

In the Name of God All Merciful All Compassionate

The Iraqi High Tribunal
Second Criminal Court
Baghdad-Iraq
Ref.No.:1/ 2nd Criminal/ 2006
Date: 2007 June 24

The Verdict

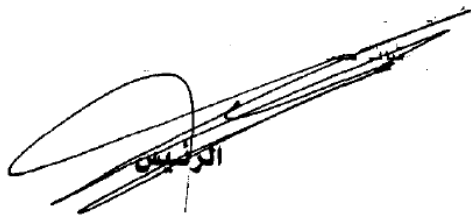
...which is a rectangular building of cement and bricks, from two floors with a big patio in the middle. The ground floor is consisted of (26) big halls and (35) rooms, as the upper one is made of (19) halls and (36) rooms. The court noticed the existence of (6) watchtowers on the building as the fort is resided, in the moment, by poor Kurdish families. This fort had been used as detention and arrest camp for Kurdish families brought in from Kurdish villages included in al Anfal operations.

2- Bahirka Area:-

The court induced field inspection of Bahirka Area, on 2006 November 22, where it was found that the area is a housing neighborhood that been built recently, as was concluded from the buildings' status. It is (15) km far from (Irbil) governorate center, located on a coastal area which was previously free from buildings and far away from mountains. The former regime had used this area as a detention center for Kurdish families that were coercively brought from Kurdish villages included in Al Anfal operations.

Balak Jar, Takya, Siwsinan, Shurish villages' inspection report, on 2006 November 23:

When the court's commission reached (Siwsinan) Village, it noticed a graveyard located on the eastern side of the highway, fenced [circular] as graves were well organized. The court noticed the victims' names engraved on gravestones. Those names were identical to plaintiffs' testimonies before court during the hearing. It had been realized that those [corpses found] are victims of chemical strikes during Al-Anfal operations.



Chief of Investigative Judges



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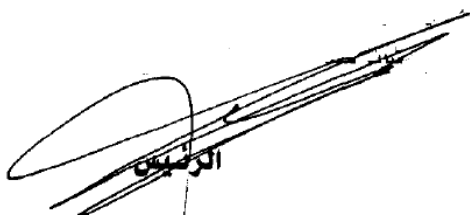
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The court moved to Takya and Balak Jar villages. It noticed that the area is surrounded by a mountain chain dominated by Qar Dagh Mountain. (Takya) village is located on the foot of a mountain with (20) to (25) houses, as (Balak Jar) village is in (Qara Dagh) valley containing 12 to 20. The court noticed an unexploded rocket launcher planted in the ground, 500 meter away from the village, as well as another obviously up from the ground level with (2 meter) length, 1000 meter away from the village.

Next, the court's commission moved to (Shurish) compound. Once there, on 2006 November 23, it noticed that it is a huge residential compound located on the side of the main road which link Al-Sulaymaniyyah City to (Chamchamal). An inspection and mapping of the area had been framed.

The commission continued to (Barjina) village, (27) km far from Dahuk governorate, located in a rough area surrounded with mountains chain from four side, (50) km away from Iraqi-Turkish borders. Additionally, the court realized that all the villages' houses and mosque are completely destroyed. The court was able to identify the mass grave which contains Victim [NAME REDACTED] and his grandson ([NAME REDACTED]), previously mentioned by one of the plaintiffs. Moreover, the court noticed the remains of bombs containing solid yellow material which after laboratory examination was identified as chemical substance. The court carried field inspection over (Shaykh Wasan), (Balisan) and (Wara) villages where remains of exploded bombs (fragmental), cluster bombs' containers, and chemical bombs shells, with unidentified substances inside them, were found between (Biraw and Kani Bardi). A sample had been passed military engineering brigadier general for laboratory analysis, acknowledging that a military engineering brigadier general was accompanying the court's commission, and has identified the aforementioned substance.



The Presiding Judge



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The commission moved to (Wari) village, and the mass grave affiliated to it. The village is located on the eastern side of the main road to (Balisan). It is constituted of approximately (40) houses, (2) km away from the gravesite, on a river called Qashan. The graves in the village remained in their original form, at the time of burial, with numerous victims pertaining to Al Anfal operations.

(Convict Husayn Rashid Muhammad)

Genocide:

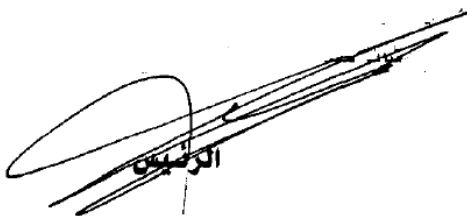
On 2007 February 20, the court charged Convict (Husayn Rashid) for perpetrating genocide as per Clauses [(A, B and C)] of Clause [First] of Article [11] of Iraqi High Tribunal Law o (10) for the year 2005, as follows:

A- Murder individuals from a group

B- Causing physical or mental damages for a group's of individuals

C- Premeditatedly subduing the group to harsh living conditions on purpose of total or partial eradication

It is known and proved historically that the Kurds were and still are a national ethnic group residing Kurdistan Region in Northern Iraq. Additionally, they had been exposed by former regime and Convict (Saddam Hussein), due to their national ethnicity, to mass murder and severe damages through large scaled attacks with conventional and chemical weapons, subduing them to living conditions on purpose of eradication via coercive dislocation and economic siege by destroying the capability of ...



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... survival, driving them to crowded prison camps lacking the minimum tools of life, or housing them in residential compounds which are not valid to be habited, among others, aiming to finally eradicate the Kurdish populace.

1- Murder as genocide:

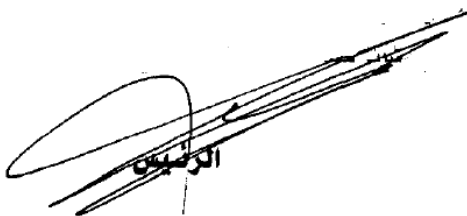
Convict Husayn Rashid role in murder as genocide:

Crime's elements:-

Murder as genocide requires the provision of the following elements:

- 1- The perpetrator must murder one or more individuals
- 2- The one or more individual(s) are to be associated to a given national, ethnic, racial, or religious group.
- 3- The perpetrator must intend to eradicate partially or totally that national, ethnic, racial, or religious group.
- 4- This conduct must be issued in a clear similar conduct context against the aforementioned group or to be [the conduct] a cause of such eradication.

To prove murder as genocide; the premeditated murder elements must be provisioned, correlated to preconceived malice and diversity of plaintiffs. Therefore, a criminal conduct is to be committed by the perpetrator or contributor in this act or conduct by the accomplice of murder or to cause it. In addition, the criminal result is to be available too, proved by the death of the aggrieved, accompanied with causal relation between the act and result. The provision of the aforementioned elements means that the physical basics of the crime are obtained. On the other hand, the morale basic of murder as a crime must be established via the criminal intent which required the provision of perpetrator's intentional factors in totally or partially eradicate the national, racial, ethnic, or religious community ...



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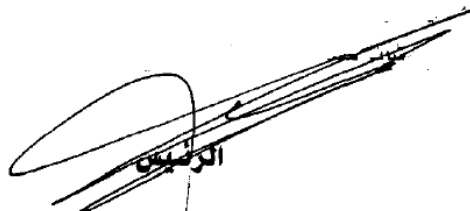
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... by attribution, taking into consideration that the criminal intention is the will to achieve the criminal result via a conduct carried out within a clear and identical context against that group. In general, according to International crimes, the preconceived malice is provisioned through the number of contributors and previous planning from committing such crime, as of the provision of cool manner.

The second element of premeditated murder, as genocide crime, is that the perpetrator's intent must be directed, as well as his criminal conduct, toward achieving the murder intent aiming to partially or totally eradicate the national, racial, ethnic, or religious community.

