



CRIMES AGAINST HUMANITY

the **TRANSITION**
from **DICTATORSHIP**
to **DEMOCRACY**

Institut kurde de Paris

LIV, ANG. 3768

12/01/2017

510 IRA CRI



المؤتمر الوطني العراقي الموحد
Iraqi National Congress

CRIMES AGAINST HUMANITY

and the

TRANSITION from

DICTATORSHIP to DEMOCRACY

Report Issued

By

The Executive Council of the Iraqi National Congress

Date of Issue: May 25, 1993

Salahuddin, Iraq - London, UK

المؤتمر الوطني العراقي الموحد
Iraqi National Congress

صلاح الدين - العراق

هاتف ٨٧٣-١٥١٤٥.٣ فاكس -١٥١٤٥.٤ ٨٧٣

Salahuddin, Iraq - Tel: 873-1514503 Fax: 873-1514504

Trevor House, 100 Brompton Road, London, SW3 1ER, U.K.

Tel: 4471-5813205 Fax: 4471-5813218

Cover Designed by: Dr. M. S. Rahim

Typesetting & Printing by *Zaid Graphic*, Fax. 071-720 8470, London, UK

CONTENTS



Preamble	5
I Accountability and Amnesty	7
II Violations of Human Rights in Iraq	13
III The Legal Grounds For The Indictments	45
IV The Proposed Indictments	63
V The Proposed Tribunal and the Principles Behind Its Establishment	109
VI The Draft Charter of the International Tribunal For Iraq	115
APPENDICES	
A. Samples of Iraqi Government Documents	133
B. Summary of Reports on Human Rights Violations in Iraq	171
C. Eyewitness Accounts from the International Press	193
D. Audio-Visual Evidence of Human Rights Violations	207
E. Draft UN Security Council Resolution Establishing the International Tribunal	213

Institut kurde de Paris

PREAMBLE

Between June 16-19, 1992, some two hundred Iraqis representing a broad political, ethnic and religious spectrum within Iraqi society met in Vienna to found the Iraqi National Congress (henceforth "the INC"). They came from all over the world--northern Iraq, neighboring countries like Iran and Syria, Europe and the USA. Over the course of four intensive days of heated discussion and debate, these Iraqis elected an 87-person "General Assembly" which in turn voted into existence an "Executive Committee" mandated to implement the decisions of the General Assembly.

At that founding conference, the General Assembly of the INC resolved to establish in Iraq a "constitutional, parliamentary, democratic order based upon political pluralism and the peaceful transfer of power through elections based upon the sovereignty of law."

The Vienna Congress also resolved that during the transition from dictatorship to democracy a transitional government must "work during a time period of not more than one year," to carry out a number of urgent tasks. Among these is "presenting those accused of crimes against the people before proper legal courts in which their right to self-defense is guaranteed." It went on to make the

restriction that only the "higher decision makers and most responsible authorities in the existing regime" should be tried in this way.

In a separate resolution, the General Assembly of the Vienna conference also voted into effect a resolution which called upon "the relevant international agencies to try Saddam Hussein and his associates." The INC also appealed to the international community, and the United Nations Security Council in particular, to begin establishing the process by which the trial could take place. It was resolved to support in every way possible the European initiative then underway to bring the Iraqi regime before an international court for what the conference called the regime's "crimes against humanity."

These resolutions, along with all other resolutions of the Vienna Congress, were once again ratified and re-adopted in Salahuddin, northern Iraq, on October 27-31, 1992, during the second conference of the General Assembly of the INC. At this conference, the INC had grown to embrace individual democrats and virtually all established organizations and currents within the Iraqi opposition. Of particular note in Salahuddin was the recommendation carried by the expanded General Assembly for the issuance of "a general pardon to all members of the Iraqi armed forces with the exception of the small leadership group around Saddam Hussein."

In the transition from dictatorship to democracy, the problem of justice looms very large. This report, entitled "Crimes Against Humanity and the Transition From Dictatorship To Democracy," has been prepared by the INC's Executive Council in fulfillment of all the previously mentioned resolutions and as a concrete elaboration of the forms that justice ought to take if the people of Iraq are going to be spared even more suffering than they have already endured.

ACCOUNTABILITY AND AMNESTY



There are crimes that are so serious as to mandate universal enforcement, jurisdiction, and responsibility. These are what the legal profession calls *crimen contra omnes*, "crimes against all." Such crimes have been committed inside Iraq on a large scale since July 1979, following the accession of Saddam Hussein to the Presidency of the Republic in a bloody purge of the upper echelons of the Ba'th Command.

If such crimes are to be left unpunished, a terrible injustice will have been perpetrated upon the survivors of these crimes, along with their families. The suffering of the victims will not have been honored and redeemed by Iraqi society at large. This is bound to leave a legacy of bitterness and pain that will live on to haunt the Iraqi body politic for generations to come. The welfare of the victims, and of future generations of Iraqis, demands that justice be done and be seen to be done.

