The image shows a handwritten signature in black ink, which appears to be 'الرئيس' (The President), written over a circular official seal. The seal contains the text 'الهيئة القضائية العراقية' (Iraqi Judicial Body) at the top, 'رئاسة المحكمة' (President of the Court) in the center, and 'القضايا الجنائية' (Criminal Cases) at the bottom. The words 'Iraqi High Tribunal' are also visible around the bottom edge of the seal.

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...the wide-range usage of the chemical and conventional weapons. They were also subdued to living conditions intended to their annihilation through the coercive dislocation and destroying the ability to continue living besides of the inability to get back to their homes. They were additionally transferred to the inhumane crowded detention camps, and executing the civilians in order to lighten the crowd in the detention camps. All the above reasons spontaneously lead to create conditions intended to annihilate the Kurdish group. The genocide is elaborately explained as the following:

#### **The article /11/ First:**

**A – Killing a number of individuals as a genocide relating to the accused, Sultan Hashim Ahmad):**

#### **The Crime Elements:**

The killing as a genocide requires providing the following elements:

- 1 – The crime perpetrator kills an individual or more.
- 2 – The killed individual of individuals should belong to a particular ethnic, national or religious group.
- 3 – The crime perpetrator intends to annihilating this ethnic, national or religious group wholly or partially for that reason.
- 4 – This behavior must be shown in a clear and identical behavior style directed to this group or this behavior might lead to the annihilation by itself.

**For providing the elements of killing as genocide:** It's necessary to provide the elements of the premeditated crime that was perpetrated with malice aforethought which led to several victims. Hence, a criminal behavior must exist that committed by the perpetrator or the participant in such action or the behavior representing in the killing action or at least being a cause for it. In addition to the existence of a criminal result representing in the death of the victim and there's a causative connection between the action and the result. When these all elements are provided, the tangible cause is provided.



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The Presiding Judge

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Additionally, the objective element for this premeditated murder crime should be provided representing in the criminal intention of the perpetrator, and that also requires providing an element of the perpetrator's intention to partially or wholly annihilate a national, ethnic and religious group for this reason, considering that the criminal intention is the will to achieve the criminal result through a behavior that is in the framework of identical and clear behavior directed against this group. Generally In the International crimes, the circumstance of premeditate intention is considered through the joint preparation and previous planning to commit the crime and also through providing the element of calmness of mind.

**The second element of the premeditated murder as genocide** is that the intention and criminal behavior of the perpetrator must be directed towards achieving the result of the murder as genocide with an intention of partially or wholly annihilating a national, ethnic or religious group for those reasons.

The elements of committing murder crime as genocide by the accused (**Sultan Hashim Ahmad**), are multiple; the letter numbered (4008) on 1987 June 20 that was issued from the Northern Organization Office and signed by the accused '**Ali Hasan Al-Majid**' that was directed to the commands of the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps and the subject of this letter was how to deal with the security restricted villages. This letter includes many clauses such as the prohibition of the human and animal existence in the area where the shooting is free along with banning traveling from and to it, the prohibition for the animal and agricultural investment and farming, killing every person existed in the area whose age between 15 (included) to 70 years old (included). The elements also include; the Corps commanders periodically prepare attacks using the artilleries, helicopters and aircrafts aiming to kill as large number as possible who are existed within the restricted areas during all the time day and night. Authorities were granted to the national defense regiments through seizing the civilians' possessions in a letter that was disseminated to all the governmental entities. The letter and the resolution number (160) for the year 1987 that included the obligation of the military command with the orders of the accused

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'Ali Hasan Al-Majid. The article also stipulates to halt implementing the legal codes that contradict with the decree.

Consequently, the accused **Sultan Hashim Ahmad** and after issuing the resolution numbered (160) for the year 1987 and the letter (4008) on 1987 June 20, became under the command of the accused 'Ali Hasan Al-Majid and receives orders from him directly. The accused emphasized this point before the tribunal saying that the accused ('**Ali Hasan Al-Majid**) represents the president of the State in the northern area which is mostly Kurds and they are a national and ethnic group.

**other elements of the premeditated murder as genocide** is the existence of the group individuals in a particular place along with being besieged by the attackers and preventing them from escaping from the area. Additionally, the suspect is issuing orders, organizing the killing process along with using the weapon in the attack besides of issuing verbal phrases and words from the accused to his subordinates to proof the intention of killing.

**The evidence is also the joint legal and national ties of the group's individuals** and sharing the rights and duties along with the existence of one language.

**The evidence is also the official classification for the group** using identity verification along with other elements like destroying the electricity and water nets, using the violence and severity against the victims, illegal detainment for the men, and coercive dislocation for the women and children outside the region. The accused said verbal phrases showing contempt, assaults or racism against the national and ethnic group. The accused also participated in segregating the members of the group away from other members in the same group, separating men away from women along with separating the men who are in military service age away from others.

**The evidence is also on the repetition**, harmonization and systematic of the attack, transferring the victims by government vehicles, harmonization in the type of the used weapons, the investigation methods were identical, along with existing places and holes previously prepared for the execution besides of existence a policy on the national level and killing



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individuals of the group regardless of their positions whether civilians or combatants, and there was a similarity in the actions style. Additionally, they targeted the group's possessions and the other element is the spread of the bodily injuries. All these elements are identical with the actions of the accused **Sultan Hashim Ahmad** through his contribution in a joint intention of killing with the aim of consolidating the criminal activity or criminal intention for the former regime when they were issuing orders to the subordinated troops to carry on those acts.

The Kurds as an ethnic and national group live in Kurdistan region since a long time especially in the northern part. The Iraqi provisional constitution had ratified in 1970 that the Kurds are the second nationality after the Arab. Al-Anfal operations were targeting them as they are a national and ethnic group. The usage of aircrafts, tanks, artilleries, armors and infantry in addition to the governmental civil effort and the special munitions groups in the 1<sup>st</sup> Anfal operation that was commanded by the accused **Sultan Hashim Ahmad** and his contribution and participation in implementing Al-Anfal operations including the Closure ( 8<sup>th</sup> Al-Anfal operation), all are not but proofs on his perpetration for killing actions in a joint criminal intention to strengthen the criminal activity of the Ba'th regime.

The tribunal noticed, from the statements of the victims and other proofs that were available in the lawsuit, how the military troops besieged the area and prevented the Kurdish families a national and ethnic group from fleeing for being. That was clearly shown in the final operation called, "8<sup>th</sup> Al-Anfal Operation" when thousands of people were banned from fleeing to Turkey whereas they were besieged by the military troops and they were forced to return back to the Iraqi territories and hence, they were arrested and transferred to the detention camps and executing 27 individuals of them in Kurimi village. This was boosted by the letter numbered 1076 on 1988 August 16 sent from the Army Chief of Staff and sent to the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> corps pertaining to banning the Kurdish families to flee to Turkey.



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And during executing the Anfal operations, the attack started with using various weapons among which was chemical weapons...as thousands were killed in their villages by conventional and chemical weapons. Thousands of survivors of woman, children and elderly were transferred by military vehicles to the Northern Organization Office, Security Committees and some were sent to detention camps (Tupzawa, Nazarki, Dibs, and Salamiyyah among others). They were either sent to (Nuqrat Al-Salman) detention camp in the Al-Samawah desert or driven to the mass graves where execution teams would execute them and bury them in mass graves.

**The role of Accused (Sultan Hashim Ahmad)** is clear in the killing operations that the Kurds as a national and ethnic group faced from bombardment of conventional and chemical weapons, for this was proven through an order issued to him from accused ('Ali Hasan Al-Majid) in accordance to letter no. (4008) that includes (Corp Commands shall carry out concentrated and intensive attacks by artillery and aircrafts) and by letter no. (3650) dated 1987 June 03 directed against accused ('Ali Hasan Al-Majid) to the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corp commands as well as Party Branch Commands in the Northern Area and Security Directorate Commands of Kurdistan in which the economical siege was imposed on the Kurdish area in prohibiting them from medicine, nutrition, fuel, agriculture, plowing harvesting and the existence of any human or animal in the area...and to kill any one presenting in these areas or villages that he considered prohibited, as well as the letter no. (1122) dated 1988 August 21 issued to the 1<sup>st</sup> and 5<sup>th</sup> Corp pertaining to the meeting that was attended by the Chief of Army Staff and his operation's deputy in Kirkuk, in which the 1<sup>st</sup> paragraph stated...( defining the concentration of the population in the 5<sup>th</sup> Corp's sector and to be treated with intensive special strikes)... and letter no. (349) dated 1988 April 27 from the Office of Chief of Army Staff issued to the 1<sup>st</sup> Corp (Sultan Hashim – and the 5<sup>th</sup> Corp – Ayad Khalil) that was mentioned in passage (w) of the 2<sup>nd</sup> clause among which is (using of special ammunition (Chemicals)) against enemy build up as long as it achievable via the air force,



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Artillery / Multiple rocket launchers and by Helicopters, also achievable is directing special ammunitions against the Saboteur's headquarters).

Acting on issued orders to accused (Sultan Hashim Ahmad) from accused ('Ali Hasan Al-Majid) the head of the Northern Organization Office and from the Office of Chief of Army Staff as well as the General Command of the Armed Forces, the Military Forces under his command began a series of wide scale attacks against the Kurdish villages using various weapons, multiple rocket launchers, Helicopters and aircrafts that all led to the death of thousands...as mentioned by plaintiff ([NAME REDACTED]) before the court on the 20<sup>th</sup> of October 2006 from the village of (Wari) belonging to Balisan (on the 18<sup>th</sup> of May 1988 at 5:30pm (4) planes began bombing us with chemical weapons...the following died ([NAME REDACTED]) and his mother ([NAME REDACTED])...all animals died as if it was Armageddon...then I saw two corpse , one by the mosque and the other in the street which belonged to ([NAME REDACTED]) and ([NAME REDACTED])...I Also witnessed a woman named (Fatimah) and her son ([NAME REDACTED]) who were both wounded by chemical weapons...he continues "I then entered the village...and I witnessed (18-20) corpses near the water well of who I remember...([NAME REDACTED]) and others that I do not remember...I witnessed bodies laying one over the other...I witnessed children with feeding bottles still in their mouths...and others carrying feast candies (*T.C: ED of Ramadan that is a three day celebration after breaking the fasting of the month of Ramadan*) ...for on that day it was the night of Eid...the victim added; the number of dead and wounded was (40) individuals with symptoms of traces of redness upon them and respiratory problems...he added; we tried to transport the injured and the dead...but the army prevented us from that, we then left the bodies by the well for that night...after that we pleaded with one of the Mustashars to allow us to bury the bodies...after which we buried (35) individuals..(20) of which were related to me that all died from the chemical weapons...The court conducted a field inspection of the grave where the victims were buried...it was clear to the court the existence of official classification of both the nationally and ethnicity of the group conducted by



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The perpetrators, as it was mentioned in all the victim's statements (plaintiffs) that of the identity investigation was conducted for all those detained and then segregated into groups of men, or Woman and children.

Declared within the statement of victim ([NAME REDACTED]) a survivor of the mass graves a resident of (Kani Kadir) village belonging to (Qadir Karam) sub district... before the court on the 18<sup>th</sup> of March 2006...On the 9<sup>th</sup> April 1988 the Military Units carried on wide scale attacks on the area...and I surrendered to the units along with ([NAME REDACTED])...they transferred us to (Chamchamal)...and at the Brigade Headquarter in (Jim Jamil) our names and addresses were taken...we were then transferred to (Tupzaw)...where they began taken down our names and the names of our family").

The destruction of the water and electrical systems by the military units is another aspect of the criminal evidence factors...where the military forces destructed the electrical power plant (Dar Brula)...and closed down the water source with concrete blocks.

The plaintiff ([NAME REDACTED]) confirmed before the court on the 9<sup>th</sup> of October 2006 and he is a resident of (Quljan Sarhat) village that belongs to (Kalar) that on the 5<sup>th</sup> of April 1988 during the attack by the army against our area I fled the area while the military units destroyed the villages...and after my return to the village after two weeks...I found the water sources filled in...and extreme aggression and violence was utilized against the villagers...due to the prohibition of humans and animals in the area and the death to those whose age varied between (15-70) that were found within this area...and this is what was openly stated in letter no. (4004) dated 1987 June 20 issued to the 1<sup>st</sup> 2<sup>nd</sup> and 5<sup>th</sup> Corp...The use of chemical weapons, aircrafts, tanks and multiple rocket launchers against country side civilians...and its resulted of killings, coercive dislocation of inhabitants, transferring them to detention centers and mass graves, are all but proofs of the extreme force and cruelty that accused (Sultan Hashim Ahmad)



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was taking a clear systematic path in targeting Kurds as a national and ethnic group through orders issued by accused ('Ali Hasan Al-Majid), the Office of Chief of Army Staff and the General Command of the Armed Forces ...and evidence of this is his participation in planning, organizing and executing most of the Anfal operations...that also implemented in a clear systematic manner for which accused (Sultan Hashim Ahmad) was honored by the head of the regime convicted (Saddam Hussein) with bravery for his unique role in the Anfal operations.

As for the evidence regarding the frequency, harmonization and systematic of the attacks is the division of the Anfal operations into (8) stages and following the same methods and procedures in all the stages with regards to the attack and the usage of chemical weapons, the destruction of villages, coercive dislocation of the inhabitants, prohibiting the existence of humans and animals in the area and dying because of starvation in the detention camps.

The unique means of investigation during the Anfal operations is another element of committing murder as crime against humanity, as stated by accused (Farhan Mutlak) before the court several times. "(Before the initiation of the Anfal operations, the adopted method of investigation was to take suspect's statements before referring him to the Military Intelligence Directorate, but after the implementation of Anfal operation, the suspect's statements were recorded, then approval was requested from the Northern Organization Office to filed executing him without trial.)". Accused (Farhan) continues...that there is a special committee charged with carrying out the executions in the Corps' firing field.

As for the real intentions for the Ba'th regime in achieving their political agenda is the award (for both the accused Sultan Hashim and Ayad Khalil Zaki for their unique roles in executing Anfal operations).

The attackers specified locations to execute a group of victims as stated by the accused (Farhan Mutlak) before the court: "executions are carried out in the Corps' firing field by the execution's committee as well as the mass graves where the victims were executed by a firing squad,



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which was confirmed by the survivors of such mass graves. When they were transferred to specified locations to be executed, they witnessed bulldozers present at the site where excavations were prepared, to which they were then led, and time the firing squads would shoot them and the bulldozers would begin filling them in with dirt.

**The court** has also noticed that the attacking Military Forces began killing and detaining without differentiating between civilians and combatants (Pishmarga), whereas they were bombed by chemical weapons. Most of the victims confirmed that most of the killed were children.. Also what took place in the (Kurimi) massacre when officers of the military units executed (27) individuals, without inquiring as if they were civilians or combatants. And the events of Kirkuk meeting that was attended by Chief of Army Staff and his operation's deputy dated 1988 August 21, in which the following was decided...

**(Defining the concentration of the population** within the 5<sup>th</sup> Corp's sector which are to be dealt with, with intensive special strikes (48) hours prior to the start of the operation to create a state of chaos and fear among their ranks).

This is an evidence that the aggressors targeted all inhabitants whether civilians, combatants, children or woman. It became clear to the court that the Anfal operations incorporated most of the Kurdish areas in its (4) governorates, the Sulaymaniyyah, Irbil, Duhuk and Kirkuk. An area that exceed (2000) villages were all demolished where inhabitants were either relocated or murdered and tens of thousand of victims were detained, and the existence of humans and animals within the area was prohibited as well as farming and water wells were filled in. Targeting this part of the civil inhabitants is an evidence of the accused (Sultan Hashim Ahmad's) intention of the partial annihilation. The aggressors did not differentiate between their victims regardless to their age, sex, health or pregnancy, which is clearly indicated by the murder of thousands



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of children by poisonous gases during attacks against Kurdish villages by chemical and conventional weapons and in detainment camps.

This was confirmed by all those who survived the mass graves whom were transferred by government vehicles to the killing fields where most were cuffed and blindfolded, this would always take place at sunset.

In addition to physically targeting the Kurds as a national and ethnic group, their possessions were also targeted as an evidence of criminal intention against this group. Confirmed by most of the victims and plaintiffs that the military units seized their possessions and the letter no (4008) dated 1987 June 20 gave right to the National Defense Regiments to seize the Kurdish villager's possessions.

There are still huge numbers of people that suffer from such attacks, among which came before this court and revealed the affect of weapons on their bodies.

From all that was presented, the court has found that accused (Sultan Hashim Ahmad) and through his command of the 1<sup>st</sup> Corps forces provided assistance to accused ('Ali Hasan AL-Majid) and the condemned (Saddam Hussein) in committing genocide against the Kurdish civilian residents of Northern Iraq by implementing military plans assigned to him and ordering the forces under his command to attack the Kurdish villages, where thousands of Kurdish villagers were killed. With such actions, he aided in assisting, participating, contributing and the committing the crime of genocide against the Kurdish civilians as a national and ethnic group, through the mass murder which he was clearly aware of. In light of his actions he was criminally held accountable for his participation in the crime of genocide, which was decided in accordance with the courts ruling, article (15 /2nd) of the High Tribunal Court's (Law), No. (10) for the year 2005.



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**B – The Crime of Genocide committed by accused (Sultan Hashim Ahmad) in causing severe psychological and physical harm to members of the group:**

Causing grievous bodily or psychological harm (as that of genocide) requires the following bases:

- 1 – The acts of the crime's perpetrator must result in grievous bodily or psychological harm to one or more individuals.
- 2 – The individual or individuals belong to a specific ethnic, national, race or religious group.
- 3 – The crime's perpetrator is intended to eradicate totally or partially that ethnic, national, race or religious group for that character.
- 4 – This behavior is committed as part of a similar clear conduct targeting that group or the behavior it self would cause that eradication.

The Ba'th Regime launched a wide scale attack against Kurdistan within a plan or a clear systematic policy to target the Kurds regarding them as an ethnic and national group. Most of the victims mentioned the death of thousands of civilians whether men, woman or children, as well as the demolish of thousands of villages which followed by coercive dislocation of the inhabitants and driving them detention centers in (Tupzawa, Dibs, Nazarki, Nuqrat Al-Salman etc...) and then driving them to mass graves that led to grievous bodily and psychological harm to the civilians.

**There are many evidential factors to prove the crime, such as:**

Exposing the detainees to starvation, as the courts noticed that all victims were subject to sever starvation, as was noted from victim ([NAME REDACTED])'s statement before the court on the 27<sup>th</sup> of November 2006 that they were kept in (Qura Tu) military camp for (10) days without food or water, and all detainees confirmed that their ration of food was one or two loafs of bread at the best of times.



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... whether in prison camps at Tupzawa, Al-Dibs, Nazarki or others. The victim (plaintiff) [NAME REDACTED] mentioned, testified to court on 2006 October 17, that his wife died in Nuqrat Al-Salman prison camp due to famine and shortage in food supplies. Victim (plaintiff) [NAME REDACTED] says "When I was at Nuqrat Al-Salman prison camp, numerous people from us were dying, on a daily basis, due to famine. The death was a consequence of famine, water shortage and lice. Two of my relatives [[NAME REDACTED]] died as well. I witnessed twenty others facing the same fate. We carried them via small carts, putting corpses inside, and bury them as two of the guards escorted us". Detainees faced various kinds of oppression, humiliation, disdain, and degradation of their dignity. Victim (plaintiff) [NAME REDACTED] testified to court, on 2006 October 11, "Those in charge of the camp ordered men to bark like dogs or imitate monkeys".

Witness [NAME REDACTED] mentioned while testifying to court, on 2006 November 27, "When arrested, there was three detainees in Irbil Security Directorate's prison camp who the guards called them by aliases such as Tartur, Kashmar, Zwaj" (*T.C: disdainful aliases*). The Court noticed, while some plaintiff stood before it, that effects of chemical toxins were shown on their bodies or in their respiratory system [still having difficulties in breathing], adding up psychological effects caused by the detention in prison camps. Victim [NAME REDACTED] testified to court, on 2006 September 12, "My cousin [NAME REDACTED] died at Nuqrat A-Salman camp due to famine. After burying him, dogs interred his body and ate it". When his sister [NAME REDACTED] saw the scene, she lost her mind to die later on.

Chief of Investigative Judges



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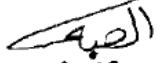
What we had mentioned above is none but samples of what Kurds had been exposed to, as national ethnic community, from severe damages throughout Al Anfal operations.

The court finds that Convict Sultan Hashim Ahmad is guilty over perpetrated actions throughout his contribution in a joint criminal intent with other individuals via laying down a joint criminal plan to perpetrate genocide by causing severe mental or physical damages to the community's members ... by issuing orders to 1<sup>st</sup> Corps' forces to launch a systematic large scaled attack over Kurdish civil inhabitants [villagers], aiming to commit genocide. He is fully aware of his acts [orders] which eminently assisted in perpetrating genocide by causing severe mental and physical damages to the community' members, as per Article [15/Second] of Iraqi High Tribunal Law No [10] for the year 2005. .

**Member**



**Member**



**Member**



**Member**



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**C- Genocide via subduing, premeditatedly, a given group to harsh living conditions aiming to partially or totally eradicate them:**

Subduing a given group, premeditatedly, to harsh living conditions that aim to completely or partially eradicate the aforementioned group, provision the following elements:

- 1- The perpetrator must impose certain harsh living conditions over one or more individuals.
- 2- The one or more individuals must be correlated to a given national, ethnic, racial, or religious community.
- 3- The perpetrator must intent to partially or totally eradicate this given national, ethnic, racial, or religious community, by attribution.
- 4- To aim from harsh living conditions, partial or total physical eradication of the aforementioned community.
- 5- This conduct must be issued in a clear similar behavioral context against this given group or if this conduct created in itself eradication.

The elements of proof of genocide by subduing a given group to harsh living conditions, aiming to partially or totally eradicate that group, are numerous such as:

Enough periods of time or an average imposing of specific living conditions, shortage in appropriate medical care and hygiene, shortage in medical services which must be provisioned, evidence of famine, methodological pattern of relocation [expelling from houses], inadequate clothing and segregating members of one family.

Convict Sultan Hashim Ahmad role was to dislocated women, children and elders to prison camps at Tupzawa, Al-Dibs, and others, via military vehicles, as well as ruining houses and devastating villages, following orders issued by Convict 'Ali Hasan Al-Majid, Chief Army of Staff ...

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... or Armed Forces General Command. An evidence of imposing economic embargo over Kurdish territory, as included by letter number (4008), on 1987 June 20, issued by Convict 'Ali Hasan Al-Majid, according to which he prohibited agronomy, and agronomical and industrial investment. All this was followed by a systematic large scaled attack, launched by Army troops, throughout the eight Al Anfal operations. The latter relocated the Kurdish civilians, from their villages to prison camps and governorates Security committees, where families, including women, men and children, were detained [in these aforementioned camps]. All detainees were exposed to harsh living conditions as prison camps were lacking suitable hygiene and care. Most of the victims confirmed the spread of ailments like diarrhea, vomiting, and skin illnesses. Such harsh conditions led to the death of hundreds from famine. Plaintiff [NAME REDACTED], testified to court, on 2006 September 18, that when she was detained at Nuqrat Al-Salman prison camp, for three and a half months, a group of detainees died from famine, as no water or food supplies were provisioned unless in small quantities. Among those who died was my mother-in-law, who lost her sight as well. The victim added that one of the officers in the camp exploited her son ([NAME REDACTED]) for a loaf of bread in return. Victim [NAME REDACTED] testified to court, on 2006 September 20, "We were transferred to Nuqrat Al-Salman prison camp, where no food supplies were available. The food supplies at this camp were a loaf of bread and polluted water. Our situation was a harsh one. Many fell sick and were not medically treated. I didn't take a shower until I returned back home. I still suffer ailments. May have died out there, I remember a woman called [NAME REDACTED] from (Dula Bi) village .... I witnessed a group of dogs eating something similar to a woman or man's head".

Victim [NAME REDACTED] testified to court, on 2006 October 10, "We were at (Tupzawa) prison camp, and relocated in (Dibs) camp, where we stayed for five months. They mistreated us, did not give us ...

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... food, as kids and women were dying from famine. Ailments spread everywhere. I lost 12 persons of my family. Both my parents were detained at (Nuqrat Al-Salman) prison camp. They died there, as dogs devoured their corpses. I do not know the fate of my family till now".

The Second element of proof is that those in charge of the camps did not provision the minimum of health services which must be available. Victim (plaintiff) [NAME REDACTED] resident of Lower Balkha [Al-Sufla] village, testified to court, on 2006 September 25, "We were relocated at (Nuqrat Al-Salman) prison camp, where we remained for three days with no food or water. After, they gave us a dry loaf of bread and non-potable water, due to which most of the detainees suffered from diarrhea and vomiting".

Most of the victims, who were detained at Tupzawa, Al-Dibs, Nazarki and Nuqrat Al-Salman camps, testified that each detainee share was one to two loaves of bread daily, as the shortage in food supplies led to a chaotic state of starvation inside those horrible camps, especially that of Nuqrat Al-Salman.

Victim [NAME REDACTED] testified to court, on 2006 September 25, "We were detained at Nuqrat Al-Salman prison camp, where we stayed for three days with no food supplies, as two to three from us, mostly children and elders, were dying daily due to famine. I remember [NAME REDACTED] from Khawa, [NAME REDACTED] from Kani Rush and [NAME REDACTED] from Kariza.

Plaintiff [NAME REDACTED] testified to court, on 2006 September 14, "My mother was at (Nuqrat Al-Salman) prison camp, where they were put in extremely bad conditions. Ten persons were dying every day due to famine, while their corpses were buried in the desert. Dogs were interring those bodies to eat them".

Plaintiff [NAME REDACTED] testified to court, on 2006 October 17, "We were at (Nuqrat Al-Salman) prison camp; six to seven from us were dying ...

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... daily. During my detention period at (Nuqrat Al-Salman) prison camp, (770) died, as the total of detainees was 7000".

Regarding the pattern of expelling ... The attackers [the military troops which part of them were commanded by Convict Sultan Hashim Ahmad] had dislocated children, women and elders from their houses and villages, after demolishing them by the army, to prison camps, while others were driven to mass graves. All civilians were treated like in previous operations, meaning Al Anfal previous operations, which prove the existence of a fixed pattern followed in expelling civilians from their houses.

As for adequate clothing ... It is another element of proof because detainees from this national ethnic community did not receive any piece of clothing throughout their stay in detention, as their clothes were old and burned. The newborn infant used to be wrapped in sackcloth instead of textile.

Tackling rape incidents ... Victim [NAME REDACTED] testified to court, on 2006 September 25, "I remember two girls, one named ([NAME REDACTED]) and another named ([NAME REDACTED]). One of the wardens used to take them to Al-Hajjaj room daily".

Victim [NAME REDACTED] testified to court, on 2006 October 11, "among us was a very beautiful woman, and her son [NAME REDACTED]. Officer (Shawqi), who is lower rank than (Al-Hajjaj), took her son and did not return him to his mother. The mother went with her brother to Officer (Shawqi), who kicked them out, without returning the kid again. I saw the kid being placed on the two beds, next to each other. The mother came in the room. I tried to sneak a view, but the officer hit me and closed the windows via the curtains. After this incident, the mother's brother was called ...

Chief of Investigative Judges



(963-647)



In the Name of God All Merciful All Compassionate

The Iraqi High Tribunal

Second Criminal Court

Baghdad-Iraq

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... When he returned, he went beating up his head till bleeding. After that, we did not know the pretty woman's fate. She disappeared along with her son".

There was a Kurdish girl named ([NAME REDACTED]) that Officer (Al-Hajjaj) used to take her to his room, continuously.

The (protected) plaintiff testified to court, on 2006 October 10, that she was raped, as she stated "I was at (Nuqrat Al-Salman) prison camp, where six other girls had been raped by convicts (Al-Hajjaj), (Shawqi) and (Sakhr), who were guards and in charge personnel at that camp. The aforementioned girls are 3 from (Kirkuk), 2 from (Al-Sulaymaniyyah) and 1 from (Kuysinjaq)". [The Court keeps their names unrevealed for social aspects]. The victim mentioned that Convict Al-Hajjaj was raping one girl in front of the others.

Another element is segregation within one same family; as all victims mentioned that men were segregated from their women and children, youngsters from elders [rather males or females]. The elders were sent to Nuqrat Al-Salman prison camp, while youngsters were driven to mass graves. That was what most of the victims who stood before court confirmed in their testimonies.

Those victims ... what they have witness of calamities ... from murder via chemical or conventional weapons ... once being raided ... or killing them in mass graves, as well as the effects left by these devastative weapons as psychological or physical damages ... and what they had been exposed to as physical and psychological torture ... causing the death of hundreds out of famine in camps, along with disdain, humiliation, degradation of dignity, lack of hygiene, and segregation within the sane family ... All those aforementioned facts are elements of proof and never-to-doubt clear evidences over subduing the national ethnic community [Kurds] to harsh living conditions ...

Chief of Investigative Judges



(963-648)



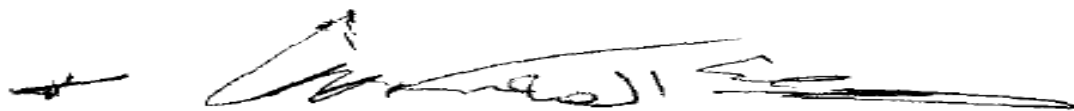
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The convict ('Ali Sultan Hashim) role on perpetrating those crimes is very clear through commanding many of AL-Anfal Operations and participating in other operations....whether by orders or giving the military experience...And he is criminally responsible on these crimes through participating with a group of other people in premeditatedly subjugating the group to hard living conditions intending to eradicate them totally or partially, in a joint criminal intention, and through a joint criminal plan aiming to boost the criminal activity or the criminal purpose of (Saddam Hussein's) Regime and his Security and Military systems according to the Article (15/Second) of the Iraqi High Tribunal Law No. (10) of year 2005.



Member

Member

Member

Member

The President  
Muhammad Iraybi Majid Al-Khalifah



(649-963)

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
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## Verdict Decision ((The Crimes Against humanity))

On 20 February 2007 the court accused the convict (Sultan Hashim Ahmad) of perpetrating crimes against humanity by virtue of Article (12/First):-

- A- The premeditated murder.
- B- The Genocide.
- C- The enslavement.
- D- Relocating or coercive Dislocation of the inhabitants.
- E- The imprisonment or any way of the intense deprivation of the physical freedom in violation of the main bases of the international law.
- F- The torturing.
- G- Oppressing any specified community or a specified group of inhabitants for political, racial, nationality, ethnic, cultural and religious reasons or related with the gender or any other reasons not legalized by the international law....And any of the mentioned acts related to any action of the sexual violence posing the same level of dangerous.
- H- The forcibly disappearance of the individuals.
- I- The other inhumane acts of identical nature that is premeditatedly causing severe suffering or dangerous harm to the body or mental or physical health, and by virtue of Article / 15/first, second, third, fourth of the Iraqi High Tribunal Law No. (10) of year 2005.

**The convict (Sultan Hashim Ahmad's) responsibility on the killing as a crime against humanity:**

**The crime bases:**

- 1- When the crime perpetrator is killing one individual or more.

The President



(650-963)

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- 2- Perpetrating the conduct as part of large-scale and systematic attack against the civilian inhabitants.
- 3- The perpetrator knows that the conduct is part of large-scale and systematic attack against civilian inhabitants, or he intends this behavior as part of that attack.

**The conditions of the crimes against humanity are:** Existence of a large-scale or systematic attack against the civilian inhabitants, the perpetrator must know that his behavior is part of a large-scale or systematic attack against civilian inhabitant, and he intends to make this behavior part of this attack.

**One of the most important factors of the murder to be considered as a crime** against humanity is the actual existence of the group and existence of a policy targeting a specified community, involvement of the high political and military commands, the discriminative nature of the attack, the severity of the systematic nature of the committed acts, shooting unspecified group of the people, existence of an order to segregate a group from another, and not complying with the war laws' requirements.

**The convict (Sultan Hashim Ahmad)**...the commander of the First Al-Anfal Operation, the commander of the 1<sup>st</sup> Corps which commanded another Anfal Operations and also he participated in other operations. Whereas the military troops under his command or other troops which he morally supported...or participated in by helping and military plans...launched a large-scale and systematic attack on Kurdistan villages in (4) governorates, he used in that attack all the state military and civilian capabilities....whereas the bombing started with the aircrafts, helicopters, artillery, rocket launchers, the special ammunition and conventional weapons. The bombing resulted in the death of thousands of civilians as a result of using the chemical and conventional weapons...then the troops transferred tens of thousands of the civilians, women, children and elderly to the detention centers in (Tupzawa, Dibs, Qura Tu and Nazarki) or to.

The President



(651-963)



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the security committees and then transferring some of them to the mass graves and carrying out the executions by the firing squads in the mass graves, and those victims were transferred from their houses and villages by the military vehicles.

**The Kurds considered as a racial and ethnic group** living in the Northern part of Iraq and they have their own language, culture and traditions...and these attacks targeting them in a large-scale and systematic attack....the disbanded Revolutionary Command Council Decree No. 160 of year 1987 proving that the existence of a known policy targeting the Kurds as an ethnic group...the decree gave (**'Ali Hasan Al-Majid**) extensive authority as the supreme leader of the area and all the civilian, military ,security and party systems were connecting to him in order to carry out the Ba'th Party Command and the Revolutionary Command Council policy. The letter No. 4008 on 20 June 1987 issued by the convict (**'Ali Hasan Al-Majid**) addressed to the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps concerning banning the human and animal existence in the area...killing any individuals in the area aged [15 (included) -70 (included)] years old...is another evidence on existence a plan or a policy against the civilian Kurds in the North of Iraq. What the attacks resulted of destruction, killing, displacement and starving is another evidence on the existence of a policy or systematic plan against the Civilian Kurds...Also involvement of the high political and military commanders...such as the convict (**Saddam Hussein**), the convict (**'Ali Hasan Al-Majid**) , the convict (**'Adnan Khayrallah**) the previous Minister of Defense, the Chief of Army Staff (**Nazar Al-Khazraji**) the Chief of Army Staff deputies, the General Command Members of the Armed Forces and the Members of State Command of Ba'th Party in that large-scale and systematic attack is an evidence of the existence of that policy.

The President



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The discriminative nature of the attack is another factor to prove the murder as a crime against humanity.....whereas the chemical weapons were used on a large-scale against the Kurds, and for the first time in the Iraqi history against the civilians of the Kurdish villages.

**But concerning severity of the systematic nature of the perpetrated acts.....**is using the excessive military force in Al-Anfal Operations from the 1<sup>st</sup> Anfal Operation...to the Anfal Closure ...whereas all the available weapons at the hand of state were used....and the prohibited weapons (chemical weapon), whereas the civilian inhabitants of the Kurdish Villages were bombed in intensive way and thousands were killed and wounded...then the military unites proceeding and arresting the survived people, pulling down and burning their villages, then transferring the arrested inhabitants with military vehicles to the detention camps. That style was repeated in all stages of Al-Anfal Operations....and this is what was assured by the victims in their testimonies which were recorded before the court.

**But the second factor is shooting** unspecified group of the civilians....whereas the plaintiff ([NAME REDACTED]) who is one of (Sargalu) village inhabitants on 13 September 2006 before the court mentioned that: In AL-Anfal Operation in 1988, we were bombed by the fighter jets and eight individuals were killed, they are [NAME REDACTED] and his wife [NAME REDACTED] and her son ([NAME REDACTED])...these victims were killed and they were women, children and elderly...without differentiation between women, children and old....although the convict (Sultan) claimed that he had no relation with the air force weapon (Aircrafts) but the applied system at all the world's armies is the coordinating between the attacking air – jets and the land forces through an accurate Military plan like Al-Anfal Operations...and the evidence that the Land Forces attacked the civilians after finishing the air bombing, that what was assured by the convict (Farhan)

The President



(653-963)



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before the court on 15 February 2007 that Al-Anfal Operations (were conducted on four stages....starting with artillery and air-jets bombing, then the land troops attack.....etc).

**And the other evidence on existence orders for segregating a group** from another, that all the victims attended before the court and without exception testified that they were segregated as groups...a group of women, children, old and a group of the women....a group of the young women...a group of the old women....and a group of the young men, the young men were transferred to the mass graves and were fired at and executed....and that was clear in the international experts' reports who supervised disinterring the mass graves...whereas the number of the victims in the mass grave Ninawa/2 was (123) victim...all were children and women, and the mass grave Ninawa/9 was (64) persons of the adult men. The attackers didn't comply with the war laws requirements by using the chemical weapons against the civilian inhabitants, and using the extreme cruelty during transferring them by the military vehicles to the detention and arrestment centers although they are children, women and old...whereas thousands of the civilian inhabitants were killed as a result of using the chemical gases, thousands wear injured, and some of them still suffering of that weapons' effects and some of them attended before the court....and the court viewed these effects...whereas they were suffering of problems at respiratory system, physical deformation and non clear vision....whereas most of the victims described the moment of the chemical weapon attack or collecting the women, children and old in the detention centers....they described it as the Resurrection Day.

**The convict (Sultan Hashim Ahmad) who directed the First Al-Anfal operations**, directed other operations, participated in preparing the plans, supported the other Al-Anfal Operations because he was the commander

The President



(654-963)

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of the first Corps and has experience and knowledge in the Northern Area...for having worked in this area since he was a low-ranking officer...

From all that was previously said, the Court has found out that the defendant (Sultan Hashim Ahmad) is criminally responsible of the wide-range systematic murder crimes against the Kurdish civilians of the Kurdish village inhabitants in the North of Iraq during Al-Anfal operations; and his complicity with other indicted persons, including the defendant ('Ali Hasan Al-Majid) in a joint criminal plan to execute large-scale and methodical attacks, by issuing orders to his soldiers and forces (the First Corps forces), using chemical and conventional weapons. His responsibilities are specified as per the items of the Article (15/Second).

**The responsibility of the defendant (Sultan Hashim Ahmad) of the genocide as crime against Humanity:**

**The crime elements:**

**The crime's elements:**

1. The perpetrator must murder one or more individuals, enforcing victims to live in harsh conditions which will lead to the eradication of a part of inhabitants belonging to a given community.
2. The conduct must constitute a massacre activity against community's members [civil inhabitants] or part of this activity.
3. The conduct must be perpetrated as part of a systematic large scaled attack against civil inhabitants.
4. The perpetrator must acknowledge that the conduct is part of a systematic large scaled attack against civil inhabitants or intent this conduct as part of the aforementioned attack.

These elements and requirements must be provisioned to be able to say that Convict 'Ali Hasan Al-Majid is criminally in charge of those crimes.

The genocide proof elements as crime against humanity are; evidence of strike, evidence of causing death, evidence of handing the victims over to an armed group and ordering them to murder the victims, and evidence of murdering on a massive scale, evidence of the relative number of casualties.. evidence of the lists of victims recognized by name, evidence of the use of armed forces

The President



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and the position of the suspected as the leader of a high-level attack...and a sequence of accumulated proofs to prove the rate of the mass murder...and evidence that the suspect intended to kill a large number of targeted people, as an evidence of the intention or awareness...and a proof of creating a horrible atmosphere...and evidence of the suspect's major role among those members or authorities.

In the beginning of the year 1988, the defendant (Sultan Hashim Ahmad) was summoned to the Army Chief of Staff and after the deliberation with the Army Chief of Staff Commander, the accused (Nazar Al-Khazraji) and his deputies; he was given the 1<sup>st</sup> Anfal plan by the defendant (Husayn Rashid), the Army Chief of Staff Deputy...after that the defendant (Sultan Hashim Ahmad) joined the new formed headquarters to command Al-Anfal First operations...this organized headquarters was in the form of a Corps...which commanded a number of military regiments and brigades and national defense regiments...where the defendant led a wide scale attack within his specified geographical area...and with the coordination of the other supporting military forces like the aircrafts, helicopters, rocket launchers, artillery...they used huge military forces in the attack...they began with the artillery bombardment, rocket launchers, aircrafts and helicopters; and the use of the special weapons (chemical)...especially by the aircrafts...the air bombardments, especially the chemical, killed and wounded hundreds in this operation...as the plaintiff [NAME REDACTED], who is an inhabitant of Sargalu Village, said in the Court on 13 September 2006: in February 1988...two planes flew over our village which comprises (500) families who were farmers...and as a result of the bombardment (8) were killed...they were: [NAME REDACTED]who is an inhabitant of the Sargalu Village, said on 13 September 2006 in the Court that the Al-Anfal First operations started on

The President



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18 February 1988...when the army used all types of weapons including the chemical weapons in the villages of (Shadala), (Sargalu), (Bargalu) and (Bakhma)...as a result of the chemical bombardment, a herd comprising about (2000-3000) sheep perished; and I saw the shepherd dead on the ground gripping his stick...the majority of the persons who were with me at the time of the incident died...among them...S[NAME REDACTED]...and the wounded persons [NAME REDACTED] and I saw the fragments of the victims' bodies scattered close to me.

**Whereas the evidence of the handing over** of the victims to an armed group and ordering them to murder the victims...is that the civilian inhabitants of the Kurdish villages...were moved in military vehicles by the army to the Northern Organizational Office or the Security Committees...and from there to the detention camps in (Tupzawa), (Dibs), (Nazarki), etc. after that, they isolated women from men...and moved the young men to the mass graves...the victims were turned over to the execution squads to shoot them inside those graves...the victim ([NAME REDACTED], who was one of the survivors from the mass graves, said on 18 October 2006 in the Court...we were taken in vehicles from Al-Mawsil towards Al-Ramadi...when we arrived there, the driver and guards were substituted by others...we saw two Land Cruiser cars and (2-8) shovels when we were taken by the new guards...and after 1/2 hours of drive on an unpaved road...we heard the sounds of gun shots and screams and we saw people in lines...the militaries that were in the Land Cruiser cars began to shoot them on the head; I did not expect that people would be killed in such a horrid way...when we saw that scene...we tried to attack the guards and I heard them saying...sir, let's kill them...the officer said...we will kill them one by one...then he said...we throw them from the car...and they began to shoot us...and they fell one after the other...and I lost my consciousness...because there were two corpses over my body...one called ([NAME REDACTED])

The President



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I do not remember the other's name...I got out of the car...turned around it...and fell into a hole filled with bodies...and I think that I saw the corpse of [NAME REDACTED]...from the victim's above statements, it is clear that the attackers handed the victims over to the execution groups inside Al-Ramadi, they were those who drove the Land Cruiser cars.

**The evidence of the murder in masses...**is the death of thousands of people of the villages' civilian inhabitants...the victim [NAME REDACTED]who is from (Siwsinan) Village, said on 20 September 2006...two aircrafts flew over our village during the sunset...and bombarded the village with missiles...and we got into the shelters, and after 1/2 hours the bombardment stopped...I asked my son to go up to the roof to see what happened...he went up and told me that the bombardment is close to the house of my daughter ([NAME REDACTED])...and my sister ([NAME REDACTED])...and when I went to my daughter's house to reassure that she was safe...I found (14) dead bodies...(7) of them from the [NAME REDACTED]) family, his wife and children...the rest of bodies were of my daughter ([NAME REDACTED]) and her children ([NAME REDACTED])...and two dead bodies of ([NAME REDACTED]) wife and her son ([NAME REDACTED])...I brought an oil lamp to see the bodies...and they took the wounded who were (14) to the (Shurish) Hospital...a woman called ([NAME REDACTED])also died...my husband and I took our relatives' bodies to bury them...the ones who died as martyrs in these incident were (81) persons, (70) of them were killed by the chemical weapon...the Court has examined the graveyard where the mentioned victims were buried.

**The evidence of the approximate number of victims...**there is no official statistics on the number of victims, because the security and military services that carried out the attacks tried in several ways to erase the marks of their crimes, through taking the victims' ID cards, falsifying the identities...and there are hundreds of families

The President



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who were totally exterminated...for this reason the plaintiffs who were present before the Court presented rosters with names of the civilian victims. Each roster contains about (30-100) names of victims...and tens of rosters were presented to the Court...therefore; the Court realizes that the victims were several thousands.

**The evidence of the suspect's complicity in the mass murder is...**the defendant (Sultan Hashim Ahmad) participated in committing homicide with the coordination of the other units, especially the Air Force in striking the inhabitants gatherings and killing victims...the defendant (Sultan Hashim Ahmad) moved the civilian inhabitants to the detention camps through the military units ruled by him...from there, they were taken to the mass graves to be executed by execution groups; and this was confirmed by the international experts who disinterred a part of those graves including ( Ninawa/2, Ninawa/9 and Muthanna/2). The international experts affirmed that the majority of the victims were shot dead after blindfolding their eyes and tying their hands.

**The accumulated evidence to prove the murder in masses...**is the use of the huge force in Al-Anfal Operations and the use of all weapons available for the state...including the prohibited weapons (chemical weapons) and the things stated by the victims when they described the bombardments as the Judgment Day.

**The evidence of creating a terrible atmosphere...**which was mentioned in the Letter No. (1122) on 21 August 1988, issued by the Army Chief of Staff and directed to the First and Fifth Corpses...in the Clause/1 (the populations concentrations within the Fifth Sector should be defined and then dealt with intensive special strikes (48) hours prior to starting the operation, in order to create panic among them.

The President



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**The evidence of the suspect's major role** among these members or authorities is that the defendant (Sultan Hashim Ahmad) role is...the commander of Al-Anfal First Operations, the First Corps Commander...he led other Al-Anfal operations...and had a special role...by which he contented the Regime Leader...the condemned (Saddam Hussein), when he honored him with a medal of bravery for his distinguished role in Al-Anfal Operations; and that all the victims were murdered with weapons...when the attacking force used all the State's military abilities, like aircrafts, helicopters, armors, artillery, rocket launchers, infantry, National Defense Regiments and the chemical weapons...this resulted in the death of thousands of victims from the civilian inhabitants...including children, women and old men; and leaving other thousands homeless as their houses were thoroughly devastated; and they were forcibly moved in military vehicles to the detention camps.

From all that was mentioned, the Court finds with this reached evidence that the defendant (Sultan Hashim Ahmad) is criminally responsible of the genocide as crime against humanity which the Kurdish civilian inhabitants encountered in the North of Iraq, through a joint criminal plan in which the defendant (Sultan Hashim Ahmad) took part personally and participated with other accused persons in the implementation of wide-range and systematic attacks with the chemical and conventional weapons against the Kurdish villages in the North of Iraq through Al-Anfal Operations and with the orders that he issued to the First Corps Forces that are led by him, to carry out those attacks...and thus, his responsibility is determined according to the Article (15/secondly) of the Iraqi High Tribunal Law No. (10) of the year 2005.

The President



(963-660)

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**Verdict Decision**

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**The responsibility of the accused (Sultan Hashim Ahmad) regarding relocation or coercive dislocation of the inhabitants which represents a crime against humanity:**

**Crime Elements:**

- 1- The accused relocates or forcibly dislocates a person or more to another country or another place or with any other coercive action for reasons that are violating international law.
- 2- The concerned individual or individuals exist legally in the area that they were relocated or were transferred from.
- 3- The perpetrator knows the actual conditions which prove the legality of this attack.
- 4- The perpetrator's act is part of a systematic or large-scale attack against the civilian inhabitants.
- 5- The perpetrator knows that this act is a part of a large-scale attack against the civilian inhabitants.

**coercive dislocation or deportation of the inhabitants;** is when the accused coercively dislocates or relocates one or more person to another country or place by expelling or by any other forced act for reasons that the international law doesn't ratify, and in case that the targeted persons are legally settled in the area from which they were transferred or deported.

**The evidencing elements of this crime...** as a crime against humanity is the evidence that the displacement was coercive ... evidence that the used compulsion exceeds the limit of the mere fear of discrimination, an evidence of fear of violence, compulsion, moral oppression, or misuse of authority... evidence that denies the military necessity... evidence that denies the idea that evacuation was carried out to protect civilians.... Evidence on ruining



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**The Presiding**





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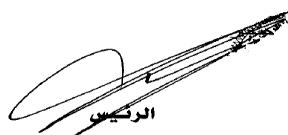
### Verdict Decision

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Houses of the relocated inhabitants.... Evidence that civilians were considered as detainees... evidence that civilians were relocated to areas that is located outside their territory, which is a violation of the International Humanity Law ... in presence of the aforementioned elements, the crime perpetrator must be aware of the factual situation that proves the legality of their existence.

**The Kurdish civilian inhabitants from the Kurdish villages**, are those have been living in this area from long time ago... so they inhabit their fathers' and grandfathers' land in Kurdistan, where as they practice farming and grazing. They enjoy its moderate weather, fertile land, fresh water and fruitful trees. They are civilian inhabitants, who live in these villages, how ever the military troops targeted the civilian inhabitants by a wide-range and methodical attack... additionally; they ruined these villages and relocated the civilians including women, children and old men, to the concentration camps without their desires and forcibly, and this is confirmed by the accused (Sultan Hashim Ahmad) before the investigative judge on 2005 June 23 (I implement the military order, despite the villages remained precious regarding its inhabitants... and there is no one prefers to leave his house forcefully) additionally; this is what the victims said that they were coercively dislocated from their father's and grandfather's land.... More over; the accused ('Ali Hasan Al-Majid) confirmed in the Letter number 4008 dated 1987 June 20, that included prohibiting of any human, animal and farming existence in this area... the evidence that the used compulsion exceeds the fear from discrimination... where the military unit arrested the civilian inhabitants and prevented anyone from escaping and transferred them under heavy guarding by soldiers to the concentration centers... additionally; the Letter number 4008 dated 1987 June 20 that includes killing and arresting everyone presented in the area that aged between (15-70 years old)

**Regarding the possibility of arresting victims before their dislodgment...** is what happened of arresting all civilian inhabitants of the village including women, children, and men and forcing them to the detention camps and the security committees.



**The Presiding**

**(662-963)**

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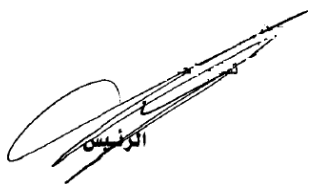
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**And the evidence for the disproof of the military circumstances...**is what the accused (Sultan Hashim Ahmad) said on 2005 March 20 before the investigative judge... (The purpose was to spread the authority of the country to the last part in the area... and this was for political reasons rather than military). Additionally; the court noticed from the available evidence...that the wide-range and systematic attack included 4 governorates, they are: (Al-Sulaymaniyyah, (Irbil), Duhuk, and Kirkuk), and they are wide areas... include more than 2500 village and town... additionally; it isn't of military necessity to ruin and remove most of the villages in the 4 governorates

**Also evidence which denies the claim that evacuation** was done in order to protect the civilians... since the civilian inhabitants were not relocated to areas better than theirs or similar to it... but relocated to the detention camps... and part of them were pushed to the mass graves... and others were transferred to (Nuqrat Al-Salman) detention camp under very harsh conditions... and under intensive security guards for a long period... and another section remained in the camps (Dibs and Bahirka). Moreover; the detention camps were lacking medical care and lacking food till death... in addition to the methods of insult, contempt, and dishonoring them.

**About the evidence of ruining the dislocated inhabitants' houses...** all victims that appealed before the Court and investigation Judge, stated that all their villages and houses were destroyed by bulldozers and tanks, others were burned. The plaintiff (victim) ([NAME REDACTED]) said before the Court on 2006 June 20 and he was from Lower (Astil) (*T.C: Khwar in Kurdish, Al-Sufla in Arabic*) ... he stated that on 1988 April 15 afternoon... downpour started... and the military forces surrounded us... and brought the bulldozers to ruin the village... we escaped the village...and they ruined all the village... the victim [NAME REDACTED] mentioned before the Court on 2006 September 16 that he is one of (Qashqa/Qadir Karam Sub District) citizens... the military forces started moving toward our village....



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We escaped from the village... after that the army ruined our village... and there was a clinic and two mosques in the village and the military forces ruined them. The victim [NAME REDACTED] stated before the Court on 2006 September 26...in 1988 the army attacked us from two sides...when the military forces burned and destroyed the whole village... the complainant [NAME REDACTED] stated before the Court on 2006 October 9... that he was one of the (Qulijan) Village inhabitants and on 1988 April 4, we saw the army burning the other villages, they are: (Faqi Mustafa) and other villages... (Kardi), (Qulijan, Amin), (Sirusht), (Kani 'Ubayd), (Hawara Raqa), (Hawara Barza), (Turka), (Chircha Qala) and so on... then the Court noticed a large number of letters and documents issued by the Military Intelligence Systems in the area and which represent the daily acts of removing and ruining the villages... in addition to what is mentioned in the letter number 4008 dated 1987 June 20 and issued by the accused ('Ali Hasan Al-Majid) and it included.... Considering all villages that under security restriction and were not removed... as places for the saboteurs... prohibiting the presence of animal and human in it... that's why the military troops ruined and removed the villages they were attacking... and ruining the villages that the military troops couldn't reach by aid of airplanes.

**The evidence on considering the civilian inhabitants detainees** is that the military unit arrested the civilian inhabitants of children, women, and old men and relocated them by the military vehicles to the detention center and detained in Tupzawa, Dibs, Nazarki, and Nuqrat Al-Salman. The victim [NAME REDACTED] from (Sidar/ Al-Sulaymaniyyah) stated before the Court on 2006 September 12 ; on 1988 February, our village and its neighbors were bombed by the airplane, artillery and all weapons... the bombing continued for 7 days... and in the morning, the military troops started attacking



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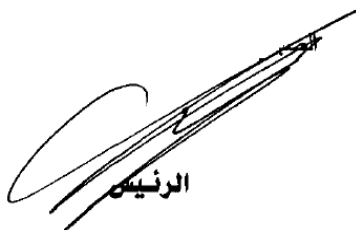
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our village... some of the inhabitants managed to escape, but the rest were arrested by the army and they were (80-90) persons.

**But the evidence on relocating the civilians outside the Province...** approved from the available evidence in the prosecution and testimony of the victims and witnesses, that all the civilian inhabitants were relocated to the detention camps by the military vehicles in (Tupzawa, Dibs, Nazarki, Al-Salamiyyah)... after separating the groups from each other... like separating women from men... youth from old men... then relocating a section of these civilians inhabitant to (Nuqrat Al-Salman camp)... which is located in (Al-Samawah desert) south of Iraq... and this what is confirmed by the victims that came before the court and were detained in (Nuqrat Al-Salman) detention camp... but the other section were detained in camps (Al-Dibs wabiharkah) and others... for long period... since the applicant [NAME REDACTED] from (Kani 'Ubayd) village relating to Kalar District... before the Court on 2006 October 16. In 1988 April, I was detained with my village inhabitants by the army, then we were relocated to (Qura Tu) camps then Tupzawa, after that we stayed for one night only... then we were relocated by the military vehicles to Dibs camp and put us in halls and closed door... we stayed for three months where the situation was very bad... then we were transferred to (Nuqrat Al-Salman) and I found it, crowded with the detained old men... and I stayed in (Nuqrat Al-Salman) for four months.

From the evidence that was reached to, the court found that the convict (Sultan Hashim Ahmad) participated with others in a joint criminal plan in order to execute a wide-range and systematic attack against the civilian inhabitants in the north of Iraq, by conventional and chemical weapons on the Kurdish villages, through issuing orders to the forces that were under his command (1<sup>st</sup> Corps Forces) during Al-Anfal operation, with his awareness that the normal result that might occur during the attacks, additionally; the joint criminal plan



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was the coercive dislocation of the civilian inhabitants, and actually it took place through the orders issued by the accused (Sultan Hashim Ahmad) to his forces (1<sup>st</sup> Corps), to relocate the Kurds who were arrested after attacking their villages and were transferred by the military vehicles to the Northern Organizational Office... the accused (Sultan Hashim Ahmad) admitted this fact before the Court and during the court's sessions, thus, the responsibility of the accused (Sultan Hashim Ahmad) in the crime of relocating the civil inhabitants was clarified, according to the article (15/Secondly) of the Court's law.

#### **The responsibility of the accused, (Sultan Hashim Ahmad) for the coercive harboring as a crime against humanity:**

##### **The Crime Elements:**

1) The perpetrator must:

**A** - Arrest, detain or abduct one or more persons.

**B** –Not to admit detention, arrest or abduction of one or more individuals or to give information concerning their fates or whereabouts

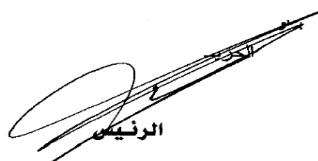
2)

**A** - When this arrest, detention, or abduction is correlated to a denial of admitting the deprivation of the aforementioned individuals from freedom or delivering information concerning their fates or whereabouts

**B** – This denial must come after deprivation from freedom or simultaneously with it.

3) The perpetrator must be aware:

**A** – That arresting of this/these person(s), detaining or abducting will be followed, as per the normal flow of the events, a denial to admit depriving freedom or delivering information concerning their fates or whereabouts.



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B - This denial must come after deprivation from freedom or simultaneously with it

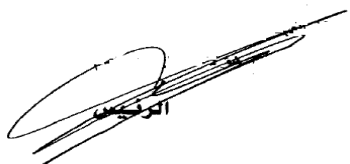
4) This arrest, detention or abduction must be carried by a government or political organization or via an approval or support from both of them.

- 5 The denial to admit depriving that person or those persons from their freedom or to give information about their fates or whereabouts must be carried by a state, or political organization, or via permission or support or confirmation from them.
- 6 The perpetrator must intend to prevent a person or persons from protection guaranteed by law, for a long period of time.
- 7 The conduct must be committed as part of a systematic large scaled attack against the civil inhabitants.
- 8 The perpetrator must be aware that such conduct is part of a systematic large-scaled attack against civil inhabitants or intend it to be that way.

#### The legal requirements:

The legal requirements for the forcible dislocation crime as a crime against humanity are:

- the perpetrator must arrest one person or more, harbor or detain them, denying to admit arrest, detainment, or harboring, or to deliver information about their fates or whereabouts. This matter must be followed by deprivation of that person or these persons' freedom, or to deliver information regarding their fates.
- The perpetrator must be fully aware that arresting or detaining those individuals will be followed, in advancement of normal activities, by a denial to admit their deprivation from freedom or delivering information regarding their fates or whereabouts, conditioned that the arrest will be carried by a state or political organization with authorization,



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support or confirmation from them. The perpetrator must intend to prevent these persons from their legal protective rights.

- The convict (Sultan Hashim Ahmad), who was the commander of 1<sup>st</sup> Al-Anfal Operations and commander of the 1<sup>st</sup> Corps and who commanded other Al-Anfal operations... Initiated from the year 1988, where the military troops attacked the Northern Area within a large-scale and systematic attack targeting civilian inhabitants in Kurdish villages, executing orders of the accused ('Ali Hasan Al-Majid) according to letter (4008) on 20 June 1987, and also executing orders of the Chief of Army Staff and General Command of the Armed Forces as per the confession of the accused (Sultan Hashim Ahmad) before the court that he used to receive orders from the Chief of Army Staff the accused (Nazar Al-Khazraji) (his case is separated). This large-scale attack occurred in (4) phases according to the statement of (Farhan Mutlak) before the Court; the phases are:

- 1- Artillery and aircraft bombing phase
- 2- Ground attack phase
- 3- Civilian inhabitant transferring phase
- 4- Villages eradicating phase

Acting on this base the military forces waged attack on vast areas of Kurdistan after concentrated bombardment by aircrafts and artillery. After that, civilian inhabitants were arrested and transferred in military vehicles to detention camps... And this is what the convict (Sultan Hashim Ahmad) confirmed in his deposition before the investigating magistrate on 23 Jun 2005 (Executing orders issued by the Northern Organizational Office specifically from the accused ('Ali Hasan Al-Majid), who had the authorities

  
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..... of a President and from Chief of Army Staff... Which was commanded by the convict (Nazar 'Abd-al-Karim Al-Khazraji) and those are clear orders...and as I am military person, I executed those orders by transferring the civilian inhabitants).

And in another passage of his testimony, the accused (Sultan Hashim Ahmad) says ...Civilian families were found...The same order has been carried out against them, which is transferring them via military vehicles to the Intelligence Organization to hand them over to the Northern Organizational Office... As a matter of fact, the families were transferred via military vehicles to the detention camps and that is what most of the victims confirm...But the detainees faced all kinds of persecution and deprivation in the detention camps in (Tupzawa, Qura Tu, Nazarki, Al-Salamiyyah, Dibs...and so on) ... and till now the accused (Sultan Hashim Ahmad), ('Ali Hasan Al-Majid) and others are refusing to provide any information about the fates of several thousands of victims that were buried in mass graves or whose fate is unknown... Whereas the victim [NAME REDACTED]from (Tup Khana) Village mentioned before the court on 26 September 2006 (... on 12 April 1988, the military forces moved forward and attacked our village... and arrested my son [NAME REDACTED]and my brothers [NAME REDACTED], and we do not know about their fate till now). The victim [NAME REDACTED] from (Sikhakaran) Village which belongs to (Kalar) District, says before the court: on 11 October 2006 (In the month of April 1988... We were blockaded by the army and transferred by tractors to Qura Tu ... we stayed there for a night... Then we were transferred to Tupzawa... the men were separated from women and we were (14) individuals... and my father's family (10) individuals... We were put in military warehouses ... Then we were transferred to Dibs Camp and later, we were transferred to Nuqrat Al-Salman after (4) months of harsh conditions... And after Al-Samawah we were transferred back to Tupzawa... She presented before the court a roster including (31) names of her missing relatives and till



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now their fate is unknown). Also, the plaintiff[NAME REDACTED], and she is from (Qashqa) Village, stated before the Court on 26 September 2006: (In the spring of 1988 our village was bombarded by aircrafts... The women, children and aged people went towards Qadir Karam Sub District...Whereas the youth who were (105) persons did not come along with us... some aged men informed the youth about an amnesty... They surrendered to military troops... They were carried away in covered vehicles to unknown destiny and we do not know about their fate till now, my brothers were among them ... they are[NAME REDACTED] and many of my relatives... She showed a roster of their names, before the Court ). The victim[NAME REDACTED] from (Qaytul) Village belonging to (Qadir Karam) Sub District says before the Court on 26 September 2006: (In 1988, our village had been continuously bombarded ...the military forces (Bariq Forces) isolated men from women... and carried away men in military vehicles to unknown destination and transferred us to (Tupzawa) camp ... And then, they transferred the women and children to Dibs Camp... they forcibly put us in dark halls...some girls and women went insane of fear. arrested my brothers, [NAME REDACTED]... also my brothers, Nasir Amin Hamid, Farhad Amin Hamid and Hamid Salih Hamid were all arrested and till now we don't know about their fate). Also, the victim presented a roster of her missing relatives.

With the confirmed evidence and the case facts it is clear that the coercive hiding of these victims occurred officially and organized by the State... as all Government civilian, military, security and party Services in the Northern Area participated in this operation, which were under the command of accused ('Ali Hasan Al-Majid) and the Ba'th regime and its officials have not confess till now about the fate of thousands of youth,

  
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men, women and children of the civilian inhabitants despite discovering many of them in mass graves which were disinterred by international experts.

**On 26 September 2006, the plaintiff** ([NAME REDACTED]) stated before the Court... That he was a POW in Iran... And after he returned to his village...He says (I found it completely destroyed... and didn't find my family who are my wife [NAME REDACTED]... I submitted two requests to the Presidency of the Republic... And I was answered on 29 October 1990, that my family disappeared during in Al-Anfal) without providing any further information about his family's fate.

**The aggressors refused to provide any information** on the fates of missing people... and also prevented the victims from protection that the law granted them till now... the proof of this is mentioned in Decree (160) of the year 1987, which includes stopping legal provisions that contradicts with the provisions of this decision... Pursuant to the provisions of the mentioned Decree, no person can inquire about the missing individuals' fate.

**The convict (Sultan Hashim Ahmad) is criminally responsible** of coercive harboring (hiding) thousands of Kurdish civilians of Al-Anfal victims...this is because the military troops under his command or other troops who provided support and assistance, transferred several thousands of women, children and men in military vehicles to detention camps; and after that they disappeared and till now their fate is unknown... Thus, the accused (Sultan Hashim Ahmad) is responsible of this matter by perpetrating coercive hiding crime of the civilians, by providing support or assistance and contributing with other groups with a common criminal intention to perpetrate the crime, and also aiming to enhance the criminal activity or purpose of the Ba'th regime and its security and military systems, pursuant to the provisions of Article (15/2<sup>nd</sup>) of the Iraqi High Criminal Tribunal No. / 10 of the year 2005.

The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official seal. The seal contains the text 'القضاء الجنائي الموحد الجديد' (The New Unified Criminal Court) in Arabic at the top, 'رئاسة المحكمة' (Presidency of the Court) in the center, and 'المحكمة العراقية' (Iraqi High Tribunal) at the bottom. The English text 'Iraqi High Tribunal' is also visible at the bottom of the seal.

