

## IHT Part 6 Translation

*(...continued from IHT Part 5)*

2- The conviction of the accused Taha Yassin Ramadan for the expulsion of residents and the forcible transfer of residents as a crime against humanity under Article 12/First/D of the court law and under Article 15/Second/D and Article 15/Fourth of the same law. Also under Article 34/B and Article 53 of the penal code No.111 for the year 1969.

3- The conviction of the accused Taha Yassin Ramadan for imprisonment or extreme deprivation in any other form of physical freedom as a crime against humanity under Article 12/First/E of the court law and under Article 15/Second/D and Article 15/Fourth of the same law. Also under Article 34/B and Article 53 of the penal code No. 111 for the year 1969.

4- The conviction of the accused Taha Yassin Ramadan for the torture as a crime against humanity under Article 12/First/F of the court law and under Article 15/Second/D and Article 15/Fourth of the same law Also under Article 34/B and Article 53 of the penal code No.111 for the year 1969.

5- The conviction of the accused Taha Yassin Ramadan for other inhuman acts as a crime against humanity under Article 12/First/E of the court law and under Article 15/Fourth of the same law.

This is all based on Article 182/A of the rules of the criminal courts number 23 for the year 1971.

6- The nullity of the accused Taha Yassin Ramadan of the coercive disappearance of individuals as a crime against humanity for lack of evidence and therefore dropping the accusation against him under Article 12/First/I of the court law, based on Article 132/B of the amended rules of the criminal courts law No. 23 for the year 1971.

The issuance of a unanimous summoning order on November 5, 2006.

Signed below  
Member

Signed below  
Member

Signed below  
Member

## **Conviction Verdict of the accused Taha Yassin Ramadan**

The accused Taha Yassin Ramadan also known as (Taha Al-Jazrawi) was present at the time of al-Dujail incident, in addition to being a prominent member of the regional command of Ba'ath party and a member of the Ruling Authority's Revolutionary Command Council. As for his public functional duties, he held the position of deputy prime minister and general commander of the people's army that trains civilian party groups which acted as a supporting force of the armed forces, "according to the leader's authority publications". Even during the arrest and trial he showed allegiance to Saddam Hussein, as he replied to one of the witnesses during a court hearing "It is an honor for me to be present at al-Dujail but the leader did not entrust me to be there and if he did I would perform any duty he asks of me and I will be honored to do that". Based on what the witnesses and accusers have said during the trial hearings regarding his presence at al-Dujail, he stated at the hearing of March 14, 2006 "I didn't not visit al-Dujail on the first day of the incident nor on the second". Although it is almost definite that he had visited al-Dujail in the following days after the incident. In reality, he was responsible if not the brains behind dredging the fields, according to documents and voice recordings that were presented at the hearing dated \_/\_/\_. A CD was presented of a recorded telephone conversation between him and Saddam Hussein who pointed out that "Dredging Basra forests inspired him to dredge al-Dujail". Also, he personally added before the court at the hearing of March 14, 2006, "As for the fields of al-Dujail, due to what has happened, it is natural and it is the government's right as long as there is a public interest at stake or a need for taking over of farms, buildings, or estates in exchange of an appropriate compensation". With this view, the accused expressed the idea of dredging fields and agricultural lands belonging to the residents of al-Dujail, following the shooting at Saddam Hussein's convoy from within one of the fields surrounding the town.

In Tarek Azziz's testimony, Taha Yassin's personal friend, before the court at the hearing of May 24, 2006, defended Taha Yassin Ramadan "He did not have anything to do with the al-Dujail affair at all because the chief of public security is responsible for security matters". And in Ali Dayeh Ali's deposition, "Before the court hearing of March 12, 2006 (I did not see Taha Yassin Ramadan, but I heard he was there to supervise the dredging of the fields with security protection for fear of clashes with the local residents). But it is obvious from the established and declared facts that on the afternoon of the day of the incident and after Saddam Hussein's return to Baghdad, he called for a limited meeting "attended by the accused Taha Yassin Ramadan, who did not deny it. When the subject was brought up in the court hearing "quoted by Taha Yassin", Saddam Hussein answered (If Taha said so then it is true). This case, and in light of the stated facts in the context of the case and lawsuit documents, even if Taha Yassin Ramadan did not have a direct connection with the operation of group arrests, imprisonment, displacement of al-Dujail residents, and the looting of their properties, he is considered to be second in charge or among the leading circle of people close to the accused Saddam Hussein, based on his position in the political party, and therefore he bears responsibility as a senior leader in the regime and by virtue of being the commander of the people's army, he is

responsible for issuing these arrest warrants. From another perspective, based on the inspection of the depositions of witnesses and among them defense witnesses for the accused, we view that “the operation of dredging fields is an occurrence that has occurred” and its purpose is clear “as part of the revenge plan from al-Dujail residents”. Where the defense witness (Saba’wi Ibrahim) for the accused and before the hearing June 13, 2006, the witness testified: Fadel Barak, chief of public security, told me (we dredged the fields because they are hiding sanctuaries for organizations opposing the density of fields and their proximity to Baghdad). In a deposition for Saddam Hussein dated April 5, 2006 (Since the fields are interlocked and unmanageable without military force). In continuation to this statement (had it not been for the case of al-Dujail fields it may not have been possible for the shooting at the president and for the perpetrators to imagine that they can escape). He added (I was surrounded by special guards and a number of special security and others involved who conducted inspections and surrounded the area, and there was resistance - some of them were injured and killed - even if there was objection to the inspection of the fields in al-Dujail and the search for perpetrators). Within the context of the security thinking the decree was issued by the revolutionary command council, referred to by number 1283 and dated October 12, 1982 to record the agricultural lands and fields owned completely or owned by the government which include management rights for others or suspended and placed under the new basic design “for the cities of al-Dujail and Balad” and based on the lists prepared for this purpose by the ministers of agriculture “void from any rights for others”. Exception to this decree “those concerned with the lots recorded in the decree and the names of their owners of compensation” or any confiscation of property of al-Dujail families without compensation, which is contrary to all legislations and laws. Taha Yassin Ramadan is the person assigned the responsibility of dredging fields and the execution of the case. When executing the dredging operation “based on the testimony of the two witnesses (Khader Abbas Ruweid) and (Jabbar Burhan Majeed) as defense witnesses for the accused (Abdullah Khathem Ruweid) at the hearing of February 17, 2006 in the trial “dredging began in the public street where they established camps that included ten to twelve bulldozers, the bulldozers loaded trees and disposed of them outside al-Dujail area. And “those who came with the bulldozers came from outside of al-Dujail”.

“As the witness (Kathem Abdullah Kathem) asserted, three months after the incident, the tractors, bulldozers, international type cars and six-wheel drive vehicles came and loaded the trees and disposed of them outside the city”

However, the accused Taha Yassin Ramadan, in his deposition at the hearing of March 14, 2006, and in response to the court’s question stated the following: “The people’s army’s general command has nothing to do with it, but the people’s army present in al-Dujail reports to the party leaders in that area”.

The witness (Mahmoud Thiab Ahmad al-Mashhadani), who was interior minister during Saddam Hussein regime, stated in his testimony before the court at the hearing on May 29, 2006 (Fields of party leaders were dredged). The accused (Ali Dayeh Ali) in his deposition before the court on March 12, 2006 stated that he did not see (Taha Yassin

Ramadan), but heard he was there supervising the dredging of the fields to maintain security for fear of clashes with the residents, and that fields that belonged to us were dredged”.

As for the accused in the case (Abdullah Kathem al-Mashaykhi), he testified before the court and on the same date my field of 12 donums was dredged and among them was lot number 102/2 district 2 housing hill. He added that state fields and fields belonging to my father and relatives amounting to 16 fields were confiscated. As for the accused (Mohammad Azzawi Ali), he testified before court at the hearing of March 13, 2006, “I saw the bulldozers when three fields belonging to me were dredged”.

The accused (Mizhar Abdullah Kathem Ruweid) in his testimony before the investigating judge on February 21, 2005 stated “I did not take part in the arrest operations but with regards to the dredging and cutting of the trees, I was appointed by the party organization, and the accused Barzan Ibrahim ordered us through party channels to accompany the tractors, machinery and cables used to dredge the fields and cut the trees. And we did that and went with the tractors and I accompanied one of the tractors and my duty was to dredge the land of the plaintiffs”.

In the testimony of the defense witness for Saddam Hussein (Kareem Kathem Yassin) at the hearing of May 30, 2006 stated, “After the shooting at Saddam Hussein’s convoy, the tractors came with the border police to al-Dujail, and I knew them because they are my relatives, and after the incidence things changed in al-Dujail. A six-meter wide street became 60-meter wide after the dredging”.

In light of this testimony one of the commissioners asked (Is the explosive plan they talked about not implemented without the dredging of productive fields and therefore voiding these fields of vegetation). This is another consequence of shooting at the convoy of the accused Saddam Hussein in al-Dujail on July 8, 1982.

Based on the above, and in light of those facts, the army’s participation in dredging al-Dujail fields is an established fact. And the dredging was a catastrophe in terms of the large number of losses incurred by the families such as the loss of their livelihoods and properties, which are their productive fields of fruits, vegetables and trees. Some of the accused among the residents of al-Dujail confirmed that “the fields were dredged” in such a way that people could not survive there as they did before the dredging took place. This destructive operation of permanent properties has undoubtedly led to and will cause in the future great agony and thus will have a devastating effect for years, and thereafter for their children, causing harm in terms of physical and psychological health to the owners of the fields, including those people and families who were members of the ruling Ba’ath party at the time. The operation was harsh and backward in a way that “puzzles the mind”. How could an authority or government be capable of destroying the living life of a city just because shooting originated from one of those fields.

In addition, this action does not fit under any political or administrative description in terms of “destroying the nature of the city and changing the lifestyle of communities” and its negative actual, economic, and psychological effect on the life of all the residents and also on the life of the developing and growing generation. There is an old Iraqi popular saying, going back to the time of the Ottoman authority “cutting of necks but not the cutting of livelihoods”.

The devastating operation of destroying and dredging the fields in the town is an action “against nature, against life, against future living” to the people of al-Dujail and of the neighboring town of Balad. It is painful and sad that the destructive operation to the environment and to the lives of generations and livelihood of the town’s families (it is carried out in the name of the civil and constructional development to the city) as explained in the documents of the former regime. Despite the authority’s justifications, groups of people lost their properties, and the deliberate loss of these properties caused by direct orders from the ruling authority had no doubt led to and will lead in the future to great suffering that will affect the standards of living of the civilian residents in al-Dujail.

No doubt the ruling authority was aware of its revengeful nature which was devoid of values and good governance and the extensive and destructive operation to the livelihood of the families and members of the ruling Ba’ath party and those who helped the security forces in the arrest operations of suspects and distrusted people when all of the town’s families were accused, and the whole town was subjected to mass punishment, abuse and revenge. Punishment took the form of assaulting not only people and families, but also nature itself and future living of the people. This amounts to a crime against humanity. This was planned and implemented by the prominent leading member in the authority and party Taha Yassin Ramadan. He was aware that this doing causes pain and suffering to the town’s residents and that this destructive act is part of a planned and organized extensive attack against the people of al-Dujail as a horrible revenge due to the shooting at Saddam Hussein’s convoy. When Taha Yassin Ramadan led this operation, he was aware of the consequences of this destructive act and he went through with it as part of a programmed plan against civilians carrying Iraqi nationality. On the other hand, the accused Taha Yassin Ramadan, as commander of the people’s army and one of the planners of the rules and conduct of the “The people’s army took place in implementing the mass arrests in al-Dujail and that he is the one that ordered these arrests as the leader in control, and was aware of the nature of these arrests”.

These acts in their extensive, wide scope and revenge from nature and life in this small town are group and mass punishment against the entire population of the town and were not directed against certain individuals or families. Being a government official with an administrative mentality, Taha Yassin Ramadan was aware of the danger of this act and the brutal treatment of the people of the town. Taha Yassin Ramadan and others were also aware without doubt that those who fired at Saddam Hussein’s convoy were around 12 people or less, according to investigators of the operation. The dredging was part of a systematic and extensive plan that came after the mass arrests totaling (399)

people, including adults, women and children. These arrests were carried as a coercive plan against the people of the town and as part of the systematic and extensive attack.

Based on the above and in light of the established facts and factual evidence, the evidence for conviction is complete against the accused Taha Yassin Ramadan, based on Article (12) First (A,D,E,I) and in evidence of paragraphs one, two, three, and fourth of Article (15) of Iraqi Criminal Court law and in evidence of article (406) of penal code number (111) for the year 1969 and was publicly conveyed on November 5, 2006.

Judge Raouf Rashid AbdulRahman (seal & signature)  
Seal of the Iraqi High Court

### **The accused Abdullah Khathem Ruweid**

#### The accusations against the accused Abdullallah Khathem Ruweid.

The court charged the accused Abdullah Khathem Ruweid on May 15, 2006 with several accusations for committing crimes against humanity. These accusations are in accordance with Article 12/First/A,F,E,I for the court law, deliberate murder, and imprisonment or extreme deprivation in any other form of physical freedom, torture, coercive disappearance of people, as crimes against humanity.

#### Summary of the depositions of plaintiffs and evidence witnesses against the accused Abdullah Khathem Ruweid

- The plaintiff Ahmad Hassan Mohamed Al-Dujaili testified in the trial dated December 5, 2006 that the child (Batool Mohammed Hassan) who suffered an injury in her leg during the al-Dujail incident and remained with her grandmother who cared for her the entire time of her stay. Her grandmother (Fadelah Mohammed Qassem) who is from the town of Balad and is 70 years old, and who at the time sought the protection of the accused Abdullah Khathem, and informed him that the child was in the hospital. He then personally handed the child and grandmother to the authorities by calling the security forces and intelligence units to the hospital, where they arrested them there.....the child at that time was 11 years old, who was hospitalized when the party units and intelligence units arrested her there and placed her and her grandmother in prison for a period of four years, where the grandmother died during that time.

- The plaintiff Ali Hassan Mohammed al-Haidari in his testimony before the investigating judge on March 3, 2005 complained against the accused Abdullah Khathem, and stated that he was sectarian in nature and that the accused Abdullah was behind all the random arrests that occurred because they were members of another sect.
- The witness Sa'adoun Shaker testified in the investigation dated June 16, 2005 that the accused Abdullah Khathem was arrested in 1964 because he was a member of the Ba'ath party, and that he was among those arrested as members of the Ba'ath party, and his name is Abdullah Khathem al-Mashaykhi, and was known during the investigation as Abdullah Ruweid.
- The witness Fadel Mahmoud Ghareeb al-Mashaykhi in his testimony before the investigating judge on January 27, 2005 mentioned that Abdullah Khathem Ruwied is the brother of his mother (uncle) and he is responsible for the tribe (Qabeelah) to which he belongs, and believes that he is a member of the party, and that Abdullah Ruweid displays a (slight) sectarian spirit.