On the other hand, the nature of the Ba'thist system is such as to have made very large numbers of people complicit in the perpetration of these crimes. Tens of thousands of Iraqis were either willing or unwilling participants in what was done to other Iraqis during the 1980s and 1990s. Very large numbers of people informed on one another or stood

by while their neighbors were humiliated, imprisoned, abused, deported, tortured, made to "disappear" and killed in countless horrible ways. Virtually every adult male has had to serve long terms in an army that has consistently brutalized both its own soldiery and ordinary Iraqi citizens. The multi-layered, highly secretive security organizations regularly employed hundreds of thousands of people to watch over, police, and abuse individuals in a variety of ways. According to one calculation, one-fifth of the economically active labor force in 1980 (677,000 people) were institutionally charged with one form or another of violence (whether "policing", "defending" or "controlling" the society at large). If this was the picture on the eve of the Iraq-Iran war (before the decision to go to war with Iran had been made) one can imagine the extraordinary state of affairs that has developed after twelve more years of this kind of dictatorship and two grueling wars. Many, if not most Iraqis, are simultaneously victims and victimizers. In these extraordinary circumstances, the collective interest of all Iraqis cannot possibly translate into the prosecution of everyone who is in fact guilty.

In asking the Security Council to appoint a special international tribunal to try the Iraqi leadership named in this report, the INC is principally and above all looking to the future of Iraq. It is interested in channeling the legitimate grievances of large numbers of Iraqis into judicial procedures of due process so as to avoid personal acts of revenge which could slide the country towards a situation of anarchy and breakdown in the transition period from dictatorship to democracy.

A. The Terms of the Amnesty

The other side of punishment is forgiveness. Unlike vengeance, and like punishment through due process, forgiveness can put an end to the cycle of violence which otherwise will go on forever. At the same time as it is calling for certain key individuals to be held accountable for what has happened in Iraq since July 1979, the INC

commits itself to a general and irrevocable amnesty for all Iraqi officials and army officers not named in this report or not indicted formally by the Tribunal, once established. Such an amnesty announced by the Kurdish organizations on the eve of the Iraqi uprisings of March 1991 won over to the side of the rebellion virtually all the Kurdish auxiliary units inside the Iraqi army (otherwise known as the Jahsh forces). The INC wants to follow that successful precedent with a view to isolating those individuals responsible for leading, organizing, instigating or participating in the formulation or execution of plans to commit grievous abuses of human rights in Iraq since July 1979, the date of Saddam Hussein's ascension to the presidency of the Republic. Specifically, this amnesty is a promise that those not listed in this report or not indicted formally by the Tribunal will not be held accountable by the Iraqi National Congress, or any future government in Iraq that might evolve out of the INC, for crimes that these individuals may have committed in the past.

Membership in the Ba'th party or employment in any branch of the Iraqi government including all branches and divisions of the army, is not in and of itself a crime. Only grievous abuses of the rights of individual Iraqis as defined by various covenants of international law discussed in Section III of this report, titled "The Legal Grounds For Indictment", is deemed by the INC to be a crime.

The all-encompassing amnesty referred to earlier covers all criminal acts against individual Iraqis committed by any army or civilian personnel up to June 1, 1993, the official date of issuance of this report. It does not cover, however, any civil violations which might be legitimately brought against any Iraqi at a later date.

Any Iraqi present or past official, who is not in the list of those charged (See Category A of Section IV), or among those whom the INC wants investigated (See Category B of Section IV), will lose his rights of amnesty if, after the date stated, he commits any major violations of human rights such as those that fall under the jurisdiction of the international treaties and covenants listed in Section III of

this report. Having lost their amnesty, in the manner described, these particular individuals will then be tried either by the Tribunal or by a reformed Iraqi domestic court system. At that point, the INC will consider it proper to open up that particular individual's whole past history of violations in the trial proceedings.

B. The Role of the United Nations During the Transition in Iraq

Over many years in Iraq, state violence has been put in the service of implementing administrative decrees issued by the Revolutionary Command Council (RCC), the highest executive and legislative decision-making authority in the land. All notion of procedure has therefore disappeared -- both in theory and in practice--from the administration of justice in Iraq. Thus the reform of the entire Iraqi legal system promulgated in 1977 excluded from the "people" of Iraq "all persons who take a political, economical or intellectual attitude hostile to the Revolution and its program. The status of these people shall be defined... by the laws and measures taken by the authorities concerned. Revolutionary political consciousness shall play a decisive role in immunizing public opinion towards them."

Such laws have eroded justice as a practice and as a tradition in Iraq. To avoid a slide into anarchy during the transition from such a deformed order, and to further allay the legitimate fears of present and former civil servants of the present regime (both civilian and military) that are not listed in Section IV below nor indicted by the proposed Tribunal, the INC requests of the United Nations to help any incoming new government establish civil authority and quickly rebuild an impartial judiciary that will assure all Iraqi citizens of the due process of law. Such an all-encompassing reform of the legal system of Iraq will be a top priority of the INC.

The great danger during the transition from dictatorship in Iraq is that individuals (and/or groups) with legitimate

grievances, acting alone or as members of self-appointed organizations, will take it upon themselves to wreak vengeance upon those whom they believe have victimized them. This reaction against an original violation does not put an end to the consequences of the original violation. On the contrary it permits the creation of a chain reaction with a terrible self-destructive logic.

Vengeance is not justice. The INC is unequivocally against summary trials and summary executions, and will do everything in its power to stop such actions from taking place. The danger is that such vengeful action could develop a momentum of its own that would be detrimental to the future of all individuals inside Iraq and pose a grave threat to the integrity of the country and the unity of the Iraqi state. This danger is the key motivation behind the INC's call upon the United Nations to consider with the utmost seriousness the proposals of this report.

