



[TC: Iraqi High Tribunal Logo, for the year 2003, including the motto: And if you judged among people, by justice let it be]

**Special Verdict
Pertaining to Case No 1/ CSecond/2006**

Al Anfal

In The Name of God All Merciful All Compassionate

**Iraqi High Tribunal
Second Criminal Court
Baghdad – Iraq
Ref. No 1/C Second/2006
Date: 2007 Jun 24**

The Verdict

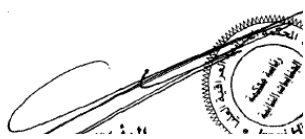
(Introduction)

The first of Nuremburg Court principles, for the year 1950, stated the following: "Any person, who commits an act classified as crime per international law, will be responsible and subjected to punishment". Relying on this principle, it becomes understandable that any act described as international crime will be punished as per International Law, if such action constitutes a breach of International Law's articles. The Iraqi High Tribunal, formed as per Law No 10 for the year 2005, even if it was a national court, is assigned to consider international crimes, as the report will state, and prosecute turned over convicts [charged for international crimes] as per its juridical allegiance.

Nature of Crimes appropriated for this court:

The Iraqi High Tribunal is the appropriated court to review acts considered as a breach of International Law, within a defined period of time, starting from 1968 Jul 17 until 2003 May 1, as per Clause [Second] of Article [1] of Law No 10 for the year 2005 (previously mentioned), which stated " Court's allegiance is applicable on every normal person, Iraqi or not, residing Iraq and convicted of any of the crimes mentioned in Articles [11, 12, 13, and 14] of the aforementioned law, within the Republic of Iraq or any other place ... These include the following crimes:

- 1- Genocide
- 2- Crimes against Humanity
- 3- War Crimes

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The President

[TC: Iraqi High Tribunal – Second Court of Crimes Chairmanship's logo]

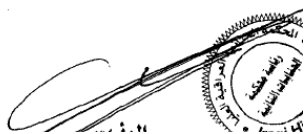
**At the request of the Iraqi High Tribunal/Regime Crimes Liaison Office, all names of witnesses and families of witnesses and victims have been redacted for their safety.*

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4- Infringement of Iraqi Laws as stated in Article [14] of the aforementioned law. From this introduction, it becomes understandable that crimes defined by this law are crimes of International characteristics. It is acknowledged that International crimes' impact is not limited to a certain society, rather stretching to enclose all worldwide societies. In other terms, its impact will stretch to enclose all mankind, excepting no society whatsoever. As for local crimes, or internal ones, their impact is limited to the society where such acts were perpetrated. That's on one side. On the other's, international crimes are subjected to International Tribunal Law's articles, at a time where internal or local crimes undergo national tribunal. Third, we find that the basics of each category [international or internal] differ from one another. The idea of international crime, and its identifications, is different, from many aspects, than that of a national one. This does not necessary mean that they completely differ, but they surely do, over some aspects, as we mentioned above, due to the lack of legislative specs within the international community and availability within the state, taking into consideration that International Law's vital source is conventionality. Whereas, we find that the only tribunal law's source is legislation issued by the appropriated legislative authority (written law), excluding the Anglo-Saxon law which is still, to a big extent, based on juridical precedents. The difference in nature, between international and local crimes, is justified by legal divergence between the two concepts. In the internal field, law is framed as decrees issued by the appropriated legislative authority, when in the international field there is no legislative authority or commission ...



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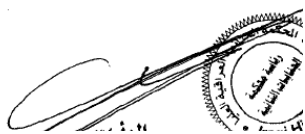
... designated to put down obligatory rules. Rather, the general agreements and accords, within countries, are adopted to identify legal rules, as well as stable and obligatory conventional international regulations. Fourth, the gap, between international and internal crimes, is clearly shown whence internal crime does not occur, usually, against a large number of victims and possessions, as the international crime includes tens, hundreds, or even thousands of victims and possessions, from where came its appellation as "Crimes against Humanity", "Genocide", and " War Crimes".

It is clear, from what had been said, that there are many differences between international and internal crimes. However, these differences do not prevent a similarity, on the same level, between the two categories, the thing that was behind adopting articles, already mentioned in national tribunal laws, and enforce them on crimes stipulated in international marshal or undisputed laws.

Laws which must be applicable by this Court:

Article [24] of Iraqi High Tribunal Law No 10, for the year 2005, stated the following:

- 1st) The court's sentences are those stipulated by Penal Code [111] for the year 1969, excluding lifetime imprisonment, which stretches over the convict's lifetime period, taking into consideration Article [17] of this law.
- 2nd) Sentences, stipulated in the Penal Code and other penal laws, are effective against crimes laid down in Article [14] of this law.



The President

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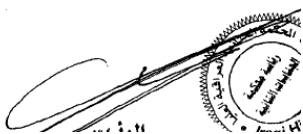
3rd) Taking into consideration Clauses [Fourth] and [Fifth] of the aforementioned article, the tribunal court will be responsible to define charges appropriated to the aforementioned crimes, stipulated in Articles [11, 12, and 13] of this law.

4th) The convict, charged for crimes laid down in the Penal Code, will be sentenced if:
A- He perpetrated murder or rape as per Penal Code.
B- He participated in perpetrating murder or rape.

5th) When the court designate a sentence for any crime stipulated in Articles [11, 12, and 13] of this law, which do not have an analogue in the Iraqi law, it will take into consideration certain factors like crime's significance and convict's personal conditions, rightly guided by "judicial precedents and international tribunal's sentences, in this concern ...", and till the article's end.

By referring back to Article [17] of the same Penal Code, we find stated the following:
Article [17] – **First:** If no legal text, pertaining to this Code and the issued regulations in accordance, Penal Code's Public Laws must be applied against accusing and prosecuting convicts, as it is stipulated in the following codes:

A- Between 1968 Jul 17 and 1969 Dec 14: Baghdad's Penal Code



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B- Between 1969 Dec 15 and 2003 May 1: Penal Code No [111] for the year 1969, which had been valid in 1985 (3rd Edition)

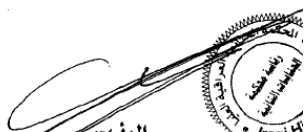
C- Martial Penal Code No [13] for the year 1940 and Military Trials Procedure Law No [44] for the year 1941

Second: The court and cassation commission can refer to International Tribunal Laws when elaborating Articles [11, 12, and 13] of this code.

Third: Penal Code's articles are effective as not to intervene with this code's, as well as legal and international commitments pertaining to internal crimes within the court's jurisdiction, when applying articles appropriated to an amnesty from tribunal responsibility.

Fourth: Crimes stipulated in articles [11, 12, 13, and 14] are not subjugated to oldness relinquish for the charges of penal litigation and sentence.