Summary of the depositions of the accused Mohamed Azzawi and Ali Dayeh regarding the accused Abdullah Khathem

The accused Mohammed Azzawi stated in his testimony before the investigating commission on May 25, 2005 the following (.....Everyone was informed to join the party division, and because at the time I was one of the prominent and dignitary members of my tribe and a member of the Ba'ath party at the time, I joined the party division in al-Dujail. During my presence in the party division I saw the accused Barazan Ibrahim al-Hassan, and Abdullah Ruweid and the head of the party division Ahmad Ibrahim Hassoun al-Samurai, and I also saw Sa'adoun Shaker and Obadah Kana'an al-Sadeed in the same place, where several families were arrested and taken into big cars and were transported to an unknown destination. These families included women and children).

During the hearing that took place on March 13, 2006, the accused Mohammad Azzawi denied his depositions concerning Abdullah Kathem which he testified before the investigating commission on May 25, 2005. The accused Ali Dayeh Ali stated in his testimony before the investigating commission on May 25, 2005 that when he joined the party division headquarters on the afternoon of the day of the incident, the party leadership was present in its entirety and among them was the party leader at that time Ahmad Ibrahim Hassoun al-Samurai (Abu Nabeel). Also with us were the two accused Abdullah al-Ruweid, member of the division at that time and his son Mizhar Abdullah.

The accused Ali Dayeh confessed that he took part twice or three times in the house inspection campaigns. He mentioned that the accused Abdullah Ruweid was part of the party leadership that executed the arrest operations with the participation of the security forces, stating verbatim "As for the arrest operations, they were executed by the party

leadership and a few government officials, and I remember that among them were Abdullah Ruweid, Younis Ahmad Ghazal and Masha'an Dahham and others. And all this was done with the participation of the security forces at that time”.

During the trial on March 12, 2006, Ali Dayeh denied statements in his testimony during the investigation regarding the accused Abdullah Kathem al-Ruweid.

Summary of Statements for the accused Abdullah Kathem al-Ruweid during the investigation

From what was stated by the accused Abdullah Kathem al-Ruweid which he testified before the investigating commission and in the presence of an appointed lawyer on May 21, 2005:

1. He was born in 1925
2. “I was holding a party position with a rank of a member of a division command in 1970 and remained in that position as a division member and then an active member in the Ba’ath party (dismantled) till I left the party after I turned over 60 years old. I think that this was in the year 1985 or 1986”.
3. He mentioned that he saw the accused Saddam Hussein during his visit to al-Dujail in 1982 “I saw him near the mosque and followed him like the rest of the people, and when we arrived near the Ibrahimiah School, I heard gunfire and ran like the rest of the people”.
4. He mentioned that “the number of bullets fired and that I heard were intermittent and were not more than 10 or 12 bullets. I am a peasant and know gunfire well”.
5. “After the gunfire I went back to the party division and remained there, and I think my son Mizhar was among them”.
6. “After a while, large military units from Baghdad arrived, among them military forces, and surrounded the city. A few people from the intelligence service came, and the accused Barazan Ibrahim was present, and I saw him in the party division. Other leaders arrived, and helicopters began firing at the fields”.
7. “I remained in the party division at that time and did not see al-Dujail residents when they were arrested and so I did not know that they were arrested by the security forces. I remember the (al-Hito) and (al-Kathem Ja’afar) among these families and other families, but I don’t know their numbers.

8- ((One of the individuals refused to surrender to the authorities unless I was present, so I accompanied the security authorities, where I was the representative of peasant societies and the party and a friend, and I called him from behind the door and his name is (Yacoub Majeed or Yacoub Mohamed al-Kharbatli)...and asked the security forces after they took him in not to harm him)).

9- ((After the arrest of these individuals, and I heard that among them were women, children and old men, and they sent them to an unknown destination to me, and that the orders of arrest were not based on subpoenas issued by an official agency, and I was not familiar with the arrest mechanism during that period, but naturally they were not related to the incident and I did not know the reason behind their arrest)).

10- ((As for me, I did not take part in the arrests, with the exception of what I mentioned regarding Yacoub al-Kharbatli)).

Among what was mentioned in the attachment of his testimony before the investigating judge on the same day of May 21, 2005.

1- ((I was rewarded with an Oldsmobile car of metallic color for the fact that I was the Sheikh of my tribe Ulama. I was the only one from al-Dujail tribes who was rewarded with a car (from the accused Saddam Hussein), and he did not bestow any other person in al-Dujail with such an honor. There were other tribe sheikhs who were not rewarded with anything and are from al-Dujail area...in addition an agricultural contract was signed for me and my family for about 24 donums and that was a long time ago)).

2- ((During that period I was in the people's army/Osama squad, and I was on a seven-day periodic leave during the month of July 1982, which coincided with the visit of the accused Saddam Hussein to al-Dujail area, and because I was a veteran member of the Ba'ath party at that time, I joined the party division)).

3- ((Among the people who did not surrender was Yacoub al-Kharbatli. The security forces sought my help to accompany them to his house since I knew him, and I actually went with them and called him. After he made sure it was me he opened the door and was arrested by the security forces...)).

4- ((On the following day of July 9, 1982 I joined the party division headquarters, where the accused Barazan Ibrahim al-Hassan and the individuals I mentioned before were present)).

Summary of the depositions of the accused Abdullah Khathem Ruweid before the court

The accused Abdullah Khathem Ruweid stated his depositions before the court on March 12, 2006.

We can summarize these depositions in the following:

- 1- On the day of the incident I left my home and I saw people crowded near the mosque...I returned home due to heavy gunfire.
- 2- I went to the party division to ask about the location of the people's army division.
- 3- I saw at the party vision headquarters (Sa'adoun Shaker), member of the Ba'ath party's regional command, and he was accompanied by (Barzan) and the director of al-Dujail security (Younis al-Samurai) also came.
- 4- I was asked by the secretary of the division to go to (Yacoub) house, after he refused to surrender... and after calling him...he opened the door and he mentioned that he had nothing to do with the incident.
- 5- I went back to the party division and told the secretary of the division what happened with (Yacoub).
- 6- A car driven by (Hadi Jawad) loaded with corpses drove to the party division.
- 7- Afterwards I joined the people's army squad.
- 8- I did not take part in the party units involved in arresting the residents.
- 9- In response to a question by the court about the report attributed to him and the certified writings attributed to him, he stated that this report is baseless and that I did not give Sa'adoun Shaker any report and that the writing and signature are not mine.
- 10- The highest party rank I reached was a division member, and I was demoted to member.
- 11- I didn't see (Ali Dayeh) and (Mizhar) in the party division.
- 12- I was sitting in the division yard when they brought the corpses.

- 13- The accused Barzan was in the party division.
- 14- I went to the division's secretary and found (Masha'an) there and asked him to free those people, and I told him that they don't know to whom these corpses belong.
- 15- After al-Asser prayer I went to the party division.
- 16- I saw Barzan and Sa'adoun Shaker in the party division on August 7, 1982.
- 17- I saw military forces inside the party division and heard that (Saeed Hamo) was in al-Dujail and he held the position of lieutenant general at that time and had the town of al-Dujail surrounded.
- 18- I did not witness the dredging because I was outside al-Dujail area with the people's army.
- 19- I did not file any party report
- 20- I have been a party member for 17 years and became a base leader in the people's army because I was known in the party and then I was suspended.

Summary of depositions by defense witnesses for the accused Abdullah Kathem al-Ruweid

In one of the statements of the defense witnesses for the accused Abdullah Kathem, and was known as (1) in the hearing of May 16, 2006: "The accused Abdullah Kathem beat me in going to the convoy of the accused Saddam Hussein when he came... and the accused Abdullah Kathem went to the party division's headquarters to make sure of his squad's position in the (people's army).

Another defense witness for the accused Abdullah Kathem was heard by the court in the same hearing on May 16, 2006 and was known as (8). He testified that "the day of the incident was the last day of leave for the accused (Abdullah). I met him afterwards after the accused (Saddam) left al-Dujail. He mentioned to us that the matter is big and that he has to go through many procedures and asked us to stay and then he went to join the people's army squad... and that the accused (Abdullah Kathem) was the one to raise the subject with the accused (Saddam) about returning the lands to the people".

Another defense witness for the accused Abdullah Khathem Ruweid, referred to as (1) in the hearing held on May 17, 2006, mentioned in his deposition ((on the following day

Friday at 8:30 I left my home where I saw the accused who is in custody Haj Abdullah Kathem Ruweid in his private car, and he stood next to me and I asked him where he was going. He told me that his duty had ended at the people's army near Mosul and will join it here. I took some supplies from the store and thereafter I returned home and I did not see the accused Haj Abdullah Kathem Ruweid al-Mashaykhi for a month. And through my acquaintance with him, he had many relations in the area and during his leave from the people's army he used to work in his farm with members of his family. During that period I never heard from people in the area that he never arrested or even took part in arrests conducted by the security forces)).

Another defense witness, referred to as (2) in the hearing held on May 17, 2006. Stated in his deposition in defense of the accused Abdualah Kathem Ruweid ((on the day of the incident during which I was fasting and sleeping on Thursday, and thus I did not leave the house. Meanwhile, during the afternoon I heard gun shots and planes flying over the fields, and then I heard that (the president) was attacked, and in the following day which was a Friday I went to the house of (Abdullah Kathem Ruweid) to bid him farewell since he was going to join the army. He (packed) his belongings in his car and asked me to look over his kids by not allowing them to go to the fields, as the situation is dangerous, and the accused was known for his good reputation and this accusation is vexatious)).

The defense witness referred to as (3) testified in the hearing held on May 17, 2006. He stated in his deposition in defense of the accused Abdullah Kathem Ruweid ((I used to live in Sheikh Abdullah Kathem al-Ruweid's home because our home was close to Abdullah Kathem Ruweid's home. In the meantime, there was heavy gunfire, and thereafter he went in the afternoon to the party division to ask about the location of the people's army squad, inquiring about whether it changed its location or not, as there was a duty for each individual enrolled in the people's army. After he returned home he had breakfast with us and the next day he packed his things and went to the people's army location north of Mosul in the Turkish-Iraqi-Syrian triangle, and he never returned for a whole month, so he could not have possibly taken part in any of the arrests that occurred during that time.

### The evidence in the verdict against Abdullah Kathem

1-Testimonies of plaintiffs and prosecution witnesses, including Ahmad Hassan Mohammed al-Dujaili before the court and Ali Hassan Mohammed al-Haidari in both the trial and investigation sessions and other plaintiffs (protected) in the investigation session.

2- The confession of the accused Abdullah Kathem in both the trial and investigation sessions to his presence at the location of the party division headquarters the day of the incident and that he saw the accused Barzan Ibrahim and Sa'adoun Shaker and other

officials and his meeting with them. He also confessed to going to the home of (Yacoub al-Kharbatli) with an intention of arresting him for the aborted assassination.

3- The security information report (party) presented by the accused Abdullah Kathem to the member of the Ba'ath party's regional command during that time Sa'adoun Shaker (who at that time was minister of interior) and who was present on the first day of the incident at the party division's headquarters in al-Dujail and was accompanied by Barzan Ibrahim and others.

4- Reports by criminal evidence experts in the three-member committee and the five-member committee in which eight experts agreed unanimously that the signature and the writing in the above-mentioned report belonged to the accused Abdullah Kathem Ruweid.

The first report (the report prepared by the three-member committee dated April 13, 2006) (paragraph three from the test result). The second report (the report prepared by the five-member committee was dated April 23, 2006 paragraph (4) from the report).

5- The verdict and conviction decisions number 944/C /1984 issued on June 14, 1984 by the revolutionary court (dissolved) and republican decree which mentioned the name of the victim Yacoub Al-Kharbatli and the proceedings and records of the carrying out of the execution in the years 1985 and 1989 which included the names of several victims from al-Dujail whose names were listed in the party report (security and information) that belonged to the accused Abdullah Kathem Ruweid.

The extent of criminal responsibility the accused Abdullah Kathem Ruweid bears for the accusations against him on the basis of the accusation paper

The evidence available against the accused Abdullah Kathem Ruweid includes what was said by some of the plaintiffs and witnesses in the court and in the investigation, and in addition to the statements of the accused Mohammed Azzawi and Ali Dayeh in the investigation session.

The accused Abdullah Kathem confessed that he was present at the party division's headquarters the evening of the incident, and assisted in the arrest of Yacoub al-Kharbatli. He also confessed that he was a division member in the Ba'ath party in al-Dujail area at the time of the incident and that he saw the witness Sa'adoun Shaker at the party division's headquarters the day of the incident. The other evidence (important) against the accused Abdullah Kathem is the party report (security) which this court proved that it was written and signed by him on July 8, 1982. This report was addressed to (Sa'adoun Shaker) who at the time of the incident was a member of the Ba'ath party's regional command and at the same time was the interior minister (during that time), and was present in al-Dujail with the accused (Barzan) and other high-ranking officials in the party and in the government during that day. The report included names of (49) victims of the people of al-Dujail. The accused Abdullah Kathem instigated their arrests and took

procedures against them and aided in their expulsion from al-Dujail by considering them hostile to the party and to the revolution and describing them and the party they belong to as (Dirt) (that they committed this shameful crime by shooting at the hope of the nation...etc). The accused Abdullah Kathem in this report considered the families of the victims hostile to the Ba'ath party, meaning that he did not stop at just describing the individuals as hostile to the party but he also generalized this description to include their families.

Based on that report, arrests were actually made against those people whose names were mentioned in the report. Those victims were imprisoned and tortured and then nine of them were killed (among them two juveniles) by an order of the accused Awad al-Bandar and the accused Saddam Hussein.

The party report included what was written by Abdullah Kathem the day of the incident which illustrated the related criminal contribution (participation) stipulated in the court's law (Article 15/Second/C) and in the international court laws, and in the penal code No.111 for the year 1969 (Article 48). In the report the accused provoked others to commit crimes against humanity, as what was mentioned in it by the accused Abdullah Khathem is considered crucial aid to the suppressive agencies of to the previous Ba'ath regime in committing these crimes. It is clear that the accused Abdullah Kathem presented that report to Sa'adoun Shaker who was present at the party division's headquarters in al-Dujail, accompanying the accused Barzan Ibrahim just hours after the failed assassination attempt.

This issue (presence at crime site) makes the accomplice that assists or instigates the committing of the crime an original perpetrator based on article 49 in the penal code No. 111 for year 1969.