To help in the prevention of further violations in Iraq during the transition, the INC strongly supports the recommendation of Mr. Max van der Stoep, the U.N. Human Rights Commission Special Rapporteur for Iraq, to place human rights monitors throughout Iraq. It believes that every effort should be made to get those monitors in place quickly throughout the country, and in the largest numbers possible. The INC is also committed to keeping those monitors in place after the downfall of the regime, as we believe their presence can play an extremely positive role in checking and tempering the turbulence that may ensue during the transition.

C. A Future Iraqi Human Rights Commission

The INC firmly believes that the truth is the single greatest protection against the future recurrence of violations in Iraq. A general amnesty to violators from the Ba'ath regime should not be taken to mean that the truth about those violations is going to be concealed from the people of Iraq. The precise opposite is our intention. Following the

successful example of countries like Uganda in 1989, the INC is committed to founding an Iraqi Human Rights Commission in Baghdad as a matter of the highest priority in the wake of the fall of the Ba'thist regime. It will be the duty of this Commission to hear and record testimony and to investigate and chronicle the abuses that were committed by government security forces throughout the 1980s. The purpose of these hearings will be to understand the past and to absorb it internally. We believe Iraq's recent past must become forever fused into the country's collective memory. Only then can there be a new beginning.

Institut kurde de Paris

II

VIOLATIONS OF HUMAN RIGHTS IN IRAQ

Since Saddam Hussein became President in 1979, the regime in Iraq has compiled one of the worst human rights records in the world. Hundreds of thousands of Iraqis have died at the hands of their own state since that time.

The crimes of the Iraqi regime are a matter of public record, documented in a large and constantly growing body of sources. This summary is not intended to be exhaustive; it will merely sketch the broad outlines of the Ba'athist Government's crimes and show the extent of their assault on all aspects of civility in Iraq.

A bewildering variety of techniques have been used by the Iraqi regime in its attempt to eradicate differences and mold the social fabric in its own image: public executions, mass murder, mass deportations of unwanted citizens, internal population transfers, confiscation of property, arbitrary arrest and detention, large-scale disappearances, extra-judicial execution, collective punishment, torture on a routine basis, institutionalized rape, and the purposeful engineering of the humiliation of individuals and groups.

The regime has engaged in genocide, including the use of chemical weapons, against its Kurdish citizens. In addition, the Ba'ath has launched and waged aggressive wars against

two of its neighbors, Iran and Kuwait. In both of these wars, Iraq violated the international rules of warfare on a massive scale. Since the beginning of Saddam Hussein's rule in 1979, the Ba'ath have waged what amounts to a permanent internal war against its own people. That war began with Saddam's purge of the high leadership of the Ba'ath party in the month after his rise to power and continues to this day.

Five discrete phases can be distinguished in Ba'athist violations of human rights in Iraq:

Phase One: Before the Iran-Iraq War (July 1979 - September 1980).

Phase Two: During the Iran-Iraq War (September 1980 - July 1988).

Phase Three: Between the Iran-Iraq War and the Invasion of Kuwait (July 1988 to August 1990).

Phase Four: From the Occupation of Kuwait through the Gulf War (August 1990 to February 1991).

Phase Five: Following the Gulf War - The Uprising and After (February 1991 - Present).

In this section of the report we highlight, in approximate chronological order, some of the worst violations since 1979 for which there is irrefutable evidence.

A. Phase One : Before The Iraq-Iran War

(1) The Ba'ath Party Leadership Purge in July 1979.

Within a month of his accession to the Presidency in 1979, Saddam Hussein secured his power with a thorough and bloody purge of the Arab Ba'ath Socialist Party hierarchy, starting with the Revolutionary Command Council (RCC). The families of around one-third of the members of the RCC, the Regional Command of the Ba'ath Party and the National Command of the Ba'ath Party were held hostage,

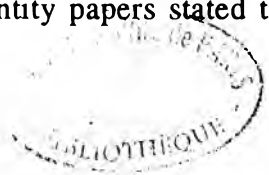
while the officials were forced to continue to sign papers and make public appearances. Reports put the number of executions of high-ranking Ba'athists at around 500 by August 1979. The purge had all of the trappings associated with totalitarian spectacles — show trials, videotaped confessions, tearful secret speeches. The climax came when Saddam succeeded in forcing those high officials in the Party and government who were not being purged to show their loyalty to him by themselves forming the actual firing squads. By murdering their one-time colleagues, all of whom were being accused of fictitious crimes, these men bound themselves to Saddam through complicity in the murders. This technique was to become a hallmark of the regime in the years to come.

(2) Forcible External Deportations

The Iraqi regime began its policy of forcibly expelling large numbers of citizens well before Saddam Hussein came to power. The Ba'athist Government's crude notions of Arab identity reduced large segments of bona-fide Iraqis to the status of "foreigners" in their own country.

The deportation of Shi'ite Iraqis to Iran began in 1971. People who held Iranian passports were the first to be expelled, even though their families had been in Iraq since Ottoman times and spoke Arabic as their native tongue. The Ba'ath deported as many as 80,000 men, women and children in this first wave of expulsions, many of them Shi'ite Kurds. The regime focused the campaign on a handful of poor neighborhoods in Baghdad: Qanbar 'Ali, al-Qishla, Bab al-Shaykh, Gahwat Shakr, al-Khulani and Agd al-Akrad. After the initial round of deportations, the campaign lost momentum and may even have stopped.