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**J. Responsibility of the convict (Sultan Hashim Ahmad) of inhuman actions as crime against humanity:**

**Crime essentials:**

- 1- When the crime perpetrator causes severe physical or mental suffering by perpetrating an inhuman action.
- 2- When such an action is similar to any other action mentioned in paragraph/1 of Article /7 of Rome Basic System.
- 3- When the crime perpetrator is aware of the factual circumstances that prove the nature of the action.
- 4- When he commits the action as a part of large-scale or systematic attack directed against civilian inhabitants.
- 5- When the crime perpetrator knows that the action is a part of a large-scale or systematic attack directed against civilian inhabitants and intends to make this action a part of that attack.

The accused ('Ali Hasan Al-Majid) issued orders in letters number (4008) on 20 June 1987 and (3650) on 03 June 1987, by which he decided to completely eradicate the Kurdish villages and prevent Kurdish villagers in the North of Iraq from plowing, farming their lands, and blockaded their food supply and means of living... Through a large-scale and systematic attack executed by the military forces of the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> corps against Kurdish villages with chemical and conventional weapons; whereas the forces arrested tens of thousands of survivors from death including women, children and men, and then transferred them by military vehicles and handed them over to the Northern Organization Office and from there they were transferred to detention camps in (Tupzawa, Dibs, Nazarki, Qura Tu and Nuqrat Al-Salman), where they suffered from hunger, disease and bad treatment, separation of men from women, seizure of properties, mental and physical torture and the susceptibility of women

  
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especially young women to wide scale sexual assault by the prison guards. And what happened in Nuqrat Al-Salman detention camp is a proof of that or they were buried to mass graves.

On 18 September 2006, the victim [NAME REDACTED] says in her deposition before the Court... In 1988, our village (Sar Murd) was bombarded with chemical weapons and was burnt down by the army... Then they transferred us to (Qamchugha) Village by foot... Then transferred us to (Susa) Fort in military vehicles and then transferred us to the Emergency Force's prison in Al-Sulaymaniyyah Governorate... Then we were returned to (Susa) Fort due to large number of detainees in the Emergency Force's prison in Al-Sulaymaniyyah Governorate... After that, we were transferred to (Tupzawa) Prison... And remained there for a night and our situation was bad... Then we were transferred to (Nuqrat Al-Salman) detention camp... And our situation was very bad... and very little of water and food... and my mother-in-law died of hunger and she was blind... And she said that one of the officers in the prison used my son ([NAME REDACTED]) in return for a piece of bread for him... And lots of individuals died there... And I saw officers beating men.

On 25 September 2006, the victim [NAME REDACTED] says in his deposition before the court... In 1988, our village (Siwsinan) was bombarded with chemical weapons... Where the inhabitants escaped from it... And gathered in (Mila Sur) Village... The army blockaded and arrested us, and then transferred us via military vehicles to (Qura Tu) Camp... And then to (Tupzawa) Prison, where the men were separated from the women; and they took our belongings... Because I am old, they put me with elderly people and when my daughter ([NAME REDACTED]) saw me, she started crying... Then they transferred us to (Nuqrat Al-Salman) Prison, and we stayed there for three days without food and water... After that, they supplied us with dry bread and salty water... Where most of us had diarrhea and nausea... the detainees were between (3000-4000).

  
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The victim ([NAME REDACTED]) said before the court on 2006 September 26: our village (Qaytul) was bombarded by the aircrafts and artillery in 1988; and we escaped from the village. But the army was surrounding us; a woman asked about the military forces that surrounded us, they told her that it was Bariq forces. They arrested us and moved us to (Tupzawa) prison where they wrote down our names and entered us by force inside halls; after 3 nights, they took our children by force and among them was my son ([NAME REDACTED]) who was three and a half years old, as he was beaten until he swooned for an hour and a half. On the forth night, they separated men from women, and then they moved women to (Dibs Prison) Camp, as they entered us to the halls again severely, and some girls and women went insane because of fear. In addition, we stayed many days with no food, only dry bread and non portable water. On 2006 September 26, the victim [NAME REDACTED] said before the court: on 1988 April 11, the army detained the inhabitants, we were moved to (Tupzawa) prison...after three days we were transferred to (Dibs) prison and they took all what we had, and our situation was bad in (Dibs) prison I gave birth to a baby boy and I named him ([NAME REDACTED])

The victim [NAME REDACTED], who is one of the survivors from the mass graves, said before the Court on 2006 November 27, we were moved from (Irbil) Security Department to the Northern Zone Intelligence System in Kirkuk, then they entered us inside two halls. On the first three days, the torture was so severe; they were forcing us to enter inside halls paved with smashed glass and walk over it with bare foot many times. In addition, they tied people and hanged them down while their penises were tied to gas cylinders. They also ordered us to beat each other since this is a type of torture. Moreover, we were not eating for fear of going to bathroom, as we were beaten severely.

The image shows a handwritten signature in black ink, followed by a circular official seal. The seal contains the text 'القضاء الجنائي العراقي' (Iraqi Criminal Court) in Arabic and 'Iraqi High Tribunal' in English, with 'رئاسة المحكمة' (President of the Court) in the center.

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the victim ([NAME REDACTED]) one of the survivors from the mass graves, said before the court, on 27 November 2006... in the fourth month of 1988, we were blockaded and arrested in the village of (Milasura), then they transferred us to (Qura Tu) Camp where they detained us for (10) days, it was dirty, and they did not provide us with food or drink... then they transferred us to (Tupzawa) Camp in Kirkuk, and there, they separated men from women and children... and kept us in dirty halls, and they did not provide us with food and drinks... I was (12) years wherein they put me with women... and I remembered that a lady was delivering, and the guards and soldiers were mocking at her... women used to excrete around the halls and in front of soldiers and guards.

The accused (Sultan Hashim Ahmad) was aware of the subject of the Letters (4008) and (3650), and aware of the intentions of the accused ('Ali Hasan Al-Majid) regarding the Kurdish civilians from the inhabitants of the Kurdish villages in North of Iraq... through the letters... he issued his orders to the 1s Corps Forces to wage a large-scale and systematic attack on the Kurdish villages using the chemical and conventional weapons to eradicate it... and he was aware that the total demolition of the villages was an expected normal result in the joint criminal plan, and he is aware that this criminal plan in which he participated in person and with the others by issuing his orders to the ordered forces to conduct those attacks, will lead to the destruction of houses and civilian villages, and the sake of their life... **thus, his responsibly is confirmed concerning the crime of inhuman acts, as a crime against humanity pursuant to the Article (15/ second) of the High Iraqi Tribunal Law No. (10) of the year 2005.**

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## Verdict Decision ((War Crimes))

**Article/13/fourthly:** A, D, E, H, L

**A- The responsibility of the convict (Sultan Hashim Ahmad) on the war crime by attacking the civilians:**

**The crime elements:**

- 1- When the perpetrator of the crime implements an attack.
  - 2- The target of the attack must be civilians as their status, or civilians who are not directly participating in the military operations.
  - 3- When the perpetrator of the crime is intentionally targeting civilians as their status, or civilians who are not directly participating in the military operations.
  - 4- When the conduct of the perpetrator performed within non international armed conflict or linked with it.
  - 5- The perpetrator of the crime acknowledges the factual circumstances which prove the existence of an armed conflict.
- The attack directed against the civilians as a crime of the war crimes, requires a premeditation of directing attacks against civilians who do not take part directly in the war activities... and also requires an attack, and the purpose of this attack the civilian inhabitants... and this conduct occurs in during a non international armed conflict ... and the crime perpetrator is aware of the factual circumstances which prove this conflict.

**The elements to prove this crime:**

It is the proof of death or injured among the civilian inhabitants, and that the general scene of the victims, were not military, and proof of no distinction between civilians and combatants, and evidence that...

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.... the situation exceeds the fact of being a mere internal disturbance... and proof that the rebellious party possesses organized armed force which operates in a defined region, and owns the methods to respect the (Geneva) Conventions ...and the proof that the perpetrated action is done in a specific time and geographic limit during the conflict.

The accused (Sultan Hashim Ahmad) conducted the first Al-Anfal campaigns, and other campaigns, and he participated in it... wherein the military units attacked... the Kurdish villages... within the first Al-Anfal campaigns... from 18 February 1988 using all State's military capabilities such as: helicopters, armory, rocket launchers, fighter-jets and chemical weapons to bombard the civilian inhabitants of the Kurdish villages that were included in the campaigns... the bombardment resulted in the death of thousands of children, women and elderly people...as the victim ([NAME REDACTED] from (Sidar) Village, said before the Court on 12 September 2006: ... on February 1988, the village was attacked with the artillery... and I remembered the screaming of women and children in the village... I ran away... and (2) of my sisters were arrested... and on the same day, other villages were bombarded by chemical weapons... and after that, he identified his mother and sister's identity cards who were arrested... wherein they were found in the mass graves... the victim [NAME REDACTED] from (Sargalu) village, stated on 12 September 2006: ... our village consists of (500) families... wherein the first Al-Anfal campaigns started, and we were bombarded by helicopters and artilleries... [NAME REDACTED] and his sons [NAME REDACTED] died and another person called [NAME REDACTED]...Also the victim[NAME REDACTED], from (Kani Qadir) village, said before the court on 10 October 2006: ...our village consists of (40) families... and in the month of April 1988... our village was bombarded by artilleries and helicopters...(3) persons died as martyrs due to the bombardment... they were ([NAME REDACTED] and was in the last month of pregnancy ... and ([NAME REDACTED]) and she is young girl... and a girl...

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...named[NAME REDACTED]... and wounded persons, they were [NAME REDACTED]

Whereas the proof that the general scene of the victims was civilians...

The witness [NAME REDACTED] from (Gup Tapa) Village, said before the court on 04 December 2006; I was there in 1988, wherein (25) persons from my family died, they are my mother [NAME REDACTED]...and the only one is still alive is my daughter ([NAME REDACTED])... my brothers [NAME REDACTED]and his wife [NAME REDACTED] and the wife of [NAME REDACTED] and their sons...[NAME REDACTED] and sons of my sister and her husband [NAME REDACTED] killed in the bombardment on our village by chemical weapons, in 1988...and when I entered to the village... a girl informed me saying: (no one left for you alive from your family)... which means all my family died... and I saw more that (70) persons from my family on the ground over (500) square meter affected by chemical weapons...the Court noticed that the majority of the victims were children and women... and this is a proof that the attackers did not make a difference between their victims... civilians or combatants, and that the general scene for victims were from civilians.

The evidence that the situation... exceeds the fact of being internal disturbances... is that the military sectors attacked villages with civilians, who were farmers and shepherds... and that this huge forces can not be used in this situation; in addition of the existence of military forces for the other party (Pishmarga), which are organized forces and have their command... the convict (Sultan Hashim Ahmad) confirmed before the Court... that (Pishmarga) are Para Military forces ... and composed of units and armed by light and medium weapons.

The President



(678-963)



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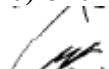
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and the evidence that the perpetrated action is in a periodical and geographical range of the military conflict...is that Al-Anfal campaign... started within a limited period, from 18 February 1988 till September 1988... and that the geographical range of this campaigns... is Kurdistan Province. Also the evidence that the crime perpetrator was aware at least about some circumstances is... that the accused (Sultan Hashim Ahmad)... was the commander of the first Al-Anfal campaign, and the commander of the first Corps who conducted other Anfal campaigns... and he was ranking General... he participated by setting out military plans for Al-Anfal campaign...and this proves that he was aware of the surrounding circumstances of this attacks.

The accused (Sultan Hashim Ahmad)... is criminally responsible for the war crime by waging attack against civilians, by issuing orders to the troops to effectuate attacks on civilians, and his participation with other troops in the effectuation of these attacks... because he was the commander of the first Al-Anfal campaigns, and the First Corps, and he conducted another Anfal campaigns...**and according to that, his juridical responsibilities is specified by issuing orders to the ordered forces, and his participation with other commanders, and with a common criminality intention, and with purpose to consolidate the criminal activity and the objective criminality of the regime of (Saddam Husayn) and his military and security organization according to the virtue of the article (15/ Second) from the law of tribunal number (10) of the year 2005.**



Member  
Member



Member



Member



the President  
Muhammad 'Uraybi Majid Al-Khalifah



(679-963)

## Verdict Decision

**D- The role of the accused (Sultan Hashim Ahmad) in directing raids premeditatedly over buildings appropriated for religious, educational, artistic, scientific, or charitable purposes or against historical sites, and wounded patients' gathering centers, conditioned not to be military targets:**

**The crime elements:**

- 1) The perpetrator must induct a raid.
- 2) The raid must target one building or more, of those designated for religious, educational, artistic, scientific, and charitable purposes, or against historical sites, or wounded and patient's gathering centers which are not considered military targets
- 3) The perpetrator must premeditatedly make the raid's target one or more buildings designated for religious, educational, artistic, scientific, and charitable purposes, or against historical sites, or wounded and patient's gathering centers which are not considered military targets
- 4) The conduct must be issued within the context of national armed dispute correlated with it
- 5) The perpetrator must be aware of factual conditions which prove the existence of armed conflict

And the elements of the evidence for the war crime represented in the attack of protected properties...is proof of the damage caused to the civilian properties...and proof of the non existence of military establishments in or on the properties ...and the non presence of military establishments near the properties ...and proof of activities which were committed and indicated to the intention of making these damages or the destruction of guarded properties.

During Al-Anfal operations of which a part was conducted by the accused (Sultan Hashim Ahmad)...the military sectors attacked the Kurdish villages using all the types of weapons, and one of it was chemical weapons, wherein a part of these villages were destructed, through armory, bulldozers, and the other part destroyed with artillery and air strikes ...or completely burned down... including the protected properties such as schools, and mosques...

The President



(680-963)

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and clinics...The proof of the damages caused to the protected civil properties is; The victim [NAME REDACTED], from (Sargalu) Village which comprises (500) families, said before the Court on 13 September 2006...in the first Al-Anfal campaigns...when the military forces started bombarding the villages in the region including our village, by chemical weapons, aircrafts, artillery, and rocket launchers, we ran away from the village...the army entered the villages, and plundered everything, including the cattle, and destructed the villages by explosives, they also destructed mosques, and burned copies of the holy Koran...the victim [NAME REDACTED] from (Sidar) Village, said before the Court on 14 September 2006...our village was violently and intensively bombarded, the bulldozers destructed the houses, this was in 1988. All the plaintiffs (victims) said that they saw the army units destructing their villages by bulldozers or tanks, or by using the explosives or burn them...wherein human beings or animals can hardly exist in the region...and the proof of non presence of military establishments on the properties...and the proof of non presence of military establishments near the properties.

The military units which attacked Kurdistan, targeted most of the villages of (4) governorates they are: (Al-Sulaymaniyyah, (Irbil), Duhuk and Kirkuk), they destructed more than (3000) villages with the protected establishments being there...it is impossible to imagine the presence of military forces...for other party the (Pishmarga), near all the protected properties in these villages...or its presence in the protected properties...wherein the existence of the humans, animals, agriculture and industry in the region was prohibited ...what about the protected establishments such as hospitals, schools and mosques...which were totally destructed, and even the water wells were filled up...In regard to the evidence that these actions which were committed indicates the intention to cause these damages or destruction of these protected properties is that when the intention targets any person being in...

The President



(681-963)

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that region, then how do they permit the existence of protected establishments, the aim of the attacking units was to destroy the region completely including its protected establishments.

The accused (Sultan Hashim Ahmad) is criminally responsible of the war crime represented in attacking the protected properties, through issuing orders to destroy the villages and protected establishments by the forces under his command... **Thus, his legal responsibility will be defined according to the Article (15/2<sup>nd</sup>) from the Court Law No. (10) of the year 2005, for issuing the orders and participating with a joint criminal intention, with the others, and his contribution for enhancing the criminal activity and purpose for the (Saddam Hussein) Regime and his security and military organizations.**

  
Member

  
Member

  
Member

  
Member



The President  
Muhammad 'Traybi Majid Al-Khalifah



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### **H. the responsibility of the accused (Sultan Hashim Ahmad) of the crime of issuing orders for relocating the civilian residents:**

#### **Crime elements:**

- 1) The perpetrator must order the dislocation of civil inhabitants.
- 2) The order should not have vindication as to provide security for concerned civilians or military necessities.
- 3) The perpetrator must be willing to engender such dislocation via issuing orders.
- 4) The conduct must be issued within a national armed dispute context and correlated with it.
- 5) The perpetrator must be aware of factual circumstances which prove the existence of armed conflict.

Issuing an order for displacing the civilian residents should be related to the conflict, unless it was for the safety of the involved civilians or for urgent military reasons... and the crime perpetrator should be able to cause this displacement through issuing this order.

The element to prove that this crime is a war crime, it is a proof that the order of displacement was implemented without any choices; the accused (Sultan Hashim Ahmad) commanded military operations in the North of Iraq through an armed and a non-international conflict, they were attacks carried out by the Iraqi army against the civilian residents of the Kurdish villages, different types of weapons were used against those villages and their residents, including the chemical weapons. they were transferred in military vehicles to the prisons and detention places, which was confirmed by the accused (Sultan Hashim Ahmad) before of the investigating Magistrate; whereas the military units under his command transferred the families of the civilian residents to the Intelligence Services, then to the Northern Organization Office, after that to the detention and imprisonment centers; and that all the civilians who were forcibly relocated or displaced, were subject to coercive dislocation through this order, and this is what was confirmed by the accused (Sultan Hashim Ahmad) before the investigating Magistrate, that there is no one....

The President



(683-963)



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wishing to leave his ancestors' land on his will...when the army forces attacked the residents this was preceded by bombardment with the fighter-jets, artillery and chemical weapons which led to the murder of the majority of them, while some of them escaped to Turkey and Iran, or hiding in the caves or rugged places and the rest who survived the bombardment and did not escape were detained by the army and transferred in military vehicles to the prisons and detention camps and were subject to various kinds of persecution, sexual violence against the women, insulting, contempt and starvation in those detention camps: (Tupzawa, Dibs, Qura Tu, Nazarki and Nuqrat Al-Salman)...the accused (Sultan Hashim Ahmad) is criminally responsible of displacing the residents as a war crime by issuing orders to dislocate the residents from those villages, contradicting the international conventions and the International Humanity Law...**Thus, his legal responsibility will be defined according to the Article (15/2<sup>nd</sup>) from the law No. (10) for the year 2005 of the Iraqi High Tribunal Court, for issuing the orders to the forces under his command to conduct these attacks and his contribution with a joint criminal intention with the others to enhance the criminal activity and purpose of the (Saddam Hussein) Regime and his security and military organizations.**

### **The responsibility of the convict (Sultan Hashim Ahmad) of the crimes attributed to him**

The accused (Sultan Hashim Ahmad) was a Commander of the 1<sup>st</sup> Anfal Campaigns in April 1988, he was in charge of the 1<sup>st</sup> Corps till the end of the 8<sup>th</sup> Anfal Campaigns (the final of Al-Anfal Campaigns), and he was in commanding position, obviously practiced the authority of the command over the forces under his command through issuing orders to carry out Anfal campaigns in the Iraqi Northern Area...the evidence clearly indicated that the forces were ordered by him to conduct military operations during Anfal campaigns, the reason which motivated the condemned (Saddam Hussein)...

The President



(684-963)

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to promote him and award him with the medal of bravery for his outstanding role in Anfal Campaigns...when these issues connected with the statement of the accused (Sultan Hashim Ahmad) before the Court, in which he mentioned that he was a soldier obeying and implementing the orders given to him from his leaders, and in case of not implementing those orders he must have been executed; so the court is convinced according with the evidences (the documents and the victims' testimonies) that the accused (Sultan Hashim Ahmad) participated with an essential way in committing several of the crimes affiliated to him, by issuing orders to the forces under his command to carry out the Anfal campaigns.

The accused (Sultan Hashim Ahmad) claimed that he was not aware of using the chemical weapons and the forces under his command did not attack the Kurdish civil villages in Northern Iraq, while this claim was refuted and disproved by several evidences (the documents and the victims' testimonies), he also claimed that, when his forces transferred the civilians and extradited them to the security forces, he did not know what happened to them after that, but the accused (Sultan Hashim Ahmad) was aware of the content of the Letter No. (4008) dated on 20 June 1987, which issued by the accused ('Ali Hasan Al-Majid) since this mentioned letter considered as an important document proved the intentions of the accused ('Ali Hasan Al-Majid) in annihilating the Kurdish existence (the human, the animal and the agricultural) in the Kurdish region in the North of Iraq; according to the letter No. (4008) dated 20 June 1987, the accused ('Ali Hasan Al-Majid) ordered the military forces to prepare special strikes to kill the largest number of people being in the regions that he considered prohibited; beside that he ordered for using the artillery and fighter-jets, while this issue contradicted with the statements of the accused (Sultan Hashim Ahmad), that he was not aware of using the chemical weapons during the Anfal campaigns, this contradicts what is mentioned in the Clause No. (5) of the Letter No. (4008) which stated the intention of the accused ('Ali....

The President



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Hasan Al-Majid) to execute everyone existing in the security prohibited villages, ranging between (15-70) years old, without trial... and the accused (Sultan Hashim Ahmad) frankly stated before the Court that he received the orders from the accused ('Ali Hasan Al-Majid) as the region Commander and in the beginning he appointed the accused (Sultan Hashim Ahmad) as a Commander of the 1<sup>st</sup> Anfal campaigns, then he assigned him to be the 1<sup>st</sup> Corps Commander, through these two positions he was engaged in the major decisions such as the Decree no (160) of the year 1987, the Letter no. (4008) dated 20 June 1987 and the Letter no. (3650) dated 03 June 1987, in which the accused ('Ali Hasan Al-Majid) draw the principles and conditions of Anfal Campaigns; during the command of the accused (Sultan Hashim Ahmad) of the 1<sup>st</sup> Anfal Campaign and the 1<sup>st</sup> Corps, the military forces committed several criminal actions as per the orders issued by him for being the supreme commander of those forces. Holding the two high positions enabled the accused to be aware of the intention of the leadership in the chain of command, including the condemned (Saddam Hussein) and the accused ('Ali Hasan Al-Majid)...as the accused (Sultan Hashim Ahmad) was the 1<sup>st</sup> Corps commander and the authority of his position allows him to aware of the details of the Anfal Campaigns and also the intentions of the High Command Headquarter; the documentary evidences obviously proved that the accused (Sultan Hashim Ahmad) was completely aware that he participated in a wide-range and methodical attack against the Kurdish civilian in the north of Iraq...the Decree no (160) of the year 1987, the letter no. (2008) dated 20 June 1987 and the Letter no. (3650) dated 03 June 1987 allowed him to be aware of the harsh procedures planned against the Kurdish civilians and the Pishmarga fighters in the Kurdish region and the intentions of the accused ('Ali Hasan Al-Majid) against them; thus, the accused (Sultan Hashim Ahmad) was aware of the intention of the accused ('Ali Hasan Al-Majid) to eradicate the Kurdish as a national and ethnic community in the north of Iraq...through the documents and letters, so in order that the accused (Sultan Hashim Ahmad) reinforces

The President



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the intention of the accused ('Ali Hasan Al-Majid) to exterminate the Kurdish people, he issued his orders to the forces that were under his command, to attack the Kurdish villages civilians using all conventional and chemical weapons, in which several women, kids and men were murdered and those who survived were arrested and transferred in military vehicles to the Northern Organization Office, then to the detention and imprisonment camps in Tupzawa, Dibs, Nazarki and Nuqrat Al-Salman and to the mass graves to be executed by the executions squads and buried there; while the accused (Sultan Hashim Ahmad) was a professional officer he knows well the non-distinguishing effects of the chemical weapons on the military and civilian targets in the region, including the killing and total destruction, so from April 1988 till September of the same year, the evidences indicated that the accused (Sultan Hashim Ahmad), the 1<sup>st</sup> Corps Commander, implemented the orders of the accused ('Ali Hasan Al-Majid) by issuing orders to the forces were under his command to attack the Kurdish villages in the north of Iraq and destroyed them with the conventional and chemical weapons, he and his forces targeted exactly the civilians, used the chemical weapons against them, forcibly deported them to the detention camps and destroyed their houses and villages; the documental evidences and the victims' testimonies proved that these villages had been bombarded and destroyed by the conventional and chemical weapons. Also, these evidences proved that several Kurdish civilians were deceased as a result of those bombardments and others arrested and coercively dislocated by the 1<sup>st</sup> Corps, commanded by the accused (Sultan Hashim Ahmad) to the detention camps; due to his command of the 1<sup>st</sup> Corps, the accused (Sultan Hashim Ahmad) was aware of all events, therefore he was aware of the wide-scale operations against the Kurdish in the north of Iraq and of his intention in committing the genocide, according to the paragraph no (4)...

The President



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of the letter (1122) dated 21 August 1988, addressed to the 1<sup>st</sup> and 5<sup>th</sup> Corps, which stipulated that it was suitable opportunity to eradicate the sabotage in the Northern Region and it is the best chance which will never come in the future... while the activities of the accused (Sultan Hashim Ahmad) which are: issuing the orders to the forces under his command to do wide-scale attacks by the conventional and chemical weapons against the Kurdish villages in the north of Iraq assists in committing the genocide through helping in actions which led to kill and cause an excessive physical and mental damage to the members of the community and subduing them intentionally to hard living conditions of living aimed to the actual destruction (wide-scale destruction for their houses and living conditions beside the coercive dislocation).

The evidences prove that the accused (Sultan Hashim Ahmad) personally participated and with others including the accused ('Ali Hasan Al-Majid) in a joint criminal plan (joint criminal purpose) for implementing wide-scale and systematic attacks against the Kurdish civilians in the northern Iraq, by implementing attacks using conventional and chemical weapons against the villages as per the orders issued by the accused (Sultan Hashim Ahmad) to his forces to carry out these attacks carrying on the orders of the accused ('Ali Hasan Al-Majid)

The accused (Sultan Hashim Ahmad) was fully aware of the undistinguishable nature of the attacks by chemical weapons, his participating in the planning of the attacks against the Kurdish villages, confirms his intention in implementing the joint plan in committing a wide- scale and systematic attacks... and his 1<sup>st</sup> Corps was among the main military units utilized in implementing the Anfal Campaigns... the evidences proved that the accused (Sultan Hashim Ahmad) played a role that no one else could do...which guaranteed

The President



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the success of his criminal joint plan (Intentional criminal plan), to carry out actions against the Kurdish civilians in the northern Iraq.

The evidence (Documents, letters and plaintiffs' statements) proves that the defendant (Sultan Hashim Ahmad) ordered the 1<sup>st</sup> Corps to utilize conventional and chemical weapons against the Kurdish civilians in Northern Iraq. The evidence proves that he targeted the villages inhabited with civilians (Sargalu, Bargalu and Mawat), which supports the evidence of the joint criminal plan. The evidence proves that the accused (Sultan Hashim Ahmad) and others including the accused ('Ali Hasan Al-Majid) contributed in a joint criminal plan to target the Kurdish civilians in the north of Iraq utilizing conventional and chemical weapons.

The accused (Sultan Hashim Ahmad) knew that the coercive dislocation of civilians is a normal expectable result which enhances the joint criminal plan aimed to dislocate civilians from their villages as a result of military large-scale operations.

The accused (Sultan Hashim Ahmad) confessed before the Court that the military forces transferred civilians in military vehicles to the Northern Organization Office. The accused ('Ali Hasan Al-Majid) issued his letter No. (4008) dated 20 June 1987 in which he decided to completely destroy the Kurdish villages, which were considered at that time as prohibited villages for Kurdish civilians... The accused (Sultan Hashim Ahmad) was aware of the letter No. (4008) ... He ordered the 1<sup>st</sup> Corps to conduct a military large-scale operation on Kurdish villages, using conventional and chemical weapons... He knew that the complete destruction of Kurdish villages was possibly anticipated due to the fact that he participated in carrying out the joint criminal plan.

The accused (Sultan Hashim Ahmad) was personally involved and he contributed in enhancing the joint criminal plan (joint criminal intention), which aimed to conduct large-scale military operations against ...

The President



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civilians utilizing conventional and chemical weapons ... The accused (Sultan Hashim Ahmad) was aware when he participated in the joint criminal plan that there were armed conflicts happening between the Iraqi forces and Kurdish fighters (Pishmarga) ... The available evidence proves that the accused (Sultan Hashim Ahmad) participated in planning and conducting strikes against civilians in Kurdish villages... The accused ('Ali Hasan Al-Majid) and the Northern Organization Office issued orders to the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps to conduct strikes in the Anfal Operations. Although the defendant ('Ali Hasan Al-Majid) stated that he did not issue any orders to the army, but the letters no (4008) dated 20 June 1987 and no (3650) dated 03 June 1987 disproves his claims.

The strikes against the Kurdish civilians in Northern Iraqi related to the armed conflict between the Iraqi forces and the Pishmarga forces... The accused (Sultan Hashim Ahmad) was personally involved in preparing the strikes against Kurdish villages without differentiating between innocent civilians and fighters... As it was mentioned before, the utilization of chemical weapons does not distinguish between civilians and fighters.... There was no justification for the need of military operations, which were carried out by the 1<sup>st</sup> Corps under the command of the accused (Sultan Hashim Ahmad), in cooperation with the 2<sup>nd</sup> and 5<sup>th</sup> Corps against the Kurds in the North of Iraq... Thousands of Kurds were killed and thousands of them were arrested by the military forces and transferred in military vehicles to the Northern Organization Office in order to be transferred to detention camps in (Tupzawa, Dibs, Nazarki and Nuqrat Al-Salman) or to be buried in mass graves after being executed by execution squads... The defendant (Sultan Hashim Ahmad) personally involved in preparing the joint criminal plan with the cooperation of others ...

The President



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intentionally in order to carry out strikes against Kurds in the north of Iraq... The accused (Sultan Hashim Ahmad) issued orders to the commanders of 1<sup>st</sup> Corps forces to conduct strikes against civilians... The defendant (Sultan Hashim Ahmad) participated in conducting indiscriminate strikes on Kurdish villages in the north of Iraq by issuing orders to commanders without any considerations to the type of the building or its protected nature (*T.C: such as schools, mosques...etc*) These strikes were related to the internal conflict between the Iraqi army and Pishmarga...The accused ('Ali Hasan Al-Majid) ordered the commanders of First, Second and Fifth Corps to completely destroy Kurdish villages. This plan aimed to destroy all villages taken as bases for Pishmarga forces to carry out strikes against Iraqi army. The accused (Sultan Hashim Ahmad) did not differentiate between fighters and civilians or even military or civilian targets, (protected) targets because he was obeying orders of the accused ('Ali Hasan A-Majid), who ordered his military forces to attack the Kurdish villages utilizing conventional and chemical weapons that completely destroyed the protected buildings.

The accused (Sultan Hashim Ahmad) was aware of the orders issued by the defendant 'Ali Hasan Al-Majid (Decision no. (160) dated 1987, letter no. (4008) dated 20 June 1987 and letter number (3650) dated 03 June 1987) to dislocate Kurdish civilians from their villages in the north of Iraq to compounds constructed for this purpose, against their will, this was obtained through intelligence information presented by the accused (Sultan Hashim Ahmad) to the accused ('Ali Hasan Al-Majid), which played a role in expelling Kurdish civilians from their homes and villages in Northern Iraq...Therefore, this is why the defendant (Sultan Hashim Ahmad) is considered an accomplice and collaborator in assisting the criminal joint operation by issuing orders to the Military Forces under his command to execute ...

The President



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wide-scale and methodical attacks utilizing conventional and chemical weapons on Kurdish villages in Northern Iraq. He knew that these attacks will dislocate civilians from their houses and villages. The accused ('Ali Hasan Al-Majid) issued orders to destroy Kurdish villages in Northern Iraq without differentiating between the houses of civilians and Kurdish fighters (Pishmarga) ... The defendant knew about these orders through the letters, documents and correspondence... The accused (Sultan Hashim Ahmad) implemented the orders of the accused (Ali Hasan Al-Majid) by ordering the 1<sup>st</sup> Corps to initiate large-scale organized operations utilizing conventional and chemical weapons against the Kurdish houses, villages and civilians in Northern Iraq. The accused (Sultan Hashim Ahmad) cannot take the military operations as an excuse to justify the complete destruction of villages, which were leveled to the ground, or the massacres and killing as well as the large-scale destruction of properties. The accused (Sultan Hashim Ahmad) was responsible of genocide, war crimes and crimes against humanity, which were committed against the Kurds in Northern Iraq during the Anfal operations.

**Conviction verdict against the accused (Sultan Hashim Ahmad), for the genocide crime:**

**The tribunal discussed in details the crimes' evidences that were charged to the convict Sultan Hashim Ahmad like the victims', plaintiffs' and witnesses' testimonies, documents and correspondences. While discussing the crimes that had been charged to him and proving its basics, legal requirements and evidences' elements, we do not find it necessary to move again to it.**

The President



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The accused is charged with genocide, causing severe physical or mental damage by subduing the community to living conditions intending to partially or completely annihilate it.

The evidence proves that the accused (Sultan Hashim Ahmad) was the commander of Anfal Operation in February 1988 and after that, he was promoted to the Commander of 1<sup>st</sup> Corps in April 1988. The aforementioned two positions enabled the defendant to know about the orders issued by higher authorities, such as decree no. (160), issued by the Revolutionary Command Council on 1987, letter no. (3650) dated 03 June 1987 and letter no. (4008), dated 20 June 1987 issued by the accused ('Ali Hasan Al-Majid) regarding the regulations of the Anfal Operations against the Kurdish civilians in Northern Iraq.

The evidence proves that the accused (Sultan Hashim Ahmad) was fully aware that he was participating in a large-scale operation against Kurdish civilians in Northern Iraq. The decree no (160), dated 1987 and the two letters no. (3650) dated 03 June 1987 and no. (4008) dated 20 June 1987 included information sent to the accused (Sultan Hashim Ahmad) regarding the severe procedures, which were going to be implemented against the Kurdish fighters and civilians in Northern Iraq...

The aforementioned evidences prove, along with other evidences (Letters, documents and plaintiffs and victims' statement) that the accused (Sultan Hashim Ahmad) was fully aware of what 'Ali Hasan Al-Majid and Saddam Hussein intended to do with the Kurdish civilians in Northern Iraq and he knew that he was ordered to attack the civilians using lethal weapons (Chemical weapons)...

The accused (Sultan Hashim Ahmad) knew that the accused ('Ali Hasan Al-Majid) intended to commit genocide against the Kurdish civilians in Northern Iraqi (According to the letters and documents), and he was required to take necessary actions to achieve the aims and intentions of the accused ('Ali Hasan Al-Majid) by issuing orders to the military forces (1<sup>st</sup> Corps) ...

The President



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to commit acts boosting the intend of genocide... The accused (Sultan Hashim Ahmad) alleged that he was not aware of using chemical weapons and his military forces attacked the military targets (Pishmarga forces) only and not the civilians. These claims are disproved by the irrefutable evidences (Documents no. (4008) dated 20 June 1987, (3650 dated 03 June 1987, decision no. (160) dated 1987), plaintiffs and victims' statement and other letters and documents, which include information on the use of chemical weapons) ... The accused (Sultan Hashim Ahmad), who is a well-experienced officer, was fully aware of the undistinguishable effects of the chemical weapons against civilians and military targets including murder and devastation. From the start of the Anfal Operation in (April 1988) until the end in (September 1988), the evidences (Letters, documents and victims' statement) prove that the accused (Sultan Hashim Ahmad), who was the commander of 1<sup>st</sup> Corps, carried out the orders and intentions of the accused ('Ali Hasan Al-Majid), by ordering his forces to attack the Kurdish villages in Northern Iraq and completely destroy them using chemical and conventional weapons... His soldiers and him, targeted civilians in particular by using chemical and conventional weapons... As a result of this operation, thousands of civilians were killed and their villages and houses were destroyed...

They were coercively dislocated from their villages, and all the men, women and children who survived were arrested and transferred by force to detention camps in (Tupzawa, Dibs, Qura Tu, Nazarki and Nuqrat Al-Salman). They suffered from starvation, mistreatment, oppression, deprived from sleeping and diseases. Segregating women from men and young men from elders, as well as women were sexually abused...

Many of them were buried in mass graves, after they were killed by execution squads. The evidences prove that the accused (Sultan Hashim Ahmad) played a key role in equipping the military forces with ammunitions and other supplies, which were used in chemical and conventional weapon attacks against the Kurds in Northern Iraq. This was accomplished by the big support and cooperation between him and the ...

The President



(694-963)

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
1428  
Baghdad-Iraq

Ref.No.:1/ 2<sup>nd</sup> Criminal / 2006  
Date: 09 Jumadah Al-Akhirah

Coincided with 2007 June 24

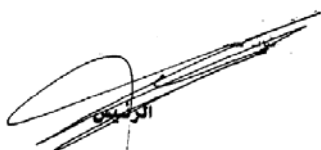
## Verdict Decision

accused ('Ali Hasan Al-Majid), chief of army staff, and the Deputy Chief of Army Staff for operations, the accused (Husayn Rashid) since the latter was supplying the accused (Sultan Hashim Ahmad) and his forces with ammunitions, accoutrements, maps, and the military consultants.

The evidences prove that the accused (Sultan Hashim Ahmad) had implemented a military plan through wide-range attacks by ordering his soldiers and the forces under his command to attack the Kurdish villages in the north of Iraq with the chemical and conventional weapons carrying out the orders of the accused ('Ali Hasan Al-Majid) to apply the Regime's policy against the Kurds in the north of Iraq as a national and ethnic group.. In spite of his complete awareness that these wide-attacks with the chemical and conventional weapons will result in killing innocents in a wide-range, destroying the villages and houses, displacing the survived women, infants, and men, then relocating them by force to the arresting and detention camps by moving them in military vehicles to be handed over to the Northern Organization Office under the charge of accused ('Ali Hasan Al-Majid).. The accused (Sultan Hashim Ahmad) as the commander of the first Corps... was aware of the wide-range operations against the Kurds in the north of Iraq... also aware of the accused ('Ali Hasan Al-Majid's) intention of committing the genocide crime against them, and that is according to the decree (160) for the year 1987, the correspondence (4008) dated 1987 June 20, the correspondence (3650) dated 1987 June 03, and the other correspondences and documents concerning the use of the chemical weapons (Special attacks); which is clarified in the chapter of documents and correspondence.

The activities of accused (Sultan Hashim Ahmad) expressed in releasing orders to his forces (The first Corps) of performing wide-range attacks with the conventional and chemical weapon on the Kurdish villages in the north of Iraq; helped in committing the genocide crime through his soldiers and forces' actions that had caused in killing thousands of the Kurdish civilians in the north of Iraq as a national and ethnic group...

The President



(695-963)

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
1428  
Baghdad-Iraq





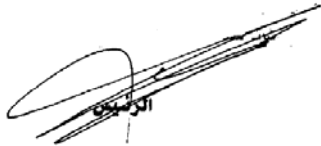

Ref.No.:1/ 2<sup>nd</sup> Criminal / 2006  
Date: 09 Jumadah Al-Akhirah

Coincided with 2007 June 24

## Verdict Decision

... with causing serious physical and mental harm to that national and ethnic group's individuals, and subduing them intentionally to living conditions that cause in eradicating them by the wide-range destruction of their houses and living ways, and in relocating them coercively to the arrest and detention camps. The accused (Sultan Hashim Ahmad) was completely aware that his orders he had issued to his soldiers and forces helped mainly in committing the genocide through the Anfal operations. Through the case's available evidences; the Court finds that the accused (Sultan Hashim Ahmad) had offered help and assistance and provoked the accused ('Ali Hasan Al-Majid) and (Saddam Hussein) to commit the genocide against the Kurdish civilians as an ethnic and national group residing in the north of Iraq; through his command of the first Corps and his performing of the military plans assigned to him by releasing orders to his forces and soldiers to carry out a wide-range attack with the chemical and conventional weapons against the Kurdish villages in which he killed thousands of innocents.. And that he knew that his actions helped in committing the genocide against the Kurdish inhabitants in the north of Iraq.

**Thereby, the Court concludes that the accused (Sultan Hashim Ahmad) is guilty in complicity with the accused ('Ali Hasan Al-Majid) and others in committing the genocide, and that the evidences are enough to convict him according to the descriptions of article (11/First) of clauses (A- B- C) and Article (11/Second- E), and by virtue of Articles (15/Second) and (24) of the Iraqi High Tribunal (IHT) Law no (10) of the year 2005, the sentence was determined according to the descriptions of Article (406/1/A- B- F), by virtue of the contributory Articles...**

Member  Member  Member  Member   
 

The President

(696-963)

In the Name of God the Merciful the Compassionate

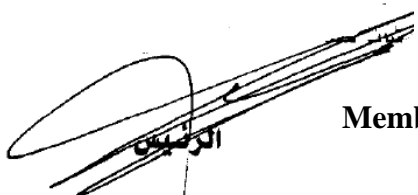
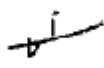
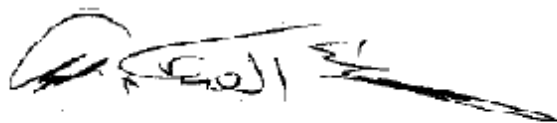
The Iraqi High Tribunal  
Second Criminal Court  
1428  
Baghdad-Iraq

Ref.No.:1/ 2<sup>nd</sup> Criminal / 2006  
Date: 09 Jumadah Al-Akhirah

Coincided with 2007 June 24

## Verdict Decision

... (47, 48, and 49) of the amended Penal Code number (111) of the year 1969, accordingly he (111) of the year 1969... the verdict was released in unanimous agreement revocable for cassation which was publicly acknowledged on 2007 June 24.

    
Member Member Member Member

The President  
Muhammad 'Iraybi Majid Al-Khalifah



In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
1428  
Baghdad-Iraq

Ref.No.:1/ 2<sup>nd</sup> Criminal / 2006  
Date: 09 Jumadah Al-Akhirah

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## Verdict Decision

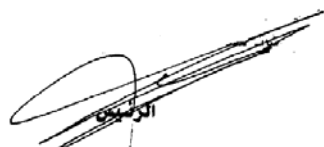
### Crimes against humanity

**A-Conviction of the accused (Sultan Hashim Ahmad) for the murder crime as a crime against humanity:**

**The tribunal discussed in details the crimes' evidences that were charged to the convict Sultan Hashim Ahmad like the victims', plaintiffs' and witnesses' testimonies, documents and correspondences. While discussing the crimes that had been charged to him and proving its basics, legal requirements and evidences' elements, we do not find it necessary to move again to it.**

The available case's **evidences** (Documents, correspondence, and the victims and plaintiffs' statements) **prove** that the accused (Sultan Hashim Ahmad) participated personally with others including the accused ('Ali Hasan Al-Majid) in an joint criminal plan of executing wide-range and methodical attacks on the civilian inhabitants in the north of Iraq by issuing orders to the forces under his command to use the chemical and conventional weapons in attacking the Kurdish villages, also that the soldiers under his command of the first corps had dislocated the survived civilians coercively in military vehicles and handed them over to the Northern Organization Office commanded by the accused ('Ali Hasan Al-Majid) to be arrested by the security services in the arrest and detention camps of (Tupzawa, Dibs, Nazarki, and Nuqrat Al-Salman) where they suffered of oppression, torturing, lack of food and medicine, starving, physical and psychological harms, sexual violence, and the diseases' spreading, executing the accused ('Ali Hasan Al-Majid's) order (Correspondences (1008) on 1987 June 20, and (3650) on 1987 June 03). The accused (Sultan Hashim Ahmad) intended to carry out these methodical and wide-range attacks (And this was proved through the victims and plaintiffs' testimonies...

The President



In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
1428  
Baghdad-Iraq

Ref.No.:1/ 2<sup>nd</sup> Criminal / 2006  
Date: 09 Jumadah Al-Akhirah

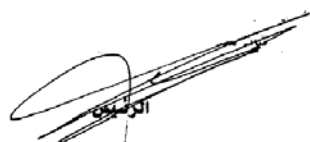
Coincided with 2007 June 24

## Verdict Decision

... and documents) while discussing the proof of these crimes. The accused (Sultan Hashim Ahmad) was aware of the mass-destructive capability of the chemical weapons... his participation and contribution in planning for carrying out these attacks on the Kurdish villages assure his knowledge, his intention to execute it, and involvement in the joint plan for committing wide-range and methodical attacks against the civilian inhabitants in the north of Iraq. The accused (Sultan Hashim Ahmad) was participating personally in the joint criminal plan through the attacks, carried on by the first Corps forces under his command, on the Kurdish civilians in the north of Iraq during the Anfal operations. The role performed by the accused (Sultan Ahmad Hashim) in executing the Anfal operations was not capable to be done by any one else; by the orders that he released to his commands of carrying out a wide-range and methodical attacks with chemical and conventional weapons on the Kurdish villages which caused the murder of thousands of Kurdish civilian inhabitants; carrying out the accused ('Ali Hasan Al-Majid's) orders of implementing the regime's policy against the Kurdish inhabitants in the north of Iraq. The Court concludes that the accused (Sultan Hashim Ahmad) participated personally with other convicts in an joint criminal plan of executing wide-range and methodical attacks on the Kurdish civilian inhabitants in the north of Iraq that caused in committing the premeditated murder crime with in huge numbers through the orders issued by him to his soldiers who in their turn executed it.

**Accordingly, the Court concludes that the accused (Sultan Hashim Ahmad) is guilty for the premeditated murder crime that forms a crime against humanity, for the period February until September 1988, which was committed within the Anfal operation; the evidences are enough to convict him for that crime according to the description of article (12/First-A), by virtue of article (15/First/Second) and article (24) of The Iraqi High Tribunal Law no. (10) of the year 2005, the sentence was determined based on the description of Article (406/1-A-F) and by virtue of the contributory articles (47, 48 and 49) of the Penal Code no. (111) of the year 1969, accordingly he was convicted...**

The President



(699-963)

In the Name of God the Merciful the Compassionate

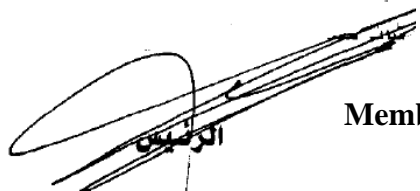
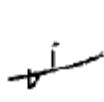
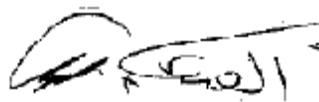

The Iraqi High Tribunal  
Second Criminal Court  
1428  
Baghdad-Iraq

Ref.No.:1/ 2<sup>nd</sup> Criminal / 2006  
Date: 09 Jumadah Al-Akhirah

Coincided with 2007 June 24

## Verdict Decision

...and his sentence was determined, the verdict was released in unanimous agreement revocable for cassation which was publicly acknowledged on 2007 June 24.

Member Member Member Member

**The President**  
Muhammad 'Iraybi Majid Al-Khalifah



**In The Name of God All Merciful All Compassionate**

**Iraqi High Tribunal  
Second Criminal Court  
Iraq – Baghdad  
Reference No.: 1/ 2<sup>nd</sup> Criminal/ 2006  
Date: 2007 June 24**

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**The Verdict**

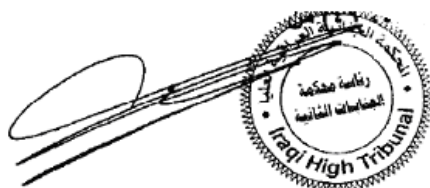
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**B. Convict Sultan Hashim Ahmad verdict for genocide as a crime against humanity:**

**The tribunal previously discussed in details the crimes' elements of proof correlated to Convict Sultan Hashim Ahmad from victims, plaintiffs and witnesses' testimonies, documents, correspondences, and letters, while discussing the crimes that had been charged against him, proving its basics, legal requirements and elements of proof. Hence, we do not find it necessary to tackle it again in verdict.**

The evidences such as victims and witnesses' testimonies, documents and correspondences confirm that Kurdish civil inhabitants in Northern Iraq had been exposed to wide-scale massacres, due to systematic wide-scaled attacks carried by the military forces of 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps following the orders of Convict 'Ali Hasan Al-Majid. The provisioned evidences in the case confirm that Convict Sultan Hashim Ahmad issued orders to 1<sup>st</sup> Corps forces under his command, to launch a systematic wide-scaled attack against Kurdish villages, which are inhabited by civilians, using chemical and conventional weapons, in a contributory joint criminal plan with Convict 'Ali Hasan Al-Majid and others, causing a wide-scale genocide of Kurdish civil inhabitants in Northern Iraq.

**Accordingly, the tribunal finds that Convict Sultan Hashim Ahmad is guilty of genocide as a crime against humanity for the period between February and September 1988. Hence, the provisioned evidences in the case are enough to charge him and identify his sentence, pursuant to Article [12/ 1<sup>st</sup>-( B)] by virtue of Articles [15/ 1<sup>st</sup>/ 2<sup>nd</sup>] and [24] of Iraqi High Tribunal Law No [10] for the year 2005. The sentence was identified by the virtue of Article [406/ 1/ (A-B-F)] and by virtue of contributory Clauses [47], [48] and [49] of Iraqi amended Penal Code No [111], for the year 1969.**



**Chief of Instigative Judges  
(701 – 963)**



In The Name of God All Merciful All Compassionate

Iraqi High Tribunal  
Second Criminal Court  
Iraq – Baghdad  
Reference No.: 1/ 2<sup>nd</sup> Criminal / 2006  
Date: 2007 June 24

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The Verdict

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The verdict had been unanimously issued, being able for cassation, publicly acknowledged on 2007 June 24.

Signatures of the tribunal's members



The image shows four handwritten signatures in black ink, arranged horizontally. Below them is a large, circular official seal of the Iraqi High Tribunal. The seal features the text 'المحكمة العراقية العليا' (The Iraqi High Tribunal) in Arabic at the top, 'رئاسة محكمة' (President of the Court) in the center, and 'القضاة القضاة' (Judges) at the bottom. The English text 'Iraqi High Tribunal' is also visible at the bottom of the seal. A large, stylized signature is written across the seal.

Chief of Investigative Judges  
Muhammad 'Iraybi Majid Al-Khalifa

**In The Name of God All Merciful All Compassionate**

**Iraqi High Tribunal  
Second Criminal Court  
Iraq – Baghdad  
Reference No.: 1/ 2<sup>nd</sup> Criminal / 2006  
Date: 2007 June 24**

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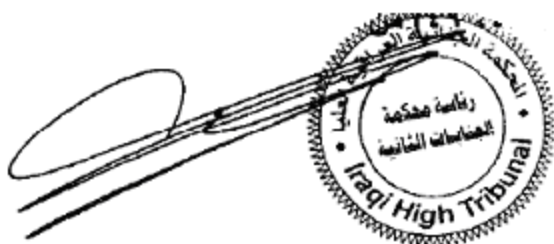
**The Verdict**

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**D. Convict Sultan Hashim Ahmad verdict for deporting or coercively dislocating inhabitants as a crime against humanity:**

The tribunal previously discussed in details the crimes' elements of proof correlated to Convict Sultan Hashim Ahmad from victims, plaintiffs and witnesses' testimonies, documents, correspondences, and letters, while discussing the crimes that had been charged against him, proving its basics, legal requirements and elements of proof. Hence, we do not find it necessary to tackle it again in verdict.

The provisioned evidences in the case affirm that Convict Sultan Hashim Ahmad was a contributor, by attribution, in the joint criminal plan to execute Al-Anfal operations along with Convict 'Ali Hasan Al-Majid and others, through his orders issued to 1<sup>st</sup> Corps forces under his command to launch a systematic wide-scaled attack against Kurdish civil inhabitants in Northern Iraq, using chemical and conventional weapons over Kurdish villages. Convict Sultan Hashim Ahmad was aware that coercive dislocation of civil inhabitants is a natural consequence which can be logically predicted to reinforce the contributory joint criminal plan in order to execute coercive dislocation of Kurdish civil inhabitants as a result of systematic wide-scaled attacks against their villages referring to devastative weapons (chemical weapons) resulting in the complete demolishment of their houses and villages. Convict Sultan Hashim Ahmad was acknowledged and aware of letters number 4008 and 3650. Accordingly, he will be responsible for dislocating Kurdish civilians, coercively, far away from their house and villages, due to his contribution in ...



**Chief of Investigative Judge**

(703 – 963)

**Iraqi High Tribunal**  
**Second Criminal Court**  
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**Date: 2007 June 24**

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**The Verdict**

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... a joint criminal plan with Convict 'Ali Hasan Al-Majid and others, as an implementation of the latter orders. Convict Sultan Hashim Ahmad confessed, during hearing sessions, that military forces, while arresting Kurdish civilians after raiding attacks over their villages, used to drive them, by military vehicles, to Northern Organization Office, where security systems dislocate them in Tupzawa, Al-Dibs, Qura Tu and Nuqrat Al-Salman camps, to live under harsh conditions of physical and mental torture, famine, bad health situations, humiliation, disdain, segregation of women and children from men, and exposing women to sexual violence and oppression inside those camps' halls.

**The tribunal finds that Convict Sultan Hashim Ahmad is guilty for perpetrating coercive dislocation of inhabitants as a crime against humanity committed during Al-Anfal operations, between February and September 1988. Provisioned evidences are enough to charge him and identify his sentence, pursuant to Article [12/ 1<sup>st</sup>-(D)] by virtue of Articles [15/ 1<sup>st</sup>/ 2<sup>nd</sup>] and [24] of Iraqi High Tribunal Law No [10] for the year 2005. The sentence was identified as per Article [421/ (B)] by virtue of contributory Articles [47], [48] and [49] of Iraqi amended Penal Code No [111] for the year 1969. The verdict had been unanimously issued as being able to cassation, and was publicly acknowledged on 2007 June 24.**

**Signatures of the tribunal's members**

  
  
**الرئيس**  
**محمد هريبي مجيد الخليفة**  
  
**Iraqi High Tribunal**

**Chief of Investigative Judges**  
**Muhammad 'Iraybi Majid Al-Khalifa**

**Iraqi High Tribunal**  
**Second Criminal Court**  
**Iraq – Baghdad**  
**Reference No.: 1/ 2<sup>nd</sup> Criminal / 2006**  
**Date: 2007 June 24**

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**The Verdict**

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**I. Convict Sultan Hashim Ahmad verdict for coercive harboring as a crime against humanity:**

The tribunal previously discussed in details the crimes' elements of proof correlated to Convict Sultan Hashim Ahmad from victims, plaintiffs and witnesses' testimonies, documents, correspondences, and letters, while discussing the crimes that had been charged against him, proving its basics, legal requirements and elements of proof. Hence, we do not find it necessary to tackle it again in verdict.

**Convict Sultan Hashim Ahmad**, 1<sup>st</sup> Corps' commander, was fully aware and acknowledged of Convict 'Ali Hasan Al-Majid intentions to dislocate Kurdish civil inhabitants in Northern Iraq, far from their villages which he considered as Prohibited Zones in letters number 3650, dated on 1987 June 03, and 4008, dated on 1987 June 20. As per implementation of Convict 'Ali Hasan Al-Majid orders, Convict Sultan Hashim Ahmad ordered his forces to launch a systematic wide-scaled attack against inhabited Kurdish villages using conventional and chemical weapons via aircrafts, artilleries and rocket launchers. Those who survived were detained as Convict Sultan Hashim Ahmad ordered his soldiers to refer them, via military vehicles, to Northern Organization Office, where security systems correlated to Convict 'Ali Hasan Al-Majid, dislocated them at Tupzawa, Al-Dibs and Nuqrat Al-Salman camps where the endless harsh sufferings and cruelty as a result of physical and morale torture, humiliation, disdain, shortage in food and water supplies, services, as well as unbearable congestion in dirty halls full of detainees.

In and through those prison camps, thousands of Kurdish families disappeared, never to be seen again till now. That is what survivors and returnees from Nuqrat Al-Salman camp insured, while standing ...

**Chief of Investigative Judges**

**Iraqi High Tribunal  
Second Criminal Court  
Iraq – Baghdad  
Reference No.: 1/ 2<sup>nd</sup> Criminal / 2006  
Date: 2007 June 24**

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**The Verdict**

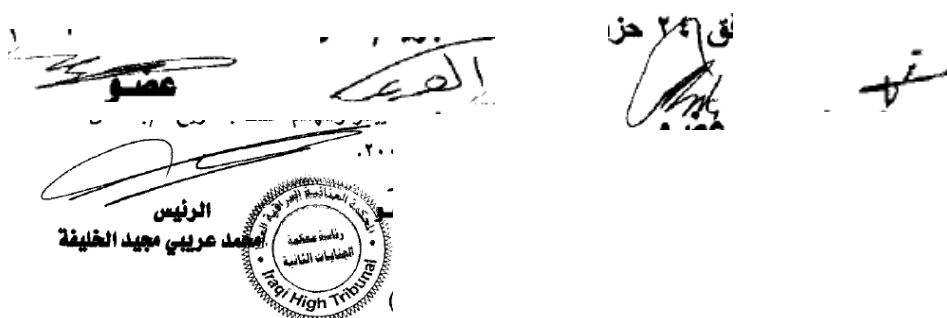
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... in front of court, throughout hearing sessions, as well as plaintiffs who testified confirming that their children, brothers, wives and family members' fates are anonymous. Convicts 'Ali Hasan Al-Majid, Sultan Hashim Ahmad and others, are still denying information regarding the fates of thousands of civil inhabitants, who disappeared during Al-Anfal. The only sure thing is that the coercive harboring operation of Kurdish civil inhabitants was officially organized through the participation and contribution of military, civil, security and party's systems in Northern area which were commanded by Convict 'Ali Hasan Al-Majid. Despite finding numerous victims [women, children and men] in the mass graves, convicts are still denying the acknowledgment of any info regarding thousands of those whose fate is anonymous.

Convict Sultan Hashim Ahmad is responsible for coerce harboring of civil individuals through helping, assisting and contributing with other convicts in a joint criminal intent to commit the crime in order to reinforce Saddam Hussein regime and his military and security systems' criminal activity.

**The evidences are enough to charge him and identify the sentence pursuant to Article [12/1<sup>st</sup>-( Y)] by virtue Article [15/1<sup>st</sup>/ 2<sup>nd</sup>] and [24] of Iraqi High Tribunal Law No [10], for the year 2005. The sentence had been identified as per Article [406/ 1/ (A-B-F)] by virtue of contributory Clauses [47], [48] and [49] of Iraqi amended Penal Code No [111], for the year 1969. The verdict had been unanimously issued as being able to cassation, and was publicly acknowledged on 2007 June 24.**

**Signatures of the tribunal's members**



The image shows several handwritten signatures in black ink. Below the signatures is the official seal of the Iraqi High Tribunal. The seal is circular with a double border. The outer border contains the text 'القضاء العالی' (Al-Qadiah al-A'ali) at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة محكمة' (Ri'asat Mahkamat) at the top and 'الغرفاء العامة' (Al-Gharfah al-A'mah) at the bottom. In the center of the seal, there is a signature and the text 'الرئيس' (Al-Rais) above it, and 'محمد عويبي مجيد الخليفة' (Muhammad 'Uyubi Majid Al-Khalifa) below it.

**Chief of Investigative Judge  
Muhammad 'Iraybi Majid Al-Khalifa**

**In The Name of God All Merciful All Compassionate**

**Iraqi High Tribunal  
Second Criminal Court  
Iraq – Baghdad  
Reference No.: 1/ 2<sup>nd</sup> Criminal / 2006  
Date: 2007 June 24**

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**The Verdict**

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**J. Convict Sultan Hashim Ahmad verdict for other inhuman acts as a crime against humanity.**

The tribunal previously discussed in details the crimes' elements of proof correlated to Convict Sultan Hashim Ahmad from victims, plaintiffs and witnesses' testimonies, documents, correspondences, and letters, while discussing the crimes that had been charged against him, proving its basics, legal requirements and elements of proof. Hence, we do not find it necessary to tackle it again in verdict.

**Convict 'Ali Hasan Al-Majid** stipulated letters number 3650, dated on 1987 June 03, and 4008, dated on 1987 June 20, his orders to totally destroy Kurdish villages, prohibiting villagers from harvesting their crops, plowing and farming their lands. He narrowed down their sources of profit, deprived them from their lifestyles, assaulting them in many ways, especially women who were exposed to sexual violence, over a large scale, in prison and detention camps, when he issued orders to military troops to launch a systematic large scaled attack against Kurdish villages and their Kurdish civil inhabitants in Northern Iraq.

**Convict Sultan Hashim Ahmad** had been aware of letters 3650 and 4008 content and helped in implementing the aforementioned letters practically, by issuing orders to forces under his command to launch systematic large scaled attacks against Kurdish villages, using conventional and chemical weapons, to eradicate both villages and inhabitants. He was aware that complete demolishment of villages is normal result which can be expected while he contributed in a joint criminal plan. That is, without mentioning the many assaults which tackled civil inhabitants, especially women who were exposed to large scaled sexual violence in the camps.



The image shows a handwritten signature in black ink, slanted upwards to the right. Below the signature is a circular official stamp. The stamp contains Arabic text: 'القضاء الجنائي العراقي' (Iraqi Criminal Court) at the top, 'رئاسة محكمة' (President of the Court) in the center, and 'الضحايا الثانية' (Second Victims) at the bottom. The English text 'Iraqi High Tribunal' is written around the bottom edge of the stamp. Below the signature, the word 'الرئيس' (President) is written in Arabic.

**Chief of Investigative Judges**

(707– 963)

**Iraqi High Tribunal**

**Second Criminal Court**

**Iraq – Baghdad**

**Reference No.: 1/ 2<sup>nd</sup> Criminal / 2006**

**Date: 2007 June 24**


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**The Verdict**

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**Convict Sultan Hashim Ahmad** contributed, by attribution, as well as with others, in a joint criminal plan, intending to carry systematic large scaled attacks against Kurdish civil inhabitants in Northern Iraq, using chemical and conventional weapons over Kurdish villages, following orders issued to his soldiers to launch those aforementioned attacks, with his full awareness of the natural consequences possible to occur for such criminal plan which could lead to destruction of houses, villages, all means of life, and countless numbers of civilians; causing severe physical and mental damages, as well as depriving civilians from their lifestyles.

Accordingly, the court finds that **Convict Sultan Hashim Ahmad** is guilty for other inhuman actions as crime against humanity, committed during Al-Anfal Operations. The provisioned evidences in the case are sufficient to charge him as per Article [12/Firstly-( J)], Article [15/First/Second] and Article [24] of Iraqi High Tribunal Law No (10) of the year 2005. The sentence is identified as per Article [393/1/] by virtue of contributory Clauses [47], [48] and [49]. It had been decided to charge him and identify his sentence unanimously, as being able for cassation, and was publicly acknowledged on 2007 June 24.

  
Member    Member    Member    Member

**Chief of Investigative Judges**

Muhammad 'Traybi Majid Al-Khalifah





(963-708)

Iraqi High Tribunal  
Second Criminal Court  
Iraq – Baghdad  
Reference No.: 1/ 2<sup>nd</sup> Criminal / 2006  
Date: 2007 June 24

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**The Verdict**

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**Convict Sultan Hashim Ahmad verdict for war crimes**

The tribunal previously discussed in details the crimes' elements of proof correlated to Convict Sultan Hashim Ahmad from victims, plaintiffs and witnesses' testimonies, documents, correspondences, and letters, while discussing the crimes that had been charged against him, proving its basics, legal requirements and elements of proof. Hence, we do not find it necessary to tackle it again in verdict.

The Court finds, through provisioned evidences in the case [from victims' statements and testimonies, letters and documents which indicate the use of chemical weapons], that Convict Sultan Hashim Ahmad, by attribution, contributed with others in reinforcing a joint criminal plan with a provisionary intent to carry out systematic large-scaled attacks via chemical and conventional weapons against Kurdish civil inhabitants in Northern Iraq, during Al-Anfal Operations. The Court considers Convict Sultan Hashim Ahmad fully aware, while contributing to this joint criminal plan, of the existence of armed conflicts happening between Iraqi Army Forces and Kurdish fighters (Pishmarga).

**A- Convict Sultan Hashim Ahmad Verdict for premeditatedly launching attacks against civil inhabitants**

The tribunal previously discussed in details the crimes' elements of proof correlated to Convict Sultan Hashim Ahmad from victims, plaintiffs and witnesses' testimonies, documents, correspondences, and letters, while discussing the crimes that had been charged against him, proving its basics, legal requirements and elements of proof. Hence, we do not find it necessary to tackle it again in verdict.

The Court finds, through provisioned evidences in the case, proving crime's basics, elements of proof and legal requirements that Convict Sultan Hashim Ahmad contributed in planning to target Kurdish civil inhabitants in Northern Iraq, through his contribution and participation in reinforcing ...