One of the elements of proof, which indicate that the murder crime is a genocide crime, is the availability of a group of people within a specific area, while the attackers are containing them to prevent their [group's members] escape, at a time when the perpetrator issue preplanned orders to murder those people by weapons. Whereas there is evidence that this group is bounded legally or via a common nationality, as well as interchange of rights and duties, contributing to one common language and culture, in one given geographic area, sharing the same religion. From the vital elements of proof, as to prove murder as genocide, is the official classification of the group via an investigation over their [group's members] naturalization certificates, destroying electricity and water networks, use violence and cruelty against victims, illegal detention of men, coercive dislocation of women and children outside the district, contributing to the segregation of other members within one given group, using bad terms by the offender to disdain or humiliate or discriminate the group's national ethnicity, segregating men from women, youngsters from elders, adopt a repetitive harmonized pattern of raids evidence, and the spread of physical ailments among civilians.

Regarding Convict Husayn Rashid, he was chief of army staff's adjutant for military Operations during Al-Anfal operations, as he was not in a command position, with no power over ...



Chief of Investigative Judges
(745- 963)



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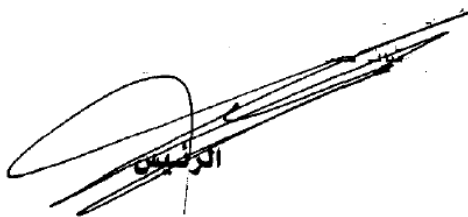
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... making decision as he claimed. The convict mentioned that he did not commit any of the crimes charged against him, since he was not the decision maker as being director of Operations directorate which is affiliated to Army Staff Chairmanship. He insisted that his role, as a member in the general command of the armed forces, was limited to handling status reports only, while he confessed attending all the meetings pertaining to Al-Anfal planning between February and September of 1988. Furthermore, he reported that he had no choice to reject any of the orders released to him regardless of its legitimacy or not, as his role was limited to provide consultancy without objecting to the plans submitted to him. The convict testified that six directorates were related to his department [deployment, armament, supply, organization, and signal]. Copies on information were sent to him to upgrade the maps and forward advice as of the availability of military and human resources required for military troops. Moreover, he insisted that his role was limited to prepare the plans to attack military targets rather than civil ones, as he claimed to perform his military duty perfectly denying any acknowledgment concerning the attacks over civil inhabitants or targets.

In spite of Convict's Husayn Rashid claim of being innocent, there are evidences which indicate that he is involved in the murder as genocide. That is because all the aforementioned evidences submitted hereafter mark his acts as being aware and acknowledged of the strikes against civil inhabitants via all kinds of conventional and chemical weapons. Since he confessed to be in charge of Operations directorate on July of 1987, which means after Convict 'Ali Hasan Al-Majid orders and instructions included in letter number (4008), dated on 1987 June 20, as this letter is taken as the central one around which the whole Al Anfal operations concentrate. The letter expresses Convict 'Ali Hasan Al-Majid intention to murder Kurds in Kurdistan, after granting the latter wide jurisdictions, putting under his command all

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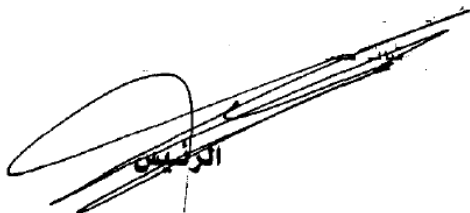
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... state's civil, military, security and party systems as per bygone Revolutionary Command Council Decree (160), for the year 1987.

Convict (Husayn Rashid) had reviewed the aforementioned decree and letter number (4008), dated 1987 June 20, and realized the intention of Convict 'Ali Hasan Al-Majid regarding the dislocation of Kurdish civil in habitants far from their villages, preventing the human and animal existence, foiling agronomical and industrial activities within the area, detaining everyone to be found within prohibited zones, executing the internees whose ages are between 15 and 70 years old [included], after investigating them with no trials. The letter included instructions to the corps' commands to prepare special strikes by artillery, helicopters and aircrafts to murder the largest possible number of residents within the aforementioned area. Convict Husayn Rashid had been acknowledged, along with all military commanders and military intelligence in charge personnel, that the committed acts carried out in Al Anfal operations are none but the intentions of Convict 'Ali Hasan Al-Majid, declared in the aforementioned letter and letter numbered (3650), dated on 1987 June 3, which set down the pillars of Al-Anfal Operations.

The court noticed how the military troops attacked the Northern zone and blocked all exits to Turkey in order to contain the inhabitants and arrest them, using, excessively, all sort of weapons, in these raids including conventional and chemical weapons against Kurdish civil inhabitants according to what had been preplanned by Convict Husayn Rashid from human and physical recourses to the military troops, which attacked Kurds as being national ethnic community having their own language, history and culture, which constitute the legal bounds or nationality among members of a targeted community. In addition, the court noticed that this group was classified officially by identification card's investigation procedures, as Victim [NAME REDACTED] testified before court, on 2006 October 31, "When we arrived to the brigade headquarter in Chamchamal, they registered our names and addresses". Most of ...



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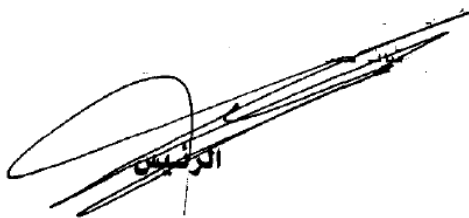


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... the victims who attended before court assured that they were subjected to an identification card's investigation, and then women and children were segregated away from men. Several victims and witnesses testified that the attacking military forces exploded water wells and filled them up with concrete bricks; and that is an evidence for destroying the water and electricity network. As for using violence and severity with victims, most of the plaintiffs and victims mentioned that the attacking forces had used extreme violence and severity whereas their villages were exposed to an intense concentrated bombardment, describing it as being Armageddon. Victim [NAME REDACTED] testified to court, on 2006 September 20, that her village (Siwsinan village), was attacked and that she saw (14) bodies lying on the ground, seven of them were from [NAME REDACTED] family, and the rest of the bodies were for her daughter ([NAME REDACTED]) and five sons, and other two. 81 Citizens, from her village, were murdered that day, some via chemical weapons. As for the evidence of segregating individuals within one given group, such as women apart from men, or those within the age of military service from the elders, Plaintiff [NAME REDACTED] testified to court, on 2006 October 19, "When we reached Tupzawa prison camp, we were segregated to three groups [women, men and youngsters]. Plaintiff [NAME REDACTED] testified to court, on 2006 Oct 9, "When reaching Tupzawa camp, we were segregated to 3 groups [women, men, and males under 49 years old]". Most of the victims stated that once they arrived to detention and prison centers, men had been segregated from women, youngsters from elders [both males and females]. As for the evidence of reoccurrence, consistency and methodically, the court noticed that Al-Anfal operations were divided to eight stages, as these eight were executed in the same method and technique. Convict 'Ali Hasan Al-Majid confirmed the aforementioned, during hearing sessions before the court, when he replied concerning the fifth corps commander's inquiry about ...



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... the way to handle families, ordering to be treated as in previous operations. This proves that the attacks were organized and executed according to a clear systematic plan or policy. As most of the victims testified being dislocated from their own villages to detention and prison centers via military vehicles as Convict Sultan Hashim admitted that before court. The evidence of places and pits prepared for execution, this is confirmed by most of the survivors from mass graves including victims ([NAME REDACTED], ([NAME REDACTED]) and [NAME REDACTED] who mentioned that they witnessed the pits prepared before reaching the appropriated execution's site. They also noticed bulldozers and shovels ready to fill up pits with earth after the execution which insure the availability of a plan or a policy laid down by Convict 'Ali Hasan Al-Majid, according to aforementioned letter No (4008), dated 1987, June 20, regarding the implementation of Al-Anfal operations. Concerning the evidence on consistency between types of used weapons and uniformity in investigation, the court noticed that the special ammunition was used intensively and intensely during the years 1987 and 1988 in Northern area of Iraq. There was uniformity in investigation, as to extract information from victims by security systems, before carry on executions. This was what had been included in one of Letter No (4008) clauses, on 1987 June 20, as well as other letters issued Convict 'Ali Hasan Al-Majid. Regarding the spread of physical ailments, thousands of civil inhabitants, from Kurdish villages, were exposed to murder, as a consequence of chemical weapons; as it had been stipulated in document No 1122, dated on 1988 August 21, issued by Army Chief of Staff, addressed to First and Fifth Corps, with a copy to Operations Directorate, the conference which was held and attended by Convict Husayn Rashid. The 1st clause of the document included "the concentration of the population should be identified in Fifth Corps Operational Sector to be handled by concentrated special strikes ...