Following the July 1979 purge, the campaign of expulsions began with renewed intensity. On April 6, 1980, the first victims of this expanded effort were driven across the Iranian border. Every day, government trucks carried as many as five to six thousand people to the Iranian border and dumped them there. The expulsion effort expanded to include all Iraqis whose identity papers stated that they



were “of Iranian origin” — though the classification was little more than a relic of arbitrary Ottoman census techniques. It is possible that as many as four hundred thousand Iraqis “of Iranian origin” had been deported by the mid 1980s. The Iranian government, which received most of the deportees, stopped counting them after the numbers reached 165,000. In addition to those forcibly expelled by the government, many fled the country to avoid expulsion. An estimated two million Iraqis today still have Iraqi nationality papers with the designation “of Iranian origin” and are thus under constant threat of expulsion.

B. Phase Two : During The Iraq-Iran War

The regime of violence inside Iraq quickly spread outside its international boundaries. Shortly after Saddam came to power, the Iraqi army invaded Iran, precipitating the Iraq–Iran War. When the initial Iraq thrust failed to produce a quick victory, the war settled into a slow pattern of slaughter that was to consume hundreds of thousands of Iranian and Iraqi lives during eight grueling years. The exact number of dead will never be known. Iraqi actions during the war revealed the Iraqi Government's total disregard for the international rules governing warfare. The war also created a sense of crisis in the minds of the Iraqi leadership, which led it to increase its suppression of Iraqi society and to begin a massive genocidal campaign against the Kurds.

In addition to the initial invasion--a clear act of aggression and a crime against peace--the Iraqi regime committed a large number of offenses during the eight years of the war. The regime employed chemical weapons in its offensives against Iran, despite the fact that the use of these weapons is forbidden by many international conventions, to which Iraq is a party. The Iraqis also made indiscriminate attacks on Iranian population centers using missiles and aircraft; the Iraqi Armed Forces also forcibly deported large number of Iranian citizens to Iraq. Both these acts were in

clear violation of Geneva IV. Moreover, captured Iranian soldiers and non-combatant medical personnel were subjected to abuse and torture, in violation of Geneva III.

Within Iraq, the war saw an escalation in the violence that the Ba'athist government inflicted on its own citizenry. The organs of state repression grew more and more brutal as the war ground on. Such violations came to a climax in the genocidal campaign against the Kurds, labeled "Operation Anfal"; the early stages of which began in 1987. (See Subsection B (7) below). This operation involved internal deportations on a massive scale, the employment of chemical weapons against civilian Kurdish targets and the bureaucratically organized mass murder of noncombatant citizens.

(1) The September 1980 Invasion of Iran

The Iraqi invasion of Iran constituted a breach of the widely accepted international prohibition against aggression. This prohibition, embodied in Article 2(4) of the Charter of the United Nations, requires that all states "refrain from the use or threat of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." The Iraqi claim that the invasion was a measured and proportionate response to alleged Iranian provocations (including support for the Da'wa party in Iraq and shelling of border towns), is not accepted by legal scholars. Informed legal opinion, almost unanimously, agrees that the Iraqi invasion of Iran was a violation of the Charter of the United Nations as well as customary international law, therefore constituting a crime against peace.

(2) Use of Chemical Weapons During War

In the course of the war, the Iraqi regime used chemical weapons against Iranian military targets in clear violation of the Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases. Substantial evidence gathered by the United Nations and by other bodies leaves little doubt that Iraq employed chemical

weapons in its war effort on a consistent basis. As early as 1985, United Nations inspectors had gathered firm evidence that Iraqi units had used gas in their attacks on Iranians.

(3) Indiscriminate Bombardment of Iranian Civilian Targets

Customary international law as embodied both in Protocol I of the Geneva Conventions and Resolution 2444 of the United Nations General Assembly, forbids indiscriminate attacks on the civilian populations of belligerent states. States are not permitted to launch attacks which are “not directed at a specific military objective” or “which employ a method or means of combat which cannot be directed at a specific military objective.” Iraq regularly engaged in indiscriminate bombardment of Iranian cities with artillery, aircraft and ballistic missiles. Especially in the latter case, these attacks were not aimed at specific military targets but were intended to terrorize Iranian citizens and disrupt their lives. Customary international law does not recognize the right of reprisal in such cases, and so Iraq's claim that Iran may have engaged in such indiscriminate bombing and so Iraq's actions were authorized is unfounded.

(4) Mistreatment of Prisoners of War

Iraq engaged in large-scale abuses of the rights of Iranian prisoners of war. Iraq failed to register large numbers of prisoners of war with the International Committee of the Red Cross (ICRC), as it is required to do under Geneva IV, which Iraq ratified, accepted and approved without qualifications on February 14, 1956. The Iraqi government also held Iranian prisoners of war long after the cessation of hostilities with Iran, a clear violation of Geneva III, which Iraq also ratified, accepted and approved without qualification on the same date. Only after its invasion of Kuwait did the Ba‘thist regime repatriate its Iranian prisoners of war, returning at least 70,000 according to ICRC figures. The Iraqis are also accused of wrongfully detaining Iranian civilian personnel, especially doctors associated with the Red Crescent, and with torturing and

otherwise mistreating Iranian prisoners of war.