The report written by Abdullah Kathem is an important aid to the committing of crimes against humanity which in fact were committed. The report also contained instigation for the arrest and imprisonment of the victims whose names and the names of their families were listed in this report. Those victims include (juveniles).

The total number of those whose names were listed in the report is (49) victims of which 9 were killed and (two juveniles) were among them at the time of the incident. The court verified and was fully convinced of what was written in the criminal evidence experts' two reports (three-member committee and five-member committee). This report was adopted unanimously by the experts who were convinced that it was accurate and without any reasonable doubt. It was also proven that the writing and signature belong to the accused Abdullah Kathem. There was unanimous agreement among the experts.

The court did not reveal the names of those experts for their protection as they are considered prosecution witnesses and disclaimer witnesses and this is due to the unstable security situation in Iraq at that time of the trial. This situation should not be an obstacle to achieving justice at this time, as justice must be a factor in achieving stability in Iraq.

The court has conducted a thorough investigation with regards to the qualifications, competence, and reputation of the experts that carried out the matching of handwriting and signature of the accused including Abdullah Kathem. Each expert had no less than 20 years of experience in his field of work. They were proficient and had years of experience before the demise of the former regime. They worked independently and were not under any kind of influence. This has been known about criminal evidence experts in Iraq for tens of years. In addition, the court has selected these experts with diligence from various districts and different ethnic and religious backgrounds. Despite that, their agreement was unanimous.

Due to the fact that Abdullah Kathem was in the party division in al-Dujail hours after the incident and being member of division in Ba'ath party in al-Dujail, is further evidence and indication that he took part in committing the crimes he is accused of. This fact reinforces the other evidence found against him, especially what was mentioned in the party report that he submitted to Sa'adoun Shaker at that time. This is also reinforced by what was stated by the accused Mohammed Azzawi and Ali Dayeh during the investigation verifying the fact that Abdullah Kathem accompanied the security intelligence agency in arresting the victims of al-Dujail. It was noted by some of the plaintiffs that Abdullah Kathem came hours after the incident to help with others in committing the crimes.

The court believes without any reasonable doubt that Abdullah Kathem held an important party position in al-Dujail. Although he couldn't enforce his views and authority on other party officials like the accused Barzan Ibrahim, he surely was capable of taking control of his own position in the party, and to some extent was able to influence other party leaders in some way to prevent the crimes from happening. Instead he chose to participate in committing them.

The position that includes important connections in identifying individual criminal liability in assisting or inciting a criminal crime against humanity (Issue is examined by the verdict in the Anto Frendeje (paragraph 245) previously referred to). It is irrelevant that the accused was present at the crime site in accordance to criminal contribution subordinate (Participation), meaning that it is not obligatory that the accomplice carry the criminal liability, (if he assisted, incited, or agreed with others) for committing the crime to be present at the crime site, if the crime has been committed by the original perpetrators (examined by paragraph 62 from the issued verdict on the Zlatko Kowfski case that refers to the verdict on Tadi Case which was referred to previously). It was made clear to the court that the accused Abdullah Kathem was present on the first day of the incident at least at the crime site and he presented a report to Sa'adoun Shaker who was present at the party division headquarters. He also took part in the arrest of al-Dujail victims. The accused Abdullah Kathem assisted in and incited these crimes against humanity. He initially incited the arrest, imprisonment and deportment of the civilians from al-Dujail. This is factual and the court is absolutely convinced that the accused Abdullah Kathem committed these criminal acts. The imprisonment of these victims led

to their torture, and this was very probable and expected in such circumstances under the Ba'ath party control over the Iraqi regime particularly if the accusations at that time were to attempt killing the head of the party and regime (Saddam Hussein) and being part of Da'wah party or any party that was considered hostile and threatening by the regime at that time (this is something people don't argue about in Iraq ). In addition, Article 34 of the penal code number 111 for the year 1969 states (the crime is deliberate if criminal intent is found, and the crime is deliberate if the perpetrator anticipated the criminal consequences of his actions that he committed willingly accepting all risks entailed). The accused Abdullah Kathem was an original perpetrator in the arrest and imprisonment crimes under Article 49 of the same law and not only an accomplice because he was present during the crimes or he took part in the acts that led to them (examined in article 49 of the penal law).

Also Article 53 of the penal code No. 111 for the year 1969 punishes the participant in a crime, whether he is a perpetrator or an accomplice for the crime that actually occurred, even if it was not the one he intended to commit and when the crime occurring was a possible result of the participation that took place.

Despite that, when the accused Abdullah Kathem took part in committing these criminal acts, he anticipated and accepted the criminal consequences as we will explain later in details, showing his behavior and participation.

Imprisonment in the former Ba'ath regime, torture in various brutal methods that was practiced against the victims by members of the suppressive agencies of the former regime lead to a natural and normal consequence of killings of victims. As for the torture and trying the prisoners in phony trials, they were all excuses to kill them and to cover up the names of the people who were killed.

This is what happened to a large number of al-Dujail victims, and among them were nine victims whose names were listed in the report that was submitted by the accused Abdullah Kathem to Sa'adoun Shaker. The victims were arrested, imprisoned, and tortured and then their names were brought up in Awad Bandar's court that ordered their execution and carried out the sentences later after they were certified by Saddam Hussein.

It was not necessary to submit that report through party lines under those extraordinary circumstances mentioned by the writer of the report (accused Abdulullah Kathem) in the report's introduction if Sa'adoun Shaker, a member of the Ba'ath party command and who is the minister of interior, was present in person at al-Dujail on the same day of the incident, especially because Abdullah Kathem shared a close old relationship with Sa'adoun Shaker that goes back to the mid-1960's. This is proven in the documents of this case. Contrary to that, it was deemed necessary by the party to submit the report and others to the member of the party's regional command and minister of interior without going through the routine methods of submitting reports through the party hierarchy because that takes more time, and the time factor then was crucial.

Although there was no need for assisting and inciting a crime to be something physical or tangible, it is enough for it to be in the form of moral support or encouragement to the actual perpetrators in committing these crimes (examine the verdict issued in the Anto Ferdenjeh case (paragraph 199) referred to previously). The accused Abdullah Kathem provided the physical evidence at least through the report he submitted to Sa'adoun Shaker and through his actual participation in arresting one of al-Dujail's victims (Yacoub al-Kharbatli). And that in addition to what was mentioned by the plaintiff Ahmad Hassan Mohammed that the accused Abdullah Kathem had arrested 11-year-old child (Batoul Mohammed Hassan) and her 70-year-old grandmother (Fadilah Mohammed Jassem) and who entrusted him with her safety, but he delivered her to the party's security organization.

General principles for crimes against humanity and criminal intent of the accused Abdullah Kathem in committing the imprisonment and deliberate killing and torture that are considered crimes against humanity.

It was made evident to the court that a wide and systematic attack took place at that time by a large number of military, intelligence, and security forces belonging to the government. Members of the people's army and party system also contributed to these attacks against the civilians of al-Dujail. The accused Abdullah Kathem was one of the important party members in al-Dujail and was enlisted in the people's army at that time. The wide and systematic attack took place immediately after the limited and failed assassination attempt.

(Criminal Intent) of the accused Abdullah Kathem existed on the day of the incident when he wrote the security information report (party) that he submitted to Sa'adoun Shaker, who was there that afternoon on al-Dujail. Therefore the participation of the accused Abdullah Kathem and his contribution in committing these crimes is factual. Even if he left al-Dujail the second day of the incident to join the people's army some place in North West Mosul. This is because the presence of the accomplice at the time of the crime scene is not a condition to be criminally liable as an accomplice. But the accused (Abdullah Kathem) was present at the crime scene at least on the first day of the incident.

The accused Abdullah Kathem was aware that his criminal acts were part of a wide and systematic attack against civilian residents. This is clear because he witnessed the incident himself on the first day which he described as a wide attack (Judgment Day) during his trial. The accused Abdullah Kathem saw senior government and party officials, and among them was Barzan Ibrahim, Sa'adoun Shaker and others on that day in al-Dujail hours after the incident. He met with them and saw the military, intelligence, party organization, security forces and people's army in al-Dujail hours after the incident. Those forces surrounded al-Dujail and raided houses and fields to arrest people of different ages and both genders. Moreover, the accused Abdullah Kathem himself was one of the contributors who pointed out the victims and arrested at least one of them, according to his confession, therefore he must have known about the wide attack and

knew that his actions were part of that attack. He also knew that the victims were residents of al-Dujail because he was one of the residents of the same area and knew its residents since he was one of the tribe's Sheikhs and one of the high-ranking party leaders. Taking into consideration that al-Dujail has a small area and the number of its residents is very limited, and therefore he clearly knew that those victims were civilian residents. Therefore, the accused Abdullah Kathem was aware that his actions were part of a wide attack and he also was aware that the attacks were directed at the civilian residents.

The accused Abdullah Kathem could have easily predicted the consequences of the immense reaction caused by the agencies of the former regime (referred to before) and those belonging to those agencies on the civilian residents in al-Dujail for a limited and failed assassination attempt. He witnessed the incident and participated from the beginning of the reaction in committing some of its actions, and that is in addition to being a division member in the Ba'ath party, and thus he knew the nature of that party, especially if it had to do with its existence, authority, and the leadership of its accused president Saddam Hussein. Also, Abdullah Kathem's report included the names of a large number of family members in al-Dujail. It is asserted that the accused Abdullah Kathem did not only expect but was surely aware that the reaction was going to be that big since he witnessed the attack from the beginning during the first day and at least in the following day.

Although it is the nature of each individual to be innocent, and although that this court deeply believes in the innocence of any accused, it cannot assume his good intent, based on the evidence found in the case, especially what was mentioned in the report belonging to the accused Abdullah Kathem. Surely the accused Abdullah Kathem had bad intention when he wrote that report in which he mentioned the names of women and children and elderly men and women and families, provoking their arrests and deportation because according to him they all belonged to (a dirty organization) and contributed to the shooting at his president, who is his role model ((the hope of the Arab nation and its pioneer and hero of Arab nationalism and general secretary of the party)), according to what was stated verbatim. The accused Abdullah Kathem had bad intentions when he requested-provoking- the arrest of those victims and carried procedures against them and deporting them from al-Dujail, as he considered them hostile to the party and the revolution and are affiliated with the Da'wa party.

This provocative request includes inciting of arrest and imprisonment crimes and even torture and killing under a regime whose nature and brutality are well-known to the accused Abdullah Kathem who was aware of its nature and brutality since he was one of the advocates of that party in al-Dujail area. That regime, party, and president were free to do whatever they pleased, no matter how brutal, as long as they stay in power. The accused Abdullah Kathem asked for, provoked and assisted in committing these crimes. Therefore, he surely was aware that if a person wanted something then he must have known what he wanted beforehand.

The actions committed by the accused Abdullah Kathem were confirmed through his writing of that report and pointing out the victims and contributing to the arrest of at least one of them. This is factual based on the large number of arrests of victims whose names were present in the party report that was proven to have belonged to him. As a result, this led to the arrest of those victims and their imprisonment and then they were jailed in Al-Hakemiah prison and Abu Ghreib prison, where they were tortured and some of them were even killed. The concept of deliberate killing is a crime against humanity, and it does not only include the person who played a primary role in committing the crime or the accomplice in crime as an assistant or provoker, but also includes those who led to the causation of criminal results as embodied in the death of the victim or victims of criminal intent (knowledge of the elements of the criminal act and desire to accomplish it). Whether that intent was direct or indirect when the criminal behavior was performed, the accused Abdullah Kathem had at least an indirect criminal intent to accomplish killing, and this was referred to before and was proven to the court. The behavior of the accused Abdullah Kathem led to the killing of nine persons, and among them were two juveniles who were identified as Mazhar Jameel Ayoub and Mahmoud Hassan Mohammed. This court is completely convinced that these are factual and proven events.

This court distinguishes between the criminal contribution of a group of individuals who unanimously committed a certain crime, and therefore the contributors become the actual perpetrators, and between provoking another person to committing a crime, where the contributor who provoked or assisted or agreed with another person (partner) of the actual perpetrator who committed the murder.

The actual contribution to the murder is performing a primary role in executing the crime. The legislator names the actual contributor to the murder as “perpetrator”, thus the actual contributor is the person who commits an action that results in a material effect by which natural laws move it and which create a result. As for the subordinate contributor, who the legislator names “partner”, he is the one who (assists, provokes, conducts or agrees) and causes a psychological effect on others and creates criminal intentions or provides more daring to commit the crime or to continue in following through with it.

The accused Adullah Kathem was an actual perpetrator when Yacoub Al-Kharbatli, Batool Mohamed Hassan, and Fadilah Mohammed Jassem were arrested, since he was during that time a partner (subordinate contributor) in assisting and provoking such a crime, and perhaps by agreeing with others in committing arrest and imprisonment crimes against (49) victims from al-Dujail residents, and thereafter torturing and killing nine of them as a result of the assistance he provided through the security and information report and the crimes he provoked directly or indirectly that were actually conducted by the actual primary contributors to these crimes. In addition, the meaning behind the interference in crime, and it is the psychological element that should be present for execution and which is based on the free will of the partner in interfering with the behavior that makes up the crime. And in addition to the knowledge of the actions that is contributed and the direction of ones intent in creating a result, which the perpetrator wants, and this was all displayed by the accused Abdullah Kathem. In

addition to that, the causation contribution behind the participation of the accused Abdullah Kathem in committing the crime (the criminal behavior in provoking or assisting or agreeing to committing a crime) is linked or connected to the crimes committed by others with a link to a material causation link.

It should be said after that that a set time in committing a crime or choosing a certain place to committing it by the actual primary perpetrator is not considered a basis for the commitment of that crime and the responsibility of the person who aided in that crime, if it actually happened, as long as a causation relation between that provocation or that assistance or between the criminal result that was performed by the actual primary perpetrator when the crime was committed.

In another sense, if the provocation or assistance occurred in a certain time or place, it does not matter if the murder committed by the perpetrator occurred in the same day or afterwards in a short or longer period, or in a place other than where the provocation or assistance behavior was committed, as long as there is a sure causation relation between the actions of provocation and assistance and the criminal results which occurred, and without there being an outside factor that cuts that causation relation between that committed criminal behavior of the partner and that criminal result that was incurred by the criminal behavior of the primary perpetrator.

It is apparent to this court that there was a sure causation relation between the criminal behavior of the accused Abdullah Kathem through his provocation and assistance in committing crimes against humanity he is accused of committing, and between the criminal results that occurred by imprisonment, torture, and killing of several al-Dujail victims committed by the primary perpetrators who were officers, members of the intelligence service, and others for imprisoning, torturing and killing, the accused Awad Bandar and Saddam Hussein and others about the deliberate killing of nine victims of al-Dujail residents whom the accused Abdullah Ali provoked and assisted in their killings.

