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

The Iraqi High Tribunal
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Baghdad-Iraq

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The Verdict

...committing a crime, and it is not allowed to implement a punishment other than the effective punishment at the time of the crime commitment)

As the articles (1 and 2) mentioned from the Iraqi amended Penal Code No. 111 for the year 1969, the following:

Article (1) no punishment over an action or refrain unless based on being incriminated at the time of perpetration, as no sentences or precautionary measures must be applied unless stipulated by law.

Article (1-2) is applied on valid law's crimes during perpetration, specifying the time of perpetration as that when actions were carried out regardless of the time of achievement.

It was mentioned in the page No (5) from the list, that the practicing military course is accepted during war or peace, under the condition of abiding by certain rules and regulations which occurred in the conventions, as the military affiliation in itself, far away from classification, is not a prohibited matter unless constituted violation of some basics, especially what is known by (serious violations), particularly Genocide, crimes against humanity and crimes of war. Based on that, the soldier can not be interrogated about his military duty (within legal limits) whether in the period of peace or war, as he is considered to accomplish his duty according to legal, national and international rules. Hence, concerning my client, it is not allowed to interrogate him for his actions, which are not internationally prohibited, stipulated in articles (11, 12, and 13) from the court law, as your charges against him [client] were based upon them [actions]. As for professional duties which do not follow these articles, he was doing his duty as there is no logic in being investigated about it [implementing his military duties].

Concerning the prisoners of war, we would like to refer that article No (118) of Geneva Third Convention, for the year 1949, mentioned the following: (the prisoners of war should be released and deported without delay, once

The President



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... effective violence operations ended. In this case, there are no objections to condemn the captured or soldiers in front of Iraqi courts for serious violations, which is exactly included within your jurisdiction, wherein such conduct is considered dangerous with premeditated basic and specific particularities. It is very important to respect the basic punishment rules, wherein to obligate the premeditated element accurately within a direct causative relation, pertaining to my client personally, without generalizing the act and perpetrators unless via a text [legal], emphasizing on the necessity to elaborate penal texts narrowly, as doubts are always considered advantageous for defense. Hence, reasoning should not be taken against the convict as it is irrational to interrogate my client over his military and professional duties in the period of peace or war.

3. Defense concerning lack of crime elements related to my client

It was mentioned in the beginning of page (8) from the list, the lawyer asked the following question: Was my client a field Commander with granted jurisdictions and appropriation to be incriminated for groups of inhabitant to harsh living conditions aiming to eradicate them, or murder, enslave or imprison them? Or to direct attacks against civilians, by attribution, or against civil individuals? Or to conduct raids against buildings specified for religious, educational, artistic, scientific, or charitable objectives, or against historical monuments or hospitals or wounded and patients' gathering centers?

All charges against my client contradict the premeditated criminal basics because it is not correlated to his [client] jurisdictions or appropriation.

4. Discussing the evidences and handwritten documents submitted in case

First: Physical evidences – documents and official letters

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...the abstention of a link between my client and his directorate with the implementation of operations. As for methods of confrontation, my convicted client said that he and his directorate passed information over to Minister of Defense, and Chief of Army Staff, who are the one to make decisions, ordering executive authorities to carry on with the decree. Indeed, Intelligence Directorate issued a report and submitted it to Chief of Army Staff, as a copy had been addressed to other directorates such as Presidency of the Republic (according to the context used at the time) [letter number of (M1/Section3/Q2/5809), on 1987 March 10, titled "Information"]. The Presidency interfered, and its Secretary office directly sent a letter to Intelligence (overstepping the Ministry of Defense and Chief of the Army Staff), which included an order for General Chief to allow Intelligence to coordinate with experts in order to study an attack via special weapons. Therefore, experts carried out a study according to clear orders, which cannot be refuted under such circumstances. Regarding the signature on the letter, which contained the experts' opinion, it was a necessary and inevitable action according to the followed strict context which imposes on Intelligence System to refer the letter that includes a collective responsibility of all represented directorates represented within the commission. Hence, the letter was issued from Intelligence according to a presidential order at the time, as he confirms being guilty for signing this letter.

In summary, as of the bill of indictment:

First: what was mentioned in the (First) clause did not prove the premeditated participation of my client according to the article No (11) from the (Genocide) court law.

Second: what was mentioned in the (Second) clause of the bill of indictment does not prove any premeditated crimes according to the article (12) from the court law.

The President



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Third: according to what was mentioned in the (Third) clause of your bill of indictment, it was not proved that my client perpetrated premeditated crimes within article No (13) from the (crimes of war) court law.

Second: Prosecution and Defense's Witnesses

- 1. Prosecution's witnesses:** the court listened to some plaintiffs and witnesses in this case, but came out of personification to who perpetrated such acts. The physical actions of the crime which had been reviewed by each article of bill of indictment consist as much danger as it became impossible or the aforementioned acts to be committed without a prior review by the perpetrator, especially that witnesses didn't submit any direct complaint against my client, and no witness mentions my client's name, which refutes evidence against him.
- 2. Defense witnesses:** it is necessary to reconfirm the circumstances which caused my client to be deprived from any defense witness at a time where we must admit the court's thankful and recognizable efforts in bringing witnesses. The deprivation of my client from this right is due to well-known circumstances before your court, as the incident is the first to be placed in the fair balance of justice.
- 3. A request to assign military experts:** The request for assigning military experts, aware of the meaning of military affairs, is not understandable rather than by soldiers as article No (166) of Criminal Trials Procedures Law mentions that (The court should assign an expert or more in the matters which need an opinion). In addition, clause No (7) from article (11) of the court's law stipulated the right of Chief of the Attorney General to consult the court chief over assigning non-Iraqi experts (confirmation cause). My client was applying his duty according to the law's decision. Also, he refused to provide Air Force with targets...

The President



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...to be attacked by special weapons [as indicated in his notes]. The aforementioned is beyond his jurisdiction as it is the concern of the appropriated commission [The notes elaborated on Presidential Secretary's letter- No 877, on 19 March 1987, and Intelligence letter numbered 9819, on 03 May 1987]. On the other hand, my client submitted another report regarding three individuals who had been thrown from an aircraft by some soldiers and another to Facts Inspection Committee regarding the negativities in Oil Protection's Command emphasizing on the importance of applying legal methods while handling suspects or detainees in Anfal Operations' field. My client was adhered to follow and respect juridical procedures, as no action on his behalf had been committed neither as actual perpetrator nor contributor. His innocence is a must according to Clause (1) of Article (29) of Iraqi Penal Code (no person should be interrogated for crime which is not a resulted of his conduct)

The bill included from pages (25-27), remarks of the convict attorney in reference to what had been mentioned in the personal right lawyer's report, as pages (27-36) included comments over general prosecutor's perusal.

5. The criminal responsibilities according to Articles (35) and (40) of Iraqi amended Penal Code and Articles (15/five) and [17] of Iraqi High Tribunal Law (10) for the year 2005

It had been mentioned in page (38) of the bill: (wherein the Iraqi High Tribunal Law, is effective regarding articles (11, 12, 13) relating to Genocide and crimes...

The President



(825-963)



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against humanity, and crimes of war. None of those charges, by your honorable court, has been confirmed against my client.

He didn't participate (premeditated) or (as perpetrator) in any of them, as no attributive or definite act was confirmed against my client.