(5) Deportation of Iranian Citizens

The Government of Iraq also violated Article 49 of Geneva IV which forbids “[I]ndividual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power.” The Iraqi army forcibly relocated large numbers of Iranian citizens residing in the Kurdistan and Khuzistan provinces of Iran into Iraq in clear violation of this norm of international law. Iraq admitted in 1988 that its armed forces had relocated 55,000 Iranians, mostly Kurds and inhabitants of the Khuzistan region, into camps in Iraqi territory.

(6) Escalating Internal Repression In Wartime

The war with Iran led to a drastic worsening of the human rights situation in Iraq. The limited rights available to the Iraqi people before the war disappeared altogether under the attacks of the security apparatus. The number of extralegal political killings escalated dramatically and torture, already common, became routine. The number of individuals who disappeared in the hands of the security services also grew, as did the number of those arbitrarily arrested or exiled. The Iraqi legal system ceased to provide any measure of due process and civil liberties vanished entirely.

(7) The Anfal Campaign

It has long been known that the Kurds who inhabit northern Iraq have, over the years, suffered greatly at the hands of various regimes in Baghdad. Since 1968 in particular, the story of Iraq’s Kurds has been in large part one of paper concessions from the government (promises of increased representation, agreements to further autonomy) followed by foot-dragging, backsliding, betrayals—and then “resettlement,” “arabization,” and “deportations” all of which entailed the constant redrawing of boundaries, and the razing of towns and villages (like the village of Dokan on August 8, 1969, and the attacks on

Zakho and Qala Diza in March 1974). Now it is necessary to add to this history the systematically organized mass murder of noncombatant men, women and children from Kurdish rural areas between February and September in 1988 in what the Iraqi government itself termed the Anfal campaign.

Beginning in 1975, the inhabitants of villages and towns on the Iraqi-Iranian border found themselves in the position of being "resettled" at a moment's notice—at first with compensation, later without. This strip of frontier was over the years expanded then stretched to include the Turkish frontier. By the mid-Eighties, not only villages in border areas but also those in the oil-producing regions in the heart of northern Iraq were being razed, their inhabitants "resettled." With the 1988 Anfal campaign, all these precedents came to a climax: simply living in an area designated "prohibited for security reasons" (which now extended to virtually all rural areas in northern Iraq, and included incidentally, areas inhabited by Assyrian Christians who are not Kurds) became in itself a death sentence.

The more immediate precedent to the Anfal, according to secret police documents captured by Kurdish organizations during the March 1991 uprising, is the elimination of Kurdish villages which seems to have begun in earnest in 1986. In one such document dated November 26, 1986, the secret police in the city of Sulaimaniyya, working at the behest of the Ministry of the Interior in Baghdad, prepared a list of 663 villages "prohibited for security reasons". A cover report to the list explains that electrical services have been cut off to these villages, all livestock removed, and a total ban on all commercial transactions inside and among the villages put in place. Yet, the author of the report noted, this was not quite enough: "Although the economic blockade is being implemented, some necessary foodstuffs are getting through because the roads leading into the villages are not properly secured. Given the nature of the terrain, there is more than one secondary route and these are virtually open." The report recommends that a tighter blockade be created and enforced.

By 1987, it was clear the government was doing more than tightening blockades - as a ledger seized from a building that once was Sulaimaniyya's Central General Security Directorate Headquarters makes clear. The ledger is entitled: "Registry of Eliminated Villages." In all, 399 villages are listed in this notebook. The dates the villages were "eliminated"--all in 1987--were carefully entered alongside each name, and next to each date were map coordinates pinpointing the exact location of each village. All the villages had been situated in four eastern provinces of northern Iraq. The legal framework for the Anfal campaign was established in a decree, signed by Saddam Hussein dated March 29, 1987; it was issued in the name of the Revolutionary Command Council (RCC), the highest executive and legislative decision-making body of the regime, and it was to take effect immediately. It bestowed upon Saddam's cousin and then Secretary of the RCC Ali Hasan al-Majid -now the Iraqi defense minister (See Section IV: Category A:2)--total control over northern Iraq, including Iraqi Kurdistan. This control extended to "all civilian, military, and security" institutions, and all laws that might conflict with this control were to be suspended "until further notice."

In a letter from the Headquarters of the Bureau for the Organization of the North, 'Ali Hasan al-Majid outlined the goals and methods that the Anfal campaigns would use. The letter, dated June 20, 1987, and addressed to the Headquarters of the First, Second and Fifth Army Corps, is titled "Dealing with Villages of Suspect Security." In it, al-Majid, after asserting that suspect villages have given support to "saboteurs" and Iranians, states that human presence is to be entirely forbidden in these areas and "they are to be considered restricted Zones of Operations--opening fire in these areas will be free and unrestricted." Further, he orders that entry into and exit from the zones be cut off and all agriculture and agricultural investment in the areas cease. Al-Majid orders his subordinates to sweep the forbidden zones and seize everything they encounter. Any males between the ages of 15 and 70 are to be executed immediately. Any Kurds who

surrender are to be handed over to the security services (from other documents we know that they were shot).