Chief of Investigative Judges



(963-709)





**In The Name of God All Merciful All Compassionate**

**Iraqi High Tribunal  
Second Criminal Court  
Iraq – Baghdad  
Reference No.: 1/ 2<sup>nd</sup> Criminal / 2006  
Date: 2007 June 24**

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**The Verdict**

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... the joint criminal plan, along with other convicts, including 'Ali Hasan Al-Majid, by issuing orders to First Corps forces under his command to launch systematic wide-ranged attacks, using chemical and conventional weapons, against Kurdish civil inhabitants, during Al-Anfal Operations which stretched from April to September 1988. Although Convict Sultan Hashim Ahmad has denied issuing orders of attacks, letters' (4008) and (3650) contents, which were addressed to First Corps (under his command), Second and Fifth Corps as well as Chief of Army Staff, refuted his early statements. Convict 'Ali Hasan Al-Majid, when issuing the aforementioned letter (4008), on 20 June 1987, and letter (3650), to the aforementioned Corps, he stipulated them his main orders, leaving details to Corps' Commanders and their military subordinates' wisdom as to implement orders on the field ... the wide attacks carried out over Kurdish villages and their civil inhabitants were related to the internal conflict in Northern Iraq, between the Kurdish fighters (Pishmarga) and Iraqi Army Forces ... Convict Sultan Hashim Ahmad contributed and assisted in planning to launch those attacks against Kurdish villages with no consideration whatsoever to the civil inhabitants ... His orders to his attacking forces did not include an obligation to distinguish between fighters and innocent civilians, as the chemical weapons did not make the difference as well [between a civilian and a warrior], As a consequence, thousands of innocent civil persons were murdered during the internal conflict in Northern Iraq.

The Court finds, through provisioned evidences, that Convict Sultan Hashim Ahmad contributed, by attribution, in the joint criminal plan, as he, and all other contributors to implementation, premeditatedly contributed in launching those large scaled attacks against civil inhabitants.

**Accordingly, the court finds that convict 'Sultan Hashim Ahmad is guilty for premeditatedly leading attacks against Kurdish civil inhabitants in Northern Iraq, during an internal conflict, by issuing ...**

Chief of Investigative Judges



(963-710)


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... orders to First Corps forces [which were under his command], to launch those attacks during Al Anfal Operations, from February to September 1988. The provisioned evidences are sufficient to charge him and identify the sentence, as per Articles [13/Fourth-( A)], [15/First/ Second] and [24] of Iraqi High Tribunal Law No (10), for the year 2005. The sentence was determined as per Article [406/1/( A-B-F)] by virtue of Articles [47], [48] and [49] of Iraqi Penal Code No (111) for the year 1969 ... The verdict was released in unanimous agreement revocable for cassation which was publicly acknowledged on 2007 June 24.

  
Member    Member    Member    Member

Chief of Investigative Judges  
Muhammad 'Iraybi Majid Al-Khalifah





**In The Name of God All Merciful All Compassionate**

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Iraq – Baghdad  
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**The Verdict**

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**B- Convict verdict for premeditatedly launching attacks against protected buildings:**

The tribunal previously discussed in details the crimes' elements of proof correlated to Convict Sultan Hashim Ahmad from victims, plaintiffs and witnesses' testimonies, documents, correspondences, and letters, while discussing the crimes that had been charged against him, proving its basics, legal requirements and elements of proof. Hence, we do not find it necessary to tackle it again in verdict.

**Evidences prove** [through proving crime's basics, charges against Convict Sultan Hashim Ahmad, elements of proof and legal requirements which the court concluded from victims' testimonies and documents] that Convict Sultan Hashim Ahmad contributed in directing indistinct raids over Kurdish villages in Northern Iraq, without considering any building from any protective nature whether it was a mosque, school or hospital. Those raids were targeting protected buildings correlated to the internal armed conflict between Kurdish fighters (Pishmarga) and Iraqi Forces. Convict 'Ali Hasan Al-Majid issued orders to thoroughly destroy villages as part of his plan to deprive (Pishmarga) from having a base for their operations against the Army forces ... It is not acceptable to allege by military necessities to defend their stance [convict's stance] vis-à-vis the total demolition of villages and buildings including those of the protected nature. Convict 'Ali Hasan Al-Majid did not distinguish between neither civilians and fighters, nor military targets and protected buildings. Convict 'Ali Hasan Al-Majid defined civil residential targets, and issued his orders to his forces to launch a systematic large scaled attack over them [civil targets], using chemical and conventional weapons.

The court finds that Convict Sultan Hashim Ahmad contributed, by attribution, to a joint criminal plan, along with other convicts. All contributors in this joint criminal plan participated in leading premeditated raids over protected buildings. The court finds that Convict Sultan Hashim Ahmad...



Chief of Investigative Judges  
(963-712)



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... issued orders to forces under his command, to launch premeditated raids over protected buildings, targeting them. The Court did not find any evidence proving that the aforementioned protected buildings lost their legal protective status, at any given time. Additionally, the court found that the large scaled attacks, led by military forces under Convict Sultan Hashim Ahmad command and which had contributed with him through internal armed conflict in Northern Iraq, completely devastated the protected buildings.

**Accordingly, the court considers that Convict Sultan Hashim Ahmad is guilty for premeditatedly launching attacks against protected buildings as a crime of war, during Al-Anfal Operations, from February to September 1988. The provisioned evidences are sufficient to charge him and identify his sentence as per Articles [13/Fourth-(D)], [15/First/ Second], and [24] of Iraqi High Tribunal Law No (10) for the year 2005. The sentence had been identified as per Article [479/2] by virtue of Clauses [47], [48] and [49] of Iraqi amended Penal Code No (111) for the year 1969. The verdict was released in unanimous agreement revocable for cassation which was publicly acknowledged on 2007 June 24.**

  
Member    Member    Member    Member

Chief of Investigative Judges  
Muhammad 'Traybi Majid Al-Khalifah





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**C- Convict Sultan Hashim Ahmad Verdict for issuing orders of dislocating civil inhabitants:**

The tribunal previously discussed in details the crimes' elements of proof correlated to Convict Sultan Hashim Ahmad from victims, plaintiffs and witnesses' testimonies, documents, correspondences, and letters, while discussing the crimes that had been charged against him, proving its basics, legal requirements and elements of proof. Hence, we do not find it necessary to tackle it again in verdict.

The court did not find any evidence which proves that Convict Sultan Hashim Ahmad issued one or more orders to dislocate Kurdish civil inhabitants or relocate them away from their villages. Yet, the court finds that Convict Sultan Hashim Ahmad should had been aware that his issued orders to his forces pushing them to launch a systematic large scaled attack, along with the other contributed forces, over all of the Kurdish villages, will definitely lead to orders of dislocation. Convict Sultan Hashim Ahmad was aware and acknowledged of instructions issued by Convict 'Ali Hasan Al-Majid regarding the dislocation of Kurdish inhabitants, from the Kurdish villages which had been considered as Prohibited Zones, to residential compounds prepared for them against their will. Convict Sultan Hashim Ahmad was aware that his orders to his forces, targeting those villages via large scaled attacks, as well as supplying both Convict 'Ali Hasan Al-Majid and Chief of Army Staff with intelligence information, contributed basically in relocating the villagers away from their houses and villages; as it helped later executing Convict 'Ali Hasan Al-Majid orders of dislocation.

Accordingly, the court finds that Convict Sultan Hashim Ahmad contributed, by attribution, as well as participating in reinforcing the joint criminal plan, premeditating, while implementing, systematic large-scaled attacks against civil inhabitants in Northern Iraq. Through the orders he issued to his forces, using ...

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Chief of Investigative Judges



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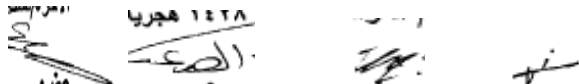
**The Verdict**

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.... chemical and conventional weapons over Kurdish Villages in Northern Iraq, fully aware that the logical consequences which can be expected for such acts [attacks] are orders of dislocation against civil inhabitants.

**Accordingly, the court finds Convict Sultan Hashim Ahmad guilty for premeditating the perpetration of a crime by issuing orders of dislocation against civil inhabitants, considered a crime of war. The provisioned evidences are sufficient to charge him as per Articles [13/Fourth-( H)], [15/First/Second], and [24] of Iraqi High Tribunal Law No (10) for the year 2005. The sentence had been identified as per Article [421] by virtue of contributory Clauses [47], [48], and [49] of Iraqi amended Penal Code No (111) for the year 1969. The verdict was released in unanimous agreement revocable for cassation which was publicly acknowledged on 2007 June 24.**

Member      Member      Member      Member



  
الرئيس  
محمد عويبي مجيد الخليفة  


Chief of Investigative Judges  
Muhammad 'Iraybi Majid Al-Khalifah

(715-963)

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**L- Convict Sultan Hashim Ahmad Verdict for the crime of destroying or confiscating a hostile side's properties conditioned the destruction or confiscation is not considered as necessities of war:**

The tribunal previously discussed in details the crimes' elements of proof correlated to Convict Sultan Hashim Ahmad from victims, plaintiffs and witnesses' testimonies, documents, correspondences, and letters, while discussing the crimes that had been charged against him, proving its basics, legal requirements and elements of proof. Hence, we do not find it necessary to tackle it again in verdict

The provisioned evidences in the case [victims and plaintiffs' testimonies, authenticated evidences as instructions and letters] show that Convict (Ali Hasan Al-Majid contributed, by attribution, as well as with others [military corps' commanders, security and party systems], in executing a joint criminal plan and participated in a joint criminal purpose and intent to eradicate Kurds in Northern Iraq, through an internal armed conflict between Pishmarga and Iraqi Army.

Convict 'Ali Hasan Al-Majid issued his orders to Military Forces under his command to destroy the hostile side's properties when pushing these sectors to execute large-scale attacks over Kurdish Villages in Northern Iraq, using Chemical and conventional weapons, without distinguishing between innocent civilians' houses and villages and those of the fighters or Pishmarga. Estimations mention more than 3000 Kurdish villages which are devastated in Northern Iraq, with no military necessities.

Convict Sultan Hashim Ahmad was aware of the two letters' (3650), on 03 Jun 1987, and (4008), on 20 Jun 1987, contents acknowledging what is requested to be done especially orders issued to 1<sup>st</sup> Corps Forces to launch systematic large scaled chemical and conventional attacks over Kurdish villages which are inhabited by citizens, to destroy them [villages] ...

Chief of Investigative Judges



(716-963)

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... On the other hand, he acknowledge that total destruction of villages were rational results that could have been predicted as contribution in a joint criminal plan.

The provisioned evidences in the case show that Convict Sultan Hashim Ahmad perpetrated, by attribution, and contributed in reinforcing the joint criminal plan with an intent to carry large scaled attacks over Kurdish villages in Northern Iraq through issued orders to First Corps Forces to launch these attacks, fully aware of the rationale consequences which could have been predicted logically after such joint criminal plan, acknowledging that it will lead to totally demolishing houses and villages without distinguishing between a civil and fighter's [Pishmarga] house, the latter being involved in an internal armed conflict, following Convict 'Ali Hasan Al-Majid orders.

Convict Sultan Hashim Ahmad can not allege by military necessity over totally destroying and sweeping villages.

Accordingly, the court finds that Convict Sultan Hashim Ahmad, by attribution, contributed and participated in reinforcing the joint criminal plan intended to carry a large-scaled attack over Kurdish Villages and their civil inhabitant, using chemical and conventional weapons, following orders issued to First Corps Forces.

The aforementioned attacks led to a destruction of the hostile side's property [Kurdish Villages] without distinguishing between innocent civilians' houses or fighters', surely without military necessity.

Accordingly, the court finds that Convict Sultan Hashim Ahmad is guilty for perpetrating the crime of destroying a hostile side's property with no military necessity, committed between April and September 1988. The provisioned evidences are sufficient to incriminate him and identify his sentence as per Articles [13/Fourth-( L)], [15/First/Second], and [24] of Iraqi High Tribunal Law No (10) for the year ...

Chief of Investigative Judge



(717-963)




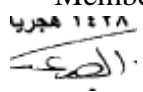


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... 2005. The sentence was identified as per Article [2/479] by virtue of contributory Clauses [47], [48], [49] of Iraqi amended Penal Code No (111) for the year (1969). The verdict was released in unanimous agreement revocable for cassation as per Article [182/( A)] of the amended Tribunal Trials Procedure Law [23] for the year 1971 and was acknowledged publicly on 2007 June 24.

Member	Member	Member	Member
			

  
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محمد عريبي مجيد الخليفة  


Chief of Investigative Judges  
Muhammad 'Iraybi Majid Al-Khalifah

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**(Convict Husayn Rashid Muhammad)**

Date of Birth: 1940

Convict Husayn Rashid Muhammad occupied the position of 3<sup>rd</sup> Division Commander from 1982 to 1984, and then assigned as Republican Guard's Commander until 1987.

On July 1987, he occupied the position of Chief of Army Staff's Deputy for military operations until 1990, where he was a Staff Lieutenant General.

In the same year, he got promoted to Chief of Army Staff for seven months. After that, he was headlined as Presidency of the Republic consultant.

In 1995, he became bygone General Command of the Armed Forces' General Secretary until the falling of the regime in 2003. In addition, he was General Command of the Armed Forces' member.

**Charges against Convict Husayn Rashid Muhammad as per the bill of indictment:**

On 20 February 2007, during the 64<sup>th</sup> hearing, the court addressed the below mentioned charges to the convict:

**First- Genocide:**

According to Clauses [(A, B, C)] of Clause [First] of Article [11] of Iraqi High Tribunal Law No (10) for the year (2005) which stipulates:

**Article-11-First:** according to this code's purposes, as per Special International Agreement to prohibit genocide as a crime subdued to punishment dated 9 December 1958, approved by Iraq on 20 January 1959, genocide means the actions mentioned below ...

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... perpetrated to partially or totally eradicated a national, ethnic, racial, or religious community.

A - Murdering members of the group.

B - Causing a gross physical or mental damage for the group's members.

C – Subduing the group, premeditatedly, to certain living conditions aimed to partially or totally eradicate the group.

By virtue of Clauses [First, Second, Third, Fourth] of Article [15] of Iraqi High Tribunal Law No (10) for the year 2005.

**Second- Crimes against Humanity:**

According to Clauses [(A, B, C, D, E, F, H, I, J)] of Clause [First] of Article No [12] of Iraqi High Tribunal Law No [10] for the year 2005, stipulating the follow:

Article 12-First- crimes against humanity mean for the purpose of this code, any of the below listed acts once being perpetrated in a systematic large scaled attack against a group of civil inhabitants, being aware of the attack.

A-Premeditated murder

B-Genocide

C-Enslavement

D-Relocation or coercive dislocation of inhabitants

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E - Imprisonment or extreme deprivation from any forms of physical freedom in a way that contradicts with basic International Law.

F – Torture.

G - Rape, sexual slavery, forced prostitution, coercive pregnancy, or any other kind of sexual violence on that level of danger.

H - Persecuting any specific group or given group of inhabitants for political, racial, ethnical, national, cultural, and religious purposes or correlated to gender or for any other reasons not legitimized by International Law as of any aforementioned act containing sexual violence of that level of danger.

I – Coerce harboring of individuals

J - Other similar inhuman activities which cause premeditatedly intensive suffering or damages in the body, as well as physical or mental health.

By virtue of Clauses [First, Second, Third, Fourth] of Article [15] of Iraqi High Tribunal Law No 10 for the year 2005.

**Third –War Crimes:**

According to Clauses [(A, D, E, H, and L)] of Clause [Fourth] of Article [13] of Iraqi High Tribunal No 10 for the year 2005, stipulating the follow:

Article 13 – It means crimes of war for the purpose of this Code.

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Fourth - The other dangerous violations against codes and customs duly applicable over national armed disputes, within the fixed context of International law, specifically any of the following acts:-

- A- To premeditate attacks over civil inhabitants by attribution or against civil individuals not taking part in war acts.
- D- To premeditate attacks against buildings appropriated for religious, educational, technical, scientific, or charitable purposes, as well as against historical monuments and wounded and patients' gathering centers, conditioned not to be military targets.
- H- Looting a city or location even if it had been seized by force.
- F- Issuing orders stating to dislocate civil inhabitants for reasons correlated to conflict unless that order was issued for concerned civilians' security or other military necessities.
- L- Destroying or confiscating the hostile side's property as long as the destruction or confiscation was not a war necessity.

By virtue of Clauses [1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup>] of Article [15], issued by Iraqi High Tribunal Law No [10] for the year 2005, as well as Article [406 \ 1 \ (B)] of Iraqi amended Penal Code No [111] for the year 1969.

**Documents:**

The court has obtained many documents and files which had been found in the archives of the former regime. The aforementioned confirm the contribution of Convict Husayn Rashid Muhammad in perpetrating crimes imputed to him per the bill indictment. From these documents, the letter holding Ref No [(T.A.H)/349], marked as top secret ...



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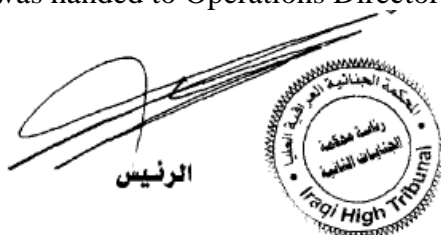
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... and confidential, dated 27 April 1988, issued by Chief of Army Staff to 1<sup>st</sup> Corps' Commander Sultan Hashim and 5<sup>th</sup> corps' commander Ayad Khalil, including instructions to the two aforementioned corps' commanders, based on the meeting held in Kirkuk on 27 April 1988 which had been attended by Convict Husayn Rashid Muhammad, as these instructions elaborated many military issues such as using "special ammunition over foe's grouping, as long as it is possible, via air force, artillery, [tube launchers], and helicopters before the enemy launches his operations against our troops starting the operations against our troops [abortion operation] (*T.C: preemptive strikes*) as well as striking saboteurs' headquarters with the aforementioned ammunition". A copy of this letter was sent to Operations Directorate, headed by Convict Husayn Rashid Muhammad.

The letter holding Ref No [(R.A.C)\40\ 1182], marked top secret and confidential, dated 28 August 1988, issued by Chief of Army Staff, addressed to 1<sup>st</sup> and 5<sup>th</sup> corps' commands, included instructions to both of the aforementioned corps about demolishing all villages and buildings within the single village, as Chief of Army Staff chairmanship noticed the persistence of few buildings in previously bombed villages. The Army aviation had been assigned the mission as a copy of the letter was handed to Operations Directorate headed by Convict Husayn Rashid Muhammad to update the maps, at all measures, with recent topographical information, as per Armed Forces General Commander's deputy [Minister of Defense] at the time.

Letter [183], marked "Top Secret and confidential", dated 20 March 1988, issued from Chief of Army Staff – Office to 1<sup>st</sup> corps command, included military instructions concerning request for special air strikes by the appropriated entrusted committee. A copy of this letter was handed to Operations Directorate headed by Convict Husayn Rashid Muhammad.

The image shows a handwritten signature in black ink, which appears to be 'الرئيس' (Al-Rais). To the right of the signature is a circular official stamp. The stamp contains the text 'القضاء الجنائي العراقي العلي' (The Iraqi High Tribunal) around the top edge, 'رئاسة محكمة' (President of the Court) in the center, and 'القضايا الجنائية' (Criminal Cases) around the bottom edge. The words 'Iraqi High Tribunal' are also written in English at the bottom of the stamp.

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**Summary of some convicts' testimonies against Convict Husayn Rashid Muhammad**

**1- Convict Sultan Hashim Ahmad testimony's summary against Convict Husayn Rashid Muhammad:**

Convict Sultan Hashim Ahmad testified before chief of investigative judges that he [meaning Convict Sultan Hashim Ahmad] had been recalled in mid January 1988, to meet Chief of Army Staff that time (Nazar Al-Khazraji) and Army Staff Operational Assistant General (Husayn Rashid). He abridges for him a summary of Al Anfal 1<sup>st</sup> Operation, as it had been preplanned by 1<sup>st</sup> Corps and Operations Directorate and elaborated by the latter.

Convict Sultan Hashim testimony before Chief of Investigative Judges included that military notifications and orders were issued directly via Chief of Army Staff, as military plans were laid down or agreed upon by him [Chief of Army Staff], especially Operations directorate concerning all military operations via Mobilization and Planning directorates. General Husayn Rashid was occupying the position of Chief of Army Staff for Operations' adjutant [at the time]. Even though plans could be framed in collaboration between Operations directorate and the concerned corps, it will not be implemented unless discussed by the aforementioned directorates, as Chief of Army Staff is the one authorized to issue orders. This was the adopted procedure at the time.

**2- Convict Sabir Al-Duri testimony's summary against Convict Husayn Rashid Muhammad:**

Convict Sabir Al-Duri testified before Chief of Investigative Judges that "big plans correlated to big operations are preplanned by appropriate parties affiliated to ...



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... Chief of Army Staff Chairmanship, specifically Operations directorate which was headed by Chief of Army Staff for Operations' adjutant [Convict Husayn Rashid Muhammad at the time]. It [big plan] will be approved by Armed Forces General Commander as it could require sometimes major forces. Al Anfal operations were considered from the big operations".

**Brief of Convict Husayn Rashid Muhammad and his proxy's defense:**

1- Convict Husayn Rashid Muhammad denied all charges against him whether in investigation or prosecution processes, elaborating that the Operations directorate which he headed was correlated to Chief of Army Staff for Operations. This means that his decision was none but a consultative opinion which the latter [Chief of Army Staff] is not obliged to adopt it, as his opinion [convict] is technical limited to provisioned resources only, as 6 other directorates are affiliated to the Operations Directorate, all centralized in the Ministry of Defense in Baghdad.

2- The convict admitted that Operations directorates engender studies over suitable military reaction, concerning the threatened corps' sector, through planning for operations in a regular army or armed forces with fighting capabilities beyond local security systems [such as police or others] reach. Hence, it doesn't participate in planning against non-military targets or civilians, or contribute in stabilizing internal security.

3- The convict admitted that Operations directorate takes necessary measures based on a direct order from Chief of Army Staff as being Land Forces' commander, director of General Army Staff Directorate, and Iraqi Army's Corps' higher commander. So, in light of the report which determines the enemy, its aims, size, armament, targets, and work mission, the order will be framed. We must acknowledge that Armed Forces are abided to laws, regulations, systems, procedures, and fixed orders which determine the jurisdictions of each rank, and dare not to be trespassed ...

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... by any in charge personnel or it will be considered as a trespass on another rank's jurisdictions, the thing which is not legitimized by military orders and regulations. Because that is considered as a violation for the rules and military disciplinary

4- The convict narrated before court that Operations department didn't plan for any operation instead of the concerned corps or the person in charge of the threatened sector, as no jurisdiction is granted to Chief Army of Staff for Operations' deputy to issue any order to corps because these latter are correlated to Chief of Army Staff receiving orders directly from him.

When the Chief of Army Staff ordered Operations department for an opinion statement over corps analysis, the directorate must deliver its opinion on whether human and physical resources are provisionary or not. Such resources are registered in archived registers at Operations department, as well as maps as the aforementioned department has no stores for those are usually available in Warehousing directorate which is not affiliated to Operations'.

5- The convict clarified as well that Operations department, which he led, didn't plan for all the government for orders related to urbanism, lodging for civil sector, provincial and villages' organization, and residential compounds are appropriated to the administrative authority. His department didn't handle prisoners, detainees, internees or outlaws whether they were soldiers or civilians.

6- The convict denied any responsibility attached to Operations department as for chemical weapons' usage because plans submitted to his department didn't include any sign of using chemical weapons as the aforementioned plans didn't indicate villages' destruction, inhabitants' dislocation or relocation from their residential habitats as no correspondence for Operations directorate tackled such issues.

The accused elaborated that Al-Anfal operations' military plans didn't mention civilians' detainment for any reason, as no plan in Al Anfal included exploitation of Army Engineering Effort, before or through the operations as part of an organized systematic political plan to target Kurdish people.



Chief of Investigative Judges

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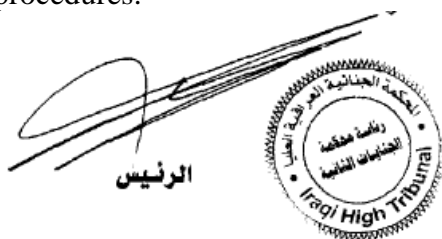
7- As a final conclusion, Convict Husayn Rashid Muhammad testified that he didn't commit any crime against humanity whatsoever, because Operations Directorate's role was limited to providing technical information for the Chief of Army Staff.

Furthermore, most of Convict Husayn Rashid Muhammad allegations concentrated on defending Iraqi Army role during the Iraq-Iran war, though this is not the case's subject as the court is handling crimes committed during the eight Al-Anfal operations.

**Convict's Husayn Rashid Muhammad proxy pleading:**

Convict's Husayn Rashid Muhammad proxy, Mr. Miqdad Sami Al-Juburi, has submitted a detailed pleading list enclosed to it many attachments which he thought are correlated to the case or considered as a part of the pleading. The aforementioned proxy has acknowledged all that had been submitted to court, from the first hearing until his pleading, as the following is a summary of Convict's Husayn Rashid Muhammad pleading:

- 1- Convict's Husayn Rashid Muhammad proxy showed that his client is prisoner of war [POW] according to his detention document. Hence, it is not legitimized to prosecute him, neither by Iraqi High Tribunal nor any other court, because a POW shouldn't be prosecuted.
- 2- The proxy appealed the legitimacy of the court and its code, despite the fact that the issue had been reviewed by First Tribunal concerning Al-Dujayl case, where the court legitimacy had been approved legally by the cassation court affiliated to First Tribunal as per followed procedures.



Chief of Investigative Judges

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3- The proxy tried to discredit plaintiffs and witnesses' testimonies pretending that these statements are misleading, imposed on the plaintiffs and witnesses to say, appealed their legitimacy and legal value.

4- The proxy disapproved the international experts' testimonies that had been entrusted by court, doubting their unbiased stance for holding citizenship of those countries which were the enemies of Iraq in the former regime's era.

5- He denied any relation for the Iraqi Army, especially his client, concerning crimes imputed in charges against him, as he was not aware of them. The convict [his client] had just executed governmental [military] orders which he couldn't discuss or object, because, as he proclaimed, were legitimate orders, not breaching the laws or considered as crimes. In other terms, his client was staff officer in chief of army staff, meaning that his position wasn't a command one, as he was not granted [professionally] the jurisdiction of issuing decrees or to order any military unit in the Iraqi Army, whether big or small sized, except to coordinate the directorates' flow of operations [those correlated to Operations Directorate] and refer Chief of Army Staff's orders to them [aforementioned directorates] or to pass what he receives as correspondences from these directorates.

6- His client was attending meetings as much as the situation is related to Chief of Army Staff's orders. Chief of Army Staff's adjutant, or any of his directorates, has no relation with internationally prohibited weapons, regardless of classification, especially the chemical ones.

7- The convict's proxy pointed out that the submitted case before the court (Al-Anfal) is directly related to an international dispute rather than national one. Hence, this case is beyond this court's jurisdictions.

8- The convict's proxy justified relocation and coercive dislocation of inhabitants by the estimated authorized procedures of the state in implementing procedure which can accomplish national security and be beneficial to the country as per International and National Law, as defined by the theory of (State's Existence).

Chief of Investigative Judges (963 – 728)



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9- The convict's proxy denied as well any relation, to his client, with the crimes of rape and torture, that because Al-Anfal plans did not include other than pure military operations, targeting the Iranian army and Kurdish insurgents during Iraq-Iran war, where he admitted that his client had been informed about Al-Anfal military plans only and nothing else.

10- The Convict's Husayn Rashid Muhammad proxy had discussed documents which were submitted by prosecution, clarifying that the first document No. 349, dated 1988 April 27, is a correspondence issued by Chief of Army Staff, addressed to first and fifth corps' commander, including directions from Chief of Army Staff to the aforementioned corps, as the Operation directorate had been handed a copy for acknowledgment rather than execution. Therefore, there is no responsibility on his client, as Chief of Army Staff for Operations' deputy, and his opinion is not considered without forgetting that his directorate was not asked to implement any of the orders.

The second document, is a correspondence from Chief of Army Staff (top secret and confidential) No 1182, dated on 1988 August 28, addressed to first and the fifth corps' commanders, including the execution of General Commander of the Armed Forces' deputy's [the Minister of Defense] orders of destroying the houses which were rebuilt by insurgents within prohibited zones' villages. A copy of this correspondence had been handed to the Operations Directorate for identifying the maps because the Military-Surveying Directorate is in charge of maps related to Operations directorate.

The third document, is a correspondence from Chief of Army Staff (Top Secret and Confidential) No. 183, dated 1988 March 20, addressed to First Corps' Commander, including Chief of Army Staff's directions to the aforementioned corps. A copy had been handed to Operations directorate to identify maps in light of recent developments, and changes which occurred within new sectors' deployment. As of the fourth correspondence, from Chief of Army Staff (Top Secret and Confidential) No. 1122, dated 1988 August 21, addressed to first and the fifth corps' commanders, it was appealed as being forged.

Chief of Investigative Judge



(729-963)

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11- Concerning the committees which the Chief of Investigative Judges spotted within the documents, the convict's proxy have clarified that the first committee, formed in April 1987, was held before assigning his client as Chief of Army Staff's deputy for Military Operations. He was assigned for this position on end of July 1987, therefore; there is no relation between his client and this committee. Concerning the second committee, it was formed according to the secret correspondence of Chief of Army Staff, No 646, dated on 1988 March 18, in Army Staff Chairmanship, as his client was not acknowledged about it, its duties or members.

**Convict Husayn Rashid Muhammad Defense Witnesses**

The convict was not able to bring any defense witness through both investigative and prosecution phases, despite court's respite many times.

**Summary of General Prosecution's perusal and demands concerning Convict Husayn Rashid Muhammad**

The General Prosecution has clarified in his final perusal in this case, that Convict Husayn Rashid Muhammad was Chief of Army Staff's deputy for Military Operations, during Al-Anfal Operations. This convict, along with Convict Sultan Hashim Ahmad who was the commander of military forces which executed Al-Anfal operations, had attended all meetings for planning Al-Anfal operations, and remained a contributor until the end. This had been proven through official documents submitted to court.

As the convict was Chief of Army Staff's deputy for Military operations; this directorate included many others, which are: planning, equipping, deployment and surveying. Hence, the convict will be considered in charge of provisioning military units, in Kurdistan Region, with prohibited weapons, adding up his contribution in meetings appropriated for Al-Anfal operations' planning, laying sown plans to destroy villages and murder the biggest possible number ...

Chief of Investigative Judges



(730-963)

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... of inhabitants. The General Prosecution had requested, at the end of the perusal, to carry out the death sentence against Convict Husayn Rashid Muhammad, as per article no. [406/1/(A)] of Iraqi Penal Code, which is the strictest sentence.

**Summary of Convict Husayn Rashid Muhammad testimony before Chief of Investigative Judges:**

Convict Husayn Rashid Muhammad clarified that his department (Operation department), plans to confront a regular army, rather than civilians, or sabotage actions. The Operation department does not plan unless based on an intelligence report, handed to Chief of Army Staff, by General Military Intelligence Directorate [GMID]. The threatened corps is requested to submit his plan to Army Staff chairmanship, on the field [practical] level. Chief of Army Staff refer it to Operation department to analyze it and frame an opinion in light of needs requested by concerned corps. Planning department, which is related to Operation department, respond back over the aforementioned issue [corps' requested needs]. If there is a capability to fulfill for the corps' needs (like deploying a division from one sector to another), the order to deploy military troops will be issued after analyzing the stance within the aforementioned sector relying on Intelligence consultancy, after referring back the analysis to Chief of Army Staff.

He also clarified that in some cases, for gaining and saving time, representatives from the planning and other directorates will be sent to the concerned corps, to analyze the need and plan in the corps' headquarter, and then referring it to Chief of Army Staff. He admitted that if orders to deploy military troops were issued, the Deployment department will execute and follow up the operation, as this directorate report then whole situation to Operation directorate, as one of its directorates. In our turn, we notify the Chief of Army Staff about it. In addition, he testified that he is a member in Armed Forces General Command due to his post as Chief of Army Staff's deputy for Military Operations, and he was attending General Command of the Armed Forces' meetings ...

Chief of Investigative Judges



(731-963)

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... handing technical opinion, advice, and military consultation to Chief of Army Staff, as the latter does not issue an order, especially concerning military operations, unless after been handed an analysis. In other words, Convict Husayn Rashid mentioned that any order issued by Chief of Army Staff or General Commander of the Armed Forces as per jurisdictions, must be anteceded by Operation directorate's opinion.

Concerning his directorate's role in Al-Anfal operations, Convict Husayn Rashid had stated that, according to previous procedures, the first corps handed us a study about Al-Anfal operations through Chief of Army Staff, and we referred it to our aforementioned directorate, to give a technical military opinion concerning the provision of military and human resources. In addition, we presented our study and remarks to Army Staff Chairmanship, which in turn referred them to the ministry and then to General Commander of the Armed Forces for being within his jurisdictions only. Then, the approval came to execute the plan, where Convict Sultan Hashim Ahmad has received orders, and was provided by requirements from Operations Directorate, according to its concerned departments. The orders were issued to execute the first operation.

Concerning the Al-Anfal second operation, Operations Directorate had sent a representative to first corps to study the plan completely, and the operation representative, will spontaneously return back to his department before giving his military opinion. Regarding a question by Chief of Investigative Judges, Convict Husayn Rashid Muhammad answered, that "I intended by the term [special ammunitions or special strikes] chemical weapons and chemical attacks, as these are from the strategic state's weapons. Only the president, or that who's authorized by the president, has the jurisdiction of use".

In addition, he clarified that the "Iranian forces started to retreat since July 1988, and no one remained other than the armed Kurds, who were deploying in the mountains. Al-Anfal last operation was directed against them, means against the sabotage, as we call it in military terms. Convict Husayn Rashid Muhammad has admitted before Chief of Investigative Judges, that he attended the meeting on 1988 August 20, in the headquarters...

Chief of Investigative Judges



(732-963)

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... of the first corps, and knew about all instructions mentioned there, which were issued in light of the correspondence of Chief of Army Staff, No 1122 on 1988 August 21, but he denied the clause that indicated "concentrated special strokes", mentioned in the aforementioned letter, claiming that this clause was not discussed at all within the meeting. Concerning the destroyed Kurdish villages, the convict have clarified that if there were military necessities for such action, these actions must be carried as such orders will be issued either from Chief of Army Staff, Minister of Defense, or the higher in charge commander within the Kurdish area (Convict 'Ali Hasan Al-Majid at the time).

By a question from Chief of Investigative Judges, the convict answered that "the meaning of (saboteurs) is individuals who lift arms against state. The meaning of (collaborators) is their village's residents, relatives and families". He clarified that "this is not rightful, and against the law, but we cannot object it".

He also - the convict- admitted that he was not able to object any order issued by the Chief of Army Staff, even if it was against the law. Finally, the convict has denied that he gave an order to kill the people and destroy their villages, and to kill women and children after relocating them outside their villages. He also denied his participation in special strikes (chemical attack) over civilians in Northern area, where Al-Anfal operations were implemented, as he stated that he was not authorized to issue such orders, and his duties - as he clarified earlier- were to provide consultation and advice, and to participate in planning.

**Summary of personal right attorneys' roster and their demands against Convict Husayn Rashid Muhammad**

The attorneys of the personal rights have clarified in their bill of indictment about Al-Anfal victims, submitted to court, that Convict Husayn Rashid Muhammad have participated in planning and executing....

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(733-963)





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... as being Chief of Army Staff's deputy for Operation Affairs, and had participated in General Command of the Armed Forces meeting. He also led military command's meetings in Kirkuk charged to plan Al-Anfal operations, as per documents.

The perusal included that the aforementioned convict ordered military units, including first and fifth corps, to execute Saddam Hussein order to use chemical weapons. It was mentioned in submitted correspondences and the documents that Convict Husayn Rashid Al-Tikriti was a major eminent element in framing military plans, including those pertaining to chemical weapons' usage and Al-Anfal operations' crimes, as no military meeting had been held without his effective contribution. The latter was an accredited trustable official for Convict Saddam Hussein, as his affiliation to Tikrit city along with his tribal closeness to the head of the former regime were an important caliber within the ex-regime. That is what occurred in the perusal of attorneys of the personal rights.

**Moreover, the attorneys of personal rights have demanded in their aforementioned roster, the following:**

- 1- The incrimination of Convict Husayn Rashid Muhammad according to Clauses [(A, B, C, D)], of Article No. [11/first] of Iraqi High Tribunal Court Law No. 10, for the year 2005, hence proven that he committed genocide, and eradicated the Kurdish nationality populace, via a systematic and organized planning, referring to all kinds of weapons, including the weapons of mass destruction [WMD], identifying the sentence as per Article No [406] of Iraqi Penal Code, by virtue of Article No [15] of Iraqi High Tribunal Law.
- 2- To incriminate him as per Clauses (A, B, D, E, F, G, H, I, J) of Article No [12/first] of Iraqi High Tribunal Law, identifying the sentence as per Iraqi Penal Code, for perpetrating crimes against humanity, against Kurdish nationality populace, through...



Chief of Investigative Judges

(734-963)

A handwritten signature in black ink, consisting of several fluid, overlapping strokes.

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... a systematic large scaled attack against civil inhabitants by virtue of Article No [15] of the Court's Code.

3 – To incriminate him as per Clauses [(A, B, C, D, G, H)] of Article [13/1<sup>st</sup>] and Clauses (A, B, D, E, F, M, O, Q, R, U, V, G) of Clause [2<sup>nd</sup>] of the same article, as well as Clause [(D)] of Clause [2<sup>nd</sup>] of the same article, according to Clauses [(A, D, E, F, H, J, L)] of Clause [4<sup>th</sup>] of Iraqi High Tribunal Law for committing crimes of war, identifying the sentence as per Iraqi Penal Code by virtue of Article No [15] of Iraqi High Tribunal Law.

4 – To preserve the right of compensation, for all aggrieved from Al-Anfal operations effective 10<sup>th</sup> of March 1987, before appropriated civil status courts within their [aggrieved] permanent residential district, as the compensation covers all physical and morale damages.

**The Experts**

The court was careful, from the beginning, to rely on international professional experts with wide expertise in their fields of specialization, who carried out their work under oath and court's supervision. The court summoned some of these experts to testify.

Stated in the testimony of expert (Snow) before court, on 28<sup>th</sup> of November 2006, that "he excavated the mass graves at Kurimi village in Dahuk Governorate where he interred (27) bodies executed by military forces. He also confirmed that most of the victims were found in a seated position, the thing that matches with victims' testimonies, those who survived the execution operations. He also confirmed that (84) were shot by fire, (10) ...



Chief of Investigative Judges



(963-735)

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.. in the head, (24) in the chest, (65) in pelvis area and a small amount in the limb, as victims were ordered to sit in front of execution squads." Expert Snow included that when he was in that area, he was informed by a young man named [NAME REDACTED] that his mother and young sister (Farman Taha) died in Jinzikan in (Irbil) when arrested with thousands other Anfalized woman and children, who were all dead due to harsh conditions and malnutrition. He convinced the young man to lead him to the graves, at which point the young man told him [Snow] that his mother could not breast-feed because her breast milk had dried several weeks after detention. After carrying tests on the child's corpse, it was identified that he was (7) months old, yet the skeleton development was way too retarded, as the expert noticed deficiency in bone's structure, in addition to signs of malnutrition which were apparent on the bones also. This gives us an idea regarding the intense difficulties of life for detainees, especially the children.

Then, expert (Snow) moved to (Barjina), a small village close to (Kurimi) that was subjected to chemical strikes on 25<sup>th</sup> of August 1988. Among the victims, was found an elder named [NAME REDACTED] and his grandson [NAME REDACTED] who was five years of age. They both made a mistake while running down the valley instead of escaping to the high hill. They [the villagers] guided us to the grave which we excavate to find the skeletons of the aforementioned elder and grandson. The expert witnessed several locations where bombs had exploded and took soil samples to be tested in laboratories in the United States, to make sure if Mustard and Sarin Gases were used in that area.

Witness and expert Dr. [NAME REDACTED] testimony before court, on 29<sup>th</sup> November 2006, who visited military camps in Turkey [Diyar Bakr Camp (13) thousand refugees, and Mardin with (5) thousand refugees], stated that the people he met in villages such as Balisan, Ikmala, Hibs, Barjina, all agreed that they had been subdued, during strikes, to:



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- A – Eye irritation.
- B – Problems in the respiratory system.
- C – Problems in the digestive system.
- D – Burns and irritations in the digestive system.

Besides the scars that he saw on victims' bodies which were consistent with colored skin wounds with a central darker blemish part. This part of the scars was similar to methods used by Nazis (Germans) in World War II. The Doctor added that a young girl, who had been exposed to chemical strikes, was examined "we examined the girl to find a bubble in her chest, between her little breasts ... there was also evidence of old rubbed wounds in the lower lip, another under her left eyebrow, as well as an old scar on her left cheek with a light color in the center and darker around the edges, which is a proof of Mustard Gas usage". The expert reached a conclusion that (Mustard and Sarin Gases) were both used over Kurdistan as the first was used in a larger scale.

Expert (Michael Trimble) stated that ((his work is the result of two-year effort under the supervision of Iraqi High Tribunal, assisted by experts from Australia, United States, Costa Rica and Canada. He supervised the excavation of (3) mass graves at (Ninawa 2), (Ninawa 9) and (Muthanna 2). (Ninawa 2) and (Ninawa 9) are located on slopes and small valleys which meets with a bigger one, in a sense that people traveling to the South can not see individuals and tools operating within these mass graves, due to their location on a slope. The expert added that he interred (Muthanna 2) mass grave where (114) bodies were found, all been executed. This grave only contained women ...



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(963-737)

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... and children [25 women and 98 children with 90% of them under the age of 13]. The expert added that many scenarios are available concerning the execution of the victims:

- 1) Small groups were driven from the pit's slope to inside the grave, where they were shot in the back of the head with one shot from a pistol while standing.
- 2) As mentioned in the previous method yet in this case kneeling rather than standing.
- 3) Masses of victims were driven to the pit's edge, as they were shot down to the grave; all were forced to lean over before being shot.

The expert adds that the victims had a life, fears, joys and feelings. A lady had a necklace, jewelry and there was an earring and a ring. Let's move to another case, a fetus in his mother's belly (6-7) months old. The expert assures that he had never previously witnessed a grave this deep (3.5 Meters), made in such a way to be hard to find. He found personal belongings and ID cards, all submitted to court, as the latter want to clarify that testimonies of victims' relatives came identical in an un-doubtful way, as victims from Kurdish villages were driven to mass graves throughout Al Anfal operations.

The expert adds that he exhumed (64) bodies from the mass grave of (Ninawa 9) where all victims found were male executed by automatic weapons. As for the mass grave of (Muthanna 2), we exhumed (114) bodies, among which (27) were women, (2) men and (85) children, all executed in a standing position. The expert repeats that all interred victims ...



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... in mass graves at (Ninawa 2), (Ninawa 9) and (Muthanna 2) were dressed in Kurdish traditional clothes as all mass graves were prepared in an organized way and following an identical pattern.

**Mass Graves**

There are tens of mass graves that contain thousands of victims from Al Anfal operations, spread over various areas in Iraq. The court was handed files of (Muthanna 2), (Ninawa 2) and (Ninawa 9) mass graves, which were excavated by international experts formed of Human Scientists, Forensic doctors, Humanitarian organizations, Special administrative and technical committees and special labs appropriated for these particular circumstances, all under the supervision of Iraqi High Tribunal. In the mass grave of (Muthanna 2), (114) bodies were interred under direct supervision of Expert (Kaufman Michael Trimble), all executed by fire shots from automatic riffles. They included (85) children, (27) women and (2) adult males. The expert continues by adding that 95% of the children were below the age of (13) and all victims were still in their traditional Kurdish clothing. 50 various kinds of documents were recovered from the remains among which were (Iraqi money), ID cards and typed documents. 16 ID cards were retained. Jewelry, accessories, household products and cosmetics were found and retained from (93) corpses buried in the aforementioned mass grave, including (7) necklaces, (14) makeup kits and (14) bags of cosmetic. Victims' clothing and cultural items indicate that (Al-Muthanna 2) grave's individuals are of Kurdish origin. The expert also stated that bullets were retained from men and women corpses, of all ages, as bullets had been taken out from (21) corpses and capsules (cartridges) from 37 ...



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... victims as well as (79) bullets spread all over the place. 38 bullets and (28) capsules were stuck to the clothing of the dead and with gunshot holes in the texture. Those were more revealed in parts which covered the torso like shirts, dresses and jackets. Ropes used to handcuff the victims' were also recovered, as well as blind folds made of textures. The expert explains that from analyzing the evidences, it becomes clear that victims were driven to mass graves and killed once. In the mass grave at (Ninawa 9), (123) corpses were exhumed among which 25 women and 98 children, where 90% were below the age of (13), all executed. 145 documents were recovered from among the corpses from both (Ninawa 2 and Ninawa 9) mass graves, including a diversity of ID cards, military documents, income certificates, photos, letters and personal items. From the documents there were (63) ID cards, (10) of which were affiliated to individuals from Al-Sulaymaniyyah area. The expert moves on to state that after examining the victims' costumes at (Ninawa 2 and Ninawa 9), in addition to origin, age, and social status, results for (123) cases indicated that they were of Kurdish origin and that the most obvious costume was the Kurdish pants that bounded around the waist. In the mass grave of (Kurmi) village, which was excavated by international expert (Snow), who testified to court during the 24<sup>th</sup> hearing, dated 28 November 2006, 27 out of 33 corpses were found to be executed by firing shots.

**Examinations and Reports**

To be more convinced, the court decided to engage field examination and inspection, to acquire the truth. Therefore, the court commission, with all members accompanied with General Prosecution's Commission, moved to Northern Area where the following sites were inspected:

1 – Nazarki Fort on the 21<sup>st</sup> of November 2006.



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(963-740)

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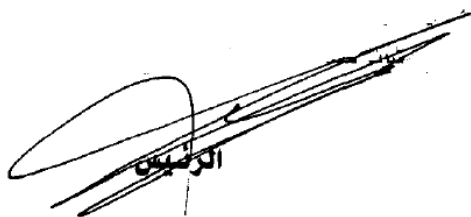
...which is a rectangular building of cement and bricks, from two floors with a big patio in the middle. The ground floor is consisted of (26) big halls and (35) rooms, as the upper one is made of (19) halls and (36) rooms. The court noticed the existence of (6) watchtowers on the building as the fort is resided, in the moment, by poor Kurdish families. This fort had been used as detention and arrest camp for Kurdish families brought in from Kurdish villages included in al Anfal operations.

**2- Bahirka Area:-**

The court induced field inspection of Bahirka Area, on 2006 November 22, where it was found that the area is a housing neighborhood that been built recently, as was concluded from the buildings' status. It is (15) km far from (Irbil) governorate center, located on a coastal area which was previously free from buildings and far away from mountains. The former regime had used this area as a detention center for Kurdish families that were coercively brought from Kurdish villages included in Al Anfal operations.

**Balak Jar, Takya, Siwsinan, Shurish villages' inspection report, on 2006 November 23:**

When the court's commission reached (Siwsinan) Village, it noticed a graveyard located on the eastern side of the highway, fenced [circular] as graves were well organized. The court noticed the victims' names engraved on gravestones. Those names were identical to plaintiffs' testimonies before court during the hearing. It had been realized that those [corpses found] are victims of chemical strikes during Al-Anfal operations.



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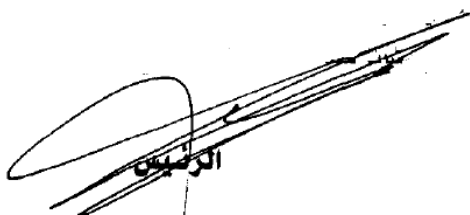
**The Verdict**

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The court moved to Takya and Balak Jar villages. It noticed that the area is surrounded by a mountain chain dominated by Qar Dagħ Mountain. (Takya) village is located on the foot of a mountain with (20) to (25) houses, as (Balak Jar) village is in (Qara Dagħ) valley containing 12 to 20. The court noticed an unexploded rocket launcher planted in the ground, 500 meter away from the village, as well as another obviously up from the ground level with (2 meter) length, 1000 meter away from the village.

Next, the court's commission moved to (Shurish) compound. Once there, on 2006 November 23, it noticed that it is a huge residential compound located on the side of the main road which link Al-Sulaymaniyyah City to (Chamchamal). An inspection and mapping of the area had been framed.

The commission continued to (Barjina) village, (27) km far from Dahuk governorate, located in a rough area surrounded with mountains chain from four side, (50) km away from Iraqi-Turkish borders. Additionally, the court realized that all the villages' houses and mosque are completely destroyed. The court was able to identify the mass grave which contains Victim [NAME REDACTED] and his grandson ([NAME REDACTED]), previously mentioned by one of the plaintiffs. Moreover, the court noticed the remains of bombs containing solid yellow material which after laboratory examination was identified as chemical substance. The court carried field inspection over (Shaykh Wasan), (Balisan) and (Wara) villages where remains of exploded bombs (fragmental), cluster bombs' containers, and chemical bombs shells, with unidentified substances inside them, were found between (Biraw and Kani Bardi). A sample had been passed military engineering brigadier general for laboratory analysis, acknowledging that a military engineering brigadier general was accompanying the court's commission, and has identified the aforementioned substance.



The Presiding Judge



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The commission moved to (Wari) village, and the mass grave affiliated to it. The village is located on the eastern side of the main road to (Balisan). It is constituted of approximately (40) houses, (2) km away from the gravesite, on a river called Qashan. The graves in the village remained in their original form, at the time of burial, with numerous victims pertaining to Al Anfal operations.

**(Convict Husayn Rashid Muhammad)**

**Genocide:**

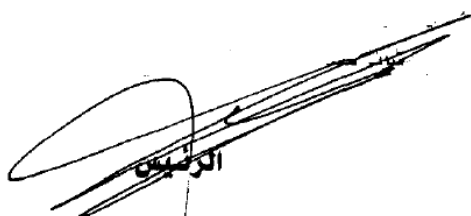
On 2007 February 20, the court charged Convict (Husayn Rashid) for perpetrating genocide as per Clauses [(A, B and C)] of Clause [First] of Article [11] of Iraqi High Tribunal Law o (10) for the year 2005, as follows:

A- Murder individuals from a group

B- Causing physical or mental damages for a group's of individuals

C- Premeditatedly subduing the group to harsh living conditions on purpose of total or partial eradication

It is known and proved historically that the Kurds were and still are a national ethnic group residing Kurdistan Region in Northern Iraq. Additionally, they had been exposed by former regime and Convict (Saddam Hussein), due to their national ethnicity, to mass murder and severe damages through large scaled attacks with conventional and chemical weapons, subduing them to living conditions on purpose of eradication via coercive dislocation and economic siege by destroying the capability of ...



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... survival, driving them to crowded prison camps lacking the minimum tools of life, or housing them in residential compounds which are not valid to be habited, among others, aiming to finally eradicate the Kurdish populace.

**1- Murder as genocide:**

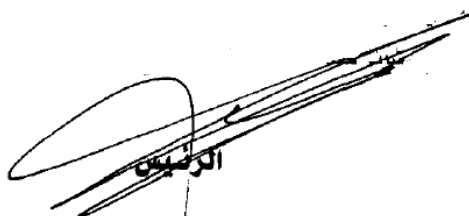
**Convict Husayn Rashid role in murder as genocide:**

**Crime's elements:-**

Murder as genocide requires the provision of the following elements:

- 1- The perpetrator must murder one or more individuals
- 2- The one or more individual(s) are to be associated to a given national, ethnic, racial, or religious group.
- 3- The perpetrator must intend to eradicate partially or totally that national, ethnic, racial, or religious group.
- 4- This conduct must be issued in a clear similar conduct context against the aforementioned group or to be [the conduct] a cause of such eradication.

To prove murder as genocide; the premeditated murder elements must be provisioned, correlated to preconceived malice and diversity of plaintiffs. Therefore, a criminal conduct is to be committed by the perpetrator or contributor in this act or conduct by the accomplice of murder or to cause it. In addition, the criminal result is to be available too, proved by the death of the aggrieved, accompanied with causal relation between the act and result. The provision of the aforementioned elements means that the physical basics of the crime are obtained. On the other hand, the morale basic of murder as a crime must be established via the criminal intent which required the provision of perpetrator's intentional factors in totally or partially eradicate the national, racial, ethnic, or religious community ...



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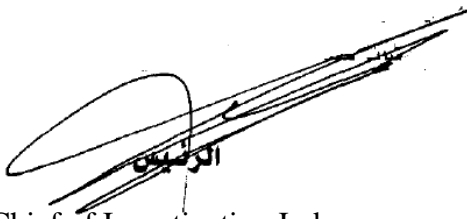
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... by attribution, taking into consideration that the criminal intention is the will to achieve the criminal result via a conduct carried out within a clear and identical context against that group. In general, according to International crimes, the preconceived malice is provisioned through the number of contributors and previous planning from committing such crime, as of the provision of cool manner.

The second element of premeditated murder, as genocide crime, is that the perpetrator's intent must be directed, as well as his criminal conduct, toward achieving the murder intent aiming to partially or totally eradicate the national, racial, ethnic, or religious community.

One of the elements of proof, which indicate that the murder crime is a genocide crime, is the availability of a group of people within a specific area, while the attackers are containing them to prevent their [group's members] escape, at a time when the perpetrator issue preplanned orders to murder those people by weapons. Whereas there is evidence that this group is bounded legally or via a common nationality, as well as interchange of rights and duties, contributing to one common language and culture, in one given geographic area, sharing the same religion. From the vital elements of proof, as to prove murder as genocide, is the official classification of the group via an investigation over their [group's members] naturalization certificates, destroying electricity and water networks, use violence and cruelty against victims, illegal detention of men, coercive dislocation of women and children outside the district, contributing to the segregation of other members within one given group, using bad terms by the offender to disdain or humiliate or discriminate the group's national ethnicity, segregating men from women, youngsters from elders, adopt a repetitive harmonized pattern of raids evidence, and the spread of physical ailments among civilians.

Regarding Convict Husayn Rashid, he was chief of army staff's adjutant for military Operations during Al-Anfal operations, as he was not in a command position, with no power over ...

  
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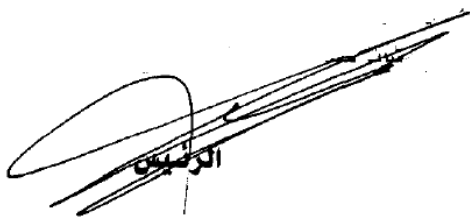
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... making decision as he claimed. The convict mentioned that he did not commit any of the crimes charged against him, since he was not the decision maker as being director of Operations directorate which is affiliated to Army Staff Chairmanship. He insisted that his role, as a member in the general command of the armed forces, was limited to handling status reports only, while he confessed attending all the meetings pertaining to Al-Anfal planning between February and September of 1988. Furthermore, he reported that he had no choice to reject any of the orders released to him regardless of its legitimacy or not, as his role was limited to provide consultancy without objecting to the plans submitted to him. The convict testified that six directorates were related to his department [deployment, armament, supply, organization, and signal]. Copies on information were sent to him to upgrade the maps and forward advice as of the availability of military and human resources required for military troops. Moreover, he insisted that his role was limited to prepare the plans to attack military targets rather than civil ones, as he claimed to perform his military duty perfectly denying any acknowledgment concerning the attacks over civil inhabitants or targets.

In spite of Convict's Husayn Rashid claim of being innocent, there are evidences which indicate that he is involved in the murder as genocide. That is because all the aforementioned evidences submitted hereafter mark his acts as being aware and acknowledged of the strikes against civil inhabitants via all kinds of conventional and chemical weapons. Since he confessed to be in charge of Operations directorate on July of 1987, which means after Convict 'Ali Hasan Al-Majid orders and instructions included in letter number (4008), dated on 1987 June 20, as this letter is taken as the central one around which the whole Al Anfal operations concentrate. The letter expresses Convict 'Ali Hasan Al-Majid intention to murder Kurds in Kurdistan, after granting the latter wide jurisdictions, putting under his command all

...



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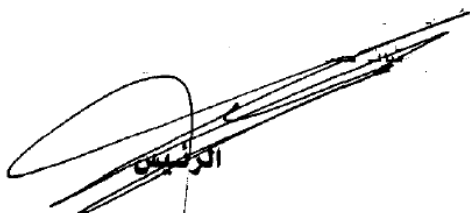
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... state's civil, military, security and party systems as per bygone Revolutionary Command Council Decree (160), for the year 1987.

Convict (Husayn Rashid) had reviewed the aforementioned decree and letter number (4008), dated 1987 June 20, and realized the intention of Convict 'Ali Hasan Al-Majid regarding the dislocation of Kurdish civil in habitants far from their villages, preventing the human and animal existence, foiling agronomical and industrial activities within the area, detaining everyone to be found within prohibited zones, executing the interneers whose ages are between 15 and 70 years old [included], after investigating them with no trials. The letter included instructions to the corps' commands to prepare special strikes by artillery, helicopters and aircrafts to murder the largest possible number of residents within the aforementioned area. Convict Husayn Rashid had been acknowledged, along with all military commanders and military intelligence in charge personnel, that the committed acts carried out in Al Anfal operations are none but the intentions of Convict 'Ali Hasan Al-Majid, declared in the aforementioned letter and letter numbered (3650), dated on 1987 June 3, which set down the pillars of Al-Anfal Operations.

The court noticed how the military troops attacked the Northern zone and blocked all exits to Turkey in order to contain the inhabitants and arrest them, using, excessively, all sort of weapons, in these raids including conventional and chemical weapons against Kurdish civil inhabitants according to what had been preplanned by Convict Husayn Rashid from human and physical recourses to the military troops, which attacked Kurds as being national ethnic community having their own language, history and culture, which constitute the legal bounds or nationality among members of a targeted community. In addition, the court noticed that this group was classified officially by identification card's investigation procedures, as Victim [NAME REDACTED] testified before court, on 2006 October 31, "When we arrived to the brigade headquarter in Chamchamal, they registered our names and addresses". Most of ...



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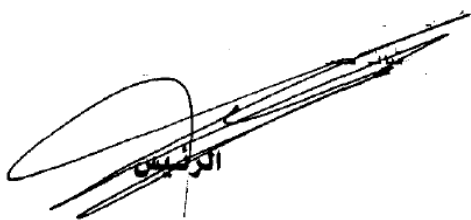
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... the victims who attended before court assured that they were subjected to an identification card's investigation, and then women and children were segregated away from men. Several victims and witnesses testified that the attacking military forces exploded water wells and filled them up with concrete bricks; and that is an evidence for destroying the water and electricity network. As for using violence and severity with victims, most of the plaintiffs and victims mentioned that the attacking forces had used extreme violence and severity whereas their villages were exposed to an intense concentrated bombardment, describing it as being Armageddon. Victim [NAME REDACTED] testified to court, on 2006 September 20, that her village (Siwsinan village), was attacked and that she saw (14) bodies lying on the ground, seven of them were from [NAME REDACTED] family, and the rest of the bodies were for her daughter ([NAME REDACTED]) and five sons, and other two. 81 Citizens, from her village, were murdered that day, some via chemical weapons. As for the evidence of segregating individuals within one given group, such as women apart from men, or those within the age of military service from the elders, Plaintiff [NAME REDACTED] testified to court, on 2006 October 19, "When we reached Tupzawa prison camp, we were segregated to three groups [women, men and youngsters]. Plaintiff [NAME REDACTED] testified to court, on 2006 Oct 9, "When reaching Tupzawa camp, we were segregated to 3 groups [women, men, and males under 49 years old]". Most of the victims stated that once they arrived to detention and prison centers, men had been segregated from women, youngsters from elders [both males and females]. As for the evidence of reoccurrence, consistency and methodically, the court noticed that Al-Anfal operations were divided to eight stages, as these eight were executed in the same method and technique. Convict 'Ali Hasan Al-Majid confirmed the aforementioned, during hearing sessions before the court, when he replied concerning the fifth corps commander's inquiry about ...



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... the way to handle families, ordering to be treated as in previous operations. This proves that the attacks were organized and executed according to a clear systematic plan or policy. As most of the victims testified being dislocated from their own villages to detention and prison centers via military vehicles as Convict Sultan Hashim admitted that before court.

The evidence of places and pits prepared for execution, this is confirmed by most of the survivors from mass graves including victims ([NAME REDACTED], ([NAME REDACTED]) and [NAME REDACTED] who mentioned that they witnessed the pits prepared before reaching the appropriated execution's site. They also noticed bulldozers and shovels ready to fill up pits with earth after the execution which insure the availability of a plan or a policy laid down by Convict 'Ali Hasan Al-Majid, according to aforementioned letter No (4008), dated 1987, June 20, regarding the implementation of Al-Anfal operations.

Concerning the evidence on consistency between types of used weapons and uniformity in investigation, the court noticed that the special ammunition was used intensively and intensely during the years 1987 and 1988 in Northern area of Iraq. There was uniformity in investigation, as to extract information from victims by security systems, before carry on executions. This was what had been included in one of Letter No (4008) clauses, on 1987 June 20, as well as other letters issued Convict 'Ali Hasan Al-Majid. Regarding the spread of physical ailments, thousands of civil inhabitants, from Kurdish villages, were exposed to murder, as a consequence of chemical weapons; as it had been stipulated in document No 1122, dated on 1988 August 21, issued by Army Chief of Staff, addressed to First and Fifth Corps, with a copy to Operations Directorate, the conference which was held and attended by Convict Husayn Rashid. The 1<sup>st</sup> clause of the document included "the concentration of the population should be identified in Fifth Corps Operational Sector to be handled by concentrated special strikes ...

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... 48 hours prior of implementation in order to create a state of phobia". Witness [NAME REDACTED] from (Gup Tapa) village, who mentioned before court, on 1988 May 03, that (25 members of his family were killed during the attack with chemical weapons on his village on 1988 May 03).

Although the aforementioned acts were executed according to orders released by Convict 'Ali Hasan Al-Majid, they had been planned and supported by Convict (Husayn Rashid) who had attended Kirkuk conferences that discussed the usage of special (chemical) ammunition over Kurdish villages, where the aforementioned convict offered support in planning and preparing the human and physical resources, providing military technical expertise and updated maps.

The convict is a professional officer with the rank of staff lieutenant general, knowing very well the consequences of using chemical weapons which are considered as indistinct weapons which do not differentiate between civilians and fighters. Although Convict (Husayn Rashid) did not issue direct orders to murder Kurdish civil inhabitants, he contributed and participated in a joint criminal plan, with other convicts, to target and eradicate partially or totally the Kurdish civil inhabitants of Northern Iraq.

The aforementioned elements of proof emphasize the occurrence of murder as genocide by Convict ('Ali Hasan Al-Majid) and others. Convict (Husayn Rashid) had contributed with other convicts, playing an eminent role in providing support and help for committing those acts which constitute a murder as genocide.

Convict (Husayn Rashid) was informed about all details and plans for Al-Anfal operations, since he was the Deputy Chief of Army Staff for Operations, as he had been also informed about documents and letters concerning chemical weapons' usage and appropriated results.

Chie of Investigative Judges



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Accordingly, Convict (Husayn Rashid) had contributed to a criminal plan along with other convicts in a joint criminal intention, aimed to reinforce former regime and its military and security systems' criminal activity or purpose. Hence, his criminal responsibility for murder as genocide will be approved as per Article [15/First/Second] of Iraqi High Tribunal Law No (10), for the year 2005.

**The Verdict**

Accordingly, it has been proven before court that Convict (Husayn Rashid Muhammad) is guilty for contribution in perpetrating murder as genocide as per Article [11/First/(A)-Second (E)] by virtue of Articles [15/First, Second] and [24] of Iraqi High Tribunal Law No (10) for the year 2005, by virtue of and according to Article [406/1/(A)] and the contributory Clauses [47], [48] and [49] of Iraqi amended Penal Code No (111) for the year 1969. It has been decided to incriminate him according to the aforementioned articles and clauses, identifying the sentence as per them. The verdict had been issued unanimously on 2007 June 24.



Chief of Investigative Judges

Member

Member

Member

Member

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**2- B- Causing physical or mental damages against a group's members as genocide:**

**Convict Husayn Rashid Muhammad role, in causing severe mental or physical damages against group's members as genocide**

**Elements of crime:**

For committing such a crime, the following elements must be available:

1. That the perpetrator's act causes severe physical or morale damages in one or more individuals.
2. That the one or more individual(s) should be affiliated to a given national, racial, ethnic, or religious group.
3. That the perpetrator intends to partially or totally eradicate this given national, ethnic, racial, or religious group.
4. That this conduct is issued in a similar and clear schemed context targeting the aforementioned group or cause in itself the intentional eradication.

Among elements of proving this crime, the evidence on participation of the suspected in causing severe physical or mental harm, along with the existence of the evidence on the distance between the location of the violence scene and the location of the suspected. It requires the existence of an evidence for the participation of the suspect in murdering members of the group in addition to provisioned evidence regarding the result of the suspected acts.

It was been previously mentioned that Convict (Husayn Rashid) had contributed in planning for Al-Anfal operations, and supplied the military troops with all required of personnel, equipments, and different types of weapons due to his official post during Al-Anfal operations (Deputy Chief of the Army Staff for Operations). This plan resulted- as proved in files and official documents- in causing...