Briefed defense report:

1. The convict was on duty according to law as per articles (39 and 40) from Iraqi amended Penal code – duty execution.
2. He or his directorate are not involved in implementing operations or confrontation orders, wherein the convict was not a field commander, and he didn't participate in any of the actions included in the bill of indictment.
3. His duty was limited to gather information about the other party in conflict, and what the plaintiffs, witnesses and foreigner experts mentioned about mass graves and execution cases are far from being correlated to his client.
4. His confession about the unintentional formal mistake concerning letters related to special weapons, and avoiding the mistake after that.
5. His sorrow and regret towards innocent victims.
6. His incapability to bring defense witnesses although the court was cooperative.

In the session (58), the court gave the accused another chance, in order to submit their last statement, deposition and requests; for this purpose, the court postponed the verdict to 2007 May 10.

The President



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In the session (59), and in the specified day, the convict (Sabir 'Abd-al-'Aziz Al-Duri) submitted his last deposition, according to the written report recited by him openly, that included the following:

I do not have anything to add on the report of my attorney, who covered all the legal, juridical, and ethical parts, which proved my innocence from any premeditated accusation related to serious violations such as Genocide, crimes against humanity and crimes of war. I am sure that your honorable court will give this hearing all importance and needed interest.

I was a soldier who abided by his professional duties, for the service of my country during peace and war...and of course, war has its tragedies and victims...as recent wars prove, regretfully, that the overwhelming majority of victims are innocent civilians.

But, it must not be hidden from you that the officer is obliged to obey military orders, as long as they are not considered as serious violations included in International Conventions, for they are categorized among war requirements, dangers and outcome. Geneva Conventions for the year 1949, and its protocols for the year 1977, determine fighters' commitments and guarantees, as well as prisoners of war...and I didn't surpass those limits...and no premeditated crime was proved against me under this context.

And as evidence from the report of my attorney, I did not participate as perpetrator or partner of any actions which are within your court authority, as mentioned in the article (15) from the court law. I did not commit as perpetrator or as partner, any crimes mentioned in the article above, and none of it is proved against me. I did not help or incite or support in any sort of it, for the purpose to facilitate these crimes in the trueness of its realization. Also I did not participate as perpetrator or as partner in any crimes mentioned in the article (15) with all its clauses, and nothing was proved against me...

The President



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...neither as an original committer nor as a contributor, as there is no direct causative relation between this and the realization of any consequent crime through conductive operation, according to requirements of article (15) and (47) from Iraqi Penal Code. I was carrying my regular duties which are not considered within mentioned crimes context followed in your court. The normal intelligence director duties are well known even before I started my job, during or after it, like any other military intelligence director in most countries. Regretfully, as long as the International Laws for Humanity remained unable to prevent international and national conflicts, the information tasks will remain essential for countries' armies, preventing the aforementioned humanity law from depriving and incriminating (the dangerous violations), the thing that I am innocent from as perpetrator or contributor. I would like to repeat the confirmation that I refused to obey orders to identify locations suitable to be bombed by special weapons, as it had been elaborated by my proxy and handwritten, something in it self dangerous ... so, it became obvious that the recent conditions at the time were not permitting an extra mile on that concern. Sir, the court chief... I am not claiming that I avoided all mistakes which could happen because God is the only sinless one. However, when mistake occurred unwillingly, I ask God's forgiveness over incidents I did not intend to perpetrate. I am a believer and soldier dedicated to serve the country, and the honor of such conduct impose on me to face this hard circumstance with necessary bravery accepting God's predestine. I have never taken a second thought as to respectfully stand before all innocent victims. My concern was to serve my people with all categories and nationalities, if I failed so, I stated my deep sorrow and my apology to my country and public, God knows my intention. Nevertheless before I finished my speech I would like to send my appreciation and thanking to you due to the announcement that your venerable court will take into consideration what mentioned by the Attorney General about what he received of appreciation and gratitude letters which I did not deserve it, from...

The President



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...my citizens especially from Karbala' holy city... kindly approve my interception as part of defense perusal for my attorney (Firas Sabir 'Abd-al-'Aziz).

Convict Sabir 'Abd-al-'Aziz Al-Duri Verdict for premeditated murder committed as genocide

Charges had been previously addressed from the court and dated 2007 July 20, against the accused (Sabir 'Abd-la-'Aziz Al-Duri) for a number of committed crimes. In addition, among is the premeditated homicide as a crime and an act of genocide according to the ruling of the Article (11/First-A) and in accordance with Article (15/First-Second) from the law of the Iraqi High Tribunal No 10 for the year 2005.

The crime elements

- 1- The crime committer should kill one person or more
- 2- The person or persons should be affiliated to a specific national or ethnic or racial or religious group.
- 3- The crime committer should have the intention to eradicate this national or ethnic or racial or religious group totally or partially with its particularity
- 4- This action should be under a similar sequenced method against this group or the aim of this action itself should do this eradication.

There are direct and indirect evidences proving that the accused was incited in a direct and overt way and participated with the other criminals with a shared criminal intention for committing several crimes including...

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Premeditated murder as a genocide crime and his participation was premeditated, aiming to enhance the criminal activity for the Ba'th Party regime and its systems. He carried out an important role, in which the accused implemented through a joined criminal plan, it was a reason for the criminal results, and he was fully aware with the intention of committing the crimes for the previous regime.

The court agreed upon defining the responsibility of the above mentioned accused through the legal requirements of the crime description and it's proved elements which is based on the collected evidences in the case file which were utilized in the investigation and trial

The legal requirements to prove the first element of the crime is that the crime committer killed or led to kill a person or more, the proved elements for this requirement provides evidence that the attackers were carrying weapons and surrounding the place. This already occurred with a systematic repeated way in different times and places, among several villages, according to the evidence from the documents and letters, which were presented by the Attorney General in front of the court and what the plaintiffs stated in the trial sessions. As mentioned in the statement of the plaintiff [NAME REDACTED] dated on 11 September 2006 in front of the court (... the emergency forces attacked and burned our village and possessed all the livestock, arrested all village's residents, then we were transported to the emergency prison in Al-Sulaymaniyyah, where they executed 9 men behind the fence of the prison). Also, the plaintiff [NAME REDACTED] stated in 2006 September 12 in front of the court as follow: (for a period of 7 days our village and the neighboring villages were bombarded with chemical weapons, and then the governmental forces attacked the village from 3 axes. About 90 residents were arrested, while others escaped and the forces looted and burned our village; at that time I escaped to Iran; my sister in law was detained along with five of her children, when I came back from Iran after 6 months I was informed by the elders

...

The President



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... Who returned from (Nuqrat Al-Salman) prison camp that my sister in law and her kids were transported to an unknown place, and they segregated women from men in (Tupzawa) prison. Then I knew from the court in 2004 that they found 4 identity cards related to my brother's children in the mass graves). The plaintiff [NAME REDACTED] stated on 22 August 2006 before this court (at the night of 24 August 1988, the Iraqi forces assisted by national defense regiments surrounded the civilians of the Kurdish villages in the regions of : (Dahuk), (Sarsanq), (Al-'Imadiyyah), (Sumil), (Batufa), (Zakhu), (Diyar 'Ajam) from two directions, where everyone was banned from leaving and they arrested some civilians that were not fighters of Pishmarga forces, I saw two aircrafts (Sikhui)type, bombarding some of the villages in the region, which are (Ikmala), (Khariba) ,(Hibsba) and (Mirkaji). I saw several injured individuals that were screaming from pain, vomiting, their eyes were red and goggled, and then I went to the village where my brother ([NAME REDACTED]) lives, to ask about his fate and his wife ([NAME REDACTED]) and his son ([NAME REDACTED]), I was with my brother ([NAME REDACTED]) and one of my relatives ([NAME REDACTED]). When we nearly arrived to his home we saw my brother ([NAME REDACTED]) and his son ([NAME REDACTED]) on the floor, dead, hugging each other, and from a distance of 100 meters I saw the corpse of his wife ([NAME REDACTED]). I also saw the mule which they prepared to escape, faltered with water coming out of his mouth, as the poultry was dead).