If we review acts stipulated as genocide, crimes against humanity, or crimes of war, we recognize that many of criminal acts have been already mentioned in Iraqi Penal Code No [111] for the year 1969, counted as crimes by Iraqi legislator who affirmed the appropriated sentences in many legal texts. Articles [405] and [406], of Iraqi Penal Code, identify premeditated murder as a premeditated murder of another person. This description matches up with murder description included in Articles [11, 12, and 13] of the Iraqi Penal Code. As of Articles [190] and [222] of the same Penal Code, criminal acts which threaten the state's internal security are elaborated, as well as Article [325] which condemns slavery (exploiting others in drudgery) and Articles [322], [421], and [425] ...



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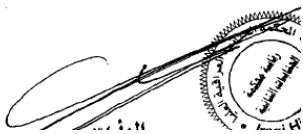
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... which handled detaining persons, jailing or depriving them from freedom, allowing some to misuse a certain location to prison or detain. Articles [421] until [427] stated the different forms of abduction, Article [333] tackled torture, Articles [393], [396], and [397] dealt with rape, homosexuality and molestation, and Articles [412] and [413] concentrated on assault. As of Article [381], it predetermined the incrimination of the eradication, dislocation or commutation of a new born baby. The Iraqi legislator documented, in Iraqi Penal Code, the charges of burglary in Articles [439] till [446], premeditated public properties' spoilage in Article [197], crime of spoiling, destroying, sabotaging or damaging a real estate, vehicles pertaining to others and making them useless, sowed fields owned by others, un-mowed crops or plantations belonging to others, as well as trees. The amended Iraqi Military Penal Code No [13], for the year 1940, mentioned the crime of giving officers orders to commit murder in Article [98], assailing injured and POWs' money in Article [115], turning a blind eye on crimes in Article [123], and many other Articles which incriminate a diversity of acts. This and it would be worth to mention that Article [150] of Iraqi amended Penal Code No [111] for the year 1969 stated that there is no oldness relinquish for the charges of penal litigation and sentence.



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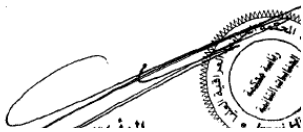
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... no crime or sentence will be dropped unless in the condition of death, via public or special amnesty, or if the plaintiff decided to withdraw all charges in appropriated cases.

The Court establishment and its legitimacy:

The Iraqi High Tribunal is the successor of Special Iraqi Tribunal for Crimes against Humanity which had been established by the Governing Council which was handling, temporarily, the authority in Iraq. The aforementioned council had been internationally recognized via International Security Council, as per Resolution 1511/2003 on 2003 Oct 16. As a consequence of the aforementioned resolution, the Governing Council issued a temporarily "State Administration Law for the Transition Phase", on 2004 Mar 8, where this constitution emphasized on the establishment of an Iraqi Special Tribunal for Crimes against Humanity which were committed during the previous regime, after the many accusations petitioned to the aforementioned council. Due to that, a Special Iraqi Tribunal's (for crimes against humanity) law was decreed, for the year 2003, as procedures regulations were based on Article [16].

After a general referendum and new governmental elections, to add a patriotic touch over the law, the permanent constitution was consented as Law No 10 [Iraqi High Tribunal Law], for the year 2005, had been issued to replace Law No 1 [Iraqi Special Tribunal for Crimes against Humanity Law], for the year 2003. In the obligatory reasons, behind the establishment of Law No 10 for the year 2005, it had been mentioned the following: "To reveal the crimes perpetrated in Iraq and what resulted as ghoulish genocide, and to lay down the regulations and sentences which condemn ...

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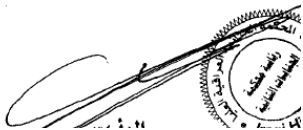
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... offenders in a fair trial, to charge them against launching wars, genocide and crimes against humanity, and to form a national Iraqi High Tribunal with the contribution of qualified, experienced and honest Iraqi judges, to trial the convicts, aiming to reveal the truth and consequences of such crimes (cruelty and oppression), protecting many Iraqis, unveiling their fears, and accentuating the sky's equity as God wanted to be ... this code had been legislated".

Based on givens, it is possible to confirm that Iraqi High Tribunal, which had been established as per Law No 10 for the year 2005, issued on behalf of the freely and democratically elected national committee and a legislative permanent national government (also elected), as well as a permanent constitution approved following a public referendum ... This court, including all its commissions and formations, is a legislative one, established according to a code issued by an elected parliamentary commission, as its legitimacy is taken from its law and Iraqi permanent constitution. Therefore, any contrary statement is a fact-less one, as pushing more on the illegitimacy of the court, which had been propagandized by convicts' attorneys, is baseless.

This, in addition to the fact that the first tribunal had already resolved the legitimacy issue and dissected all allegations pretending illegitimacy in Al-Dujayl Case No 1/CFirst/2005 on 2006 Nov 5, where its decree had been approved by the cassation commission in Iraqi High Tribunal, as per decree No 24/(SATTs T)/2006 on 2006 Sep 7. So, this issue had already gained over the charges.

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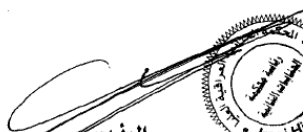
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The Government official's immunity:

It must be considered that some of the convicts, who are being trialed by the court, are members in the bygone Revolution Command Council. It had been mentioned in the temporarily Iraqi constitution, for the year 1970, that Revolution Command Council's head and council's members are fully immune where no course of action could be taken against them before acquiring an anticipated permission from the bygone Revolution Council Command's itself. If such principle was valid in the past, before the fall of the regime in 2003 Apr 9, it is not applicable nowadays. This principle had been cancelled by the government which succeeded the previous regime, as its president had been turned over to justice, convicted and the sentence had been executed against him and his henchmen. On the other hand, the aforementioned regime's eminent figures, including those charged in this case, were trialed for committing international crimes (genocide, crimes against humanity, and crimes of war). Adding up, the charges against our case's convicts (Al-Anfal Case) are crimes which are not limited within Iraqi state and society, as previously detailed, rather perpetrated against the whole human race. Therefore, its impact stretches to enclose all humankind all over the world, as in such type of crimes no one can rely on the logic of immunity to get away from penal responsibility.

The First Court of Crimes have already resolved the immunity issue in its Al-Dujayl Case's decree No 1/CFirst/2005, dated 2006 Nov 5, which reached a unanimous degree of affirmation from Iraqi High Tribunal – Cassation Commission in its decree No 24/ T)/2006, dated on 2006 Sep 7. The First Court of Crimes showed that ...

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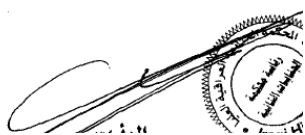
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... this court has juridical precedents such as Nuremberg cases where "Crimes against international law" had been identified as "committed by men rather than legal commissions". On the other side, International Martial Law's constitution declines immunities granted to statesmen – convicts at a certain time.