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... 48 hours prior of implementation in order to create a state of phobia". Witness [NAME REDACTED] from (Gup Tapa) village, who mentioned before court, on 1988 May 03, that (25 members of his family were killed during the attack with chemical weapons on his village on 1988 May 03).

Although the aforementioned acts were executed according to orders released by Convict 'Ali Hasan Al-Majid, they had been planned and supported by Convict (Husayn Rashid) who had attended Kirkuk conferences that discussed the usage of special (chemical) ammunition over Kurdish villages, where the aforementioned convict offered support in planning and preparing the human and physical resources, providing military technical expertise and updated maps.

The convict is a professional officer with the rank of staff lieutenant general, knowing very well the consequences of using chemical weapons which are considered as indistinct weapons which do not differentiate between civilians and fighters. Although Convict (Husayn Rashid) did not issue direct orders to murder Kurdish civil inhabitants, he contributed and participated in a joint criminal plan, with other convicts, to target and eradicate partially or totally the Kurdish civil inhabitants of Northern Iraq.

The aforementioned elements of proof emphasize the occurrence of murder as genocide by Convict ('Ali Hasan Al-Majid) and others. Convict (Husayn Rashid) had contributed with other convicts, playing an eminent role in providing support and help for committing those acts which constitute a murder as genocide.

Convict (Husayn Rashid) was informed about all details and plans for Al-Anfal operations, since he was the Deputy Chief of Army Staff for Operations, as he had been also informed about documents and letters concerning chemical weapons' usage and appropriated results.

Chie of Investigative Judges



(750-963)



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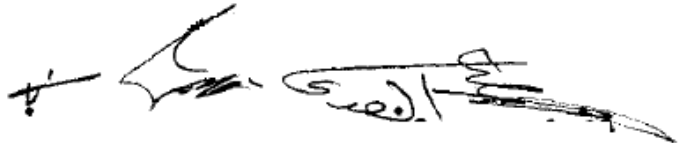
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Accordingly, Convict (Husayn Rashid) had contributed to a criminal plan along with other convicts in a joint criminal intention, aimed to reinforce former regime and its military and security systems' criminal activity or purpose. Hence, his criminal responsibility for murder as genocide will be approved as per Article [15/First/Second] of Iraqi High Tribunal Law No (10), for the year 2005.

The Verdict

Accordingly, it has been proven before court that Convict (Husayn Rashid Muhammad) is guilty for contribution in perpetrating murder as genocide as per Article [11/First/(A)-Second (E)] by virtue of Articles [15/First, Second] and [24] of Iraqi High Tribunal Law No (10) for the year 2005, by virtue of and according to Article [406/1/(A)] and the contributory Clauses [47], [48] and [49] of Iraqi amended Penal Code No (111) for the year 1969. It has been decided to incriminate him according to the aforementioned articles and clauses, identifying the sentence as per them. The verdict had been issued unanimously on 2007 June 24.

Chief of Investigative Judges



Member Member Member Member

(751-963)

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2- B- Causing physical or mental damages against a group's members as genocide:

Convict Husayn Rashid Muhammad role, in causing severe mental or physical damages against group's members as genocide

Elements of crime:

For committing such a crime, the following elements must be available:

1. That the perpetrator's act causes severe physical or morale damages in one or more individuals.
2. That the one or more individual(s) should be affiliated to a given national, racial, ethnic, or religious group.
3. That the perpetrator intends to partially or totally eradicate this given national, ethnic, racial, or religious group.
4. That this conduct is issued in a similar and clear schemed context targeting the aforementioned group or cause in itself the intentional eradication.

Among elements of proving this crime, the evidence on participation of the suspected in causing severe physical or mental harm, along with the existence of the evidence on the distance between the location of the violence scene and the location of the suspected. It requires the existence of an evidence for the participation of the suspect in murdering members of the group in addition to provisioned evidence regarding the result of the suspected acts.

It was been previously mentioned that Convict (Husayn Rashid) had contributed in planning for Al-Anfal operations, and supplied the military troops with all required of personnel, equipments, and different types of weapons due to his official post during Al-Anfal operations (Deputy Chief of the Army Staff for Operations). This plan resulted- as proved in files and official documents- in causing...

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A handwritten signature in black ink, appearing to be a stylized name, is written over a horizontal line.

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...severe physical and mental harm in Kurdish civil inhabitants in Northern Iraq, through the former regime's plan that he had contributed in preparing it against the Kurdish inhabitants. The letter numbered (3650), dated on 1987 June 03, gave a clear image in regards of the regime's plan in dislocating the Kurdish villagers from prohibited zones, as this letter included an order to freeze the agronomy, prevent harvesting the crops, as well as pasturing and plowing. He also issued directions to the Armed Forces to kill any human or animal found within the aforementioned zones. As for letter No (349), dated 1988 April 27, issued by Chief of Army Staff and directed to First and Fifth Corps, concerning the planning for Al-Anfal Operations conference which was held in Kirkuk and attended by Convict (Husayn Rashid) at the same mentioned date, the letter discussed several issues such as the usage of special ammunition which would be launched from artillery and rocket launchers prior to military operations, as a copy of this letter was sent to the Operations directorate. The third letter numbered (183), on 1988 March 20, issued by Chief of Army Staff and addressed to the First Corps, titled (Directions), it had discussed the execution of the Second Anfal to cleanse some areas and the way of resenting requests of Special Strikes, as a copy also of this letter was sent to the Operations Directorate. The letter numbered (6545), dated on 1988 May 22, issued from Chief of Army Staff, addressed to Ministry of Defense Diwan [Office], pointed out that a strike was carried out by using Special Ammunition, on 1988 May 05, over saboteurs' headquarters within Fifth Corps' sector. As for Clause [2] of this letter, it referred to the pursuing operations against saboteurs according to settled plans for this purpose (Al-Anfal operations plans), a copy of this letter was sent to the Operations Directorate. Letter No (1122), dated 1988 August 21, issued by Chief of Army Staff, to First and Fifth Corps, and a copy to the Operations Directorate, stated:
(Locating the residential concentrations is in progress, within the Fifth Corps sector, and to be bombed with intensive strikes 48 hours prior to launching the attack, to create a state of terror among...



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...their lines). This letter also included orders to military commanders in taking highest levels of precautions when striking villages nearby Iraqi-Turkish borders.

As for letter No (127), dated 1988 March 08, issued by Chief of army Staff, addressed to Ministry of Defense Diwan [Office] and a copy to the Operations Directorate, it has included the implementation of (2) strikes using Special Ammunition, as well as the incapability of First Corps to refer to special Strikes due to bad weather. Letter No (11350), dated 1988 June 10, issued from GMID to Chief of Army Staff and a copy to the Operations Directorate, included that saboteurs' loss was (58) dead and (72) injured [saboteurs, their families, and villagers], due to Special Strike. This indicates clearly that Convict (Husayn Rashid) had participated in causing mental and physical damages to Kurdish civil inhabitants in Northern Iraq, through his aforementioned post.

The convict had admitted running his post as Chief of Army Staff's adjutants for Operations, from Ministry of Defense headquarter in Baghdad, meaning that he was not a field commander in Al-Anfal Operations. That is a clue on a distance between the military operations' site and convict's workplace, the thing which is required to prove the crime.

What has been previously mentioned from official documents is evidence that the convict had participated indirectly in killing maybe hundreds of Kurdish populace. In addition, he had confessed that no such military plan can be carried out unless being preplanned by Operations Directorate solemnly, which he led, or in contribution with the concerned corps.

The convict had admitted attending regularly the planning meetings of Al-Anfal which were held in Kirkuk, on 1988 April, where a discussion and a study for Al-Anfal plans were laid down in details, including the usage of Special Ammunition (Chemicals), as it is proven by that letter No ...