All actions which resulted such crimes, were not implemented unless accompanied with instructions issued by the convicts, as we cannot imagine that an attack with all this consistency and different types of weapon including aerial weapons, are not issued by an order and instructions according to a plan previously contrived by the Ba'th Party. In which the accused presented as one of its symbols and which is not confirmed in front of the court any try neither with speech nor with action, and he did not make any effort to prevent the murdering of these civilians of the Kurdish villages and cities. Despite his authority and position as he was the general director of the General Military Intelligence...

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And a member in the General Command of the Armed Forces beside his Ba'th Party rank, he did not submit to his supreme president the accused (Saddam Husayn) any information about what was happening of dangerous actions, which were considered by the law as crimes carried out by the military forces with its different categories. And the results of these crimes of killing individuals, destroying villages, looting properties, forcible dislocation for the residents, detention and sexual violence; isn't it the (information bank) as he claimed and mentioned in one of the trial sessions. And he did not take any legal action to prevent or punish any crimes committed or to be committed due to his prominent vocational and military position.

To prove the second element of the crime which is, the person or persons that should be affiliated to a national or ethnic or religious group as a legal demand and its proofs are confirmed, however the Kurdish were a well known ethnic group, residing a separately stable geographical region which is Kurdistan Region in northern Iraq. And the members of this group have a legal union and general nationality, they shared in the same sect, worship and religion, also they have their special physical and hereditary features, their own language, inveterate history, common traditions and also their own celebrations. In addition, all pervious Iraqi regimes recognized them as the 2nd ethnicity after the Arabic ethnicity of Iraqi residents; also the Kurdish ethnicity was protected by all the constitutions.

To prove the 3rd element of the premeditated murder and its range of similarity with criminal perpetration of genocide, the crime committer was fully aware of the intention (incorporeal side) for eradicating this national ethnic or racial or religious group totally or partially with its particularity. The collected evidences and actions were available against the convict (Sabir 'Abd-al-'Aziz) in the genocide crime; the evaluation of the criminal intention in the genocide crime could be defined according to the international tribunal courts through the following references: the number of harmed individuals

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...the personal or property criminal targeting, using an insulting language towards the targeted group members, weapons' usage, systematic way in planning, the proportional range for the actual eradication. The try for eradicating the group and the systematical way of killing, so finally it is unbelievable or impossible that a genocide crime was committed without the direct or indirect participation of the government, when looking into the hugeness of this crime

As the idiom requires a total or partial eradication, injuring a large number or at least an important part of the group; concerning this subject the international tribunal courts (the declarations of the international law committee) agreed that the intention should be based on eradicating the group as a group, meaning as a separate and distinguished entity, not for some individuals only because of their affiliation to a special group, so they select and describe the draft of the international agreement, which is related to the absolute prevention of the genocide crime. They changed the meaning of (eradication) to include only actions considered as a personal or biological genocide; therefore this what was used by the international courts, also the international tribunals indicated that the actions of the sexual violence were considered as a complementary part of the group eradication operation (specially if it was aiming the women in this group). The private intention was available according to the documents submitted to the court by the General Prosecutor, in which the accused confirmed and also the correctness of his signature; included the following documents:

- M1/ U 3/ S 2/ 6885 dated 1987 March 29
- M1/ U 3/ S 2/ 10319 dated 1987 May 10
- M1/ U 3/ S 2/ 10662 dated 1987 May 14
- M1/ U 3/ S 2/ 19330 dated 1987 September 08
- M1/ U 3/ S 2/ 11325 dated 1987 June 10
- M1/ U 3/ S 2/ 12703 dated 1987 June 10

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All the legal requirements and elements of proof could be based on it, by understanding the meaning of these documents, which most of them indicate to the evidence of the discrimination intention of the accused to call the Kurds "the traitorous" or the Offspring of Treason and Treachery) or the Iranian Traitor. The purpose of that is for discrimination and humiliation as well as to enhance hostile acts; for this purpose the Ba'th Party regime utilized all the country media organizations and the Party for spreading the defamations, even the religion was utilized by giving the name of Anfal to such dangerous and brutal operations in the region. However the evidence that there was a plan or a prepared policy by the state to prove the intention of the eradication is the decree No 160 on 29 March 1987 which was issued by the two bygone commands, the Ba'th Party State of Command and the Revolutionary Command Council, granting convict ('Ali Hasan Al-Majid) the authorities for implementing the policy of the above-mentioned commands; as mentioned in the 1st clause of the decree:

(Comrade 'Ali Hasan Al-Majid, Member of State Command for the Ba'th Party represented the state command for the Party and the Revolutionary Command Council in implementing its policy in the northern region including Kurdistan Autonomous Ruling Region... For achieving the purpose of this decree, they granted him the authority of the ultimate ruler for all the country civil, military and security systems, specially the authorities of the national security and the North Affair Committee).

As mentioned in the decree's 5th clause, (This decree is affective from its issuing date unless any other notification, stop working with the legal laws which opposite with the laws of this decree), so it's very clear that due to this decree which does not include any confusion. A study and a plan was prepared earlier by the former regime for implementing Anfal Campaigns in Kurdistan region and all the government's capabilities were under his authority including the administrative units chiefs, security, military intelligence and signals systems, the people's army commands, military sectors with all classifications. The ...

The President



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... delegation of convict ('Ali Hasan Al-Majid) among other high ranking members of the Ba'th Party was not based on his scientific level or his military experience but he was selected based on his criminal character, which occurred during Anfal operations. And this is another proof added to the previous evidences with availability of the intention by the regime from choosing certain people to commit the genocide crime, among them the convicts (Sabir 'Abd-al-'Aziz Al-Duri), another legal requirement to prove the genocide intention by the convicted during the methods of committing the frequent crimes against the civilians. And through provoking and encouragement by the accused to use the chemical weapons against the citizens which proved by tens of documents issued by the General Military Intelligence Directorate whether he was a director for this directorate or a member in the Armed Forces command. Where these frequent attacks led to kill many people living in the Kurdish villages and exposed to loot their crops and properties. The agronomy in this area was destroyed while the accused was regretting from the lack of ammunition, which was specified to assault the Kurdish villages. As well as he regretted from the low affection of this assault when Iranian medical delegation came to help and Pishmarga with civilians expedited to advise the people how to avoid the side effects from the chemical materials through getting the chemical protection supplies.

Article (3) from the document number (M 1 \ U 3 \ S 2 \ 11144) in March 1987 which hold signature of the accused and addressed to the Ministry of Defense – Subject \ Centers of Iranian Agents and stating the following:-

According to usage of chemical weapons against Iranian henchmen's headquarters ...



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which were referred to in our secret personal and urgent letter No. 9819 in 03 march 1987 imputed to the urgent personal letter No. 5051 issued from chief of army staff in 16 march 1987 stating the following: -

(We did not get the approval on the air strikes due to the lack of special ammunition and to execute several assaults on headquarters of the Iranian agents, we can use the traditional ammunition except for the artillery and air force).

The document number (M 1 \ U3 \ S 2 \ 19330) in 08 September 1987 included the clauses (D and H) from article (2) and article (4), Urgent, secret and Personal. To \ Command of North Organization Office \ Subject \ Information:

(D) Pishmarga and civilians expedited to instruct the people about how to protect themselves from chemical weapons

(H) The Iranian medical delegation played an important role to decrease the side effects of the chemical weapon

Clause 4 of the document stated the following:-

After the air attacks by the usage of (special ammunition) which aimed at some of the headquarters that belong to the Iranian agents in April 1987 the leadership of the abovementioned group had received special supplies from the Iranian regime, to protect themselves from the chemical weapons. In addition, the leadership of the Iranian agents spread notebooks written in Kurdish and Arabic languages including safety measures to protect the villagers from the chemical affection, the other legal requirement is available on the intention by the accused to execute the genocide crime with evidence that the accused did not exert any effort to distinguish between fighters or civilians.