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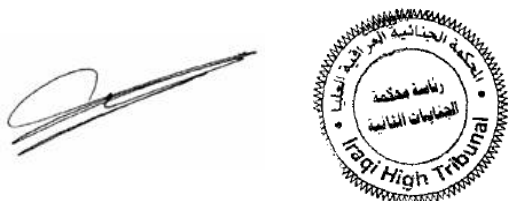
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...severe physical and mental harm in Kurdish civil inhabitants in Northern Iraq, through the former regime's plan that he had contributed in preparing it against the Kurdish inhabitants. The letter numbered (3650), dated on 1987 June 03, gave a clear image in regards of the regime's plan in dislocating the Kurdish villagers from prohibited zones, as this letter included an order to freeze the agronomy, prevent harvesting the crops, as well as pasturing and plowing. He also issued directions to the Armed Forces to kill any human or animal found within the aforementioned zones. As for letter No (349), dated 1988 April 27, issued by Chief of Army Staff and directed to First and Fifth Corps, concerning the planning for Al-Anfal Operations conference which was held in Kirkuk and attended by Convict (Husayn Rashid) at the same mentioned date, the letter discussed several issues such as the usage of special ammunition which would be launched from artillery and rocket launchers prior to military operations, as a copy of this letter was sent to the Operations directorate. The third letter numbered (183), on 1988 March 20, issued by Chief of Army Staff and addressed to the First Corps, titled (Directions), it had discussed the execution of the Second Anfal to cleanse some areas and the way of resenting requests of Special Strikes, as a copy also of this letter was sent to the Operations Directorate. The letter numbered (6545), dated on 1988 May 22, issued from Chief of Army Staff, addressed to Ministry of Defense Diwan [Office], pointed out that a strike was carried out by using Special Ammunition, on 1988 May 05, over saboteurs' headquarters within Fifth Corps' sector. As for Clause [2] of this letter, it referred to the pursuing operations against saboteurs according to settled plans for this purpose (Al-Anfal operations plans), a copy of this letter was sent to the Operations Directorate. Letter No (1122), dated 1988 August 21, issued by Chief of Army Staff, to First and Fifth Corps, and a copy to the Operations Directorate, stated:

(Locating the residential concentrations is in progress, within the Fifth Corps sector, and to be bombed with intensive strikes 48 hours prior to launching the attack, to create a state of terror among...

The image shows a handwritten signature in dark ink on the left. To its right is a circular official seal. The seal has a double border. The outer border contains the text 'الهيئة القضائية العراقية العليا' (The Iraqi High Tribunal) in Arabic at the top and 'Iraqi High Tribunal' in English at the bottom. The inner circle contains the text 'رئاسة محكمة الضحايا الثانية' (President of the Second Victims Court) in Arabic.

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...their lines). This letter also included orders to military commanders in taking highest levels of precautions when striking villages nearby Iraqi-Turkish borders.

As for letter No (127), dated 1988 March 08, issued by Chief of army Staff, addressed to Ministry of Defense Diwan [Office] and a copy to the Operations Directorate, it has included the implementation of (2) strikes using Special Ammunition, as well as the incapability of First Corps to refer to special Strikes due to bad weather. Letter No (11350), dated 1988 June 10, issued from GMID to Chief of Army Staff and a copy to the Operations Directorate, included that saboteurs' loss was (58) dead and (72) injured [saboteurs, their families, and villagers], due to Special Strike. This indicates clearly that Convict (Husayn Rashid) had participated in causing mental and physical damages to Kurdish civil inhabitants in Northern Iraq, through his aforementioned post.

The convict had admitted running his post as Chief of Army Staff's adjutants for Operations, from Ministry of Defense headquarter in Baghdad, meaning that he was not a field commander in Al-Anfal Operations. That is a clue on a distance between the military operations' site and convict's workplace, the thing which is required to prove the crime.

What has been previously mentioned from official documents is evidence that the convict had participated indirectly in killing maybe hundreds of Kurdish populace. In addition, he had confessed that no such military plan can be carried out unless being preplanned by Operations Directorate solemnly, which he led, or in contribution with the concerned corps.

The convict had admitted attending regularly the planning meetings of Al-Anfal which were held in Kirkuk, on 1988 April, where a discussion and a study for Al-Anfal plans were laid down in details, including the usage of Special Ammunition (Chemicals), as it is proven by that letter No ...

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... (349), on the 27<sup>th</sup> of April 1988, where the convict provided military and technical recommendations and consultations, in addition to supplying the required capabilities to launch the chemical weapons in a way that does not tell between civilian and military targets, in areas where Kurds reside, and the court realized that most of the documents regarding the use of special weapons, were given a copy to the convict's directorate (Operations Department), signifying that physical and mental damages that affected Kurdish civil inhabitants in Northern Iraq, occurred as a consequence of convicts aforementioned acts.

Moreover, a lot of victims (plaintiffs) were present in court and gave their testimonies admitting being exposed to chemical strikes during Al-Anfal operations, as they showed their bodies before court to highlight over scars of chemical weapons' wounds on their bodies. Other victims proved to partially lose their vision because of chemical weapons as they still suffer pain in their eyes, digestive and respiratory systems.

Accordingly, the court finds Convict (Husayn Rashid) criminally responsible for perpetrated acts via contributing in a joint criminal intent with other group of convicts, through a joint criminal plan, causing severe physical and mental harm to Kurdish civil inhabitants in Northern Iraq which resulted in genocide. According to the aforementioned acts, Convict Husayn Rashid was fully aware that such acts will lead to such result, as per Article No [15/ 1<sup>st</sup>, 2<sup>nd</sup>] of Higher Iraqi Tribunal Law No (10) for year 2005.

**The Verdict**

Accordingly, it was proven to court that convict (Husayn Rashid Muhammad) is guilty for his participation in causing severe physical and mental harm to individuals of members of a given community, considered as genocide, according to Article No [11/1<sup>st</sup>/ (B)-2<sup>nd</sup>/(E)] by virtue of Article [15/1<sup>st</sup>, 2<sup>nd</sup>]



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... and Article (24) of Iraqi High Tribunal Law No (10) for the year 2005, by virtue of Article [406/1/(SATTs A)] and contributory Clauses [47], [48], [49] of Iraqi amended Penal Code No (111) for the year 1969. The verdict was issued unanimously on the 24<sup>th</sup> of June 2007.

**Chief of Investigative Judges**  
**Muhammad 'Iraybi Majid Al-Khalifa**

**Member Member**

**Member Member**



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**Crimes against Humanity:**

On the 20<sup>th</sup> of February 2007, the court incriminated Convict (Husayn Rashid) for crimes against Humanity according to Article [12/1<sup>st</sup>] of Iraqi High Tribunal Law No (10), for the year 2005, as they are:

- a . Premeditated Murder.
- b . Genocide.
- c . Enslavement.
- d . Relocation or coercive dislocation of inhabitants
- e . Imprisonment or extreme deprivation from any means of physical freedom contrary to International Law's basic regulations.
- f . Torture.
- g . Rape, sexual slavery, forced prostitution, Coerce pregnancy, or any kind of sexual violence on the same level of danger.
- h . Persecution of any specific group of people or any specific group of citizens for political, racial, national, ethnic, religious, cultural, gender related or any other reasons contrary to International Law regarding any aforementioned act related to sexual violence on that level of danger
- i . Forced harboring of individuals.
- j . Other inhumane acts with identical nature premeditatedly causing severe suffering, or extreme damages in the body, or mental; or physical health



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**Premeditated murder as a crime against humanity:**

**Convict Husayn Rashid Hashim role in premeditated murder as a crime against humanity:**

**Elements of the crime:**

1. If the perpetrator murder one or more individuals.
2. If the act is committed as part of a systematic large scaled attack against civil inhabitants.
3. If the perpetrator intends, or is aware that this act is part of a systematic large scaled attack against civil inhabitants.

The most important element to prove the premeditated murder as a crime against humanity is to have evidence of gun shot. And we showed before how the military troops aimed fire from their different weapons toward Kurdish villages, starting with light weapons, passing by artillery and rocket launchers, ending with helicopters and aircrafts which were bombing the villages with conventional and chemical weapons. The most important document to rely on regarding opening fire is letter No (4008), on the 20<sup>th</sup> of June 1987, issued by Northern Organizing Office in charge personnel. Convict 'Ali Hasan Al-Majid, who ordered the killing of whoever exists in the prohibited zones' villages aging between 15 and 70 years [included], instructed corps' commanders to prepare special strikes (Chemical weapons) to murder the biggest possible number of residents among the aforementioned villages. This, in addition to letter No (6545), on the 22<sup>nd</sup> of May 1988, issued by Chief of Army Staff to Ministry of Defense Diwan, and a copy of it to the Operations Directorate which was lead by Convict (Husayn Rashid), stipulated in one of its clauses "strikes had been implemented on May 15, using special ammunition over saboteurs' locations...



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...within 5<sup>th</sup> corps' sector". Letter No (11325), on the 10<sup>th</sup> June 1988, issued by GMID General to Chief of Army Staff, a copy of it was sent to the Operations Directorate, stated that (58) killed and (72) were injured from saboteurs, their families and villagers due to the special strike (chemicals).

The other evidence, in proving premeditated murder against Convict Husayn Rashid, is his attendance to all meetings regarding planning or organizing the murder. The convict revealed in his testimony before 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 Army Staff Chairmanship, where the plans are to be presented to different correlated Directorates, to give their opinion, before referring them [plans] to Chief of Army Staff. Moreover; Convict (Sultan Hashim) had revealed in his testimony that he was summoned, on mid January 1988, to meet with Chief of Army Staff (Nazar Al-Khazraji) and his deputy for operations Lieutenant General (Husayn Rashid) at that time; they briefed him about the 1<sup>st</sup> Al-Anfal operation which was already set by the 1<sup>st</sup> corps. The Operations Directorate studied the laid down plan of 1<sup>st</sup> Al Anfal operations. Convict (Sultan Hashim) also stated that the military notifications and orders are directly passed through the Chief of Army Staff, while military plans are set or agreed upon either by the Chief of Army Staff, specifically the Operations Directorate if the case is Military Operations, where Lieutenant General (Husayn Rashid) was the adjutant of Chief of Army Staff. As in the scenario of laying down contributory plans by both Operations Directorate and concerned Corps, the plan will not be executed unless discussed by concerned Directorates and issued by Army Staff Chairmanship. This is the followed procedure at the time. This is what came in the testimony of Convict (Sultan Hashim). On the other hand, Convict (Sabir 'Abd-al-'Aziz Al-Duri) stated before Chief of Investigative Judges that ...



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...big plans correlated to big operations are framed by appropriated parties within Army Staff Chairmanship, specifically from the Operations Directorate headed by Chief of Army Staff's adjutant for Operations Convict Husayn Rashid Muhammad. It will be approved by General Commander of the Armed Forces is it may require sometimes major forces, considering Al-Anfal Operation a large one.

That, in addition to a lot of official documents that prove this, for example: letter No (349), on the 27<sup>th</sup> of April 1988, issued by Chief of Army Staff, directed to 1<sup>st</sup> and 5<sup>th</sup> corps commanders, headlined (Instructions), indicated the meeting that took place in Kirkuk, on the 27<sup>th</sup> of April 1988, which had been attended by Convict (Husayn Rashid), In its clauses was stipulated the upcoming Al-Anfal operations' plans, including 4<sup>th</sup> Al-Anfal Operation, mentioned in article (W) as follow: (Using the special ammunition over enemy's mobilization, whenever it is possible, whether by air fighters, artilleries, Rocket launchers and helicopters before they start their operations against our troops (Aborting Operations) and it is likely to attack with special weapons (chemical weapons) on saboteurs locations).

Moreover; the convict confessed before court that the Operations directorate, under his command during Al-Anfal operation, was as a (Bank) that prepares the financial and human resources to all military sectors, and its role was confined in giving advice and technical directions to the troops.

The third evidence to prove the murder as a crime against humanity is the existence of premeditation. And the premeditation is shown when the convict contributed in planning for Al-Anfal operations as the aforementioned statement showed in details. In addition, the Operation directorate that was under the command of the convict included six directorates, and each had a particular mission to plan for the military operations. For example the Organizing Directorate was participating in planning for the operations by coordination with the involved corps, and the Arming Directorate was organizing...

(760-963)

The image shows a handwritten signature in black ink above a circular official seal. The seal has a serrated outer edge and contains text in Arabic and English. The Arabic text reads 'القضاء الجنائي العراقي العليا' (Iraqi High Tribunal) and 'مجلس القضاة' (Council of Judges). The English text at the bottom reads 'Iraqi High Tribunal'.

In the name of God most Merciful most Compassionate

**Iraqi Supreme Tribunal  
2<sup>nd</sup> Criminal Court  
Baghdad Iraq**

**Ref. No.: 1/ 2<sup>nd</sup> Criminal/2006  
Date: 24/06/2007**

### **Verdict**

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...equipping operations of the Armed Forces with various weapons, and the Supply Directorate would prepare the Military Units with what they required from human resources, equipment, machinery, tires among others. As for the Survey Directorate, they would prepare military maps and update them whenever they were required. This entire operation indicates proof of premeditate murder undertaken such as crimes against humanity.

As for proof of the wide scale or systematic attacks, there must be proof which indicates that. For instance the involvement of High Political or Military commands, the evident proof of that is the decree that was issued by the Revolutionary Command Council No. (160) dated 1987 March 29 which authorized accused ('Ali Hasan Al-Majid) wide jurisdictions as was stated in the Clause (1<sup>st</sup>) of which is the following: (Comrade 'Ali Hasan Al-Majid, member of the State Command of the Ba'th Party, will represent the State Command and the Revolutionary Command Council in applying their policies in the Northern area including Kurdistan Autonomous Ruling Region, aiming to protect the security, the order, and maintain stability and enforce Autonomous Ruling in the area).

The 2<sup>nd</sup> clause of this decree stipulates: (Comrade the State Command member will assume the responsibilities over all Military, Security and Civil authorities. And they report to him, especially the authorities of the National Security Council and the Northern Affairs Office). As for Clause (3<sup>rd</sup>) of this ruling, it stipulated: (the following sections are correlated throughout the Northern Zone with the Comrade and National Command Member, that abide by his rulings and instructions that must be executed in accordance to this ruling.

- 1 – The Kurdistan Autonomous Ruling Executive Council
- 2 – Governors of Governorates and heads of Administrative units related to Local Administrative Ruling Ministry.
- 3 – Intelligence systems, Internal Security Forces and the Military Intelligence.

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
Baghdad-Iraq

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coincide with 2007 June 24

### The Verdict

#### 4- The Commands of the People's Army

On its (Fourth) paragraph mentioned: (this decision will be effective starting its issuing date until further notice, and freezing the laws contradicting with this decree)

And according to the decree the accused ('Ali Hasan Al-Majid) issued his orders which were included in his letter number (4008) on 20 June 1987, in which he ordered the commander of the corps under his command to execute special attacks in all times (day and night) occasionally; artillery, aircrafts and helicopters in order to murder as much as they can from those who live in the security prohibited areas (The Kurdish Villages).

According to what he ordered-through this letter-to detain any person located in the area and to be investigated by the security systems and to be killed between ages of 15 to 70 after taking his information.

The convict ('Ali Hasan Al-Majid) issued also another letter (3650) on 3 June 1987, addressed it to the Commands of the First, Second, Fifth Corps and to the Commands of the Office Branches and the Security Directorates of the Autonomous Ruling Region and the Intelligence Systems in the North.

In the paragraph 5 of this letter he ordered the military forces each in his area of responsibility to murder any person or animal found in the prohibited areas.

This decree and these two letters indicate clearly the embroilment of the higher political leadership and involving the military commands with them in executing a large-scale and methodical attack.

This is in addition to many documents that were referred to earlier.

There is another proof on this large-scale and methodical attack which is allocating a huge budget for executing this attack.

And this is clear in the Revolutionary Command Council decree No (244) on 20 April 1987 executing his order No (160) on 29 March 1987, in its paragraph.

The President

(762-963)



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(1) (Comrade 'Ali Hasan Al-Majid, is to be given the money expenditure privilege in all the issues related to the Northern Affairs Committee for the aim of executing the Revolutionary Command Council decree No (160) on 29 March 1987.

The Higher Political Command for the state allocated large budget for executing the Revolutionary Command Council decree No (160) for the year 1987 in carrying on a large-scale attack against the Kurdish Nation and giving convict ('Ali Hasan Al-Majid) the expenditure privilege to maintain the needs of these large-scale attack according to the latest Revolutionary Command Council Decree.

About the methodical nature of the perpetrated acts, is in the huge military force used in the Anfal Operations starting from Anfal First Operation to the Anfal Eighth Operation in which all the available weapons in the state were used including the chemical weapon, where the villages were intensively attacked by the chemical and conventional weapons which caused the murder of thousands and the injury of other thousands

After executing the attack the army units would move in and arrest the rest of the civilian villager's survivors and transferring them by military vehicles to the detention camps, this method repeated in all the stages of the Anfal Operations.

The large-scale and methodical attack was directed against the civilian inhabitants in the Iraq-Kurdistan

And there are evidences of the "civilian character" for the victims of that large-scale attack, such as the statements of the plaintiffs (Victims) before this court.

The following information came through the statement of the plaintiff ([NAME REDACTED] before the court:

(on 16 April 1987, and it was the sunset at 6:15 the villagers came back to their houses along with the livestock and suddenly a group of (8-12) aircrafts flight over (Balisan) Village and shelled it, we smelled something like garlic or rotted apples and after few minuets the affects started to appear

The President



(763-963)



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on the villagers their eyes became red and they started vomiting.

When the night came the helicopters came and shelled the mountains and I don't know if the shelled was by the chemical weapons or not.

Then we escaped to the mountains because we were afraid of another attack, then we lost the ability to see me and my family members and our bodies were burned and we have no one but God).

While the plaintiff ([NAME REDACTED]) reported the following on her testament before the court:

(I was at our house sowing and around four o'clock and it was Thursday and because I'm an illiterate woman I don't remember the date.

Our village was attacked through the aircrafts, we escaped to the shelters.

As a result of the shelled we started to vomit and our eyes started to tear, we stayed until night and they informed us that the government will attack so we went to the caves where we stayed (Gari Bishah) cave, we were disable to see until the next day when the residents of (Bitwata) came and helped us and took us to their village by the agricultural vehicles and they offered the medical care for us).

The following information came through the statement of the plaintiff ([NAME REDACTED]) before the court:

In 1987, at (Ziwa Shikarta) Village with located on the (Upper Zab) and I was a member of the (Pishmarga) and my duty was in this area.

On 1 May 1987 before the midday we heard the voice of some aircrafts also we heard the voice of explosions.

One of our detachments moved to the accident location, after that I returned to my location and during the time of our back and forth we smelled a strange smell like Cinnamon and our eyes started tearing immediately and this is the first time I see such incident and then we knew that the weapon was chemical.

The plaintiff added: at the second time on 24 August 1988, the Iraqi Forces moved along with the National Defense Regiments to (Dahuk, Sarsang and Al-'Imadiyyah) and blockaded the area and the neighboring mountains another part of these forces went backward of the main forces and it went to (Dahuk and Simil) also to ( Batufa, Zakhu, Yadar, 'Ajam,

The President



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Kani Masi), and thousands of families in this area were blockaded.

Some of the people got closer to the Turkish borders and the other part couldn't because most of them were captured by the Iraqi Forces and no one of the Pishmarga Forces was involved because they (Pishmarga) were not among civilian residents).

In addition to the aforementioned testaments, the content of the letter No (1122) on 21 August 1988, issued from the Chief of the Army Staff to the Commanders of the First and the Fifth Corps proved that this large-scale and methodical attack was exposing the civilian residents.

In the paragraph (1) of the letter: (defining the residential concentrations in the 5<sup>th</sup> Corps; to be bombed with intensive special attacks 48 hours prior to executing the operation, in order to create panic situation and to stop their collaboration with the saboteurs)

All the aforementioned are clear evidence that the large-scale and methodical attack meant-in a part of it- the civilian inhabitants of the Kurdish villages that had been attacked.

The convict (Husayn Rashid) was aware that his actions were part of a large-scale and methodical attack against civilian residents through the huge military forces used for that attack against the Kurdish civilian residents during the Anfal eight operations.

The government didn't spare the usage of any weapon by the military forces during those attacks and the government used tens of thousands of soldiers in the attacks.

The aforementioned convict was on a daily contact with the attacking military forces through attending the planning meetings were held at the Operation Department which were headed by him or through the various official letters and correspondence that were copied and sent to the Operation Department to let the convict be aware about all the military movements and it's results against the Kurdish civilian residents.

According to that the court found the convict (Husayn Rashid) criminally responsible on the perpetrated acts through his participation in a criminal intent along with group of people.

The President

(765-963)





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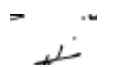

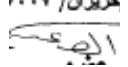

And through a criminal joint plan, in the premeditated murder crime as a crime against humanity and by knowing that these actions will lead to these results, according to the article No (15/First and Second) of the Iraqi High Tribunal law No. (10) for the year 2005.

### Conviction Decision

According to the aforementioned it was proved to the court that the convict (Husayn Rashid Muhammad) is guilty for his participation in the premeditated murder crime as a crime against humanity according to the article No (12/First/A-Second/E) and in reference to the article No (15/First, Second) and the article (24) of the Iraqi High Tribunal law No (10) for the year 2005, in reference to the article No (406/1/A-B-F) and the collaboration articles No (47, 48, 49) of the penal code No (111) for the year 1969 amended.

It was decided to convict him and specifying his punishment according to it.

The decision was issued by agreement and acknowledged in public on 9<sup>th</sup> Jamadi Al-Akhirah 1428 that coincides with 2007 June 24

			
<b>Member</b>	<b>Member</b>	<b>Member</b>	<b>Member</b>

**Chief**



**Muhammad 'Iraybi Majid Al Khalifah**

(766-963)



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#### **2-Anihilation as a crime against humanity:**

#### **The rule of the convict (Husayn Rashid Muhammad) in genocide as a crime against humanity:**

##### **The crime's elements:**

1. The perpetrator must murder one or more individuals, enforcing victims to live in harsh conditions which will lead to the eradication of a part of inhabitants belonging to a given community.
2. The conduct must constitute a massacre against community's members [civil inhabitants] as part of this activity.
3. The conduct must be perpetrated as part of a systematic large scaled attack against civil inhabitants.
4. The perpetrator must acknowledge that the conduct is part of a systematic large scaled attack against civil inhabitants or intend this conduct to be part of the aforementioned attack.

There must be evidences to prove that genocide is a crime against humanity, such as distributing weapons. We previously mentioned in details the actual rule played by the convict (Husayn Rashid) in the 8 Anfal operations as he was the Deputy for the Army Chief of Staff for Operations, as he participated in planning for the Anfal Operations, and his affiliated directorates armed the military forces and supplied them with ammunitions and other equipments to succeed the Anfal operations, they also supplied it with the military maps that specify the locations of the villages in north Iraq. The letter issued from the Chief of Army Staff numbered (1076) on 16 August 1988, addressed to the Command of the First, Second and Fifth Corps (after the cease-fire between Iraq and Iran), explain the rule of the mentioned convict in Al-Andal Operations, the following information came in the letter: (the meeting with you on 14 August 1988 at..

The President



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the main headquarter of the General Command of the Armed Forces, by the attendance of the Deputy of the Chief of Army Staff for Operations and the Directors of the Military Operations and the Army Aviation to discuss the next plans of the Anfal Operations in your sectors.... Etc)

The second evidence for proving the genocide as a crime against humanity is by delivering the victims to Militia or an armed group and ordering them to murder the victims.

In the statement of the plaintiff [NAME REDACTED] before the court:

(I'm a resident of (Darbarula) and it was the harvest time on September 1987, we went to the Ba'th party organization to get the harvest permeation.

In the morning of 3 Sep 1987, the emergency force attacked us and surrounded the village and burned and exploded the electricity in the village while we were out of our houses.

Then they gathered and confiscated the livestock and arrested us and we were transferred to the Emergency of (Al-Sulaymaniyyah) Governorate, then to the Security Directorate then we were returned back to the Emergency where we were detained for four months and we were investigated several times.

One night they came and read eight names from the detainees and they took [NAME REDACTED] I don't know their whole names also they took two persons from (Kalar) residents I don't know their names.

They took them to a wall behind the prison and I heard shooting voice and I was informed by the guards that they were executed.

Later we were informed by some guards that these individuals were arrested in the security prohibited areas.

While the plaintiff [NAME REDACTED] reported the following in his statement before the court: (in 1987, the Republican Guard Brigade attacked our village supported by tanks and they have bulldozers and military lorries and our village was destroyed and this attack started from the morning until the sunset, mentioning that our village was security prohibited and located a half an our driving from Al-Sulaymaniyyah.

There was no reason for the attack except that we were Kurds. On 8 September 1987, twenty detachments of the security forces.

The President



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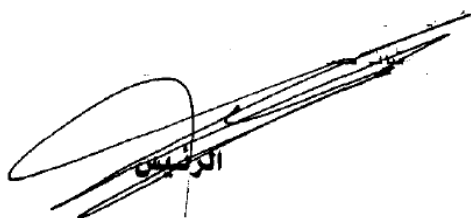
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... attacked (Shar Bajir) village, I was with my brothers [NAME REDACTED] in the village, we were arrested by the security and emergency forces, the cattle of our village were stolen, a vehicle was brought to move our cattle to Al-Sulaymaniyyah governorate, then we were handed over to Al-Sulaymaniyyah emergency, and we had entered the detention camp; we saw sixteen persons of 'Arbat inhabitants... and we were detained for three months and been tortured intensely...)

As an evidence on existence of names rosters for the known by name victims, tens of plaintiffs submitted names rosters of their relatives who had been killed in the Anfal campaigns, who still of unknown fate, or whose remains had been found in the mass graves and been recognized by the identity cards found in their clothes, and that these several rosters are attached to the case file.

The evidence regarding the usage of armed forces in the attacks against the Kurdish villages is what had been mentioned in the plaintiffs' testimonies, including for instance; the plaintiff's ([NAME REDACTED] testimony, as he stated before the court that: (... in the year 1988 we were in (Si Kanyan) village when we saw the Iraqi forces reinforced, and the attack over us started by aircrafts and artilleries from all directions, and the inhabitants started to flee from the village...). As for the plaintiff ([NAME REDACTED]; he stated before the court: (I am a resident of (Sidar) village of (Bingird) Sub-District, who was working in agriculture, in the second month of the year 1988, our village and the neighboring ones were attacked by artilleries and aircrafts, the attack continued for seven days, after that the forces carried on an attack from three axis that are (Chilanabal mountain, Qarasat and Duli Zali mountain). In the plaintiff's ([NAME REDACTED] testimony before the court, the following was mentioned: (In the year 1988, our village and the neighboring ones ...



The Presiding Judge



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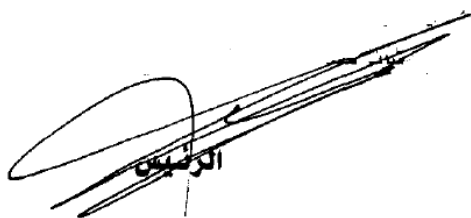
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...were attacked by aircrafts, and the first Anfal operations started in (Jafayati) valley, the attack on our village started in two directions, the Iraqi forces moved toward our village while the attack was continuing on it...)

The evidence on the varieties of weapons brought by the suspect or the armed forces is what was mentioned in the correspondence numbered (1076) on 1988 August 16 issued by the Chief of Army Staff, addressed to the first, second and fifth corps' commanders with the subject of (Instructions), a copy of that correspondence was given to the operations department and requested the following: (A survey about the possibility of providing five divisions headquarters and a number of infantry and independent armored brigades from the operations sector to the northern area that covers the requirement of Al-Anfal operations, was assigned). This correspondence had detailed many of military issues such as the idea of the Anfal operations, the magnitude (Wide and large), directions and the starting time. This document does not specify the nature of the weapons used in the Anfal operation only; it also perform an evidence on the convict's (Husayn Rashid) intention and acknowledgement about all the wide-range and methodical attacks that had been carried on against the Kurdish villages in the north of Iraq.

As evidence on the convict's intention and intentional acknowledgement of killing a huge number of the targeted individuals; his presence in Kirkuk conferences and the ones held in the armed forces general command headquarters for planning to use the special ammunition (Chemical) specifically against the civilian inhabitants, this was proven through the official documents mentioned before, in addition to the convict's confess of his presence in that conferences.

It was proved to the court that the convict (Husayn Rashid) has a vital role in the genocide against the civilian inhabitants and subduing them to live in conditions that will cause the imminent eradication of a group of inhabitants, through the wide-range and methodical attacks against these civilians with his knowledge about all that. The document numbered (1076) on 1988, August 01 issued...



The Presiding Judge



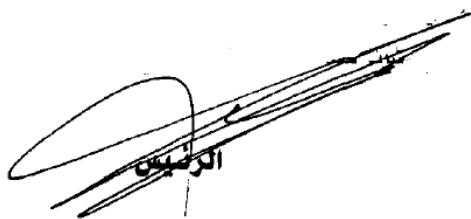
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...by the chief of army staff addressed to the first, second and fifth corps' command with the subject of (Instructions), proves that role of the convict (Husayn Rashid), the following was mentioned in the that document's introduction: (The meeting held with you on 1988 August 14 in the general command of the armed forces main headquarters with the presence of the deputy chief of army staff for operations, military operations director and the army aviation, regarding the next plans of the Anfal operations in your sectors...). A copy of that document was given to the operation department headed by the convict, where he requested from that department (A survey about the possibility of providing five divisions' headquarters and a number of infantry and independent armored brigades from the operations sector to the northern area that covers the requirement of the Anfal operations). It was mentioned in the document numbered (1122) on 1988 August 21 issued by chief of army staff too with a copy to the operations department; that (The inhabited concentrations in the 5<sup>th</sup> corps's sector will be specified and treated by the intensive special attacks (48) hours prior to starting the operations to create panic between them and prevent them from collaborating with the saboteurs, with following up their movement within the area taking a serious caution in avoiding attack the inhabited villages bordering the Iraqi-Turkish borders). In another paragraph of this document, the following were mentioned: (The current chance of crushing the sabotage in the northern area is the best one, and it will never be given in the future whether the peace with the enemy is achieved or not; accordingly, there should be a complete destruction of the sabotage happening in the northern area...). Regarding the document numbered (1182) on 1988 August 28 issued by the chief of army staff to commands of the first and fifth corps with the subject of (Instructions), the flowing were included within it: (The deputy general commander of the armed forces, ministry of defense, had assigned the following during his brief about the Anfal operations plans that are being executed in your sectors: 1- Demolishing all the villages and its houses; since it was noticed in the previous demolished villages that one or more houses had been left as it is without demolishing it, and the air force is assigned to control that), a copy of this document was given to the operations department ordering the follows: (The...



The Presiding Judge



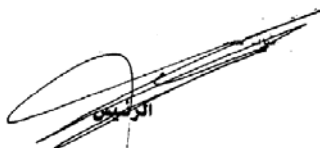
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... deputy general commander of the armed forces, ministry of defense, had assigned updating the maps and for all the scales with the latest topographic information). Of which proves the basic role of the convict in Al-Anfal operations with his knowledge of its results; what was mentioned in the (Eighth Anfal Operation) (Khatimat Al-Anfal) (T.C: *The Closure*) analytic document; as it was stated in its paragraph (5) titled (Preparations): (H- The sixth and seventh Anfal operation were postponed in the meeting held in the first corps command's headquarters in Kirkuk on 1988 July 26 morning, with the presence of deputy chief of the army staff for operations and military operations director, according to the chief of Army Staff's top secret correspondence 943 on 1988 July 29 until the operation requirement be provided. J- A meeting was held in the headquarters of the first corps in Kirkuk on 1988 August 07 headed by the member of State command, the secretary of the northern organization office; comrade ('Ali Hasan Al-Majid), deputy chief of army staff, and the military operations and air force directors. It was instructed to put an end to the sabotage happening in the northern area, the chief of army staff instructed to start the Anfal operations, prepare the required plan and provide the requirements for that, according to the chief of Army Staff's top secret and personal correspondence (1024) on 1988 August 08. L- A meeting was held on 1988 August 14 in the general command of the armed forces main headquarters, with the presence of deputy chief of army staff, and the military operations and air force directors to discuss the next plans of the Anfal operations in the corps area, Balisan and Simaqulyat areas will be assigned to the first corps, and Ziwa Shikan and Zakhu in Badinan sector will be assigned to the fifth corps, according to what included in the chief of Army Staff's top secret and personal correspondence (1076) on 1988 August 16. M-A meeting was held in the first corps command's headquarters in Kirkuk on 1988 August 20, with the presence of deputy chief of army staff, and the military operations and army aviations directors...



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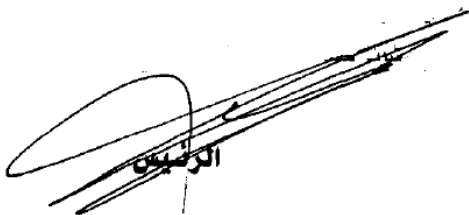
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... to discuss the plans, day (J) was fixed for the Anfal operations on 1988 August 25 according to what had been informed by the chief of army staff in its top secret and personal correspondence (1122) on 1988 August 21).

The court, through the documental evidences and the convicts' testimonies in the investigations and trial stages, came to a conclusion that some of the Anfal plans were prepared in the operations department headed by the convict (Husayn Rashid), and others were prepared in the first corps's headquarters of (Kirkuk) or in the general command of the armed forces main headquarters with presence of the same convict. It is obvious that the military troops according to a comprehensible and methodical plan, had carried on a wide-range and methodical attack against the Kurdish civilian inhabitants in the north of Iraq starting with first Al-Anfal operations until (Khatimat Al-Anfal) (*T.C: The Closure*), in which all the country's military Capabilities as the troops started attacking the Kurdish villages with all kinds of weapons by aircrafts, helicopters, armors, and launchers of conventional and special ammunitions(Chemical), and as a result of that; thousands of civilian inhabitants were killed and relocated, the same number of them were transferred to the arrest and detention camps. The genocide of Kurdish civilian inhabitants in the north of Iraq had been clearer there starting with 4<sup>th</sup> Anfal operation until 8<sup>th</sup> Anfal operation (Khatimat Al-Anfal) (*T.C: The Closure*), as the civilian inhabitants were subjected to genocides, the evidence is the (Kurimi) village's genocide in 1988 August when the military had executed (27) persons of that village's inhabitants by a firing squad, the victim [NAME REDACTED] who is a farmer from this village's inhabitants who survived by miracle assured before the court: (I am a resident of (Kurimi) village, on 1988 August 25-26 night, we were notified from the near by villages that the Iraqi forces will carry on the Anfal operations, so we ran away and reached the street leads to (Kani Masi) but we couldn't cross it, and the inhabitants came back and hid in the farms and caves that we were living in. At five o'clock morning of 1988 August 28, we were attacked and surrounded by the military from all sides, so we...



The Presiding Judge



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Second Criminal Court  
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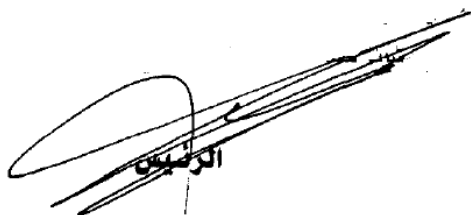
Ref.No.:1/ 2<sup>nd</sup> Criminal / 2006  
Date: 09 Jumadah Al-Akhirah 1428  
Coincided with 2007 June 24

## Verdict Decision

...surrendered our selves to the army who took us back to our village, then they segregated women apart of men and infants, and took women and infants towards (Mangish) village, (33) men of us remained, the officer asked us to get in one row, and they took us south of the village where I saw 16 soldiers, the officer ordered us to set down and another one to shoot us, the soldiers shot us and we all fall down, After that, the officer ordered to shoot one bullet on every one of us; and he wounded me in my forehead, and I show it to the court (And the court noticed a clear mark of that on it).When the soldiers had gone, I tired to stand up then I saw my father, brothers ([NAME REDACTED]and (18) of my relatives, and they all were dead. I saw my cousin ([NAME REDACTED]wounded with his legs then I put him in a big hole, also I saw [NAME REDACTED]coming out of the dead bodies. I submit to the court a names roster of the people, who were killed in the execution operation). According to the aforementioned, the court realized that the convict (Husayn Rashid) had participated with other convicts in a joint criminal plan to boost the criminal activity of the former regime and to achieve its criminal purposes. And by that, his responsibility of committing the genocide crime against humanity is proven based on the descriptions of article (15/First and Second) of the Iraqi High Tribunal Court Law numbered (10) for the year 2005.

## Conviction Decision

For the aforementioned, it was proven to the court that the convict (Husayn Rashid Muhammad) is guilty for his involvement in committing genocide against humanity, according to the descriptions of articles (12/First/B – Second/E), (15/ First, Second) and article (24) of the Iraqi High Tribunal Court Law numbered (10) for the year 2005, in addition to article (406/1/A- B- F) and the contributory articles (47, 48 and 49) of the amended Penal Code...



The Presiding Judge



**In The Name of God All Merciful All Compassionate**

**The Iraqi High Tribunal  
Second Criminal Court  
Baghdad-Iraq**

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Date: 2007 June 24**

**The Verdict**

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...number (111), dated 1969, he was accused and punished by it, the agreement issued, dated 2007 June 24 and was publicly acknowledged.

Member

Member

Member

Member

The Chairman



(963-596)

**In The Name of God All Merciful All Compassionate**

**The Iraqi High Tribunal  
Second Criminal Court  
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Date: 2007 June 24**

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**War Crimes:**

On 2007 February 20, the court accused (Husayn Rashid) for committing war crimes leaning on clauses (A, D, E, H, L) from the (fourth) article (13) from the Iraqi High Tribunal Law Number (10) dated 2005, the following:

- A- Intentionally directing attacks against the civilians inhabitants as their status or against civilian individuals not participating directly in the war activities.
- D- Directing the attacks toward buildings specified for religious, educational, artistic, scientific, charitable, historic uses and hospitals in addition to places where injured individuals gather under one condition that they are not military targets.
- E- Looting any town or place even it was captured by force.
- H- Ordering to dislocate civilians for reasons related to the conflict unless it is for the civilian's safety or urgent military reasons.
- L- Destroying or capturing the enemy's properties unless the destruction or the confiscation is for military necessity.

**1- Intending to direct attacks against the civilian inhabitants as their status or against civilian individuals not participating directly in the war.**

**The suspect (Husayn Rashid) role in this crime:**

**The crime elements:**

- 1- The perpetrator of the crime must direct an attack.

The President



(963-776)



**In The Name of God All Merciful All Compassionate**

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**The Verdict**

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- The target of the attack must be civilians as their status, or civilians who are not directly participating in the military operations.

3- When the perpetrator of the crime is intentionally targeting civilians as their status, or civilians who are not directly participating in the military operations.

4- When the conduct of the perpetrator performed within non international armed conflict or linked with it.

5- The perpetrator of the crime acknowledges the factual circumstances which prove the existence of an armed conflict.

To proof the first two elements must have evidences that there are dead and wounded individuals between the individuals who are not participating directly in the war activities.

Returning back to the victims statements we find that plaintiff ('[NAME REDACTED] mentioned in his statement in court: (I used to live in (Siwsinan) a part of (Qara Dagh) which consist of three hundred fifty families. On 1988 March 22, after the noon call for prayer our village was attacked by two bombs from (Darbandi Khan) the smoke rose from it, civilians escaped, but then it was recognized that it wasn't a chemical weapon. The villagers returned back and on their way they were attacked. Before the sunset call for payer our village was attacked by rocket launchers from (Darbandi Khan), at that time I was with my family and at six and forty five minutes I went out of the room and I saw white to yellowish smoke. I had two children [NAME REDACTED] my wife held ([NAME REDACTED]) and I held ([NAME REDACTED]) and ran to the shelters. There were some families with their children when I reached to the shelter my leg started to shiver and I couldn't breath, my wife also couldn't breathe well, because during the chemical attack we were outside and put on our faces...

The President



(963-777)



**In The Name of God All Merciful All Compassionate**

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**The Verdict**

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... wet wipes, and after that I fainted. I woke up to find myself in (Shurish) hospital (*T.C: means the hospital established by the Pishmarga forces*) near (Balak Jar) Village, I found one of my village residents named [NAME REDACTED] whom I asked about my children he said that they are alive but in fact it was the opposite, they died. I asked him about the fate of some families, [NAME REDACTED] family, my neighbor who we were together at that night. They are of four members and he told me that they were dead in addition to ([NAME REDACTED] family who he said that they were also dead. I was in a horrible situation so they transformed me with a tractor to Al-Sulmaniyyah to my brother [NAME REDACTED] house then to (Tuy Malik). On the next day morning I heard the sound of a helicopter in the sky of the village and was calling by speakers loudly that they will search the houses so the deserters went out and were captured. In the same day in (Nasr and Zarayan) complexes they arrested emigrants from (Qara Dagħ) and (Karmali) and transferred them in military vehicles to (Tupzwa) and (Naqrat Al-Salman), I heard that the ones who were captured did not return back. Our village contains seventy martyrs as a result of the chemical attack, twelve captured and three got crazy...). Plaintiff [NAME REDACTED] mentioned in his statement in court the following: I'm a resident of Upper Kushk of Al-Sulmaniyyah governorate dated 1988 March 22, at noon I saw (Siwsinan) village attacked heavily when I was in my village, me and my brother ([NAME REDACTED]) witnessed the smoke rising from the village and when we reached one of the hills, the smelly smoke was heading toward us. When we approached the village I saw its residents escaping from the village and some of them were wounded. When we entered the village I saw my relative ([NAME REDACTED]) crying the loss of his wife and daughter, between the bodies I saw the body of ([NAME REDACTED]) he is a resident of the village, I saw also ([NAME REDACTED]) injured and now he is mentally retarded, and also his wife's and two children bodies, and found...

The President



(963-778)



**In The Name of God All Merciful All Compassionate**

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... bodies of six children, my sister ([NAME REDACTED]), my brother ([NAME REDACTED]) and his family died. When I went to the house of (Mahdi Hadi) I found (14) bodies because the house contained two families. The bodies were buried with the help of the residents of the neighboring villages after transferring them with tractors). Also in the statement of plaintiff [NAME REDACTED] in court: (I'm a resident of (Siwsinan), dated March 23, I don't remember the exact year, in spring two aircraft passed over our village, at six and thirty minutes at night we were attacked by (40) artillery launcher bombs from (Darbandi Khan), when I went to my daughter's house [NAME REDACTED] to check on her, I found fourteen corpses, seven of them belong to the family of ([NAME REDACTED]), the rest of the bodies are my daughter (Zaynab) and her children [NAME REDACTED] I saw also two bodies there, and vehicles belonging to the Pishmarga forces were transferring (40) wounded individuals, neighboring villages residents helped transferring and burying bodies. My husband and I transferring bodies related to us to bury them. The number of individuals died in this crime is (81) individual, (70) of them died affected by the chemical weapons and the rest with unknown fate...).

In the statement of plaintiff ([NAME REDACTED]) in court, was the following: (I'm a resident (Qashqa) village a part (Qadir Karam) county in Al-Sulmaniyyah, dated 1988, military attachments headed toward our village, aircraft started attacking our village, as a result my nephew died ([NAME REDACTED]), the army also killed my brother [NAME REDACTED]). We left the village and went to (Qadir Karam) to protect ourselves...). It's obvious that the given statements and there are tens of them in the case file- they represent evidences showing the dead and wounded individuals between the civilian residents, mentioning that the victims are not fighters, and also that from the victims there are women, children and elderly and they are not combatants, in addition to ...

The President



(963-779)

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...that artillery rockets, shells of multiple launchers and bombs when they fall on a piece of land it does not differentiate between a civilian and a fighter. Also it was not proved that the Kurds who died or injured by the conventional or chemical weapons, they lifted arms against the attacking forces, but on contrary it was proved that these victims were civilians, most of them were women, children, elderly and farmers and had no relation in the conflict that was taking place in Kurdistan.

To proof the third and fourth elements of the crime there must be evidences regarding the armed conflict between the government authorities and between the organized armed group. There are many evidences that can be reviewed through the documents that were represented by the general prosecutor in court such as: the report issued by the army chief of staff number (349) dated 1988, April 27, titled to the commanders of first and fifth corps under the subject of (instructions) in which a copy was sent to the operation department, as it was mentioned in article (C) from paragraph (2) the following: (the fifth corps must face the saboteurs in (Qal'at Diza) sector and to conduct the identity check for the national defense regiment's members and to keep them away from the important targets...), also article (H) of the same paragraph of the report contains...(the execution of the 4<sup>th</sup> Anfal operation in (Shuwan-Chami Rizan) valley regarding the mentioned plan which was discussed in the planning directorate and the changes made on it by (1<sup>st</sup> Corps) and executing the Anfal operations in (5<sup>th</sup> Corps) sector, as per previously settled priorities, till wiping out all saboteurs' headquarters in the northern area. In article (F) of the same paragraph they mentioned the following: (using the special ammunitions against the enemy when ever it is possible either by the air forces/ multiple launchers/ helicopters before they start the attack on our units (preemptive attacks) and also they can direct their special ammunition attacks toward the saboteur's headquarters...). Report number (1076) dated 1988, August 16, issued by the chief of staff...

The President



(963-780)

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..... the Army Chief of Staff Office and transferred to the Commands of the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps, that includes in paragraph 1 – A: " the 1<sup>st</sup> Corps must attack the saboteurs' headquarters and their locations, in Simaqluyat and Balisan and surround them in Qirnaqa and Pisht Ashan areas, where the area from Lower Zab (T.C: Al-Asfal) in the south to Rawanduz in the North must be secure", and paragraph 5 includes: " Coordinate with the Turkish side regarding the work in 5<sup>th</sup> Corps and about the following points:

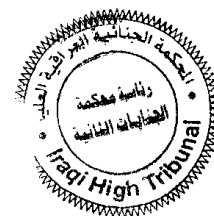
- a) What the Turkish side can provide, according to the agreements with them, and due to our next wide and huge work.
  - b) Discussing with them the possibilities of controlling the essential and important crossroads and peaks that lead to them during Anfal operation.
  - c) How to deal with saboteurs who will take refuge to them during the operations"
- The letter then continued to the end of what were mentioned in the letter, mentioning that, a copy of this letter was sent to the Operations Department.

And regarding the letter number 1122 on 1988 August 21, issued by the Office of the Chief of Army Staff and addressed to the commands of the 1<sup>st</sup> and 5<sup>th</sup> Corps, the following was mentioned:"

1. Defining the concentration of the population in the 5<sup>th</sup> Corps and treat it with intensive special attacks 48 hours prior to operation, in order to create a panic among them and prevent them from helping the saboteurs.
2. Coordinating with the Turkish side according to the cooperation protocol that was signed with them, in order to pursuit the saboteurs in the 5<sup>th</sup> Corps.
3. Emphasizing on accomplishing the operation of cutting the saboteurs from the Iranian enemy and to some extent with the Turkish side before beginning Anfal operations.
4. The present opportunity to finish the sabotage acts in the Northern Area is the only best opportunity and may not come again, whether peace with the enemy will be done or not, so there must be a complete destroying for the sabotage in the northern area and this might be completed before any tension with the Iranian enemy in condition the peace talks are hindered.

The Presiding Judge

(781-963)





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5. All crossroads and points of connection between the saboteurs' presence areas must be controlled during the purging operations and they must not leave it during the column's advance.
6. The General Military Intelligence Directorate and the Intelligence Commissions in the Corps must follow up the reactions of the saboteurs and the effects of the operations on them during the implementation in order to strongly attack them, not allowing them to recover. The letter then continues to the end.


Also, the letter No. 4008 dated on 1987 June 20, issued by the Northern Organization Office and addressed to the Commands of the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Corps mentioned the following:

"Due to the official expiration period of collecting the prohibited villages, which will end on 1987 June 21, we decided to work starting from 1987 June 22, ascending as the following:

1. All undestroyed security prohibited villages will be considered strongholds for the saboteurs of agents of Iran, off springs of treason and treachery, and their identical Iraqi traitors.
2. The animal and human existence is totally prohibited and the area considered as prohibited operational area, where shooting in it is free and not limited to any instructions, unless our headquarters issued the otherwise.
3. The traveling from the area and toward it, farming, industrial, agricultural and animal investments are prohibited and all authorized systems must seriously follow up this issue every one in his field.
4. The Corps commands carry on special attacks irregularly by artilleries, helicopters and aircrafts to kill the greatest number of who are presence within these prohibited areas and during day and night, and inform us.
5. Detaining all who are captured in the villages of this area and the security systems investigate them and execute who are between 15 and 70 years old after extracting useful information from them and let us know.
6. The authorized security systems investigate who surrendered to the government or party systems for maximum three days and if it is necessary ten days and we must be informed about these cases, also if the investigation requires more than this period they must get our approval by phone or telegram by the comrade Tahir Al-'Ani. And to the end of what were mentioned in the letter.

The Presiding Judge

(782-963)



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most of the documents, if not all, which we tackled its contents in the above mentioned, in addition to other documents were indicated in different subjects of this verdict, were given to the Operation Department which related to the Army Chief of Staff.

This proves that the convict Husayn Rashid, who was Deputy of the Army Chief of Staff for operations, had a complete knowledge about the details of the events that were happening, through his awareness of all those documents, whereas we proved that he planned or participated in the planning of all Anfal operations and was attending all meetings and conferences that also planned and prepared for that operations.

Based on what were mentioned in his confessions in front of the investigation judge or the tribunal, it was impossible to execute any military operation unless it passed on the Operation Department of its six departments, is a proof that the convict (Husayn Rashid) knew the factual circumstances in all eight operations of Anfal.

So that, the convict (Husayn Rashid) participated in a criminal plan along with other convicts for a joint criminal intention and in order to boost the criminal activity or the criminal purpose of the former regime and its' military systems, therefore his responsibility in a premeditated murder of executing attacks against civilian inhabitants or against civilians individuals were not directly participating in the military acts, is settled as a war crime, pursuant to article 15/ 1<sup>st</sup> and 2<sup>nd</sup> of the Iraqi High Tribunal code number 10 for the year 2005.

### The Verdict

According to what's aforementioned, it was confirmed for the tribunal that the convict (Husayn Rashid Muhammad) is guilty for his participating in committing a premeditated murder to execute attack against civilian inhabitants or against civilian individuals were not directly participating in the military acts, is settled as a war crime, pursuant to article 13/ 4<sup>th</sup>/ A and by virtue to article 15/1<sup>st</sup>, 2<sup>nd</sup> and 24 of Iraqi High Tribunal code number 10 for the year 2005, by virtue of the article 406/ 1/ A-B-F and contributory articles 47, 48 and ...

The Presiding Judge

(783-963)



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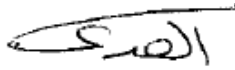
The Verdict

.....49 of the amended panel code number 111 for the year 1969 and it was decided to charge him and determine his sentence according to it, also the verdict had been unanimously issued on 2007 June 24 and publicly acknowledged.

**Signatures of the tribunal's members**



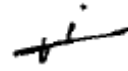
**Member**



**Member**



**Member**



**Member**

**The Presiding Judge**  
**Muhammad 'Iraybi Majid Al-Khalifah**

(784-963)



In the Name of God the Merciful the Compassionate

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The Verdict

- 2. Premeditated crime of directing attacks against building are specified for religious, educational, technical, scientific and charity purposes or against historical antiques, hospitals and places of wounded and sick individuals' assemblage, on condition that it is not military targets:**

**The role of the convict Husayn Rashid in this crime:**

**The crime elements:**

- 1) The perpetrator must induct a raid.
- 2) The raid must target one building or more, of those designated for religious, educational, artistic, scientific, and charitable purposes, or against historical sites, or wounded and patient's gathering centers which are not considered military targets
- 3) The perpetrator must premeditatedly make the raid's target one or more buildings designated for religious, educational, artistic, scientific, and charitable purposes, or against historical sites, or wounded and patient's gathering centers which are not considered military targets
- 4) The conduct must be issued within the context of national armed dispute correlated with it
- 5) The perpetrator must be aware of factual conditions which prove the existence of armed conflict

During the eight operations of Anfal the military troops launched wide and intensive attacks against the Kurdish villages, using all kinds of weapons including the chemical weapons, also destroyed parts of ...

The Presiding Judge

(785-963)



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.....these villages by bulldozers and other parts by the artillery and air bombarding or completely scorched and exploded it by explosives.

As its known, these villages did not contain houses only; also it contained schools, mosques and infirmaries which are protected buildings.

All plaintiffs (victims), who the tribunal listened to their testimonies stated that their villages were exposed to an attack by all kinds of weapons, where the plaintiff [NAME REDACTED] said before of the tribunal: "I am from Dar Barula and we were working in agriculture fields, the Emergency Forces raided and blockaded our village and then scorched it and exploded the electricity in it".

The plaintiff [NAME REDACTED] said before the tribunal: "I am from Dulawi, in 1988 our village was exposed to artillery and aircraft attacks".

The plaintiff [NAME REDACTED] said before of the tribunal: "On March 1988, the bombardment operation started against Siwsinan village by artilleries".

Also the plaintiff [NAME REDACTED] mentioned in front of the tribunal: "I am from Astil Al-Sufli (Lower Astil) village, Qara Dagh sub district in Al-Sulaymaniyyah and in April 1988, the military troops bombarded our area by aircrafts and artilleries".

And the plaintiff [NAME REDACTED] mentioned before the tribunal: "I am from Jafaran village; Qara Dagh Sub district in Al-Sulaymaniyyah in March 1986 the army bombarded our village by artilleries".

The abovementioned testimonies are evidences on the damages happened on the civilian properties and in different Kurdish villages.

The letter no. 1182 on 1988 August 28, issued by Army Chief of Staff Office, and were transmitted to the commands of the 1<sup>st</sup> and 5<sup>th</sup> Corps, includes: "The Deputy of the General Commander of the Armed Forces (Ministry of Defense) stated, during his summarization of Anfal operations that are carrying out now in your sectors, the following:

1. Removing all the villages and buildings in each village, where it was observed a missing of one or more houses in the...

**The Presiding Judge**

(786-963)



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....demolished villages and the Army Aviation is to be assigned to monitor that", a copy of this letter was addressed to the operation department that was led by the convict Husayn Rashid.

The information that were stated in this paragraph of the abovementioned letter, show the complete demolishment that happened to the Kurdish villages in the North of Iraq. The plaintiff [NAME REDACTED] mentioned in his testimony before the tribunal on 2006 September 13, the following: "And after that the Iraqi forces attacked the villages and seized the property and plundered every thing including the cattle, also it demolished the villages by explosives as well as the mosques and burned the (Holy) Koran".

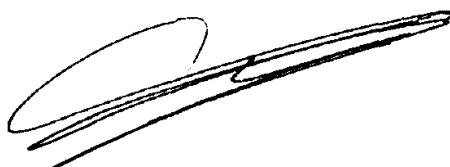
The plaintiff [NAME REDACTED] who is from Qashqa village that related to Qadir Karam sub district, said: "the Iraqi forces demolished our village that included a school, infirmary and two mosques were completely demolished by them", and this is an evidence for the religious nature or feature of the protected buildings.

The mosques, schools and infirmaries are notable and protected as it is known, so the full demolishment and big damages that happened to the Kurdish villages in the North of Iraq were a definite result for the bombardment against those villages by artilleries, rocket launcher, helicopters and aircrafts and by conventional or special amammunitions (chemical), where the bombardment, whatever its kind, do not differentiate between the center for the Pishmarga or civilian individual houses, mosques, schools and infirmaries and its not reasonable that military establishments exist in the mosques, schools, infirmaries or near to it, and the convicts or the defense lawyers did not mention that the mosques, schools or infirmaries had been bombarded or demolished due to an existence of military establishments or near it.

The abovementioned letter No. 1182 dated on 1988 August 28, is an evidence on the intention to cause damages for all those protected buildings, where this letter informed the Army Aviation to demolish all villages and the houses in every village and it was not allowed to keep only one house in any demolished village, so did he allow to keep the mosques, schools and infirmaries after the complete demolishment for the village

**The Presiding Judge**

**(787-963)**



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### The Verdict

clinics and schools, after destroying the whole village?. We clarified previously, that the military detachments were destroying and blowing up the springheads, and filling them with concrete, and exploding the electricity and water nets after destroying the whole village.

It is not acceptable to base on or put the military necessities as an excuse to target the protected buildings, and it is not reasonable to destroy all the protected buildings in thousands of Kurdish villages within the four northern governorates, for warlike necessities. That is considered as a war crime.

There is no doubt that the attacks that targeted the protected buildings were related to an armed internal conflict between the Kurdish fighters (Pishmarga ) in the North of Iraq and the Iraqi military forces.

The convict (Husayn Rashid)-as he was the head of the operation department that related to the Chief of Army Staff- has presented the modernized maps, and he determined the targets.

In addition, he provided the military detachments with the equipments, and material and human resources, including chemical weapons, to attack the villages, pursuant to the order of the convict ('Ali Hasan Al-Majid), to destroy them, and the court did not find any evidence to proof that these protected buildings were lost its legal protected condition at anytime.

Pursuant to what previously mentioned, the court finds that the convict (Husayn Rashid), participated as his personal capacity in the joint criminal plan with all the other convicts who participated in this plan.

Where they intended to target, and to direct attacks against protected property, according to the international law, therefore, he is responsible for his participation in this crime according to the Article No. (15/ First and Second) of Iraqi High Tribunal Law No. 10 for the year 2005.

### The conviction decree

**According to the aforementioned, it was proved to the court that the convict (Husayn Rashid Muhammad) is guilty for his participation in committing a crime of directing attacks against buildings that designated for religious, educational, artistic...**

**The Presiding Judge**



**(788-963)**



In the Name of God the Merciful the Compassionate

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scientific, and charitable purposes, or against relics, or hospitals or the gathering spots of the wounded and patients, that are not military purposes, and considering it as a war crime, according to the article No. (13/ Fourth/D), and with reference to the article (15/First, Second), and the article No. (24) of the Iraqi High Tribunal Law No. (10) for the year 2005, and with reference to the Article (479/2), and correlated articles (47, 48, 49) of the amended penal code No. (111) for the year 1969, it was decided to convict him according to that, and to determine a punishment in accordance with it. The decree was issued by mutual agreement on 09 Jumada Al-Akhirah 1428 H, dated on 2007 June 24, and he was publicly acknowledged.

Member

Member

Member

Member

The Presiding Judge

(789-963)





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### **The Verdict**

#### **The statement brief of the Convict (Sabir 'Abd-al-'Aziz Al-Duri) during the investigation**

On 2005 June 23, the convict (Sabir 'Abd-al-'Aziz Al-Duri) stated before the investigation judge, in presence of the General Prosecution and the attorney of the convict (Shallal Al-Rubay'i) the following:

In 1987, I was a Staff Major General, I was the head of the General Military Intelligence Directorate in the former regime, and my main title was the Director of the General Military Intelligence Directorate.

This department was consisting of five deputy directorates, which are- intelligence and military security, technical, administration, and Iran deputy directorate, which was headed by (Wafiq 'Ajil Al-Samarra'i).

And there was a section within Iran deputy directorate, called Northern section (Al-Shamal Section), and it's responsible of all the movements that are related to the political parties, and political movements, and I mean the Kurdish formations that are working within the area.

In addition to providing the intelligence information in the military operations, which is an important part in the department's duty, and these suggestions and correspondence are to be sent to the Ministry of Defense, the Chief of Army Staff, the General Command of the Armed Forces, and sometimes to the Presidency of the Republic, especially the weaponry reports.

(Saddam Hussien) was occupying the position of the General Commander of the Armed Forces. ('Adnan Khayrallah) was his deputy, and (Nazar Al-Khazraji) was the Chief of Army Staff. and all the deputies of the Chief of Army Staff, and they are: the Deputy of the Chief of Army Staff for operations, the logistics, the administration, in addition to the Director of the Military Intelligence, where I was occupying this position, there was; the director of the movements, the director of the planning, air force commander, marine commander, and the military aviation commander.

**The Presiding Judge**

**(790-963)**



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**As a question of the investigation judge:** with regard to the fact that you are a member in the General Command of the Armed Forces; how was the decision taken concerning Anfal operations?

**The convict answered:** The major plans that are concerning major operation are prepared by special authorities in the Chief of Army Staff, specifically the operation department, which is headed by the deputy of the Chief of Army Staff for operations, and approved by the General Commander of the Armed Forces.

Anfal operations are of the major operations and officers that have knowledge with the northern areas like the convict (Sultan Hashim Ahmad), were charged with that, and our duty was to provide intelligence information, in addition to suggestions, that we depend on our secret agents to do so.

**As a question by the investigation judge:** with regard to the fact that you are the Director of the General Military Intelligence Directorate, have you presented suggestion to use (special ammunition) chemical weapons in the northern area?


**The convict answered:** concerning the signatures that were presented at the beginning of my interrogation, I admit their trueness; however I do not remember that I presented any suggestion regarding using special ammunitions in the Northern Area.

**As a question by the investigation judge:** Within the correspondence that presented to you, and appended by your signature, and as you admitted trueness; It is the correspondence no. 5809, on 10 March 1987, specifically in the paragraph that belongs to the issue M1/U3/S2/5809, that was addressed to the Chief of Army Staff, and its subject is -information-, a copy for the Presidency of the Republic / the secretary, in addition to other authorities.

The correspondence concerned with the possibility of using (special ammunitions ), it is also talking about that the previous attacks and their limited affect because of the nature of the area, and because the size of the forces is not an appropriate target for the air force, and the department of the secretary of the Presidency of the Republic, answered you by the correspondence No. 7/C2/808/K on...

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... 1987 March 12, that you directed sudden attacks with the special ammunitions , and the possibility to execute them by any of these methods: air force, army aviation or artillery?

**The convict answered:** The signature that appended to the correspondence in front of me, is my signature, but I do not remember that we presented such a suggestion.

**As a question of the investigation judge:** according to the correspondence that sent to you by the department of the above-mentioned secretary, you replied the mentioned department with a top secret and confidential correspondence, issued by your department, and numbered (M1/U3/S2/6414) on 1987 March 18, and appended by your signature?

**The convict answered:** The signature is mine too, but the suggestions that stated in it, started from paragraph one, to paragraph two, with its two parts (A,B), I do not remember them, in addition to what I mentioned; the General Military Intelligence Directorate and its deputies are specialized, which means that the section that prepared the suggestion according to the available information, and it will send it to the deputy directorate, which will send it to the secretariat in the deputy directorate.


Then, the secretariat will send it the senior secretary, who will present the suggestions or the mail in general, through my personal secretary, and his role is to approve what I receive by signing the correspondence, or writing down my remarks, if I put any, to the specialized deputy directorate, to execute according to the remarks.

**As a question of the investigation judge:** On 1987 March 25, you presented another suggestion, as a reply to the previous correspondence, it also included using the special ammunitions in the Northern Area, and the possibility to execute the attacks or delaying them according to the information of the correspondence copy, which is appended by your signature?

**The convict answered:** I repeat my previous reply, that this signature is mine, with the knowledge that I was a General Director that represents the whole department, and these suggestions were the department's suggestion and as I....

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...the supreme head of the department, I approve these suggestions, and if there is any objection, I send them back for studying them, then I refer it to the higher authorities, and my signature on any correspondence, means my approval.

**As a question of the investigation judge:** The result of the suggestions you were presented to the Presidency of the Republic, concerning the type of the (special ammunitions ), and the mechanism and the location, the presidency replied – the secretary department- that they approved that suggestion, and you notified the Chief of Army Staff with this approval by your correspondence No. 7371, which is appended by your signature, what do you say?

**The convict answered:** I repeat my previous reply, that the signature on this photo copy letter is mine.

**As a question of the investigation judge:** who issued the order of Anfal operations? The General Command of the Armed Forces, in general, or was he the General Commander of the Armed Forces?

**The convict answered:** Such a huge operation only done by the approval of the General Commander of the Armed Forces, unless he empowered someone else, but we- as a General Command- our authorities are limited to the meetings, and after discussions, the General Commander of the Armed Forces issues order according to his authorities.

**As a question of the investigation judge:** Is it a duty of the intelligence services to receive the prisoners from the armed forces?

**The convict answered:** yes, it is their duty to receive the military prisoners, and concerning the prisoners of women and children, the Intelligence System of the Northern Zone is responsible of these people, and their duty is to deliver them to the secretary of Northern Affairs Committee (*T.C: correction is Northern Organization Office*), that the convict (Tahir Tawfiq Al-'Ani) was in it, their direct official in charge was the convict ('Ali Hasan Al-Majid), and the Director of the Intelligence System of the Southern Zone is the convict (Farhan Mutlak...

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... Al-Juburi) and his system was responsible of receiving these families and delivering them to Northern Organization Committee (*T.C: correction is Northern Organization Office*).

**As a question of the investigation judge:** Considering that you were the Director of the Military Intelligence, and your duty was to prepare a report to evaluate every military operation, so how many times the chemical weapons were used in Anfal operation?

**The convict replied:** I cannot remember the times of attacks, but I still remember a village, that in my mind, when the Kurds went to the Turkish areas, so I worried that this attack will affect the Turkish side, and I did not know the used gas, because this is not my authority.

**As a question of the investigation judge:** who issued the order to attack the Kurdish areas with chemical weapons in Anfal operations, especially the attack you have mentioned?