Using the powers conferred on him by the March 29, 1987 decree, and in implementation of his own orders of June 20, 1987, 'Ali Hasan al-Majid began "eliminating" villages and testing Iraq's new chemical weapons in the process. The first Kurdish village to be attacked with chemical weapons was Shaikh Wisan in the Balisan valley. It was bombed in April 1987. A whole list of other increasingly brutal attacks--some using chemical weapons, others conventional explosives--followed later on. Kurds fled to the cities and into Iran. However, they were not yet being systematically rounded up and transferred to forts for extermination. That came later. This was still a time of experimentation, of testing out various strategies.

The name, al-Anfal, was not applied to any of 'Ali Hasan al-Majid's operations in northern Iraq before February 1988. A major decision to escalate the levels of violence against Kurdish villages was made sometime in late 1987 or early 1988. That escalation was given the codename al-Anfal. There was nothing secret about the fact that something new was in the works because all through 1988 Iraqis heard over and over again, in all the major government-controlled media, about the "heroic Anfal operations." Most, however, assumed them to be part of the general war effort against Iran.

By its end, the 1988 campaign, al-Anfal, had resulted in the total destruction of 1,276 villages. In total, since 1974, around 3,500 villages have been destroyed (roughly 80 percent of all the rural villages in Iraqi Kurdistan). The hallmark of the Anfal campaign, however, was not this kind of elimination of villages, which had been going on for a very long time now in Iraq. The real hallmark of the operation was the bureaucratically organized, routinely administered mass killing of their inhabitants for no other reason than that they happen to live in an area that was now designated as "prohibited for security reasons." This bureaucratic rationale distinguishes the Anfal campaign from a war crime like Halabja or from the execution of a

Kurd for being a political opponent of the regime, howsoever that might be defined. Systematic organized mass murder of this nature resulting in the deaths of one to two hundred thousand people over a six month period has never happened before in the modern history of Iraq.

A typical Anfal operation is perhaps best described by the regime itself. A letter printed on presidential stationery and marked "Secret and Personal" tells of "2,532 people and 1,869 families" being "captured" during a "heroic Anfal operation" and sent to a "camp," the location of which is not disclosed. The fate of those captured and imprisoned in these so-called "camps" is best told in an audiotape of the proceedings of a meeting of senior army, Ba'th Party, and secret police officers held on January 26, 1989, in Kirkuk, a Kurdish city in northern Iraq. The tape, in the possession of the INC, records Ali Hasan al-Majid saying:

"[T]aking care of them [the captured villagers] means burying them with bulldozers. That's what taking care of them means.... These people gave themselves up. Does that mean I am going to leave them alive? Where shall I put these people, so many of them? So I began to distribute them across the provinces. And from there I had bulldozers going backwards and forwards."

The Crime of Genocide, is defined in the Convention on the Prevention and Punishment of the Crime of Genocide as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group, conditions of life calculated to bring about its physical destruction in whole or in part."

Further, Article III of the Convention on the Prevention

and Punishment of the Crime of Genocide states that genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide and complicity in genocide are punishable offenses under international criminal law.

The campaigns the Iraqi government undertook against the Kurds clearly constitute genocide.

(8) Property Confiscation and Internal Deportations

Even before the Iran–Iraq War, as we have seen, the Ba‘thist government had pursued a strategy of forcibly resettling its citizens, especially in northern Iraq. With the coming of the war, these policies expanded, until by the end of the war, they had reached a massive scale. The Ba‘th imposed arbitrary limits on the amount of property that Kurds could own and began to seize houses and entire villages to displace their populations. In the words of Max van der Stoep, Special Rapporteur of the U.N. Commission on Human Rights:

"The Special Rapporteur has thus received recent reports of houses being demolished in Kirkuk and of the government preventing sowing in nearby and other farming districts. A concerted program of urbanization or "village amalgamation" as the Iraqi authorities called it ... has consequently changed the lifestyles and threatened the culture of the hundreds of thousands of persons affected. Information and testimony received allege a policy aimed at ending the traditional agricultural practices of a large part of the Kurdish population; sowing and cultivation has frequently been forbidden in large areas said to cover up to 75 per cent of the arable land, seeds have been stolen, hundreds of poultry farms closed and explosive mines laid over large parts of the traditional farmland."

The Ba‘thist Government's "village amalgamation" was more than a simple policy of encouraging villagers to leave their homes and take up residence in towns. It was a forcible attempt to destroy Kurdish agriculture and

autonomy. An order promulgated by Ali Hasan al-Majid on June 3, 1987 shows the full dimensions of this policy. The orders outline a campaign to destroy the agricultural base of Kurdish life in the countryside and eliminate the Kurds' economic self-sufficiency. To force Kurdish villagers out of their residences, the order declares that:

1. Foodstuffs, persons, and machines are strictly prohibited from entering villages in the prohibited security zone which are covered in the second phase of the village amalgamation....
2. No one is allowed to be in phase 1 prohibited villages, nor in phase 2 villages until 21 June 1987.
3. The winter season for harvesting should end before 15 July. Agriculture should not be allowed to continue for the coming summer and winter periods.
4. Animal husbandry is also prohibited in these areas.
5. The military forces, within their respective sectors, have a duty to kill any person or animal found in these areas, to which access is strictly prohibited.
6. The persons covered by this decision shall be notified of their relocation to gathering centers. They shall be held responsible for non-compliance."