The documents before the court issued by the department where the accused belonged and concluded by his signature didn't show any effort or attempt exerted by the accused to avoid killing the civilians, as he stated ...



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... before the court. In addition, the documents in the directorate he was presiding showed that he requested to identify locations of the civilians, so he can attack them by the special ammunition through air force and artillery without any signs to avoid civilians or distinguish between women and children as already proved by many plaintiffs.

The plaintiff ([NAME REDACTED]) testified before the court, on 15 September 2006, that on the night of 22 – 23 March 1987, the village where I am living was exposed to a chemical attack and I saw (Siwsinan) village while smoke was rising from it and I was infected when I inhaled the poison gas. Then I was transferred to the hospital (Shurish) where I was cured, then I escaped to the mountains and in the next day I saw my village and the neighboring villages burning as a result of the attack while I escaped with many families to Kirkuk, where I watched on the road many families coming to (Mila Sura) village. Then we were surrounded by the army and moved to (Qura Tu) Camp and then we were transferred to (Tupzawa) camp where the army segregated women from men, youth from elders. There, I met my daughter ([NAME REDACTED]), and then we were driven to (Nuqrat Al-Salman) prison camp while my wife and my five sons still missing, I don't know anything about them. The plaintiff [NAME REDACTED] stated before court on 22 August 2006 (second session) that during her detention period in (Rashkin) camp with her village citizens, she saw many people being killed and a big number of her village citizens died from chemical attacks, they are ([NAME REDACTED]). Another witness working as surgeon, testified on the 28th hearing on 06 December 2006 that we reached (Bargalu) village which was exposed to chemical attack on 21 April 1987, then I left to the hospital with doctor [NAME REDACTED] where 30 individuals were injured due to ...



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chemical weapons, among them were 8-9 years old child with a burned body and swelling eyes... 2 days after he died despite given him the cure. In 22-23 March, doctor Nasih told me that (Siwsinan) area was exposed to a chemical attack, then I left to the hospital where 70 injured individuals were brought, one of them called ([NAME REDACTED]) his 4 sons and wife were killed as well as [NAME REDACTED] As we were informed, the chemical weapons killed that night 72 individuals from (Siwsinan) village.

The convict was not only concerned about using the chemical weapons but also interested in knowing results.

The document number M 1 \ U3 \ S2 \ 10319 dated 10 March 1987 includes the following:-
Secret and personal \ Urgent \ to \ Command of Air Force and Air Defense

Your secret personal letter (690) on 09 March 1987 please provides us with locations of the Iran agents that were attacked in order to authenticate the strikes' effect of our air forces.

(The document was signed by the accused) and approved

The document number 690 dated 09 March 1987 was an important document issued by Air Force Command to the Ministry of Defense, signed by escapee convict (Hamid Sha'ban), the commander of Air Force and Civil Defense. subject \ Headquarters of Iran agents, titled (letter of Chief of Army Staff, top secret and urgent No. 15787 on 02 May 1987, letter issued from the General Military Intelligence Directorate top secret and personal No 9819 in 03 May 1987:

(Air raids were executed by 20 aircrafts using regular ammunition and 44 aircrafts using special ammunition on the headquarters of Iran agents, which was mentioned in the letter, issued from the General Military Intelligence Directorate.



The President

(838-963)



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The Verdict

The study and suggestions raised by the convict to the Presidency of the Republic/ Secretariat, about using different types of chemical weapon (Sarin, Valon and Mustard) through different methods such as artillery, air force and army aviation in Anfal operations. According to the letters issued by him and concluding his signature M1\U3\S2\5809 on 10 March 1987, M1\U3\S2\61414 on 18 March 1987, and U3\S2\6885 on 25 March 1987, attaining approval on his suggestions by the Secretary of the Presidency of the Republic. According to the letters signed by the secretary: 7\C 2\808\K on 12 March 1987, mentioned in this letter (we are notifying you by your letter number M1\U3\S2\5809 on 10 March 1987, that the president ordered your directorate to study along with specialists aiming a sudden strike by special ammunition at the bases of Khumayni Guards and saboteurs of the 1st branch which belongs to the Barzani clan, wit a possible execution by air force, army aviation, artillery...) kindly take the necessary actions. The letter numbered 7\C2\877\K on 19 March 1987 was issued by the secretary of Presidency of the Republic, signed by the secretary (convict Hamid Yusif Hammadi), addressed to the General Military Intelligence Directorate headed by the aforementioned convict.

Top secret and personal\urgent\ Subject: the usage of special ammunition

Referring to clause (2 – A – B) of your letter number 1\U3\S2\6414 on 18 March 1987, 2 suggestions were approved, take the necessary action.

The letter issued by the Secretary of Republic Presidency number 953\965\K on 29 March 1987, signed by the convict (Hamid Yusif Hammadi) and addressed to General Military Intelligence Directorate.

Top secret and personal\urgent\ Subject: the usage of special ammunition



The President

(839-962)



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The Verdict

Your letter number U3\S2\6885\ on 25 March 1987, the approval has been issued to execute strikes so that the outcome will be invested later...where the intentions are not only attacking the saboteurs...the letter issued by the accused, number (6885), on 25 March 1987, titled – using the special ammunitions – includes the following:

(I recommend – the accused – some targets and examine the ability of the chemical weapons as I suggest targeting the following locations because it's a refuge for Iran's agents Balisan basin, Tutma village, Khati village, Shaykh Wasanan village, Qara Dagh basin, Takya village, Balak Jar village, Siwsinan village.

As the report suggested that the strike will be in mid April so that enough time will be exploited for the production of chemical weapons as the answer came in the above-mentioned letter (the approval was issued to launch the strike).

All the abovementioned letters especially those issued by the General Military Intelligence Directorate, which had been headed by the accused, were relegated to the General Persecution Commission before the court. It is all concluded with the accused signature where obviously the intention of premeditated murder was available by the accused as genocide for eradicating Kurdish villagers partially or totally. He was fully aware of the international prohibition of these weapons because they will result in thousands of victims as well as dangerous effects on the environment. This clearly prove the convict's preconceived malice as in international crimes it had been proved the provision of the aforementioned conditions through joint prior preparation and planning to perpetrate the crime as well as a peace of mind.

The convict was following a clear systematic pattern against Kurdish nationals as national ethnic community. The proof on the frequency and methodology of the strikes is in following the same way in all ...



The President

(840-963)

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Verdict Decision

... Phases of Anfal operations – the eighth – by using the chemical weapons and its consequences in killing people, destroying houses, compulsory dislocation and relocation, detention in camps, raping women, sexual violence, similarities in the mass graves' structures and execution techniques by firing at victims on behalf of execution squad.

The plaintiff ([NAME REDACTED]) - is Iraqi Kurdish living in Washington U.S.A. - and one of the survivors from the mass graves testified under oath the following:

After they transferred us by closed vehicles without windows, two young girls died due to bad ventilation. The car reached a dirt road, which includes land-bumpers, then stopped as the doors opened. I saw a pit full of women and children's corpses while bulldozers were burying them. They took us out from the vehicles, by force, and drove us to the aforementioned pit where soldiers, lifting machineguns, were standing on its edge. One of the soldiers shot the people who fell inside the pit. I pretended death when shot in the shoulder. I saw a pregnant lady while the soldier shooting her in the head. My mother [NAME REDACTED] was with me and her sons fell inside the pit, I will show the court list of all the victims names as I witnessed the shooting at my mother and sisters. The bullets were raining hell as the pit turned bloody red. Bulldozers went burying the corpses from a pit to another...) Conformity between the mentioned actions is the proof that there was a plan or policy already prepared to attack the Kurdish as national ethnic group within limited period of time (1987 – 1988).