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... (349), on the 27th of April 1988, where the convict provided military and technical recommendations and consultations, in addition to supplying the required capabilities to launch the chemical weapons in a way that does not tell between civilian and military targets, in areas where Kurds reside, and the court realized that most of the documents regarding the use of special weapons, were given a copy to the convict's directorate (Operations Department), signifying that physical and mental damages that affected Kurdish civil inhabitants in Northern Iraq, occurred as a consequence of convicts aforementioned acts.

Moreover, a lot of victims (plaintiffs) were present in court and gave their testimonies admitting being exposed to chemical strikes during Al-Anfal operations, as they showed their bodies before court to highlight over scars of chemical weapons' wounds on their bodies. Other victims proved to partially lose their vision because of chemical weapons as they still suffer pain in their eyes, digestive and respiratory systems.

Accordingly, the court finds Convict (Husayn Rashid) criminally responsible for perpetrated acts via contributing in a joint criminal intent with other group of convicts, through a joint criminal plan, causing severe physical and mental harm to Kurdish civil inhabitants in Northern Iraq which resulted in genocide. According to the aforementioned acts, Convict Husayn Rashid was fully aware that such acts will lead to such result, as per Article No [15/ 1st, 2nd] of Higher Iraqi Tribunal Law No (10) for year 2005.

The Verdict

Accordingly, it was proven to court that convict (Husayn Rashid Muhammad) is guilty for his participation in causing severe physical and mental harm to individuals of members of a given community, considered as genocide, according to Article No [11/1st/ (B)-2nd/(E)] by virtue of Article [15/1st, 2nd]



The image shows a handwritten signature in black ink above a circular official seal. The seal contains Arabic text: 'الهيئة القضائية العراقية العليا' (The Supreme Iraqi Judicial Authority) around the perimeter, and 'القسم الثاني' (Second Section) in the center. Below the seal, the words 'Iraqi High Tribunal' are printed in English.

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... and Article (24) of Iraqi High Tribunal Law No (10) for the year 2005, by virtue of Article [406/1/(SATTS A)] and contributory Clauses [47], [48], [49] of Iraqi amended Penal Code No (111) for the year 1969. The verdict was issued unanimously on the 24th of June 2007.

**Chief of Investigative Judges
Muhammad 'Iraybi Majid Al-Khalifa**

Member Member

Member Member



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Crimes against Humanity:

On the 20th of February 2007, the court incriminated Convict (Husayn Rashid) for crimes against Humanity according to Article [12/1st] of Iraqi High Tribunal Law No (10), for the year 2005, as they are:

- a . Premeditated Murder.
- b . Genocide.
- c . Enslavement.
- d . Relocation or coercive dislocation of inhabitants
- e . Imprisonment or extreme deprivation from any means of physical freedom contrary to International Law's basic regulations.
- f . Torture.
- g . Rape, sexual slavery, forced prostitution, Coerce pregnancy, or any kind of sexual violence on the same level of danger.
- h . Persecution of any specific group of people or any specific group of citizens for political, racial, national, ethnic, religious, cultural, gender related or any other reasons contrary to International Law regarding any aforementioned act related to sexual violence on that level of danger
- i . Forced harboring of individuals.
- j . Other inhumane acts with identical nature premeditatedly causing severe suffering, or extreme damages in the body, or mental; or physical health



Chief of Investigative Judges



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Premeditated murder as a crime against humanity:

Convict Husayn Rashid Hashim role in premeditated murder as a crime against humanity:

Elements of the crime:

1. If the perpetrator murder one or more individuals.
2. If the act is committed as part of a systematic large scaled attack against civil inhabitants.
3. If the perpetrator intends, or is aware that this act is part of a systematic large scaled attack against civil inhabitants.

The most important element to prove the premeditated murder as a crime against humanity is to have evidence of gun shot. And we showed before how the military troops aimed fire from their different weapons toward Kurdish villages, starting with light weapons, passing by artillery and rocket launchers, ending with helicopters and aircrafts which were bombing the villages with conventional and chemical weapons. The most important document to rely on regarding opening fire is letter No (4008), on the 20th of June 1987, issued by Northern Organizing Office in charge personnel. Convict 'Ali Hasan Al-Majid, who ordered the killing of whoever exists in the prohibited zones' villages aging between 15 and 70 years [included], instructed corps' commanders to prepare special strikes (Chemical weapons) to murder the biggest possible number of residents among the aforementioned villages. This, in addition to letter No (6545), on the 22nd of May 1988, issued by Chief of Army Staff to Ministry of Defense Diwan, and a copy of it to the Operations Directorate which was lead by Convict (Husayn Rashid), stipulated in one of its clauses "strikes had been implemented on May 15, using special ammunition over saboteurs' locations...



Chief of Investigative Judges
(758-963)



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...within 5th corps' sector". Letter No (11325), on the 10th June 1988, issued by GMID General to Chief of Army Staff, a copy of it was sent to the Operations Directorate, stated that (58) killed and (72) were injured from saboteurs, their families and villagers due to the special strike (chemicals).

The other evidence, in proving premeditated murder against Convict Husayn Rashid, is his attendance to all meetings regarding planning or organizing the murder. The convict revealed in his testimony before Chief of Investigative Judges that all military plans were not to be factually executed before being presented to the Operations Directorate [under his command] which is affiliated to Army Staff Chairmanship, where the plans are to be presented to different correlated Directorates, to give their opinion, before referring them [plans] to Chief of Army Staff. Moreover; Convict (Sultan Hashim) had revealed in his testimony that he was summoned, on mid January 1988, to meet with Chief of Army Staff (Nazar Al-Khazraji) and his deputy for operations Lieutenant General (Husayn Rashid) at that time; they briefed him about the 1st Al-Anfal operation which was already set by the 1st corps. The Operations Directorate studied the laid down plan of 1st Al Anfal operations. Convict (Sultan Hashim) also stated that the military notifications and orders are directly passed through the Chief of Army Staff, while military plans are set or agreed upon either by the Chief of Army Staff, specifically the Operations Directorate if the case is Military Operations, where Lieutenant General (Husayn Rashid) was the adjutant of Chief of Army Staff. As in the scenario of to laying down contributory plans by both Operations Directorate and concerned Corps, the plan will not be executed unless discussed by concerned Directorates and issued by Army Staff Chairmanship. This is the followed procedure at the time. This is what came in the testimony of Convict (Sultan Hashim). On the other hand, Convict (Sabir 'Abd-al-'Aziz Al-Duri) stated before Chief of Investigative Judges that ...



Chief of Investigative Judges



(759-963)

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...big plans correlated to big operations are framed by appropriated parties within Army Staff Chairmanship, specifically from the Operations Directorate headed by Chief of Army Staff's adjutant for Operations Convict Husayn Rashid Muhammad. It will be approved by General Commander of the Armed Forces if it may require sometimes major forces, considering Al-Anfal Operation a large one.

That, in addition to a lot of official documents that prove this, for example: letter No (349), on the 27th of April 1988, issued by Chief of Army Staff, directed to 1st and 5th corps commanders, headlined (Instructions), indicated the meeting that took place in Kirkuk, on the 27th of April 1988, which had been attended by Convict (Husayn Rashid), In its clauses was stipulated the upcoming Al-Anfal operations' plans, including 4th Al-Anfal Operation, mentioned in article (W) as follow: (Using the special ammunition over enemy's mobilization, whenever it is possible, whether by air fighters, artilleries, Rocket launchers and helicopters before they start their operations against our troops (Aborting Operations) and it is likely to attack with special weapons (chemical weapons) on saboteurs locations).

Moreover; the convict confessed before court that the Operations directorate, under his command during Al-Anfal operation, was as a (Bank) that prepares the financial and human resources to all military sectors, and its role was confined in giving advice and technical directions to the troops.

The third evidence to prove the murder as a crime against humanity is the existence of premeditation. And the premeditation is shown when the convict contributed in planning for Al-Anfal operations as the aforementioned statement showed in details. In addition, the Operation directorate that was under the command of the convict included six directorates, and each had a particular mission to plan for the military operations. For example the Organizing Directorate was participating in planning for the operations by coordination with the involved corps, and the Arming Directorate was organizing...