In reference to United Nations [U.N.] General Secretary's report, while discussing Article [7] of International Tribunal's law for former Yugoslavia, the aforementioned Secretary noticed that "no individual must be granted the right of president's immunity accreditation when perpetrating racial or war crimes, and mostly crimes against humanity". The U.N. leader mentioned that he "believes that all individuals, who participated in planning, preparing, or executing major infringements in International Human Law, in former Yugoslavia, or contributed in committing such violations, will be responsible as individuals". Therefore, he suggested "the law must contain verdicts which clearly define that presidents' abuse of their immunity or pretending that such crimes were executed via official orders will not be a motive to diminish sentences".

These statements reflect the general common unanimity that international standards have influentially changed vis-à-vis ex-statesmen and major governmental officials' immunities. It becomes understandable that, since World War II [WWII], comprehensive immunities do not apply automatically, especially after keeping high officials away from "Conviction Lists" when perpetrating international crimes including crimes against humanity, crime of war, or genocide.

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If we referred back to Iraqi High Tribunal Law No 10 for the year 2005, we will find that Article [15] has already tackled the issue, clearly and decisively. Clause [Third] of the aforementioned Article stated "The convict's official description is not considered exempted from sentence, or a cause to diminish the sentence, even if the convict was president, Revolutionary Command Council's commander or member, Prime Minister or Minister, or Ba'th Party Command's member as no one should invoke immunity to get away from charges due to the crimes mentioned in Articles [11, 12, 13, and 14] of this law". Clause [Fourth] of the same Article said: "The Supreme President will not be exempted from criminal charges over crimes committed by henchmen working directly under his command, that if the president knew or had reasons to acknowledge that his subordinate committed these acts, or was going to, and he did not take necessary actions to prevent such doings or to transfer the case to appropriated authorities for investigation and trial". In Clause [Fifth] is included "If any individual committed an act as implementation of an order issued by the government or its president, this will not exempt him from criminal responsibilities, although a commutation may be applied if the court foresees it as a way to imply justice". Finally, Clause [Sixth] clear affirms "amnesty decrees issued prior to the implementation of this law do not include any of the individuals convicted in any of the aforementioned crimes".

From all of the above, we conclude that immunity allegations had lost legal justifications which were previously adopted vis-à-vis international crimes designated to the court, as it is not allowed ...

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The President

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... according to what have been ratified by international community, and relied on this Court's Law, to submit such allegation from any of the high officials convicts, from the previous regime.

The formation of the Second Criminal Court and the process of its trials:

At first, the Second Criminal Court was formed under the chairmanship of judge ('Abdallah Al-'Amiri) after being chosen by the four member judges in the aforementioned commission. The first Al Anfal case hearing, to prosecute convicts, was held on 2006 August 21. In the sixth hearing, on 2006 September 13, Attorney General submitted a written report dated 2006 September 13 asking the relinquish of the commission chairman from reviewing this lawsuit, supported by many reasons including that this court does not pertain the legal role of an attorney general, restraining his rights and those of plaintiffs. In other words, it permits convicts, and their attorneys, to direct useless, mocking questions to the plaintiffs. It was mentioned, in the warrant, that the court went the extra mile whereas the plaintiff became an accused of treason and espionage, in the convicts' point of views. On the other side, convicts assaulted the court and prosecutors, insulting both many times. Adding up, a direct threat, once to the court, another to the prosecutors, where the court, instead of taking legal actions against the convict, went asking permission to talk. The Attorney General Commission has noticed that the court permitted it to be misused as political platform by convicts, as the report said. Since the Attorney General represents Human Community, as the case is one of the crimes against humanity, the Attorney General finds that the court's attitude is supportive to convicts. Based on that, the Attorney General ...



The Chairman

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... is asking the court chairman to relinquish reviewing the submitted lawsuit. This is what contained Attorney General Munqidh Taklif Al Fir'awn withdrawal memorandum. Judge 'Abdallah Al-'Amiri, the court's magistrate replied "One of the accredited documents in the U.N., which became one of the main documents, is 'Omar Bin Al-Khattab letter when he assigned justice to Abu Musa Al-Ash'ari in the year 14 [Hijri Calendar]. One of the conditions needed to judge is to maintain equality among all individuals in his court, where no honest will be greedy for his unfairness and no weak will be desperate for his justice". This is one document which became vital source in U.N.". Then, the court's chief replied "I would like to comment on the issue. Our Imam 'Ali, which you all heard about the shield story, when he dropped the shield, a Jewish took it then they were summoned by the judge, and the judge told Imam 'Ali (Peace be upon him): Go ahead (Aba Al-Hasan), and the Imam said (Peace be upon him): Why do you differentiate me from my opponent? The judge said: I did not give my ruling yet. Imam 'Ali said: Just using my alias (Aba Al-Hasan) that means you differentiate me from my opponent, and after that, the judge sentenced the shield to the Jewish and the Jewish said: This is the morals of the prophets. Then, he returned the shield to Imam ('Ali) and converted to Islam. When the lawyer says: (Mr. President) I don't hold bad feelings against convict, but we hold a message, we are the veterans of great principles, a joyful present and prosperous future in Gods willing. The Iraqi Justice is recognized, as we learned from our great teachers, whose some were in the cassation court, while others, we still meet and ask advice from. We will keep on the oath, in God's will. Convict Saddam Hussein, as example, when the lawyer tells him" Mr. President" I don't hold bad feelings against him, I wondered why no one told these words before, when I reminded the attorney twice ...



The Chairman

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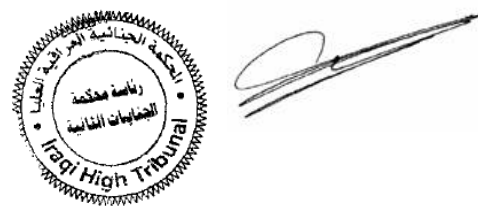
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... or three times. I am abiding by the law, so the lawyer should say: (convict), all what I did is along the course of legislation. I am not better than the legislator because it was not made on an arbitrary case, but it was made for reasons, studies, and deep theories in addition to a long experience. Even when one single Article is to be amended, it will be a subject of studies and suggestions and the article which faces complications will remain and will not be a subject to change. Formerly, we used to review (Babel) newspaper when it comments on a verdict or such things especially after a trial reaching a verdict. They pretend different things among counter sides. Now you see on satellite channels each one setting, lancing statements, speaking whatever crosses his mind as if he is the legislator, as if he was Al-Sanhuri, Ra'uf 'Ubayd, or Rushdi 'Abd-al-Malik, as if we are the intruders, the new freshmen knowing nothing. No, we will preserve the oath. This means when I say to a plaintiff "Kaka", I mean "brother", when I address the convict the way Imam 'Ali did, I must call him "brother". Why when I said "Kaka" no one objected? Why don't I tell this side (pointing the convict) "we are all brothers, Muslims are all equal before God and Justice". Based on this, the court rejected the request (withdrawal) and not impugn was presented in the cassation court.