By the abovementioned information, the court find the attack on Kurdistan region as not confined on Kurdish fighters only (Pishmarga) rather stretching over to villagers attacked by chemical weapons.



The President

(841-963)

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The Verdict

...the survivors were detained in special camps that have been arranged in advance (Nazarki Fort, Tupzawa, Al-Salamiyyah, Al-Hadar, and Nuqrat Al-Salman) some of them were executed by a firing squad, as individuals or groups were buried [children, women, and youth] in mass graves. That is proven through documents and other evidences including international experts' reports and statements, those who had supervised the excavation of three mass graves and interred remains belonging to pregnant women, children, and youth from Kurdish origins. They were recognized by their identity cards, Kurdish costumes, and villages' names noted in victims' civil status cards, all of that indicating the availability of special intention, on behalf of convict (Sabir 'Abd-al-'Aziz Al-Duri) to eradicate this community partially or entirely without any reason except being Kurdish. It was proven that convict (Sabir 'Abd-al-'Aziz Husayn Al-Duri) had caused, between the years (1987-1988), via joint criminal plan, the murder a huge number of Kurdish citizens.

Accordingly, it had been proven to court that Convict (Sabir 'Abd-al-'Aziz Husayn Al-Duri) is guilty for committing genocide crime, according to the descriptions of article (11/First-A) and (Second-E) by virtue of article (15/ First- Second) of Iraqi High Tribunal Law number (10) for the year 2005, identifying the sentence based on article (406/1-A-B-F) by virtue of contributory clauses (47, 48 and 49) of Iraqi penal code number (111) for the year 1969 amended following article (24) of Iraqi High Tribunal Law number (10) for the year 2005, as it had been publicly acknowledged on 2007 Jun 24.



The president
Muhammad 'Uraybi Majid al-Khalifah

(842-963)

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

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The Verdict

Convict (Sabir 'Abd-al-'Aziz Al-Duri) Verdict for causing severe physical or mental damages to a given group, as a crime of genocide

The court had charged convict (Sabir 'Abd-al-'Aziz Al-Duri) for committing several crimes including the genocide by causing serious physical or mental damages, as the aforementioned charges applies with the descriptions of article (11/First-B) by virtue of article (15/First-Second) of Iraqi High Tribunal Law number (10) for the year 2005.

Elements of the crime

1. That the crime committer act causes one or more persons with serious physical or mental harm
2. That the persons should be belonging to a specific national, ethnical, racial, or religious group
3. That the crime committer intends an entire or partial eradication of that national, ethnical, racial, or religious group
4. That this behavior is conducted in the context of a similar one against this crime, or the behavior itself might cause that eradication

By examining the case's file and the acquired evidences included, the court finds that convict (Sabir 'Abd-al-'Aziz Al-Duri) had caused, by his contribution with other convicts, a joint criminal intention in committing an act that legally formed a genocide crime through causing serious physical or mental damages, as his contribution had aimed to reinforce the criminal activities of the Ba'th regime, he...

The President

(843-963)



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The Verdict

... Played a major role in committing that crime, he carried out within a joint criminal plan; this role was a reason in causing those criminal acts with his acknowledge of the former regime's intent of committing such crimes.

The court had came to determine the convict's responsibility by legal requirements of the crime basics and its elements of proof, relying on the available evidences in the case's file collected by investigation and trial, as follows:

The legal requirement to prove the crime's first element and its conformity with the convict's act is that the crime committer causes, in offending one or more individuals, serious physical or mental harm. The evidence on such act is the existence of evidence on the convict's contribution in causing a serious physical or mental harm.

The study and suggestions that were submitted by the convict to the Presidency of the Republic/Secretary; tackled the usage of different chemical weapons (Sarin, Valon, and Mustard) by all available methods; artillery, air force, and army aviation through Anfal operations, according to correspondences issued and signed by him such as number M1/U 3/S 2/5809, on 1987 March 10, M1/U 3/S 2/61414, on 1987 March 18, and U.3/ S 2/6885, on 1987 March 25. These suggestions were approved by the Presidency of the Republic/Secretary according to the correspondence signed by him numbered 7/C 2/808/K, on 1987 March 12, which included (In reference to your correspondence number M1/U 3/S 2/5809, on 1987 March 10) the president had ordered to conduct a study between your directorate and the experts about carrying out a sudden attack (on Khumayni guards' bases within the saboteurs' headquarters of the Barzani clan's first branch) by special ammunitions and referring to any of the next methods: Air force, army aviation, and artillery... kindly take the necessary action and inform us. Also, it was mentioned in the correspondence issued by Presidency of the Republic/ Secretary number 7/C 2/877/ K, on 1987 March 19, signed by the accused secretary (Hamid Yusif Hammadi) and addressed to the general military intelligence directorate headed by him.



The President

(844-963)



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The Verdict

Top secret, personal and immediate/ Subject: the usage of special ammunitions

We bring to your attention the clause (2-A-B) of your correspondence number1/U3/S2/6414, on 1987 March 18, which had been approved on the two suggestions mentioned in it, to take the necessary action.

Also, the correspondence issued by Presidency of the Republic/ Secretary number 953/965/ K, on 1987 March 29, signed by convict (Hamid Yusif Hammadi), addressed to General Military Intelligence Directorate.

Top secret, personal and immediate/ Subject: the usage of special ammunitions

In reference to your correspondence number U3/S2/6885, on 1987 March 25, it was approved to carry out the attack under the condition of exploiting the result..., as the target is not limited to damages against saboteurs ...

It is worth referring that the correspondence number (6885), on 1987 March 25, had been issued by the aforementioned convict within the above presidency correspondence, titled – Usage of the special ammunitions- including the following:

(The convict suggested goals and study of available chemical weapons' abilities, suggesting as well that Balisan Basin area (Balisan, Tutma, Khati, and Shaykh Wasan villages) and Qara Dagh Basin area (Takya, Balak Jar, and Siwsinan) are important for the Iranian agents and the enemies, and its size affects the internal security of northern area. In addition, these targets are far from the deployment zone of Iraqi army, rendering them more suitable than any others.

The report also recommended starting the attack in mid April in order to give enough time for producing more chemical weapons, and the replay was as it was mentioned in the above correspondence (it was approved to carry out the attack...).

As stated in the aforementioned documents, the study and suggestions submitted by the convict are appearing clearly that he was provoked and encouraged by regime's president for the possibility of using chemical weapons...