**The convict answered:** The chemical weapon, or as we usually call the special weapon (*T.C: correction is special ammunition*), considered as a strategic weapon, and usually we do not use these weapons unless with an order from the General Commander of the Armed Forces or the person he empowered. Therefore, I think that this attack was approved by (Saddam Hussien), or whom he authorized with.

**As a question of the investigation judge:** According to the correspondence of the General Military intelligence Directorate No. (M5/U3/S2/4797) on 1988 March 07, which was addressed to the Special Security Organization, and indicating to comply with all the instructions in the chemical attacks, and appended with your signature. In addition, the correspondence no. (M5/U3/S2/8859), on 1987 April 30, which is addressed to the Republic Presidency/ the Secretary, and its subject is -information- and appended with your signature, and talking about special attacks (using special ammunitions ) in Anfal operation, and this means that chemical weapons were used from the beginning of Anfal, what do you say about that?

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**The accused replied:** After I reviewed the copies of the two books, I acknowledge that the signature is mine and that the books in a physical point of view are accurate and look exactly like the books that we would address official departments with, yet I repeat that we were not correlated to the Special Security authorities.

**Questioned by the judge:** in 1991, negotiations took place between the previous regime and the Kurds and you were attending the meeting where an inquiry into what the fate of the families that had been handed over to the Northern Organization Office would be during the Anfal Campaign, What was the answer that you gave at that time?

**The accused replied:** The negotiating delegation representing the government was head by ('Izzat Al-Duri), (Tariq 'Aziz), ('Ali Hasan Al-Majid), Husayn Kamil) and in some cases (Wafiq Al-Samarra'i) who at that time was the General Military Intelligence Director while I was the Iraqi Intelligence System Director and I proposed many topics for discussion among which was this subject, yet I do not exactly recall the answer.

**Questioned by the judge:** In consensus with the propositions and books that lay before in their photocopied form, you are the one that presented information and plans with intention to use – Internationally prohibited special amammunitions – in the Northern Area

These suggestions were considered and approved for use, due to his ranking authority as the General Military Intelligence Director and a member of the General Command of the Armed Forces; therefore, you are accused of collaborating and providing plans as well as agreeing to kill civilian residents in Northern Iraq during your leadership in the General Intelligence Directorate.

**The accused replied:** I never provided suggestions in killing residential civilians.

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**A summary of what was mentioned in testimonies against the accused (Sabir 'Abd-al-'Aziz Al-Duri) before the investigation judge.**

#### **1 – A summary of accused (Sultan Hashim Ahmad)'s testimony against the accused (Sabir 'Abd-'Aziz Al-Duri):**

Mentioned in accused (Sultan Hashim Ahmad's) statement before the Investigatory Judge on the 20<sup>th</sup> of March 2005 in answering the question – Does the Military Intelligence Directorate play a role in the use of Special amammunitions or play a role in the Anfal Operations – he reported – as mentioned in pages (8171), (8172), (8173), (8177), (8178) of the Investigatory Documents. The Intelligence's job role is that of Intelligence tasks and providing information on everything that has to do with Military operations, Information on the enemy and their movement, as well as strategic reports.

This information was in the form of a report and presented to the Defense Ministry or the Chief of Army Staff. What concerns the Corps is redirected to the Corps. As for other matters of high importance, they are referred to the General Command or the Minister of Defense.

In the relocation of families and their fate, he stated that it was his responsibility, that is, the responsibility of the forces under his command to inform first and then transport the families and children present in the area by vehicles to the Intelligence System and from there to the Northern Organization Office, after which the Military units begin destroying the villages.

#### **2 – Testimony Summary of accused (Farhan Mutlik Salih Al-Juburi) against the accused (Sabir 'Abd-al-'Aziz Al-Duri):**

Stated by the aforementioned accused, before the Investigatory Judge on 14<sup>th</sup> of November 2005, on pages (8186), (8187) and (8188) of the investigation documents in regards to the question of his duties as the Director of the Intelligence Department of the Northern Zone and then of the East, which were both correlated to the General Military Intelligence Directorate?

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He stated – "We were correlated due to our work duties in the General Military Intelligence Directorate in Baghdad due to the directorate consisting of four departments, the Eastern, Western, Northern and Southern zones. We received the information from the mentioned directorate in Baghdad at which point we would send the information to according to the branches.

In the case of capturing Kurds who are for example shooting or any other acts of sabotage, they would be questioned by the director of the department accompanied by two of his men, at which point his statement is verified by the Investigatory Judge, after that it is sent to us (the commanding headquarters) where we forward the accused along with his documents to the General Military Intelligence Directorate in Baghdad, he also stated that all the security and intelligence systems were connected to the accused ('Ali Hasan Al-Majid) after issuing the decree (160) , but we kept our previous work, meaning, in the case of any orders issued by ('Ali Hasan Al-Majid), we in our turn will question him and give a copy of the results to the Military Intelligence Directorate for reviewing and verification. Later an order was issued to the Military Intelligence indicating the change in the special course of transporting the two suspects, so instead of sending them to the mentioned directorate, they were sent to the Northern Organization Office.

### **3 – The statement of the accused ('Ali Hasan Al-Majid) against the accused (Sabir 'Abd-al-'Aziz Al-Duri).**

The mentioned accused stated before the Investigatory Judge on 23<sup>rd</sup> of June 2005, that the order of using Chemical weapons was the authority of the Armed Forces which decides when its use is necessary, the mechanism of its use. In regard to demolishing the villages and coercive dislocating of the civilian residents, he stated that it was by direct order from the General Command of the Armed Forces in the previous regime that consisted of the following: (Saddam Hussein) who was the General Commander of the Armed Forces and ('Adnan Khayrallah Tulfah) who was the Deputy of the General Commander of the Armed Forces

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...and the accused (Nazar 'Abd-al-Karim Al-Khazraji) who was the Chief of Army Staff at that time as well as all the members of the General Command of the Armed Forces, this was a direct order issued from them to all the accused who were looking over the Anfal Operation Command.


#### **4 – The Testimony of the Accused (Husayn Rashid) against the Accused (Sabir 'Abd-al-'Aziz Al-Duri)**

The mentioned accused testified before the Investigatory Judge on 12 September 2005, as documented on pages (8092), (8093) and (8103) of the Investigation documents: I'd like to point out an important matter, the Operations Headquarters (that the accused commands) plan to face a regular army and it plans based on an intelligence report that is sent to the Office of Chief of Army Staff by the General Military Intelligence Directorate.

After the situation in that sector is reviewed including asking advice with the intelligence as the Intelligence representative is also present and may issue orders to deploy Military Units after the review has been sent to the Chief of Army Staff.

In answering about the members of the General Command of the Armed Forces, he stated, (...as well as the Military Intelligence Director who worked that position, accused (Sabir 'Abd-al-'Aziz Al-Duri), he added that if an order was to be issued in carrying out attacks, then other factions in the Armed Forces General Command would act on and execute the order).

In regards to the captives and their fate, the accused stated, (I would like to point out an important matter in regards to the captives, and that is, when any individual was captured, that was the responsibility of the Intelligence, where the captive would begin at that unit and end up to the General Military Intelligence Directorate, of which the Chief of Army Staff plays no role, yet this is of the field of the General Military Intelligence Directorate and it follows this course in all Anfal operations). In answering what he meant by the use of (Special amammunitions ), he states (In



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.....Military form what (Special amammunitions ) refers to is Chemical Weapons and Special Strikes refer to Chemical Strikes.

#### **Accusations directed against the accused (Sabir 'Abd-al-'Aziz Al-Duri)** **1 – Legal Term and Type of Crime:**

##### **Crime of Genocide (M/11)**

##### **Article No. (11/1<sup>st</sup>):**

###### **A) Murdering a given group's members**

In accordance with article no. (15)

B) Causing severe mental and physical damage to a given group's members.

1<sup>st</sup>:

2<sup>nd</sup> (A, B, C, D, E)

C) Subdue the given group, premeditatedly, to harsh living conditions, aiming to partially or totally eradicate them.

1<sup>st</sup>:

2<sup>nd</sup> (A, B, C, D, E)

In accordance with Article (15)

##### **Crimes against Humanity (M/12)**

##### **Article No. (12/1<sup>st</sup>):**

###### **A) Premeditated murder**

In accordance with Article No (15)

###### **B) Genocide**

1<sup>st</sup>:

D) Relocate or coercively dislocate the inhabitants

2<sup>nd</sup> (A, B, C, D, E)

E) Imprisonment or extreme deprivation of any other manner of physical freedom contrary to International Law's basic regulations

In accordance with Article no. (15)

1<sup>st</sup>

2<sup>nd</sup> (A, B, C, D, E)



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H) Persecuting any given group or given community for political, racial, patriotic, ethnic, cultural, religious...etc

In accordance with Article no. (15)

1<sup>st</sup>:

2<sup>nd</sup> (A, B, C, D, E)

J) Other inhuman acts, holding identical characteristics, which premeditatedly cause severe sufferings or serious damages, affecting the body or physical or mental health.

In accordance with Article no. (15)

1<sup>st</sup>:

2<sup>nd</sup> (A, B, C, D, E)

### **War Crimes**

#### **Article No. (13/4<sup>th</sup>):**

A) Premeditatedly targeted attacks against civil inhabitants, as per their current situation [TC: for being civil inhabitants], or against civilians directly uninvolved in war activities.

In accordance with Article no. (15)

1<sup>st</sup>:

2<sup>nd</sup> (A, B, C, D, E)

D) Premeditatedly targeted raids over buildings appropriated for religious, educational, artistic, scientific or charitable purposes, or against historical monuments, hospitals, and injured and patients' gathering centers, conditioned that all the aforementioned were not military objectives.

In accordance with Article no. (15)

1<sup>st</sup>:

2<sup>nd</sup> (A, B, C, D, E)

E) Looting any town or place even if it had been forcefully confiscated

In accordance with Article no. (15)

1<sup>st</sup>:

2<sup>nd</sup> (A, B, C, D, E)



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#### **For Discussion:**

H) Issuing orders to dislocate civil inhabitants for reasons correlated with the dispute if not for their safety or necessary military reasons.

In accordance with Article no. (15)

1<sup>st</sup>:

2<sup>nd</sup> (A, B, C, D, E)

L) Devastate or seize hostile properties, if it was not a matter forced by the necessities of war.

In accordance with Article no. (15)

1<sup>st</sup>:

2<sup>nd</sup> (a, b, c, d, e)

**2 – Location of committed crime:** Kurdistan region – Villages in Al-Sulaymaniyyah Governorate, Villages in (Irbil) Governorate, Villages in Dahuk Governorate as well as some villages belonging to Tuz Khurmatu (Al-Duz) belonging to both Kirkuk Governorate and Kifri.

**3 – Time of crime:** A systematic policy that has been in place since 1978 and escalated in 1985 and was executed in its final form in 1988 from February until September.

**4 – Name of victim:** General Rights (*T.C: the right of the state or the people*)

**5 – Acquired Evidence:** Plaintiff Statements – Witness Statements – Court recorded statements of the accused – Technical and medical reports – Findings, Inspections, Documents, Letters, Correspondences, Maps and Aerial Photos of the areas attached to the investigatory documents.

#### **Verdict:**

Due to the adequate evidence against the detained accused (Sultan Hashim Ahmad) and the following accused whose rulings have been adjourned: ('Ali Hasan Al-Majid, Saddam Hussein, Majid, Sabir 'Abd-al-'Aziz Husayn, Husayn Rashid, Tahir Tawfiq Al-Hajj Yusif and Farhan Mutlak Salih). It was decided that they be referred to the Tribunals Court



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...Criminal Court of Iraqi High Tribunal in order to prosecute them according to the Articles (Third/18) of Iraqi High Tribunal law no. (10) dated 2005 and in reference to rules of procedures and evidences annexed to the Court Law and Articles No. (130/B), (131), (132/A-2) and (A-134) of Amended Criminal procedure law no (23) dated 1971.

### **((Conviction of the defendant Sabir 'Abd-al-'Aziz Husayn))**

**Defendant:** Sabir 'Abd-al-'Aziz Al-Duri ((Former Director of the General Military Intelligence Directorate)).  
**Place of crime:** Kurdistan, Iraq  
**Date of crime:** March 1987 to September 1988  
**Plaintiffs' names:** People's right and testimony of plaintiffs

I am (Muhammad 'Iraybi Majid Al-Khalifah), The judge of the Second Criminal Court of Iraqi High Tribunal, I incriminate you (Sabir 'Abd-al-'Aziz Al-Duri) that in the period of March 1987 until September 1988, you were a member in the General Command of Armed Forces and the director of General Military Intelligence Directorate, which gathered information on all activities took place in Northern Area and submitted it to the military authorities in order to take the necessary actions and carry out military operations in the Northern Area.

After carrying out the operations, which were derived from the information submitted by this directorate, the intelligence provided the Chief of Army Staff again with information related to the operations result, its efficiency...

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enemies' losses.

The General Military Intelligence Directorate, which was headed by you, was assigned by the Presidency of the Republic Secretary to prepare a study regarding the capability of conducting strikes utilizing special ammunitions (Chemical weapons) in Northern Iraqi. The study was prepared indeed and it included many recommendations such as the use of chemical weapons, continuation of strikes, specifying the place and date of strikes as well as the targets which are going to be bombarded by chemical weapons. In the light of was mentioned before:

**First:** You intentionally contributed, before Anfal operations and during it, in killing Kurdish civilians in Northern Iraq in order to partially or completely annihilate them, causing mental and physical injures as well as forcing them to live in an environment of poor living standards.


You were fully aware of what were going to happen to civilians and Kurdish oppositions as a result of this operation, therefore, you committed a crime according the articles (A, B, C), First Clause of Article (11), these actions are a genocide according to the clause (Second/A) (In reference to Article 15/First, Second, Third, Fourth) of Iraqi High Tribunal Law No. (10) Dated 2005.

**Second:** You intentionally contributed with military units in conducting large-scale and methodical attack against the Kurdish civilians in Northern Iraq utilizing a variety of weapons including aircrafts, artillery and others.

As a result, civilians were killed; their villages were burnt and destroyed, also they were dislocated from their villages, arrested and transferred to the Northern Organization Office. The majority of arrested civilians were mistreated in the detention camps and they were forced to live in an environment of very poor living standards. A lot of civilians were interrogated and executed in the General Intelligence System of the General Military Intelligence Directorate.

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a lot of civilians were missing. Their corpses were found in mass graves in Al-Hadar area in Ninawa and Al-Muthanna Governorates and other areas. The aim of this operation was to annihilate Kurdish civilians; therefore, you committed crimes against humanity according to the paragraphs (A, C, D, E, F, H, Y, and J) of Article No. (12), and in reference to the Article (15/First, Second, Third, Fourth) of Iraqi High Tribunal Law No. (10) Dated 2005.

**Third:** During Anfal operation, you suggested using the special ammunitions (Chemical Weapons) in Northern Iraq as well as you specified the targets, timings and quantity of chemical gases such as Sarin and Mustard. Based on your suggestion, the military units bombarded the area utilizing special ammunitions (Chemical weapons) causing the death of Kurdish civilians as well as distortion and disabilities.

You intentionally contributed in military operations that destroyed religious places, houses in addition to the confiscation of properties and forced evacuation of civilians. You were fully aware of the criminal acts committed against civilians; therefore, you committed a crime according to the Clauses (A, D, E, H and L) of Article No. (13), these acts are war crimes according to the Article 15/First, Second, Third and Fourth of Iraqi High Tribunal Law No. (10), dated 2005 and in reference to the Article No. (406)/1/B of the amended Iraqi Penal Code no. (111) dated 1969.

In view of the fact that the legal articles fall under the jurisdiction of this court, I prosecute you according to the aforementioned charges. The defendant answered: I am innocent.....

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**((A report of personal rights demanded by the plaintiffs' attorneys))**

#### **Victims:**

In the 51<sup>st</sup> session, dated 26 March 2007, a report of personal rights demanded by the plaintiffs' attorneys was recited in the court and the following information was spoken publicly regarding the defendant (Sabir 'Abd-al-'Aziz Al-Duri):

The defendant (Sabir 'Abd-al-'Aziz Al-Duri) was responsible of planning and preparing for the chemical weapon's use crime, which was committed against civilians. The defendant's confessions were clear; he confirmed before the court that the documents, which were used as evidences by Attorney General, were signed by him. He only denied signing two letters. He confirmed that Iraq produced chemical weapons but the unused weapons were delivered to the UN committees after the end of First Gulf War.

#### **Demands:**

The contemporary history has not witnessed barbarian brutal crimes like the crimes committed by the defendants and their partners. According to justice and righteousness, and in order to honor hundred of thousands of victims as well as to restrain criminals, we request your respected court to severely punish the defendants as follows:

1- To convict the defendants according to the paragraphs (A, B, C and D) of Article (11/First) of Iraqi High Tribunal Law No. (10) Dated 2005 because it is proven that they committed genocide. The punishment is determined according to the article no. (406) of Penal Code and in reference to the Article (15) of Court Law.

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2- To convict the defendants according to the Clauses (A, B, D, E, F, G, H, Y and J) of Article no. (12/First) of Iraqi High Tribunal Law and to determine punishments according to Penal Code and in reference to the Article (15) of Court Law.

3- To convict defendants according to the paragraphs (A, B, C, D, H and G) of Article (13/First), paragraphs (A, B, D, E, F, J, M, O, Q, R, U and G) of 2<sup>nd</sup> Paragraph of the same Article, Clause (D) of Paragraph (4) of the same Article, Articles (A, D, E, F, H, J and L) of Paragraph (4) of the Iraqi High Tribunal Law for committing war crimes. To determine punishment according to Penal Code and in reference to Article (15) of Court Law.

4- To reinstate of legal proceedings against the individuals, whose names listed in the case paperwork or in the attached roster, because they participated in crimes committed against Kurdish nation, and to request the judge to investigate and take legal actions against them in order to be punished.

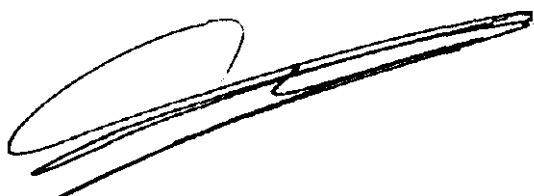
5- To confiscate all fixed and non fixed properties belong to defendants inside and outside Iraq as well as to congeal them as financial guarantee for the case.

6- To grant all victims of Anfal Operations (Since 10 March 1987) the rights to ask for compensation in Civil Courts.

The issuance of a verdict will be the beginning of the end the suffering of thousands of victims' families, who were executed and buried in mass graves as well as it is going to end the suffering of survivors from the Kurdish nation, who are impatiently waiting since long time ago to hear this fair verdict.

**The Presiding Judge**

**(806-963)**



**In the Name of God the Merciful the Compassionate**

**Iraqi High Tribunal  
Second Criminal Court  
Baghdad-Iraq**

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Date: 2007 June 24**

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**((A brief report of the claims of General Prosecution))**

In the 53<sup>rd</sup> session, dated 02 April 2007, the General prosecutor recited his report in the court, requesting to severely punish all defendants, each one of them shoulder individually the responsibility of the crimes which he ordered, provoked, urged, supported or helped to perpetrate, each one of them committed genocide, crimes against humanity and war crimes in an internal conflict, violating the Articles (11, 12 and 13) of Iraqi High Tribunal Law.

The defendant (Sabir 'Abd-al-'Aziz Al-Duri) was the head of General Military Intelligence. A lot of evidences and documents were presented before the court, proving that the defendant supported Anfal Operations by reporting the operations results.

In addition, he confirmed that he signed the documents and what was written in the documents, which were sent to the Presidential Diwan and the defendant 'Ali Hasan Al-Majid regarding the use of special ammunitions (Chemical Weapons), are true; therefore, it is true that all defendants were involved in committing these crimes and we request to convict him (with other defendants) according to the Article (1) of Court Law.

**First: Clause (A):** Murder, according to the Article (15) of the Iraqi High Tribunal Law; punishment is determined according to the Article (406/1/A) of Iraqi Penal Code and in reference to Article (24/First) of Iraqi High Tribunal law.

**Clause (B)** Causing a severe physical or mental injures to a group of people; according to the Article (15) of Iraqi High Tribunal Law; the punishment is determined according o the Article (413) ...

**The Presiding Judge**

**(807-963)**



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of Iraqi Penal Code and in reference to Article (24) of Iraqi High Tribunal Law.

**Paragraph (C)** To force a group of people to live in an environment of poor living standards in order to partially or completely annihilate them; according to the Article (15) of Iraqi High Tribunal Law; the punishment is determined according to the Article (406/1/A) of Iraqi Penal Code and in reference to Article (24) of Iraqi High Tribunal Law.

In addition, the defendants must be convicted according to the all clauses of Article (12) of Iraqi High Tribunal law as follows:

**First: Paragraph (A):** Premeditated murder; according to the Article (15) of Iraqi High Tribunal Law; punishment is determined according to the Article (406/1/A) of Iraqi Penal Code and in reference to Article (24) of Iraqi High Tribunal Law.

**Paragraph (B):** Genocide; according to the Article (15) of Iraqi High Tribunal Law; the punishment is determined according to the Article (406/1/A) of Iraqi Penal Code and in reference to Article (24) of Iraqi High Tribunal Law.

**Paragraph (D):** Relocation or coercive dislocation of civilians; according to the Article (15) of Iraqi High Tribunal Law; the punishment is determined according to the 5<sup>th</sup> Clause of Article (24) of Court Law.

**Paragraph (H):** Oppression of any group of residents because of political or ethnic reasons; according to the Article (15) of Iraqi High Tribunal Law; the punishment is determined according to the 5<sup>th</sup> Clause of Article (25) of Court Law.

**The Presiding Judge**

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**Paragraph (I)** coercive hiding (harboring) of inhabitants pursuant to the article (15) of the Iraqi High Tribunal and specifying the punishment according to the Article (421) of the Iraqi Penal Code, according to article (24) of the Iraqi High Tribunal law according to the paragraph (4) provisions:

(A) Intentionally attacking the inhabitant civilians as their characteristic or against civilian individuals whom dose not participate directly in the war activities pursuant to the article (15) of the court law.

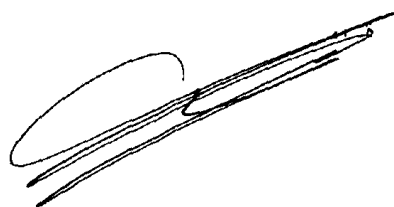
(D) Intentionally attacking the buildings for religion or education purposes pursuant to article (15) of the court law and specify the punishment according to provisions of article (2/478) of punishments law according to article (24) of the court law.

(E) Looting any town or place even if forcibly seized according to article (15) of the court law and specify the punishment according to provisions of Article (445) of the Iraqi Penal Code according to article (24) of the court law.

(F) Rape and according to article (15) of the court's law and specify the punishments according to article (24) of the court law.

### **Statements of the accused (Sabir 'Abd-al-'Aziz Al-Duri) in the Trial**

After the court listened to the plaintiffs, witnesses and international experts' statements and reviewed all documents, reports, statements, inspections and requests, also what happened in the trial sessions.....



**The Presiding Judge**



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of questions and discussions among all opponents in the case.  
After the General Prosecution declared the enough of what's submitted of evidences, the court decided to specify session (43) dated on 2007 February 13 , to listen to the defense of the convict (Sabir 'Abd-al-'Aziz Al-Duri) about his charges according to the transfer decision.

In the designated trial date, the convict reported his defense in written and publicly and reported the following:

**First:** I am accused of doing things alone or by participating with others, which is:

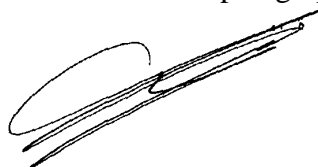
- 1- Genocide crimes- Article (11) of the Court's Law.
- 2- Crimes against humanity- Article (12) of the Court's Law.
- 3- War crimes- Article (13) of the Court's Law.

**Second:** If the court checked what the plaintiffs, witnesses and experts mentioned in their statements, and their decision, you will not find any sign that I committed any of these imputed deeds to me.

**Third:** What had been shown of documents and letters, by which the general prosecutor concluded the criminal participation by all types and descriptions I would like to explain the following:

**1-** The 1<sup>st</sup> paragraph of article (15) of the law, about the personal responsibilities in committing a crime within the court's jurisdiction as his character and penalizing him according to this law; but it was not confirmed to your court through any document or letter that I committed such action.

**2-** Also I don't find myself responsible according to this law's provisions or the penal code, and It was not proved that I participated personally or through any other person as it mentioned in paragraph (A) of item (2) of article (15).



**The Presiding Judge**

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**3-** Its was not proved by document or letter that I issued order to execute a crime that already took place or attempted in it or urged someone to execute it, as its mentioned in paragraph (B) of item (2) of article (15) according to the law.

**4-** Same thing I did not assist or urge in any way to commit a crime or attempt in it and its mentioned paragraph (C) of item (2) of article (15) of the law.

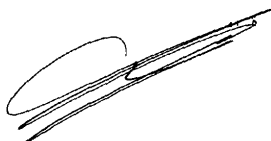
**5-** The court is sharing me the point that I did not provoke directly and publicly to commit genocide as paragraph (E) of item (2) describe it of article (15) of the law.

**6-** I do have only to focus on what's mentioned in paragraph (D) of clause (Second) of article (15) of the law, which mentioned the personal responsibility if he participated in any way with group of individuals in joint criminal intention on committing crime or attempting to commit it. This participation must be preconceived malice and to:  
**(A)** Enhance the criminal activity or the criminal purpose for the group, if this activity or purpose includes committing a crime within the court authority.

**(B)** Know the intention of committing the crime for that group; I repeat with knowledge the intention of committing the crime for that group.

**Fourth:** After reviewing the directed charges to me and before saying my opinion about the documents and letters, which the General Prosecutor sees that I am guilty, I would like to clarify the following:

- 1-** The circumstances surrounding the issuance of these documents and letters.
- 2-** The legal position for the job that I occupied.



**The Presiding Judge**

**(811-963)**



**In the Name of God the Merciful the Compassionate**

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**First:** The circumstances surrounding the issuance of these documents and letters

The convict explained that these circumstances came up through the war against Iran starting from 1980 until end of year 1988. Based on that, there should not be inquiries against him for documents and letters that were issued about him apart from the bloody battles.

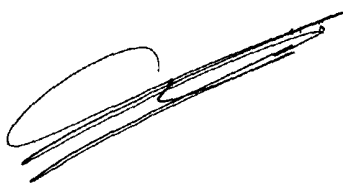
**Second:** The legal position for the job that I occupied:

**1-** It's clear that I worked as a Director of the Military Intelligence, which is one of the Iraqi Army formations.

**2-** The convict explained the basic mission for the intelligence as it's well-known in all world armies, which is providing the military information about the existence of enemy troops and the organized forces beside it and allied with it or supports it to help the military command to do necessary procedures on facing the enemy attack and their supporters. After carrying out the decisions which the military command orders and addressed to the army troops within the military plans that the military command puts , here it comes the military intelligence role again by providing Chief of Army Staff, results of the military operations and these are the basic duties for the intelligence.

**3-** From what's abovementioned, it's clear that the military intelligence has no authority to take any military decision, either carrying out fighting operation as well as issuing any orders to any military side.

**4-** If we review the Military Intelligence Directorate mission and the circumstances of issuing the documents and the letters that was showed in the case, therefore the justice should not trail us. The available information at the military intelligence is about the Iraqi army movements who defends its territories, but not about committing crime if it happened.



**The Presiding Judge**



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**5-** The available information for us (means the intelligence), that the military command put its plans to defend Iraq and free its occupied territories from the Iranian forces and the Coalition forces or its supports inside, not putting plans as some claims to kill civilian Kurdish and residence in north of Iraq.

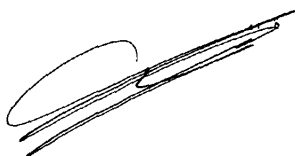
**Fifth:** The convict previously explained the Military Intelligence Directorate mission and its formations during Anfal operations before the investigative judge and the court sees no need to repeat it.

**As the convict Sabir 'Abd-al-'Aziz Al-Duri testified before the court:** that there are two basic duties for the intelligence, first provide the military troops exactly Chief of Army Staff with the available information about enemy movements in all sectors. The second duty is in case of available information at the intelligence about the operation results, therefore the intelligence duty is to provide the military commands the results.

**As the convict testified an explanation for the court:** every plan is prepared in the corps or any other parts depend on the information that the intelligence submits and when the intelligence provided information, it does this thing when it is needed. He testified that the intelligence mission is gathering information especially the military information about the enemies and the possible enemies even others, sometimes in case of emergency.

**As the convict (Sabir 'Abd-al-'Aziz Al-Duri) testified before the court:** that the intelligence worked for seven years in providing information to the corps and it has been used based on the information which was provided by the Military Intelligence. In case of updating the information, the military intelligence provides them the updated information.

**As the convict (Sabir 'Abd-al-'Aziz Al-Duri) testified:** the intelligence service informs the Ministry of Defense and Chief of Army Staff, also submits a copy of their reports to the Presidency of the Republic.



**The Presiding Judge**



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**As it was mentioned in his testimony before the court:** The intelligence didn't have any role in the forcibly evacuation operation of the inhabitants from the villages, but it happened by the military troops according to the orders issued by the new commander ('Ali Hasan Al-Majid) to extradite the detained villagers to the Security Directorates in the North or the Northern Organization Office.

**He also testified before the court that:** The Secretary of the President is (Hamid Yusif Hammadi).

**He testified before the court that:** It is one of the intelligence duties to give the grid coordinates on the map when they need to strike with the Air Force or when the troops need to hit it with the artillery, it is the intelligence duties, so when the Intelligence representative attend in the committee, he does not affect because he already gave the information before.

**He also testified who were in charge on carrying out (carrying out the strikes) are:** The Air Force, the Army Aviation and the Artillery which are connected to the Ministry of Defense and the Chief of Army Staff. The Chemical Rank is connected to the Training Department of the Chief of Army Staff.

**He also Testified before the court that:** It was a study and he is the highest authority in the State, we are in war, he didn't ask me to carry a gun or to strike with the chemical but he asked me to make a study, and a representative officer from the Third Section attended this study.....Is there any soldier during the war can disobey a military order? And the one who issued the order has a legal authorization.

**Also the convict (Sabir 'Abd-al-'Aziz Al-Duri) testified before the court that:** The specialist committee convened and referred the study and its opinion, and the intelligence referred it in letter (6885) on 15 March 1987, whereas the strike goals against the enemy were indicated which known to the Chief of Army Staff by incoming information from the intelligence reports, and required information about the enemy locations, volume and concentrations.

The Presiding Judge

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**The convict also testified that:** The intelligence didn't have any role in the strikes with the special ammunition except the administrative intermediary role which commissioned with transferring the results of what was studied to the presidency and transferring the orders and instructions from the high authority, this role is just a coordination case or a connecting link.

**The convict also testified before the court that:** The study which the military intelligence was commissioned with and all the document showing that the studying committees are not existed at the Military Intelligence but in the Chief of Army Staff and in the Planning Directorate, and a representative of the Military Intelligence is sent to only some of the committees.

**The convict (Sabir 'Abd-al-'Aziz Al-Duri) before the court mentioned that:** According to the orders of the Ministry of Defense, the Chief of Army Staff in its top secret and immediate letter (15787) on 02 May 1987, demanded from the Military Intelligence to provide it with the information about the locations of the enemies' headquarters and demanded from the Air Force to carry out the order.

**The court questioned the convict:** You are saying in this letter that: our duty is providing the Air Force and the Air Defense with the locations of the headquarters, is that your duty?

**he answered** (yes of course, Excellency Chief Justice, its not reasonable to say that we will not provide you with the information because you are going to strike with the special ammunitions , we don't have relation about that, there is an order and the people are carrying out).

**The convict testified before the court that:** The General Military Intelligence Directorate responded in letter (9819) on 03 May 1987, to the Chief of Army Staff that the General Military Intelligence Directorate provided the Air Force and the Air Defense with the opposite headquarters which required to be treated with the conventional ammunitions and didn't provide them with the special targets of the special ammunitions , and the General Military Intelligence Directorate suggested to study the special targets by the specialist committee.

**And the court questioned:** Are the numbers (were mentioned in document No. 9819) mean the bracketing (grid)?

**The convict answered:** Yes bracketing (Grid) means the target is specified.

The Presiding Judge

(815-963)



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**When the convict (Sabir 'Abd-al-'Aziz Al-Duri) was questioned by the court:** Is the Military Intelligence the one which gather the information and provide the army with?

**He answered:** Yes.

**He mentioned before the court that:** (Sargalu and Bargalu) areas were targeted with the conventional ammunitions and not targeted with the special ammunitions.

**The convict testified** when he was questioned by the court about the period that he was working as a director of the General Military Intelligence Directorate,

**The convict answered:** The period was from May 1986 to March 1991.

**And another question from the court:** Is the Director of the (GMID) a member of the General Command of the Armed Forces? **The convict answered:** Yes, because of I was the Director of the General Military Intelligence Directorate; I was a member of the General Command of the Armed Forces.

**He also testified before the court:** We provide information about the entire front including the Northern Zone, but in Anfal we referred the first important report, which was referred by us, and when we get new information we refer it about the entire front including the Northern Zone.

**He also testified:** We write the suggestions for the Chief of Army Staff and the other authorities higher than the Chief of Army Staff, The General Command of the Armed Forces, The Republican Presidency/the Secretary, and the Ministry of Defense. This is the applied procedures of referring the report.

**When the convict (Sabir 'Abd-al-'Aziz Al-Duri) was questioned by the court:** It was mentioned in your testimony before the Investigative Magistrate that the large operations like Anfal Operations must be approved by the General Commander of the Armed Forces or someone he authorized, but we are considered as the members of the General Command only have authorizations to attend the meetings and after discussions the General Commander of the Armed Forces takes the decision.

**The Presiding Judge**

**(816-963)**



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**The convict answered:** Yes, the decision for the General Commander of the Armed Forces but it's not necessary that there is a meeting for the General Command of the Armed Forces, as I mentioned before, may be with the mail you say I agree or disagree, I remember that some of the plans were discussed at the General Command of the Armed Forces, such as Al-Faw Liberation Plan was discussed for days, but Anfal was not discussed.

**The convict (Sabir 'Abd-al-'Aziz Al-Duri) testified before the court that:** The Military Intelligence already referred a report about the negatives and positives of Anfal Operations, the losses happened, and the report was referred to the Presidency. And when the document (6885) dated 25 March 1987, by the General Military Intelligence Directorate was showed to him, the court asked him, is the signature at the bottom of the document belonging you?

**He Answered:** I don't remember, but the signature is mine, the signature can be transferred and the comment can be transferred. But when I discussed any report, I supposedly said it is right.

**The convict also confessed before the court that:** The margin existing at the document No. 6885 dated 25 March 1987, by the General Military Intelligence Directorate is belonging to him, the document subject is using the special ammunitions .

When he was asked by the court (Is that margin for you?)

**He answered:** I think these documents are correct.

**The court questioned the convict (Sabir 'Abd-al-'Aziz Al-Duri):**

The minister order is to provide the Air Force and the Air Defense with the locations of the agents in order to destroy them.

**He answered:** Yes, he provides us with non intelligence information, and we provided the Air Forces with the targets which will be bombarded with the conventional ammunitions.

**And the Court questioned the convict:** considering that you are a soldier, I'm you showing the Air Force Command of the Ministry of Defense letter, addressed to the General Military Intelligence Directorate

**The Presiding Judge**

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Your secret and personal letter (M/O3/S2/10319 on 10 May 1987, contains the Iranian Agent Headquarters which were confirmed by your representative Staff Lieutenant Colonel (Walid Nayif) and were bombarded that were documented with the date and the ammunitions type. It means there was cooperation between the Military Intelligence and the Air Force, does the Military Intelligence Representative work as he desires or you are the one who sent him?

**He answered:** This is a routine work according to the applied system, this letter is a part of the behavior we are explaining, the Minister of Defense ordered to strike, the Chief of Army Staff ordered to provide the Air Force with the information and to strike when they obtain the information.

And now, if there is another one in my position as the Intelligence Director, is there an Intelligence Director can say I will not give you the information? If you meant the participation, yes I participated by carrying out my duty according to the right military procedures.

**Also the convict (Sabir 'Abd-al-'Aziz Al-Duri) testified that:**

The Intelligence is the one who gives the information, and they are dealing with. When the Minister of Defense orders to give information, we give information, because the Military Intelligence duty is giving information.

**The court questioned the convict (Sabir 'Abd-al-'Aziz Al-Duri):**

Is the Military Intelligence included in the specialist committee?

Does the Military Intelligence have a representative in the committee?

**He answered:** Yes of course, there is a representative from the Third Section and the Military Intelligence exists at all the committees because the Military intelligence responsible on the information.

**The Court aimed a question to the convict (Sabir 'Abd-al-'Aziz Al-Duri):** who are the parties that have related to the chemical weapon?

The Presiding Judge

(818-963)



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**He answered:** There are individuals to study the case; they are the planning (The Planning Directorate), there is a party for executing which are the Air Force and the Army Aviation, and there are individuals to manufacture and store which are the Military Industrialization Commission. And all information is in the documents.  
**According to this, the court questioned the convict:** What is the role of the Military Intelligence in this operation?

**He answered:** The Military Intelligence role is only information, when it is asked about the number and the locations of existence, the Military Intelligence presents the information.

**Also the convict (Sabir 'Abd-al-'Aziz Al-Duri) testified before the court that:** Disposition of the military prisoners' fate is one of ('Ali Hasan Al-Majid) authorities. I'm repeating that we didn't receive any person in Baghdad, and I knew after I was arrested along with some of the military commanders in area such as (Sultan) that no soldier was arrested and (57) families were collected and extradited to the Intelligence System which extradited them to the Northern Organization Office, and I clarified that they were extradited to the security not to the intelligence system.

### **The Defense Memo Brief of the Convict (Sabir 'Abd-al-'Aziz Al-Duri)**

**It's publicly recited by his attorney (Firas Sabir Al-Duri)**

**Date of the session 07 May 2007 (the session 56)**

**The pleading included the following items:**

- 1- The formal and objective proofs related to the charge that is brought against his client.
- 2- The proofs related to the legal items which brought according to the charges.

**The Presiding Judge**



**(819-963)**



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- 3- The proofs related to the absence of the crimes' essentials which related to his client.
- 4- Discussing the evidences and the written document which were viewed in the suit.
- 5- The criminal responsibility of his client according to the Articles No. 35 and 40 of the Iraqi Penal Code, and the Articles (15/Fifth) and (17) of the Law No. 10 of year 2005 (The Court Law).

**1- The formal and objective proofs related to the charge that is brought against his client on 20 February 2007.**

What makes conflict between the charge and the Clause (B) of the Article (178) of the Criminal Procedure Law No. 23 of year 1971 which stated that (The court doesn't bind oneself on specifying the Legal description of the crime by the description mentioned in the warrant of arrest or the Summons Note or the referral decision), the meaning of this paragraph that it gives the court the authority to change the Legal description of the crime related to the convict, but does not give the court the authority to add a new crime not mentioned in the referral decision.

**2- The proofs related to the legal items which brought according to the charges.**

All the constitutions in the world approved that there is no crime or punishment unless there a stipulation, and the Article No. 11 of the International Declaration of the Human Rights, and the Article No. 15 of the International Law of the Civilian and Political Rights stated on (Any individual can not be convicted because of an act or refusing an act which does not considered a crime according to the national or international law at the time was done.

Also the new Iraqi Constitution stated on the same rule, whereas it was mentioned in the Paragraph (Second) of the Article No. 19 (that there is no crime unless there a statement and no punishment except on the act that the law considering it at the time.....).

The Presiding Judge



(820-963)



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In the Name of God the Most Merciful, the Most Compassionate

The Iraqi High Tribunal  
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...committing a crime, and it is not allowed to implement a punishment other than the effective punishment at the time of the crime commitment)

As the articles (1 and 2) mentioned from the Iraqi amended Penal Code No. 111 for the year 1969, the following:

Article (1) no punishment over an action or refrain unless based on being incriminated at the time of perpetration, as no sentences or precautionary measures must be applied unless stipulated by law.

Article (1-2) is applied on valid law's crimes during perpetration, specifying the time of perpetration as that when actions were carried out regardless of the time of achievement.

It was mentioned in the page No (5) from the list, that the practicing military course is accepted during war or peace, under the condition of abiding by certain rules and regulations which occurred in the conventions, as the military affiliation in itself, far away from classification, is not a prohibited matter unless constituted violation of some basics, especially what is known by (serious violations), particularly Genocide, crimes against humanity and crimes of war. Based on that, the soldier can not be interrogated about his military duty (within legal limits) whether in the period of peace or war, as he is considered to accomplish his duty according to legal, national and international rules. Hence, concerning my client, it is not allowed to interrogate him for his actions, which are not internationally prohibited, stipulated in articles (11, 12, and 13) from the court law, as your charges against him [client] were based upon them [actions]. As for professional duties which do not follow these articles, he was doing his duty as there is no logic in being investigated about it [implementing his military duties].

Concerning the prisoners of war, we would like to refer that article No (118) of Geneva Third Convention, for the year 1949, mentioned the following: (the prisoners of war should be released and deported without delay, once

The President



(821-963)





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... effective violence operations ended. In this case, there are no objections to condemn the captured or soldiers in front of Iraqi courts for serious violations, which is exactly included within your jurisdiction, wherein such conduct is considered dangerous with premeditated basic and specific particularities. It is very important to respect the basic punishment rules, wherein to obligate the premeditated element accurately within a direct causative relation, pertaining to my client personally, without generalizing the act and perpetrators unless via a text [legal], emphasizing on the necessity to elaborate penal texts narrowly, as doubts are always considered advantageous for defense. Hence, reasoning should not be taken against the convict as it is irrational to interrogate my client over his military and professional duties in the period of peace or war.

### **3. Defense concerning lack of crime elements related to my client**

It was mentioned in the beginning of page (8) from the list, the lawyer asked the following question: Was my client a field Commander with granted jurisdictions and appropriation to be incriminated for groups of inhabitant to harsh living conditions aiming to eradicate them, or murder, enslave or imprison them? Or to direct attacks against civilians, by attribution, or against civil individuals? Or to conduct raids against buildings specified for religious, educational, artistic, scientific, or charitable objectives, or against historical monuments or hospitals or wounded and patients' gathering centers?

All charges against my client contradict the premeditated criminal basics because it is not correlated to his [client] jurisdictions or appropriation.

### **4. Discussing the evidences and handwritten documents submitted in case** **First: Physical evidences – documents and official letters**

The President



(822-963)

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...the abstention of a link between my client and his directorate with the implementation of operations. As for methods of confrontation, my convicted client said that he and his directorate passed information over to Minister of Defense, and Chief of Army Staff, who are the one to make decisions, ordering executive authorities to carry on with the decree. Indeed, Intelligence Directorate issued a report and submitted it to Chief of Army Staff, as a copy had been addressed to other directorates such as Presidency of the Republic (according to the context used at the time) [letter number of (M1/Section3/Q2/5809), on 1987 March 10, titled "Information"]. The Presidency interfered, and its Secretary office directly sent a letter to Intelligence (overstepping the Ministry of Defense and Chief of the Army Staff), which included an order for General Chief to allow Intelligence to coordinate with experts in order to study an attack via special weapons. Therefore, experts carried out a study according to clear orders, which cannot be refuted under such circumstances. Regarding the signature on the letter, which contained the experts' opinion, it was a necessary and inevitable action according to the followed strict context which imposes on Intelligence System to refer the letter that includes a collective responsibility of all represented directorates represented within the commission. Hence, the letter was issued from Intelligence according to a presidential order at the time, as he confirms being guilty for signing this letter.

In summary, as of the bill of indictment:

First: what was mentioned in the (First) clause did not prove the premeditated participation of my client according to the article No (11) from the (Genocide) court law.

Second: what was mentioned in the (Second) clause of the bill of indictment does not prove any premeditated crimes according to the article (12) from the court law.

The President



(823-963)

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Third: according to what was mentioned in the (Third) clause of your bill of indictment, it was not proved that my client perpetrated premeditated crimes within article No (13) from the (crimes of war) court law.

### Second: Prosecution and Defense's Witnesses

- 1. Prosecution's witnesses:** the court listened to some plaintiffs and witnesses in this case, but came out of personification to who perpetrated such acts. The physical actions of the crime which had been reviewed by each article of bill of indictment consist as much danger as it became impossible or the aforementioned acts to be committed without a prior review by the perpetrator, especially that witnesses didn't submit any direct complaint against my client, and no witness mentions my client's name, which refutes evidence against him.
- 2. Defense witnesses:** it is necessary to reconfirm the circumstances which caused my client to be deprived from any defense witness at a time where we must admit the court's thankful and recognizable efforts in bringing witnesses. The deprivation of my client from this right is due to well-known circumstances before your court, as the incident is the first to be placed in the fair balance of justice.
- 3. A request to assign military experts:** The request for assigning military experts, aware of the meaning of military affairs, is not understandable rather than by soldiers as article No (166) of Criminal Trials Procedures Law mentions that (The court should assign an expert or more in the matters which need an opinion). In addition, clause No (7) from article (11) of the court's law stipulated the right of Chief of the Attorney General to consult the court chief over assigning non-Iraqi experts (confirmation cause). My client was applying his duty according to the law's decision. Also, he refused to provide Air Force with targets...

The President



(824-963)

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...to be attacked by special weapons [as indicated in his notes]. The aforementioned is beyond his jurisdiction as it is the concern of the appropriated commission [The notes elaborated on Presidential Secretary's letter- No 877, on 19 March 1987, and Intelligence letter numbered 9819, on 03 May 1987]. On the other hand, my client submitted another report regarding three individuals who had been thrown from an aircraft by some soldiers and another to Facts Inspection Committee regarding the negativities in Oil Protection's Command emphasizing on the importance of applying legal methods while handling suspects or detainees in Anfal Operations' field. My client was adhered to follow and respect juridical procedures, as no action on his behalf had been committed neither as actual perpetrator nor contributor. His innocence is a must according to Clause (1) of Article (29) of Iraqi Penal Code (no person should be interrogated for crime which is not a resulted of his conduct)

The bill included from pages (25-27), remarks of the convict attorney in reference to what had been mentioned in the personal right lawyer's report, as pages (27-36) included comments over general prosecutor's perusal.

### **5. The criminal responsibilities according to Articles (35) and (40) of Iraqi amended Penal Code and Articles (15/five) and [17] of Iraqi High Tribunal Law (10) for the year 2005**

It had been mentioned in page (38) of the bill: (wherein the Iraqi High Tribunal Law, is effective regarding articles (11, 12, 13) relating to Genocide and crimes...

The President



(825-963)

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against humanity, and crimes of war. None of those charges, by your honorable court, has been confirmed against my client.

He didn't participate (premeditated) or (as perpetrator) in any of them, as no attributive or definite act was confirmed against my client.

### Briefed defense report:

1. The convict was on duty according to law as per articles (39 and 40) from Iraqi amended Penal code – duty execution.
2. He or his directorate are not involved in implementing operations or confrontation orders, wherein the convict was not a field commander, and he didn't participate in any of the actions included in the bill of indictment.
3. His duty was limited to gather information about the other party in conflict, and what the plaintiffs, witnesses and foreigner experts mentioned about mass graves and execution cases are far from being correlated to his client.
4. His confession about the unintentional formal mistake concerning letters related to special weapons, and avoiding the mistake after that.
5. His sorrow and regret towards innocent victims.
6. His incapability to bring defense witnesses although the court was cooperative.

**In the session (58)**, the court gave the accused another chance, in order to submit their last statement, deposition and requests; for this purpose, the court postponed the verdict to 2007 May 10.

The President



(826-963)

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## The Verdict

**In the session (59)**, and in the specified day, the convict (Sabir 'Abd-al-'Aziz Al-Duri) submitted his last deposition, according to the written report recited by him openly, that included the following:

I do not have anything to add on the report of my attorney, who covered all the legal, juridical, and ethical parts, which proved my innocence from any premeditated accusation related to serious violations such as Genocide, crimes against humanity and crimes of war. I am sure that your honorable court will give this hearing all importance and needed interest.

I was a soldier who abided by his professional duties, for the service of my country during peace and war...and of course, war has its tragedies and victims...as recent wars prove, regretfully, that the overwhelming majority of victims are innocent civilians.

But, it must not be hidden from you that the officer is obliged to obey military orders, as long as they are not considered as serious violations included in International Conventions, for they are categorized among war requirements, dangers and outcome. Geneva Conventions for the year 1949, and its protocols for the year 1977, determine fighters' commitments and guarantees, as well as prisoners of war...and I didn't surpass those limits...and no premeditated crime was proved against me under this context.

And as evidence from the report of my attorney, I did not participate as perpetrator or partner of any actions which are within your court authority, as mentioned in the article (15) from the court law. I did not commit as perpetrator or as partner, any crimes mentioned in the article above, and none of it is proved against me. I did not help or incite or support in any sort of it, for the purpose to facilitate these crimes in the trueness of its realization. Also I did not participate as perpetrator or as partner in any crimes mentioned in the article (15) with all its clauses, and nothing was proved against me...

The President



(827-963)

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## The Verdict

...neither as an original committer nor as a contributor, as there is no direct causative relation between this and the realization of any consequent crime through conductive operation, according to requirements of article (15) and (47) from Iraqi Penal Code. I was carrying my regular duties which are not considered within mentioned crimes context followed in your court. The normal intelligence director duties are well known even before I started my job, during or after it, like any other military intelligence director in most countries. Regretfully, as long as the International Laws for Humanity remained unable to prevent international and national conflicts, the information tasks will remain essential for countries' armies, preventing the aforementioned humanity law from depriving and incriminating (the dangerous violations), the thing that I am innocent from as perpetrator or contributor. I would like to repeat the confirmation that I refused to obey orders to identify locations suitable to be bombed by special weapons, as it had been elaborated by my proxy and handwritten, something in it self dangerous ... so, it became obvious that the recent conditions at the time were not permitting an extra mile on that concern. Sir, the court chief... I am not claiming that I avoided all mistakes which could happen because God is the only sinless one. However, when mistake occurred unwillingly, I ask God's forgiveness over incidents I did not intend to perpetrate. I am a believer and soldier dedicated to serve the country, and the honor of such conduct impose on me to face this hard circumstance with necessary bravery accepting God's predestine. I have never taken a second thought as to respectfully stand before all innocent victims. My concern was to serve my people with all categories and nationalities, if I failed so, I stated my deep sorrow and my apology to my country and public, God knows my intention. Nevertheless before I finished my speech I would like to send my appreciation and thanking to you due to the announcement that your venerable court will take into consideration what mentioned by the Attorney General about what he received of appreciation and gratitude letters which I did not deserve it, from...

The President



(828-963)



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## The Verdict

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...my citizens especially from Karbala' holy city... kindly approve my interception as part of defense perusal for my attorney (Firas Sabir 'Abd-al-'Aziz).

Convict Sabir 'Abd-al-'Aziz Al-Duri Verdict for premeditated murder committed as genocide

Charges had been previously addressed from the court and dated 2007 July 20, against the accused (Sabir 'Abd-la-'Aziz Al-Duri) for a number of committed crimes. In addition, among is the premeditated homicide as a crime and an act of genocide according to the ruling of the Article (11/First-A) and in accordance with Article (15/First-Second) from the law of the Iraqi High Tribunal No 10 for the year 2005.

### The crime elements

- 1- The crime committer should kill one person or more
- 2- The person or persons should be affiliated to a specific national or ethnic or racial or religious group.
- 3- The crime committer should have the intention to eradicate this national or ethnic or racial or religious group totally or partially with its particularity
- 4- This action should be under a similar sequenced method against this group or the aim of this action itself should do this eradication.

There are direct and indirect evidences proving that the accused was incited in a direct and overt way and participated with the other criminals with a shared criminal intention for committing several crimes including...

The President



(829-963)



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Premeditated murder as a genocide crime and his participation was premeditated, aiming to enhance the criminal activity for the Ba'th Party regime and its systems. He carried out an important role, in which the accused implemented through a joined criminal plan, it was a reason for the criminal results, and he was fully aware with the intention of committing the crimes for the previous regime.

The court agreed upon defining the responsibility of the above mentioned accused through the legal requirements of the crime description and it's proved elements which is based on the collected evidences in the case file which were utilized in the investigation and trial

The legal requirements to prove the first element of the crime is that the crime committer killed or led to kill a person or more, the proved elements for this requirement provides evidence that the attackers were carrying weapons and surrounding the place. This already occurred with a systematic repeated way in different times and places, among several villages, according to the evidence from the documents and letters, which were presented by the Attorney General in front of the court and what the plaintiffs stated in the trial sessions. As mentioned in the statement of the plaintiff [NAME REDACTED] dated on 11 September 2006 in front of the court (... the emergency forces attacked and burned our village and possessed all the livestock, arrested all village's residents, then we were transported to the emergency prison in Al-Sulaymaniyyah, where they executed 9 men behind the fence of the prison). Also, the plaintiff [NAME REDACTED] stated in 2006 September 12 in front of the court as follow: (for a period of 7 days our village and the neighboring villages were bombarded with chemical weapons, and then the governmental forces attacked the village from 3 axes. About 90 residents were arrested, while others escaped and the forces looted and burned our village; at that time I escaped to Iran; my sister in law was detained along with five of her children, when I came back from Iran after 6 months I was informed by the elders ...

The President



(830-963)

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... Who returned from (Nuqrat Al-Salman) prison camp that my sister in law and her kids were transported to an unknown place, and they segregated women from men in (Tupzawa) prison. Then I knew from the court in 2004 that they found 4 identity cards related to my brother's children in the mass graves). The plaintiff [NAME REDACTED] stated on 22 August 2006 before this court (at the night of 24 August 1988, the Iraqi forces assisted by national defense regiments surrounded the civilians of the Kurdish villages in the regions of : (Dahuk), (Sarsanq), (Al-'Imadiyyah), (Sumil), (Batufa), (Zakhu), (Diyar 'Ajam) from two directions, where everyone was banned from leaving and they arrested some civilians that were not fighters of Pishmarga forces, I saw two aircrafts (Sikhui)type, bombarding some of the villages in the region, which are (Ikmala), (Khariba) ,( Hibsba) and (Mirkaji). I saw several injured individuals that were screaming from pain, vomiting, their eyes were red and goggled, and then I went to the village where my brother ([NAME REDACTED]) lives, to ask about his fate and his wife ([NAME REDACTED]) and his son ([NAME REDACTED]), I was with my brother ([NAME REDACTED]) and one of my relatives ([NAME REDACTED]). When we nearly arrived to his home we saw my brother ([NAME REDACTED]) and his son ([NAME REDACTED]) on the floor, dead, hugging each other, and from a distance of 100 meters I saw the corpse of his wife ([NAME REDACTED]). I also saw the mule which they prepared to escape, faltered with water coming out of his mouth, as the poultry was dead).

All actions which resulted such crimes, were not implemented unless accompanied with instructions issued by the convicts, as we cannot imagine that an attack with all this consistency and different types of weapon including aerial weapons, are not issued by an order and instructions according to a plan previously contrived by the Ba'th Party. In which the accused presented as one of its symbols and which is not confirmed in front of the court any try neither with speech nor with action, and he did not make any effort to prevent the murdering of these civilians of the Kurdish villages and cities. Despite his authority and position as he was the general director of the General Military Intelligence...

The President



(831-963)

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And a member in the General Command of the Armed Forces beside his Ba'th Party rank, he did not submit to his supreme president the accused (Saddam Husayn) any information about what was happening of dangerous actions, which were considered by the law as crimes carried out by the military forces with its different categories. And the results of these crimes of killing individuals, destroying villages, looting properties, forcible dislocation for the residents, detention and sexual violence; isn't it the (information bank) as he claimed and mentioned in one of the trial sessions. And he did not take any legal action to prevent or punish any crimes committed or to be committed due to his prominent vocational and military position.

To prove the second element of the crime which is, the person or persons that should be affiliated to a national or ethnic or religious group as a legal demand and its proofs are confirmed, however the Kurdish were a well known ethnic group, residing a separately stable geographical region which is Kurdistan Region in northern Iraq. And the members of this group have a legal union and general nationality, they shared in the same sect, worship and religion, also they have their special physical and hereditary features, their own language, inveterate history, common traditions and also their own celebrations. In addition, all pervious Iraqi regimes recognized them as the 2<sup>nd</sup> ethnicity after the Arabic ethnicity of Iraqi residents; also the Kurdish ethnicity was protected by all the constitutions.

To prove the 3<sup>rd</sup> element of the premeditated murder and its range of similarity with criminal perpetration of genocide, the crime committer was fully aware of the intention (incorporeal side) for eradicating this national ethnic or racial or religious group totally or partially with its particularity. The collected evidences and actions were available against the convict (Sabir 'Abd-al-'Aziz) in the genocide crime; the evaluation of the criminal intention in the genocide crime could be defined according to the international tribunal courts through the following references: the number of harmed individuals

The President



(832-963)

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...the personal or property criminal targeting, using an insulting language towards the targeted group members, weapons' usage, systematic way in planning, the proportional range for the actual eradication. The try for eradicating the group and the systematical way of killing, so finally it is unbelievable or impossible that a genocide crime was committed without the direct or indirect participation of the government, when looking into the hugeness of this crime

As the idiom requires a total or partial eradication, injuring a large number or at least an important part of the group; concerning this subject the international tribunal courts (the declarations of the international law committee) agreed that the intention should be based on eradicating the group as a group, meaning as a separate and distinguished entity, not for some individuals only because of their affiliation to a special group, so they select and describe the draft of the international agreement, which is related to the absolute prevention of the genocide crime. They changed the meaning of (eradication) to include only actions considered as a personal or biological genocide; therefore this what was used by the international courts, also the international tribunals indicated that the actions of the sexual violence were considered as a complementary part of the group eradication operation (specially if it was aiming the women in this group). The private intention was available according to the documents submitted to the court by the General Prosecutor, in which the accused confirmed and also the correctness of his signature; included the following documents:

- M1/ U 3/ S 2/ 6885 dated 1987 March 29
- M1/ U 3/ S 2/ 10319 dated 1987 May 10
- M1/ U 3/ S 2/ 10662 dated 1987 May 14
- M1/ U 3/ S 2/ 19330 dated 1987 September 08
- M1/ U 3/ S 2/ 11325 dated 1987 June 10
- M1/ U 3/ S 2/ 12703 dated 1987 June 10

The President



(833-963)

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All the legal requirements and elements of proof could be based on it, by understanding the meaning of these documents, which most of them indicate to the evidence of the discrimination intention of the accused to call the Kurds "the traitorous" or the Offspring of Treason and Treachery) or the Iranian Traitor. The purpose of that is for discrimination and humiliation as well as to enhance hostile acts; for this purpose the Ba'th Party regime utilized all the country media organizations and the Party for spreading the defamations, even the religion was utilized by giving the name of Anfal to such dangerous and brutal operations in the region. However the evidence that there was a plan or a prepared policy by the state to prove the intention of the eradication is the decree No 160 on 29 March 1987 which was issued by the two bygone commands, the Ba'th Party State of Command and the Revolutionary Command Council, granting convict ('Ali Hasan Al-Majid) the authorities for implementing the policy of the above-mentioned commands; as mentioned in the 1<sup>st</sup> clause of the decree:

(Comrade 'Ali Hasan Al-Majid, Member of State Command for the Ba'th Party represented the state command for the Party and the Revolutionary Command Council in implementing its policy in the northern region including Kurdistan Autonomous Ruling Region... For achieving the purpose of this decree, they granted him the authority of the ultimate ruler for all the country civil, military and security systems, specially the authorities of the national security and the North Affair Committee).

As mentioned in the decree's 5<sup>th</sup> clause, (This decree is affective from its issuing date unless any other notification, stop working with the legal laws which opposite with the laws of this decree), so it's very clear that due to this decree which does not include any confusion. A study and a plan was prepared earlier by the former regime for implementing Anfal Campaigns in Kurdistan region and all the government's capabilities were under his authority including the administrative units chiefs, security, military intelligence and signals systems, the people's army commands, military sectors with all classifications. The ...

The President



(834-963)



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... delegation of convict ('Ali Hasan Al-Majid) among other high ranking members of the Ba'th Party was not based on his scientific level or his military experience but he was selected based on his criminal character, which occurred during Anfal operations. And this is another proof added to the previous evidences with availability of the intention by the regime from choosing certain people to commit the genocide crime, among them the convicts ( Sabir 'Abd-al-'Aziz Al-Duri), another legal requirement to prove the genocide intention by the convicted during the methods of committing the frequent crimes against the civilians. And through provoking and encouragement by the accused to use the chemical weapons against the citizens which proved by tens of documents issued by the General Military Intelligence Directorate whether he was a director for this directorate or a member in the Armed Forces command. Where these frequent attacks led to kill many people living in the Kurdish villages and exposed to loot their crops and properties. The agronomy in this area was destroyed while the accused was regretting from the lack of ammunition, which was specified to assault the Kurdish villages. As well as he regretted from the low affection of this assault when Iranian medical delegation came to help and Pishmarga with civilians expedited to advise the people how to avoid the side effects from the chemical materials through getting the chemical protection supplies.

Article (3) from the document number (M 1 \ U 3 \ S 2 \ 11144) in March 1987 which hold signature of the accused and addressed to the Ministry of Defense – Subject \ Centers of Iranian Agents and stating the following:-

According to usage of chemical weapons against Iranian henchmen's headquarters ...



The President

(835-963)



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which were referred to in our secret personal and urgent letter No. 9819 in 03 march 1987 imputed to the urgent personal letter No. 5051 issued from chief of army staff in 16 march 1987 stating the following: -

(We did not get the approval on the air strikes due to the lack of special ammunition and to execute several assaults on headquarters of the Iranian agents, we can use the traditional ammunition except for the artillery and air force).

The document number (M 1 \ U3 \ S 2 \ 19330) in 08 September 1987 included the clauses (D and H) from article (2) and article (4), Urgent, secret and Personal. To \ Command of North Organization Office \ Subject \ Information:

(D) Pishmarga and civilians expedited to instruct the people about how to protect themselves from chemical weapons

(H) The Iranian medical delegation played an important role to decrease the side effects of the chemical weapon

### **Clause 4 of the document stated the following:-**

After the air attacks by the usage of (special ammunition) which aimed at some of the headquarters that belong to the Iranian agents in April 1987 the leadership of the abovementioned group had received special supplies from the Iranian regime, to protect themselves from the chemical weapons. In addition, the leadership of the Iranian agents spread notebooks written in Kurdish and Arabic languages including safety measures to protect the villagers from the chemical affection, the other legal requirement is available on the intention by the accused to execute the genocide crime with evidence that the accused did not exert any effort to distinguish between fighters or civilians.

The documents before the court issued by the department where the accused belonged and concluded by his signature didn't show any effort or attempt exerted by the accused to avoid killing the civilians, as he stated ...



The President

(836-963)



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... before the court. In addition, the documents in the directorate he was presiding showed that he requested to identify locations of the civilians, so he can attack them by the special ammunition through air force and artillery without any signs to avoid civilians or distinguish between women and children as already proved by many plaintiffs.

The plaintiff ([NAME REDACTED]) testified before the court, on 15 September 2006, that on the night of 22 – 23 March 1987, the village where I am living was exposed to a chemical attack and I saw (Siwsinan) village while smoke was rising from it and I was infected when I inhaled the poison gas. Then I was transferred to the hospital (Shurish ) where I was cured, then I escaped to the mountains and in the next day I saw my village and the neighboring villages burning as a result of the attack while I escaped with many families to Kirkuk, where I watched on the road many families coming to (Mila Sura) village. Then we were surrounded by the army and moved to (Qura Tu) Camp and then we were transferred to (Tupzawa) camp where the army segregated women from men, youth from elders. There, I met my daughter ([NAME REDACTED]), and then we were driven to (Nuqrat Al-Salman) prison camp while my wife and my five sons still missing, I don't know anything about them. The plaintiff [NAME REDACTED] stated before court on 22 August 2006 (second session) that during her detention period in (Rashkin) camp with her village citizens, she saw many people being killed and a big number of her village citizens died from chemical attacks, they are ([NAME REDACTED]). Another witness working as surgeon, testified on the 28<sup>th</sup> hearing on 06 December 2006 that we reached (Bargalu) village which was exposed to chemical attack on 21 April 1987, then I left to the hospital with doctor [NAME REDACTED] where 30 individuals were injured due to ...



The President

(837-963)





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chemical weapons, among them were 8-9 years old child with a burned body and swelling eyes... 2 days after he died despite given him the cure. In 22-23 March, doctor Nasih told me that (Siwsinan) area was exposed to a chemical attack, then I left to the hospital where 70 injured individuals were brought, one of them called ([NAME REDACTED]) his 4 sons and wife were killed as well as [NAME REDACTED] As we were informed, the chemical weapons killed that night 72 individuals from (Siwsinan) village.

The convict was not only concerned about using the chemical weapons but also interested in knowing results.