Judge Muhammad 'Iraybi Majid Al-Khalifah was elected as head of the Second Criminal Court, succeeding Judge 'Abdallah Al-'Amiri whose transfer had been decided toward Iraqi High Tribunal. Another judge, Mr. Muhammad 'Iraybi Majid Al-Khalifah, replaced him as a member in the Court Commission, effective from the 10th hearing of the trial, on 2006 September 20.



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Convict Saddam Hussein and his attorneys impugned Judge Muhammad 'Iraybi Majid Al-Khalifah election's legitimacy. The convict raided verbal assault touching the judge's (head of commission) personal credibility, speaking out inappropriate words aiming to disrupt the course of trial and to affect its process. He objected deputizing a lawyer to replace his withdrawn proxy, the thing that violated the hearing regulations and forced the newly assigned judge moving him out of court, to insure a smooth and natural process for the hearing on that day.

In the same session, on 2006 September 20, the convicts' lawyers presented a written petition to the court objecting the change of head judges asking a permission to withdraw from the court. The judge in charge approved and order deputizing lawyers from the attorney office to defend the convicts.

Convict Saddam Hussein, and some others, attempted to re-violate the trials' process via political speeches, delivered by him, or by calling him "Mr. President" by other convicts. However, the court warned convicts many times that such behavior will cause their dismissal, away from court, as well as taking legal measures against who violate the court's courtesy. The trials continued normally and smoothly, after this announcement, until the end.

From the other side, convict's defense attorneys veered to a path which does not match with their profession as advocates, making illegal requests, each time rejected by court. This unprofessional behavior was shown through their continual interruption...

The Chairman 

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...absence from court hearings for illusionary reasons far to be logic. The attorneys refrained from attending the sessions for the first time after changing the head of judges (Commission Chief). On the second time, they were bothered by the court's rejection of their "illegal" requests. The third time occurred when the court refused calling convicts by their aliases, ranks or previous military posts when they were on the state's pulpit. Fourth and final time, when they decided to support a comrade who assaulted the court's process, insisted on his stance forcing the court to take necessary measures against him.

On 2006 October 08, Attorney Badi' 'Arif 'Izzat, defending Convict Farhan Mutlak Al-Juburi, presented a petition asking the court to dismiss Judge Muhammad 'Iraybi Majid Al-Khalifah, head of the Second Criminal Court (Iraqi High Tribunal), as a hideous crime had been committed defined by the assassination of his brother-in-law and sister's child were treacherously by terrorists. The requester considered that such incident will affect the fairness and clarity of concerned judge's decision, and negatively affect his neutrality vis-à-vis the case and convicts including Farhan Mutlak Al-Juburi.

Based on the aforementioned petition, Second Tribunal Commission's judge presented his report stating that the murder of his brother-in-law and sister's child had nothing to do with the lawsuit, based on the fact that dismissal conditions are not available as no indications relate the convict to the crime as no previous hostility in recognized between the parties. Therefore, Article [93] in its second clause from the Civil Pleading Law...

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The Verdict

...does not apply. The court has finished reviewing the case and submitted it to the Cassation Commission in the Court's chairmanship for verification.

The aforementioned commission has issued its cassation decree, holding Ref. No [4/R/D/2006] dated 2006 October 15 , which implied that the petition is not based on one of the terms stipulated in Article [93] of Civil Pleading Law. The decree fined the requester five thousand Dinars according to Article [4/96] of the aforementioned law, informing the commission's chief to carry on the case as the file had been turned to the court and the decision issued on 15 October 2006, unanimously.

In the 50th session on 26 March 2007, lawyers Dr. 'Abd-al-Sattar Salim Al-Kubaysi defending convicts Sultan Hashim Ahmad, Sabir 'Abd-al-'Aziz Al-Duri and Tahir Tawfiq Al-'Ani, and Mr. Miqdad Sami Al-Juburi defending Convict Husayn Rashid Muhammad, have submitted a petition asking the court to dismiss commission's chief of judges from reviewing this case, after the quarrel which occurred between him and Attorney Badi' 'Arif 'Izzat, defending Farhan Mutlak Salih, in a previous session, where the latter pretended that Halabja had been bombed with chemicals by Iran. The petition contained "What has Iran to do with such attack" which had been said by the chief of judges, considering such behavior as a presumption acknowledging that the basic motives, from the beginning of this trial, as attorneys pretended, has shown that chemical weapons usage was in the Northern area, by Iran and not Iraqi Forces. On the other side, when the chief of judges say that ...



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Chief of Judges

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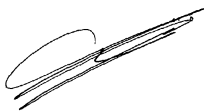
The Verdict

...he is charging the case's convicts, as the two proxies proclaimed.

Chief of the Court Commission has carried out legal producers explaining, in his submitted report, to the Iraqi High Tribunal Chief, on 2007 March 27, that the quarrel was about striking Halabja with chemical weapons, following the question-and-answer method between the court and attorneys where no personal opinion had been mentioned. He enclosed, along his report, a detailed minute of the 49th session on 2007 March 15.

The documents had been verified by Iraqi High Tribunal - Cassation Commission on 2007 April 02, where it had been noticed that the petition do not rely on any legal evidence proving that the judge's answer disqualified him from his Judicial credibility as per 8th rule of Procedures and Evidence Collecting rules attached to Iraqi High Tribunal Law [10] for the year 2005. Adding up, what occurred in the aforementioned case of debate between the judge and the attorney is considered as part of the normal process of the court, not an opinion statement as per Clause [Third] from Article [93] of Civil Pleadings Law.

Based on that, the cassation commission turned down the petition as it is not matching with the law as per 8th rule of Procedures and Evidence Collecting rules and per Clause [Third] from Article [93] of Civil Pleadings Law, fining the requester five thousand Dinars as per Article [4/96] of Civil Pleadings Law, turning back the file to its court ...



Chief of judges



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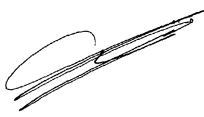
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... informing 2nd Criminal Court Chief to continue on with the case as the decree was issued unanimously.

To reveal the full truth and apply justice, the court decided to check out locations where Al Anfal operations occurred.

The court had moved with all commission (General Prosecution, some lawyers and court's employees) to Kurdistan Region where it studied the sites which were possible to reach and were attacked with chemical weapons. They also inspected the mass graves where chemical weapons' victims had been buried as well as camps and detention centers, visiting Nizarki Fort at Duhuk governorate checking the very near mass grave where detainees used to be buried (men, women and children). They also visited Bahirka camp in Irbil governorate, which had been mentioned by many plaintiffs in their testimonies, and Al-Sulaymaniyyah

The field visit lasted four days after which minutes, witnesses' testimonies, and pictures had been put down. It is worth saying that plaintiffs (who claim personal right [TC: asked not to mention their names]) and witnesses reached 1192. Listening to this big number's testimonies will definitely take long time. Therefore, it had been decided to listen to 90 of them ...



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... as the others' had been disregarded due to their similarities to other statements as per rule [59] of Clause [3] of Procedures Rules.