The President

(845-963)



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The Verdict

- Special ammunition- and approval to strike by any of the following means [Air force, military aviation and artillery] against Kurdish national groups within the borders of the geographical province of (Kurdistan, definitely proves the criminal act or purpose of the regime to eradicate the Kurdish nationals totally or partially, the convict encouragement was only to strengthen this criminal act. The Genocide crime against Kurdish citizens as a result of strikes using special weapons was proven before court through the following victims' testimonies:

Plaintiff ([NAME REDACTED])

Age: Born in 1932 Profession: Disabled

Address: Jalmur village, Aghjalar Sub district, Chamchamal

Under oath, he stated:

On 1995 May 05, citizens of (Gup Tapa) moved to our village due to attacks on their village. We were afraid the attack will veer to our village, so we ran to (Bay Rasha) valley which is located between (Jalmurd) and (chuqbaja) villages and hid for three days. On the fourth day we found that we were surrounded by the Army from three different directions as they bombed the valley, started pulling us out of the shelters, forcing us to walk in lines towards (Jalmud) village. Once in our village, we found it completely destroyed. Afterwards, they drove us, by vehicles type ZIL, to (Taq Taq) area where we were detained in a poultry farm as men had been segregated from women, and youth from elders. The youth were taken to (Tupzawa). When we reached there, they segregated us another time into three groups: elders, women and youth; since then their fate [his family] remains unknown. We stayed there for three days and then were moved to (Nuqrat Al-Salman) prison Camp where conditions were horrible. We were tortured by the so-called (Hajjaj) as three of us used to die everyday...

The President

(846-963)



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The Verdict

...due to famine and lack of water; and then I was released. The names of victims from my family who died during Anfal operations are: My wife ([NAME REDACTED]), my kids ([NAME REDACTED]), and my brothers ([NAME REDACTED]) along with their wives and kids, as well as my cousins who went missing during Anfal Operations. I am demanding accusation against (Saddam Hussein), ('Ali Hasan Al-Majid), their lieutenants and (Hajjaj).

Plaintiff ([NAME REDACTED])

Age: Born in 1935 Profession: Farmer

Address: Qasruk village, Aghjalar, Chamchamal

Under oath, he stated:

I am a resident of (Qasruk) village in (Aghjalar) district. On 1988 May 05, we witnessed smoke rising from the sides of our village as a result of the bombardment, so we took our families and went to (Khalkhalan) mountain. After two nights, we moved to (Sumaqa) mountain and then to (Kibnik) valley where the army surrounded and captured us. We were detained in a poultry farm in (Taq Taq). In the afternoon, they transferred us to (Tupzawa) prison camp where they segregated us into three groups: youth, women and children, and elders. I saw two men tied together who told me that youngsters are tied and taken to anonymous place wearing only their under wears. I spent two nights in (Tupzawa) prison camp, and since then, I have not seen or heard about any member of my family, their fate remains unknown to me until this day. My family members are: my wife ([NAME REDACTED]) my children [NAME REDACTED] along with three of her kids), as well as my brother's family ([NAME REDACTED]). After spending two nights in (Tupzawa), we were taken to (Nuqrat Al-Salman) camp, where we were suffering from famine, polluted water, and mistreatment. I stayed at (Nuqrat Al-Salman) for five months where there were death cases



The President

(847-963)



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... And, as I was told by one of the detainees, the number of people who died was (770) detainees. I am providing the court with a list of (194) individuals who disappeared during Anfal operations. I am demanding accusation against (Saddam Hussein), ('Ali Hasan Al-Majid) and their lieutenants.

Plaintiff ([NAME REDACTED])

Age: Born in 1936 Profession: Laborer
Address: Takya Kaka Mid, Aghjalar district, Chamchamal

Under oath, he stated:

I am a resident of (Juglija) village in Chamchamal. On May 1988, the Iraqi army attacked our village from 3 axes, where they started burning the villages of (Qasruk, Kujna, and Hunjilijcha). Three days after, the troops attacked (Hunjilicha) village destroyed it by bulldozers. They also arrested citizens and transferred them to (Taq Taq), then they attacked (Bayusha) valley where I was hiding with my wife who gave birth a day before the attacks, they found me with my family, I was so frightened that the army would kill me and my family. But they took us back to our village (Juglija) where the village was destroyed, they took us by the military bulldozers to (Krukhba) village, then they transferred us to the System in (Taq Taq) where we stayed for one night, after that they took us to (Tupzawa) and we stayed there for (3) days. We then were taken to (Nuqrat Al- Salman) camp where the conditions were very bad; my wife died from starvation along with my (20-25) days old child, My brother ([NAME REDACTED]) and I were went to the surnamed (Hajjaj), and they beat us with cables, and then I was released. I am raising a complaint against (Saddam), ('Ali Hasan Al-Majid), (Hajjaj) and the rest of the accused individuals in the cage.

Plaintiff ([NAME REDACTED])



The President

(848-963)



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The Verdict

Age: 1951 Profession: Housewife
Address: Kurdistan Territory



Under oath, she stated:

In the fourth month of the year 1988, the Army surrounded our village (Mahmud Pariza) with the support of aircrafts. They gathered people from (Mahmud Pariza), (Zarda) villages and transported us to Corps Headquarters in (Chamchamal) by vehicles type ZIL. Then they transported us to (Tupzawa) camp, where we were treated badly, and segregating men from women. They took the children away for one night then returned some of them back. We stayed in this camp for one week, and then we were transferred to (Al-Dibs) camp, where we stayed for five months. During this period, a large number of children and women died from famine, thirst and ailments. My family members were (12) individuals, four of them [NAME REDACTED] were "Anfalized", my parents died in (Nuqrat Al-Salman) camp, as dogs ate their corpses, and I do not know the fate of other four individuals of my family. Then we were transferred to (Tikrit); after that, the general amnesty was issued, then we were transferred to ('Arbat) where we were released. When we were in (Al-Dibs) prison camp, officers use to take girls to their private rooms. I am demanding accusation against (Saddam Hussein), ('Ali Hasan Al-Majid) and those who contributed to the crime.

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

Under oath, he testified:

I am a resident of (Jalmurd) village in (Aghjalar) Sub district
On 1988 May 05, we were informed that (Gup Tapa) village was chemically attacked as half of its residents were killed. That night we left the village to (Baba Bay Rasha) Valley, we saw a smoke coming out from there, and we stayed there for four days. After that, the army attacked us with all kinds of weapon, murdering two of us who were my nephews [NAME REDACTED] Hereafter, we moved back to our village (Jalmurd). Once we reached it, the soldiers went on destroying the village with bulldozers. They transferred us to (Taq Taq) area, then to (Tupzawa) in morning and then to ...



The President
(849-963)



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... (Nuqrat Al-Salman) camp, where we were divided over the halls and the conditions were very bad. The cholera and diarrhea spread between us and we were suffering from starvation, after that we returned to (Tupzawa) then to (Chamchamal) and finally they took us to (Al-Sulaymaniyyah). I provided the court with a list of my family members that were missing and also a list of the persons that were "Anfalized".

Plaintiff [NAME REDACTED]

Age: Born in 1950 Profession: Farmer
Address: 'Azban village

Under oath, he stated:

In the year of 1987, the Republican Guard Corps attacked our village as they were supported with tanks, shovels and military trucks. They destroyed our village; and that lasted from the morning till six o'clock in the evening; knowing that our village was not one of the prohibited zone's villages; it is located half hour driving from Al-Sulaymaniyyah governorate. There was no reason to attack us, except for being Kurds.

At eight o'clock in September 1987, I was in (Shar Bajir) village along with my two brothers [NAME REDACTED], when twenty Security detachments attacked this village, where we were arrested by the Security and the Emergencies forces; they plundered livestock in our village and brought trucks to transport it to Al-Sulaymaniyyah governorate. Then we were handed to Al-Sulaymaniyyah Emergency. When we entered the detention, there were sixteen persons from ('Arbat) village, in Al-Sulaymaniyyah; we stayed in the detention facility for three months, as we were extremely tortured. After that, a committee came from Baghdad and conducted investigations for three days, and that was only because we were Kurds. Then they cleared that they will read names of persons, whom were going to be released as included in the Presidential amnesty. There were one hundred twenty six detainees; they took only fifty-six detainees. Where my two brothers ([NAME REDACTED]) were kept in the detention, their fate remains unknown, and then I was released. Therefore, I am raising a complaint against ('Ali), whose alias is ('Ali Lut Masi) and....