The criminal intent is being aware of the factual criminal factors that incite and assist in committing crime and wanted to implement it, as shown previously, in the case of accused Abdullah Kathem when he committed the criminal acts involving incitement and assistance, and the criminal results that he wanted were achieved or at least anticipated. Moreover, he acted on the incitement and assistance in the crimes accepting all risks involved. And it is not important whether that the criminal consequences were achieved later, one month, or one year or in another place other than the place where the incitement and assistance took place, as long as the causation relationship between the criminal behavior of the accomplice (and here it is the behavior of the accused Abdullah Kathem) and between the criminal consequences were not interrupted by other factors. Also the criminal intent of the accused Abdullah Kathem existed the moment he committed the criminal acts (assisting and inciting) and continued until criminal results were achieved and for the criminal behavior for the actual perpetrators.

Court Verdict:

In the case of the accused Abdullah Kathem Ruwaid:

- 1- Criminally liable for the deliberate killing as a crime against humanity under Article 12/First/A of the court law and based on Article 15/Second/C of the same law.
- 2- He is also criminally liable for the imprisonment or extreme prohibition in any respect to physical freedom as a crime against humanity under Article 12/first/E of that court law and based on Article 15/Second/A,C of the same law.
- 3- Criminally liable for the torture as a crime against humanity under Article 12/first/E of the court law and based on Article 15/Second/C of the same law.

All this is based on Article 34/B and Article 53 of the penal code No. 111 for the year 1969 and indicated by Articles 47 and 48 of the same law (penal Law).

- 4- No liability for the accused Abdullah Kathem Ruwaid for the forcible concealment of individuals as a crime against humanity due to unavailability of one factor for the crime. Therefore, it did not exist, based on Article 132/B of the basic criminal procedural law No. 23 for the year 1971. In reference to Article 182 of the amended basic criminal procedural law No. 23 of the year 1971, the court decided unanimously to convict the accused Abdullah Kathem Ruwaid under Article 12 first paragraph (1-E-F) and in reference to Article (15) of Iraqi higher criminal court law No. 10 for the year 2005 and Articles (34, 37, 38, 53) of penal code No. (111) for the year 1969 and setting his punishment accordingly. The verdict is declared in his presence and understood publicly on November 5, 2006.

Signed      Signed      Signed      Signed      Signed

Member    Member    Member    Member    Judge  
Raouf Rasheed Abdel-Rahman

The Accused Ali Dayeh Ali  
Accusations against the accused Ali Dayeh Ali

On May 15, 2006 the court brought against Ali Dayeh Ali several accusations pertaining to crimes he committed against humanity. These accusations were based on Article 12/First/A,F,E,I of the court law, which are deliberate killing, imprisonment, and extreme prohibition from physical freedom, torture, and forcible concealment of people as crimes against humanity.

Summary of plaintiff statements and prosecution witnesses with regards to Ali Dayeh Ali

A number of plaintiffs were asked in the course of investigation, the complaint against the accused Ali Dayeh Ali, And among these plaintiffs was one plaintiff who appeared before the investigating judge on February 3, 2005, claiming that the accused Ali Dayeh Ali visited their house and took her brother (Musallam Abd al-Ameer Lateef) after 9 days of al-Dujail incident, and her brother never returned. It became evident later that her brother was executed after being charged with attempting to assassinate Saddam Hussein.

Another female plaintiff (protected) known as (A) testified before the court on January 29,2006, that the accused Ali Dayeh Ali was an official in the people's army and that he came with them and "he arrested us personally" with security officer (Abu Nabeel).

Another witness aged 7 years at the time of the incident complained before the court on January 29, 2006 that the accused Ali Dayeh Ali (arrested my family and was wearing olive green clothes and all of al-Dujail residents can testify to that) and when the court asked him what he meant by olive green clothes he said he is (a party member) and that he came and arrested my parents and brothers.

The age of the witness at the time of the incident in 1982 was brought up during the trial several times, and in defense of the accused and time of testimony after 20 years of the incident. The court sees that the age of the witness is not at the time of the incident but rather at the time of the testimony. A 7 or 10-year old at that time has a clearer vision of catastrophic scenes than a 30 or 40-year old at that time. Anyway, the court decides the value of the testimony of any witness.

A (protected) female plaintiff known as (A) testified before the court on February 1, 2006 that (Ali Dayeh Ali came to our house wearing military uniform and arrested my brother) "He knocked at the door, and I opened the door for him and the accused Ali dayeh Ali told me that he was just going to casually question my brother for a few hours and that he will come back to us. The accused Ali Dayeh Ali arrested my brother twenty days after the incident".

In response to the assigned lawyer, the plaintiff stated that she knew the accused Ali Dayeh Ali because he was from her area and that he works in a party division. And in response to another question the plaintiff stated that the accused Ali Dayeh Ali was

carrying a gun and was alone when he came to take her brother. In a comment by the accused Ali Dayeh Ali, he confessed that he went with the secretary of the party division to the house of the plaintiff to arrest her brother.

Summary of statements for the accused Ali Dayeh Ali in the course of Investigation and Trial

First: Summary of statements for the accused Ali Dayeh in the course of investigation

The statements of the accused Ali Dayeh were noted by the investigating commission on May 25, 2005 and in the presence of his lawyer Ahmad Jihad Al-Jouri and in the presence of the court's district attorney. The following was mentioned in these statements:

- 1- He was a resident of al-Dujail and worked for the Ministry of Education, and in the year 1982 was pursuing a higher education, and his party rank at that time was a trainee member.
- 2- Came back to al-Dujail from Baghdad on the afternoon of the day of the incident, and found the city surrounded with military and security forces, and intelligence personnel and other government agencies. He went home first and then he joined the party division where the party division existed, and the party leader at that time Ahmad Ibrahim Hassoun Al-Samurai (Abu Nabeel) was there. Also the accused Abdullah Al-Ruwaid and his son Mizhar were there. And he knew about the presence of Barzan, but he did not meet him.
- 3- He used to go to the party division every day after an official work day according to party assignments.
- 4- On July 8, 1982 the arrest of a group of families from al-Dujail took place and the families included women, men and children. And after their arrest and depositing them to the party division in al-Dujail, window-shaded cars that looked like buses came and these families were loaded into these cars and moved them to unknown destinations. And his duty at that time was protecting the party division. The orders were to transport the detainees, based on the orders given by the accused Barzan Ibrahim, as he recalls.
- 5- A group of people and families were tortured inside the party division and in particular inside the room that was occupied by the accused Barzan Ibrahim and Ahmad Ibrahim and a group of other leaders. And according to his claim he didn't participate in the tortures.
- 6- He continues to state that he did not take part in the arrests of people and the participation in inspection arrest check points that were created to

arrest families of al-Dujail, but that he participated in two or more house inspections for weapons. At one point I went with the accused (fugitive) Ahmad Ibrahim Al-Samurai, who was a supervisor at that time for the party area, to a house near the post office to arrest someone because he did not know the house location. He and I were alone, and I showed him the location of the house and it belonged to Aziz Lateef Al-Salami, where one of his sons was arrested. I can't remember his name exactly and was brought by us to the party division headquarters. The accused Ahmad Ibrahim Hassoun Al-Samurai sent him to an unknown destination and he never came back since. I think that man who was arrested by me and the accused (fugitive) Ahmad Ibrahim was executed or killed because he never came back till now and his fate was never known. And I never took part in any other arrest afterwards.

Second: Summary of Statements for Ali Dayeh in the course of the trial

The court listened to the statements of the accused Ali Dayeh Ali in the hearing that took place on March 12, 2006 and from what was stated are the following:

- 1- At the time of the incident I was in Baghdad and went back to al-Dujail at 6:00 pm and heard about the incident from the people of al-Dujail and afterwards went to the party division. I saw guards from the Republican forces and others from the military and saw window- shaded cars outside the party division, and I asked about these cars and was told they are cars to transport the families. As for me, I did not take part in any party groups to arrest families, but there was one event that took place a month and a half after al-Dujail incident. My father was sick and old (born in 1904) and was mayor of the al-Dujail area at that time for 47 years.... On that day the secretary of the party division called my father and told him that he wants to inspect a house close to al-Dujail post office. My father told him that he was sick and will send me with him, and I actually went with the secretary of the party division as a substitute for my dad. We went to inspect (Al-Tufi) house which I did not really know and therefore we asked about the house and after we arrived at the house we found a man. The secretary asked for his name and he told him my name is (Musallam Abd al-Amir). And then the secretary of the party division said that there is no need to enter the house because he is the wanted man. I then told him that this family is of good reputation and I begged him to let him go and not arrest him, but he refused to do so because he had information that made it necessary to interrogate him. Other than this event I never went to any house for any arrest or inspection.
- 2- I gained a the rank of party member after 13 years of being enlisted in the Ba'ath party and that was on April 30, 1982, which was two and a half

months before the incident. I joined the people's army 20 days after al-Dujail incident.

- 3- The testimonies that the court heard are malicious testimonies and I have never participated in any party group arrests and that they want to only fabricate allegations against me.
- 4- I did not write any report because it is not my role to do so, but that of the security service. I have no enemies and there is no need to write these reports and on the day of the incident dated July 8,1982, I was not there at al-Dujail... I never carried a gun ever or participated in any party group arrest other than Al-Tufi house.
- 5- In response to a question from the court, the accused Ali Dayeh stated (I did not read my testimony in full before the investigating judge) due to my poor eyesight. As for the accused Barzan, I did not see him, but I heard from people that he was there and that he tortured people.
- 6- I used to go every day to the university and then to the party division, just to record my attendance. The party supervisor was lenient with me because of my studies. On the day of the incident I was not present in al-Dujail but came back at 6:00 p.m. and afterwards went to the party division headquarter.
- 7- I was in the city and saw window-shaded cars transporting families to Baghdad and saw the spread of the security forces and heard that planes bombed the fields.
- 8- My house is half a kilometer from the party division. I saw people terrified and some in their houses and most of the people were close to the party division headquarters, due to the headquarters' large area and also because special guards and army forces were present there.
- 9- A question from the district attorney (was your lawyer present when you were interrogated) the accused Ali Dayeh replied yes my lawyer was present. In response to another question from the district attorney, the accused Ali Dayeh stated ( I did not read my testimony in full).
- 10- I remained in the party division till 7:30 pm and saw window-shaded cars transporting families that looked like coasters and belonged to the government. I don't know whether they belonged to the security, intelligence, or people's army.
- 11- When the party groups went to arrest someone, they would go in more than one person (several persons). I did not see any arrest warrant issued

by the court or investigating judge. No arrest warrants were shown or court order, and that during that time we feared for ourselves since the person executed could be a cousin or a relative...”.

- 12- A question from the public prosecutor, did you ever conduct inspection operations on homes during the period from July 8, 1982 onward? the accused Ali Dayeh replied (no I did not participate but I visited one or two homes while I accompanied party organizations in inspection raids, searching homes for unlicensed weapons and confiscating unlicensed weapons if found and then completely making sure that there are no unlicensed weapons in the homes after we left them).
- 13- In response to the public prosecutor’s question, the accused Ali Dayeh said “we heard of the arrest of the house or (family) of Fakhri Sabri Assad and also Hassan Haji Mohammed...the women, children, and elderly returned but the youth did not come back”.
- 14- A question from the public prosecutor, what is the fate of (Musallam Abd Al-Ameer)? Did you see him? How old was he? Did he return to his family?” The accused answered that the division’s secretary is the one who arrested this person and I don’t know his fate and I did not see him and he was (sixteen or seventeen years old) and he did not return to his family”.
- 15- “The arrests of families were conducted randomly and included women and children”.

#### Summary of the depositions of the defense witnesses for the accused Ali Dayeh Ali

- One of the defense witnesses for the accused Ali Dayeh and who was referred to as (1) testified in the hearing held on May 15, 2006 that Ali Dayeh was a party member, but never heard that he ever took part in any arrests of families or people, and that he is an educator and generation caretaker...and did not participate in any party group.
- Another defense witness, referred to as No. (2) testified in the same hearing of May 15, 2006) (the day of the incident, the accused was in Baghdad and returned to al-Dujail in the afternoon around 7:00 o’clock and did not take part in the arrest of any person, and I live with him... he is a member of the Ba’ath party and after he returned home he directly went to the party division’s headquarters for an hour or half an hour... his home is 500 meters away from the party division’s headquarters...he had no time for the party since he was studying...he remained a day or two in Baghdad...He could not attend the meeting and was forced to join the

people's army... and took part in the arrest of Musallam Abd Al-Ameer after forty days and it was then learned that he was among the (148) individuals on the list of (those that were executed).

- On the same day May 15, 2006, the court heard from a third witness who testified that the accused Ali Dayeh (he was not present the day of the incident, and was in Baghdad because he was a student...he did not take part in the party groups...he is not bound by the working hours of the party...he is a supporting party member ...he was expelled from the university because he joined squads of the people's army...he went to arrest Ali Musallam Abd al-Ameer, the secretary of the division came to him and told him that it was necessary for him to inspect one of the homes, and as they neared Musallam Abd Al-Ameer's home he was ordered there to arrest...and told him they were nice people... and the division's secretary told him that they had a 15- minute job...and that (the accused Ali Dayeh) did not know the reason behind going there...Ali Dayeh has no relation with Sa'adoun Shaker and did not write any reports.
- Another defense witness for the accused Ali Dayeh stated on May 15, 2006 before the court that the accused Ali Dayeh "town dignitaries and prominent members of good manners...during the incident he was taking graduate studies...joined the people's army r two months after the incident and was expelled from the university due to the execution of his cousin...he did not take part in the arrest of any person or raid any home or dredged fields".
- In the same above-mentioned hearing, the court heard from another defense witness for the accused Ali Dayeh who was referred to as No. (5). "This witness mentioned that the accused Ali Dayeh was a role model of manners...he was assigned to the people's army and then joined the people's army after two or three months (from the day of the incident) and because he stopped studying he was then expelled as a result...he was not committed to the party and did not attend the party's meetings...was sent to the people's army division... his cousin was executed and the other fled Iraq...I never saw him take part in the groups that arrested families and individuals...he does not write reports because his father is a sheikh and mayor...if an order of arrest came, his father used to accompany the groups to implement them and if he was not present he used to let his son the accused (Ali Dayeh) accompany these groups and if he was not present he would assign his younger son to do that...on the day of the incident, I did not see the accused Ali Dayeh take part with the security forces because they did not need a mayor...he did not benefit from the party and was labeled by a question mark because his cousin was executed.