On 2007 February 20, convicts were charged in this case. Defense lawyers refuted, via a memo dated 2007 March 14, the charges minute, explaining that it does not get along with Iraqi or international appropriated laws. Also, it does not match with the nature of acts charged against convicts, either legally or objectively. The two refutes were enclosed with case's file.

Convict 'Ali Hasan Al-Majid lawyer also refuted the memo.

In the 49th session, on 2007 March 15, a quarrel occurred between 2nd Criminal Court Chief and Attorney Badi' 'Arif 'Izzat where the first said "You don't respect the court, because when you describe it as a murderous project, you will be libeling it".

That was after Panorama program, broadcasted on Al-'Arabia Satellite Channel, on 2006 December 26, where the aforementioned lawyer described the court as a farce and murderous project rather than trial.

Based on that, the court decided to implement legal actions against lawyer Badi' 'Arif 'Izzat, arresting him as per Article [230] of Iraqi Penal Code, transferring him to Central Tribunal court to take appropriate legal procedures, as well as requesting Iraqi Bar to charge the attorney disciplinary fines for breaching the ethics of the profession.

Convicts and attorneys submitted a list of defense witnesses, exceeding legal deadline. However, for human reasons, the court approved informing them with hearing's schedule ...



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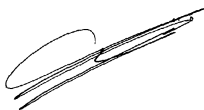
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... to attend and testify. But the court noticed that most of the convicts provided blurry or missing addresses as some did not mention one at all, as well as some did not show up, due to security reasons or fearing that they might be wanted by justice for participating in Al Anfal Operations. Despite, the court gave convicts many chances, delaying the hearings so that they can contact their witnesses but in vain which let the court continue its trial according to rules. The court refused listening to witnesses residing outside Iraq, where the convicts after lawyers' request to assign the Iraqi consul in Damascus and Amman to write down their testimonies. The court viewed such procedure as inefficient in a complex case such as Al Anfal. This matter will lead to a delay in declaring the verdict, especially that the court had been granted vast jurisdiction in estimating evidences as well as turning down any procedure which may delay settling down the case. Therefore, the court decided not to respond to convicts and lawyers' request.

The Case's files:

Al Anfal case contains 43 investigative files including thousands of documents, testimonies, investigative decisions, maps, mass graves' files, international experts' reports, and examinations carried out throughout investigation stages, as well as CDs (Compact Discs), audio tapes and others.



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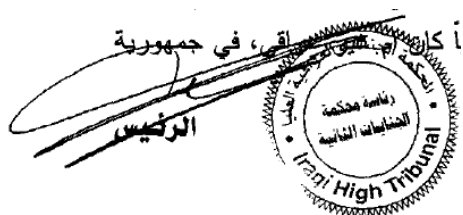
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The Second Tribunal spent hard and big effort in reading and classifying these files, while the number of plaintiffs (personal right plaintiffs) in this case, whose testimonies were juridical recorded, reached more than a thousand from victims' relatives missed due to Al Anfal operations, in addition to those who escaped the mass graves and chemical raids. This, plus the documents, files, and CDs (Compact Discs) which were not organized effectively due to its huge number, diversity of sources and whereabouts, despite General Attorney Commission's hard efforts to re-archive those documents, files, CDs, and audio tapes in an accurate, well organized manner.

All that was due because Al Anfal operations were considered big and inclusive, starting 1987 and ending in 1988, including all villages from Iraqi Kurdistan in all governorates (Irbil, Al-Sulaymaniyah and Duhuk) as well as some villages which belongs to Kirkuk governorate. The toll reached tens of thousands of Kurdish victims between martyrs killed by raids (whether conventional or chemical weapons), or missed individuals buried in mass graves, found and anonymous, which are known as (The anfalized).

Iraqi High Tribunal Authority:

It had been early mentioned that Iraqi High Tribunal, established via Law No [10] for the year 2005, is the court appropriated to review acts which constitute a breach of international law, committed by a normal person, Iraqi or not, residing the Republic ...



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...of Iraq or any other place, between the period of time from 1968 Jul 17 to 2003 May 1. This was what had been stipulated in [Second] of Clause [1] of Article [1] of the aforementioned Code, as follow:

"1-Second- The allegiance of this court is applied on every normal individual, Iraqi or not, residing Iraq and convicted for committing one of the crimes enlisted in Articles [11, 12, 13 and 14] of this code and committed between 1968 July 17 and 2003 May 1, in the Republic of Iraq or any other place ... including the following crimes:

- a. Genocide
- b. Crimes Against Humanity
- c. War Crimes
- d. Violation of Iraqi laws enlisted in Article [14] of this code. By referring back to the previously mentioned Article, we recognize that it states the following: "Court allegiance is applied on convicts accused for one of the following crimes:
1st – Interfere in judiciary affairs or trying to affect the trials' procedure.
2nd – Squander and disperse national wealth, as per Clause [G] of Article [Second] of Conspirators and Regime's Corruptors Penal Code No [7] for the year 1958.
3rd – Misuse of the position or pursuing policies which could have possible lead to threat by war or Iraqi Armed Forces usage against an Arab state as per Article [1] of Code No [7] for year 1958.

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سنة ١٩٥٨
الرئيس
القلمنة القضائية العراقية العليا
رئاسة محكمة
الضمانات الخالية
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4th - If the court finds out that the concerned side delayed in sentencing any of the crimes mentioned in Articles [11, 12 and 13] of this Code, and can prove this act considered as crime that should be punished according to Iraqi Penal Code, or any other, at the time or perpetration. In such case, the court is assumed to review the lawsuit".

From the above two texts, it becomes obvious that Iraqi High Tribunal, even if it is national rather than international court, has the right to consider international crimes, because such characteristic had been granted to it as per clear law texts.

Even though the law did not grant such characteristic to the court, it is still legislative to consider international crimes, because Iraq signed international treaties including International Crimes Penalty, as well as War Crimes' included in Geneva Accords in 1949 and extra attached protocols, genocides included in Genocide's Prevention and Penalty Convention for the year 1948. This on one side, as on the other, the International Tribunal Laws are applied on all countries – including Iraq – directly with no need to be enclosed in country's national laws, without even the need to be published, as in the case of crimes against humanity. That without mentioning that war crimes and genocides are forbidden as per international conventional laws before being contained and incriminated by Conventional International Law (International Agreements and Accords).

From Article [14] of the abovementioned law, it has been mentioned that this court's jurisdiction is not limited only to prosecute convicts for perpetrating international crimes ...



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... but also prosecuting convicts for crimes enlisted in Baghdad Penal Code which was effective in the monarchy era and still, until the expiree of Penal Code No [111] for the year 1969, as well as crimes enlisted in the latter, National Security's Conspirators and Regime's Corrupts Penal No [7] for the year 1958, Martial Penal Code No [13] for the year 1940, or any other code applicable at the time of perpetrating the crime.