(760-963)

In the name of God most Merciful most Compassionate

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2nd Criminal Court
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Verdict

...equipping operations of the Armed Forces with various weapons, and the Supply Directorate would prepare the Military Units with what they required from human resources, equipment, machinery, tires among others. As for the Survey Directorate, they would prepare military maps and update them whenever they were required. This entire operation indicates proof of premeditated murder undertaken such as crimes against humanity.

As for proof of the wide scale or systematic attacks, there must be proof which indicates that. For instance the involvement of High Political or Military commands, the evident proof of that is the decree that was issued by the Revolutionary Command Council No. (160) dated 1987 March 29 which authorized accused ('Ali Hasan Al-Majid) wide jurisdictions as was stated in the Clause (1st) of which is the following: (Comrade 'Ali Hasan Al-Majid, member of the State Command of the Ba'th Party, will represent the State Command and the Revolutionary Command Council in applying their policies in the Northern area including Kurdistan Autonomous Ruling Region, aiming to protect the security, the order, and maintain stability and enforce Autonomous Ruling in the area).

The 2nd clause of this decree stipulates: (Comrade the State Command member will assume the responsibilities over all Military, Security and Civil authorities. And they report to him, especially the authorities of the National Security Council and the Northern Affairs Office).

As for Clause (3rd) of this ruling, it stipulated: (the following sections are correlated throughout the Northern Zone with the Comrade and National Command Member, that abide by his rulings and instructions that must be executed in accordance to this ruling.

- 1 – The Kurdistan Autonomous Ruling Executive Council
- 2 – Governors of Governorates and heads of Administrative units related to Local Administrative Ruling Ministry.
- 3 – Intelligence systems, Internal Security Forces and the Military Intelligence.

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The Verdict

4- The Commands of the People's Army

On its (Fourth) paragraph mentioned: (this decision will be effective starting its issuing date until further notice, and freezing the laws contradicting with this decree)

And according to the decree the accused ('Ali Hasan Al-Majid) issued his orders which were included in his letter number (4008) on 20 June 1987, in which he ordered the commander of the corps under his command to execute special attacks in all times (day and night) occasionally; artillery, aircrafts and helicopters in order to murder as much as they can from those who live in the security prohibited areas (The Kurdish Villages).

According to what he ordered-through this letter-to detain any person located in the area and to be investigated by the security systems and to be killed between ages of 15 to 70 after taking his information.

The convict ('Ali Hasan Al-Majid) issued also another letter (3650) on 3 June 1987, addressed it to the Commands of the First, Second, Fifth Corps and to the Commands of the Office Branches and the Security Directorates of the Autonomous Ruling Region and the Intelligence Systems in the North.

In the paragraph 5 of this letter he ordered the military forces each in his area of responsibility to murder any person or animal found in the prohibited areas.

This decree and these two letters indicate clearly the embroilment of the higher political leadership and involving the military commands with them in executing a large-scale and methodical attack.

This is in addition to many documents that were referred to earlier.

There is another proof on this large-scale and methodical attack which is allocating a huge budget for executing this attack.

And this is clear in the Revolutionary Command Council decree No (244) on 20 April 1987 executing his order No (160) on 29 March 1987, in its paragraph.

The President



(762-963)



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(1) (Comrade 'Ali Hasan Al-Majid, is to be given the money expenditure privilege in all the issues related to the Northern Affairs Committee for the aim of executing the Revolutionary Command Council decree No (160) on 29 March 1987.

The Higher Political Command for the state allocated large budget for executing the Revolutionary Command Council decree No (160) for the year 1987 in carrying on a large-scale attack against the Kurdish Nation and giving convict ('Ali Hasan Al-Majid) the expenditure privilege to maintain the needs of these large-scale attack according to the latest Revolutionary Command Council Decree.

About the methodical nature of the perpetrated acts, is in the huge military force used in the Anfal Operations starting from Anfal First Operation to the Anfal Eighth Operation in which all the available weapons in the state were used including the chemical weapon, where the villages were intensively attacked by the chemical and conventional weapons which caused the murder of thousands and the injury of other thousands

After executing the attack the army units would move in and arrest the rest of the civilian villager's survivors and transferring them by military vehicles to the detention camps, this method repeated in all the stages of the Anfal Operations.

The large-scale and methodical attack was directed against the civilian inhabitants in the Iraq-Kurdistan

And there are evidences of the "civilian character" for the victims of that large-scale attack, such as the statements of the plaintiffs (Victims) before this court.

The following information came through the statement of the plaintiff ([NAME REDACTED] before the court:

(on 16 April 1987, and it was the sunset at 6:15 the villagers came back to their houses along with the livestock and suddenly a group of (8-12) aircrafts flight over (Balisan) Village and shelled it, we smelled something like garlic or rotted apples and after few minuets the affects started to appear

The President



(763-963)

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on the villagers their eyes became red and they started vomiting.

When the night came the helicopters came and shelled the mountains and I don't know if the shelled was by the chemical weapons or not.

Then we escaped to the mountains because we were afraid of another attack, then we lost the ability to see me and my family members and our bodies were burned and we have no one but God).

While the plaintiff ([NAME REDACTED]) reported the following on her testament before the court:

(I was at our house sowing and around four o'clock and it was Thursday and because I'm an illiterate woman I don't remember the date.

Our village was attacked through the aircrafts, we escaped to the shelters.

As a result of the shelled we started to vomit and our eyes started to tear, we stayed until night and they informed us that the government will attack so we went to the caves where we stayed (Gari Bishah) cave, we were disable to see until the next day when the residents of (Bitwata) came and helped us and took us to their village by the agricultural vehicles and they offered the medical care for us).

The following information came through the statement of the plaintiff ([NAME REDACTED]) before the court:

In 1987, at (Ziwa Shikarta) Village with located on the (Upper Zab) and I was a member of the (Pishmarga) and my duty was in this area.

On 1 May 1987 before the midday we heard the voice of some aircrafts also we heard the voice of explosions.

One of our detachments moved to the accident location, after that I returned to my location and during the time of our back and forth we smelled a strange smell like Cinnamon and our eyes started tearing immediately and this is the first time I see such incident and then we knew that the weapon was chemical.

The plaintiff added: at the second time on 24 August 1988, the Iraqi Forces moved along with the National Defense Regiments to (Dahuk, Sarsang and Al-'Imadiyyah) and blockaded the area and the neighboring mountains another part of these forces went backward of the main forces and it went to (Dahuk and Simil) also to (Batufa, Zakhu, Yadar, 'Ajam,

The President



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Kani Masi), and thousands of families in this area were blockaded.

Some of the people got closer to the Turkish borders and the other part couldn't because most of them were captured by the Iraqi Forces and no one of the Pishmarga Forces was involved because they (Pishmarga) were not among civilian residents).

In addition to the aforementioned testaments, the content of the letter No (1122) on 21 August 1988, issued from the Chief of the Army Staff to the Commanders of the First and the Fifth Corps proved that this large-scale and methodical attack was exposing the civilian residents.

In the paragraph (1) of the letter: (defining the residential concentrations in the 5th Corps; to be bombed with intensive special attacks 48 hours prior to executing the operation, in order to create panic situation and to stop their collaboration with the saboteurs)

All the aforementioned are clear evidence that the large-scale and methodical attack meant-in a part of it- the civilian inhabitants of the Kurdish villages that had been attacked.

The convict (Husayn Rashid) was aware that his actions were part of a large-scale and methodical attack against civilian residents through the huge military forces used for that attack against the Kurdish civilian residents during the Anfal eight operations.

The government didn't spare the usage of any weapon by the military forces during those attacks and the government used tens of thousands of soldiers in the attacks.

The aforementioned convict was on a daily contact with the attacking military forces through attending the planning meetings were held at the Operation Department which were headed by him or through the various official letters and correspondence that were copied and sent to the Operation Department to let the convict be aware about all the military movements and it's results against the Kurdish civilian residents.

According to that the court found the convict (Husayn Rashid) criminally responsible on the perpetrated acts through his participation in a criminal intent along with group of people.

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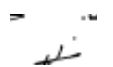

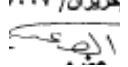

And through a criminal joint plan, in the premeditated murder crime as a crime against humanity and by knowing that these actions will lead to these results, according to the article No (15/First and Second) of the Iraqi High Tribunal law No. (10) for the year 2005.