The document number M 1 \ U3 \ S2 \ 10319 dated 10 March 1987 includes the following:-  
Secret and personal\ Urgent\ to\ Command of Air Force and Air Defense

Your secret personal letter (690) on 09 March 1987 please provides us with locations of the Iran agents that were attacked in order to authenticate the strikes' effect of our air forces.

(The document was signed by the accused) and approved

The document number 690 dated 09 March 1987 was an important document issued by Air Force Command to the Ministry of Defense, signed by escapee convict (Hamid Sha'ban), the commander of Air Force and Civil Defense. subject \ Headquarters of Iran agents, titled (letter of Chief of Army Staff, top secret and urgent No. 15787 on 02 May 1987, letter issued from the General Military Intelligence Directorate top secret and personal No 9819 in 03 May 1987:

(Air raids were executed by 20 aircrafts using regular ammunition and 44 aircrafts using special ammunition on the headquarters of Iran agents, which was mentioned in the letter, issued from the General Military Intelligence Directorate.



The President

(838-963)



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The study and suggestions raised by the convict to the Presidency of the Republic/ Secretariat, about using different types of chemical weapon (Sarin, Valon and Mustard) through different methods such as artillery, air force and army aviation in Anfal operations. According to the letters issued by him and concluding his signature M1\U3\S2\5809 on 10 March 1987, M1\U3\S2\61414 on 18 March 1987, and U3\S2\6885 on 25 March 1987, attaining approval on his suggestions by the Secretary of the Presidency of the Republic. According to the letters signed by the secretary: 7\C 2\808\K on 12 March 1987, mentioned in this letter (we are notifying you by your letter number M1\U3\S2\5809 on 10 March 1987, that the president ordered your directorate to study along with specialists aiming a sudden strike by special ammunition at the bases of Khumayni Guards and saboteurs of the 1<sup>st</sup> branch which belongs to the Barzani clan, wit a possible execution by air force, army aviation, artillery...) kindly take the necessary actions. The letter numbered 7\C2\877\K on 19 March 1987 was issued by the secretary of Presidency of the Republic, signed by the secretary (convict Hamid Yusif Hammadi), addressed to the General Military Intelligence Directorate headed by the aforementioned convict.

Top secret and personal\urgent\ Subject: the usage of special ammunition

Referring to clause (2 – A – B) of your letter number 1\U3\S2\6414 on 18 March 1987, 2 suggestions were approved, take the necessary action.

The letter issued by the Secretary of Republic Presidency number 953\965\K on 29 March 1987, signed by the convict (Hamid Yusif Hammadi) and addressed to General Military Intelligence Directorate.

Top secret and personal\urgent\ Subject: the usage of special ammunition



The President

(839-962)



In the Name of God the Most Merciful, the Most Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
Baghdad-Iraq

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Date: 2007 June 24

## The Verdict

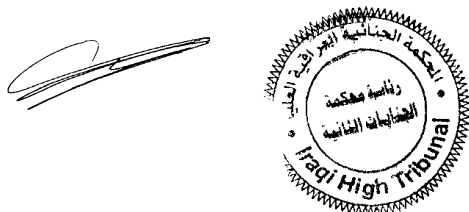
Your letter number U3\S2\6885\ on 25 March 1987, the approval has been issued to execute strikes so that the outcome will be invested later...where the intentions are not only attacking the saboteurs...the letter issued by the accused, number (6885), on 25 March 1987, titled – using the special ammunitions – includes the following:

(I recommend – the accused – some targets and examine the ability of the chemical weapons as I suggest targeting the following locations because it's a refuge for Iran's agents Balisan basin, Tutma village, Khati village, Shaykh Wasanan village, Qara Dagb basin, Takya village, Balak Jar village, Siwsinan village.

As the report suggested that the strike will be in mid April so that enough time will be exploited for the production of chemical weapons as the answer came in the above-mentioned letter (the approval was issued to launch the strike).

All the abovementioned letters especially those issued by the General Military Intelligence Directorate, which had been headed by the accused, were relegated to the General Persecution Commission before the court. It is all concluded with the accused signature where obviously the intention of premeditated murder was available by the accused as genocide for eradicating Kurdish villagers partially or totally. He was fully aware of the international prohibition of these weapons because they will result in thousands of victims as well as dangerous effects on the environment. This clearly prove the convict's preconceived malice as in international crimes it had been proved the provision of the aforementioned conditions through joint prior preparation and planning to perpetrate the crime as well as a peace of mind.

The convict was following a clear systematic pattern against Kurdish nationals as national ethnic community. The proof on the frequency and methodology of the strikes is in following the same way in all ...

The image shows a handwritten signature in black ink on the left. To its right is a circular official seal. The seal has a serrated outer edge. Inside the circle, the text 'الهيئة القضائية العراقية' (Iraqi Judicial Body) is written in Arabic at the top, and 'Iraqi High Tribunal' is written in English at the bottom. In the center of the seal, there is a smaller circle containing the text 'رئاسة محكمة' (President of the Court) and 'القضاء الجنائي' (Criminal Judiciary).

The President

(840-963)

In the Name of God the Most Merciful, the Most Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
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## Verdict Decision

... Phases of Anfal operations – the eighth – by using the chemical weapons and its consequences in killing people, destroying houses, compulsory dislocation and relocation, detention in camps, raping women, sexual violence, similarities in the mass graves' structures and execution techniques by firing at victims on behalf of execution squad.

The plaintiff ([NAME REDACTED]) - is Iraqi Kurdish living in Washington U.S.A. - and one of the survivors from the mass graves testified under oath the following:

After they transferred us by closed vehicles without windows, two young girls died due to bad ventilation. The car reached a dirt road, which includes land-bumpers, then stopped as the doors opened. I saw a pit full of women and children's corpses while bulldozers were burying them. They took us out from the vehicles, by force, and drove us to the aforementioned pit where soldiers, lifting machineguns, were standing on its edge. One of the soldiers shot the people who fell inside the pit. I pretended death when shot in the shoulder. I saw a pregnant lady while the soldier shooting her in the head. My mother [NAME REDACTED] was with me and her sons fell inside the pit, I will show the court list of all the victims names as I witnessed the shooting at my mother and sisters. The bullets were raining hell as the pit turned bloody red. Bulldozers went burying the corpses from a pit to another...) Conformity between the mentioned actions is the proof that there was a plan or policy already prepared to attack the Kurdish as national ethnic group within limited period of time (1987 – 1988).

By the abovementioned information, the court find the attack on Kurdistan region as not confined on Kurdish fighters only (Pishmarga) rather stretching over to villagers attacked by chemical weapons.



The President

(841-963)

In the Name of God the Most Merciful, the Most Compassionate

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## The Verdict

...the survivors were detained in special camps that have been arranged in advance (Nazarki Fort, Tupzawa, Al-Salamiyyah, Al-Hadar, and Nuqrat Al-Salman) some of them were executed by a firing squad, as individuals or groups were buried [children, women, and youth] in mass graves. That is proven through documents and other evidences including international experts' reports and statements, those who had supervised the excavation of three mass graves and interred remains belonging to pregnant women, children, and youth from Kurdish origins. They were recognized by their identity cards, Kurdish costumes, and villages' names noted in victims' civil status cards, all of that indicating the availability of special intention, on behalf of convict (Sabir 'Abd-al-'Aziz Al-Duri) to eradicate this community partially or entirely without any reason except being Kurdish. It was proven that convict (Sabir 'Abd-al-'Aziz Husayn Al-Duri) had caused, between the years (1987-1988), via joint criminal plan, the murder a huge number of Kurdish citizens.

Accordingly, it had been proven to court that Convict (Sabir 'Abd-al-'Aziz Husayn Al-Duri) is guilty for committing genocide crime, according to the descriptions of article (11/First-A) and (Second-E) by virtue of article (15/ First- Second) of Iraqi High Tribunal Law number (10) for the year 2005, identifying the sentence based on article (406/1-A-B-F) by virtue of contributory clauses (47, 48 and 49) of Iraqi penal code number (111) for the year 1969 amended following article (24) of Iraqi High Tribunal Law number (10) for the year 2005, as it had been publicly acknowledged on 2007 Jun 24.



The president  
Muhammad 'Uraybi Majid al-Khalifah

(842-963)

In the Name of God the Most Merciful, the Most Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
Baghdad-Iraq

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Date: 2007 June 24

## The Verdict

### **Convict (Sabir 'Abd-al-'Aziz Al-Duri) Verdict for causing severe physical or mental damages to a given group, as a crime of genocide**

The court had charged convict (Sabir 'Abd-al-'Aziz Al-Duri) for committing several crimes including the genocide by causing serious physical or mental damages, as the aforementioned charges applies with the descriptions of article (11/First-B) by virtue of article (15/First-Second) of Iraqi High Tribunal Law number (10) for the year 2005.

#### **Elements of the crime**

1. That the crime committer act causes one or more persons with serious physical or mental harm
2. That the persons should be belonging to a specific national, ethnical, racial, or religious group
3. That the crime committer intends an entire or partial eradication of that national, ethnical, racial, or religious group
4. That this behavior is conducted in the context of a similar one against this crime, or the behavior itself might cause that eradication

By examining the case's file and the acquired evidences included, the court finds that convict (Sabir 'Abd-al-'Aziz Al-Duri) had caused, by his contribution with other convicts, a joint criminal intention in committing an act that legally formed a genocide crime through causing serious physical or mental damages, as his contribution had aimed to reinforce the criminal activities of the Ba'th regime, he...



The President

(843-963)



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... Played a major role in committing that crime, he carried out within a joint criminal plan; this role was a reason in causing those criminal acts with his acknowledge of the former regime's intent of committing such crimes.

The court had came to determine the convict's responsibility by legal requirements of the crime basics and its elements of proof, relying on the available evidences in the case's file collected by investigation and trial, as follows:

The legal requirement to prove the crime's first element and its conformity with the convict's act is that the crime committer causes, in offending one or more individuals, serious physical or mental harm. The evidence on such act is the existence of evidence on the convict's contribution in causing a serious physical or mental harm.

The study and suggestions that were submitted by the convict to the Presidency of the Republic/Secretary; tackled the usage of different chemical weapons (Sarin, Valon, and Mustard) by all available methods; artillery, air force, and army aviation through Anfal operations, according to correspondences issued and signed by him such as number M1/U 3/S 2/5809, on 1987 March 10, M1/U 3/S 2/61414, on 1987 March 18, and U.3/ S 2/6885, on 1987 March 25. These suggestions were approved by the Presidency of the Republic/Secretary according to the correspondence signed by him numbered 7/C 2/808/K, on 1987 March 12, which included (In reference to your correspondence number M1/U 3/S 2/5809, on 1987 March 10) the president had ordered to conduct a study between your directorate and the experts about carrying out a sudden attack (on Khumayni guards' bases within the saboteurs' headquarters of the Barzani clan's first branch) by special ammunitions and referring to any of the next methods: Air force, army aviation, and artillery... kindly take the necessary action and inform us. Also, it was mentioned in the correspondence issued by Presidency of the Republic/ Secretary number 7/C 2/877/ K, on 1987 March 19, signed by the accused secretary (Hamid Yusif Hammadi) and addressed to the general military intelligence directorate headed by him.



The President

(844-963)



In the Name of God the Most Merciful, the Most Compassionate

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## The Verdict

Top secret, personal and immediate/ Subject: the usage of special ammunitions

We bring to your attention the clause (2-A-B) of your correspondence number1/U3/S2/6414, on 1987 March 18, which had been approved on the two suggestions mentioned in it, to take the necessary action.

Also, the correspondence issued by Presidency of the Republic/ Secretary number 953/965/ K, on 1987 March 29, signed by convict (Hamid Yusif Hammadi), addressed to General Military Intelligence Directorate.

Top secret, personal and immediate/ Subject: the usage of special ammunitions

In reference to your correspondence number U3/S2/6885, on 1987 March 25, it was approved to carry out the attack under the condition of exploiting the result..., as the target is not limited to damages against saboteurs ...

It is worth referring that the correspondence number (6885), on 1987 March 25, had been issued by the aforementioned convict within the above presidency correspondence, titled – Usage of the special ammunitions- including the following:

(The convict suggested goals and study of available chemical weapons' abilities, suggesting as well that Balisan Basin area (Balisan, Tutma, Khati, and Shaykh Wasan villages) and Qara Dagb Basin area (Takya, Balak Jar, and Siwsinan) are important for the Iranian agents and the enemies, and its size affects the internal security of northern area. In addition, these targets are far from the deployment zone of Iraqi army, rendering them more suitable than any others.

The report also recommended starting the attack in mid April in order to give enough time for producing more chemical weapons, and the replay was as it was mentioned in the above correspondence (it was approved to carry out the attack...).

As stated in the aforementioned documents, the study and suggestions submitted by the convict are appearing clearly that he was provoked and encouraged by regime's president for the possibility of using chemical weapons...



The President

(845-963)





In the Name of God the Most Merciful, the Most Compassionate

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## The Verdict

- Special ammunition- and approval to strike by any of the following means [Air force, military aviation and artillery] against Kurdish national groups within the borders of the geographical province of (Kurdistan, definitely proves the criminal act or purpose of the regime to eradicate the Kurdish nationals totally or partially, the convict encouragement was only to strengthen this criminal act. The Genocide crime against Kurdish citizens as a result of strikes using special weapons was proven before court through the following victims' testimonies:

### Plaintiff ([NAME REDACTED])

Age: Born in 1932      Profession: Disabled

Address: Jalmur village, Aghjalar Sub district, Chamchamal

Under oath, he stated:

On 1995 May 05, citizens of (Gup Tapa) moved to our village due to attacks on their village. We were afraid the attack will veer to our village, so we ran to (Bay Rasha) valley which is located between (Jalmurd) and (chuqbaja) villages and hid for three days. On the fourth day we found that we were surrounded by the Army from three different directions as they bombed the valley, started pulling us out of the shelters, forcing us to walk in lines towards (Jalmud) village. Once in our village, we found it completely destroyed. Afterwards, they drove us, by vehicles type ZIL, to (Taq Taq) area where we were detained in a poultry farm as men had been segregated from women, and youth from elders. The youth were taken to (Tupzawa). When we reached there, they segregated us another time into three groups: elders, women and youth; since then their fate [his family] remains unknown. We stayed there for three days and then were moved to (Nuqrat Al-Salman) prison Camp where conditions were horrible. We were tortured by the so-called (Hajjaj) as three of us used to die everyday...



The President

(846-963)



In the Name of God the Most Merciful, the Most Compassionate

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## The Verdict

...due to famine and lack of water; and then I was released. The names of victims from my family who died during Anfal operations are: My wife ([NAME REDACTED]), my kids ([NAME REDACTED]), and my brothers ([NAME REDACTED]) along with their wives and kids, as well as my cousins who went missing during Anfal Operations. I am demanding accusation against (Saddam Hussein), ('Ali Hasan Al-Majid), their lieutenants and (Hajjaj).

### Plaintiff ([NAME REDACTED])

Age: Born in 1935      Profession: Farmer

Address: Qasruk village, Aghjalar, Chamchamal

Under oath, he stated:

I am a resident of (Qasruk) village in (Aghjalar) district. On 1988 May 05, we witnessed smoke rising from the sides of our village as a result of the bombardment, so we took our families and went to (Khalkhalan) mountain. After two nights, we moved to (Sumaqa) mountain and then to (Kibnik) valley where the army surrounded and captured us. We were detained in a poultry farm in (Taq Taq). In the afternoon, they transferred us to (Tupzawa) prison camp where they segregated us into three groups: youth, women and children, and elders. I saw two men tied together who told me that youngsters are tied and taken to anonymous place wearing only their under wears. I spent two nights in (Tupzawa) prison camp, and since then, I have not seen or heard about any member of my family, their fate remains unknown to me until this day. My family members are: my wife ([NAME REDACTED]) my children [NAME REDACTED] along with three of her kids), as well as my brother's family ([NAME REDACTED]). After spending two nights in (Tupzawa), we were taken to (Nuqrat Al-Salman) camp, where we were suffering from famine, polluted water, and mistreatment. I stayed at (Nuqrat Al-Salman) for five months where there were death cases



The President

(847-963)



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## The Verdict

... And, as I was told by one of the detainees, the number of people who died was (770) detainees. I am providing the court with a list of (194) individuals who disappeared during Anfal operations. I am demanding accusation against (Saddam Hussein), ('Ali Hasan Al-Majid) and their lieutenants.

### **Plaintiff** ([NAME REDACTED])

Age: Born in 1936      Profession: Laborer  
Address: Takya Kaka Mid, Aghjalar district, Chamchamal

Under oath, he stated:

I am a resident of (Juglija) village in Chamchamal. On May 1988, the Iraqi army attacked our village from 3 axes, where they started burning the villages of (Qasruk, Kujna, and Hunjilijcha). Three days after, the troops attacked (Hunjilicha) village destroyed it by bulldozers. They also arrested citizens and transferred them to (Taq Taq), then they attacked (Bayusha) valley where I was hiding with my wife who gave birth a day before the attacks, they found me with my family, I was so frightened that the army would kill me and my family. But they took us back to our village (Juglija) where the village was destroyed, they took us by the military bulldozers to (Krukhba) village, then they transferred us to the System in (Taq Taq) where we stayed for one night, after that they took us to (Tupzawa) and we stayed there for (3) days. We then were taken to (Nuqrat Al- Salman) camp where the conditions were very bad; my wife died from starvation along with my (20-25) days old child, My brother ([NAME REDACTED]) and I were went to the surnamed (Hajjaj), and they beat us with cables, and then I was released. I am raising a complaint against (Saddam), ('Ali Hasan Al-Majid), (Hajjaj) and the rest of the accused individuals in the cage.

### **Plaintiff** ([NAME REDACTED])



The President

(848-963)



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## The Verdict

Age: 1951 Profession: Housewife  
Address: Kurdistan Territory

Under oath, she stated:

In the fourth month of the year 1988, the Army surrounded our village (Mahmud Pariza) with the support of aircrafts. They gathered people from (Mahmud Pariza), (Zarda) villages and transported us to Corps Headquarters in (Chamchamal) by vehicles type ZIL. Then they transported us to (Tupzawa) camp, where we were treated badly, and segregating men from women. They took the children away for one night then returned some of them back. We stayed in this camp for one week, and then we were transferred to (Al-Dibs) camp, where we stayed for five months. During this period, a large number of children and women died from famine, thirst and ailments. My family members were (12) individuals, four of them [NAME REDACTED] were "Anfalized", my parents died in (Nuqrat Al-Salman) camp, as dogs ate their corpses, and I do not know the fate of other four individuals of my family. Then we were transferred to (Tikrit); after that, the general amnesty was issued, then we were transferred to ('Arbat) where we were released. When we were in (Al-Dibs) prison camp, officers use to take girls to their private rooms. I am demanding accusation against (Saddam Hussein), ('Ali Hasan Al-Majid) and those who contributed to the crime.

**Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (2)**

Under oath, he testified:

I am a resident of (Jalmurd) village in (Aghjalar) Sub district  
On 1988 May 05, we were informed that (Gup Tapa) village was chemically attacked as half of its residents were killed. That night we left the village to (Baba Bay Rasha) Valley, we saw a smoke coming out from there, and we stayed there for four days. After that, the army attacked us with all kinds of weapon, murdering two of us who were my nephews [NAME REDACTED] Hereafter, we moved back to our village (Jalmurd). Once we reached it, the soldiers went on destroying the village with bulldozers. They transferred us to (Taq Taq) area, then to (Tupzawa) in morning and then to ...

  
  
The President

(849-963)



In the Name of God the Most Merciful, the Most Compassionate

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## The Verdict

... (Nuqrat Al-Salman) camp, where we were divided over the halls and the conditions were very bad. The cholera and diarrhea spread between us and we were suffering from starvation, after that we returned to (Tupzawa) then to (Chamchamal) and finally they took us to (Al-Sulaymaniyyah). I provided the court with a list of my family members that were missing and also a list of the persons that were "Anfalized".

### Plaintiff [NAME REDACTED]

Age: Born in 1950    Profession: Farmer  
Address: 'Azban village

Under oath, he stated:

In the year of 1987, the Republican Guard Corps attacked our village as they were supported with tanks, shovels and military trucks. They destroyed our village; and that lasted from the morning till six o'clock in the evening; knowing that our village was not one of the prohibited zone's villages; it is located half hour driving from Al-Sulaymaniyyah governorate. There was no reason to attack us, except for being Kurds.

At eight o'clock in September 1987, I was in (Shar Bajir) village along with my two brothers [NAME REDACTED], when twenty Security detachments attacked this village, where we were arrested by the Security and the Emergencies forces; they plundered livestock in our village and brought trucks to transport it to Al-Sulaymaniyyah governorate. Then we were handed to Al-Sulaymaniyyah Emergency. When we entered the detention, there were sixteen persons from ('Arbat) village, in Al-Sulaymaniyyah; we stayed in the detention facility for three months, as we were extremely tortured. After that, a committee came from Baghdad and conducted investigations for three days, and that was only because we were Kurds. Then they cleared that they will read names of persons, whom were going to be released as included in the Presidential amnesty. There were one hundred twenty six detainees; they took only fifty-six detainees. Where my two brothers ([NAME REDACTED]) were kept in the detention, their fate remains unknown, and then I was released. Therefore, I am raising a complaint against ('Ali), whose alias is ('Ali Lut Masi) and....



The President

(850-963)



In the Name of God the Most Merciful, the Most Compassionate

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## The Verdict

('Uthman and Nuzad) I do not know their fathers' names, Major (Taha), (Saddam Hussein) and ('Ali Hasan Al-Majid).

### Plaintiff ([NAME REDACTED])

Age: Born in 1941      Profession: Housewife  
Address: Pira Magrun Compound

Under oath, she stated:

I am a citizen of (Sarmur) village. In 1988, we were attacked by chemical weapons; the artillery bombed the village at night and day. The army burned down our village, and made us walks to (Qamchugha) village, we were transported afterwards by military vehicles to (Susi) fort where we stayed for one night. And in the morning they transferred us to the Emergencies in (Al-Sulaymaniyyah), as we were sent back to (Dukhan) due to the vast number of prisoners. Twenty days after being released, they arrested us back and transferred us to (Al-Sulaymaniyyah) for fifteen days, to be moved later to (Tupzawa) where we stayed for one night; our condition was very bad. In the morning, we were transferred to (Nuqrat Al-Salman). I was with my husband [NAME REDACTED] sons [NAME REDACTED]), and mother-in-law ([NAME REDACTED]); my mother-in-law died due to famine as no enough food and water supplies were provided. All the aforementioned consequences led to the death of too many citizens. They even segregated women from men. When they informed us about the Amnesty, they transported us by buses to Al-Samawah, then Al-Sulaymaniyyah, and released us afterwards; we went back to Dukhan compound to find out that my whole family is missing. They segregated me away from my husband in (Tupzawa) and his fate is anonymous. My sons however were released. Therefore, I am demanding accusation against Saddam Hussein, 'Ali Hasan Al-Majid and all those who contributed, and this is my testimony

Another legal requirement to prove that the convict had perpetrated genocide by causing physical or mental damages is the provision of evidence of rape or sexual violence against Kurdish citizens; this evidence can be proved through testimonies submitted by the victims (plaintiffs). Among those plaintiffs is:



The President

(851-963)



In the Name of God the Most Merciful, the Most Compassionate

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## The Verdict

**Plaintiff** [NAME REDACTED]

Age: Born in 1953    Profession: Housewife  
Address: Kalar district, Al-Sulaymaniyyah

Under oath, she stated:

I am a resident of (Kani 'Ubayd) village, a part of Kalar district. On 1988 April, we were surrounded by the army, so we left the village and headed toward the mountains, using trucks, taking the main road intersecting (Tilaku) sub district and (Kalar) district. On our way, the military forces arrested us, while planes were hovering over. We were taken to (Tupzawa) where they segregated women from men and put us in halls for one night, and then we were transferred to (Al-Dibs) camp. Our village was composed of 40 families; fifteen of them did not return as their fates remained anonymous. We were moved to (Nuqrat Al-Salman) camp and stayed there for four months. One of my children died ([NAME REDACTED]) four years old; I have another one named ([NAME REDACTED]), he died on our way back after detention. One day, trucks brought water tankers to the detention facility, all the detainees who drank this water had diarrhea, cholera and started vomiting, the water tasted very bitter and poisonous, many people died, among them my son ([NAME REDACTED]), three of my children were effected and a women named ([NAME REDACTED]) died along with her son and many others. There was an officer named (Hajjaj) used to rape women and I use to see him taking a girl named ([NAME REDACTED]) to his room raping her constantly. There was a deaf woman that (Hajjaj) use to tie her hands to two corpses and placed her between them till late hours in the night, and then we had been released. I am raising a complaint against Saddam Hussein and his assistants.

**Plaintiff** ([NAME REDACTED])



The President

(852-963)



In the Name of God the Most Merciful, the Most Compassionate

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Age: Born in 1964      Profession: Housewife  
Address: Kifri County, Diyala

Under oath, she stated:

I was a resident in (Sikhah Karan), a part of (Kalar) county. On April 1988, our village was attacked, we were arrested by the army while we were heading towards (Mila Sura) village, and then transported by tractors to (Qura tu), then (Tupzawa) one night after. Men were segregated from women and aged women from young ones. Then we were transported to (Al-Dibis) camp where we spent three months. We were suffering from harsh conditions as many children died; we were then transported to (Nuqrat Al-Salman) camp where our condition was very bad. They brought a water tanker, and whoever drunk from it got swellings in the head and died right after it. The surnamed (Hajjaj) used to beat us by a cable, and one day he hit my mother causing her a heart disease. I saw him once taking a girl to his room and tying another one to dead bodies. Many prisoners died; among them was my aunt ([NAME REDACTED]). I will provide the court with a roster of 31 names of my relatives whose fates remain unknown. Then we were moved to (Al-Sumud) complex where my uncle picked me up. I am demanding accusation against Saddam Hussein, 'Ali Hasan Al-Majid, Officer (Hajjaj) and all who participated in Al-Anfal operations.

**Plaintiff** [NAME REDACTED]

Age: Born in 195      Profession: Housewife  
Address: Kurdistan territory

Under oath, she stated:

I am a resident of (Lik) valley village in (Sangaw) sub district, (Chamchamal) county. On 1988 April, I saw the army surrounding our village so we left to (Awa Spi) village and stayed there for four days then we went to (Sargalu) village where we stayed three days, then we got surrounded .....



The President

(853-963)





In the Name of God the Most Merciful, the Most Compassionate

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... and arrested by the army and taken to (Chamchamal) County administration then to (Tupzawa) camp. They separated elderly from youth and young girls from women and elderly. the soldiers treated us badly, then they took the men in vehicles to an unknown area and in the same day they transferred us to (Dibis) where we stayed six months. Diseases was all over the place, two of my kids died, ([NAME REDACTED] two years old and [NAME REDACTED]) five years old, they also took my son ([NAME REDACTED]) and till his fate remains unknown, and my husband disappeared ([NAME REDACTED]), his brothers ([NAME REDACTED]). And also they took my sister [NAME REDACTED]) with her husband and five children. I want to inform the court that in Dibis detention facility, they used to take the girls rape them and return them after midnight, and after that we were released in Chamchamal. I am raising a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and their assistants.

**Plaintiff "Protected" (TC: the name had been veiled for plaintiff's security), which had been given code No (2)**

Under oath, she stated:

At the end of April 1988, the Iraqi forces attacked our village, surrounded it and gathered the village citizens in one of the houses and burned all the houses, animals and birds. On the next day we were moved by military vehicles type ZIL (Soviet vehicles) to (Tupzawa). The army was arresting and transporting any Kurdish person they encounter. In (Tupzaw), men were separated from women, there they took my son, father, and mother; they still remain with an unknown fate. I stayed with my grandfather and grandmother who died in the detention facility. We were badly treated. One day, while we were standing in line waiting for the food, an officer named (Ja'far Al-Hillawi) tore the clothes of a pretty girl and asked for the presence ...



The President



(854-963)

In the Name of God the Most Merciful, the Most Compassionate

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... of her parents while he was raping her in a front of all of us, and shot her in the head after that, her corpse was taken to (Nuqrat Al-Salman) detention facility. We were treated very badly; they separated men from women and young women from elder ones. In (Nuqrat Al-Salman) detention facility I was in a hall with six other girls, ([NAME REDACTED]) from (Kirkuk), ([NAME REDACTED]) from ( Hawraman), ([NAME REDACTED]) from (Kuysinjaq) and there were guards and officers who used to enter the room and rape all the girls in the room and their names were (Hajjaj), (Shawki) and (Sakhr) who were (Hajjaj) guards. (Hajjaj) used to rape the girls in front of the other girls. He raped me and raped ([NAME REDACTED]), we shouted and resisted, and once I scratched his face with my nails so he hit me in the face and until now the marks of the wounds are still on my face and then we were moved to (Tupzawa) camp. I am raising a complaint against Saddam Hussein, suspects and the officers who raped us.

To prove the second crime element, when the person or persons belong to a national, ethnic or religious group as a legal issue with the multitude and durability of its proving elements; in the fact that the Kurdish are one known nationality, they live in a constant geographical province which is the Kurdistan Province in the North of Iraq. This group's individuals have a common legal or national tie and they share the same sect, worship rituals and religion; and they have special corporal genetic features, their special language and ancient history, common culture and traditions, special feasts and occasions. In addition to this, all the regimes that ruled Iraq recognized them as the second nationality after the Arab Nationality of the Iraqi residents and they are protected as stated in all the constitutions.



The President



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To prove the third crime element and if applied on the convict's action, is the existence of intention of the perpetrator (special intention) to destroy that national or ethnic or racial or religious group totally or partially. The evidence and facts against the accused (Sabir 'Abd-al-'Aziz Husayn Al-Duri) are available for the genocide crime by causing serious corporal or moral harm. The evaluation of the criminal intention in the genocide crime can be determined as it was fixed by the International Criminal Courts through conferences and among this: The number of victims, corporal harm, the use of offensive language to targeted individuals, the methodical way followed in the plans, the relative degree of the actual destruction, the repetition, compatibility and methodology of the attacking way; finally, it is uncharacteristic and impossible to commit a genocide without some indirect involvement of the State for the enormity of the crime. Moreover, the term: total or partial destruction, a great harm or an important part of the group, the-special intention- of the accused person is available in the documents that were presented before the Court by the General Prosecutor, and what we mentioned in proving the first crime element, was a part of the documents. The legal requirements for proving the special intention of the accused person can be realized just by examining the contents of those documents which were admitted by the indicted person, together with his signatures, to be true. The study and suggestions that the accused person instigated and encouraged on the possibility of using them against Kurdish nationalists, with his awareness that it is a lethal and an internationally prohibited weapon, is an obvious evidence of his criminal intention to destroy the Kurdish people totally or partially. The indicted intention to distinguish the Kurdish by naming them, as included in the mentioned documents, the traitors, treason agents, the agents or Iran's agents group. This distinction rose from the enmity and the hatred spirit, contempt and degradation. Moreover, the evidence of the existence of a plan or a policy on the State or national level to prove the genocide intention is the State facilitation of its material and human capabilities and making them under



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The order of the convict ('Ali Hasan al-Majid) and granting him all the permission of the Regime Head in Kurdistan Region according to the decree No 160 which was issued by the revolutionary Command Council on 29 March 1987, in order to execute the state policy and the ruling regime.

The convict (Sabir 'Abd-al-'Aziz Husayn Al-Duri) did not only specify the targets and the locations which were mostly safe villages inhabited by civilians as it is shown by most of the letters issued by the General Military Intelligence Directorate which was headed by him. And ordering the Air Force or the Army Aviation or the Tanks to attack the villages by (Special ammunition).

He was also interested to know the results of these attacks and their affect volume.

The letter Numbered (M1/U3/S2/10319) dated on 10 March 1987,

Your secret and personal correspondence (690) on 09 May 1987; kindly provide us with the Iranian saboteurs' locations which have been bombed, in order to document the effectiveness of our air attacks.

(The document footed with the convict's signature, and the correctness of the document and the signature has been proven).

Moreover, the convict was feeling sorry because the attacks with the special ammunition were not identical with his expectations and wishes.

In the paragraphs (D-E) of the paragraph (2) and also the paragraph (4) of the letter number (M1, U3, S2/19330) on 08 September 1987, this included his signature

Secret and personal (Immediate)/To the North Organizing Office/Subject: Information

2-(D) The immediate anti chemical procedures by the Pishmarga and the residents

(E) The existence of an Iranian Medical Delegation which is specialized in defending the chemical weapons was an element in reducing the affects of the attack



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The haste of Pishmarga and the residents in executing special instructions in defensive chemical measures stated in paragraph (2) of the mentioned document, means that there can be no doubt that the accused did not differentiate between fighters and civilians of local residency. The court could find no proof that indicates that the accused attempted to avoid targeting civilians within any of the released documents concerning him at the time of attack. Which indicates that he intended to either partially or completely annihilate the Kurdish ethnic race. This is another aspect to be added to the previous factors that the accused had intention to commit genocide.

Based on what documents, victim and witness testimonies, International expert reports and discovery reports all indicate that the accused pursued an obvious manner against the Kurdish ethnic race, for the continuous systematic series of attacks throughout the whole Anfal operation – eight – with the use of chemical weapons and all that followed such as executions, mass graves, demolishment of villages, forced eviction of residential civilians, detainment in camps, raping and sexual abuse of women, causing grievous bodily and mental harm to the victims of Kurdish ethnicity, which in itself is a form annihilation of the Kurdish race.

Based on this, the court finds that destructive attacks occurred in the Kurdistan province against only the Kurdish race without affecting other races. These attacks did not only target fighters of Kurdish ethnicity (Pishmarga) yet they also affected all village residential civilians, who were attacked with all kinds of weapons, among which the most destructive was – Chemical Weapons. They were subject to murder and those who survived, were captured and detained in special camps, produced in anticipation by the regime (Nazarki, Tupzawa, Al-Salamiyyah, Al-Hadar, Nuqrat among others). Some civilians were executed by firing a squad individually or in groups ...



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... And were buried in mass graves whether it be women children, elderly or young men. After the women were separated from the men they were subject to rape and sexual violence. Their villages were wiped from existence with all their property looted, they were also subjected to severe deprivation in form of medical, food and water, severe beatings and grievous physical and mental harm, which were crimes committed against them for being merely Kurdish.

In accordance to what was presented, proved to the court that convict (Sabir 'Abd-al-'Aziz Al-Duri) is guilty in committing murder and causing grievous physical and mental harm to Kurdish civilians, this crime is considered genocide in accordance with article No. (11/1<sup>st</sup>-2<sup>nd</sup>-E) and Article No (15/1<sup>st</sup>-2<sup>nd</sup>) of the Iraqi High Tribunal Law No (10) In 2005, and to define the penalty according to the Article No (412/1) in accordance with the collaboration articles No (47, 48, 49) of the amended Iraqi Penal Code No. (111) for the year 1969, in conclusion to Article No (24) of the Iraqi High Tribunal Law No (10) for the year 2005 and which was announced in public on 24<sup>th</sup> of June 2007.



The President  
Muhammad 'Uraybi Majid Al-Khalifah



Member



Member



Member



Member



(859-936)

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#### **The conviction decision of the accused (Sabir 'Abd-al-'Aziz Al-Duri) for the premeditated murdering as a crime against humanity**

The court accused the convict (Sabir 'Abd-al-'Aziz Al-Duri) in 2007 February 20 with several crimes including crime against humanity according to article (12/1<sup>st</sup> –A) and by virtue of the article (15/1<sup>st</sup>-2<sup>nd</sup>) of The Iraqi High Tribunal law no. 10 for the year 2005

#### **Crime Elements**

- 1 – When the perpetrator of the crime kills one or more persons.
- 2 – To utilize the act of murder as part of a wide scale systematic attack against civilian inhabitants or with intention to utilize this conduct as part of the attacks.
- 3 – When the perpetrator of the crime is aware that such conduct is part of a wide scale systematic attack against civilian inhabitants or with intention to utilize this conduct as part of the attacks.

The court was not only satisfied with available direct evidence that indicates that accused (Sabir 'Abd-al-'Aziz Al-Duri) killed one of the victims with his own hands during Anfal Operation.

But the court found that there was direct and non-direct evidence proving that the accused participated along with the rest of the convicts in intentional collaborated crime for committing several crimes such as the intentional killing, which considered a crime against humanity. In addition, his participation was premeditated with purpose to implement criminal activity in the Ba'th regime and within its divisions. He played a unique, extremely dangerous role in ordering such criminal crimes to be employed.

  
The President



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... jointly, a direct reason in causing those criminal consequences, acknowledging the intention to commit crimes by the former regime.

The court determined the abovementioned convict's responsibility through the legal requirements of the crime, and the elements of proof, relying on evidence enclosed in the case's file, both in investigation and trial, as follows:

The legal requirements to prove the crime's first basic, and the range of its match with the convict's action, occur when the perpetrator murders or causes the death of one or more people, as part of an attack.

This requirement's elements of proof are observed by the provision of evidence of premeditated murder by the convict. Such evidence is provided through dozens of correspondences and letters which were issued by the General Military Intelligence Directorate [GMID], headed by the convict, apart from being a member in the General Command of the Armed Forces, including all armed forces categories, land and air troops. The correspondence and letters instructed them to attack villages populated with civil inhabitants, identifying the [villages] and their geographic locations according to preserved maps within the directorate, and marking the attacks outcome on maps, considering the villages as liberalized. One of the documents, Ref No [M)1/(SATTS U)3/(S)2], dated 1987 March 17, headlined "Information", stipulated in its Clause [2], the following: "It was ascribed by Chief of Army Staff's correspondence [slip 2], that our directorate provided the air force and air defense commands with the whereabouts of Iranian agents ..." In Clause [6], of the same document, the following was mentioned: "The air force command replied in its correspondence [slip 6] with names and targets that had been hit in addition to the classification of ammunition used for each target." It was clarified there were 17 required targets, though only 10 targets were hit with conventional weapons. However, they indicated in their correspondence [slip 4] that all targets had been hit..." On the other hand, the document numbered...

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... [(U/S R)/707], dated 1987 May 12, signed by Staff Lieutenant Colonel - Director of the Third Directorate in GMID, included the following:

To/ GMID

Subject/ Handling Iran's agents' headquarters

In reference to your secret and confidential letter, holding Ref No [(M)1/( U)3/( S)2/10319], dated 1987 March 10, we enclose below the names and bracketing of Iranian agent locations which had been identified by your representative, Staff Lieutenant Colonel (Walid), and had been attacked [documented with the dates]. The type of ammunition used for each target is also included.

Targets hit with conventional ammunitions:

(A) Hawara Barza 1283, on 1987 May 04 to-(W) - 865605, and 1987 May 07. These targets included 16 villages as per the document appended by escaped convict's, Air vice Marshal Hasan Khidir Al-Hajj Ahmad, Aero-Deployment' director at the time, as well as document [(SU) 3/ (S) 3/1598], dated 1987 July 30. The latter included the following:

To/ GMID (U) 3

Subject/ removing villages

Attached is a list of 14 villages vanished within our system's sector...

Through reviewing the gathered documents, which we quoted the above-mentioned document from, as an example rather than exclusive, the court finds that the attack was systematic and large scaled including dozens of populated villages. As a consequence of the aforementioned attack, the violent actions, which vary in nature and gravity, increased as crimes perpetrated. The documents also prove the former regime's civil and military authorities' direct involvement, as well as, the known fixed policy of targeting Kurdish nationality. Nothing is more significance than the issuance of Decree (160), on 1987 March 29, by State Command of the Ba'th Party, and Revolutionary Command Council, granting Convict ('Ali Hasan Al-Majid) – with his vicious tendency - the same authorities of Convict (Saddam Hussein), over the Kurdistan area.

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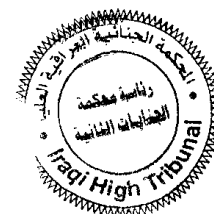
He was assigned to execute the Party and Revolutionary Command Council's policy, placing under his command all government civil, military, security and party systems, in addition to being given the jurisdiction of unlimited expenditure per Decree No (244) of the same year, exploiting huge amounts of money. Decree No (4008), dated 1987 June 20, issued by Convict ('Ali Hasan Al-Majid), stipulated the following:

- 2- All villages, which are still a den for saboteurs, Iranian agents, sons of Treason and Treachery, and those alike, are to be considered prohibited zones.
- 3- The human and animal existence will be totally prohibited, as shooting fire will be unrestricted on any instructions.
- 4- Traveling in and out is banned as well as agronomy, agricultural or industrial investments, or livestock.
- 5- The corps will prepare special attacks, from time to time, by artillery, aircrafts, and helicopters, to kill as many of those residing in the prohibited zone, at all times [day or night].
- 6- Anyone arrested within the prohibited zone will be detained and investigated by security systems and then executed if his age range is between 15 and 70 year [included], after taking information from him.

The other legal requirement to prove of the second basic of the crime is when the attack is systematic and large scaled against civil inhabitants. This is achieved by the victim's civil condition of being in mass graves, such as (Ninawa 2), (Ninawa 9), and (Al-Muthanna 9), in addition to other mass graves spread out across the Kurdistan region, which had been explored and excavated by knowledgeable experts, supervised by the court in its decree adopted on 2006 November 08. International ...

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... Experts confirmed before the court, on 2006 November 28, 29, and 30, that the corpses within the graves belonged to Kurdish national's, from civil inhabitants who had been identified with personal IDs, and national Kurdish costume worn by women, children, and men, without forgetting what the victims' (plaintiffs) testified before the court. The victim (plaintiff) stated the following:

**Plaintiff/ [NAME REDACTED]**

**Date of birth: born in 1953      Profession: Gainer      Place of residence: Sikanyan Village.**

**He testified, under oath, the following:**

I have two brothers and two sisters living in (Sikanyan) village. They are [NAME REDACTED] and his wife [NAME REDACTED], and I had six kids ([NAME REDACTED]). My brother ([NAME REDACTED]) has two kids, and a wife ([NAME REDACTED]) who was pregnant. My widow sister ([NAME REDACTED]) has four children, all residing in the (Sikanyan) village. The Iraqi forces surrounded them so they escaped toward the Iranian-Iraqi border. After 20 days or almost one month, two people returned back from Iran to (Al-Sulaymaniyyah). I went to meet them asking about my family. They told me that, as per an amnesty decree issued by the Iraqi government, they got back to the country but were arrested in (Suni and Shini) - Iraqi villages. So, I went to the (Aghjalar) area, where a person confirmed to me their detainment and dislocation at (Chuwar Qurna). Hence, I went back to Raniya inquiring about their fate but knew that they were sent to (Irbil). After six months, elders came back from (Nuqrat Al-Salman) camp, including my uncle ([NAME REDACTED]) and his wife. They mentioned that they stayed in Irbil for one month, then were transferred to (Tupzawa) in (Kirkuk), where men had been segregated away from women, children and elders, so all news concerning them faded away. In 2004-2005, I was summoned by the investigation court in Al-Sulaymaniyyah, where they showed me six IDs belonging to ([NAME REDACTED]), his wife and four children. I recognized them and knew they were my family's...

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... They told me that they found them in the (Al-Hadar graveyard). I demanded Saddam Hussein, 'Ali Hasan Al-Majid and their henchmen, as well as those who participated and contributed, to be held accountable for their actions.

**Plaintiff:** [NAME REDACTED]

**Date of birth:** 1950

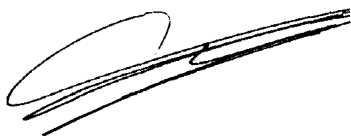
**Profession:** Farmer

**Place of residence:** 'Azaban Village.

**He testified, under oath, the following:**

In 1987, the Republican Guard's brigade launched an attack over our village, supported by tanks. They were equipped with bulldozers and Lorries military trucks. Our village was destroyed. The raids lasted from the morning until six in the evening. Our village was not within the prohibited zone and it was half an hour [by car] from Al-Sulaymaniyyah Governorate. The only reason behind the attack was because we are Kurdish. On 1987 September 08, 20 security squads, affiliated with the security forces, raided (Shar Bajir) village. I was with my brothers [NAME REDACTED] in the village, and we were arrested by security forces and emergency. Our village had been looted, confiscating the livestock, via cars, transporting them to Al-Sulaymaniyyah Governorate. We had been handed to Al-Sulaymaniyyah Emergency. When we got into custody, 16 people from 'Arbat – Al-Sulaymaniyyah were there. We stayed in the aforementioned prison for three months, where we had been exposed to harsh tortured, and then a committee from Baghdad came to interrogate us for three days, just because we were Kurds. They indicated that the names they will read are going to be released. The number of internees was (126). They only took (58) people saying that it was the president's noble deed. My brothers [NAME REDACTED] remained there, as I ignore their fate till now. As for me, I had been released later on. For that, I demand accusation against 'Ali, alias ('Ali Lut Masi), 'Uthman and Nawzad. I ignore their family names,, and Major (Taha), (Saddam Hussein) and ('Ali Hasan Al-Majid).

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**Plaintiff / [NAME REDACTED]**

**Age: born in 1961    Profession: housewife    Place of residence: Al-Sulaymaniyyah**  
**She testified, under oath, the following:**

I resides Gul Bakh – Qadir Karam sub district. In the fourth month of 1988, the army made an airdrop on (Imam Zanur) mountain, raiding our village with artillery, as the forces destroyed and burned down the village. We stayed there for three days, despite the army's existence, until the evening when we escaped toward (Qadir Karam). The army arrested the men. Our relatives moved us to (Haft Taghar) village, but my brothers were arrested, along with my husband ([NAME REDACTED]), cousins, and other relatives. All detainees' fates are anonymous, as we never saw them back again. I demand accusation against (Saddam), ('Ali Hasan Al-Majid) and their henchmen.

**(Protected) Plaintiff, which name is coded No (1)**

**She testified, under oath, the following:**

In 1988, my family left to (Mila Sur) village, then to Qura Tu camp. I stayed with my mother and villagers in (Kutal) mountain. One day, the military troops invaded our village accompanied with the tanks, and bulldozers. They burned down and destroyed the houses as, in the same day; the village was exposed to artillery strikes, causing martyrdom to [NAME REDACTED]. After the bombing, we returned to our village, where the military troops arrested and dislocated us to (Nawjul) area and then Tikrit, where we had been put in a hall for 5 days. After, we had been moved to (Nuqrat Al-Salman) camp, for seven months, where ailments [such as typhoid, measles, diarrhea, and face suppuration] spread all over. The halls were dirty, and people were dying due to that, including my mother's cousin [NAME REDACTED]

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... [NAME REDACTED]), and her sons who died in the same night, along with others that I cannot remember. There was a person called (Hajjaj), an officer in the prison, who was torturing us whenever he wanted, as he was torturing ([NAME REDACTED]) people in the prison. Then they transferred us to (Al-Samawah), then ('Arbat) area, where we had been released. Until nowadays, I still ignore my family's fate. I demand accusation against (Saddam Hussein), ('Ali Hasan Al-Majid) and the rest of the convicts.

**Plaintiff / [NAME REDACTED]**

**Age: born in 1967                      profession: employee                      place of residence: Duhuk/  
Kara bay subdivision  
He testified, under oath, the following:**

I resides (Kurimi) village. On 1988 August 25, we received information stating that the government will attack our village, so we escaped, along with our families, to the caves, and then toward the borders. There was zero chance to survive, because the army surrounded all main roads, so we returned back to the caves. On 1988 August 28, at 5 dawn, we knew that the army is encircling us from all sides, so we surrendered [to the army]. They took us to our village, at a distance of 100 meters, and transferred us in two groups; one containing men, and another constituted of elders, women and children. They dislocated us at (Mangish). We were almost (33) men in that group, so they drove us toward the lower part of the village, 200 meters far from our place, and there were two officers. They ordered us to stand up, and sit down, and then issued orders to soldiers to shoot us. I was in the middle of the raw, and after the shooting, I fell beneath the corpses. They received another order to shoot each one of us with one solemn bullet. The bullet hit my shoulder. As the soldiers left, I sneezed out from the corpses to sees my clothes perforated with many shots; none of them hit my body. I witnessed each of ([NAME REDACTED]), surviving the execution also. We all took refugee in the caves. The next day ...

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... national defense regiments moved us to Party Division's headquarter at (Mangish) where we heard about an amnesty. I saw families turning themselves over, with other families, to brigade's headquarter at (Batova). There, the aforementioned families had been segregated, as they took the four of us to Nazarki Fort in Duhuk. The situation was very bad regarding food and drink. We were moved by vehicles to (Bahirka), which was stretching over a desert area, where I saw my mother and father. Many children died in that place due to famine and ailment. In (1991), we returned to our village to find it destroyed, with no mosque standing. I submit to court a list of Anfalized names as I demand accusation against (Saddam Hussein), ('Ali Hasan Al-Majid) and everyone who participated in this crime, as well as against officers who carried the shooting on us.

• **Plaintiff "Protected" which had been given code No (2)**

**He testified, under oath, the following:**

I'm a resident of (Khidir Rayhan), which is affiliated to (Qadir Karam). On April (1988), military troops launched an attack against us via two axis. Loudspeakers were announcing an amnesty, so we decided to turn ourselves over to (Qadir Karam) police station. They bought military trucks ZIL and moved us to Chamchamal police station after blindfolding and handcuffing us. We stayed one night then moved us by buses to (Tupzawa) for two days. The detainees were between (500-1000) individuals. In the morning, they brought around (10 to 12) buses, put us in as the aforementioned buses veered to a sandy road. The whole area was sandy as we heard shovels operating and shot guns. We stopped in a desolated area; one of the guards took a detainee from the bus and blindfolded his eyes. He was lifting a Kalashnikov. The prisoners attacked the guard. Meanwhile, other guards showed and started shooting from outside the car. I saw...

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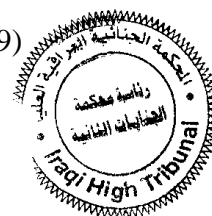
...my friends falling dead hit by bullets. I remember some of their names ('[NAME REDACTED]). Those were in the bus with me. I survived execution though I don't remember how. I reached the city and knocked houses' doors. They served me food and drink. Finally, I reached Kirkuk. I demand accusation against (Saddam Hussein), ('Ali Hasan Al-Majid) and all those who participated in the crime.

Concerning the other legal requirement in order to prove the third basic of the crime is that the perpetrator must be acknowledged that the conduct is part of a systematic large scaled attack against civil inhabitants or intend it to be. This is proved by the perpetrator's affiliation to forces which took part in the operations against victims as it was mentioned by convict's testimony, either in investigation or prosecution. "The basic task of GMID is to submit suggestions and refer correspondences which will be addresses to Ministry of Defense and Chief Army of Staff as well as submitting suggestions to General Command of Armed Forces and sometimes Presidency of the Republic. The role of GMID in Anfal operations was to provide intelligence information and suggestions relied on from our sources [Northern and Eastern military intelligence systems]". Another legal requirement to prove Convict (Sabir 'Abd-al-'Aziz Al-Duri) acknowledgement and purpose is that the followed conduct in Anfal operations was part of a systematic large scaled attack against civil inhabitants confirmed by permanent contacts between the perpetrator and the forces which carried the attack. The evidences obtained following the provision of that evidence are many including document number [(M)1/(U)3/(S)2/19880], dated 1987 September 08, marked as secret, confidential, and urgent, issued to North Organizing Office [which was commanded by Convict 'Ali Hasan Al-Majid], titled "Information", with a copy to Presidency of the Republic [secretary], General Command of Armed Forces, Ministry of Defense Diwan, Chief Army of Staff, as well as...

Chief of Investigative Judges



(963-869)





**In the Name of God All Merciful All Compassionate**

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... document numbered [(M)1/(U)3/(S)2/12703], dated 1987 June 10, marked as secret, confidential, and urgent, issued to Northern Organization Office, titled "Air Strike", with a copy to Presidency of the Republic [secretary], General Command of Armed Forces[General Secretary Office], Ministry of Defense Diwan, Chief Army of Staff, and Revolutionary Command Council – Northern Affairs Committee. Also we mention document numbered [(M)5/(U)3/(S)2/11325], dated 1988 June 10, marked as secret and confidential, issued to Army Chief of Staff, titled "5<sup>th</sup> Anfal operation", with a copy to Presidency of the Republic [secretary], Ministry of Defense Diwan, Northern Organization Office's Command, General Command of Armed Forces[General Secretary Office], and 5<sup>th</sup> Corps Command's Operation Headquarter. Another document is that holding Ref No [(M)1/(U)3/(S)2/10319], on 1987 March 10, marked as secret, urgent and confidential, addressed to Air Force and Air Defense Commands, titled "Headquarters of Iran's Agents", with a copy to Ministry of Defense Diwan and Chief of Army Staff. A third document is that holding Ref No [(M)1/(U)3/(S)2/10662], on 1987 May 14, marked as top secret and confidential, issued to Special Security System Director, titled "Special Ammunition", and document No [(M)1/(U)3/(S)2/11144], dated 1987 March 20, marked as secret and personal, issued to Army Chief of Staff, acknowledging that all documents are signed by Convict (Sabir 'Abd-al-'Aziz Al-Duri), who confessed those signatures' originality, both in investigation and prosecution. In addition, all the aforementioned documents contained suggestions and instructions directed to military establishments correlated to the regime which launched systematic large scaled attacks against civil inhabitants in villages after identifying the time and geographic location by GMID, headed at the time by the convict, as his statement included "I, as a General Director, represent the whole directorate, and these suggestions are those of the directorate, and I, as the highest in charge personnel in the directorate, approve these suggestions and...

Chief of Investigative Judge



(963-870)

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...if there was any objection, I take it into consideration, study it and then refer the issue to higher references, as my signature on any document means my approval".

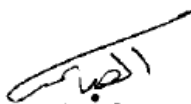
Even though the convict was the higher in charge personnel in GMID, as well as a member of Armed Force General Command, adding up his party's position and distinctive status as one of the eminent symbols of Ba'th regime, he did not exert any remarkable effort, as he did not prove to court that, with what he owns as power and information, he acted as to prevent or punish the crimes' perpetrators in Anfal operations. He did not forbid them from executing the crimes or asked president (Saddam Hussein) to refer them for investigation and prosecution, as this implies that the convict's intent was premeditated on contribution in implementing a joint criminal plan with other convicts taking over its criminal results, willingly and fully aware.

Accordingly, it had been proven to court that Convict (Sabir 'Abd-al-'Aziz Husayn Al-Duri) is guilty for committing murder considered as a crime against humanity as per article [12/First/(A)] by virtue of article [15/First-Second] of Iraqi High Tribunal Law number (10) for the year 2005, identifying the sentence as per article [406/1-( A-B-F)] by virtue of Clauses [47], [48] and [49] of Iraqi amended Penal Code No (111) for the year 1969, which was amended according to article (24) of Iraqi High Tribunal law for the year 2005 and was unanimously acknowledged on 2007 June 24.

Member



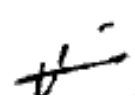
Member



Member



Member



(963-871)

**Chief of Investigative Judges**  
**Muhammad 'Iraybi Majid Al-Khalifah**



**In the Name of God All Merciful All Compassionate**

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**Convict (Sabir 'Abd-al-'Aziz Al-Duri) Bill of Indictment as for war crime for raiding civilians**

On 2007 February 20, the court charged Convict (Sabir 'Abd-al-'Aziz Al-Duri) for war crime represented by attacking civilians relying on article [13/fourth/(A)] by virtue of article [15/first-second] of Iraqi High Tribunal Law number (10) for the year 2005.

**The Crime's Elements**

- 1- The crime perpetrator must direct an attack.
- 2- The target of the attack must be civil residents, by attribution, or civil individuals not directly involved in war operations.
- 3- The crime perpetrator must intend to make the attack's target civil residents or civil individuals not directly involved in war operations
- 4- The conduct must be applied within an armed dispute of national trait or correlated to it.
- 5- The perpetrator of the crime must acknowledge the factual circumstances that prove the existence of armed conflict.

After examining the lawsuit file and the correlated evidences, the tribunal found that convict (Sabir 'Abd-al-'Aziz Al-Duri) participated with other suspects in a joint criminal intent to perpetrate actions considered as severe violations for international codes and customs duly applicable on national Armed conflicts, including the convict and other suspects premeditation, following a joint criminal plan, targeting attacks against civil citizens, by attribution, or against individuals not directly involved in ...

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...war operations, in a purpose to reinforce the former regime's criminal actions or purpose against civil residents from Kurdish nationality in war operations titled Anfal, with the convict's acknowledgment of Ba'th regime's intent to perpetrate this crime.

The court identified aforementioned convict's responsibility through legal requirements of crime's basics as well as its elements of proof, relying on evidences provisioned in the case's file, both through investigation and prosecution, as follow:

The legal requirements needed to prove the crime basics and how much it corresponds with the perpetrator's act to be able to prosecute him are: **First**, the crime perpetrator must carry an attack; the purpose of the attack must be civil residents or civil individuals not directly involved in war operations. The elements of proof [pertaining to the two requirements] are the evidence that the victims' general view indicates that they are not military individuals. As for proving that casualties [both dead and wounded] was limited to civil inhabitants, this had been confirmed via facts and proofs submitted to court, as it was mentioned in victims' (plaintiffs) testimonies, including victim:

**Plaintiff [NAME REDACTED]**

**Date of birth: 1965      Profession: Gainer      Address: Al-Sulaymaniyyah**

**He testified, under oath, the following:**

In 1987, I was residing (Sikanyan) village, in Shaykh Bakh, and one day, at 08:00 nighttime, 500-600 bombs stroke our village. The attack came from (Siwa), as the sound of the bombs was low and smelly. Citizens started escaping to hills. Another region, located between (Sikanyan) and (Sargalu), was also bombed. We came back the next morning to inquire what happened. The city was whitish so we knew that it had been bombed by chemical weapons. Even oak trees turned white in color.

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(963-873)



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- Plaintiff / [NAME REDACTED]
- Date of birth: 1965      Profession: laborer      Address: Al-Sulaymaniyyah

Under oath statement; he stated:

I'm a resident of (Sargalu) village, which was consisting of five hundred families, busy with farming and the attack was continued on the village by artillery, aircrafts, and launchers. On one day, at night, two aircraft flew over our village and killed eight residents. In 1988, before Anfal operations, one day the aircrafts killed three individuals, they were: ([NAME REDACTED]) and his two children [NAME REDACTED] and in that while Anfal operations started in February of the same year. The military forces gathered in the area where the army gathered in Al-Sulmaniyyah and headed toward (Dukan) from four directions and attacked for twenty days, the villagers couldn't stay in their villages and headed toward Iran, with them was my relatives and my brother ([NAME REDACTED]), his wife [NAME REDACTED]) and his children. The Iraqi forces destroyed the villages and captured the properties and looted everything. Then the families returned from Iran and from them eight families of my relatives and after they were released they returned to (Suni) village, got arrested and transported to (Chuwar Qarna) by (Eva) vehicles, then to (Irbil) where they put them in jail. Regarding me, I stayed in (Al-Sulaymaniyyah) and in one day, a detainee told me that he saw my relatives in the same detention for six months, then they moves some of them to (Nuqrat Al-Salman), then my cousin ([NAME REDACTED]) and her husband returned to (Al-Sulmaniyyah) after the release, they told me that their child ([NAME REDACTED]) died in (Nuqrat Al-Salman) from hunger, then his body was transferred outside the hall, buried in a little hole, the detainees were observing the burial form the window and seeing a dog trying dig out the corpse from the tomb.

The Presiding Judge

(963-874)



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...I get a complaint against (Saddam Hussein), ('Ali Hasan Al-Majid) and against everyone inside the cage.

**Plaintiff / [NAME REDACTED]**

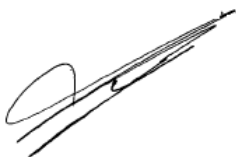
**Year of Birth / 1949**

**Occupation: Farmer**

**Residency: Sidar Village, Bingird Sub District**

**After taking an oath, he reported the following:**

My village is (Sidar), in 1988, the Iraqi regime attacked suddenly our village from two sides, the first side was from (Qara Sard) village toward (Dulamazala), and the second side was from (Bingird Dukan) toward (Dari Sandiran), then the battles between the Iraqi Military Forces and the Pishmarga Forces began. However, my village was not prohibited but it was shelled severely while the children and women were weeping, after that, the military forces entered the village, whereas many people were trying to runaway, for me I escaped from the village and my son [NAME REDACTED] followed me while he left his mother and brothers behind him. As well as, we hid ourselves in a cave over mountains because of the severe shelling. Additionally, I watched by binocular the military forces when they gathered the women and children by force in the mosque square, then they transferred them by the military vehicles. In addition, before my eyes there were bulldozers destroyed the village and I watched trucks moved my family while I was faraway 1 km from them, after that, I left to Iran in (Bana) village and the Imam of that village's mosque accommodated me for six months. Then, after the amnesty was issued, I surrendered to Dukan Organization of the Ba'th Party, at that time; I visited my mother when she came back from (Nuqrat Al-Salman) and I asked her about my family member's fates who are eight individuals (my wife '[NAME REDACTED]' and my sons ([NAME REDACTED])). Moreover, my mother told me that when we were moved from (Sidar) to (Raniya), we stayed...



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... (10) Days, then they moved us to the prison in (Irbil) and we stayed there (40) days, then to (Tupzawa) in Kirkuk, and they separated men away from women. After that, they sent us to (Nuqrat Al-Salman) where (10) individuals were dying daily because of starving and they were buried in the sand while the dogs were excavating and eating the bodies. However, my mother met my children while they returned to (Tupzawa) but the security and soldiers there prevented them to see each other, then my mother and my uncle were released and I know nothing about my family's fate until now. At that time, I was a military and I met (Saddam Hussein), then I asked him for releasing my family then he said, "Quiet, don't talk about that, they were missing in action during Al-Anfal operations and get out of here".

I was a soldier in the army and I stayed until the 1990 War, and then I returned to (Pira Magrun) compound. On the other hand, the civil status IDs were presented by Al-Sulaymaniyyah Investigation Court that told me the court found these IDs in a mass grave in Al-Hadar, since I found out that are related to my wife ([NAME REDACTED]) and my son ([NAME REDACTED]). In accordance with the aforementioned I have a complaint against (Saddam Hussein), ('Ali Hasan Al-Majid) and against everyone inside the cage, and this is my statement.

**Plaintiff / [NAME REDACTED]**

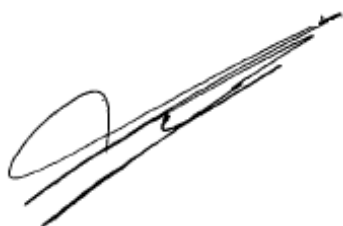
**Year of Birth: 1960**

**Occupation: Retired**

**Residency: Al-Sulaymaniyyah Governorate**

**After taking an oath, he reported the following:**

At the end of December in 1987, an extend attack started with using all kinds of weapons, and that stayed until 1988 March 16. We arrived (Shanakhshi) village dated 1988 March 20 where we found it destroyed and no one is there, but at the early morning in 1988 March 22, the aircrafts were flit over the areas of (Mawat, Qaywan, Dashti, Akri, Bardi Qashan,) and shelled those areas by chemical weapons. At the same day in the afternoon



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...the aircrafts invaded our areas, and shelled the surrounded areas by the chemical weapons, and then the aircrafts moved toward the other side that our forces headquarter is located. While I tried to reach that location, I saw dead bodies of children, women and old men were dead because of the chemical attack, in addition to corpses were scattered and I didn't know their names. Additionally, when I arrived to Pishmarga Headquarter, burning started showing on my body, my eyes turned red and after one hour I vomited, after two months, my friends told me that I was in (Al-Imam Al-Khomeini) Hospital in (Asfahan) where (90) individuals were at that hospital, in addition, they told me that (20) individuals of them died. However, I left the hospital at the end of 1988, and the doctors there told me that a part of my lung was damaged because of chemical weapons effects. In accordance with the aforementioned, I complain against (Saddam Hussein), ('Ali Hasan) and against everyone contributed in Anfal Operations.

**Plaintiff / [NAME REDACTED]**

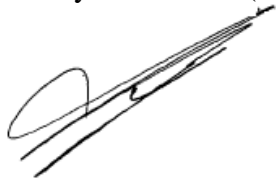
**Year of Birth: 1951**

**Occupation: Farmer**

**Residency: Pira Magrun**

**After taking an oath, he reported the following:**

In 1988, and one day the military forces attacked (Qalam Pasha) Village and the attack endured for three days, while we residing in (Qirnaqa) village, we escaped to the mountains fearing of the shelling, however, our village was bombed by chemical weapons and I have saw three dead individuals are ([NAME REDACTED]). Then we went to (Guma Zal) village, and when they arrived there, we found that the inhabitants of eight villages arrived there which are (Qirnaqa, Sargalu, Bargalu, Qalam Basha, Sidar, Dula Bi, Sikanyan, Umar Qawm and Chalawa), then we moved toward (Shanakhsi) village where we were attacked by the chemical weapons by the Iraqi Aircrafts. After that, we moved toward (Sadasht) village and we stayed there for (12) days, and after...