Crimes and Sentences Legislative Principle **(No crime or penalty without clause)**

1st – Crimes' Legislation (No crime without Stipulation):

This principle means that any fact, even an act or abstention from action, can't be categorized under penal code, or can't be a reason to incriminate pronounced by penal justice, unless it undergoes a legal (adaptation) description. In other words, it must include the elements able to incriminate as per documented law. The legislator must, when incriminating acts, make sure to define crimes in refined, clear text where the pronouncement and terms bear meanings far from being fraud or hold double significance. It is not enough to limit facts, taken as crimes, but it must detail the makeup of each crime, specs and conditions, in a way which erase any deemed thought, rendering easier the judge's verdict. In other words, for any crime, to be under the penal roof, must include the general basic principles, which formulated it, in addition to the specific elements stipulated the legal description, by which is differentiating this crime from hundreds other ...



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... facts currently not punished by law and, on the other hand, is differentiating from hundreds of other facts considered as different category crime. Each crime will form, by looking deep into its general basics and special features, a unique forensic description. Accordingly, no act or abstention of action is sentenced if no legal description is available. French had adopted, after their revolution, the crimes and sentences legislative principle clearly stating "Citizenship and Human Rights Declaration" in 1789 and in Article [8]. This principle had been reinforced via International Human Rights Declaration issued by the UN General Assembly, on 1948 September 10, becoming a pattern to be followed by all countries. Its final form showed up in Article [11/ 2], as follow "No person must be convicted due to an act or abstention of action unless the following is considered a crime as per national or international law at the time of perpetration. As well, no sentence heavier than that supposed to be issued at the time of perpetration must be given". This statement expresses the opinion which believes that no crime or sentence must be applied unless it was previously documented in a text which defines it clearly, at a date previous to that of perpetration. This means that to consider an act as penalized crime, it must be defined by law at a time previous to its perpetration and stable on the same conditions. In fact, tribunal laws, in some countries the constitutional laws, include this principle without any doubts because the latter is considered as a guarantee of individual freedom, and condition imposed on states. In other words, applying crimes and sentences' legislative principle is as imposing the principle of law on the state itself.

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All Iraqi constitutions, excluding the monarchy constitution of 1925, clearly declared this principle which is available in the last Iraqi Permanent Constitution of 2005 and valid Iraqi Penal Code No [111] for the year 1969. It is worth mentioning though that Baghdadi Penal Code did not include this principle.

According to that, criminal base's source is legislation, or legislative authority which is the only one authorized to frame actions and omissions considered as crime, defining appropriated sentences. In other words, as a result, documented texts issued by a state's legislative authority are the source of incrimination and sentence.

The committed crimes in our case [Al-Anfal] go back to 1987-1988, so, did the Iraqi High Tribunal Law No [10] for the year 2005 and Special Iraqi Tribunal for Crimes against Humanity No [1] for the year 2003 take into consideration the whole topic? Criminal acts charged against convicts, in this case, laid down in Articles [11, 12, and 13] of Iraqi law No [10] for the year 2005, were not enclosed as crimes in the Iraqi law when committed. Therefore, the trial of these convicts over such crimes is not righteous as well as legally investigating them. The law which incriminated the aforementioned acts was first issued in 2003 but the acts of the defendants were committed between 1987 and 1988, as mentioned above. On the other side, Iraqi High Tribunal No [10] for the year 2005 has drawn court's specialization as to prosecute Iraqis and foreign residents in Iraq for the period between 1968 July 17 and 2003 May 1. As if this law incriminated and sentenced ...



Head of Court



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... over acts which were not identified as crimes, and not sentenced, and committed before its validation, the thing which contradicts Penal Code's basic principles.

However, is that saying is true, despite its ills? Is crimes' legitimacy principle applicable on International Tribunal law as on a country's internal tribunal law? We mentioned previously that tribunal base's source is legislation which is declared by the legislative authority appropriated for each country. However, on 1948 September 10, International Human Rights' Declaration, which had been adopted and published following U.N. Resolution No [217000 (D – 3)], was issued including Article [11/2] which confirmed the aforementioned principle, clearly as aforesaid.

The International Human Rights' Declaration is highly important in adopting and defining crimes legitimacy principle and sentences, as well as the refusal of retroactivity in International Tribunal Law. The aim of such principles, as per this declaration, is not limited to what nations' internal laws adopt in different states for the importance of the act being stipulated as a crime, and punishable in the national laws when they were committed.. Rather, it stretches within the International Tribunal Law to include international crimes. The act or refrain must be considered as international crime sentenced as per International Tribunal Law, and at the time of its commitment, whether the origin of such incrimination or sentence is available in the international agreements and accords or internationally agreed upon. Our court acknowledge that what occurred in International Human Rights' Declaration is obligatory to all countries, at least those members in the U.N., and due to the fact that Iraq is one of its ...



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... founders, which impose on it to abide by such laws without the necessity to be mentioned in internal legal texts. What confirm the advanced opinion is Article [15] of Special International Convention for Civil and Political Rights, issued following a U.N. Resolution No [2200 A] on 1966 Dec 16, valid starting 1976 March 23, and approved by Iraq in 1976. Article [15] of the aforementioned convention stated:

"1- No individual is charged for acts or refrains which were not considered as crimes at the time of implementation, as per national or international law. Also, it is not allowed to impose a sentence which is more severe than that applicable at the time of implementation. If, after the crime's perpetration, a legal text had been issued stating new lighter sentences, convicts must get the benefit of such mitigation.

2- This Article does not include any point that breaches the trial or sentence of any individual, for an act or refrain which was considered as a crime at the time of implementation, as per general laws recognized by International Community".

There is no doubt that both International Human Rights' Declaration and Special International Convention for Political and Civil Rights are characterized by international feature abiding all member countries in the United Nations, including Iraq, due to the aforementioned reasons.

We've already mentioned that international crimes' nature is enclosed under International Tribunal Law but differ from local crimes' nature, adjusted by an internal tribunal law, as the first laws are in general agreed upon [not written] where as the internal tribunal law are written as (legislations) issued ...



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... on behalf of special local legislative authority. Therefore, the principle of crime's legislation does not harmonize with the nature of the agreed basic laws. Still, this principle could be applied within International Tribunal Law's scope differently then within national law's scope, as it is hard to imagine previous legal texts, in International Tribunal Law [agreed], that defines crimes and sentences the same was national laws do. Despite the improvement of both International Tribunal and Human laws toward codification, especially after Geneva Conventions, Genocide Prohibition Treaty, and approbation of International Tribunal Law's basic regulation [Roma Regulation], but the fact is still indicating, and on a large scale, that to bestow lavishly the description of "crimes" upon acts considered to be international crimes is done in the same way that International Law's positive basics are established in general, via international customs. In addition, defining crimes within International Law is not that accurate as in any country's national laws. To identify which of the acts are considered crimes in International Tribunal Law, we must refer back to a conventional international law established through international treaties (the general ones) called "Legislative Treaties" obliging all countries to abide by, whether they had approved or not, whether they had been affiliated to them or not, especially those endorsed among two or more countries (limited parties treaties). The articles of such treaties, in their two aforementioned categories, are basically international agreed rules, as for LAHAY and Geneva conventions are none but a group of agreed rules known before their stipulates were written. Therefore ...