- On June 5, 2006 the court heard from another defense witness for the accused Ali Dayeh who testified that on the day of the incident the accused arrived at al-Dujail at six o'clock and went to sleep...the accused Ali Dayeh was present in al-Dujail in the day following the incident...he was not wearing military uniform and did not carry any weapons...he even used to hand in the people's army weapon to the division...the accused used to replace his father whenever he got sick because his father was the mayor.
- On the same above-mentioned day, the court heard from another defense witness for the accused Ali Dayeh, who testified "the accused Ali Dayeh came to the party division at six o'clock and stood with us in front of the party division... the accused (Ali) was present the second day of the incident, where the witness went to him and sat with him in his home...they used to seek aid from the accused when his father was absent...".

Available indicators and evidence in the case against the accused Ali Dayeh Ali

- 1- The depositions of numerous plaintiffs and prosecution witnesses in the trial and investigation sessions mentioned that the accused Ali Dayeh Ali arrested them and their families in different periods after the incident.
- 2- The frank confession of the accused Ali Dayeh Ali (construed) in the trial and investigation sessions that he was present at the party division in al-Dujail at six o'clock p.m. on the first day of the incident and the following days and the presence of the accused Barzan Ibrahim and Ahmad Ibrahim, and group of leaders in the party division's headquarters during the first day of the incident and heard about the torture of a group of people and families, and witnessing the government shaded-cars returning after carrying them and transporting them to an unknown location. He also confessed that he accompanied the accused Ahmad Ibrahim Al-Samurai (secretary of the party division) to the home of the victim (Musallam Abd al-Ameer) and took part in his arrest and aided in transporting him to the party division's headquarters where he was then sent to an unknown location and then was killed and he was one of those who were executed and his name was listed in Awad Bandar's court order and he was (16) years old.
- 3- The security information report (party) dated July 8, 1982 which was presented by the accused Ali Dayeh Ali to Sa'adoun Shaker, the Ba'ath party's regional command member and interior minister

during that time. Shaker was present the first day of the incident in the party division's headquarters in al-Dujail and was accompanied by the accused Barzan Ibrahim and other party and government leaders.

- 4- The conviction of the accused leader- Reports of the criminal evidence experts in the three-member committee and the five-member committee showed that eight experts agreed unanimously that the signature and writing mentioned in the report above belonged to the accused Ali Dayeh Ali. The first report (the three-member committee report dated April 13, 2006 (paragraph (4) from the exam result) the second report (the five-member committee report dated April 23, 2006 (paragraph (3) from the examination result).
- 5- The conviction and verdict sentences number 944/C/1984 on June 14, 1984 issued by Awad Al-Bandar trial (the dissolved revolutionary court) and the republic decree No.778 dated June 16, 1984 where the victim's name was listed (Musallam Abd al-Ameer) and the proceeding of carrying out the execution in 1985.

The extent of the criminal responsibility of Ali Dayeh Ali regarding the accusations against him in pursuant to the accusation paper

It is clear from the case documents and the evidence and indications found in them that the accused Ali Dayeh Ali was present the day of the incident in Baghdad since he returned to his home in al-Dujail after the failed assassination attempt during the afternoon of that day, and in addition to being a trainee member of the Ba'ath party (dissolved), afterwards he directly went to the party division's headquarters in al-Dujail around six o'clock and therefore this court concludes that the accused Ali Dayeh Ali met with the accused Barzan Ibrahim who was overseeing the arrests. He also met the member of the party division's regional command and former interior minister Sa'adoun Shaker and provided him with the information and security report referred to in the indications and evidence found in the case against the accused Ali Dayeh. This is the only reasonable conclusion from all the depositions in the case and the documented evidence attached to the case documents. It was proven to this court that the accused Ali Dayeh assisted security and party officials in the arrest of Musallam Abd al-Ameer Latif who was executed later, and Jassem Mohammed Lateef and his family in addition to a number of individuals and other families where the names of (14) families were listed in the report that he gave to Sa'adoun Shaker.

This court asserts that the accused Ali Dayeh was told to assist security, party, and intelligence officials when people were arrested in al-Dujail by assisting these officials in those arrests. The court also asserts that the accused Ali Dayeh was a trainee member of the Ba'ath party at the time of the incident, and he also suffered due to the execution of

his cousin (Ala'a Abed Al-Hussein Saleh) who was accused of belonging to the Da'wa party. The court also concludes that the accused Ali Dayeh was asked to join the people's army during the months that followed those events.

This court is convinced that the written and signed security and information party report belonged to Ali Dayeh dated July 8, 1982 and submitted to Sa'adoun Shaker and includes information on and provocation against (14) families from al-Dujail. It was proven by the unanimous agreement of eight criminal evidence experts that the handwriting and signature in the report exclusively belonged to Ali Dayeh, and in fact this court does not have any reasonable doubt in approving the opinions of those independent and neutral experts that were carefully chosen by the court, by taking into consideration several factors we previously referred to when we examined this subject regarding identifying the responsibility of the accused Abdullah Kathem Al Ruweid.

In addition, this court has no reasonable doubt that the accused Ali Dayeh Ali presented this report to Sa'adoun Shaker who during that time was present at the party division's headquarters in al-Dujail hours after the incident, where the accused Ali Dayeh also went there. And from there, it is clear that the accused Ali Dayeh gave information about a large number of members of (14) families from al-Dujail, provoking their arrest by accusing them of being hostile to the party and the revolution and that they belonged to Da'wa party (agent). Presenting the report which included information during that time is considered providing assistance to the security, party and intelligence forces in committing crimes against humanity. It was also apparent to this court that the accused Ali Dayeh took part in the arrest of a number of people in al-Dujail in July 1982.

The actions of the accused Ali Dayeh in assisting these officials by presenting that report and provoking them to arrest those people and families whose names were listed in it and led to their imprisonment and torture and to the killing of some of them, where (eight) persons were executed from al-Dujail victims. Three of them were children Abbas Habib, Mazhar Jameel Ayoub, Musallam Abd al-Ameer Lateef, in addition to Mohammed Lateef and Naji Kathem Jafar and Salman Abdul Wahab Jafar, Jassem Abdul Hassan Jafar and Hussein Abbas Mohammed. The accused Ali Dayeh's actions in assisting and provoking led to the arrest and torture of an additional number of victims in al-Dujail. The accused Ali Dayeh bears full criminal responsibility for all the prison actions, torture and deliberate killing as crimes against humanity.

Although the presence of the accused at the crime scene is not important in the case of the causation contribution (participation), where the partner should not be questioned on a criminal basis (if he assisted, provoked or agreed with others) for the commitment of the murder where it is irrelevant for the partner to be present at the murder scene if it was committed by the primary perpetrators (verdict issued in Zulatko Alkosofski case) (paragraph 62) that was referred to previously, it was proven to this court that the accused Ali Dayeh was present on the first day of the incident and the following days at the crime scene and that he presented on the first day of the incident a report to Sa'adoun Shaker

who was present at the party division headquarters and also took part in the arrests of al-Dujail victims.

The accused Ali Dayeh assisted and provoked the commitment of crimes against humanity, as he assisted and provoked the initiation of the arrest and imprisonment of civilians from al-Dujail. The court believes that the accused Ali Dayeh Ali committed those criminal acts and the imprisonment of these victims led to their torture, and this is a sure thing and expected in light of the hold of the former Ba'ath regime on the authority, especially if the accusation was an attempt to kill the party and regime leader during that period (the accused Saddam Hussein) and members of D'awa party or other parties hostile to the former regime, thereby threatening their presence in authority. In addition, article 34 from the penal code No.111 of the year 1969 stipulates (the crime is deliberate if criminal causation intent was displayed by its committer and the crime is considered deliberate.... if the perpetrator expected criminal results for his actions then he should accept that it will occur). The accused Ali Dayeh Ali was a primary perpetrator in committing arrest and jail crimes under Article (49) of the same law and not only a partner just because he was present during the crime, or took part in committing the actions leading to these crimes (see Article 49 of the penal law).

Article 53 of the penal code No.111 for 1969 punishes the person who contributes to a crime, whether he was perpetrator or partner with a punishment for the crime that actually occurred even if it was not the intended one during the time of the crime while it is a possible result of the contribution that occurred.

In spite of that, when the accused Ali Dayeh took part in committing that criminal behavior, he expected and accepted the criminal results- according to what we will explain later in detail- which resulted in the criminal behavior and its contribution that actually occurred.

Being imprisoned in the prisons of the former party regime, using brutal torture methods being practiced against victims of the former regime by groups affiliated with the suppressive former regime would naturally lead to the killing of those victims, either through torture or by referring them to the kangaroo courts for the purpose of adding some phony legal form to justify the killing of those victims or covering up the killings of those who died during their torture.. This is what actually happened to a large number of victims from al-Dujail who included the names of eight victims whose names were listed in the report that was presented by the accused Ali Dayeh to Sa'adoun Shaker. Those victims were arrested, imprisoned, tortured and then their names were referred Awad Al-Bandar court that issued an execution order regarding them and which was then implemented after the accused Saddam Hussein approved that order.

Taking into consideration the exceptional circumstances at that time, it was not necessary for the accused report writer (Ali Dayeh) to submit his report to member of the Ba'ath party's regional command and former interior minister Sa'adoun Shaker who was present in al-Dujail during those circumstances on the day of the incident. Considering

that it was necessary- according to the regime and party- it was crucial to present that report or others directly to the member of the party's regional command and minister of interior without wasting time during that important period without following routine procedures in passing the reports through the party hierarchy under circumstances that required a fast movement commensurate with the huge reaction by the regime and party groups to the limited and failed attempt.

Although it is not necessary for the assistance or the incitement in committing a murder to be physically driven, it is enough for it to be in the form of encouragement for the primary perpetrators in committing the murder (look at the resolution issued in the case of Anto Frendeja (paragraph 199) which was mentioned previously). The accused Ali Dayeh Ali provided that physical assistance through the report he submitted to Sa'adoun Shaker and through his physical contribution in the arrest of a number of al-Dujail victims and among them was (Musallam Abd al-Ameer), and that is in addition to what was stated by a number of plaintiffs who testified that he took part in their arrests and the arrest of their families.

The General principles of crimes against humanity and criminal intent of the accused Ali Dayeh Ali regarding imprisonment, torture and deliberate killing as crimes against humanity

As we mentioned before, it was proven to this court that a wide and systematic attack was waged against civilians in al-Dujail. This attack was organized by a large number of intelligence, party, and security forces, in addition to the participation of members of the people's army and party organization. The accused Ali Dayeh Ali was among those party members and the wide and systematic attack begun directly after the limited and failed assassination attempt.

Criminal intent of the accused Ali Dayeh Ali in his imprisonment, torture and deliberate killing actions as crimes against humanity was present on the day of the incident, where he submitted the security information report to Sa'adoun Shaker who was present at the party's headquarters in al-Dujail upon the arrival of the accused Ali Dayeh Ali to the location at 6:00 pm. Therefore, the participation of the accused Ali Dayeh Ali in those crimes is factual, even though the torture and killings took place later on, where it is not a rule that the accomplice is criminally liable based on his presence at the crime scene. In addition the accused Ali Dayeh Ali was present at the crime scene during his participation in the arrest of one of the victims (Musallam Abd Al-Amir Lateef), and despite the general opinion with regards to criminal studies concerning the time of the crime, where time is when the criminal act taken place and not the time of the criminal result. It is the agreed on theory compared to others with regards to criminal rule. Considering it a rule of people which requires them to act a certain way or abstain from doing so. At the time of the criminal behavior is committed, the issue making up the criminal rule is of great importance for the psychological element, which based on it, describes the behavior as illegal. Any action is considered a complete crime at the time

the criminal act is committed and accomplished by taking into consideration the rule of Article 34 B of the penal code regarding indirect criminal intent (probability) that we referred to earlier. The accused Ali Dayeh committed that criminal behavior when he wrote the provocative report, which he then presented and therefore assisted in committing these crimes against humanity. In addition, he displayed this behavior by participating in the arrest of victims from al-Dujail residents. And he had that indirect criminal intent when he anticipated the criminal results of his actions (Arrest) in which he committed that action by accepting the risks entailed concerning the criminal results represented by torture and killing.

In addition, the accused Ali Dayeh was aware that his criminal behavior was part of a wide and systematic attack against town civilians, because he witnessed that wide attack on the first day of the incident. The accused Ali Dayeh Ali witnessed government and party officials, among them the accused Barzan Ibrahim and Sa'adoun Shaker and others, who came to al-Dujail hours after the incident. The accused also witnessed the security, intelligence and party divisions and military groups and people's army when they surrounded al-Dujail and arrested and tortured the residents of al-Dujail at the party division headquarters and transported them in their cars. The accused Ali Dayeh Ali was one of the participants in pointing out those victims and the arrest of some of them. Therefore, it is normal to say that he knew of that wide attack and was aware that his behavior was part of that attack..

In addition to that, he knew that those victims were civilian residents of al-Dujail because he is from the same limited small area and that is very clear from the content of the report he submitted to Sa'adoun Shaker. The accused Ali Dayeh Ali could have easily predicted the size of the wide and horrible response by the former regime and its affiliates against the civilian population of al-Dujail in response to the failed and limited assassination attempt of Saddam Hussein on July 8, 1982, because he witnessed that response from the beginning and took part in some of the its actions, added to that that he was a member of the Ba'ath party, and he knew the nature of that party, especially when the subject concerned its existence, authority and the leadership of its accused president Saddam Hussein, since his cousin was executed because he belonged to the opposing party of the authority and of Saddam Hussein, and which was Da'wa party. The information and the names of family members in al-Dujail listed in Ali Dayeh's arrest report that the accused Ali Dayeh Ali did not only predict but was aware that the response would be that huge since he witnessed the beginnings of that attack from the first day of the incident. The accused Ali Dayeh Ali had bad intent when he wrote that report which mentioned the names of victims from 14 al-Dujail families, and accused them of being hostile to the party and the revolution, and that they were members of the Da'wa party (agents) leading to their arrests. This provocative request mentioned in the report includes encouragement of arrest crimes, imprisonment, torture and even killing in light of that regime, as the accused Ali Dayeh knows its nature and the extent of its brutality for being a member of that party since 1969, and his cousin was executed earlier because he belonged to the Da'wa party. This means that the accused Ali Dayeh Ali was fully aware that the regime, party, and Saddam Hussein in particular would do

anything, even if it was brutal, to insure their presence in authority, so you can imagine if the matter pertained to the assassination attempt of Saddam Hussein, regardless of the size of that attempt.