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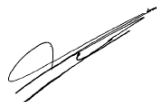
**The Verdict**

... The amnesty was issued, we moved toward (Suni) village, at the same time, the Iraqi Army was existing there and their treatment was inhuman, because they were beating people and picking them up by military vehicles Type (ZIL). In addition to, confiscating our belongings, then they took us to (Chuwar Qurna) Division, after that to (Irbil) and finally to the security department where we stayed there for one day with no food, then they took us to a camp is located between (Musil) and (Irbil), and there they separated men away from women. As well as, in the camp I have seen many headscarves drenched with blood, while my wife ([NAME REDACTED]) and my son ([NAME REDACTED]). However, my cousin [NAME REDACTED] asked me about my wife's and my son's fates who was born in the prison, but he died and buried by someone in one of the graveyards. In accordance with that, I complain against (Saddam Hussein), ('Ali Hasan Al-Majid) and against everyone contributed with them.

**\* Plaintiff: (protected), and she has the code number (4)**

**After taking an oath, he reported the following:**

I am from (Mahmud Pariza) Village, and we are farmers and we were not affiliated to any party. In April of the 1988, we were informed that the army would come to our village; therefore, we escaped from our village toward the near level lands, while we left our children in (Mahmud Pariza) village and (Zarda) village along with the villagers there. After we returned to our villages, we found that the houses were destroyed and our children were disappeared. After that, the army moved us by the military vehicles type (ZIL) where our children were taken to the brigade headquarters in (Chamchamal). Moreover, they moved us to (Tupzawa) and after four days, they separated men from women, at that time, my daughter ([NAME REDACTED]) died because of a severe disease, in addition to my brother's son ([NAME REDACTED]) who died too. Furthermore, we stayed in the halls for six months, then we were moved to ('Arbat) area, after that to (Chamchamal) where we were released, as for my husband who became insane and semi paralyzed for the reason that he was detained in (Nuqrat Al-Salman). However, I lost my daughter when we were in (Dibs) prison, in addition to, my son ([NAME REDACTED]) who was separated in the prison of...



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... (Dibs) camp, and then to mass graves. My other son ([NAME REDACTED]) was detained while grazing the sheep with my brother ([NAME REDACTED]) and brother-in-law ([NAME REDACTED]). Their fates are still anonymous. I demand accusation against (Saddam Hussein), ('Ali Hasan Al-Majid), his lieutenants, and all those proved as contributors in Al Anfal operations.

Another legal requirement is to prove that the crime perpetrator did not differentiate between civilians and fighters; this requirement was proven via documents, which were submitted to court by the General Prosecution Commission. These documents are as follow:

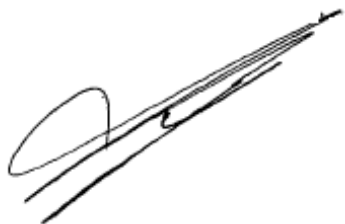
1- Document number [(M)5/ (U) 3/ (S)2/ 11325], dated 1988 June 10, marked as secret and confidential, issued to Chief of Army Staff, titled "5<sup>th</sup> Al-Anfal Operation" number (5), which included: On 1988 May 24, our troops started carrying out Fifth Anfal Operation by striking and destroying sabotage groups' headquarters and bases, within 5<sup>th</sup> Corps Sector [borders area next to 24<sup>th</sup> and 23<sup>rd</sup> Infantry Divisions, in the latitude of villages outskirts at (Qal'at Diza) basin]. Clause (5) included "the casualties of sabotage groups counted, until 1988 June 08, was as follows [it is the minimum casualties]:

(A) (58) dead, (72) wounded from saboteurs, their families and villagers due to special strike  
Clause (7) of the same document mentioned:

(B) (42) dead and a number of wounded due to our troops activities.

This document was signed by Convict (Sabir 'Abd-al-'Aziz Al-Duri) who confessed its originality.

2- Document number [(M)1/ (U) 3/ (S)2/703], dated 1988 June 10, marked as secret, confidential and urgent, issued to Northern Organization Office, titled "Air Strike"



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As Clause (2) mentioned the following, "the aforementioned air strike was very effective (especially on communists saboteurs' headquarter)], since the casualties of Al-Barzani group and communists saboteurs who existed within the aforementioned area, reached 31 dead including northern sector in charge personnel [for communist saboteurs], as well as 100 different injuries". Moreover; the document was signed by convict (Sabir 'Abd-al-'Aziz Al-Duri) as he admitted that.

3- The document numbered [(M)5/ (U) 3/ (S)2/9540], dated 1988 May 12, marked as secret and confidential, issued to Chief of the Army Staff, titled " Anfal operation outcome". In reference to our confidential and secret letter numbered (0982), dated 1988 April 8, regarding Anfal operation. (4), the following is the outcome of Anfal operation which started 1988 February 26 until 1988 May 10:

1- Casualties of sabotage group:

It concentrated on casualties within Iran's agents henchmen [without the other sabotage groups], whereas the operations were executed within Al-Sulmaniyyah governorate borders in which agents are highly operating. The total of saboteurs' casualties was estimated at 1200 between dead and wounded (including casualties resulted from special strikes), added to it (1150) saboteurs between returnee to the national side, arrested or surrendered to troops, consequently they lost around (2350) saboteur. The document is signed by Convict (Sabir 'Abd-al-Aziz Al-Duri) as he admitted this.

4- As it has been mentioned in telegram, marked as secret and confidential, holding originator's number [(U) 3/ (S)2/4122], dated 1988 March 1, issued by Eastern Intelligence System, directed to Intelligence Directorate (Section 3) "most of saboteurs' families in Dari Chafti (X.M), near Kani Tu, kindly be acknowledge about the result of our aircrafts striking over Iran agents' main headquarters, using special ammunition, as...



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... 100 to 120 were injured, between dead and wounded from saboteurs and inhabitants that reside in these places". Another legal requirement for proofing the crime basics is that the conduct be issued in national armed conflict context or correlated to it. The verification element for this requirement is an existence of an evidence of an armed conflict expanded between the government authorities and the organized groups. The rebellious side should have an armed organized force and a responsible authority vis-à-vis their acts committed in a particular place or time within a military conflict context. By this definition, the case is not just an internal quarrel, but it approved before the court, from submitted evidences and witnesses' testimonies that the armed conflict between regime's authorities and armed organizations in Kurdistan region (1987-1988) highly exceeded the case of considering it as internal quarrel. The rebellious side has organized armed force, armed militia named Pishmarga, which received orders from its commands. Additionally; the government of Ba'th regime recognized the rebellions as warriors with command. As example, Clause (4) of document numbered [(M)5/ (U) 3/ (S)2/9540], dated 1988 May 12, marked as secret, urgent and confidential, addressed to Chief of the Army Staff, titled "the results of Anfal operation" included the following "the pressure on sabotages groups most probably will lead to an approach between those commands". After Anfal operation, near the end of 1988 May, a representative from the sabotage group met with Iran agents, Al-Barzani clan, Kurdistan Socialist Party, Democratic Republic Party, and Kurdish Socialist Party. A representative on behalf of the Communist Party attended the meeting and agreed on following the clauses known as (Kurdistan Front) already announced on 1987 July, as they discussed in the meeting, the possibility of centralizing their offices [financial, information, military], in order to face the situation in



**Chief of Investigative judges**



**(881-963)**

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... in the present circumstances and possibilities of the next phase. Opinions were submitted, during the meeting, stating the uselessness of facing our troops and to withdraw in these operations, adopting sabotage acts in small cells. The document was signed by Convict (Sabir 'Abd-al-'Aziz Al-Duri) who admitted its originality before court.

Another legal requirement is when the crime perpetrator knows of the factual circumstances which approve the existence of armed conflict. The element of proof of such evidence is elaborated through what had been submitted to court, from documents and other evidences as well as victims' testimonies which are enough evidences to confirm such legal requirement. Convict (Sabir 'Abd-al-'Aziz Al-Duri) premeditatedly caused, through a joint criminal plan, the launch of attacks against civil inhabitants, by attribution, or against civil individuals who are not directly involved in war operations through the Anfal.

**Accordingly, the court confirmed that Convict (Sabir 'Abd-al-'Aziz Al-Duri) is guilty for premeditated murder as a crime of war according to article [13 \ fourth \ (A)] by virtue of article [15 \ first – second] of Iraqi High Tribunal Law numbered 10 for the year 2005, as the sentence had been identified as per article [406 \ 1 – (A – B – W)] from the Iraqi amended Penal Code number 111 for the year 1969 according to article 24 of Iraqi High Tribunal Law number 10 for the year 2005.**

**Chief of Investigative Judges**  
**Muhammad 'Iraybi Majid Al-Khalifah**

The block contains a large, stylized signature in black ink. To the right of the signature is a circular official seal. The seal has a double border. The outer border contains the text 'القضاء الجنائي العراقي' (Iraqi High Tribunal) at the top and 'Iraqi High Tribunal' at the bottom. The inner circle contains the text 'رئاسة محكمة' (President of the Court) and 'القضايا الجنائية' (Criminal Cases).

Member

Member

Member

Member

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**Date: 2007 June 24**

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**Convict (Sabir 'Abd-al-'Aziz Al-Duri) verdict for war crimes represented in destroying the enemy's properties or confiscating them:**

The court already charged Convict (Sabir 'Abd-al-'Aziz Al-Duri), on 20 February 2007, for committing many crimes such as war crimes represented by destroying the enemy's properties or confiscating them as per Article [13 \ fourth – (L)] by virtue of Article [15 \ first – second] of Iraqi High Tribunal Law number 10 for the year 2005.

After inspecting the case's file and provisioned evidences, the court found that Convict (Sabir 'Abd-al-'Aziz Al-Duri) participated, with others convicts, in a joint criminal intent to perpetrate acts which are considered as severe violations of international codes and customs duly applicable over national armed disputes including war crimes represented in destroying the hostile side's properties, stipulated in Article [13 \ fourth – (L)] of the aforementioned code, aiming to reinforce the former regime's criminal activity and purpose, being aware of the convict's intent to perpetrate this crime on behalf of the Ba'th regime.

The court has been able to define the responsibility of the convict through legal requirements of the crime's basics as well as its elements of proof, relying on evidences provisioned in the case's file, in both investigation and prosecution.

**Elements of the crime**

- 1- When the perpetrator destroys particular properties or confiscates them
- 2- The aforementioned properties must be owned by a hostile side.
- 3- These properties must be included in the protection against destruction or confiscation as per International Law for armed conflicts. .



(883 –963)

Chief of Investigative Judges

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- 4- The perpetrator must be aware of the factual circumstances of the crime which prove the attribution of such properties.
- 5- There should not be a military necessity to destroy the properties or confiscate them
- 6- The conduct must be issued within a national armed dispute or must be correlated to it.
- 7- The perpetrator must be aware of the factual circumstances of the crime which prove the existence of an armed conflict.

The protection in view of International customs and codes is not confined on people but stretch over to include properties as long as these properties are far from being military targets. Hence, no allegation justifies being destroyed or confiscated as long as they [properties] preserve their attribution. Yes, they lose protection if their nature, location, or purpose of use showed to contribute effectively to the military output, provisioned that the partial or total destruction, confiscation or annul of their roles became a must imposed by war necessities then these properties turn to be legitimate military targets.

As doubt is removed by evidence, when there are doubts over a given building, whether protected or not, the advantage goes to the first presumption [Kurditch and Cherkiz-appeal verdict, International Tribunal on 17 December 2004, Article 53].

Destroying or confiscating the properties occur as a result of attack meaning any action accompanied by hostile military operations during armed conflicts as well as when this attack lead to destruction or confiscation of properties on condition that the attack is premeditated, as it is the role of the court to prove that the convict, while committing his action, was expressing his intention directly to destroy those properties or confiscate them.



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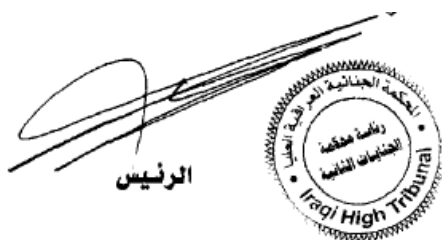
**The Verdict**

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But if it was possible to recognize the properties obviously as religious or educational establishments which were not used for military purposes, during military operations occurrence, hence their destruction or confiscation by hostile armed forces is considered as premeditated conditioned that the aforementioned establishments are not located at the vicinity of military targets.

**The legal requirements to prove crime's elements and its accordance as well as the convict's action, they are:**

**First:** the convict [perpetrator] must destroy or confiscate particular properties. The elements or proof are an evidence of lighting fire in the properties, deforming the properties, or cause damages. All is provided via submitted evidences to court as it occurred in Clause [4] of document number (1122), on 21 August 1988, marked as secret, urgent and confidential, issued to 1<sup>st</sup> and 5<sup>th</sup> corps' commanders, titled "Instructions" including "the present chance to destroy sabotage in Northern region is convenient and will not be available in the future whether we reached peace with the enemy or not there must be a massive destruction of sabotage in Northern region..." A copy of the document was sent to GMID which was headed by Convict (Sabir 'Abd-al-'Aziz Al-Duri), and signed by fugitive Convict (Nazar 'Abd-al-Karim Al-Khazraji), Chief of Army Staff at that time. Document holding Ref No [(T A C) \ 40 \ 1182], on 28 August 1988, marked as top secret and confidential, issued to 1<sup>st</sup> and 5<sup>th</sup> corps' commands, titled "Instructions", including " General Commander of Armed Forces' deputy, Minister of Defense has mentioned briefly by the plans of Anfal operations which are carried within your sectors:



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**1-** Elimination of all villages and houses within one village since it had been noticed that one or more house was left [from previous cleansing operations] in each village. Army aviation will be entrusted to observe that. A copy was send to General Command of Armed Forces Secretary which the convict was one of its members. The document is signed by Convict (Nazar 'Abd-al-Karim Al-Khazraji), Chief of Army Staff at the time. The court has noticed that the date of the two documents is 28 August 1988, confirming with no place for doubts, that Anfal operations varied on after the cease-fire between Iraq and Iran according to Resolution (589) issued by U.N. Security Council, dated 8 August 1988, contrary to what convicts had claimed. Telegram number (11365), on 28 June 1988, sent from Northern Intelligence System to GMID [(U) 3] including the following:

- Kuysinjaq at (07:00) on 21 June: An arranged force under the command of the second forces consisted of a tanks and armors company, and a commandos company of the 1<sup>st</sup> Corps locations, the 6<sup>th</sup> arranged company and the fighters from the following regiments (*T.C National Defense Regiments*) (regiment 90, regiment 43, regiment 62, regiment 85, regiment 135, regiment 162, regiment 215, regiment 241 and regiment 138 National defense) in addition to a group of Muhammad Sadiq Shuwani fighters (new formation) with a task to destroy and eliminate the Kurdish villages (0) 1 (0) Kani Lila (5769) (0) 2 (0) Amurkand (5347) (0) 3 (0) Si Girdkan (5069) (0) 4 (0) Sikani (4669) (0) 5 (0) Shaytan Rahman (4466) (0) 6 (0) Qasir (4569) (0) 7 (0) Aw Mal (4168) (0) 8 (0) Barda Sisi (4428) (0) 9 (0) Mirga (4478) (0) 10 (0) Banilkar (4376) (0), the abovementioned forces burn two villages Barda Sisi and Mirga and other scattered houses in Shalkha valley and capturing vehicle land cruiser type Toyota with 2 motorbikes.



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.....Another legal requirement to prove elements of the crime is that those properties must be included with protection from destroying or seizing according to the international pact concerning the armed conflict. The elements of proving this requirement is that there must be a proof that these properties weren't used in aggressive purposes.

The collected evidences in the prosecution file which satisfied the Tribunal when it reviewed them, it found that the seized and destroyed properties by the accused in cooperation with others weren't definitely used for any aggressive purposes (from its nature and locations) and vacant from any (Pishmarga) fighters and its people didn't participate in any direct or indirect military activity. Therefore, these properties considered as properties that must be included with protection according to the international pact relates to the armed conflict, that was proved after the court listened to the testimonies of many plaintiffs, some of them:

**Plaintiff / [NAME REDACTED]**

**Date of Birth: 1961**

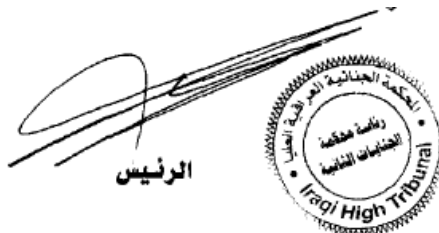
**Profession: Housewife**

**Address: Al-Sulaymaniyyah**

**He gave his statement after being sworn:**

I belong to (Gul Bakh) village related to (Qadir Karam) Sub-District, in April 1988 Iraqi army were dropped on (Imam Zanur) mountain then shelled our village by artillery and destroyed the village. We stayed in the village though the army stayed there till the evening. we stayed in the village then escaped to (Qadir Karam) where the Iraqi army captured the men, our relatives transferred us to (Haft Taghar) village, my brothers with my husband ([NAME REDACTED]) as well as others of my relatives were detained to unknown destiny, I complain against (Saddam Hussein), ('Ali Hasan Al-Majid) and who supported them.

• **Plaintiff (protected) given the sign number (4)**



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### She testified under oath by the following:

I'm living in (Sartika) village at beginning of autumn 1988, we left the village after the shelling by mortars and aircrafts then we directed to Irbil where we stayed 8 – 10 days, my husband returned to the village he found it totally destroyed by the bulldozers, he told us that we lost everything, our farms damaged, the inhabitants of (Kuri) village told us that after 3 days my husband ([NAME REDACTED]) was arrested in the village by the army, , since that time I didn't get any information about his destiny, I complain against (Saddam Hussein), ('Ali Hasan Al-Majid) and their supporters.

**Plaintiff / [NAME REDACTED]**

**Date of Birth: 1922**

**Profession: farmer**

**Address: Dar Barula village**

**He testified under oath by the following:**

I belong to (Dar Barula) people worked as farmers, at harvest time 1987, we went to the Ba'th Party Organization to get harvest permission, in the morning of 03 September 1987 the emergency forces broke into our village then we were surrounded by these forces which burnt the village and exploded the electricity station in the village while we were outside the houses, then they gathered the livestock and took it, after that we were led to the emergency center in Al-Sulaymaniyyah then to the security directorate then returned us to the emergency center where we stayed detained for 4 months and subjected to many investigations, one night they took 9 of the detainees [NAME REDACTED] I don't know their full names as well as 2 persons from (Kalar) inhabitants; I don't know their names taken to behind the jail wall to shoot them there, we were informed by some of the guards that those two persons were captured in the security prohibited region and according to the decision issued by ('Ali Hasan Al-Majid)



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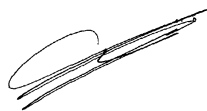
... they executed them after that I was released. I complain against Saddam Hussein and 'Ali Hasan Al-Majid and this is my testimony.

**Plaintiff** / [NAME REDACTED]

**Age:** born in 1965      **Profession:** Self-employee      **Place of Residence:** Al-Sulaymaniyyah

**She stated the following after taking the legal oath:**

I am a resident of Sargalu village and the families were 500 families and they were working in agriculture, while the bombing on the village was continuing through artilleries, aircrafts and launchers. One day evening, two aircrafts flew over the village and killed eight people from our village. In year 1988 before starting Anfal operations, the aircrafts killed three individuals and they are ([NAME REDACTED]), in the meantime, Anfal campaign started in February and in the same year a huge military was built up in the area. The army concentrated at (Al-Sulaymaniyyah) toward (Dukan) in four directions, then the attack started and forces went forward and attacked the villages by chemical weapons. The attack continued for 20 days and the village inhabitants couldn't stay in their villages, so they went to Iran and my relatives were with them, also my brother [NAME REDACTED] and his wife [NAME REDACTED] as well as his kids were with them. The Iraqi forces destroyed the villages and seized the property, also looted everything. Then the families came back from Iran with eight other families of my relatives after issuing amnesty decision, they came back to (Suni) village and were captured and transferred by vehicles type IVA to (Chubar Qarna) village then to Irbil where they put them in jail. I stayed in Al-Sulaymaniyyah. One day one, some of the detained individuals told me that he saw my relatives in the same detention camp for six months, after that they transferred some of them to Nuqrat Al-Salman. My cousin [NAME REDACTED] and her husband came back to Al-Sulaymaniyyah after they were released and they told me that their child [NAME REDACTED] died in ...



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... (Nuqrat Al-Salman detention camp) because of starvation. His dead body was transferred outside the detention camp and buried in a small hole. The detained individuals were watching the place where he was buried through the window. They saw a dog taking out the child's body from the grave. Therefore, I complain against Saddam Hussein and 'Ali Hasan Al-Majid and all convicts in the cage.

**Plaintiff** / [NAME REDACTED]

**Born:** 1963    **Profession:** House Wife    **Place of Residence:** Chamchamal /Shurish/Al-Sulaymaniyyah

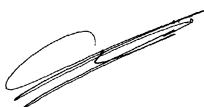
**She stated the following after taking the legal oath:**

I am a resident of (Qashqa) village, which belongs to (Qadir Karam) Sub District in Al-Sulaymaniyyah District. In the spring of 1988, the Army Forces bombed our village several times, and due to this bombing many residents of our village died such as ([NAME REDACTED]) and we women, children and aged, escaped from our village to (Qadir Karam) Sub District. And about the village youth, who are 105 individuals, they couldn't escape and I saw the army destroying our village. After the general amnesty was issued, the elderly went to the place where the youth were hiding and handed them over to the government authorities. The authorities transferred them via buses, and took them to unknown destination. And among them were 5 of my brothers ([NAME REDACTED]) also my stepson ([NAME REDACTED]) and some of my relatives. I complain against (Saddam Hussein) and (NAME REDACTED) and their henchmen.

**The Plaintiff** / ([NAME REDACTED])

**Born:** 1955    **Profession:** Self-employee  
**Place of residence:** Zandan Village/ Sangaw / Chamchamal County / Al-Sulaymaniyyah

**He stated the following after taking the legal oath:**



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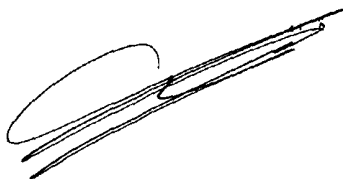
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I came back to Iraq on 24 Aug 1988, after my captivity by the Iranian forces. After I came back to Sulaymaniyyah, my uncle ([NAME REDACTED]) informed me that those areas became uninhabited and the military forces waged attacks on it and demolished their houses, arrested its inhabitants and imprisoned them in (Tupzawa). When I reached my village, I found it completely destroyed and didn't find my family. I inquired the Ba'th Party and District Administrator of (Chamchamal) District and submitted 3 petitions to the Presidential Diwan and they replied as per the official letter that my family disappeared during Anfal Operations in the year 1988. And I demand to file a complaint against (Saddam Hussein) and his aides.

- **Plaintiff / [NAME REDACTED]**  
**Age: Born in 1936      Profession: Laborer**  
**Residence: Takya Kaka Mad/ Aghjalar Sub District/ Chamchamal**

I am a resident of Chughlija Village belonging to Chamchamal. In the fifth month of the year 1988, the Iraqi forces attacked our village from three sides and the army burnt down the villages (Qasruk, Kujina and Chughlija) and after 3 days the troops attacked Chughlija village and demolished it by using bulldozers. They arrested the inhabitants and transferred them to (Taq Taq) and then they attacked (Bayusha) Valley. I went to hiding in a shelter there along with my wife, who gave birth the day before. They found us in the shelter and I was scared of being killed along with my family by the army. After that, they returned us to our village (Chughlija) and the village was destroyed. Then they carried us away with military shovels to (Kirukhapa) and later transferred us to a location in (Taq Taq) and we remained there for one night and after that they transferred us to (Tupzawa) and stayed there for 3 days. After that, they transferred us to (Nuqrat Al-Salman) prison and our condition there was bad. My wife died due to hunger and I went with my brother [NAME REDACTED] to.....



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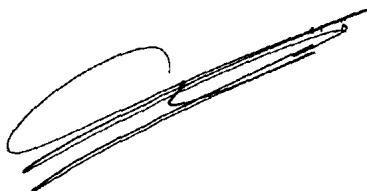
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... (Hajjaj), they hit us with cables and my child died due to starvation, his age was (20-25) days after that I was released. I complain against Saddam and 'Ali Hasan Al-Majid and rest of the convicts in the cage, also against (Hajjaj).

The other legal requirements to proof the elements of the crime and the extent of matching with the convict's acts and his participation in committing the crime by joining the other suspects, is that there is no military necessity to destroy the property or size it. The Elements of proofing this requirement is that war operations did not make destroying those properties or seizing them a necessity.

After listening to victims' testimonies and what had been submitted to the court, from documents by General Persecution Committee, after inspection and examination carried by court, acknowledging experts with expertise, according to its decision, on 2006 November 08. Hence, the court moved to the incident's site, where it framed a convincement that what convicts perpetrated by attacking hundreds of villages in different areas of Kurdistan, in North of Iraq, between 1987-1988, using numerous sorts of weapons and military classifications, destroying or confiscating properties in a way which contributes to the military activity insuring their partial or total annul of effectiveness as military target. It's only assured from the evidences the destruction of those properties, erasing them from existence as per scorched earth policy according to a joint criminal plan preplanned and in which contributed the convict and others. Among those evidences, the following documents through which, also, the court will be more certain about Sabir 'Abd-al-'Aziz Al-Duri awareness of factual circumstances as the forces, of the state to which he belongs, are participating in war operations against organized fighting forces inside the country. The convict ...



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... for the crime premeditated the destruction and confiscation of those properties, as their ownerships go back to the hostile side. All these are none but legal requirements to prove the criminal conduct of the perpetrator.

1. The document holding Ref No [(U)3/(S)3/ 1346], dated 1987 June 1,  
Secret and Confidential

To: General Military Intelligence Directorate [(U) 3]

Subject: Removing Villages

We enclose in this letter 3 rosters of villages that had been demolished within our system's sector and are 38 villages, dated on June 16 until June 30.

Kindly be acknowledged.

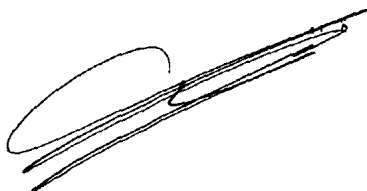
Attachments: 3 Rosters

The document was signed by fugitive convict Khalid Muhammad 'Abbas, director of Eastern Intelligence System.

2. Secret and Confidential, Originator Time: 2340, Issuing Date: 1987 May 23

To: The Intelligence [(U) 3]

Originator Ref No [(U)3/(S)3/ 9206, ]Qadir Karam, Laylan, Qal'at Shirwana, Halabja, Pinjwin 100000/1. Below is enclosed the demolished villages' status for May 23. (1) On May 17 an organized force from 79<sup>th</sup> and 46<sup>th</sup> National Defense Regiments, accompanied by Military Engineering, went to demolish Qara Chiwar (8493) and to explode and remove concrete buildings, mosque and school within the mentioned village. The forces came back, after accomplishing mission, with no losses. (2) An organized force of the abovementioned two regiments with military engineering went to demolish 'Alyawa village (8696) and destroy the concrete buildings of the village's mosque.



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... The forces returned after accomplishing the mission with no losses. The following villages had been demolished:

Sulaymana (6928) Miramar (7028) Ashkawtan (7326) Huzkawama (7426) and their inhabitants had been deported to Zarayan complex.

(4) The two villages Ghulam Kawa (4255) and Biya Rash (4249) had been demolished, as their inhabitants escaped before the military invasion and took refuge in Sayyid Mahmud village and Pibaz sub district (4452).

(5) The two villages Biwla (6932) and Barkh (7131).

(6) The village of Daskara (5807) had been demolished.

Kindly be acknowledged

The document was signed by fugitive convict Khalid Muhammad 'Abbas, who was the director of Eastern Intelligence System.

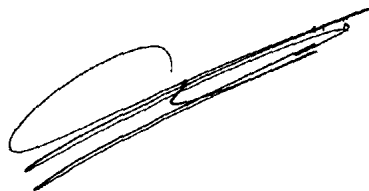
3. Secret and urgent, Originator's Time: 2120 hours, Date: June 4

To: The Intelligence [(U) 3]

Originator Ref No [(U) 3/ (S) 3/ 9922], Qal'at Shirwana, Halabja 1/ 100000, the dislocated and demolished villages' situation, within our system's sector, on June 1,

(1) At 10:00 hours, on May 31, the following villages had been demolished by tanks after settling in a safe place, as well as two Artilleries Batteries by the virtue of an air observation post. Kani Chalka (2748) Guma Zard (2750) Haji Qazi (2450) Upper Dumilan (2652) Middle Dumilan (2751) lower Dumilan (2650), all the aforementioned villages' inhabitants are estimated around 300 families, most of them joined the saboteurs'. At 16:00 hours of the same day, the forces came back without any accident.

(2) At 10:00 hours on June 1, the following villages had been demolished following the same aforementioned pattern: Dahanag Gawra (2855) Kani Zard (2457) Bawa (2453) Darakaran (2457) Zarin (2053) ...



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... Zarda Mahmud Qadir (2353), Tilaku Al-Sughra (small Tilkah) (2855) Faraj Waysa (1556), as the number of the abovementioned villages' families is estimated to be 96; most of them joined the saboteurs'. At 15:00 hours of the same day, the forces came back without any accident. (3) The following villages were demolished by Division 27 and its inhabitants had been dislocated to Zarayn residential compound without any accident. Chuwarta (5322), Kulus (7825). Kindly be acknowledged.

The document was signed by fugitive convict Khalid Muhammad 'Abbas, who was the director of Eastern Intelligence System.

4. The Document number [(U) 3/ (S) 3/ 2384], dated 1987 July 2,

Secret and Confidential

To: General Military Intelligence Directorate [(U) 3]

Subject: Demolishing Villages

We enclose one roster related to villages that were demolished, located within our system's sector, from 1987 July 15 until 1987 July 31, as they are nine villages. Kindly be acknowledged.

Attachments: One roster

The document was signed by Convict Farhan Mutlak Al-Juburi, who confessed the document's originality.

5. Document number [(M) 1/ (U) 3/ (S) 2/ 5940], dated 1987 March 11,

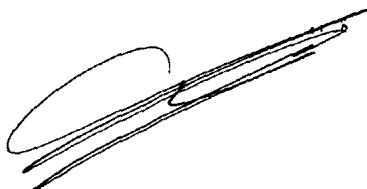
Top Secret and Confidential

To: Eastern Intelligence System

Subject: Demolishing Villages

Maps: Qadir Karam 1/ 100000

All villages affiliated to Qadir Karam sub district, which had been organized according to the attachment, must be demolished. Kindly be acknowledged and follow up the stages of dislocation, one by one and the reactions, then inform us.



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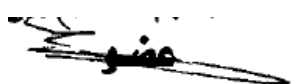
Attached: One roster

The document was signed by GMID deputy.

To instruct using chemical weapons (special munitions) via a suggestion from the convict as provisioned documents, submitted to court, indicate targeting areas populated with civilians, destroying their properties or confiscating them, without following precautionary measures to avoid civil inhabitants as well as their protected properties, pursuant to International Codes and Customs adopted in armed disputes, all the aforementioned is fair evidence to acknowledge the required criminal intent.

Accordingly, it had been proved to court that Convict Sabir 'Abd-al-'Aziz Husayn Al-Duri is guilty for committing war crime, which is presented in demolishing or seizing the enemy's properties, pursuant to article [13/ 4<sup>th</sup> – (SATTs L)] by virtue of article [15/ 1<sup>st</sup> – 2<sup>nd</sup>] of Iraqi High Tribunal Code number 10 for the year 2005, identifying the sentence pursuant to article [487/ 3] by virtue of contributory clauses [47], [48] and [49] of Iraqi amended Penal Code number 111 for the year 1969, by virtue of article [24] of Iraqi High Tribunal Code number 10 for the year 2005, unanimously acknowledged on 2007 June 24.

**Signatures of the tribunal's members**



**Member**



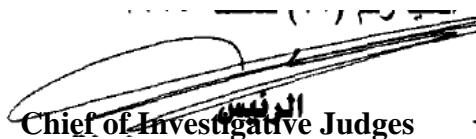
**Member**



**Member**



**Member**



**Chief of Investigative Judges  
Muhammad 'Iraybi Majid Al-Khalifah**

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**"The convict Farhan Mutlak Salih Al-Juburi"**

The convict was born in 1947 and held the following responsibilities:

1. The Northern Intelligence System Director, from 1985 until 1987 November 02.

**The charges against the convict according to indictment bill:**

The tribunal, with its wide assessment authority, is non applicable to legal stipulation which the investigative judge relied, in the referral note. The tribunal can change the legal description and attribute other traits for convicts' actions. In the 46<sup>th</sup> hearing, dated 2007 February 20, the tribunal incriminated the convict with the following charges:

**First: Genocide: article [11/ 1<sup>st</sup>]**

- A. Murdering individuals from the group
- B. Causing severe mental or physical damage in group's individuals
- C. Subdue the group under harsh living conditions, aiming to totally or partially eradicate the group as per article [15/ 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup>], of Iraqi High Tribunal Law number 10 for the year 2005.

**Second: Crimes against humanity: article [12/ 1<sup>st</sup>]**

- A. Premeditated murder
- B. Genocide
- C. Enslavement
- D. Relocation or coercive dislocation of inhabitants



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- E. Imprisonment or severe deprivation from physical freedom in a way which violates International Law basic regulations.
- F. Torture
- H. Oppressing any group or specific group of inhabitants for political, racial, national, ethnic, cultural, or religious purposes, gender or other reasons which are not legitimized by International Law, and that according to any specified act correlated with sexual violence on that level of danger.
- Y. Coerce harboring of individuals
- J. Other inhuman activities, with identical context which premeditatedly cause severe suffers or minimum danger tackling mental or physical health, or the body.

By virtue of article [15/ 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup>] of Iraqi High Tribunal Law number 10 for the year 2005.

Third: war crimes: article [13/ 4<sup>th</sup>]

- A. Premeditate attacks against civil inhabitants, by attribution, or against civil individuals who are not directly involved in war operations.
- D. Premeditate raids over buildings appropriated for religious, educational, technical, and scientific or charity purposes, against historical monuments, hospitals and wounded and patients' gathering centers, conditioned not to be military targets.
- E. Loot any village or place, even if it was coercively seized.
- H. Issuing commands to dislocate civil inhabitants for reasons that are related to dispute, unless this is for the security of the meant civilian or to urgent military reasons.

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L. Demolishing or seizing the hostile side's properties unless the act was a war necessity by virtue of article [15/ 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup>], of Iraqi High Tribunal Law number 10 for the year 2005.

Also, the murder using poison or explosives as stipulated in article [406/1-(B)] of Iraqi amended Penal Code number 111 for the year 1969.

**"Summary of Plaintiff's Testimonies"**

The former government, after issuing Revolutionary Command Council's Decree [160], for the year 1987, put a special policy and tried to impose it in Northern area, where the planning for such policy took place at Army Staff of Chief Office according to commands issued by higher authorities, to implement large scaled military operations as mentioned in convict Sultan Hashim Ahmad testimony.

Indeed, the Iraqi Army launched a systematic large scaled attack, within 8 stages, starting with the first Al Anfal operation and ending with the Closure (Eighth Al Anfal Operation). These operations included where these operations included wide areas of Kirkuk, Al-Sulaymaniyyah, Irbil and Duhuk Governorates. The army troops used all available weapons at that time to strike Kurdish villages such as Aircrafts, Helicopters, Heavy Artilleries, Multiple Rocket Launchers, Conventional Munitions and Special Munitions as it was confirmed to the tribunal through documents submitted and attached to the case's file. The tribunal listened to more than seventy five plaintiffs' (victims) testimonies, as most of them described the military operations led by former regime's military forces at the time, against their villages as well as mentioning the weapons that were used against them. In other words, they clarified to the court how these troops raided over ...

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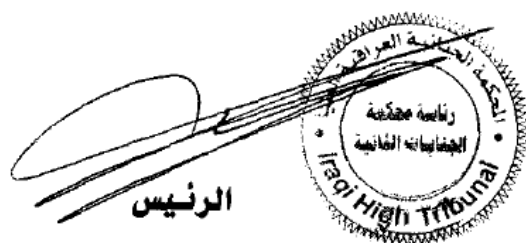
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... villages, demolished them and dislocating their inhabitants including elders, women and children. The plaintiffs demanded accusation against convicts Saddam Hussein, 'Ali Hasan Al-Majid and all those who participated in Anfal operations as they claimed compensations for the damages which occurred.

Their complaint against Convict Saddam Hussein was done because he was the Iraqi President at the time and Revolutionary Command Council higher commander, the one which issued Decree 160 for the year 1987, according to which the regime started adopting a special policy in Northern Iraq. On the other side, he was the Armed Forces General Commander, who issued all important military orders such as commencing Anfal campaigns and using chemical weapons against civilian inhabitants of the Kurdish villages.

The reason that plaintiffs demanded accusation against convict 'Ali Hasan Al-Majid was because he was the ultimate ruler in Northern Area, as confirmed in Decree 160, for the year 1987. The orders he issued for military, civil, security, party, and intelligence's systems were the main reason behind the crimes perpetrated such as genocide, crimes against humanity and the war crimes throughout Anfal operations. This is proved in letter number 4008, on 1988 June 20, which included direct orders from him, without forgetting that he was the higher in charge personnel regarding (Tupzawa, Dibs Nazarki Fort, Al-Salamiyyah) camps where men, women and children of Kurdish origin were detained as a national, ethnic or racial community, dislocating them in prison camps under harsh living conditions. Many elders, women or children died in detention due to those circumstances as well as harboring too many after murdering and burying them in mass graves, explored later on, which included hundreds of Kurdish victims' corpses. They demanded accusation and legal procedures against any one proved to be involved in Anfal campaigns.



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**Prosecution witnesses' Testimonies**

The court listened to witnesses' testimonies, as they confirmed what occurred in plaintiffs' testimonies, emphasizing that the Iraqi military troops carried out a systematic wide-scale attack, by campaigns known as Anfal campaigns, targeting the villages resided by thousands of civilians. The army started bombarding the villages, through artillery, aircrafts and helicopters. Also, the witnesses stated that the villages in which they were residing had been bombed by chemical weapons leading to thousands of villages' civil inhabitants wounded and dead. The army dislocated their families in prison camps, such as Tupzawa, Dibis, Al-Salamiyyah, and Nuqrat Al-Salman, wherein they suffered from torture, humiliation, food shortage, bad conditions and lack of medical care. A lot of them died in the detentions, the witness ([NAME REDACTED]) who is a doctor working with Pishmarga Forces, mentioned what he saw about the injury of many locals by chemical weapons, as he treated them himself in villages such as Balak Jar and Siwsinan and also Balkha, Takyia and Balak Jar which belongs to the region of Qara Dag.

**((Documents))**

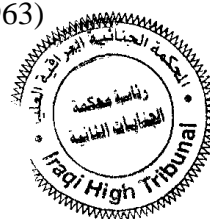
A large number of documents and files were provided to court, left by the former regime in the archives, proving that convict Mutlak Salih Al-Juburi, while participating with the other convicts, committed crimes against the Kurds, in Anfal Campaigns. Here, it is a must to elaborate with the documents which incriminate Convict Farhan Mutlak Salih.

The court reviewed the document, which was issued by Eastern Zone's Intelligence, number 384 on 1987 November 02, which includes a special list of destroyed villages within the sector ...

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... of Eastern System, between 15 October 1987 and 01 November 1987, and which includes nine villages, as this document is signed by Convict Farhan Mutlak Salih.

Also the court reviewed the telegram which was issued by Eastern Zone's Intelligence System of the, number 4122 dated 01 March 1988, which includes information on military operations accomplished in Anfal Campaigns.

Another telegram was issued by Eastern Zone's Intelligence System, number 13613 dated 06 August 1988, regarding special attacks conducted on Balisan area murdering a lot of inhabitants from (Saboteurs) families.

**The court reviewed** Eastern Zone's Intelligence System-Third Section report to the Director [of the section]:

1. The Comrade in charge of Northern Organization Office had approved the on field people's will against those whose names are enlisted below as per the approvals next to each name
2. A suggestion to carry the sentence against them on field, on Monday 01 August 1988

Also, the court reviewed Eastern Zone's Intelligence System's letter, number 1289, on 15 August 1988, regarding the sentence:

At 10:00 hours, on 01 August 1988, the criminals, who are the subjects of your secret and confidential letter No 2927, dated 20 June 1988, and two secret and urgent letters No 1596 or 1733 dated 18 or 21 July 1988, were executed by shooting till death.

This document is signed by Staff Brigadier General and Director of Eastern Zone's Intelligence System, Convict Farhan Mutlak Salih Al-Juburi. It is worth mentioning that the aforementioned documents definitely prove that...

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... there is a change followed in the army's policy, after issuing Decree 160, dated 1987, as that is what Convict Farhan Mutlak and Convict Sabir 'Abd-al-'Aziz Al-Duri confirmed. They stated before the court that the standard procedures followed in the army at that time, when any individual was arrested, was to investigate him by Intelligence Military Units and then send his investigation procs-verbal to the judge. After being sure of his legal stance, the internee will be handed to GMID and referred to appropriate courts. After issuing Decree 160 for the year 1987, these two documents as well as others are examples rather than exclusivity imposed a direct handling of internees on the spot as well as issuing sentences. In other word, the legal codes and customs adopted in military were annulled as suspects were punished on the spot [Execution] without giving them the right to have a fair trial.

The court reviewed the telegram; issued from Al-Tuz Intelligence Center to Eastern Intelligence System, number 1334, regarding demolishing (17) villages. The court reviewed as well the letter issued by Eastern Zone's Intelligence System, number 15055, dated 21 November 1988, which included:

1. Our center in Al-Tuz informed us about the detention of two families that took refuge in the area [Al-Tuz District] which is considered part of the prohibited zone, during the amnesty of Kurds.
2. The two families were sent from our center in Al-Tuz, to Al-Tuz Security adjutancy Directorate. This document is signed by Staff Colonel and Director of Eastern Intelligence System, who is none but Convict Farhan Mutlak Al-Juburi

This document is very important, because it provides evidences about the strong ties between Military Intelligence Systems in the Eastern Region, and its subsidiary Security Directorates. That was done in order to implement the governmental policy ...

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... at the time, represented by partially or totally eradicate the Kurds. Although families left prohibited zones which the regime forbid to be inhabited, and moved to villages not included in the ban, despite the declaration of amnesty, families were detained and sent to security directorates in order to be investigated and then to disappear like other thousands of families.

And also, the court reviewed the document issued by Eastern Zone Intelligence Center (*T.C: correction is Eastern Zone Intelligence System*), which enclosed a list of 18 destructed villages' names, outcome and changes, as well as dates of destruction. This document proves the policy which was followed by the former regime in Northern Area, on one side focusing on the demolishment of Kurdish villages, even if the date of the document is prior to the date of assigning convict Farhan Mutlak Al-Juburi as director of Eastern Zone System. Proof, the convict mentioned before court that during his chairmanship the same rules and regulations were adopted to handle such affairs.

Also the court reviewed document issued by Eastern Zone Intelligence System, number 1289, on 05 August 1988, to Northern Organization Office Command, regarding the execution of people at 10:00 hours, on 01 August 1988; the execution to be carried by shooting till death

...

**The convict (Farhan) testified** before court that Eastern Zone Intelligence System is one of the parties that carry field execution orders which will be executed by appropriate sides.

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**((Experts' Reports))**

The investigation court asked assistance from Iraqi High Tribunal to be supplied by a number of international experts, who have wide experiences in their fields. The latter accomplished their work under oath, supervised by court which summoned a number of them for testimony. Expert (Klayd Kulins Snow), testified before court, on 28 November 2006, that (he excavated mass graves at Kurimi village in Duhuk Governorate, and interred (27) corpses, who were executed by Army Forces. He also confirmed that all victims were in the position of sitting, which is identical to survivors' testimonies [from the execution operation] continuing that (84) gunshot injury, (10) in the head, (24) in the upper part of the chest, and (65) in the pelvis, were diagnosed. The minimal injuries occurred in the limbs, as victims were ordered to sit in front of the execution squads.

Then, Expert (Snow) moved to a small village called (Barjini) close to (Kurimi) village, which had been exposed to chemical strikes, back on 25 August 1988. An old man called [NAME REDACTED] and his grandson [NAME REDACTED], who was 5 years old, were killed due to a mistake they committed by escaping toward the valley bottom instead of climbing the hill. "We were guided to the grave, dug and opened it, to find an old man's skeleton and his grandson, with the clothes still on ... The expert also noticed many holes in texture of the Kurdish costumes caused by bombs' shrapnel". He took samples of soil and sent it to laboratories in the United States of America. The results showed Mustard and Sarin gases usage in this area...

The expert doctor (Isfandiyar Ahmad Shukri) had testified before court, on 29 November 2006, that he visited the refugees' camp in Turkey (Diyar Bakir), which consists of 13 thousands refugees and (Mardin) refugees' camp, which included 5000 refugees...

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The expert doctor said that all people he met are from (Balisan, Ikmala, Hibas and Barjini) Villages. They all confirmed being exposed to the following symptoms during the strikes:

- A- Eye Irritation
- B- Difficulties in Respiratory System
- C- Difficulties in Digestive System
- D- Burns and Irritations in Digestive System

That is in addition to his personal observations of infected bodies. As a conclusion, the expert (Doctor) concluded that large quantities of Mustard and Sarin gases were widely used in Kurdistan of Iraq.

The court also listened to Expert Michael Tremble, **and he testified** in court that he supervised the excavation of (3) mass graves, which are (Ninawa 2), (Ninawa 9) and (Muthanna 2), and he mentioned that when he explored the mass grave (Ninawa 2), 123 corpses were interred, all of them were executed. That mass grave included only children and women, wherein it was (25) women, and (98) children, and that 90% of the children were under (13) years old. The expert added that (64) individuals were interred from the mass graves of (Ninawa 9), where all victims were adults, executed by automatic weapon. Regarding the mass graves (Muthanna 2), the expert said that (114) persons were interred from it, including 27 adult women, (2) adult men and (85) children. He added that all victims were executed in the position of standing, and that also the interred victims from the mass graves (Ninawa 2), (Ninawa 9) and (Muthanna 2) were...

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...wearing the traditional Kurdish costume. Finally, he realized that all mass graves were prepared and organized in an orderly way.

**((Convicts testimonies against Convict Farhan Mutlak Al-Juburi))**

**1. Convict (Saddam Hussein Al-Majid):**

Convict (Saddam Hussein) refused to answer any question, and when the court registered the statement of the convicts, the convict Saddam Hussein was already executed after being incriminated for Al-Dujayl Massacre. The court wasn't capable to write down his testimony in such case.

**2. Convict ('Ali Hasan Al-Majid):**

Convict 'Ali Hasan Al-Majid did not mention any information in the court concerning Convict Farhan Mutlak.

And when the court asked him whether Eastern and Northern Zones' Intelligence Systems were commanded by him or by the GMID?

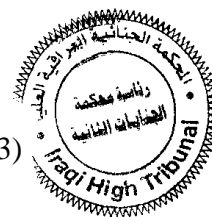
He answered: - These systems were under my authority, and they received orders from me, and the Intelligence Military Directorate has nothing to do with that. These two intelligence systems are considered as any other governmental departments in the Northern area, which are commanded by the North Organization Office.

**The court** asked Convict 'Ali Hasan Al-Majid: - Regarding the transfer of civilians, which party was responsible for transferring them to North Organization Office?

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He answered: in the beginning, the military was handing villagers over to GMID as they, in turn, passed them to security committees.

**Convict ('Ali Hasan Al-Majid) testified** to court (...) if the military found any person who did not join the saboteurs' cells but didn't leave to the camps as well, they will arrest him. The [Security] System receives him from the military and sends him to North Organization Office. The Intelligence System became part of the security committee.

**3- Convict (Husayn Rashid Muhammad Al-Tikriti):**

Convict (Husayn Rashid) did not mention anything about Convict Farhan Mutlak Salih Al-Juburi during the investigation, as well as prosecution, not referring to any information correlated to the latter.

**4- Convict (Sabir 'Abd-al-'Aziz Al-Duri):**

The testimony of Convict (Sabir 'Abd-al-'Aziz) before the investigative judge is (we received orders to notify Northern and Eastern Zone's Intelligence Systems to be affiliated to Convict 'Ali Hasan Al-Majid. Indeed, we followed the orders as the aforementioned systems became directly affiliated to the convict receiving orders from him).

**Also, Convict Sabir 'Abd-al-'Aziz testified** to court (Regarding Anfal campaigns, Northern and Eastern Zones' Intelligence Systems were directly in charge of those villages' families in areas included within Anfal as they were handing the aforementioned families and individuals to Northern Affair Committee's Secretary).

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Convict Sabir 'Abd-al-'Aziz Al-Duri also testified before investigative judge: (Farhan Mutlak Salih Al-Juburi was Northern Zone's Intelligence System director, as his system was in charge of receiving those families and handing them over to Northern Affairs Committee).

**A question** from court to Convict Sabir 'Abd-al-'Aziz: what was the role of Northern and Eastern Zones' Intelligence Systems during Anfal campaigns and who was in charge of the Eastern System?

**He answered back:** They had been separated from Intelligence and correlated to North Organization Office, according to Decree (160), dated on 29 March 1987. (Farhan Mutlak) was in charge of the Eastern System.

**5- Convict (Sultan Hashim Ahmad):**

Convict Sultan Hashim Ahmad testified before investigative judge, when being asked about families' fates, those dislocated from villages to Northern Organization Office that "my responsibility, concerning the issue, as well as that of units under my command, was limited to passing orders first, and then transfer families and children available within the area, by vehicles, to Intelligence System, to be moved from there to North Organization Office, according to orders issued by Convict 'Ali Hasan Al-Majid

When he was asked by investigative judge about the party in charge of those referrals [moving civil inhabitants],

**He answered:** They were under the military forces' responsibility, in coordination with Military Intelligence System and Northern Organization Office which was headed by 'Ali Hasan Al-Majid. The latter was directly responsible in handling those families.

**He mentioned in court, as well:** the procedures, which were followed before I was assigned as 1<sup>st</sup> Corps' commander, were to hand the families from the army to Intelligence System, which in turn send them to Northern Organization Office...

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...The procedures had been changed as families were first transferred to Northern Organization Office and then to Security Systems.

**6- Convict (Tahir Yusif Al-'Ani) testimony:**

Convict Tahir Tawfiq Al-'Ani did not mention, while testifying before investigative judge, any information related to Convict Farhan Mutlak Al-Juburi, as well as before court's commission.

**((Convict Farhan Mutlak Salih Al-Juburi testimony during investigation))**

The convict testified before court that he was working as director of Northern Zone's Intelligence System and his duty was to collect information on Syria, Turkey and part of Iran, besides operations which they called sabotage acts, carried out by Kurds.

"My headquarters was an authoritarian one, as I command ten intelligence centers located in different areas. The duties of those centers were to collect information according to their sources. I remained in this position as director of Northern System till 01 November 1987, when I became director of the Eastern Zone's Intelligence System. We were directly correlated to GMID. After Decree No 160, for the year 1987, was issued, the two aforementioned intelligence systems became commanded by Northern Organization Office as ('Ali Hasan Al-Majid) became commander of both systems. As a result, GMID issued an order to change the special procedure from referring suspects to the aforementioned directorate [GMID] to directly handing them to North Organization Office".

**He gave his testimony, while standing before investigative judge, that...** "No one dared to refuse an order issued by 'Ali Hasan Al-Majid.

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He denied, before the aforementioned judge, any responsibility as to dislocate or hand Kurdish families, stating "Our organization did not transfer or refer any Kurdish family; acknowledging that Chief of Army Staff's deployment orders stipulated handing families over to Northern Organization Office". He personally, rather than officially, added "I saw those families driven in military vehicles to people's army in Kirkuk, where they had been grouped as Northern Organization Office as the one in charge of defining their fates".

**((Convict (Farhan Mutlak Al-Juburi) testimony during prosecution))**

Convict Farhan Mutlak denied all crimes charged against him, in both investigation and prosecution phases', claiming that the System, to which he had been affiliated, was not involved in Anfal campaigns. He said that he was doing his job at that time, commanded by 'Ali Hasan Al-Majid as no one dares to refuse the latter orders...

**The convict testified in court** that the main task of Intelligence System, as it is in any international military intelligence all over the world, was to collect information about enemies or possible enemies and even friends, as precautions to any emergency, as well as results of military operations and strikes launched by armed against enemy's sectors...

**He also testified that** intelligence commissions, including Intelligence Systems, submit information to GMID which inspect main information as well as other sources...

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**The convict testified before court** that the destruction of villages and dislocation of residents were the responsibility of military troops, and Party and Administrative systems in governorates, districts and sub districts, while the intelligence did not get involved, from near or far, in demolishing villages and dislocating residents.

It is worth mentioning that the convict denied all charges, in details, requesting from court's commission to restore justice.

**Convict (Farhan Mutlak Al-Juburi) and his proxy Miqdad Sami Al-Juburi Summary of Defense**

My client (Farhan Mutlak Al-Juburi), who is standing before this court, is wondering why the investigative judge referred him to prosecution as he ignores what did he commit, in his life, to be incriminated upon, especially the claims of perpetrating crimes as per Articles [11], [12] and [13] according to Articles [15] and [406/1/(B)] of Iraqi Penal Code. He was well known for his ethics, as he explained the mechanism of intelligence operations, gathering information for GMID solemnly.

He elaborated a comparison between International Tribunal Law basic codes and Iraqi High Tribunal Law, asking the court to rely, while tackling Articles [11], [12], [13], on Article No [17], Clause No [2] of International Tribunal Law basic codes, while stipulating Article [40] of Iraqi Penal Code.

He disclaimed charges induced in the bill of indictment, through the following:

According to Decree No 160, dated 29 March 1987, all personnel working in military, party, administrative and security systems are commanded by Convict ('Ali Hasan Al-Majid), as Intelligence Systems became...

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.. correlated to Office [Northern Organization Office]. The convict has nothing to do with the series of correspondences, submitted to GMID, concerning eliminated villages. While the evidence relies in Northern Organization Office letter No (4008). The convict indicates many letters not holding his signature, as his professional rank will not allow him to be aware of Kirkuk operations, especially that dislocated individuals do not pass by his system, rather to security directorates. He presented the secret letter numbered 1/1/1131, dated on 10 May 1987, which is enclosed in the case's file under number [004587], regarding eliminated villages, where the date of convict's affiliation to the Eastern System. The latter does not have any relation with village's elimination according to the above-mentioned letter. He said: "the General Prosecutor presented (20) documents addressed to Oil Protection Command – Intelligence Department, as well as security directorates of Al-Sulaymaniyyah, Chamchamal and Al-Ta'mim. He mentioned the numbers and dates of the letters which confirm that I have nothing to do in turning over Kurdish residents". Letter number (2422), dated on 05 December 1988, enclosed to which was a list of 50 Kurdish names handed over to security directorates in governorates, districts and sub districts following Convict ('Ali Hasan Al-Majid) instructions, confirm that those aforementioned were not referred to the system. He adds to that, the two defense witnesses' testimonies, asking court to dismiss Witness (Walid Nayif) testimony, as he negated the Intelligence acknowledgement as he [the witness] did not receive any letter from the convict. He said: "The letter number (4008), dated on 20 June 1987, stated a specific deadline of maximum two days, until 22 June 1987, however the convict joined the Eastern System (6) months after the above mentioned date".

He said: "there are 70 witnesses who did not mention any correlation to Eastern System or convict with Anfal Campaigns. Moreover, no one of the Intelligence System's officers or affiliates was awarded".

"Intelligence System did not investigate detainees as the general prosecutor id include his allegations any evidence of such claim; the General Prosecutor mentioned letter number (1289), dated on 25 August 1988; the detainees, who had been arrested, had...

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...committed illegal actions not related to Anfal, as the followed procedures within the system were to conduct investigation, in such a case, and refer the arrested to System's headquarter and then Intelligence directorate. After Decree number (160), such laws and decisions were dismissed, concerning anyone arrested, as the Intelligence System received letter number [(M)1/(U)3/21389], dated 04 October 1987, stipulating:

"The segregation operation is the investigative judge's responsibility, deciding whom to be sent to Northern Organization Office and whom to send to GMID".

He said: "the convict was not assigned yet when a committee had been formed including representatives from Intelligence System, Northern Organization Office, Kirkuk military hospital security officer, and a doctor officer, to implement orders issued by Northern Organization Office General Secretary".

He wonder whether individual cases, interacted with Anfal, are taken into consideration as letter number (17183), dated on 25 October 1989, mentioned the annul of pervious instructions issued on behalf of Revolutionary Command Council's deputy, returning back to pervious procedures.

He mentioned (Walid Nayif) testimony saying that he had faced similar problems while dealing with convicts who had been incriminated by North Organization Office, as he called ('Abd-al-Rahman 'Aziz), Northern Affairs Committee's Secretary, inquiring this state and had been replied back by "execute before being executed". He added that the number of those referred to North System reached (18) convicts, which is the same number of convicts referred to the Eastern System during Anfal Campaigns.

He said: "the General Prosecution mentioned that executions were carried inside Intelligence System. Well, this is not true, because the Intelligence System was like a small house as the Quartet Committee was in charge of handing and referring them to Corps' Military Police Company, to be executed.

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He says, as well: "Regarding the convicts' attorneys with the personal right that claimed disseminating leaflets among Kurdish citizens, this is untrue as they lack evidence in their allegations. Such task is the duty of Political Guidance Directorate and the system has no aircrafts as its personnel are counted on the fingers of one hand.

He also says: "The convict's attorneys with the personal right claimed that the convict participated in planning chemical strikes as such issue is far from targeting the convict, due to the fact that such issue is from the specialty of appropriated directorates, adding up the lack or evidence over such allegations".

He additionally says: "No republican decree was issued to honor the convict and this is concrete evidence to dismiss charges against him and the system's affiliates".

He adds: "Nothing was proved, from submitted evidences before court, that the convict arrested inhabitants, handed and referred them, or had personally or ordered others, or assisted them, or offered help in eradicating and demolishing villages because such operations occurred before his arrival. No evidences had been found to prove his perpetration of any of the stipulated criminal acts. Accordingly, the defense plead innocence for his client as from charges attributed to him, requesting to be released as per article [182/(B)] of Iraqi Tribunal Trials Procedure Penal. In case of incrimination, we plead the court to commute the sentence as per Clause [5] of Article [15] of this court code because the convict is a military personnel who is subdued to obey military orders, with no right to object.

**Convict (Farhan Mutlak Salih Al-Juburi) Defense Witnesses' Summary of testimonies:**

**1- The Witness / [NAME REDACTED]**

**Born:** 1945      **Occupation:** Farmer

**Residing:** Al-Mawsil, Al-Qayyarah Sub District, 'Ajbah Village

**He testified, under oath, the following:**

أنا: فلاح  
مجنون ماني  
رئاسة محكمة  
الجنابات الخاصة  
الرئيس



(915-963)

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"My testimony regarding Convict (Farhan Mutlak Al-Juburi), we are from a Kurdish village, populated 70 years ago. We live with the family of (Farhan Mutlak Al-Juburi) and our Shaykh [tribal leader] [NAME REDACTED] died. We have good relation with the family of ([NAME REDACTED]). They attend our condolences and ceremonies as we attend back theirs'. And one time, the government decided to dislocate us. (Farhan) and Shaykh Al-Jubur intervene for Al-Mawsil governor and guaranteed us. Hence, the latter issued his orders not to dislocate us".

**And when the court questioned the witness,** do you have information about the role of (Farhan) in Anfal Operations?

He answered, "Sir, I see him once per year as I am a military person in (Al-Basrah) and he is an official in the north. I even don't know his rank at that time".

**2- Witness ((Protected)), coded with number (3), testified, under oath, the following:**

"I worked as personal driver for (Farhan Mutlak Al-Juburi), during his work as director of Eastern and Northern Zones Intelligence Systems. I would like to clarify before court that I did not accompany him in any execution, dislocation or Anfal Operation's case. His duty was not a military one, whereas the corps contains intelligence in addition to Party within the area. He works inside the directorate. In my opinion, he didn't commit any criminal act and I am responsible of my words, because I am under oath. I am pretty sure because I am his personal driver, always with him, as he never went our walking, always using the car. Sometimes, he even takes a tour in the city and goes back home.

**3- Witness (Protected), coded with number (4), testified, under oath, the following:**

"I was his personal escort during his work as director of the system, where I was with him in Northern System, in 1986. Then, I was transferred along with him to Eastern System, in the year 1987. At that time, the Eastern System consisted of more or less (20) privates and (7) officers, occupying a normal house with no...

أصبح من كبار المخابرات المنظمة  
الرئيس  
رئاسة محكمة  
الضمانات القانونية  
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... heavy weapons or tanks, rather (Kalashnikov) assault rifles. The system's work, as known, was to gather information. I didn't witness any Kurd or family who had been detained. (Farhan Mutlak) was a just person who did not discriminate between (Zayd and 'Ubayd). There was a prison in the directorate made of one room where soldiers who got absent or violate the laws were punished. I used to accompany him throughout the city and I did not know about prison camps or execution cases unless through my follow up of the court. The convict is from my tribe but not a cousin.

**Convict (Farhan Mutlak Salih) Role in Genocide:**

From the authentic documents in the case and testimony of convict (Farhan Mutlak Salih), as well as other convicts, the convict (Farhan) was director of Northern Intelligence System and then transferred to be director of the Eastern Intelligence System, effective from 02 November 1987. He occupied this position after September of the year 1988, which is the framed time within the case's context. There is no clear evidence against convict (Farhan Mutlak Salih), before 02 November 1987, despite being, prior to the aforementioned date, director of North Intelligence System. However, his duties in both positions were limited to survey over hostile and Kurdish villagers' activities, those who were coercively dislocated from their villages, and to provide sufficient information about targeted villages while supervising intelligence centers affiliated to him which provide him with information. He used to provide detailed information and reports on targeted villages, enemy's positions, number of forces, type of weapons, and results of chemical and conventional weapons' attacks over villages and Kurdish fighters (Pishmarga) identifying the points of strength and weakness. Probably, the North Intelligence System, which was headed by the convict, had no significant activities before the 8<sup>th</sup> Anfal Operation, within the convict's responsibility context. Convict (Farhan Mutlak Salih), when was assigned director of Eastern Intelligence System, he was...

العمامة قاتلتهم (9) قري تمت ازالته من  
الرئيس  
رئاسة محكمة  
الضمانات الثانية  
Iraqi High Tribunal

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In the Name of God All Merciful All Compassionate

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...in charge of sending Kurdish villagers to North Organization Office, supervising interrogations, executing detainees and notifying the convict ('Ali Hasan Al-Majid) about all details. Wherein, convicts (Sabir 'Abd-al-'Aziz), (Husayn Rashid) and (Sultan Hashim Ahmad) confirmed that Convict (Farhan Mutlak Salih) was in charge of transferring families including children, women and elders from their villages to the North Organization Office. In addition, the convict (Farhan Mutlak Salih) was also in charge of 9 intelligence centers which are (Al-Sulaymaniyyah, Chamchamal, Halabja, Darbandi Khan, Kalar, Tuz and Kuysinjaq)... In these areas, part of Anfal Operations took place, as convict (Farhan Mutlak Salih) was receiving information from intelligence officers existing in corps and forwarding the information to General Military Intelligence Directorate (The Convict Sabir 'Abd-al-'Aziz Al-Duri). But, after ('Ali Hasan Al-Majid) took responsibility of North Organization Office, he used to forward this information directly to ('Ali Hasan Al-Majid) sending copies to General Military Intelligence Directorate. For the purpose of specifying legal responsibility of convict (Farhan Mutlak Salih), it does not make a difference whether orders were referred to ('Ali Hasan Al-Majid) or General Military Intelligence Directorate when the goal is to accomplish one same objective. The tribunal did not find documents or evidences that confirm the forwarding of information regarding Kurdish fighters and civil inhabitants, to the General Military Intelligence Directorate, on behalf of convict (Farhan Mutlak Salih), when he was director of North Intelligence System. On the other hand, the provisioned evidences in the case show the involvement of convict (Farhan Mutlak Salih) in crimes committed from 02 Nov 1987 till the end of Anfal Operation in September 1988. Whereas, convict (Farhan Mutlak Salih) presented intelligence information and details of attacks via chemical and conventional weapons against Kurdish villages within the area he was in charge of before ultimate authorities, where it was mentioned in letter number (384), dated 02 November 1987, issued by convict (Farhan Mutlak Salih), to General Military Intelligence Directorate, a roster of (9) villages that had been demolished...

العمامة قاتل (9) قرية تمت ازالتها من  
الرئيس



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... from 1987 October 15 until 1987 October 31, and in the telegram No (4122), on 1988 March 01, which included information on locating Iranians in (Sargalu), and the possession of saboteurs (Pishmarga) of clothes and safety medications against chemical weapons. It was also mentioned in the aforementioned telegram, the number of fighters (Pishmarga) and villagers' victims due to special strikes.