Conviction Decision

According to the aforementioned it was proved to the court that the convict (Husayn Rashid Muhammad) is guilty for his participation in the premeditated murder crime as a crime against humanity according to the article No (12/First/A-Second/E) and in reference to the article No (15/First, Second) and the article (24) of the Iraqi High Tribunal law No (10) for the year 2005, in reference to the article No (406/1/A-B-F) and the collaboration articles No (47, 48, 49) of the penal code No (111) for the year 1969 amended.

It was decided to convict him and specifying his punishment according to it.

The decision was issued by agreement and acknowledged in public on 9th Jamadi Al-Akhirah 1428 that coincides with 2007 June 24

   
Member Member Member Member

Chief



Muhammad 'Iraybi Majid Al Khalifah

(766-963)



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2-Anihilation as a crime against humanity:

The rule of the convict (Husayn Rashid Muhammad) in genocide as a crime against humanity:

The crime's elements:

1. The perpetrator must murder one or more individuals, enforcing victims to live in harsh conditions which will lead to the eradication of a part of inhabitants belonging to a given community.
2. The conduct must constitute a massacre against community's members [civil inhabitants] as part of this activity.
3. The conduct must be perpetrated as part of a systematic large scaled attack against civil inhabitants.
4. The perpetrator must acknowledge that the conduct is part of a systematic large scaled attack against civil inhabitants or intend this conduct to be part of the aforementioned attack.

There must be evidences to prove that genocide is a crime against humanity, such as distributing weapons. We previously mentioned in details the actual rule played by the convict (Husayn Rashid) in the 8 Anfal operations as he was the Deputy for the Army Chief of Staff for Operations, as he participated in planning for the Anfal Operations, and his affiliated directorates armed the military forces and supplied them with ammunitions and other equipments to succeed the Anfal operations, they also supplied it with the military maps that specify the locations of the villages in north Iraq. The letter issued from the Chief of Army Staff numbered (1076) on 16 August 1988, addressed to the Command of the First, Second and Fifth Corps (after the cease-fire between Iraq and Iran), explain the rule of the mentioned convict in Al-Andal Operations, the following information came in the letter: (the meeting with you on 14 August 1988 at..

The President



(767-963)

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the main headquarter of the General Command of the Armed Forces, by the attendance of the Deputy of the Chief of Army Staff for Operations and the Directors of the Military Operations and the Army Aviation to discuss the next plans of the Anfal Operations in your sectors.... Etc)

The second evidence for proving the genocide as a crime against humanity is by delivering the victims to Militia or an armed group and ordering them to murder the victims.

In the statement of the plaintiff [NAME REDACTED] before the court:

(I'm a resident of (Darbarula) and it was the harvest time on September 1987, we went to the Ba'th party organization to get the harvest permeation.

In the morning of 3 Sep 1987, the emergency force attacked us and surrounded the village and burned and exploded the electricity in the village while we were out of our houses.

Then they gathered and confiscated the livestock and arrested us and we were transferred to the Emergency of (Al-Sulaymaniyyah) Governorate, then to the Security Directorate then we were returned back to the Emergency where we were detained for four months and we were investigated several times.

One night they came and read eight names from the detainees and they took [NAME REDACTED]I don't know their whole names also they took two persons from (Kalar) residents I don't know their names.

They took them to a wall behind the prison and I heard shooting voice and I was informed by the guards that they were executed.

Later we were informed by some guards that these individuals were arrested in the security prohibited areas.

While the plaintiff [NAME REDACTED]reported the following in his statement before the court: (in 1987, the Republican Guard Brigade attacked our village supported by tanks and they have bulldozers and military lorries and our village was destroyed and this attack started from the morning until the sunset, mentioning that our village was security prohibited and located a half an our driving from Al-Sulaymaniyyah.

There was no reason for the attack except that we were Kurds.On 8 September 1987, twenty detachments of the security forces.

The President



(768-963)

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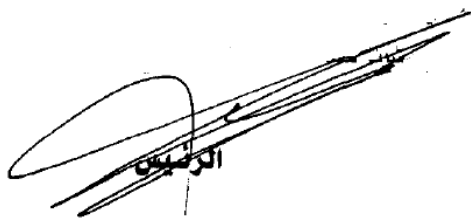
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... attacked (Shar Bajir) village, I was with my brothers [NAME REDACTED] in the village, we were arrested by the security and emergency forces, the cattle of our village were stolen, a vehicle was brought to move our cattle to Al-Sulaymaniyyah governorate, then we were handed over to Al-Sulaymaniyyah emergency, and we had entered the detention camp; we saw sixteen persons of 'Arbat inhabitants... and we were detained for three months and been tortured intensely...)

As an evidence on existence of names rosters for the known by name victims, tens of plaintiffs submitted names rosters of their relatives who had been killed in the Anfal campaigns, who still of unknown fate, or whose remains had been found in the mass graves and been recognized by the identity cards found in their clothes, and that these several rosters are attached to the case file.

The evidence regarding the usage of armed forces in the attacks against the Kurdish villages is what had been mentioned in the plaintiffs' testimonies, including for instance; the plaintiff's ([NAME REDACTED] testimony, as he stated before the court that: (... in the year 1988 we were in (Si Kanyan) village when we saw the Iraqi forces reinforced, and the attack over us started by aircrafts and artilleries from all directions, and the inhabitants started to flee from the village...). As for the plaintiff ([NAME REDACTED]; he stated before the court: (I am a resident of (Sidar) village of (Bingird) Sub-District, who was working in agriculture, in the second month of the year 1988, our village and the neighboring ones were attacked by artilleries and aircrafts, the attack continued for seven days, after that the forces carried on an attack from three axis that are (Chilanabal mountain, Qarasat and Duli Zali mountain). In the plaintiff's ([NAME REDACTED] testimony before the court, the following was mentioned: (In the year 1988, our village and the neighboring ones ...



The Presiding Judge



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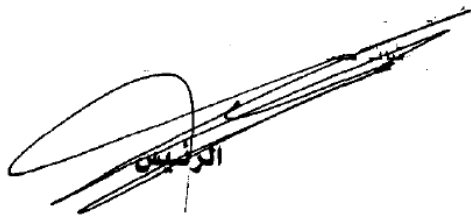
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...were attacked by aircrafts, and the first Anfal operations started in (Jafayati) valley, the attack on our village started in two directions, the Iraqi forces moved toward our village while the attack was continuing on it...)

The evidence on the varieties of weapons brought by the suspect or the armed forces is what was mentioned in the correspondence numbered (1076) on 1988 August 16 issued by the Chief of Army Staff, addressed to the first, second and fifth corps' commanders with the subject of (Instructions), a copy of that correspondence was given to the operations department and requested the following: (A survey about the possibility of providing five divisions headquarters and a number of infantry and independent armored brigades from the operations sector to the northern area that covers the requirement of Al-Anfal operations, was assigned). This correspondence had detailed many of military issues such as the idea of the Anfal operations, the magnitude (Wide and large), directions and the starting time. This document does not specify the nature of the weapons used in the Anfal operation only; it also perform an evidence on the convict's (Husayn Rashid) intention and acknowledgement about all the wide-range and methodical attacks that had been carried on against the Kurdish villages in the north of Iraq.

As evidence on the convict's intention and intentional acknowledgement of killing a huge number of the targeted individuals; his presence in Kirkuk conferences and the ones held in the armed forces general command headquarters for planning to use the special ammunition (Chemical) specifically against the civilian inhabitants, this was proven through the official documents mentioned before, in addition to the convict's confess of his presence in that conferences.

It was proved to the court that the convict (Husayn Rashid) has a vital role in the genocide against the civilian inhabitants and subduing them to live in conditions that will cause the imminent eradication of a group of inhabitants, through the wide-range and methodical attacks against these civilians with his knowledge about all that. The document numbered (1076) on 1988, August 01 issued...