The Ba'athist Government's policy of deportation and forcible village amalgamation affected as many as one million Kurds. It also brought their traditional economy and culture under threat. A large percentage of the Kurdish population of Iraq was deported from its traditional residences. The Special Rapporteur of the Commission on Human Rights estimates that 219,828 Kurdish families were deported during the Ba'athist Government's rule in Iraq. Most of these deportations-- often integrated into the process of village amalgamation --took place during the Iran-Iraq War. The policy of village amalgamation constituted one element of the Ba'athist Government's genocidal campaign; it coincided with other elements as

well, including an effort to destroy the physical infrastructure of Kurdish areas of Iraq by demolishing Kurdish villages.

(9) Destruction of Villages

The buildings and institutions of the villages of northern Iraq were also targets of the Ba'th's genocidal campaign. In addition to relocating Kurds to amalgamated villages, the Ba'th intended to destroy the economic basis of their culture and make it impossible for them to maintain any degree of autonomy or identity in Iraqi society. Destroying the physical infrastructure --roads, schools, buildings, mosques, churches, wells, and other facilities vital to daily life --that formed the basis of Kurdish culture was an integral part of the Ba'th's attack on the Kurds. One independent source has estimated that the Anfal operations caused the destruction of 1,276 villages. Iraqi government policies before the Iran-Iraq War had destroyed as many as 1,200 more. The grand total of villages destroyed during the course of the Ba'th's rule in Iraq may reach 3,500. This translates into approximately 80 percent of all the rural villages in Iraqi Kurdistan. Mr. Max van der Stoep, the Special Rapporteur of the U.N. Commission on Human Rights, asserts that the number of destroyed villages may reach 3,829. According to figures in his report, the elimination of these villages involved the demolition of "1,757 schools, 2,457 mosques and places of worship and 271 hospitals and clinics." This consistent policy of destroying the institutions and facilities that make life possible in the Kurdish regions of Iraq form part of the Ba'th's genocidal campaign against the Kurds and represent a clear violation of Article II(c) of the Convention on the Prevention and Punishment of the Crime of Genocide which forbids "deliberately inflicting on the [national, ethnic, racial, or religious] group, conditions of life calculated to bring about its physical destruction in whole or in part."

(10) Employment of Chemical Weapons Against Noncombatant Iraqi Civilians

The Ba'ath also employed chemical weapons against Iraqi Kurds during the Iran-Iraq War in clear violation of the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions of 1949, and the Geneva Gas Protocol of 1925. Iraq also used chemical weapons extensively against Iranian soldiers during the Iran-Iraq War. As the war continued, it also increasingly targeted Kurdish civilians with chemical weapons.

The most widely documented case of the employment of chemical weapons against Kurdish noncombatants is the attack on the Kurdish town of Halabja which took place on March 16, 1988. During an engagement with Iranian forces, Iraqi air force elements dropped bombs containing cyanide, mustard gas and nerve gas on the town of 70,000. At least 4,000 civilians died; 10,000 or more suffered injuries. Halabja was neither the first nor the only Kurdish town bombarded with chemical agents. The first chemical attack on Iraqi Kurdish noncombatants occurred at Shaykh Wisan, a village in the Balisan valley, during April 1987. A former member of the Iraqi army intelligence, then stationed at the Republican Hospital in Arbil, described the results of this particular attack as follows:

"Local people brought them to the Republican Hospital in private cars. The number of casualties was more than 380, old men, women, children, all affected by chemical weapons. They put them in a big ward and the government ordered the doctors not to treat them. They just kept them under supervision and they forbade anyone contact with them. They remained one day in that hospital and the second night they took these people to prison, a big building also in Arbil. They remained there for a few days and afterwards they took them to an unknown place. There was a guy who lived close to the prison who says he saw these people taken out at night and buried alive."

Another Kurdish settlement destroyed by chemical attack was the village of Guptapa. The village was bombarded by chemical bombs dropped from aircraft of the Iraqi Air Force on 3 May 1988, before the end of the Iran–Iraq War. ‘Abdallah ‘Abd al–Qadir, a chemist and secondary school teacher native of the village, survived the attack and provided this description of its progress:

"Two inspection planes flew over. They threw out flares to determine the direction of the wind. Then another group of planes came, we think about 18 of them. These were divided into three groups, one of which was directed at our village, Guptapa, and the other at the nearby village of ‘Askar. The third group of planes headed for an area where peshmerga lived. Eight planes were intended for Guptapa.... They circled twice and came back the third time to bomb the village.

The explosions were not very loud, which made me guess they were chemical bombs. When we raised our heads we saw the sandy brown and gray clouds billowing upwards. My background as a chemist left me in no doubt this was a chemical attack.

We climbed to the highest spot possible even though the wind was taking the gas away in the opposite direction.... [‘Abdallah then entered the town of Guptapa to locate members of his family]

The poison gas used in Guptapa in my opinion wasn't a single gas; it was composed of several gases. The combination affect the muscles, making them rigid and inflexible. In two minutes it can kill a person....

Then I went around our house. In the space of 200-300 square meters I saw the bodies of dozens of people from my family.