The President

(850-963)



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The Verdict

('Uthman and Nuzad) I do not know their fathers' names, Major (Taha), (Saddam Hussein) and ('Ali Hasan Al-Majid).

Plaintiff ([NAME REDACTED])

Age: Born in 1941 Profession: Housewife
Address: Pira Magrun Compound

Under oath, she stated:

I am a citizen of (Sarmur) village. In 1988, we were attacked by chemical weapons; the artillery bombed the village at night and day. The army burned down our village, and made us walk to (Qamchugha) village, we were transported afterwards by military vehicles to (Susi) fort where we stayed for one night. And in the morning they transferred us to the Emergencies in (Al-Sulaymaniyyah), as we were sent back to (Dukhan) due to the vast number of prisoners. Twenty days after being released, they arrested us back and transferred us to (Al-Sulaymaniyyah) for fifteen days, to be moved later to (Tupzawa) where we stayed for one night; our condition was very bad. In the morning, we were transferred to (Nuqrat Al-Salman). I was with my husband [NAME REDACTED] sons [NAME REDACTED], and mother-in-law ([NAME REDACTED]); my mother-in-law died due to famine as no enough food and water supplies were provided. All the aforementioned consequences led to the death of too many citizens. They even segregated women from men. When they informed us about the Amnesty, they transported us by buses to Al-Samawah, then Al-Sulaymaniyyah, and released us afterwards; we went back to Dukhan compound to find out that my whole family is missing. They segregated me away from my husband in (Tupzawa) and his fate is anonymous. My sons however were released. Therefore, I am demanding accusation against Saddam Hussein, 'Ali Hasan Al-Majid and all those who contributed, and this is my testimony

Another legal requirement to prove that the convict had perpetrated genocide by causing physical or mental damages is the provision of evidence of rape or sexual violence against Kurdish citizens; this evidence can be proved through testimonies submitted by the victims (plaintiffs). Among those plaintiffs is:



The President

(851-963)



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Plaintiff [NAME REDACTED]

Age: Born in 1953 Profession: Housewife
Address: Kalar district, Al-Sulaymaniyyah

Under oath, she stated:

I am a resident of (Kani 'Ubayd) village, a part of Kalar district. On 1988 April, we were surrounded by the army, so we left the village and headed toward the mountains, using trucks, taking the main road intersecting (Tilaku) sub district and (Kalar) district. On our way, the military forces arrested us, while planes were hovering over. We were taken to (Tupzawa) where they segregated women from men and put us in halls for one night, and then we were transferred to (Al-Dibs) camp. Our village was composed of 40 families; fifteen of them did not return as their fates remained anonymous. We were moved to (Nuqrat Al-Salman) camp and stayed there for four months. One of my children died ([NAME REDACTED]) four years old; I have another one named ([NAME REDACTED]), he died on our way back after detention. One day, trucks brought water tankers to the detention facility, all the detainees who drank this water had diarrhea, cholera and started vomiting, the water tasted very bitter and poisonous, many people died, among them my son ([NAME REDACTED]), three of my children were effected and a women named ([NAME REDACTED]) died along with her son and many others. There was an officer named (Hajjaj) used to rape women and I use to see him taking a girl named ([NAME REDACTED]) to his room raping her constantly. There was a deaf woman that (Hajjaj) use to tie her hands to two corpses and placed her between them till late hours in the night, and then we had been released. I am raising a complaint against Saddam Hussein and his assistants.

Plaintiff ([NAME REDACTED])



The President

(852-963)



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Age: Born in 1964 Profession: Housewife
Address: Kifri County, Diyala

Under oath, she stated:

I was a resident in (Sikhah Karan), a part of (Kalar) county. On April 1988, our village was attacked, we were arrested by the army while we were heading towards (Mila Sura) village, and then transported by tractors to (Qura tu), then (Tupzawa) one night after. Men were segregated from women and aged women from young ones. Then we were transported to (Al-Dibis) camp where we spent three months. We were suffering from harsh conditions as many children died; we were then transported to (Nuqrat Al-Salman) camp where our condition was very bad. They brought a water tanker, and whoever drunk from it got swellings in the head and died right after it. The surnamed (Hajjaj) used to beat us by a cable, and one day he hit my mother causing her a heart disease. I saw him once taking a girl to his room and tying another one to dead bodies. Many prisoners died; among them was my aunt ([NAME REDACTED]). I will provide the court with a roster of 31 names of my relatives whose fates remain unknown. Then we were moved to (Al-Sumud) complex where my uncle picked me up. I am demanding accusation against Saddam Hussein, 'Ali Hasan Al-Majid, Officer (Hajjaj) and all who participated in Al-Anfal operations.

Plaintiff [NAME REDACTED]

Age: Born in 195 Profession: Housewife
Address: Kurdistan territory

Under oath, she stated:

I am a resident of (Lik) valley village in (Sangaw) sub district, (Chamchamal) county. On 1988 April, I saw the army surrounding our village so we left to (Awa Spi) village and stayed there for four days then we went to (Sargalu) village where we stayed three days, then we got surrounded



The President

(853-963)



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... and arrested by the army and taken to (Chamchamal) County administration then to (Tupzawa) camp. They separated elderly from youth and young girls from women and elderly. The soldiers treated us badly, then they took the men in vehicles to an unknown area and in the same day they transferred us to (Dibis) where we stayed six months. Diseases were all over the place, two of my kids died, ([NAME REDACTED] two years old and [NAME REDACTED] five years old, they also took my son ([NAME REDACTED]) and till his fate remains unknown, and my husband disappeared ([NAME REDACTED]), his brothers ([NAME REDACTED]). And also they took my sister [NAME REDACTED] with her husband and five children. I want to inform the court that in Dibis detention facility, they used to take the girls rape them and return them after midnight, and after that we were released in Chamchamal. I am raising a complaint against Saddam Hussein, 'Ali Hasan Al-Majid and their assistants.

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

Under oath, she stated:

At the end of April 1988, the Iraqi forces attacked our village, surrounded it and gathered the village citizens in one of the houses and burned all the houses, animals and birds. On the next day we were moved by military vehicles type ZIL (Soviet vehicles) to (Tupzawa). The army was arresting and transporting any Kurdish person they encounter. In (Tupzaw), men were separated from women, there they took my son, father, and mother; they still remain with an unknown fate. I stayed with my grandfather and grandmother who died in the detention facility. We were badly treated. One day, while we were standing in line waiting for the food, an officer named (Ja'far Al-Hillawi) tore the clothes of a pretty girl and asked for the presence ...



The President



(854-963)

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... of her parents while he was raping her in a front of all of us, and shot her in the head after that, her corpse was taken to (Nuqrat Al-Salman) detention facility. We were treated very badly; they separated men from women and young women from elder ones. In (Nuqrat Al-Salman) detention facility I was in a hall with six other girls, ([NAME REDACTED]) from (Kirkuk), ([NAME REDACTED]) from (Hawraman), ([NAME REDACTED]) from (Kuysinjaq) and there were guards and officers who used to enter the room and rape all the girls in the room and their names were (Hajjaj), (Shawki) and (Sakhr) who were (Hajjaj) guards. (Hajjaj) used to rape the girls in front of the other girls. He raped me and raped ([NAME REDACTED]), we shouted and resisted, and once I scratched his face with my nails so he hit me in the face and until now the marks of the wounds are still on my face and then we were moved to (Tupzawa) camp. I am raising a complaint against Saddam Hussein, suspects and the officers who raped us.