The Presiding Judge



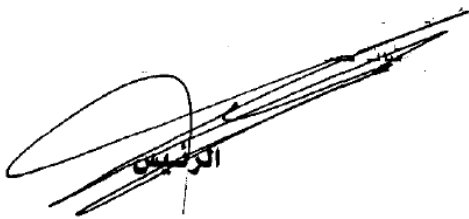
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...by the chief of army staff addressed to the first, second and fifth corps' command with the subject of (Instructions), proves that role of the convict (Husayn Rashid), the following was mentioned in the that document's introduction: (The meeting held with you on 1988 August 14 in the general command of the armed forces main headquarters with the presence of the deputy chief of army staff for operations, military operations director and the army aviation, regarding the next plans of the Anfal operations in your sectors...). A copy of that document was given to the operation department headed by the convict, where he requested from that department (A survey about the possibility of providing five divisions' headquarters and a number of infantry and independent armored brigades from the operations sector to the northern area that covers the requirement of the Anfal operations). It was mentioned in the document numbered (1122) on 1988 August 21 issued by chief of army staff too with a copy to the operations department; that (The inhabited concentrations in the 5th corps's sector will be specified and treated by the intensive special attacks (48) hours prior to starting the operations to create panic between them and prevent them from collaborating with the saboteurs, with following up their movement within the area taking a serious caution in avoiding attack the inhabited villages bordering the Iraqi-Turkish borders). In another paragraph of this document, the following were mentioned: (The current chance of crushing the sabotage in the northern area is the best one, and it will never be given in the future whether the peace with the enemy is achieved or not; accordingly, there should be a complete destruction of the sabotage happening in the northern area...). Regarding the document numbered (1182) on 1988 August 28 issued by the chief of army staff to commands of the first and fifth corps with the subject of (Instructions), the flowing were included within it: (The deputy general commander of the armed forces, ministry of defense, had assigned the following during his brief about the Anfal operations plans that are being executed in your sectors: 1- Demolishing all the villages and its houses; since it was noticed in the previous demolished villages that one or more houses had been left as it is without demolishing it, and the air force is assigned to control that), a copy of this document was given to the operations department ordering the follows: (The...



The Presiding Judge



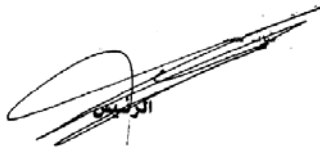
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... deputy general commander of the armed forces, ministry of defense, had assigned updating the maps and for all the scales with the latest topographic information). Of which proves the basic role of the convict in Al-Anfal operations with his knowledge of its results; what was mentioned in the (Eighth Anfal Operation) (Khatimat Al-Anfal) (T.C: *The Closure*) analytic document; as it was stated in its paragraph (5) titled (Preparations): (H- The sixth and seventh Anfal operation were postponed in the meeting held in the first corps command's headquarters in Kirkuk on 1988 July 26 morning, with the presence of deputy chief of the army staff for operations and military operations director, according to the chief of Army Staff's top secret correspondence 943 on 1988 July 29 until the operation requirement be provided. J- A meeting was held in the headquarters of the first corps in Kirkuk on 1988 August 07 headed by the member of State command, the secretary of the northern organization office; comrade ('Ali Hasan Al-Majid), deputy chief of army staff, and the military operations and air force directors. It was instructed to put an end to the sabotage happening in the northern area, the chief of army staff instructed to start the Anfal operations, prepare the required plan and provide the requirements for that, according to the chief of Army Staff's top secret and personal correspondence (1024) on 1988 August 08. L- A meeting was held on 1988 August 14 in the general command of the armed forces main headquarters, with the presence of deputy chief of army staff, and the military operations and air force directors to discuss the next plans of the Anfal operations in the corps area, Balisan and Simaqulyat areas will be assigned to the first corps, and Ziwa Shikan and Zakhu in Badinan sector will be assigned to the fifth corps, according to what included in the chief of Army Staff's top secret and personal correspondence (1076) on 1988 August 16. M-A meeting was held in the first corps command's headquarters in Kirkuk on 1988 August 20, with the presence of deputy chief of army staff, and the military operations and army aviations directors...



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(772-963)

In the Name of God the Merciful the Compassionate

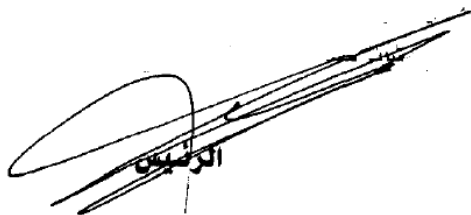
The Iraqi High Tribunal
Second Criminal Court
Baghdad-Iraq

Ref.No.:1/ 2nd Criminal / 2006
Date: 09 Jumadah Al-Akhirah 1428
Coincided with 2007 June 24

Verdict Decision

... to discuss the plans, day (J) was fixed for the Anfal operations on 1988 August 25 according to what had been informed by the chief of army staff in its top secret and personal correspondence (1122) on 1988 August 21).

The court, through the documental evidences and the convicts' testimonies in the investigations and trial stages, came to a conclusion that some of the Anfal plans were prepared in the operations department headed by the convict (Husayn Rashid), and others were prepared in the first corps's headquarters of (Kirkuk) or in the general command of the armed forces main headquarters with presence of the same convict. It is obvious that the military troops according to a comprehensible and methodical plan, had carried on a wide-range and methodical attack against the Kurdish civilian inhabitants in the north of Iraq starting with first Al-Anfal operations until (Khatimat Al-Anfal) (*T.C: The Closure*), in which all the country's military Capabilities as the troops started attacking the Kurdish villages with all kinds of weapons by aircrafts, helicopters, armors, and launchers of conventional and special ammunitions(Chemical), and as a result of that; thousands of civilian inhabitants were killed and relocated, the same number of them were transferred to the arrest and detention camps. The genocide of Kurdish civilian inhabitants in the north of Iraq had been clearer there starting with 4th Anfal operation until 8th Anfal operation (Khatimat Al-Anfal) (T.C: The Closure), as the civilian inhabitants were subjected to genocides, the evidence is the (Kurimi) village's genocide in 1988 August when the military had executed (27) persons of that village's inhabitants by a firing squad, the victim [NAME REDACTED] who is a farmer from this village's inhabitants who survived by miracle assured before the court: (I am a resident of (Kurimi) village, on 1988 August 25-26 night, we were notified from the near by villages that the Iraqi forces will carry on the Anfal operations, so we ran away and reached the street leads to (Kani Masi) but we couldn't cross it, and the inhabitants came back and hid in the farms and caves that we were living in. At five o'clock morning of 1988 August 28, we were attacked and surrounded by the military from all sides, so we...



The Presiding Judge



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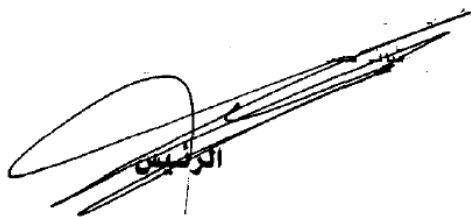
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...surrendered our selves to the army who took us back to our village, then they segregated women apart of men and infants, and took women and infants towards (Mangish) village, (33) men of us remained, the officer asked us to get in one row, and they took us south of the village where I saw 16 soldiers, the officer ordered us to set down and another one to shoot us, the soldiers shot us and we all fall down, After that, the officer ordered to shoot one bullet on every one of us; and he wounded me in my forehead, and I show it to the court (And the court noticed a clear mark of that on it).When the soldiers had gone, I tired to stand up then I saw my father, brothers ([NAME REDACTED]and (18) of my relatives, and they all were dead. I saw my cousin ([NAME REDACTED]wounded with his legs then I put him in a big hole, also I saw [NAME REDACTED]coming out of the dead bodies. I submit to the court a names roster of the people, who were killed in the execution operation). According to the aforementioned, the court realized that the convict (Husayn Rashid) had participated with other convicts in a joint criminal plan to boost the criminal activity of the former regime and to achieve its criminal purposes. And by that, his responsibility of committing the genocide crime against humanity is proven based on the descriptions of article (15/First and Second) of the Iraqi High Tribunal Court Law numbered (10) for the year 2005.