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... it is understood that international law's main source is still the international custom where as treaties and accords are none but international custom rules' translation, available before laying down such treaties and accords. To apply the principle of crime and sentences' legislation in International Tribunal Law field, we must find the basic custom international law that incriminates this act or refrain, considering it as an international crime when it was committed by an individual, or the basic law is included in a general international (legislated) treaty, or special international treaty wherein the country takes part.

Based on what had been said, it became understandable that the principle of crime and sentences' legislation is applied in International Tribunal Law as it is in the National Tribunal Law. In the first, incrimination can not occur unless on acts defined as crimes by international law at the time of perpetration, whether such incrimination description was mentioned in an international conventional rule, or legal regulation enclosed within international treaty, general or special. Maybe, the best example on this is what occurs in Article [11/2] of International Human Rights' Declaration and Article [15] of Special International Convention for Civil and Political Rights, both approved by Iraq and it had been previously mentioned. Genocide, crimes against humanity, and crimes of war charged against convicts in our case (Al Anfal) are identified crimes in International Tribunal Law. Therefore, indicating it in Iraqi High Tribunal Law for the year 2005 and before that in Special Iraqi Tribunal for Crimes against Humanity for the year 2003, do not change in the nature of such crimes, as it had been and still documented within international custom ...



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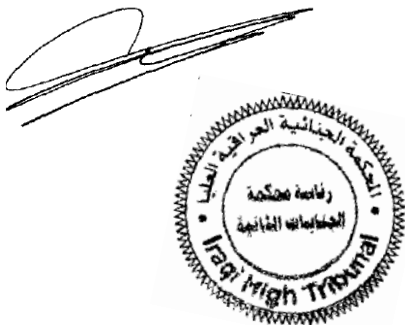
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... due to the availability of a major part within Iraqi law as Internal Crimes, a well as Baghdadi Penal Code, Iraqi Penal Code No [111] for the year 1969, and Military Penal Code No [13] for the year 1940.

Second- Penalties' Legislation: **(No Penalty without stipulate):**

"No Penalty without clause", is the second part of the expression that says: "No crime and no penalty without stipulate ". It means that the Judge cannot sign any penalty unless it was predetermined in previous laws with the same nature of the present case. Not that only, in addition to what was presented, it is agreed upon that the judge should not change the nature, time, and way of execution of the predetermined penalty in previous laws.

The ideology of crimes legitimacy, completely applies to penalties legitimacy, as for the International crimes (crimes against humanity, genocide, war crimes and others) they are in general crimes that have punishments in the Iraqi penal code No.: (111) for the year 1969 and the other aforementioned penal codes. It would be easier to take reference to those laws that are related to murder, torture, persecution, assault on others fixed and non-fixed assets, captivating others, and other crimes, and to know that they are subject to punishment by the same penal code. What was mentioned in the clause No.: (24) of the High Iraqi Tribunal Criminal Court in referral to articles of penal codes to impose a suitable punishment to the predetermined crime...



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...in court, is to emphasize on the principle of Crime's legitimacy on one hand, where as most of these crimes if not all of them are criminal acts by Iraqi law (penal code No.: (111) for the year 1969), furthermore, referring to penalties of those crimes in that law and criminal laws are to abide by the penalty's legitimacy principle. Nothing can prevent a law from imposing predetermined penalties of another law, if that law incriminates such predetermined acts, and the examples on that are many even in national penal laws.

In addition to what was presented, the Article (24/fifth) of this court law points out to using guidelines, legal precedents, and punishments of International Court's Sentences, regarding penalties implemented on individuals condemned with committing predetermined crimes referred to in court law. It assures as well the no contradiction of Court's law in the principle of crime legitimacy, that is if punishments on international crimes were imposed by International Courts, if international custom grounds were available, which with its role could form an obligatory international custom that could be applied in National Courts that are examining international crimes.

If crimes were not stipulated in international treaties and agreements, and the systems and laws of International Crime Courts; it does not mean that there is no mandatory international custom that obligates International Criminal Courts, to impose punishment on who ever commits such crimes, or else what is the use of incriminating such acts and considering them international crimes if they wont have punishments? Applying the principle of crime's legitimacy does not specifically mean that the provision of the punishment should match the provision of the crime in the same text, even in national law, we find some laws include provisions that incriminate some act, and we find the punishment of it in another text, either in the same or different law, and it is logical...



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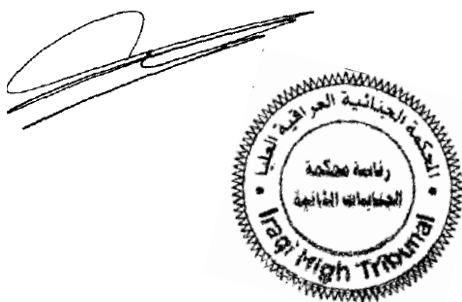
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...to impose the punishments mentioned in national penal codes against accused for international crimes, where as these crimes or most of them were predetermined in the national law, as well as its incrimination within the international law. This is what was mentioned in the text of most of International Criminal Court's laws and systems and Article (24) of Iraqi High Tribunal as well.

We conclude, from what had been said, that the sentence's legislative principal, as well as that of crime, is applied within international tribunal's jurisdiction, whether it was a custom or by agreement law, in a way which gets along with the nature of such law and differentiate it from the national tribunal one. This principle – with its 2 sections – is fully and extensively applied within the Iraqi High Tribunal Court No (10) for the year 2005. Therefore, claiming other stories is none but a reaction far from being truthful or legal.

Principle of not to retroactive the Criminal Law for past cases:

Set forth with necessity for a legal text that incriminates the incident and treats it as a punishable crime, as well as preparing for the next highly important phase which is to forbid applying new criminal law on events occurred prior to its issuance. Since such legal clauses are focusing on narrowing down individual's freedom preventing them from exercising certain doings, or else they will be punished, both logic and justice require it to be applied starting from its implementation, so not to include all previous acts except those pertaining to it. This makes it understandable that it is not allowed to use criminal laws for past crimes.



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The Verdict

Clause [1] of Article [2] of Iraqi Penal Code stated the following:

1- The crimes are subduced to law at the time of perpetration defined as the time in which the execution of the action occurred without looking at the timing of its consequences. Maybe a teller would say: crimes affiliated to convicts in our case (Al Anfal case) occurred prior to Special Iraqi Tribunal for Crimes against Humanity's issuance of Law No [1] for the year 2003, followed by Iraqi High Tribunal's Law No [10] for the year 2005 which both mentioned that crimes against humanity, genocide, and war crimes violate the principle of non referral to crimes happened in the past, considering it a law issued after the perpetration of such acts between 1987 – 1988. Such saying won't be taken as it is not supported by legal evidence, due to the mere fact that the incrimination of the aforementioned acts was valid before issuing First Court Law in 2003, which means was under international custom as well as international treaties and accords, already approved by Iraq. Also, it was under Baghdad Penal Code, Iraqi Penal Code [111] for the year 1969, Martial Penal Code [13] for the year 1940, and other penal codes. Therefore, we can say that both First and Second courts' laws, if not prescribing the criminal characteristics of such acts, they surely relied them on the international tribunal combining it to the national one. In other words, they considered the international tribunal which incriminate such acts as international crimes and enlisted it in the internal law as per "Reception Theory" which is recognized in the field of International Law.