The accused Ali Dayeh Ali requested, provoked and assisted in those crimes and personally committed some of them (beginning with arrests), therefore he must have known. When a person wants something he must have known about it beforehand. The actions committed by the accused Ali Dayeh Ali through writing the report, pointing out the victims, and personally taking part in some, actually happened. These are established facts to the court through the arrest of a large number of victims whose names were mentioned in the party report which was proven to have belonged to him. As a result, this led to the arrest of those victims and their imprisonment in (Hakimiah prison) and (Abu Ghreib), which led to the torture and killing of some of them. The concept of deliberate killing as a crime against humanity does not only include the perpetrator who performs the primary role in the execution of the crime, or the accomplice of the crime as an assistant or someone who provokes it but also includes the person who caused the criminal result of the death of victims if he proved to have criminal intent (knowledge of criminal elements and the desire to achieve it) regardless of whether that intent was direct or indirect at the moment the behavior is displayed.

The accused Ali Dayeh Ali had at least an indirect criminal intent in achieving the killing incidents and torture when he committed the criminal behavior and this is what we referred to previously and proved its existence to this court. The accused Ali Dayeh Ali's behavior in writing that report and his participation in the arrest campaign led to the killing of eight victims, including three juveniles. This court is convinced that these are established facts without any reasonable doubt.

The accused Ali Dayeh Ali was the original perpetrator when he took part in the arrest of Musallam Abd al-Amir Lateef and other victims referred to previously while he took part in the assistance, provocation, and maybe agreement with others in committing arrest crimes and in the jailing of a number of al-Dujail victims and thereafter torturing them and thus eight of them were killed based on the security and information report he submitted as an assistance which provoked directly and indirectly the commitments of these crimes by primary perpetrators.

In addition, the intent behind interference in crime is the psychological element that should be present for one to participate and is based on the will of the accomplice to interfere in achieving criminal behavior and being aware of the brutality of his actions and the direction of his will in creating the result the perpetrator wants, and this was all displayed by the accused Ali Dayeh. The causation contribution behind the participation of the accused Ali Dayeh Ali in committing the crime (the criminal behavior of the accused in provoking, agreeing, assisting) was linked to the crimes committed by others based on physical causation link. A specific time for the crime or specific place for committing it by the primary perpetrator is not considered a basis for holding the person who assisted or provoked those crimes if occurred as long as there is a causation

relationship between provocation or that assistance and between the criminal result caused by the primary perpetrator during the execution of the crime. If it was proven that the provocation and assistance occurred at any given time and place then they are irrelevant after that if the crime by the perpetrator on the same day that behavior was displayed by the partner or a short or long period after that and in another place other than the location the crime was committed as long as there is a certain causation relationship between the provocation and assistance actions and between the criminal results caused without there being an outside factor breaking that causation relationship between the criminal behavior by the partner or criminal result incurred by the direct criminal behavior of the primary perpetrator.

This court is completely convinced and without any reasonable doubt that there was a sure causation relationship between the criminal behavior of the accused Ali Dayeh Ali through his provoking and assistance in crimes against humanity of which he was accused and between the criminal results caused by imprisonment, torture, and the killing of a number of al-Dujail victims by primary perpetrators from officers, intelligent forces and others who committed the act of imprisonment, torture and killing, and the accused Awad Al-Bandar and the accused Saddam Hussein and others who deliberately killed eight victims from al-Dujail residents in which the accused Ali Dayeh Ali provoked and assisted their killings.

The criminal inherent in the knowledge of criminal incident elements that he assisted in provoking and committing willingly - as we explained earlier when the accused Ali Dayeh Ali portrayed such intent when he displayed criminal behavior by provoking and assisting and accomplishing the criminal results he wanted or - at least - that he predicted. Despite that, he followed through with his actions of assisting and provoking and therefore accepting the risk in its occurrence. It doesn't matter after that if the criminal results were accomplished at another time, after a month or a year or in another location other than where the provocation or assistance took place as long as the causation relationship between the criminal behavior of the partner, in this case the behavior of the accused Ali Dayeh Ali, and the criminal results caused were not interrupted by other factors. Also, criminal intent of Ali Dayeh Ali was clear the moment the criminal behavior was displayed (assistance and provocation) and continued until the criminal results incurred were accomplished by him and by the criminal behavior of the primary perpetrators.

### **Court Verdict:**

In the case of the accused Ali Dayeh Ali is:

- 1- Criminally liable for the deliberate killing as a crime against humanity under Article 12/First/A of the court law and that in reference to Article 15/Second/C of the same law.

- 2- He is also criminally liable for the imprisonment or extreme deprivation in any respect to physical freedom as a crime against humanity under Article 12/First/E of the court law and that in reference to Article 15/Sccond/A,C of the same law.
- 3- Criminally liable for the torture as a crime against humanity under article 12/First/F of the court law and that in reference to Article 15/Second/C of the same law. All that in reference to Article 34/B and Article 53 of the penal code No. 111 for the year 1969 and indicated by Articles 47 and 48 of the same law (Penal Law).

No liability for the accused Abdullah Kathem Ruwaid for the concealment of individuals as a crime against humanity due to unavailability of one element for the crime, therefore it never existed based on Article 132/B of the basic criminal procedural law No. 23 for the year 1971. In reference to Article 182 of the amended basic criminal procedural law No. 23 for the year 1971, the court decided unanimously to convict the accused Ali Dayeh Ali under provision of Article 12/F/ paragraphs (A-E-F) and in reference to Article (15) of Iraqi higher criminal court law No. 10 for the year 2005 and Articles (34, 47, 48, 53) of penal code No. (111) for the year 1969 and setting his punishment accordingly. The verdict is given in his presence and understood publicly on November 5, 2006.

Signed      Signed      Signed      Signed      Signed

Member      Member      Member      Member

Judge Raouf Rashid AbdulRahman (seal & signature)  
Seal of the Iraqi High Court

The accused Mizhar Abdullah Kathem  
The accusations against the accused Mizhar Abdullah Kathem

The court convicted the accused Mizahar Abdullah Kathem on May 15, 2006 in four charges of committing crimes against humanity under Article 12/First/A, F, E, G of the court law. They are deliberate killing, imprisonment, and extreme deprivation in terms of any other form of physical freedom, torture, and forcible disappearance of individuals as crimes against humanity.

Summary of the depositions of plaintiffs and prosecution witnesses regarding the accused Mizhar Abdullah Kathem

- Plaintiff (protected) testified before the investigating judge on December 11, 2004 (that the accused Mizhar Abdullah Kathem was among the arrest groups that arrested his father and cousin and transported them to an unknown destination and did not know anything about their fate until the fall of the regime when it was learned that they were executed).
- A second plaintiff (protected) testified in the investigation session on December 12, 2004 that the accused Mizhar Abdullah Kathem was among the arrest group that arrested her.
- Another plaintiff (protected) testified before the investigating judge on January 2, 2005 (the accused Mizhar Abdullah Kathem took part in the arrests and in her arrest).
- A fourth plaintiff (protected) stated before the investigating judge on June 7, 2005 that the accused Mizhar Abdullah Kathem came to their home and arrested him and took him to the police precinct.
- Another plaintiff (protected) testified before the investigating judge on November 30, 2004 (she was arrested by Mizhar Abdullah Kathem and Ali Dayeh who lived in al-Dujail and were working for the party).
- On the same day November 30, 2004 another plaintiff (protected) testified before the investigation judge (I want to file a complaint against Mizhar Abdullah Kathem because he arrested me and my family).

In the court session the plaintiff referred to as (A) testified before the court on January 29, 2006 in response to a question regarding the accused Mizhar Abdullah Kathem and stated that the accused Mizhar (he is the one that came to her home and pushed her when she opened the door and came with the arrest group and was accompanied by a security officer and found my cousin sleeping and beat him up and told him to (wake up) and then went to the roof of the house, where my brother and his son were sleeping, and he is the one who reported them and beat me – and he did so with (Abu Ahmad) who was a party official (branch or division member).

Another plaintiff (protected) testified before the court on January 29, 2006 that the accused Mizhar Abdullah Kathem is the one who arrested his family and before the fall of the regime I asked the accused Abdullah Kathem about the phone line we owned and he replied you are from the Da'wa party and you owe (forty thousand Dinars).

Another plaintiff referred to as (A) testified before the court on February 1, 2006 that (on the day of the incident we were sleeping on the roof of the house when the accused

Mizhar Abdulla Kathem appeared and arrested us and arrested my husband and my nephew who was an orphan and it was 4:00 am. The accused Mizhar Abdullah Kathem assaulted me and he was wearing military uniform and pulled me down from the room with my child by my side who was 3 months old). She added that the accused Mizhar Abdullah Kathem took her husband to an unknown location while she remained with her children and uncle in the house.

Another plaintiff testified in the investigation session on December 12, 2004 (I want to file a complaint against Mizhar Abdullah Kathem who lived in al-Dujail since he is the one who arrested us and with him were Ali Dayeh and Younis Ghazal and Omran Hassan Omran, as I learned after the fall of the regime that my sons were executed after their arrest by the security and party division).

Summary of the depositions by the accused Mizhar Abdullah Kathem in the trial investigation sessions:

First: summary of the depositions by the accused Mizhar Abdullah Kathem  
The depositions of Mizhar Abdullah Kathem were filed on February 21, 2005 and these depositions can be summarized as follows:

1. I am from al-Dujail and have been living there since birth. I served in the police force and then worked at al-Dujail post office and was a member of the Ba'ath party.
2. On the day of the incident in 1982, I don't remember the day of month exactly, the accused Saddam Hussein visited the area and during that time I was in the neighborhood and heard gun shots where I was standing next to the party division and I recall the number of gun shots to be six or seven and then gun shots were heard from Saddam Hussein's security, I heard that Saddam Hussein returned to Mosul and I remained in the party division and after an hour or less the army force came and surrounded the area, in addition to helicopters hovering over the area and firing at the fields. During this period I remained in the party division and then I sat in the fields where people were killed and tried to identify them but couldn't and afterwards didn't know where they were taken.
3. During this time I saw security forces driving their cars towards the fields and among them was the accused Barzan Ibrahim al-Takrity who at that time was chief of intelligence and I was at that time standing in front of the party division's door.
4. Therefore, I did not take part in the arrest operations of al-Dujail residents.

5. In the case of dredging the fields and cutting the trees I was assigned by an order from the party organization and an order from the accused Barzan Ibrahim Al-Hassan to accompany the tractors and other machinery for the purpose of dredging the fields, and I actually went with the tractors.
6. I was ordered by party officials according to directions from high-ranking officials, and I executed the order (dredging the fields) because I feared not executing it, despite the fact that I knew that this was illegal, but I executed the order because I feared punishment.
7. I was not assigned to arrest residents of al-Dujail by the party organization, but if I were assigned to do so I would have executed the order issued to me, but I did not take part since I was not ordered to do so.
8. I did not have any knowledge about the families that were arrested and executed, and I have no idea if they were released.

When asked by the investigative commission, the area of al-Dujail is a suburb in terms of administrative division, and rural in nature and its inhabitants are very few. “Most of them know each other and what happened in 1982 from arrest campaigns and imprisonment of families, women and children was known” throughout the country, so how was it possible to not know about the imprisonment of families and their arrests when you are from the area? He answered “I mentioned that I had no knowledge of the subject and I don’t know anything about that”. I work in the post office in al-Dujail where I have been living there since birth and till this day.

On February 28, 2003 the investigative commission recorded the annex of the accused Mizhar Abdullh Kathem’s testimony and in it was: (I don’t know the number and size of families that were arrested). I remember that among the families that were arrested was the family of Hassan Al-Haj Mohammed and Mahmoud Majeed Al-Kharbatly and Kathem Al-Jafar and Haji Jassem Al-Hatou and Abbas Hassoun, and those are the individuals I knew of their arrest and don’t know of any others. Then I found out that Lateef Sa’ad and Hikmat Abed were also arrested. As for the children and women, I wasn’t aware of their arrest).

Second: Summary of the depositions by the accused Mizhar Abdullah Kathem in the court Session:

The court heard the testimony of the accused Mizhar Abdullah Kathem in the session on March 12, 2006 and which included the following:

1. I hid people who were chased by security forces in 1982 and among them (Bassem Hamid Mahdi) and (Ahmad Yassin Al-Haj Mahmoud) and helped (Adel Fayege Yahya) and (Amer Zaidan) who were arrested in 1985.

2. My party rank was (supporter) at the time of the incident. I was in the department (work) because there were emergency cases and the official working hours were 24 hours.
3. The testimony of (female plaintiff...) and her sister (....) and (...) was false and incorrect, and was a result of personal animosity since they had a disconnected phone because they did not pay the bills and they thought that I was the reason behind the disconnection and they badmouthed me.
4. In response to the court's question regarding the party report submitted to the minister Sa'adoun Shaker and attributed to the accused Mizhar Abdullah, the accused said (that report is not in my handwriting and does not carry my signature).
5. He denied his depositions before the investigating commission related to him as witnessing security forces driving their cars towards the fields and among them the accused Barzan..... Saying I don't remember that.
6. A question from the court (how did you not know of the incident while you were inside the town?) the accused Mizhar Abdullah replied: I knew of it only two months after the incident.
7. In response to the question by the general prosecution, the accused Mizhar Abdullah said (the gun shots were immense for a clash to have occurred or a confrontation between the two sides, and also I said the number of shots were seven shots and after half an hour planes came to al-Dujail and I heard them fire at the fields).
8. In response to the question by the plaintiffs' attorney (personal) the accused Mizhar Abdullah said I was on duty in the party division.

Summary of the depositions by the defense witnesses for the accused Mizhar Abdullah Kathem

The court listened to a number of defense witnesses for the accused Mizhar Abdullah Kathem in the session on May 16, 2006 and their depositions could be summarized as follows:

The defense witness referred to as No. (1) said:

1. The accused Mizhar was not present in al-Dujail, but was on duty in his department.
2. He did not perform any party duty because his party rank is (supporter).

3. On the day of the incident I did not see him take part in any arrest... the department was in an emergency state for fifteen days and the accused was in his department where they sent him food.

Another defense female witness (protected) who was heard by the court on the same day said the accused was present “in the post office and the department was in a state of emergency for fifteen days”. I used to bring him food everyday.

Another defense witness (protected) testified before the court on May 16, 2006 (the accused Mizhar present in the department and we called him and he is in the department)... He is a supporter in the party... He did not participate in the arrest operations because he was present at the department.

Another defense witness (protected) testified on the above-mentioned same day (the accused Mizhar was present “in the post office and we used to call him everyday”) and that he did not take part in any investigation, arrest or inspection operations, and what was mentioned by one of the female plaintiffs against (Mizhar) was because of the phone line.