Conviction Decision

For the aforementioned, it was proven to the court that the convict (Husayn Rashid Muhammad) is guilty for his involvement in committing genocide against humanity, according to the descriptions of articles (12/First/B – Second/E), (15/ First, Second) and article (24) of the Iraqi High Tribunal Court Law numbered (10) for the year 2005, in addition to article (406/1/A- B- F) and the contributory articles (47, 48 and 49) of the amended Penal Code...



The Presiding Judge



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...number (111), dated 1969, he was accused and punished by it, the agreement issued, dated 2007 June 24 and was publicly acknowledged.

Member

Member

Member

Member

The Chairman



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War Crimes:

On 2007 February 20, the court accused (Husayn Rashid) for committing war crimes leaning on clauses (A, D, E, H, L) from the (fourth) article (13) from the Iraqi High Tribunal Law Number (10) dated 2005, the following:

- A- Intentionally directing attacks against the civilians inhabitants as their status or against civilian individuals not participating directly in the war activities.
- D- Directing the attacks toward buildings specified for religious, educational, artistic, scientific, charitable, historic uses and hospitals in addition to places where injured individuals gather under one condition that they are not military targets.
- E- Looting any town or place even it was captured by force.
- H- Ordering to dislocate civilians for reasons related to the conflict unless it is for the civilian's safety or urgent military reasons.
- L- Destroying or capturing the enemy's properties unless the destruction or the confiscation is for military necessity.

1- Intending to direct attacks against the civilian inhabitants as their status or against civilian individuals not participating directly in the war.

The suspect (Husayn Rashid) role in this crime:

The crime elements:

- 1- The perpetrator of the crime must direct an attack.

The President



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- The target of the attack must be civilians as their status, or civilians who are not directly participating in the military operations.

3- When the perpetrator of the crime is intentionally targeting civilians as their status, or civilians who are not directly participating in the military operations.

4- When the conduct of the perpetrator performed within non international armed conflict or linked with it.

5- The perpetrator of the crime acknowledges the factual circumstances which prove the existence of an armed conflict.

To proof the first two elements must have evidences that there are dead and wounded individuals between the individuals who are not participating directly in the war activities.

Returning back to the victims statements we find that plaintiff ('[NAME REDACTED] mentioned in his statement in court: (I used to live in (Siwsinan) a part of (Qara Dagh) which consist of three hundred fifty families. On 1988 March 22, after the noon call for prayer our village was attacked by two bombs from (Darbandi Khan) the smoke rose from it, civilians escaped, but then it was recognized that it wasn't a chemical weapon. The villagers returned back and on their way they were attacked. Before the sunset call for payer our village was attacked by rocket launchers from (Darbandi Khan), at that time I was with my family and at six and forty five minutes I went out of the room and I saw white to yellowish smoke. I had two children [NAME REDACTED] my wife held ([NAME REDACTED]) and I held ([NAME REDACTED]) and ran to the shelters. There were some families with their children when I reached to the shelter my leg started to shiver and I couldn't breath, my wife also couldn't breathe well, because during the chemical attack we were outside and put on our faces...

The President



(963-777)



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... wet wipes, and after that I fainted. I woke up to find myself in (Shurish) hospital (*T.C: means the hospital established by the Pishmarga forces*) near (Balak Jar) Village, I found one of my village residents named [NAME REDACTED] whom I asked about my children he said that they are alive but in fact it was the opposite, they died. I asked him about the fate of some families, [NAME REDACTED] family, my neighbor who we were together at that night. They are of four members and he told me that they were dead in addition to ([NAME REDACTED] family who he said that they were also dead. I was in a horrible situation so they transformed me with a tractor to Al-Sulmaniyyah to my brother [NAME REDACTED] house then to (Tuy Malik). On the next day morning I heard the sound of a helicopter in the sky of the village and was calling by speakers loudly that they will search the houses so the deserters went out and were captured. In the same day in (Nasr and Zarayan) complexes they arrested emigrants from (Qara Dagh) and (Karmali) and transferred them in military vehicles to (Tupzwa) and (Naqrat Al-Salman), I heard that the ones who were captured did not return back. Our village contains seventy martyrs as a result of the chemical attack, twelve captured and three got crazy...). Plaintiff [NAME REDACTED] mentioned in his statement in court the following: I'm a resident of Upper Kushk of Al-Sulmaniyyah governorate dated 1988 March 22, at noon I saw (Siwsinan) village attacked heavily when I was in my village, me and my brother ([NAME REDACTED]) witnessed the smoke rising from the village and when we reached one of the hills, the smelly smoke was heading toward us. When we approached the village I saw its residents escaping from the village and some of them were wounded. When we entered the village I saw my relative ([NAME REDACTED]) crying the loss of his wife and daughter, between the bodies I saw the body of ([NAME REDACTED]) he is a resident of the village, I saw also ([NAME REDACTED]) injured and now he is mentally retarded, and also his wife's and two children bodies, and found...

The President



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... bodies of six children, my sister ([NAME REDACTED]), my brother ([NAME REDACTED]) and his family died. When I went to the house of (Mahdi Hadi) I found (14) bodies because the house contained two families. The bodies were buried with the help of the residents of the neighboring villages after transferring them with tractors). Also in the statement of plaintiff [NAME REDACTED] in court: (I'm a resident of (Siwsinan), dated March 23, I don't remember the exact year, in spring two aircraft passed over our village, at six and thirty minutes at night we were attacked by (40) artillery launcher bombs from (Darbandi Khan), when I went to my daughter's house [NAME REDACTED] to check on her, I found fourteen corpses, seven of them belong to the family of ([NAME REDACTED], the rest of the bodies are my daughter (Zaynab) and her children [NAME REDACTED] I saw also two bodies there, and vehicles belonging to the Pishmarga forces were transferring (40) wounded individuals, neighboring villages residents helped transferring and burying bodies. My husband and I transferring bodies related to us to burry them. The number of individuals died in this crime is (81) individual, (70) of them died affected by the chemical weapons and the rest with unknown fate...).

In the statement of plaintiff ([NAME REDACTED] in court, was the following: (I'm a resident (Qashqa) village a part (Qadir Karam) county in Al-Sulmaniyah, dated 1988, military attachments headed toward our village, aircraft started attacking our village, as a result my nephew died ([NAME REDACTED], the army also killed my brother [NAME REDACTED]. We left the village and went to (Qadir Karam) to protect ourselves...). It's obvious that the given statements and there are tens of them in the case file- they represent evidences showing the dead and wounded individuals between the civilian residents, mentioning that the victims are not fighters, and also that from the victims there are women, children and elderly and they are not combatants, in addition to ...

The President



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...that artillery rockets, shells of multiple launchers and bombs when they fall on a piece of land it does not differentiate between a civilian and a fighter. Also it was not proved that the Kurds who died or injured by the conventional or chemical weapons, they lifted arms against the attacking forces, but on contrary it was proved that these victims were civilians, most of them were women, children, elderly and farmers and had no relation in the conflict that was taking place in Kurdistan.

To proof the third and fourth elements of the crime there must be evidences regarding the armed conflict between the government authorities and between the organized armed group. There are many evidences that can be reviewed through the documents that were represented by the general prosecutor in court such as: the report issued by the army chief of staff number (349) dated 1988, April 27, titled to the commanders of first and fifth corps under the subject of (instructions) in which a copy was sent to the operation department, as it was mentioned in article (C) from paragraph (2) the following: (the fifth corps must face the saboteurs in (Qal'at Diza) sector and to conduct the identity check for the national defense regiment's members and to keep them away from the important targets...), also article (H) of the same paragraph of the report contains...(the execution of the 4th Anfal operation in (Shuwan-Chami Rizan) valley regarding the mentioned plan which was discussed in the planning directorate and the changes made on it by (1st Corps) and executing the Anfal operations in (5th Corps) sector, as per previously settled priorities, till wiping out all saboteurs' headquarters in the northern area. In article (F) of the same paragraph they mentioned the following: (using the special ammunitions against the enemy when ever it is possible either by the air forces/ multiple launchers/ helicopters before they start the attack on our units (preemptive attacks) and also they can direct their special ammunition attacks toward the saboteur's headquarters...). Report number (1076) dated 1988, August 16, issued by the chief of staff...

The President



(963-780)