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Chief Judge

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In the Name of God All Merciful All Compassionate

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

The Verdict

The principle of tribunal non-retroactivity over passed cases is a must to protect basic freedom in different societies, lifting injustice and tyranny of the innocents. However, to take it as allegation without legally proven documents, aiming to let convicts get away with their international crimes is none but denial for justice and consecration of oppression.

Since acts affiliated to convicts, in our case, are considered international crimes as per International Tribunal Custom Law, International Tribunal Agreed Law, or International Human Law before its date of occurrence. Therefore, the principle of tribunal non-retroactivity over passed cases is a principle, adopted in this case, as per court's law for the year 2005 and Special Iraqi Tribunal for Crimes against Humanity for the year 2003, and does not form a breach in the aforementioned principle. Indeed, it is a consecration and application as long as charges against convicts are considered international crimes at the time of occurrence

What is worth mentioning is that the first tribunal already discussed this issue, as well as that of crime and sentences' legislation, in a detailed style and enclosed it in its decree issued for Al-Dujayl case No [1/CFirst/2005], on 2006 Nov 5, which had been approved by Iraqi High Tribunal – Cassation Commission in decree No [24/(SATTS V)/2006], on 2006 Sep 7. Many of what have been mentioned is included in first tribunal court which derived tribunal decision and a fully applied cogency.



The president
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In the Name of God All Merciful All Compassionate

Iraqi High Tribunal
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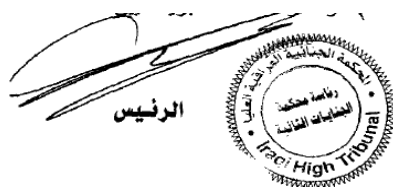
The Verdict

((Al-Anfal Case))

Historic Summary:

The Kurdish population is estimated around 35 million inhabitants. Zakrus Mountains, a prolongation of Taurus and Al-Qafqas Mountains separating Iran from Iraq, is considered as their homeland, from where came their appellation "Kurds" which means, in the Cimmerian language, "residents of the mountains". They are distributed over 5 countries: Iraq, Iran, Turkey, Syria and Al-Quqaz area, consecutively as per their populace concentration.

When national conflicts waded the horizon via Prosperity and Union Association [Al-Ittihad wal Taraqqi], Turkiyyah Al-Fatat Party [Turkey the girl], and Oath Association [Al-'Ahid], in early 20th century, as well as the Ottoman government's oppression of populations under its command and Al-Sharif Husayn movement in the Arab Island, the Kurds felt a need for a unified identification which will re-group them to preserve their language, customs, traditions, and presence like others. Due to the fact that the allies [France and Britain], didn't keep their promises enlightened by U.S. President Wilson's "The Right of Self Determination Principle" as per SEVAR Treaty signed on 1920 Aug, the Kurdistan land had been cut over many countries, after Lausanne Conference on 1922 Nov 20, granting Turkey 320,000 km squares, Iran 125,000 km squares, Iraq 174,000 km squares, and Syria 20,000 km squares. The Kurds in Iraq took of armed resistance to defend their existence and patriotic identity, and to lift the oppression, resisting the Ottomans between (1909 and 1914), confronting the British ...



The President

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In the Name of God All Merciful All Compassionate

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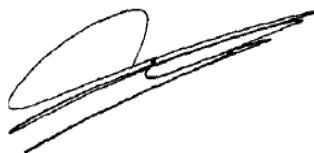
The Verdict

... from (1919 to 1927), until the mid forties (1943-1947) were harsh battles and bloody fighting took place with the government forces.

The Kurds were calling for their legal rights including the recognition of their own language as official in their areas, to have a share in the Cabinet and Parliament which match their number and populous concentration, turning back democratic freedoms, acknowledge Kurdistan self autonomous ruling, and establishing projects for economic and social development.

Due to these legal demands, the Kurds faced ordeals from all regimes which succeeded in Baghdad. The Iraqi governments were considering Iraq as a whole, including all lands and borders as one piece not able to be partitioned. That's why such governments could not admit the fact that Iraq is a country with many ethnics, ignoring the existence of any other ethnic on Iraqi soil other than Arabs. Such comportment pushed the Kurds to adhere to their rights emphasizing on their eminent national role in the country, as well as the importance of recognizing Iraq as dual ethnic country, if desired to carry on within the World War I [WWI] borders.

When successive governments in Iraq did not want to grant the Kurdish people any of their rights, the Kurds lifted arms confronting these governments, as combats continued on during monarchy era, 'Abd-al-Karim Qasim era, and got more critical in 'Abd-al-Salam 'Arif regime. The Prime Minister at the time, Dr. 'Abd-al-Rahman Al-Bazzaz tried to solve the problem peacefully but turned unsuccessful.



The President



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The Verdict

When previous Ba'th Party regime returned to power, in 1968, the Kurds sensed the catastrophe. However, the new regime was too busy in Baghdad strengthening his power in the center, the matter which forced to a ceasefire in Kurdistan, even though temporarily, until the regime finishes cleansing the nearest neighborhoods as it became required. Motivated by that, the regime played it soft with the Kurds and signed on 1970 Mar 11 the treaty known as "Mar 11 Treaty" which could not be implemented effectively and efficiently. No position in bygone Revolutionary Command Council, army commands, Security, and Oil, Internal and Foreign Ministries was assigned to Kurds whose role was limited to marginal ministries which do not have any significance whatsoever in drawing the country's features or to feel really involved in country's affairs. Barely a year passed by when the previous regime tried assassinating Idris Al-Barzani, followed by another try on Al-Mala Mustafa Al-Barzani at the Barzani council. In the late 1971 and early 1972, by allegation of taking revenge from Iran who occupied the 3 Gulf islands, 40,000 to 50,000 Kurdish citizens were deported to behind (Shatt Al-'Arab), where it had been identified later on that most of the deportees are Kurdish Fayli. On 1973 Feb and March, thousands of Kurdish Izdiyyin were relocated and at the end of the same year, Kurds were accused of sabotage acts over general establishments in the north and affiliation to Iran. The aircrafts raided back, widening the scope more and more until reaching, in 1974, a total war striking Zakhu and Qal'at Dizah extensively, dislocating hundreds of thousands of Kurds from villages to cities. Then came the (Algeria Accord) of 1975 March 06, where Shah Iran gave up on Kurds, and the previous regime gave away half of (Shatt Al-'Arab). Here, the army did not slack ...



The President



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