

In The Name of God the Most Merciful the Most Compassionate

Iraqi High Tribunal  
Second Criminal Court  
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Reference No.: 1/Second Criminal/ 2006  
Date: 2007 June 24

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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.

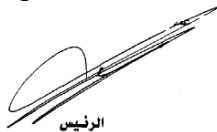
**A question from the court to the defendant:** was there any means of communication between you and the troops that were stationed in the geographic area covering your jurisdiction, and did you exchange views on the military situation or gave them orders? **He replied:** I did not issue any order, except 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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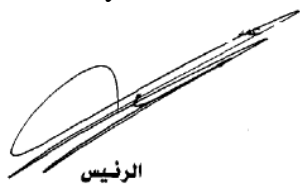
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**In addition, the defendant stated before the court.....** Tahir Tawfiq was the Secretary of the Committee. When decree number (160) was issued, incorporating the secretariat with the Northern Organization Office, he became Secretary of the Northern 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 Garmiyān, 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-Sulmaniyah 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 (Isfandyar 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 role 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 .....

  
الرئيس  
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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



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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

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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:**

  
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