Another defense witness (protected) testified on the same day before the court ( the accused Mizhar is a support in the party.... I was not present during the incident and during my presence at Abdullah al-Mashaykhi’s home (accused Abdullah Kathem Ruwaid father of accused Mizhar) the accused Mizhar was present at the post office.... the accused Mizhar is a supporter in the party and does not have any authority... he did not take part in arrest operations because he was present in the post office.... but word was mentioned before by one of the female plaintiffs against (Mizhar) due to the phone line disconnection.

Another defense witness (protected) testified on the same day before the court (I saw Mizhar at the door of (the telephone operator)...I did not see Mizhar arrest anybody. He had a problem with a house (family) because of a disconnected phone line that they filed a complaint against him ... I did not hear that he went with security forces).

#### Available evidence in the case against the accused Mizhar Abdullah Kathem

1. Depositions of a number of plaintiffs and prosecution witnesses noted by the investigative judge, and what the court heard concerning the accused Mizhar Abdullah Kathem about his participation with the security and party organization in arresting and detaining a number of victims from several al-Dujail families.
2. Indictment and issued verdict by the revolutionary court (dissolved) on June 14, 1984 and Republican decree issued on June 16, 1984 and which includes names of the victims of al-Dujail which the said court ordered their killing (execution), and among number of victims are the sons of one

of the female plaintiffs, whom the accused Mizhar Abdullah Kathem helped to getting them arrested.

3. Execution decree on March 23, 1985 including the names mentioned in paragraph (2) above.

Extent of Criminal Liability of the accused Mizhar Abdullah Kathem for the accusations against him in the course of the accusation statement

It is clear from the available evidence in the case that the accused Mizhar Abdullah Kathem took part in the security and party systems in raiding homes and arresting no less than nine victims from al-Dujail and also some were beaten up during the arrests and four of the victims were killed or were executed, and their names were listed in the referral decision issued by the National Safety Affairs Department to the Revolutionary Court (dissolved) No. 762 on May, 27, 1984 and in the verdict and conviction decisions issued by the mentioned court number No. 944/C/1984 and in the Republican Decree No. 778 on June 16, 1984, and in the execution file on March 23, 1985. Those four victims are Ibrahim Hassan Lateef Al-Salami and Ali Anwar Hassan and Jassem Mohammed Lateef and Hashem Mohammed Lateef.

The victim Jassem Mohammed Lateef was killed as a result of torture in Al-Hakimiah prison according to plaintiff Ahmad Hassan Al-Dujaili who testified before the court on December 5, 2005. In addition, his name was mentioned in the decisions referred to above (verdicts and convictions and referral decisions) in the republican decree and in the execution file. When inspecting the depositions of plaintiffs and prosecution witnesses against the accused Mizhar Abdullah who at the time of the incident was a member in the Ba'ath party and was affiliated with the people's army, it is clear that he was present at the party division in al-Dujail from the first day of the incident and the following day in which the arrest occurred and actually took part in those arrests, and that it is impossible that the disconnection of the phone line is the reason behind the large number of complaints by plaintiffs against him. The case is bigger than that; it has to do with their sons, fathers, families in which the accused Mizhar Abdullah took part in their arrest and therefore led to their imprisonment in (Al-Hakimiah prison) and (Abu Ghreib prison) and to their torture, where Jassem Mohammed Lateef was killed by members of the inspection investigation department –intelligence service - (Al-Hakimiah) subsidiary, and the deportation of some of them to (Lia) desert complex, and to the killing of others in accordance to the order issued by the accused Awad Al-Bandar and approved by the accused Saddam Hussein.

As for the security report (party) attributed to the accused Mizhar Abdullah who submitted it to Sa'adoun Shaker and dated July 8, 1988, and which included the names of (37) victims (they were described as murderers) from the Da'wa party who attempted to attack the leader...etc. The divisions secretary comrade Saddam Hussein... we raise the names of the families opposing the party and the revolution...etc. the three-member

committee and five-member committee from the criminal evidence experts examined this document and compared the signature and writing to other samples containing the handwriting of the accused Mizhar Abdulllah. Those two committees could not specify that this writing and signature belonged to the accused Mizhar Abdullah and therefore the court cannot use this document as evidence against the accused Mizhar Abdullah.

The important question to be asked now is: After proving the role of the accused Mizhar Abdullah in the arrest of those victims can those actions make him criminally responsible for their torture and the killing of some of them?

The fact is that if some of the plaintiffs testified that they were beaten up by the accused Mizhar Abdullah during their arrest or the arrest of their families, then one of the victims did not mention that he witnessed the accused Mizhar Abdullah kill in his own hands one of the victims, but does that mean that he is not criminally responsible for the torture of those victims during their stay in the jail or for their killings?

This court is completely convinced without any reasonable doubt that the accused Mizhar Abdullah assisted in committing crimes against humanity, and assisted in the arrest and imprisonment of the civilian residents from al-Dujail. The court is also convinced that the accused Mizhar Abdullah committed those criminal actions, and that the imprisonment of those victims led to their torture and this was expected in light of the control of the former Ba'ath regime of the authority in Iraq, and especially if the accusation is attempting to kill the head of the party and regime (the accused Saddam Hussein) even if that meant shooting a few gun shots or belonging to Da'wa party or another party which the former regime considered hostile and threatening to its existence in authority. Article (34) No. 111 for the year 1969 stipulates (the crime is deliberate if A- Criminal intent was displayed by the perpetrator and therefore is considered a crime....B- If the perpetrator predicted criminal results for his actions but followed through with it, accepting the risk of it happening). The accused Mizhar Abdullah was a primary perpetrator in the arrest and imprisonment crime under Article (49) of the same law and not just because he was a partner present during the crime or because he took part in the actions constituting the crime (see Article (49) of the penal law).

Article (53) of the penal code No. 111 for the year 1969 punishes the participant in a crime, whether he committed it or participated in it with the punishment of the crime that occurred even if it was not the one intended once a crime occurs as a result of possible participation.

In addition, when the accused Mizhar Abdullah took part in that criminal behavior he expected and accepted the criminal results-based on what we will explain later in detail - which was based on that behavior and participation that occurred.

Imprisonment in the former Ba'ath regime jails and torture in brutal ways that were practiced against victims by members of the formers regime's suppressive agencies lead naturally to the killing of those victims either during the torture, as what happened to the

victim Jassem Mohammed Lateef, or when referring the prisoners to phony courts for the purpose of giving some false legal pretext for the killing of those victims (as is the case for the rest of the victims who were alive and among them are Ibrahim Hassan Lateef Al-Salami and Hashem Mohammed Lateef and Ali Anwar Hassan when their names were referred to the Revolutionary Court in order to issue an execution order without any trial (phony trial) or covering up the killings of those tortured before the phony trial. This is what actually happened to several al-Dujail victims, and among them were four victims who were among the victims that the accused Mizhar Abdullah contributed to their arrest and imprisonment. Those victims were arrested, imprisoned, and tortured and at least one of them was killed during the torture thereafter. The names of the remaining prisoners alive (a total of 141 names) were referred to Awad Al-Bandar court which issued an order to execute them and this was implemented later after the accused Saddam Hussein approved it and who issued an order to that effect. In addition to what was presented, assistance and temptation in committing a crime should not only be physical and tangible, and it is enough for it to be in a moral support form or encouragement to the primary perpetrators committing it. (see the verdict issued in the case of Anto Ferdenji paragraph 199 referred to previously). The accused presented this physical assistance through his actual contribution in the arrest of a number of al-Dujail victims, and among them four victims who were mentioned earlier.

General principles for crimes against humanity and criminal intent of the accused Mizhar Abdullah Ruwaid in committing the imprisonment and deliberate imprisonment, torture and killings as crimes against humanity.

It was made evident to the court that a wide and systematic attack took place at that time by a large number of military, intelligence, and security forces belonging to the government. Members of the people's army and party organization also contributed to these attacks against the civilians of al-Dujail. The accused Mizhar Abdullah Ruwaid was a party member in al-Dujail. The wide and systematic attack took place immediately after the limited and failed assassination attempt.

Criminal Intent of the accused Mizhar Abdullah Ruwaid was displayed when he committed imprisonment, torture and killing actions as crimes against humanity on the same day he participated in the arrest of al-Dujail families. Therefore the participation of Mizhar Abdullah Ruwaid is factual even if torture and killing occurred later, where it is not necessary for the partner to be present at the crime scene in order for him to be criminally responsible. The accused Mizhar Abdullah Ruwaid was present at the crime scene when he took part of the arrest of the victims, despite the general opinion with regards to criminal studies concerning the time of the crime, where time is when the criminal act takes place and not the time of the criminal result. It is the agreed on theory compared to others with regard to criminal rules. Considering it a rule of individuals which requires them to act a certain way or abstain from doing so. At the time the criminal behavior is committed, the issue making up the criminal rule is of great importance for the psychological element, which based on it, describes the behavior as illegal. Any action is considered a complete crime the time the criminal act is committed

and accomplished by taking into consideration the rule of Article 34/B of the penal code No. 111 regarding indirect criminal intent (probability) that we referred to earlier.

The accused Mizhar Adbuallah Ruwaid committed that criminal behavior when he took part in the arrest of the victims of al-Dujail residents, and he portrayed indirect criminal intent when he predicted the criminal results of his actions (arrest) and followed through with that by accepting the risk of the occurrence of the criminal results represented by imprisonment, torture, and killings.

The accused Mizhar Abdullah Ruwaid was aware that his criminal behavior was part of the wide and systematic attack directed against the civilian residents since he witnessed that attack from the first day of the incident. In addition, the accused Mizhar saw party and government officials, and among them the accused Barzan Ibrahim and others, who arrived to al-Dujail hours after the incident, and he also saw the people's army, security, intelligence and party units and military units surrounding al-Dujail and arresting its families. The accused Mizhar Abdullah Ruwaid was one of the contributors who pointed out those victims and arrested some of them. Therefore, it is natural to say that he knew of that attack and knew that his behavior was part of it. He also knew that those victims were civilian residents because he was from the same small limited area and admitted that he lived in it since his birth.

The accused Mizhar Abdullah Ruwaid could have easily predicted the size of that horrible reaction performed by the former regime systems and its members against the civilian residents in al-Dujail due to the failed limited attempt committed by a few individuals in the assassination of Saddam Hussein on July 8, 1982 because he admitted during the trial and investigation that the number of gun shots directed at the convoy of cars was around seven gun shots and because he also witnessed from the beginning that reaction and contributed to it by committing parts of it, in addition to being a member of the Ba'ath party and he knew its nature and especially if it had to do with the existence, authority and leadership of its accused president Saddam Hussein, especially that he asserted that he was subjected to harassments just because his wife belonged to a specific sect.

Therefore, the accused Mizhar Abdullah Ruwaid did not only predict but was aware that the reaction was going to be that big since he witnessed himself the beginnings of that attack from the first day of the incident.

The actions committed by the accused Mizhar Abdullah Ruwaid through arresting several victims from al-Dujail and assaulting some of them during that arrest include incitement of committing torture and imprisonment crimes and even killing in light of that regime which the accused Mizhar Abdullah Ruwaid knew its nature and the extent of its brutality since he was a member of that party which came to power in 1968. This means that the accused Mizhar Abdullah Ruwaid was aware that the regime, party, and in particular Saddam Hussein would do anything regardless of the extent of its brutality in

order to insure their hold on to power, so one can imagine if the case had to do with the assassination attempt of Saddam Hussein, even if that attempt was very limited.

The accused Mizhar Abdullah Ruwaid assisted in committing those crimes, and he personally committed some of them himself (beginning with arrests) therefore he must have known. If a person wants something then he surely must have known beforehand what he wanted.

The actions committed by the accused Mizhar Abdullah Ruwaid by pointing out the victims and personally taking part in the arrest of some them actually occurred. These are established facts for the court through the arrest of several victims who testified during the investigation and the trial that the accused took part in their arrests and the arrest of their families, among them their sons who were later killed. Those arrests led to the imprisonment of those victims in (Al-Hakimiah) prison and (Abu Ghareeb) prison, where they were tortured and some of them were killed.

The concept of deliberate killing as a crime against humanity does not only include the perpetrator who performed the primary role in the execution of the crime or the partner in crime as an assistant or someone who provokes the committing of a crime, but also includes the person behind the criminal result that occurs which is represented in death of the victims if he portrayed criminal intent (knowledge of the elements of crime and the desire to perform it) whether that intent was direct or indirect at that time the behavior was performed. The accused Mizhar Abdullah Ruwaid had at least an indirect criminal intent in achieving the imprisonment, torture and killing actions when he displayed criminal behavior, and this is what we referred to earlier and its occurrence was proven to this court.

The accused Mizhar Abdullah Ruwaid's behavior in taking part in the arrest campaign led to the killing of four victims, and among them was (Ali Anwar Hassan) who at the time was under the age of twenty. This court is completely convinced that these are established facts and are beyond any reasonable doubt. The accused Mizhar Abdullah Ruwaid was the original perpetrator when he took part in the arrest and imprisonment of al-Dujail victims referred to previously, while he took part in assisting, and may have agreed with others in the torture of those victims and in the killing of four of them since the assistance he provided led to the commitment of those crimes by primary perpetrators. In addition, the intent behind interference in crime is the psychological element that should be present for one to participate and is based on the will of the accomplice's interference in achieving criminal behavior, constituting the crime, and being aware of the brutality of his actions and the direction of his will in creating the result the perpetrator wants. This was all displayed by the accused Mizhar Abdullah Ruwaid. The causation contribution behind the participation of the accused Mizhar Abdullah Ruwaid in committing the crime (the criminal behavior of the accused in assisting) the crime was linked to the crimes committed by others based on physical causation link.

A specific time of the crime or specific place for committing it by the primary perpetrator is not considered a basis for holding the person who assisted or provoked these crimes if they occur as long as there is a causation relationship between provocation or that assistance and between the criminal result caused by the primary perpetrator during the execution of the crime. If it was proven that the provocation and assistance occurred at any given time and place then they are irrelevant after that if the crime by the perpetrator on the same day that behavior was displayed by the partner or after that in a short or long period and in another place other than the location the crime was committed as long as there is a certain causation relationship between the provocation and assistance actions and between the criminal results caused without there being an outside factor interrupting that causation relationship between the criminal behavior by the partner or criminal result incurred by the direct criminal behavior of the primary perpetrator.