To prove the second crime element, when the person or persons belong to a national, ethnic or religious group as a legal issue with the multitude and durability of its proving elements; in the fact that the Kurdish are one known nationality, they live in a constant geographical province which is the Kurdistan Province in the North of Iraq. This group's individuals have a common legal or national tie and they share the same sect, worship rituals and religion; and they have special corporal genetic features, their special language and ancient history, common culture and traditions, special feasts and occasions. In addition to this, all the regimes that ruled Iraq recognized them as the second nationality after the Arab Nationality of the Iraqi residents and they are protected as stated in all the constitutions.

The President



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To prove the third crime element and if applied on the convict's action, is the existence of intention of the perpetrator (special intention) to destroy that national or ethnic or racial or religious group totally or partially. The evidence and facts against the accused (Sabir 'Abd-al-'Aziz Husayn Al-Duri) are available for the genocide crime by causing serious corporal or moral harm. The evaluation of the criminal intention in the genocide crime can be determined as it was fixed by the International Criminal Courts through conferences and among this: The number of victims, corporal harm, the use of offensive language to targeted individuals, the methodical way followed in the plans, the relative degree of the actual destruction, the repetition, compatibility and methodology of the attacking way; finally, it is uncharacteristic and impossible to commit a genocide without some indirect involvement of the State for the enormity of the crime. Moreover, the term: total or partial destruction, a great harm or an important part of the group, the-special intention- of the accused person is available in the documents that were presented before the Court by the General Prosecutor, and what we mentioned in proving the first crime element, was a part of the documents. The legal requirements for proving the special intention of the accused person can be realized just by examining the contents of those documents which were admitted by the indicted person, together with his signatures, to be true. The study and suggestions that the accused person instigated and encouraged on the possibility of using them against Kurdish nationalists, with his awareness that it is a lethal and an internationally prohibited weapon, is an obvious evidence of his criminal intention to destroy the Kurdish people totally or partially. The indicted intention to distinguish the Kurdish by naming them, as included in the mentioned documents, the traitors, treason agents, the agents or Iran's agents group. This distinction rose from the enmity and the hatred spirit, contempt and degradation. Moreover, the evidence of the existence of a plan or a policy on the State or national level to prove the genocide intention is the State facilitation of its material and human capabilities and making them under



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The order of the convict ('Ali Hasan al-Majid) and granting him all the permission of the Regime Head in Kurdistan Region according to the decree No 160 which was issued by the revolutionary Command Council on 29 March 1987, in order to execute the state policy and the ruling regime.

The convict (Sabir 'Abd-al-'Aziz Husayn Al-Duri) did not only specify the targets and the locations which were mostly safe villages inhabited by civilians as it is shown by most of the letters issued by the General Military Intelligence Directorate which was headed by him. And ordering the Air Force or the Army Aviation or the Tanks to attack the villages by (Special ammunition).

He was also interested to know the results of these attacks and their affect volume.

The letter Numbered (M1/U3/S2/10319) dated on 10 March 1987,

Your secret and personal correspondence (690) on 09 May 1987; kindly provide us with the Iranian saboteurs' locations which have been bombed, in order to document the effectiveness of our air attacks.

(The document footed with the convict's signature, and the correctness of the document and the signature has been proven).

Moreover, the convict was feeling sorry because the attacks with the special ammunition were not identical with his expectations and wishes.

In the paragraphs (D-E) of the paragraph (2) and also the paragraph (4) of the letter number (M1, U3, S2/19330) on 08 September 1987, this included his signature

Secret and personal (Immediate)/To the North Organizing Office/Subject: Information

2-(D) The immediate anti chemical procedures by the Pishmarga and the residents

(E) The existence of an Iranian Medical Delegation which is specialized in defending the chemical weapons was an element in reducing the affects of the attack



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The haste of Pishmarga and the residents in executing special instructions in defensive chemical measures stated in paragraph (2) of the mentioned document, means that there can be no doubt that the accused did not differentiate between fighters and civilians of local residency. The court could find no proof that indicates that the accused attempted to avoid targeting civilians within any of the released documents concerning him at the time of attack. Which indicates that he intended to either partially or completely annihilate the Kurdish ethnic race. This is another aspect to be added to the previous factors that the accused had intention to commit genocide.

Based on what documents, victim and witness testimonies, International expert reports and discovery reports all indicate that the accused pursued an obvious manner against the Kurdish ethnic race, for the continuous systematic series of attacks throughout the whole Anfal operation – eight – with the use of chemical weapons and all that followed such as executions, mass graves, demolition of villages, forced eviction of residential civilians, detainment in camps, raping and sexual abuse of women, causing grievous bodily and mental harm to the victims of Kurdish ethnicity, which in itself is a form annihilation of the Kurdish race.

Based on this, the court finds that destructive attacks occurred in the Kurdistan province against only the Kurdish race without affecting other races. These attacks did not only target fighters of Kurdish ethnicity (Pishmarga) yet they also affected all village residential civilians, who were attacked with all kinds of weapons, among which the most destructive was – Chemical Weapons. They were subject to murder and those who survived, were captured and detained in special camps, produced in anticipation by the regime (Nazarki, Tupzawa, Al-Salamiyyah, Al-Hadar, Nuqrat among others). Some civilians were executed by firing a squad individually or in groups ...



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... And were buried in mass graves whether it be women children, elderly or young men. After the women were separated from the men they were subject to rape and sexual violence. Their villages were wiped from existence with all their property looted, they were also subjected to severe deprivation in form of medical, food and water, severe beatings and grievous physical and mental harm, which were crimes committed against them for being merely Kurdish.

In accordance to what was presented, proved to the court that convict (Sabir 'Abd-al-'Aziz Al-Duri) is guilty in committing murder and causing grievous physical and mental harm to Kurdish civilians, this crime is considered genocide in accordance with article No. (11/1st-2nd-E) and Article No (15/1st-2nd) of the Iraqi High Tribunal Law No (10) In 2005, and to define the penalty according to the Article No (412/1) in accordance with the collaboration articles No (47, 48, 49) of the amended Iraqi Penal Code No. (111) for the year 1969, in conclusion to Article No (24) of the Iraqi High Tribunal Law No (10) for the year 2005 and which was announced in public on 24th of June 2007.



The President
Muhammad 'Uraybi Majid Al-Khalifah



Member



Member



Member



Member



(859-936)

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

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The convection decision of the accused (Sabir 'Abd-al-'Aziz Al-Duri) for the premeditated murdering as a crime against humanity

The court accused the convict (Sabir 'Abd-al-'Aziz Al-Duri) in 2007 February 20 with several crimes including crime against humanity according to article (12/1st –A) and by virtue of the article (15/1st-2nd) of The Iraqi High Tribunal law no. 10 for the year 2005

Crime Elements

- 1 – When the perpetrator of the crime kills one or more persons.
- 2 – To utilize the act of murder as part of a wide scale systematic attack against civilian inhabitants or with intention to utilize this conduct as part of the attacks.
- 3 – When the perpetrator of the crime is aware that such conduct is part of a wide scale systematic attack against civilian inhabitants or with intention to utilize this conduct as part of the attacks.

The court was not only satisfied with available direct evidence that indicates that accused (Sabir 'Abd-al-'Aziz Al-Duri) killed one of the victims with his own hands during Anfal Operation.

But the court found that there was direct and non-direct evidence proving that the accused participated along with the rest of the convicts in intentional collaborated crime for committing several crimes such as the intentional killing, which considered a crime against humanity. In addition, his participation was premeditated with purpose to implement criminal activity in the Ba'th regime and within its divisions. He played a unique, extremely dangerous role in ordering such criminal crimes to be employed.



The President

