

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) Second/ 2006

Date: 2007 June 24

The Verdict

---

... 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.

Chief of Investigative Judges

(621-963)



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) Second/ 2006**  
**Date: 2007 June 24**

**The Verdict**

---

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.

Chief of Investigative Judges



(622-963)

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) Second/ 2006  
Date: 2007 June 24**

**The Verdict**

---

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



Chief of Investigative Judges

(623-963)

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

The Verdict

---

**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.



Chief of Investigative Judges

(624-963)

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) Second/ 2006**  
**Date: 2007 June 24**

**The Verdict**

---

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



(625-963)

**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) Second/ 2006**

**Date: 2007 June 24**

**The Verdict**

---

... 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 ...

Chief of Investigative Judges

(626-963)



**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) Second/ 2006  
Date: 2007 June 24  
The Verdict**

---

... 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 ...

Chief of Investigative Judges

(627-963)



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) Second/ 2006  
Date: 2007 June 24  
The Verdict**

---


... 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).

(628 - 963)

  
الرئيس



Chief of Investigative Judges

**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) Second/ 2006**

**Date: 2007 June 24**

**The Verdict**

---

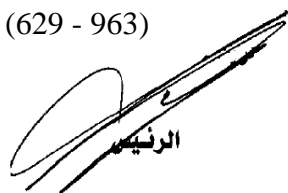
The ethnic group is commonly defined as a group whose members share a joint culture and language (Case of Akayzu – verdict of International Tribunal for Rwanda / 02 September / 1998 Clause / 513).

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 ...

(629 - 963)



Chief of Investigative Judges

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) Second/ 2006**

**Date: 2007 June 24**

**The Verdict**

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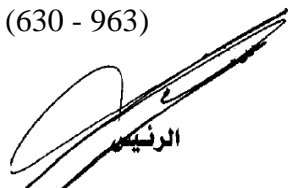
...for the group. Definitely, any action committed with intent to eradicate any part of a group, for such attribution, constitutes eradication (Case of Bardiyani / verdict of international tribunal for former Yugoslavia / 1 / September / 2004 / clause 700).

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 ...

(630 - 963)



Chief of Investigative Judges

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  
Coincided with 2007 June 24

### The Verdict

...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.



(631 - 963)

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  
Coincided with 2007 June 24


### The Verdict

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

(632 - 963)

  
The Presiding Judge



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

### The Verdict

'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



(633 - 963)

The Presiding Judge

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

### The Verdict

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.



(634-963)

The Presiding Judge

In The Name of God, Most Merciful Most Gracious

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

Ref. No.: 1/ 2<sup>nd</sup> Tribunal / 2006  
Dated: 2007 June 24

**Verdict**

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,



The President



(963-635)

In The Name of God, Most Merciful Most Gracious

Iraqi High Tribunal Court  
2006  
2<sup>nd</sup> Criminal Court  
Baghdad – Iraq

Ref. No.: 1/ 2<sup>nd</sup> Tribunal /

Dated: 2007 June 24

**Verdict**

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



The President



In The Name of God, Most Merciful Most Gracious

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

Ref. No.: 1/ 2<sup>nd</sup> Tribunal / 2006  
Dated: 2007 June 24

**Verdict**

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 destroyed 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)



The President



(963-637)

In The Name of God, Most Merciful Most Gracious

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

Ref. No.: 1/ 2<sup>nd</sup> Tribunal / 2006

Dated: 2007 June 24

**Verdict**

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,



The President



(963-638)

In The Name of God, Most Merciful Most Gracious

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

Ref. No.: 1/ 2<sup>nd</sup> Tribunal / 2006  
Dated: 2007 June 24

**Verdict**

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 Sulaymaniyah, 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



The President



(963-639)

In The Name of God, Most Merciful Most Gracious

Iraqi High Tribunal Court  
2006  
2<sup>nd</sup> Criminal Court  
Baghdad – Iraq

Ref. No.: 1/ 2<sup>nd</sup> Tribunal /

Dated: 2007 June 24

**Verdict**

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.



The President



(963-640)

In The Name of God, Most Merciful Most Gracious

Iraqi High Tribunal Court  
2006  
2<sup>nd</sup> Criminal Court  
Baghdad – Iraq

Ref. No.: 1/ 2<sup>nd</sup> Tribunal /

Dated: 2007 June 24

**Verdict**

**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.



The President



(963-641)

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> Tribunal / 2006**  
**Date: 2007 June 24**

**The Verdict**

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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 burry 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



(963-642)



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> Tribunal / 2006**  
**Date: 2007 June 24**

**The Verdict**

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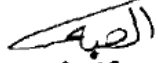
What we had mentioned above is none but samples of what Kurds had been exposed to, as national ethnic community, from severe damages throughout Al Anfal operations.

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



Chief of Investigative Judges



(963-643)

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> Tribunal / 2006

Date: 2007 June 24

The Verdict

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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 ...

Chief of Investigative Judges



(963-644)



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> Tribunal / 2006

Date: 2007 June 24

The Verdict

---

... 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 ...

Chief of Investigative Judges



(963-645)



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> Tribunal / 2006

Date: 2007 June 24

The Verdict

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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 ...

Chief of Investigative Judges



(963-646)



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> Tribunal / 2006

Date: 2007 June 24

The Verdict

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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

Ref.No.:1/ 2<sup>nd</sup> Tribunal / 2006

Date: 2007 June 24

The Verdict

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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)



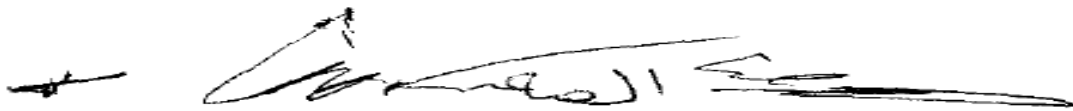
In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
Baghdad-Iraq

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

### Verdict Decision

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  
Second Criminal Court  
Baghdad-Iraq

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

## 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)

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
24  
Baghdad-Iraq

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

## Verdict Decision

- 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)



In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
24  
Baghdad-Iraq

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

## Verdict Decision

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



(652-963)

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
24  
Baghdad-Iraq

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

## Verdict Decision

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)

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second Criminal Court  
24  
Baghdad-Iraq

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

### Verdict Decision

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)

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second/ 2006  
Second Criminal Court  
Baghdad-Iraq

Ref.No.:1/ J

Date: 2007 June 24

## Verdict Decision

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



In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second/ 2006  
Second Criminal Court  
Baghdad-Iraq

Ref.No.:1/ J

Date: 2007 June 24

### Verdict Decision

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



In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second/ 2006  
Second Criminal Court  
Baghdad-Iraq

Ref.No.:1/ J

Date: 2007 June 24

## Verdict Decision

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



(963-657)

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second/ 2006  
Second Criminal Court  
Baghdad-Iraq

Ref.No.:1/ J

Date: 2007 June 24

### Verdict Decision

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



(963-658)

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second/ 2006  
Second Criminal Court  
Baghdad-Iraq

Ref.No.:1/ J

Date: 2007 June 24

### Verdict Decision

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



(963-659)

In the Name of God the Merciful the Compassionate

The Iraqi High Tribunal  
Second/ 2006  
Second Criminal Court  
Baghdad-Iraq

Ref.No.:1/ J

Date: 2007 June 24

## Verdict Decision

**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)