This court is completely convinced and without any reasonable doubt that there was a sure causation relationship between the criminal behavior of the accused Mizhar Abdullah through his assistance in crimes against humanity of which he was accused and between the criminal results caused by imprisonment, torture, and the killing of a number of al-Dujail victims by primary perpetrators from officers, members of the intelligent forces and others who committed the act of imprisonment, torture, and killing and the accused Awad Al-Bandar and the accused Saddam Hussein and others who deliberately killed four victims from al-Dujail families in which the accused Mizhar Abdullah assisted their killings. The criminal intent inherent in the knowledge of elements of criminal acts that he assisted in provoking and committing willingly - as we explained earlier when the accused Mizhar Abdullah portrayed such intent when he displayed criminal behavior by provoking and assisting and accomplishing the criminal results he wanted or - at least - that he predicted. Despite that, he followed through with his actions of assistance and therefore accepting the risk in its occurrence. It does not matter after that if the criminal results were accomplished at another time after a month or a year or in another location other than where the assistance took place as long as the causation relationship between the criminal behavior of the partner, in this case the behavior of the accused Mizhar Abdullah Ruwaid, and the criminal results caused were not interrupted by other factors. Also, criminal intent of Mizhar Abdullah Ruwaid was clear the moment the criminal behavior was displayed (assistance) and continued until the criminal results incurred were accomplished by him and by the criminal behavior of the primary perpetrators.

### **Court Verdict:**

In the case of the accused Mizhar Abdullah Ruwaid:

- 1- Criminally liable for the deliberate killing as a crime against humanity under Article 12/First/A of the court law and that in reference to Article 15/Second/C of the same law.

- 2- The accused Mizhar Abdullah Ruwaid is criminally liable for the imprisonment or extreme deprivation in any respect to physical freedom as a crime against humanity under Article 12/First/E of the court law and that in reference to article 15/Second/A,C of the same law.
- 3- The accused Mizhar Abdullah Ruwaid is criminally liable for torture as a crime against humanity under Article 12/First/F of the court law and that in reference to Article 15/Second/A,C of the same law. All that in reference to Article 34/B and Article 53 of the penal code No. 111 for the year 1969 and indicated by Articles 47 and 48 of the same law (Penal Law).
- 4- No liability for the accused Mizhar Abdullah Ruwaid for the forcible disappearance of individuals as a crime against humanity due to unavailability of one element for the crime, therefore it never existed based on article 132/B of the basic criminal procedural law No. 23 for the year 1971. In reference to article 182 of the amended basic criminal procedural law No. 23 for the year 1971.

Based on the above, and under Article (182) of the amended procedural criminal penal code No. (23) for the year 1971, the court decided unanimously to convict the accused Mizhar Abdullah Kathem under provision of the Article 12 first paragraph (A-E-F) and in reference to Article (15) of Iraqi Supreme Criminal Court law No.10 for the year 2005 and Articles (34, 47, 48, 53) of the penal code No. (111) for year 1969 and setting his punishment accordingly. The verdict is given in his presence and declared publicly on November 5, 2006.

Signed      Signed      Signed      Signed      Signed

Member      Member      Member      Member

Judge Raouf Rashid AbdulRahman (seal & signature)  
Seal of the Iraqi High Court

## **Release Sentence for the accused Mohammed Azzawi Ali Al-Marsoumi**

In light of the indictment document dated May, 15, 2006, and in light of the ongoing trial of the accused Mohammed Azzawi Ali, the evidence collected and the trial and, by comparing the depositions of plaintiffs, defense witnesses, and facts attained from the lawsuit against the accused Mohammed Azzawi Ali, the court rules that the accused is illiterate and is known in the town and was a supporter of the Ba'ath ruling party, but not a member and he did not come forth because he was a suspect - according to security indications against his aunt's husband and their children. The person charged was not present in the town on the day of the incident, and upon returning home in the afternoon, he directly went to the party division's headquarters because of the bad indications directed against him, and during that period Barazan Ibrahim was present at the party division's headquarters and who released him along with others, according to his testimony before the court on April 27, 2005, that in accordance with "orders made by party heads and after brutally being beaten up, he was ordered to accompany a party division in to his aunt's husband Mijbel Hassan Aziz who was not present at his home, and therefore his aunt was arrested instead. "Eventually his aunt's husband died in jail. The plaintiff Abdul Sattar Majeed Hameed testified before the court that during his arrest by the special units, and as he left his home he saw Mohammed Azzawi standing outside. Based on the depositions and trial, and documents submitted which indicated that the role of the accused Mohammed Azzawi Ali was confined to the arrest of his aunt and her husband and that amounted to adding insult to injury, in light of general customs observed in the area and by the Iraqi people in general.

There was a negative attitude by the party and the security forces towards him in this regard. In conclusion, based on the investigation and trial, the role of the accused was confined to accompanying the party division in limited arrests of only two individuals and no more from his relatives, resulting in additional psychological and social harm to his person. In addition, it was not proven from the context of documents and depositions that he actually killed anyone in al-Dujail and did not deliberately assault or hurt anyone during his group arrest raids or what was named -Alkurf- according to the popular general saying and this case. The role of the accused is confined to taking part in the arrest of a relative - aunt's husband - and due to his absence, his aunt was arrested and that has no doubt hurt and embarrassed him. This action does not fall under the voluntary procedural work with regard to the arrests, and has nothing to do with the organized group arrests and was not aware of the legitimacy of these arrests which were illegal, and in addition there was no evidence before the court to prove that.

By taking part in the arrest of one of his relatives - aunt's husband - the accused intended to take part or participate in the wide and systematic attack regarding the arrest of individuals and families in al-Dujail. The director of the inspection and investigation office in the intelligence service Waddah Al-Sheikh explained in his testimony before the court on November 28, 2005 "I did not know anything about Mohammed Azzawi Ali and I did not know whether he was a member of any party group".

In addition, Barazan Ibrahim testified in the court session held on December 20, 2005. "I saw the accused Mohammed Azzawi. He was released from custody" at the party's headquarters on the afternoon of the incident on July, 8, 1982."

Based on the above and on evidence and facts mentioned and presented before the court, there was not enough to convict "according to the referral accusation" for the violation committed by the accused of article 12/First and its paragraphs 2- E-F-I-J. Accordingly, the court commission unanimously dismissed the accusation against Mohammed Azzawi Ali Al-Marsoumi and discharged and released him from custody if he was not wanted or arrested for another case and that is in pursuant to the provision of Article 182 paragraph C of the criminal court procedural law No. 23 for the year 1971 and was announced on November 5, 2006.

Member    Member

Judge Raouf Rashid  
President of the first criminal court

In The Name of God, Most Gracious, Most Merciful

The Iraqi Supreme Criminal Court  
First Criminal Court

No. 1/C/First 2005  
Date: Nov. 5, 2006  
Shawal 13, 1427 Hijri

"Sentence Ruling"

The First Criminal Court of the Iraqi Supreme Criminal Court was established on November 5, 2006 (Shawal 13, 1427 Hijri), headed by Judge (Raouf Rashid Abdul-Rahman) and member judges: ( ) and issued its following verdict in the name of the people:

First:

1.a- Sentencing the convicted Saddam Hussein Al-Majeed and Barzan Ibrahim Al-Hassan and Awad Hamad Al-Bandar to be hanged until death for committing deliberate killings as a crime against humanity under provisions of Article (12) First/A, and indication of Article 15/First, Second, Third, Fourth, of the Iraqi Supreme Criminal Court law No. 10 for the year 2005, and the punishment was passed under provisions of Article/406/1/A of the amended penal code No. (111) for the year 1969 in pursuant to Article 24 of the Iraqi Supreme Criminal Court law No.10 for the year 2005, decision by consensus.

b- Sentencing the convicted Taha Yassin Ramadan to imprisonment for life for committing deliberate killing as a crime against humanity under article 12/First/A in pursuant to Article 15/First, Second, Third, Fourth, Fifth of the Iraqi Supreme Criminal Court law No.10 for the year 2005 and set the punishment based on provisions of Article 406/1/A of the amended penal code No. (111) for the year 1969 in pursuant to Article 24 of the Iraqi Supreme Criminal Court law, decision by consensus.

c- Sentencing of the convicted (Abdullah Kathem Ruwaid and Ali Dayeh Ali and Mizhar Abdullah Kathem) to fifteen years imprisonment for committing deliberate killing as a crime against humanity under provisions of Article 12/First/A in pursuant to Article 15/First, Second, Fifth of the Iraqi supreme Criminal Court law No.10 for the year 2005 and set the punishment based on provisions of Article 406/1/A for the amended penal code No. (111) for the year 1969 in pursuant to Article 24 of the Iraqi Supreme Criminal Court law, decision by consensus.

2. Sentencing the convicted (Saddam Hussein Al-Majeed) and (Barzan Ibrahim Al-Hassan) and (Taha Yassin Ramadan) to ten years imprisonment for deporting residents and forcibly transporting them as a crime against humanity under article 12/First/D in pursuant to Article 15/First, Second, Third, Fourth of the Iraqi Supreme Criminal Court law No.10 for the year 2005 and set the punishment based on provisions of Article

(421/B) of the amended penal code No.(111) for the year 1969 in pursuant to Article 24 of the Iraqi Supreme Criminal Court law for the year 2005, decision by consensus.

3. Sentencing the convicted (Saddam Hussein Al-Majeed, Barzan Ibrahim Al-Hassan, Abdullllah Kathem Ruwaid, Taha Yassin Ramadan, Mizhar Abdullah Kathem Ruwaid and Ali Dayeh Ali) to five years imprisonment for committing extreme deprivation and imprisonment in any form on physical freedom as a crime against humanity under article 12/First/J in pursuant to article 15/First, Second, Third, Fourth of the Iraqi Supreme Criminal Court law No.10 for the year 2005 and set the punishment based on provisions of Article (421/B,C,D) of the amended penal code No. (111) for the year 1969 in pursuant to Article 24 of the Iraqi Supreme Criminal Court law No.10 for the year 2005, decision by consensus.

4.a- Sentencing the convicted (Saddam Hussein Al-Majeed and Barzan Ibrahim Al-Hassan) to ten years imprisonment for committing torture as a crime against humanity under Article 12/First/F in pursuant to Article 15/First, Second, Third, Fourth of the Iraqi Supreme Criminal Court law No.10 for the year 2005 and set the punishment based on provisions of Article (333) of the amended penal code No. (111) for the year 1969 in pursuant to Article 24 of the Iraqi Supreme Criminal Court law No.10 for the year 2005, decision by consensus.

b- Sentencing the convicted (Taha Yassin Ramadan, Mizhar Abdullah Khathem, Ali Dayeh Ali, Abdullah Kathem Ruwaid) to four years imprisonment for committing torture as a crime against humanity under article 12/First/F, in pursuant to article 15/First, Second, Third, Fourth of the Iraqi Supreme Criminal Court law No.10 for the year 2005 and set the punishment based on provisions of article (333) of the amended penal code No (111) for the year 1969 in pursuant to Article 24 of the Iraqi Supreme Criminal Court law No. 10 for the year 2005, decision by consensus.

5. Sentencing the convicted (Saddam Hussein Al-Majeed, Barzan Ibrahim, Taha Yassin Ramadan) to seven years imprisonment for committing other inhuman acts as a crime against humanity under article 12/First/J, in pursuant to Article 15/First, Second, Third, Fourth of the Iraqi Supreme Criminal Court law No.10 for the year 2005 and set the punishment based on provisions of article (479/2) of the amended penal code No. (111) for the year 1969 in pursuant to Article 24 of the Iraqi Supreme Criminal Court law No.10 for the year 2005, decision by consensus.

6. Due to the lack of elements for the crime of forcible disappearance of people as a crime against humanity, the court decided to dismiss the accusations made against the accused (Saddam Hussein Al-Majeed, Barzan Ibrahim Al-Hassan, Taha Yassin Ramadan, Abdullah Kathem Ruwaid, Mizhar Abdullah Kathem, Mohammed Azzawi Ali, and Ali Dayeh Ali) for this act and their innocence of this accusation under article (182/B) of the amended procedural criminal court law No.23 for the year 1971, decision by consensus.

7. Due to insufficient evidence against the accused (Mohammed Azzawi Ali), the court decided to dismiss the accusations filed against him and releases him in pursuant to article 182/C of the amended procedural criminal court law No. 23 for the year 1971 on condition that he is not charged in another case or arrested for it, decision by consensus.

Second:

1. The execution of the severest punishment against the convicted under provisions of Article 142 of the amended criminal law No. (111) for the year 1969.
2. The convicts' detention period is counted (Barazan Ibrahim Al- Hassan, Awad Hamad Al-Bandar, Ali Dayeh Ali, Abdullah Kathem Ruwaid, and Mizhar Abdullah Kathem.).
3. The convicts detention period is not counted for (Saddam Hussein Al-Majeed and Taha Yassin Ramadan) since their fate is still to be determined through this case and because they are detained for the purpose of other cases.

Third:

Under provisions of Article 224 paragraph (d) of the procedural criminal law No. (23) for the year 1971, the convicted were informed that the lawsuit documents will be sent automatically to the cassation committee in the Iraqi Supreme Criminal Court in order to review the sentence discretely, and that they have the right to appeal the sentence issued against at the cassation committee in the Iraqi Supreme Criminal Court within 30 days beginning with the following day of their sentence verdict on November 5, 2006.

Fourth:

1. The court decided to confiscate the movable and immovable money belonging to the convicted under Article 24/Sixth of the Iraqi Supreme Criminal Court law No.10 - 2005.
2. Civil right plaintiffs should resort to civil courts in order to claim compensation for damages incurred as a result of crimes committed against them.

Fifth:

Putting the criminal case in motion and notifying the Iraqi Supreme Criminal Court investigating judge in order to take legal procedures against the persons whose names are listed in the documents, investigation, and trial, and they are:

- 1.Sa'adoun Shaker Mahmoud.
2. Hasseib Saber Abdul-Aziz.
3. Ali Mahmoud Hashem.
4. Mohammed Alewi Hamad.
5. Ni'mah Ali Hassoun.

6. Issam Khader Abbas.
7. Hikmat Abdul-Wahab Khalil.
8. Kamel Hassan.
9. Nouri Abdullah.
10. Hamed Dahed.
11. Dhahi Ahmad.
12. Mihsen Obeid.
13. Faisal Shahin.
14. Shamel Al-Fayad.
15. Abdul-Aljabbar Hameed.
16. Colonel Tareq Hadi Shaker.
17. Daoud Salman Shihab.
18. Major Hashem Taha Hamad.

Sixth:

The fees of the prosecution attorneys representing the accused are determined in accordance with the criteria agreed upon with the (Defense Office). The judgment was issued in the presence of the accused and agreement, and is subject to cassation or appeal and was announced publicly on November 5, 2006 (Shawal 13, 1427 Hijri).

Member      Member      Member      Member      President

Judge Raouf Rashid AbdulRahman (seal & signature)  
Seal of the Iraqi High Court