The correspondence No1289, dated on 1988 August 05, which was issued by Eastern Zone Intelligence System, addressed to North Organization Office, included carrying field execution against (criminals), without trial. The convict (Farhan Mutlak Salih) confessed before court that these executions were performed according to convict ('Ali Hasan Al-Majid) orders without any trial.

#### **Convict (Farhan Mutlak Salih) bill of indictment conviction or responsibility:**

According to provisioned evidences in the case, the court is discussing whether convict (Farhan Mutlak Salih) has a criminal intention (personal intent) to partially or completely eradicate Kurdish nationals due to their nationality or ethnicity, as being Kurds.

The court finds that there are no direct evidences for criminal intentions (personal intent) against convict (Farhan Mutlak Salih) to incriminate him for genocide, as the intention will be concluded according to many factors including the nature and range of committed crimes, and the testimony of the convict concerning targeted mass actions. Through the aforementioned factors, the court finds that evidences are not enough to proof the intention of genocide. Moreover, though the convict (Farhan Mutlak Salih) was director of Eastern Zone Intelligence System, there is no evidence him attending highly classified meetings of Ba'th Party or General Command of Armed Forces, or statements and quotations which identify his intention of genocide.

The role of convict (Farhan Mutlak Salih) was limited to gather information and submit it to convict (Sabir 'Abd-a-l-'Aziz Al-Duri) through...

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... GMID, convict ('Ali Hasan Al-Majid), and others. There is no evidence that convict (Farhan Mutlak Salih) participated in the decision making. The court finds that the convict is not required to prove that he had no intention; rather it is the court's duty to determine if there are enough evidences to prove that (Farhan Mutlak Salih) had the personal intention.

Accordingly, the court finds that there are no enough evidences to prove the personal intention of convict (Farhan Mutlak Salih).

Therefore, there are other sorts of responsibility concerning genocide which do not require the provision of (personal intention), specifically help and encouragement, as per article [15/second-(C)]. The article [15/second-(C)] emphasizes on helping or encouragement, or any other method to help committing a crime, as a theory of criminal responsibility, making the convict legally responsible for the crime, as assistant or encourager, if he helped, while being fully aware, in committing the crime, as his assistance and encouragement were found to have major influence on the crime's perpetration.

The acts of convict (Farhan Mutlak Salih), contributed mainly in committing genocide, by helping in targeting and providing information after launching attacks, which facilitate and helped the continuation of the aforementioned attacks and murder, in addition to causing a huge mental and physical damage, by attacking with chemical weapons.

As it had been clarified through documents and official correspondence, convict (Farhan Mutlak Salih) had presented information concerning enemy's locations, and the effects of attacks over Kurdish villages in Northern Iraq. He also monitored the movements of families, submitted information regarding victims and injured by chemical weapons. Moreover, monitoring the enemy movements, and sequentially, he prepared information for General Military Intelligence Directorate to offer advise for Chief of Army Staff concerning accurate and effective targeting.

The convict (Farhan Mutlak Salih), had presented - in the second day of taking his responsibilities in the Eastern System- a report to General Directorate for Intelligence, informing them of removed villages' number, which was (9) villages...

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... during October 1987. Through documents, it became clear that this report is a monthly report, as telegram No 13613, dated on 1988 August 06, issued by Eastern Zone Intelligence System, included the attack over (Balisan) with special ammunition, where a lot of saboteurs and village residents were killed. On 1988 March 26, the convict (Farhan Mutlak Salih) had presented a report about the result of attacks, using chemical weapons, over (Sargalu) and (Bargalu) areas, and the sort of injuries among residents.

The acts of (Farhan Mutlak Salih) had contributed in committing the crime of genocide, as he was aware and acknowledged of his help in perpetrating genocide, as a director of Eastern Zone Intelligence System. He knew about correspondence numbered (4008), dated on 1987 June 20, and correspondence No 3650, dated on 1987 June 03. Through reviewing these two correspondences, he knew about those things through convict ('Ali Hasan Al-Majid) order to target civilians in Kurdish villages, with different types of chemical and conventional weapons. The orders were based on a clear plan or policy, to target the Kurds in the Kurdish villages of Northern Iraq, to forbid any human and animal's existence there, and to prohibit agronomy, and agricultural and industrial investments, adding up in and out travel ban, detaining all arrested people, and executing every person from 15 years old to 70 years old [included]. The security systems were in charge of interrogating the arrested people, as convict (Farhan Mutlak Salih) knew that those people will be field executed, without trials, s all courts were suspended, and replaced by security commissions. The convict (Farhan Mutlak Salih) confessed before court, that the execution squads were carrying out field executions, following the orders of convict ('Ali Hasan Al-Majid), in corps' shooting fields. Convict (Farhan Mutlak Salih) was fully aware...

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...acknowledged of these systematic large scaled attacks on civilians in Northern Iraq using conventional and chemical weapons, as it happened prior to 2 of November 1987. This had been approved via reports submitted by convict (Farhan Mutlak Salih), documenting such attacks, as being fully aware of the systematic nature of the raids implemented following letter No (4008) content, on the 20<sup>th</sup> of June 1987, which clarifies the plan and policy of Ba'th party through convict ('Ali Hasan Al-Majid).

Convict (Farhan Mutlak Salih) was in charge of reporting activities and status in areas included as targets in 1<sup>st</sup> Anfal until the 7<sup>th</sup> Anfal operation. However, the 4<sup>th</sup> and 5<sup>th</sup> operations took a different path where they did not focus on dislocating civilians rather on destroying villages and citizens who were exposed to genocide. Convict (Farhan Mutlak Salih) knew that the attacks were not military-conventional ones, but rather genocide against villagers. Hence, the court concluded that the convict was fully aware and acknowledged, especially after the 4<sup>th</sup> Anfal starting from 5<sup>th</sup> Anfal until the end of September 1988. Accordingly, the court considers that convict (Farhan Mutlak Salih) had vastly helped committing genocide, fully aware and acknowledged that his acts contributed to the crime, as he is guilty for collaborating in committing genocide according to article [11/2<sup>nd</sup>-(SATTSH)] of Iraqi High Tribunal Law, as his acts caused killing as well as severe mental or physical damages among civilians from Kurdish villages in Northern Iraq.

Accordingly, it was proven before court that convict (Farhan Mutlak Salih) is guilty, as the court decided to incriminate him according to article No [11/1<sup>st</sup>-(A-B)/2<sup>nd</sup>-(H)] by virtue of article No [15/1<sup>st</sup>, 2<sup>nd</sup>], and article No (24) of Iraqi High Tribunal Law No (10) for the year 2005....



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... identifying the sentence as per Article No [406/1/(A-B-W)] by virtue of contributory articles No [47], [48], [49] of Iraqi amended penal code No (111) for the year 1969. The verdict was released in unanimous agreement revocable for cassation, which was publicly acknowledged on 24<sup>th</sup> of June 2007.



Chief of Investigative Judges  
Muhammad 'Iraybi Al-Khalifah



Member

Member

Member

Member



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**Convict (Farhan Mutlak Salih) role in premeditated murder as a crime against humanity:**

The convict (Farhan Mutlak Salih) was assigned as director of General Military Intelligence System on 2<sup>nd</sup> of November 1987, where he submitted detailed reports and information regarding targeted villages and locations of Kurdish fighters (Pishmarga), number of forces, and types of weapons in addition to the results of conventional and chemical weapons' attacks, besides presenting weak and strong points of hostile party. Convict (Farhan Mutlak Salih) submitted this information during his term in the position he occupied, from the 2<sup>nd</sup> of November 1987 until the end of Anfal operations in September 1988.

On June 1987, convict ('Ali Hasan Al-Majid) issued two letters: number (4008) and (3650), which are considered the basis from where Anfal operations emerged, along with systematic wide scaled attacks over civil citizens, where convict (Farhan Mutlak Salih) was director of North System at the time. He closely reviewed these orders as the two letters' contents were notified to all security systems, including intelligence systems. The court had authenticated the testimonies of tens of victims (Plaintiffs), as we will discuss part of those victims, within the sector where convict (Farhan Mutlak Salih), the Director of Northern Intelligence System, was operating. [NAME REDACTED] testimony before court, on 14<sup>th</sup> of September 2006, one of Sidar villagers/ Al-Sulaymaniyyah Governorate, included ((In 1988, our village was under heavy bombardment where kids and women's screaming reached (the throne of heaven).

In the testimony of ([NAME REDACTED]), residing (Lower Balkha), before court, on 25<sup>th</sup> of September 2006, included:

((On the night of 22<sup>nd</sup>-23<sup>rd</sup> of March 1988, our village was bombed with chemical weapons, I saw columns of smoke rising from (Siwsinan) village...I inhaled the poisonous gas and got difficulties in breathing. The next day, I noticed most of the area's villages been burnt down as their inhabitants fled away....))



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Plaintiff ([NAME REDACTED]), a resident in (Siwsinan village) Al-Sulaymaniyyah, mentioned before court, on 20<sup>th</sup> of September 2006:

((we were bombarded with chemicals via aircrafts, during the spring. **The plaintiff added** - after the bombing stopped, I found (14) corpses (7) of them belonged to ([NAME REDACTED]) family while the rest were, my daughter ([NAME REDACTED]) and her (5) children, and another (2) one for the wife of ([NAME REDACTED]) and his son ([NAME REDACTED]), the injured (41 injured) were taken to (Shurish) hospital. (81) individuals of the village died including (70) by chemical weapons)).

Witness ([NAME REDACTED]), a resident of (Gup Tapa) of Al-Sulaymaniyyah Governorate, testified before court, on the 4<sup>th</sup> of December 2006, quoting:

"On the 3<sup>rd</sup> of May 1988, our village was subdued to chemical strikes where (25) of my family members were killed...he then added – I also witnessed (70) members of my family laying on the ground in a diameter of approximately (500) meters square, all infected by chemical weapons".

Witness ([NAME REDACTED]), a surgical doctor, testified before court, on 6<sup>th</sup> of December 2006: "On the night of 1988 March 23, Doctor (Nasih) told me that (Siwsinan) area had been struck by chemical weapons where about (70) injured were brought to us among which someone called ([NAME REDACTED]) whose four children and wife had fell martyrs. I also knew that (72) people died that night resulting from the chemical strikes".

In addition to other plaintiffs who attended before court, testifying how they were bombed by conventional and chemical weapons, describing the minutes during which they were under attack as Armageddon. All victims mentioned that they had been exposed to conventional and chemical weapons, attacked by army troops which transferred them via military vehicles to North Organization Office and then to prison camps and detention centers in Tupzawa, Dibs and Qarah Tu.

Convict (Farhan Mutlak Salih) was aware of Decree (160) for the year 1987, and letter No (3650), dated 3<sup>rd</sup> of June 1987, and letter No (4008), dated 3<sup>rd</sup> of June 1987. the convict (Farhan Mutlak) was...



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...fully aware of convict ('Ali Hasan Al-Majid) orders to launch systematic large scaled attacks against Kurdish civilians, killing those residing prohibited zones. Convicts (Farhan Mutlak), ('Ali Hasan Al-Majid) and others, participated in killing civil residents from the Kurds, following orders issued per letters (4008) and (3650) through a joint criminal plan.

According to provisioned evidences in this case, due to plaintiffs' testimonies, the letters and other documents, civil residents were killed following ('Ali Hasan Al-Majid) orders whether via using chemical weapons against them or executing them on the spot. The convict (Farhan) had played a direct role in making the attacks easier for the army where he provided intelligence reports concerning the nature and efficiency of attacks' locations, analyzing hostile forces' stance, their points of weaknesses and strength. Even though he did not recommend the use of chemical weapons, he gave reports on their efficiency. Based on that, he is considered as contributor in achieving the criminal result in different ways. As of (Farhan) intentions to launch a systematic large scaled wide-range attack, it is shown in his testimony before court, where he justified following orders as being one of the basics which can not be relied upon when prosecuting for crimes against humanity. He was aware as well of weapons' indistinct nature which means not to differentiate between a civilian and fighter, proving his willing intention to launch and participate in the plan that is targeting Kurdish civilians in Northern Iraq. (Farhan) played a very essential and important role in making the operation successful by doing his aforementioned job; render easy the acts which were committed against Kurdish civilians in Northern Iraq.

Accordingly, the court finds convict (Farhan) guilty for committing premeditated murder as a crime against humanity, based on his acts and contribution in achieving the criminal result.



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**Convict (Farhan Mutlak Salih) verdict for premeditated murder as a crime against humanity:**

Based on physical and moral evidences provisioned in the case, convict (Farhan) is responsible for committing premeditated murder as a crime against humanity according to article [15/2<sup>nd</sup>] and based on his participation in achieving the criminal result through launching systematic wide scaled attacks against Kurdish civilians in Northern Iraq, using conventional and chemical weapons, causing a huge toll of death among the Kurdish civilians in Northern Iraq, without forgetting that convict (Farhan) provided help and encouragement for the attacks.

Accordingly, the court finds that evidences are sufficient to incriminate (Farhan), as guilty for committing premeditated murder as a crime against humanity (it was committed during 1987-1988) according to Articles [12/1<sup>st</sup>/(A)] and [15/1<sup>st</sup>, 2<sup>nd</sup>] by virtue of Article (24) of Iraqi High Tribunal Law No (10) for the year 2005, identifying the sentence as per article [406/1/(A, B, W)] by virtue of Clauses [47], [48], and [49] of Iraqi amended penal code No (111) for the year 1969. The verdict was released in unanimous agreement revocable for cassation, which was publicly acknowledged on 24 June 2007.



(927-963)

**Chief of Investigative Judges**

**Muhammad 'Iraybi Majid Al-Khalifah**

Four handwritten signatures in Arabic script, each followed by the word 'عضو' (Member) in Arabic.

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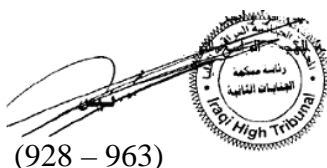
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**Convict (Farhan Mutlak Salih) verdict regarding coercive dislocation of inhabitants as a crime against humanity:**

In reference to letter No (4008), on 20<sup>th</sup> of June 1987, military troops and security forces attacked civilians of Kurdish villages in Northern Iraq, the convict (Farhan) was acquainted with the letter (4008) or the systematic policy of the convict ('Ali Hasan Al-Majid) and Al-Ba'th party in targeting civilians as it included prohibiting human and animal's existence in prohibited zones, preventing agronomy, banning in and out travels, as well as agricultural and industrial investments. The convict was also aware of letter (3650), on 3<sup>rd</sup> of June 1987, which included killing each and every animal and human that exist in prohibited zone and banning farming for summer and winter seasons. Its last clause stipulated to notify those contained within the plan, Kurdish civil citizens, that they will be held responsible for disobeying the aforementioned orders.

The convict Farhan also used to provide the adequate information about targeted Kurdish villages within areas under his jurisdiction, from February 1988 until the end of Anfal operations in September 1988, where he used to hand in reports and detailed information, as well as results of attacks via conventional and chemical weapons and number of demolished villages. On the other hand, this also confirms the support and encouragement to commit the crime. Under such circumstances and environment, the military troops and security systems launched an attack against civil inhabitants in Kurdish villages in Northern Iraq. The families [including children, women and elders] were transported to North Organization Office or detention centers via military vehicles, where convicts Sabir 'Abd-al-'Aziz Al-Duri, Husayn Rashid Muhammad and Sultan Hashim Ahmad, all confirmed that Convict Farhan Mutlak Salih was in charge of that [transporting families including children, women and elders from their villages to North Organization Office]. The convict Farhan denied his correlation to the implementation of hading over tens of thousands of families including children, women and elders to the aforementioned office alleging that the number of personnel within his intelligence system is not enough to carry such a huge operation. However, convict 'Ali Hasan Al-Majid stated and confessed that the procedure was adopted for a month or even more. On other hand, after such systematic large scaled nature of the attack over...

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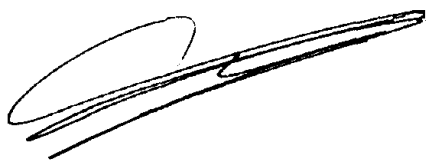
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...civil inhabitants in Kurdish villages, using chemical and conventional weapons, the coercive dislocation was expected as a possible logical consequence of the strikes' operations and raids as mentioned in letter number (384), dated 1987 November 02, issued by convict (Farhan) to General Military Intelligence, containing a list of 9 villages which were removed in the period between 1987 October 15 and 1987 October 31.

Convict (Farhan) was aware of the coercive dislocation as a normal predictable result in a reasonable way to support the joint criminal initiation as convict (Farhan) is criminally responsible of the normal and predictable consequences of using chemical and conventional weapons.

Accordingly, the Court finds Convict (Farhan Mutlak Salih) criminally responsible of civilians' coercive dislocation whether for supporting and encouraging the plan or the general politics that convict ('Ali Hasan Al-Majid) implemented. On the other hand, his chairmanship of Eastern Intelligence System, which managed transferring families of civilians to the North Organization Office, constitutes another fair evidence to incriminate him for coerced dislocation transfer. Hence, he is guilty for coerced dislocation as a crime against humanity (it was committed in the period from 1988 February until 1988 September) as per Article number [12/ First] by virtue of Article number [15/ First and Second] of Iraqi High Tribunal Law number (10) for the year 2005, identifying the sentence as per Article number [421] by virtue of Clauses [47], [48] and [49] of Iraqi amended Penal Code number (111) for the year 1969. The verdict was released in unanimous agreement revocable for cassation which was publicly acknowledged in the date of 2007 June 24.



Member

Member



Member Member



Chief of Investigative Judges  
Muhammad 'Iraybi Majid Al-Khalifah



(517-963)

In the Name of God All Merciful All Compassionate

The Iraqi High Tribunal

Second Criminal Court

Baghdad-Iraq

Ref.No.:1/ 2<sup>nd</sup> Criminal / 2006

Date: 2007 June 24

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**The Verdict**

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**Convict (Tahir Tawfiq Yusif Al-'Ani) Verdict**

The Chief of Investigative judges referred convict (Tahir Tawfiq Yusif Al-'Ani) to Iraqi High Tribunal according to referral number (2), dated 2006 April 02, of the case number [1/ (SATTS C) Second/ 2006] for his prosecution before this Court by litigation that are not summarized, according to the following Articles:

- a. Genocide article number [11 First of clauses (A and C)] of Iraqi High Tribunal Law number (10) for the year 2005.
- b. Crimes against humanity Article number [12 First of clauses (A, C and E)] of Iraqi High Tribunal Law for the year 2005.
- c. Crimes of War Article number [13 Forth of clauses (A, D ...L)] of Iraqi High Tribunal Law number (10) for the year 2005.

By virtue of article No [15 of clauses First and Second] of this Court Code, and rule [32 First] of the procedures and gathered evidences rules, appended to the Court Code and Article No [132, (SATTS A), 2] of Iraqi Criminal Trials Procedure Law number [23] for the year 1971

**Issuance of Decree No 160 for the year 1987**

The authority, which was represented at that time by bygone Revolutionary Command Council, issued Decree number 160 for the year 1987 which included the following in some of its clauses:

- 1) Comrade 'Ali Hasan Al-Majid, who is National Command of the Ba'th Party's Member, will represents the National Command of the Party and Revolutionary Command Council in carrying their policies in all of the Northern region, including Kurdistan region and the Autonomous Ruling, for the purpose of protecting Security, regime, and preserve stability in it [Kurdistan] by applying autonomous ruling code in the region.

The Presiding Judge



(930-963)

In the Name of God All Merciful All Compassionate

**The Iraqi High Tribunal**

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- 2) The Comrade, member of the National Command, is assigned to implement targets of this decree, the duly jurisdiction of this report is compulsory to all government systems such as civil, military and security, particularly jurisdictions granted to National Security Council and Northern Affairs Commission.

**Convict (Tahir Tawfiq Yusif Al-'Ani)**

The convict was born in 1943-he occupied the following positions:

2. Secretary of the President of the Republic – 1968
3. Undersecretary of Ministry of Labor and Housing – 1972
4. Member of Iraq State Command of bygone Ba'th Party – 1974
5. Chairman of Higher Agricultural Council – 1976
6. Minister of Industry and Mineral Resources – 1979
7. A Member in People Organizations Office – 1982
8. Secretary of Northern Affairs Committee – 1987
9. Ninawa Governor – 1987

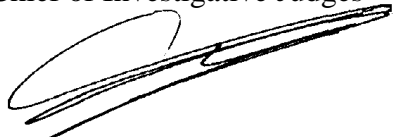
**Charges against convict (Tahir Tawfiq Yusif Al-'Ani) according to bill of indictment:**

Based on the extended court's estimated jurisdiction to be legally flexible, it is not abided by the aforementioned flexibility appointed by Investigative judge as of the referral. Hence, the court is able to modify the legal description vis-à-vis convict(s) act(s). In the 46<sup>th</sup> hearing, dated 2007 February 20, the court charged the convict with the below mentioned:

**1) Genocide crime: Article number [11/ First]:**

- a. Murdering individuals from the group.

Chief of Investigative Judges



(931-963)



**The Iraqi High Tribunal**

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b- Causing severe physical or mental damages in the group's members

c- Subdue the group, premeditatedly, to harsh living conditions aiming to partially or totally eradicate the aforementioned group.

By virtue of article [15/first, second, third and fourth] of Iraqi High Tribunal Law number 10 for the year 2005

**Second, crimes against humanity: Article [12/first]:**

A- Premeditated murder.

B- Genocide

C- Enslavement (Slavery)

D- Relocation or Coercive dislocation of Citizens

E- Imprisonment or derivation of all sorts of physical freedom as contrary to International Law's basic regulations.

F- Torturing

G- To oppress any given party or group of residents for any political, racial, national, ethnic, cultural, or religious purposes, or related to gender or any other reason not legitimized by International Law, as any aforementioned act is correlated to any kind of sexual violence on that level of danger

H- Coercive Harboring of Individuals

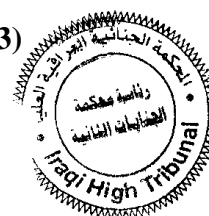
I- Other inhuman acts which hold identical nature, premeditatedly causing severe sufferings or any minimal damage which occurs in the body or affects the mental or physical health.

By virtue of article [15/first, second, third and fourth] of Iraqi High Tribunal law number 10 for the year 2005.

Chief of Investigative Judges



(932-963)



**In the Name of God All Merciful All Compassionate**

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**Third: war crimes:**

Article (13/Fourth): which means crimes of war for purposes of this law; as followed:  
Other serious violations of codes and customs duly applicable over national armed disputes in the fixed aspect of International Law, specifically any of the following acts:

- A- Deliberate attacks against civil residents or against civil individuals who are not participating directly in the war operations
- B- Intending to attack buildings specified for religious, educational, artistic, scientific, or charitable purposes, historical monuments, hospitals or wounded and patients' gathering centers, conditioned not to be military purposes.
- C- Looting any village or place, even if it had been confiscated coercively.
- D- Issue orders to dislocate civil residents for purposes correlated to the conflict unless this had been implemented for the safety of the aforementioned civilians or urgent military reasons.
- E- Destroying or confiscating hostile side's properties conditioned the destruction or confiscation was not imposed by necessities of war.

By virtue of article [15/first, Second, Third and Fourth] of Iraqi High Tribunal Law number [10] for the year 2005.

**Chief of Investigative Judges**



**(933 - 963)**





**In the Name of God All Merciful All Compassionate**

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**((Summary of Plaintiffs' Testimonies))**

During the reign of the former Government, The Revolutionary Command Council issued Decree No. 160 for the year 1987 that placed a political agenda which both attempted to follow and impose in Northern area. This political agenda had been preplanned in Chief of Army Staff Office based on orders issued by supreme references at that time, to carry out large-scaled military operations, as was stated by Convict (Sultan Hashim Ahmad). The Iraqi Army did in-fact initiate systematic large scaled attacks within the eight stages, commencing with the 1<sup>st</sup> Anfal operation and ending with the Closure Anfal operation (the Eighth Anfal Operation). These operations incorporated wide areas of Kirkuk, Sulaymaniyyah, (Irbil) and Dahuk Governorates. Army sectors used all available weapons at that time to strike Kurdish villages, some of which were by example: Aircrafts, Helicopters, Heavy artillery, Rocket launchers while referring to conventional and special ammunition as proven to the court by testimonies of seventy-five plaintiffs (victims), as well as their description of most of the military operations carried out by the regime's military forces against their villages and weapons that were used against them. They also made it clear to the court how those sectors initiated strikes against their villages, demolishing them and dislocation their civil inhabitants among which were elders, women, and children. The plaintiffs demand accusation against each of the following convicts (Saddam Hussein), ('Ali Hasan Al-Majid) and all those proved to contribute in Anfal Campaigns, they also demanded compensation for damages they incurred. The reason for their complaints against Saddam Hussein was the fact of him being President of the Republic of Iraq as well as the commander of the Revolutionary Court Council which issued Decree No 160 for the 1987, which had been accredited the special political agenda instigated against Northern Iraq. He was also the General Commander of the Armed Forces who was responsible for issuing all significant military orders...



**Chief of Investigative Judges**



**(963-934)**

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**((Summary of Plaintiffs' Testimonies))**

...such as the order to wage Anfal Campaigns and the use of chemical weapons against residential civilians in Kurdish villages. The reason behind plaintiffs demanding accusation against Convict ('Ali Hasan Al-Majid), was the fact that he used to be considered as the ultimate ruler of Northern area, granting him full jurisdictions via Decree No 160 for the year 1987, issuing orders to Military Commands, Civil Commands, Security Commands as well as Ba'th party systems, Intelligence systems and Military systems, where all those systems took part in committing genocide, crimes against humanity, as well as crimes of war, following orders issued by ('Ali Hasan Al-Majid) as proven in document No 4008, dated (1988 June 20), as well as his responsibility regarding the internees in (Tupzawa, Al-Dibs, Nazarki, Al-Salamiyyah) where Kurdish women, children, and men were arrested due to their national ethnic community. In addition, he also ordered the dislocation of people, driving them to prison camps in which they faced harsh conditions and sufferings due to famine, ailments, and bad treatment where many of the detainees died as a result of such conduct, adding up the harboring of many detainees after being executed and buried in mass graves, which were later found to contain the remains of hundreds of Kurdish victims. They also demanded accusation and implementation of legal procedures against Saddam Hussein, 'Ali Hasan Al-Majid and all those found to contribute in Al Anfal Campaigns.

**((Summary of Witness's Testimonies))**

The court listened to witness' testimonies that supported what had been stipulated in plaintiff's statements such as launching systematic large scaled attacks on behalf of the army, known as Al Anfal, targeting villages resided by thousands of civilian, using artillery, aircrafts, and helicopters. The witnesses also stated.....



**Chief of Investigative Judges**



(963-935)

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...that the villages they resided in, were bombarded by chemical weapons leading to the death of thousands of residential civilians, as the army began dislocating families from within these villages, detaining them in camps such as Tupzawa, Dibis, Al-Sulaymaniyyah, Nuqrat Al-Salman, where they faced torture, humiliation, lack of food supplies, harsh conditions, lack of medical treatment in addition to torture as many died in those camps. Witness ([NAME REDACTED]), who was a doctor that working for the Pishmarga forces stated that he witnessed many villagers infected from chemical weapons in numerous villages. He personally treated many; among these villages were (Balak Jar and Siwsinan) as well as (Balkha, Takya and Balak Jar) belonging to Qara Dagħ sub district.

**((Documents and Deeds))**

Large amounts of documents were available to court. Those documents and files were left behind by former regime within its archives. Among them are those pertaining to Convict (Tahir Tawfiq Yusif Al-'Ani) which played a role in incriminating the aforementioned convict as well as others for perpetrating crimes of war against Kurds during Anfal Campaigns. At which point, it becomes necessary to release documents that incriminate Convict Tahir Tawfiq Al-'Ani:

The court reviewed the Revolutionary Command Council's ruling No. 674 dated 1987 August 19 including of the assigning of Tahir Tawfiq Al-'Ani, the Adviser in Peoples' Organization Affairs Office as a Secretary for the Northern Affairs Commission.

The court reviewed Document number 3744, dated 1986 August 26, inclusive of: ((we propose the execution of ten convicts from the Patriotic Union of Kurdistan currently detained at Al-Sulaymaniyyah Governorate Security Directorate)). By inspecting this document, the court found...



Chief of Investigative Judges



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...that its date is prior to Anfal and the break of those campaigns, which render an allegation supported by it inappropriate.

The court also reviewed Document 5083, dated 1987 July 22, issued by North Affairs Commission-Secretaries Office, addressed to 1<sup>st</sup> Corps' Command: (We have no objection to cut off the traitors' heads, yet it would be preferred if they were sent to the security for interrogation hoping to extract useful information before their execution).

The Court also reviewed the document issued by Northern Affairs Commission-Secretaries Office, numbered 630, dated 1987 January 29, that contained the following: Comrade, in charge of Northern Organization Office and head of Central Security Coordination Committee, suggested in his letter No 777, dated 1986 November 03, to sell saboteurs' properties which had been confiscated at Ta'mim Governorate via the committee delegated by Revolutionary Command Council in Decree 1259, dated 1981 September 21.

During closer examination of the document, the court found that its date was 1987 January 29, which is prior to Anfal stage and its initiation, therefore it cannot be used or relied on as an evidence against the convict.

**Summary of Convicts' Testimonies against (Tahir Tawfiq Yusif Al-'Ani)**

The court listened to convicts' testimonies during the investigation process. They testified the following:

**1 – Convict Saddam Hussein:**

Convict (Saddam Hussein) kept quiet before the Investigative Judge, not answering any of the questions, yet during the trial he did not mention convict Tahir Tawfiq Al-'Ani.

**2 – Convict 'Ali Hasan Al-Majid:**



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Convict ('Ali Hasan Al-Majid) testified before Investigative judge that, "the security committees were under my command, and I was in charge of directly following up this matter, while my secretary in this committee was Tahir Tawfiq Al-'Ani",

The court asked the convict ('Ali Hasan Al-Majid), if he knew whether Convict Tahir Al-'Ani was aware of Anfal Operations?

He answered, "He had no relation, as I ignore whether he was aware or not".

Convict 'Ali Hasan Al-Majid" mentioned before court, as well, "When Decree number 160 for the year 1987 was issued, the Secretariat had been correlated to Northern Organization Office".

In addition, Convict ('Ali Hasan Al-Majid) added before court, "The Northern Affairs Committee remained under Chief Deputy of the Revolutionary Command Council's command, yet the committee's work was not suspended".

**3- Husayn Rashid Muhammad Al-Tikriti**

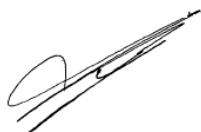
The convict Husayn Rashid did not mention Convict Tahir Tawfiq Al-'Ani during investigational process, as he did not indicate any information concerning Convict Tahir Tawfiq Al-'Ani.

**4- Sultan Hashim Ahmad Al-Ta'i**

Convict Sultan Hashim did not mention Convict Tahir Tawfiq Al-'Ani during the investigational process questioning, as he did not indicate any information concerning Convict Tahir Tawfiq Al-'Ani.

**5- Sabir 'Abd-al-'Aziz Husayn Al-Duri**

The convict Sabir 'Abd-al-'Aziz Al-Duri did not mention Convict Tahir Tawfiq Al-'Ani during investigational process questioning, as he did not indicate any information concerning Convict Tahir Tawfiq Al-'Ani.



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**6- Farhan Mutlak Salih Al-Juburi**

The convict Farhan Mutlak Al-Juburi did not indicate any information correlated to convict Tahir Tawfiq Al-'Ani during investigational process questioning, as he did not indicate any information concerning Convict Tahir Tawfiq Al-'Ani.

**Convict (Tahir Tawfiq Yusif Al-'Ani) Testimony during investigation and prosecution**

1- The convict Tahir Tawfiq denied charges against him throughout the investigation process. Additionally, he **testified** that in late 1986 or early 1987, he was appointed as Secretary of Northern Affairs Committee, a position he held until he had been assigned as Governor of Ninawa Governorate, on 1987 September 15.

He also testified, according to his position as governor of Ninawa, that he was the first Administrative in charge personnel over the geographical area and everything occurring inside it.

When he was questioned by Investigative judge if Al-Hadar city was included within his responsibility? He replied "Yes, that Al-Hadar city is included within our geographic responsibility at Ninawa Governorate as I am in charge of that".

When he was questioned about the mass graves which exist at Al-Hadar, which facts proved that they pertain to Iraqi elders, women and children of Kurdish ethnicity?

He **answered**, "Despite the fact that I was the Governor, I was not aware of the mass graves that were found in Al-Hadar County, which belongs to the Ninawa Governorate, as I have no correlation to that".

**As through prosecution**, the convict testified and invoked from his past and Party classification, as well as indicating that he is a religious man who can not turn a blind eye over injustice. He denied all charges against him, in details ...

Chief of Investigative Judges



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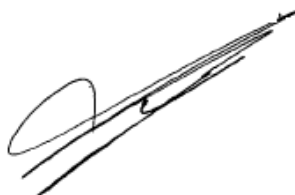
**The Verdict**

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He stated before court that Northern Affairs Committee is always headed by Revolutionary Command Council's Vice president who, at that time, was Convict ('Izzat Ibrahim Al-Duri). He mentioned that among the duties of the committee is the formation of National Defense Regiments, so "I contributed to the formations of National Defense Regiments, as I especially mention adviser Rashid Al-Sindi". When he was asked by court about North Organization Office's Secretary's jurisdictions, he replied, "Decision issued by Northern Organization Office is implemented by the Secretary". When he was questioned by court, (Are you a member of Northern Organization Office?), he replied, "Yes, I am one of the members of North Organization Office, my duty and job was to coordinate between the Ba'th Party branches throughout Ninawa Governorate, Al-Mawsil Party branch and Secretariat Office". He also stated that he was the head of Security Committee at Ninawa Governorate and that the committee members are Al-Mawsil Branch Secretary, the Security Director and the Police Director.

**Convict (Tahir Tawfiq Yusif Al-'Ani) and his proxy ('Abd Al-Sattar Salim 'Ali) Defense Summary**

The Investigative Judge decided to refer my client along with others to be prosecuted for charges against him as per Articles No [11], [12], [13] of Iraqi High Tribunal Law No (10) for the year (2005). Your commission publicly stated the referral and commenced its procedures. The court listened to testimonial witnesses as well as experts after whom the head of the Chief of General Prosecution Board submitted official documents and letters that were apprehended from Government agencies, followed by audio tapes and photocopies from which your board proved the existence of mass graves resulting from searches that you initiated on behalf of this court. The accused client's attorney mentioned that none of the plaintiffs or the summon witnesses and in particular the one's still alive among them, mentioned seeing my client at the mass graves sites in Al-Sulaymaniyyah Camp.



Chief of Investigative Judge



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The Defense mentioned that his client had no knowledge of the actions that took place in distant areas of the (Al-Hadar) or actions that took place in (Al-Salamiyyah). Concerning the provided evidences that include documents, recorded videos, speaking and silent audio tapes; the person that mentioned is not his client. However, there were several other individuals, including (Tariq Al-'Ani) who was the Northern Organization Office Member and not (Tahir Al-'Ani). In addition, in the session dated 2007 July 11, convict ('Ali Hasan Al-Majid) denied presence of my client in that recorded meeting. Your Excellency Faire Judges; through the General Prosecution list, our list, through reviewing file of the case and studying all sides of the lawsuit; the Defense hopefully expect you to become absolutely convinced that the three accusations against my client are lack of the convincing evidence. The evidence, which is reasonable enough to prove that my client had perpetuated any of these crimes himself, or that he participated in any of the crimes. Therefore, absence of the evidence; calls us to request discharging my client and set him free, because of the insufficient evidence. In addition, the General Prosecution Commission Chief holds the same opinion on this issue.

Summery for statements by the Defense-witnesses, defending convict (Tahir Tawfiq Yusif Al-'Ani):

1- Witness ((protected)), under vow, he stated the following:

I cannot talk about something that I did not witness; only heard about it, through proceeding in the Anfal trial. I do not know, what his rule was, in Anfal. However, I have something historical that concerns the convict, related to the case; that he is a friend of mine, for 45 years and we have social relation. I can talk about something that I hade witnessed, which is: I remember once, after he became in the position of the Northern Affairs Committee Secretary, we used to meet and whisper to each other, where he was extremely annoyed and complaining. I asked him why he was annoyed, what is the issue? He answered, "I was transferred to the Northern Affairs Committee Secretariat"; he was upset because he has his family in Baghdad, he has commitments in Baghdad and that he cannot go to (Kirkuk) to fill the position of the Northern Affairs Secretary.

2- Witness ((protected)), under vow, he stated the following:

Chief



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The court asked the witness " what is the subject of your testimony, meaning do you have an eye-witness testimony to provide, about Anfal crimes?" The witness replied " I have no relation to the Anfal crimes and I have no eye-witness testimony to provide about this issue, except that I joined the position of Traffic Director in (Al-Mawsil) at the end of year (1987). Convict (Tahir Tawfiq) was in the Governor position; during period I was working with him, I saw the following criteria in him, as he was faithful, far away from the Administrative corruption. Always, when he talks, he use to refer to verses from the holly Qur'an or says of the honorable prophet. Other than that, I absolutely have nothing else to say about this issue.

Based on the aforementioned; the court find evidences as being insufficient for convicting defendant (Tahir Tawfiq Yusif Al-'Ani), according to the terms of articles (11/ First-A- B- C), (12/ First A, B, C, D, E, F, H, Y, J), (13/ fourth, A, D, E, H, L) of the Iraqi High Tribunal Law number (10) for the year 2005.

The court decided to drop all accusations against the defendant, set him free and immediately releasing him from detention, unless he is detained for another case. The decision was issued in presence of the parties, pursuant to the verdicts article (182/ C-E) of the Criminal Procedure Law number.23 for the year 1971, by unanimous decision on 2007 June 24

Member

Member

Member

Member

Member

Chairman

Muhammad 'Uraybi Majid Al-Khalifah  
(963 – 942)

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The Second Criminal Court of the Iraqi High Tribunal had been formed on 2007 Jun 24, headed by Judge Muhammad 'Uraybi Majid Al-Khalifah with its full commission, issuing the following verdict, in the name of people:

**1<sup>st</sup>. Convict Tahir Tawfiq Yusif Al-'Ani**

For insufficient evidences gathered in the case against Convict Tahir Tawfiq Yusif Al-'Ani for charges against him as per Articles [11/First (A, B, J)], [12/First (A, B, J, D, ?, W, H, Y, I)] and [13/Fourth (A, D, ?, H, L)] of Iraqi High Tribunal Law No 10 for the year 2005, the court decided to suspend all charges against him, discharge, and release the convict, immediately, as long as he is not detained or wanted for other case. The verdict was issued by agreement, in accordance to Article [182/( J)] of amended Criminal Procedures Law No 23 for the year 1971, by attendance, revocable for cassation, and was publicly acknowledged on 2007 Jun 24

**Second: The convict, Farhan Mutlak Salih Al-Juburi**

1- The convict Farhan Mutlak Salih Al-Juburi is to be sentenced to life imprisonment as a result of participating in premeditated murder as a genocide crime according to Penal Code (11\First\A-Second\H) in reference to Article (15\ First, Second) and the article (24) of the Iraqi High Tribunal Court Law Number 10 for the year 2005. The penalty was determined according to the Article (406 \1\A-B-W) and contributory Articles (47, 48.....

Member	Member	Member	Member	Member
				Chairman
				Muhammad 'Uraybi Majid Al-Khalifah
				(963 – 943)

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, 49) of the amended Penal Code Law number (111) for the year 1969, the verdict was issued unanimously in open court on 2007 Jun 24.

2- Sentencing the convict, Farhan Mutlik Salih Al-Juburi to life imprisonment for committing a deliberate murder as a crime against humanity according to Article (12 \ First \ A) in reference to Article (15 \ First, Second) and the Article (24) issued by the Iraqi High Criminal Court Number 10 for the year 2005. The punishment was decided according to the rules of the Article (406 \ 1 \ A-B-W) and the Contributory Articles (47, 48, 49) of the amended Penal Code Law No. 111 for the year 1969, the verdict was issued unanimously in open court on 2007 Jun 24.

3- Sentencing the convict, Farhan Mutlak Salih Al-Juburi to 10 years in prison because he committed a crime of compulsory relocation for 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 Court number 10 for the year 2005. The punishment was determined according to the Article (421 \ B) from the amended Penal Code Law No. 111 for the year 1969, and the verdict was issued unanimously and to be shifted to Cassation Court in compliance with the Article (182/A) and announced in open court on 24 Jun 2007.

4- The detention period of the convict, Farhan Mutlak Salih Al-Juburi was not counted for the determination of his fate in this case and because he is detained for another case.

Member

Member

Member

Member

Member

Chairman

Muhammad 'Uraybi Majid Al-Khalifah  
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5- The abovementioned punishments are to be carried out sequentially concerning the convict, Farhan Mutlak Salih according to the conclusiveness (65 \ second) from the procedures and evidence collecting laws related to the court and the Article (142) from the Penal Code No. 111 for the year 1969

6- The Confiscation of his fixed and non fixed assets, according to the Article (24\Sixth) issued by the Supreme Iraqi Tribunal Court No. 10 for the year 2005.

7- The accused was informed and understood that the lawsuit documents will be automatically sent to the Cassation Commission for cassation scrutiny in compliance with the Article (254/A) of the Criminal Procedure Law No. (23) for the year 1971.

The decision was issued by presence of the parties pursuant to the verdicts article (182/A) of the Criminal Procedure Law no.23 for the year 1971 by unanimous decision on 2007 June 24.

8 – For not existing the adequate collected proofs in the case against the accused Farhan Mutlak Salih Al-Juburi regarding the accusations directed against him according to the verdicts of the articles (11 / First – B – J), (12/ First – B – J - ? – W – H – I) and (13/Fourth – A – D - ? – H - L) of the Iraqi High Tribunal code no.10 for the year 2005, the tribunal decided to drop the charges directed against him and release him. The decision was issued by unanimous based on the verdicts of the article (182/J) of the amended Criminal Procedure Law no.23 for the year 1971 by presence of the parties to be appealed and was announced in public on 1428 Jumada Al-Akhirah 09 (Islamic Calendar) coincided with 2007 June 24.

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				Chairman
				Muhammad 'Uraybi Majid Al-Khalifah
				(963 – 945)

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Iraqi High Tribunal  
Second Criminal Court  
Iraq - Baghdad

Number/ 1/ 2<sup>nd</sup> Criminal / 2006  
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Or 9 Jumada-al-Akhir 1428 Islamic calendar

"Verdict Decisions"

**Third: The convict Sabir 'Abd-al-'Aziz Husayn-al-Duri**

1. Sentencing the convict Sabir 'Abd-al-'Aziz Husayn-al-Duri to life imprisonment for his participation in committing a deliberate murder as genocide in accordance with stipulates of Article (11 / First / A, B, Second / H in accordance with the Article (15 / First, Second) and Article (24) of the Iraqi High Tribunal Court law No. 10 for the year 2005. The punishment was determined according to the stipulates of Article (406/1/ A, B, W and the contributory Articles (47, 48, 49) of the amended Penal Codes No. 111 for the year 1969, the decision was issued by agreement and attendance, revocable for cassation, and was publicly acknowledged on 2007 Jun 24

2. Sentencing the convict Sabir 'Abd-al-'Aziz Husayn-al-Duri to life imprisonment for his participation in a deliberate murder against humanity according to stipulates of Article (12/First/A) and in compliance with Article (15/First, Second) and the Article (24) from the Iraqi High Tribunal Court No. 10 for the year 2005. The punishment was determined according the Penal Code No. 111 for the year 1969, the decision was issued the decision was issued by agreement and attendance, revocable for cassation, and was publicly acknowledged on 2007 Jun 24

3. Sentencing the convict Sabir 'Abd-al-'Aziz Husayn-al-Duri to life imprisonment for his participation in a deliberate crime of directing attacks against civilians for their status or against civilian individuals not directly participating in military operations. And it is considered as a war crime according to the rules (13/Fourth/A) and in referral to Article (15/First, Second) and the Article (24) from the Iraqi High Tribunal Court law No. 10 for the year 2005.

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Muhammad 'Uraybi Majid Al-Khalifah  
(963 – 946)

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Iraq - Baghdad

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The punishment was determined in accordance to the rules of the Article (406/A,B,W) and the contributory Articles (49, 48, 47) from the amended Penal Code No. 111 for the year 1969 and the decision was issued unanimously.

4. Sentencing the convict Sabir 'Abd-al-'Aziz Husayn-al-Duri to ten imprisonment years for his participation in demolition crime or in taking over properties of the other side unless the destruction or the seizure was a war necessity. And it is considered as a war crime according to the rules of the Article (13/Fourth/L) and in referral to the Article (15/First/Second) and the Article (24) from the Iraqi High Tribunal Court law No. 10 for the year 2005. The punishment was determined according to the rules of the Article (478/3) and the contributory Articles (49, 48, 47) from the amended Penal Code No. 111 for the year 1969 and the decision was issued unanimously.

5. The detention period of the convict, Sabir 'Abd-al-'Aziz Husayn-al-Duri is not counted since his fate needs to be decided in this case because he is detained on another case.

6. The aforementioned punishment is to be carried out in succession, in regards to the accused, Sabir 'Abd-al-'Aziz Husayn Al-Duri according to stipulates of rule (65/Second) from the rules of the procedures and collecting evidences which is related to the court and to the Article (142) from the Penal Code No. 111 for the year 1969.

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7. Confiscating fixed and non fixed assets of the convict in compliance with the rules of the Article (24/Sixth) of the Iraqi High Tribunal Court law No. 10 for the year 2005.

8. The accused was informed that the lawsuit documents will be automatically sent to the cassation commission to be verified in cassation according the rules of the Article (254/A) from the Criminal Procedures Law No. (23) for the year 1971 and the verdict was announced unanimously and in reference to the rules of the Article (182/A) from the Criminal Procedures Law No. (23) for the year 1971 and announced in open court in 2007 June 24.

9. Due to the lack of evidence required in the case against the convict, Sabir 'Abd-al-'Aziz Husayn Al-Duri for the charges being accused of in according to the rules of Articles (11/First/-J) and (J-?-W-H-V-I) and (13/Second/I-F) and (13/Fourth/H) from the Iraqi High Tribunal Court law No. 10 of the year 2005. The court decided to hold the charges against him and to be released, the decision was issued unanimously in compliance with the rules of the Article (182/J) from the amended Criminal Procedures Law No. 33 for the year 1971 and to be in cassation court. The sentence was issued in opened court in 2007 June 24.

10. On imposing punishment against convict (Sabir 'Abd-al-'Aziz Husayn), the court took into consideration his apology to the Iraqi people and to the victims' families, as being reason for reducing punishment. The decision was issued by agreement, according to terms of article (132) of the amended Penal Code No. 111 for the year 1969; the decision was issued in attendance, revocable for cassation, and was publicly acknowledged on 2007 Jun 24

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(963 – 948)

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"Verdict Decisions"

**4<sup>th</sup>. Convict Sultan Hashim Ahmad Al-Ta'i**

1- Sentencing Convict Sultan Hashim Ahmad Al-Ta'i to death, by hanging until death, for participating in perpetrating premeditated murder, inflicting severe physical and mental damages for community members, as well as subduing them to harsh living conditions intending to eradicate them. Due to all that, you are charged of genocide as per Articles [11/ First: (A, B, J) and Second: (E)] by virtue of Article [15/First and Second] and article [24] of Iraqi High Tribunal Law No 10 for the year 2005. The sentence was defined according to Article [406/1/( A, B, W)] by virtue of contributory Clauses [47, 48, 49] of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

2- Sentencing Convict Sultan Hashim Ahmad Al-Ta'i to death, by hanging until death, for participating in perpetrating 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 No10 for the year 2005. The sentence was defined according to Article [406/1/( A, B, W)] by virtue of Clauses (47, 48, 49) of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

3- Sentencing Convict Sultan Hashim Ahmad Al-Ta'i to death by hanging for participating in perpetrating crime of genocide as a crime against humanity, as per Article [12/First: (D)] by virtue of Article [15/ First and Second] and Article [24] of

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Iraqi High Tribunal Law No10 for the year 2005. The sentence was defined according to Article [406/ 1/A, B, F)] by virtue of Clauses (47, 48, 49) of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

4- Sentencing Convict Sultan Hashim Ahmad Al-Ta'i to 10 years imprisonment for participating in perpetrating premeditated relocation or forcibly relocating the inhabitants 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 Law No10 for the year 2005. The sentence was defined according to Article [421/( B)] by virtue of Clauses (47, 48, 49) of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

5- Sentencing Convict Sultan Hashim Ahmad Al-Ta'i to life imprisonment for participating in perpetrating forceful disappearance of individuals as a crime against humanity, as per Article [12/First: (Y)] by virtue of Article [15/ First and Second] and Article [24] of Iraqi High Tribunal Law No10 for the year 2005. The sentence was defined according to Article [406/1/( A, B, W)] by virtue of Clauses (47, 48, 49) of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

6- Sentencing Convict Sultan Hashim Ahmad Al-Ta'i to life imprisonment for participating in perpetrating inhuman acts 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 Law No10 for the year 2005. The sentence was defined according to Article [393/1/( J)] by virtue of Clauses (47, 48, 49) of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

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[12/First: (I)] by virtue of Article [15/ First and Second] and Article [24] of Iraqi High Tribunal Law No10 for the year 2005. The sentence was defined according to Article [393/1/( J)] by virtue of Clauses (47, 48, 49) of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

7. Sentencing Convict Sultan Hashim Ahmad Al-Ta'i to death, hanging until death, for participating in perpetrating premeditated attacks against civil inhabitants as a war crime, as per Article [13/Fourth: (A)] by virtue of Article [15/ First and Second] and Article [24] of Iraqi High Tribunal Law No10 for the year 2005. The sentence was defined according to Article [406/1/( A, B, W)] by virtue of Clauses (47, 48, 49) of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

8. Sentencing Convict Sultan Hashim Ahmad Al-Ta'i for 7 years imprisonment for participating in perpetrating premeditated attacks against buildings appropriated 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 Law No10 for the year 2005. The sentence was defined according to Article [479/2] by virtue of Clauses (47, 48, 49) of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

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9. Sentencing Convict Sultan Hashim Ahmad Al-Ta'i for 15 years imprisonment for participating in perpetrating the issue of orders pertaining to the relocation of civil inhabitants 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 Law No10 for the year 2005. The sentence was defined according to Article [421/( A, B, D)] by virtue of Clauses (47, 48, 49) of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

10. Sentencing Convict Sultan Hashim Ahmad Al-Ta'i for 7 years imprisonment for participating in perpetrating the destruction or confiscation of hostile side's possessions as a war crime, as per Article [13/Fourth: (L)] by virtue of Article [15/ First and Second] and Article [24] of Iraqi High Tribunal Law No10 for the year 2005. The sentence was defined according to Article [479] by virtue of Clauses (47, 48, and 49) of the amended Penal Code No 111 for the year 1969.

The verdict had been issued by attended agreement, is revocable for cassation as per Article [182/( A)] of Criminal Procedures Law no 23 for the year 1971, and publicly acknowledged on 2007 Jun 24

11. Convict Sultan Hashim Ahmad Al-Ta'i's detainment period, from 2004 Jul 1 until 2007 Jun 24, will be accounted.

12. The severer sentence against Convict Sultan Hashim Ahmad Al-Ta'i must be applied as per Article [142] of the amended Penal Code Number 111 for the year 1969.

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Chairman

Muhammad 'Uraybi Majid Al-Khalifah

(963 – 952)

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13. Confiscation of Convict Sultan Hashim Ahmad Al-Ta'i's fixed and non fixed assets as per Article [24/ Sixth] of Iraqi High Tribunal No 10 for the year 2005.

14. Convict Sultan Hashim Ahmad Al-Ta'i had been informed that case documents are automatically transferred to the Cassation Court to be verified in cassation as per Article [254/ (A)] of Criminal Procedures Law No 23 for the year 1971. The verdict had been issued by attended agreement as per Article [182/(A)] of Criminal Procedures Law No 23 for the year 1971, and publicly acknowledged on 2007 Jun 24

15. For lack of evidence over the charge against Convict Sultan Hashim Ahmad Al-Ta'i as per Articles [12/First: (J-W-H)] and [12/Fourth: (?)] of Iraqi High Tribunal No 10 for the year 2005, the court decided to suspend all charges against him and to release him. The verdict had been issued by attended agreement as per Article [182/(J)] of amended Criminal Procedures Law No 23 for the year 1971, and publicly acknowledged on 2007 Jun 24.

**5<sup>th</sup>: Convict Husayn Rashid Muhammad**

1- Sentencing Convict Husayn Rashid Muhammad to death, by hanging until death, for his contribution in premeditated murder, inflicting severe physical and mental damages, as a Genocide crime, as per Articles [11/First: (A and B)] and [Second: (H)] by virtue of Article [15/First and Second] and Article [24] of

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(963 – 953)

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Iraqi High Tribunal Law No. 10 for the year 2005. The sentence was determined according to Article [406/1 (A)] by virtue of contributory Clauses [47, 48, 49] of the amended Penal Code No. 111 for the year 1969. The verdict was released in unanimous agreement subject to adjournment which was publicly acknowledged on 2007 June 24

**2** – Sentencing Convict Husayn Rashid Muhammad to death, by hanging until death, for his contribution in premeditated murder as a crime against humanity, as per Articles [12/First: (A)] and [Second: (H)] by virtue of Article [15/First and Second] and Article [24] of Iraqi High Tribunal Law No. 10 for the year 2005. The sentence was determined according to Article [406/1 (A, B, W)] by virtue of contributory Clauses [47, 48, 49] of the amended Penal Code No. 111 for the year 1969. The verdict was released in unanimous agreement subject to adjournment which was publicly acknowledged on 2007 June 24.

**3** – Sentencing Convict Husayn Rashid Muhammad to death, by hanging until death, for his contribution in premeditated genocide as a crime against humanity, as per Article [12/First: (B)] by virtue of Article [15/First and Second] and Article [24] of Iraqi High Tribunal Law No. 10 for the year 2005. The sentence was determined according to Article [406/1 (A, B, W)] of the amended Penal Code No. 111 for the year 1969. The verdict was released in unanimous agreement subject to adjournment which was publicly acknowledged on 2007 June 24.

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Muhammad 'Uraybi Majid Al-Khalifah

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**4** – Sentencing Convict Husayn Rashid Muhammad to death, by hanging until death, for his contribution in premeditated murder attacks against civil inhabitants as a war crime, as per Article [13/Fourth: (A)] by virtue of Article [15/First and Second] and Article [24] of Iraqi High Tribunal Law No. 10 for the year 2005. The sentence was determined according to Article [406/1 (A, B, W)] by virtue of contributory Clauses [47, 48, 49] of the amended Penal Code No. 111 for the year 1969. The verdict was released in unanimous agreement subject to adjournment which was publicly acknowledged on 2007 June 24.

**5** – Sentencing Convict Husayn Rashid Muhammad for 7 years imprisonment for his contribution in premeditated attacks against buildings appropriated for religious purposes as a war crime, as per Article [13/Fourth: (D)] by virtue of Article [15/First and Second] and Article No. (24) of Iraqi High Tribunal Law No. 10 for the year 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 for the year 1969. The verdict was released in unanimous agreement subject to adjournment which was publicly acknowledged on 2007 Jun 24.

**6** – Convict Husayn Rashid Muhammad detainment period will not be accountable due to the determination of his fate in this case as he is charged in another case.

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**7** – The severer sentence is to be carried out against Convict Husayn Rashid Muhammad as per Article [134] of the Penal Code No. 111 for the year 1969.

**8** – Confiscation of Convict's fixed and non fixed assets as per Article [24 /Sixth] of Iraqi High Tribunal Law No. 10 for the year 2005.

**9** – The convict was informed that the verdict documents will be automatically transferred to the Cassation Commission to be reviewed in cassation as per Article No. [254/( A)] of the Tribunal Trials Procedure law No. [23] for the year 1969. The verdict was released in unanimous agreement based on Article [182 /(A)] of the Tribunal Trials Procedure Law No.[23] for the year 1969, that was comprehended publicly on 2007 Jun 24

**10** –In the absence of substantial evidence in the case against Convict Husayn Rashid Muhammad concerning charges against him as per Articles: [11 /First (J)], [12 /First (J-D-?-W-H-Y-I)] and [13/Fourth (?-H-L)] of Iraqi High Tribunal Law No. 10 for the year 2005. The Court decided to drop charges against the convict and his release where it was agreed upon unanimously in accordance with Article [182/ (J)] of the amended Criminal Procedures Law No. 23 for the year 1971, that was acknowledged publicly on 2007 Jun 24.

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**6<sup>th</sup>. Convict 'Ali Hasan Al-Majid**

1 – Sentencing Convict 'Ali Hasan Al-Majid to death, hanging until death, for perpetrating intentional murder, as well as causing severe physical and mental damages on individuals from the community subduing them intentionally to harsh living conditions aiming at total or partial eradication. According to all that, you perpetrated a genocide as per Article [11/ First: (A, B, J) and Second: (A,?)] by virtue of Article [15/ First and Second] and Article [24] of Iraqi Higher Tribunal Law No 10 for the year 2005. The sentence was defined according to Article [406/1/S(A, B, W)] by virtue of contributory Clauses [47, 48 and 49] of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

2 – Sentencing Convict 'Ali Hasan Al-Majid to death, hanging until death, 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 Law No 10 for the year 2005. The sentence had been defined according to Article [406/1/( A, B, W)] by virtue of contributory Clauses [47, 48 and 49] of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

3 – Sentencing Convict 'Ali Hasan Al-Majid to death, hanging until death, 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

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Law No 10 for the year 2005. The sentence was defined according to Article [406/1/(A, B, W)] by virtue of contributory Clauses [47, 48 and 49] of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

4 – Sentencing Convict 'Ali Hasan Al-Majid to 10 years imprisonment for perpetrating coercive dislocation and taking away of inhabitants as crime against humanity pursuant to Article [12/First: (D)] by virtue of Article [15/First and Second] and Article [24] of Iraqi High Tribunal Law No 10 for the year 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 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

5 – Sentencing Convict 'Ali Hasan Al-Majid to 10 years imprisonment for perpetrating torture as a crime against humanity pursuant to Article [12/First: (W)] by virtue of Article [15/First and Second) and Article [24] of Iraqi High Tribunal Law No 10 for the year 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 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

6 – Sentencing Convict 'Ali Hasan Al-Majid to death, hanging until death, for perpetrating individuals' forceful disappearance as a crime against humanity pursuant to Article [12

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/First: (Y)] by virtue of Article [15/First and Second) and Article [24] of Iraqi High Tribunal Law No 10 for the year 2005. The sentence had been defined according to Article [406/1/( A, B, W)] by virtue of contributory Clauses [47, 48 and 49] of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 24.

7 – Sentencing Convict 'Ali Hasan Al-Majid to life imprisonment for perpetrating inhuman identical acts which premeditatedly cause severe suffering, or dangerous damage to the body, or mental or physical health 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 Law No 10 for the year 2005. The sentence had been defined according to Article [393/2/( J)] by virtue of contributory Clauses [47, 48 and 49] of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 2.

8 – Sentencing Convict 'Ali Hasan Al-Majid to death, hanging until death, for perpetrating premeditated assaults against civil inhabitants, for this description, or civilians not directly involved in warfare as a crime pursuant to Article [13/Fourth: (A)] by virtue of Article [15/First and Second) and Article [24] of Iraqi High Tribunal Law No 10 for the year 2005. The sentence had been defined according to Article [406/1/( A, B, W)] by virtue of contributory Clauses [47, 48 and 49] of

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(963 – 959)

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the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 2.

9 – Sentencing Convict 'Ali Hasan Al-Majid to 7 years imprisonment for perpetrating premeditated assault against buildings designated for religious and educational purposes as a war crime pursuant to Articles [13/Fourth: (D)] by virtue of Article [15/First and Second) and Article [24] of Iraqi High Tribunal Law No 10 for the year 2005. The sentence had been defined according to Article [479/2] by virtue of contributory Clauses [47, 48 and 49] of the amended Penal Code No 111 for the year 1969. The verdict had been issued by attended agreement, is revocable for cassation, and publicly acknowledged on 2007 Jun 2.

10- Sentencing the convict 'Ali Hasan Al-Majid to fifteen years imprisonment for committing robbery crime of any town or anyplace even if it was took over forcibly as a war crime pursuant to Article (13/ 4<sup>th</sup>/ H) and Article (15/ 1<sup>st</sup>/ 2<sup>nd</sup>) and Article (24) of the Iraqi Higher Tribunal's law number 10 for the year 2005 the sentence was designated according to the stipulates of Article (452) and the contributory Articles (49, 48, 47) of the amended Penal Code No.111 for the year 1969 and issued by agreement and attendance, revocable for cassation, and was publicly acknowledged on 2007 Jun 24

11- Sentencing the convict 'Ali Hasan Al-Majid to ten years imprisonment for committing the crime of issuing an order of relocating the civilian residents for reasons related to the conflict unless if the relocation was for the sake of the concerned civilians or for urgent military reasons as a war crime according the stipulates of Article (13/ 4<sup>th</sup>/ H) and Article (15/ 1<sup>st</sup>/ 2<sup>nd</sup>) and in virtue to Article (24) of

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Chairman

Muhammad 'Uraybi Majid Al-Khalifah

(963 – 960)

In the Name of God the Most Merciful, the Most Compassionate

Iraqi High Tribunal  
Second Criminal Court  
Iraq - Baghdad

Number/ 1/ 2<sup>nd</sup> Criminal / 2006  
Date / 2007 June 24  
Or 9 Jumada-al-Akhir 1428 Islamic calendar

"Verdict Decisions"

the Iraqi Higher Tribunal's law number 10 for the year 2005, the sentence was designated in accordance to the stipulates of Article (421/B) and the contributory Articles (49, 48, 47) of the amended Penal Code No.111 for the year 1969 and issued by agreement and attendance, revocable for cassation, and was publicly acknowledged on 2007 Jun 24

12- Sentencing the convict 'Ali Hasan Al-Majid to seven years imprisonment for committing a crime of destructing and confiscating the properties of the hostile party unless the destruction and confiscation was an obligation of war necessity as a war crime in accordance to the stipulates of Article (13/ 4<sup>th</sup>/ L) and article (15/ 1<sup>st</sup>/ 2<sup>nd</sup>) and article (24) of the Iraqi Higher Tribunal's law number 10 for the year 2005 the sentence was designated in accordance to the stipulates of Article (2/479) and the contributory Articles (49, 48, 47) of the amended Penal Code No.111 for the year 1969 and issued by agreement and attendance, revocable for cassation according to the stipulates of Article(182/ A) of the Criminal Procedures Law 23 for the year 1971, and was publicly acknowledged on 2007 Jun 24.

13- The detention period of the convict 'Ali Hasan Al-Majid is not counted since his fate needs to be decided in this case because he is detained on another case.

14- The severer sentence is to be executed against the convicted 'Ali Hasan Al-Majid according to Article (142) of the amended Penal Code (111) for the year 1969.

15- Confiscating the fixed and non-fixed assets of the convict 'Ali Hasan Al-Majid according to Article (6<sup>th</sup>/ 24) of the Iraqi High Tribunal's code number 10 for the year 2005.

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16- The convict had been informed that case documents are automatically transferred to the Cassation Court to be verified in cassation as per Article (A/254) of Criminal Procedures Law No. (23) For the year 1971 and announced in 2007 June 24.

17- Due to the lack of acquired evidences in the case against the convict 'Ali Hasan Al-Majid pursuant to Article (H- ?- J/ 1<sup>st</sup>/ 12) of the Iraqi High Tribunal's law number 10 for the year 2005 the tribunal has decided to drop the charges against him and release him and issued unanimous decision pursuant to Article (J/182) of the amended and capable of cassation Criminal Procedures Law No (23) for the year 1971 and announced in 2007 June 24 or 1428 Jumada II 09 Islamic Calendar.

**7<sup>th</sup> - General Sentences**

1- Plaintiffs of the civil right can come forward to submit their claim for compensation to the Civil Courts for the damages they suffered because of the crimes committed against them.

2- In 2007 January 08 the legal procedures against the convict (Saddam Hussein Al-Majid) had been stopped because his death was confirmed by executing the execution punishment against him for being convicted in Al-Dujayl case pursuant to Articles (304- 300) of the amended Criminal Procedures Law No (23) for the year 1971.

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3- The victims' bodies that were taken out from the mass graves will be handed over to their relatives to carry out the burying ceremonies according to the Islamic Law and according to the rules.

4- In 2007 May 16 it was contacted with the Investigation Court in the Iraqi High Tribunal to take the legal procedures against the mentioned individuals in the trial and investigation documents who their names are listed in the attached list which start with No (1) Wafiq 'Ajil Al-Samarra'i and finish with (423) Muhammad Sa'id Ahmad Muhammad Al-Haruni.

5- The legal profession fees for the representative lawyers of the victims will be allocated according to the agreed regulations with Defense Office in the court, issued unanimous and revocable for cassation decision and announced in 2007 June 24 or 1428 Jumada II 09 Islamic Calendar.

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(963 – 963)