I saw one of my brothers; his head was tilted down a slope. My wife was still alive beside him and my other brother was on the other side. My two daughters, the 6-month old baby and the 4-year-old,

were on either side of my wife and they were both dead.... They were both dead. I tried to move them, to shake them. There was no response. They were both dead. I just knew they were dead.

My brothers and my wife had blood and vomit running from their noses and their mouths. Their heads were tilted to one side. They were groaning. I couldn't do much, just clean up the blood and vomit from their mouths and noses and try in every way to make them breathe again. I did artificial respiration on them and then I gave them two injections each. I also rubbed creams on my wife and two brothers."

These attacks were not isolated incidents. They were part of a pattern of indiscriminate and genocidal attacks against Kurdish noncombatants in Iraq during the Iran-Iraq War. These attacks were intended to eliminate Kurdish autonomy and to destroy sources of support for the Kurdish guerrilla forces opposing the Iraqi government.

(11) Mass Murder

The Iraqi government has orchestrated numerous mass killings of soldiers it accused of desertion and of Kurdish civilians during the Iran-Iraq War. In the absence of full access to Iraqi government records, it is impossible to establish exactly how many Iraqis have been killed in this way over the years. Moreover, it is hard to distinguish between those who were killed during the Anfal campaign and mass killings done for other reasons. However, the mass graves that are every day being discovered in northern Iraq are slowly but surely adding to our knowledge of these killings.

Kurdish organizations have compiled lists of names of Kurds who were detained by the government and whose whereabouts are unknown at present. The number of Kurds named on these lists reaches into the tens of thousands. Leading Kurdish organizations assert that as many as 182,000 Kurds may have disappeared into government custody -- most of whom were executed -- in this phase alone.

Investigations by the United Nations have uncovered incontrovertible evidence that the Iraqi government performed mass executions as a consistent matter of policy. A grave digger who worked in Sulaimaniyya in the Kurdish area of Northern Iraq made the following statement:

"I must have buried 600 or maybe up to 1,000 people — all killed by the secret police between 1985 and 1989. Sometimes they were peshmerga, sometimes women, sometimes children. Sometimes they'd been tortured. There were other grave diggers but I'm sure I buried most of them."

A grave digger from Arbil reported the arbitrary execution of 19 Kurdish students in retaliation for an attack on the Governor of Arbil in the autumn of 1986. The men were "randomly rounded up and shot by a firing squad," according to the morgue workers with whom the grave digger worked. Other accounts as well corroborate the evidence that the Iraqi regime engaged in mass executions as a matter of policy both within and outside the Kurdish areas of Iraq during the Iran–Iraq War.

C. Phase Three : Between The Iran-Iraq War And The Invasion Of Kuwait

The end of the Iraq–Iran War led to an escalation of the Ba'athist Government's campaign against the Kurds. In the absence of an Iranian military threat, the Iraqi government had more resources available for its campaigns against the Kurds. The Anfal operations, detailed above, reached a peak immediately after the end of the war. They also underwent a qualitative change. Whereas previously the operations had concentrated on the destruction of the basis of the economic and cultural basis of Kurdish life, now Iraqi planners aimed at nothing less than the physical elimination of large sectors of the Kurdish population. The massacres and disappearances of the final Anfal operation, known as Khatimat al-Anfal, or "The Final Anfal,"

surpassed in scale any of the previous government attacks on the Kurdish community in Iraq. These attacks constituted an attempt to destroy --in part at least, perhaps in whole --the Kurdish community in Iraq by deportation, chemical attack and mass murder. The outrages against the Kurdish community were accompanied by the continued denial by the Iraqi regime of the most basic human rights of its citizens.

(1) Khatimat al-Anfal

Immediately after the cease-fire with Iran was signed, the Iraqi government began an offensive aimed at destroying the Kurdish national parties and resolving the political issue of Kurdish autonomy by destroying, in whole or in part, the Kurds themselves. The government offensive against the Kurds began with a conventional military offensive to regain Kurdish-inhabited areas of Iraq that had fallen under control of Kurdish parties during the war. In the course of this campaign, the government forces employed chemical weapons on a massive scale, attacking 65 Kurdish villages with them and driving 100,000 Iraqi Kurds into refugee camps in Turkey and Iran. Government forces acted with extreme cruelty during these offensives, often massacring non-combatant Kurds in large numbers.

The government also began to organize the mass murder of large numbers of Kurds at remote sites in the desert along the Saudi border. An undetermined number of Kurds who came under the control of government forces during the offensives that followed the end of the war were transported to a number of locations in the southern part of Iraq, murdered by machine-gun fire, and buried in mass graves. While it is impossible to determine exactly how many Kurds died in these massacres, 'Ali Hasan al-Majid confessed in negotiations with Kurdish leaders after the uprisings of 1991 that the number of Kurds murdered in the Anfal operations "couldn't have been more than 100,000."

The accounts of participants in and victims of these massacres indicate that they formed part of a consistent

government policy whose object was killing members of the Kurdish ethnic group with the intent to destroy that ethnic group, in whole or in part. As such, these attacks constitute the elements of the Crime of Genocide.

An eyewitness account of one such massacre is given by a Kurdish boy who managed to survive a massacre in August 1988; it provides a strong impression of the extreme cruelty of this Iraqi government policy:

• When they opened the door of the lorry, what was the first thing you saw?

The first thing I saw was the pits, dug and ready....

• How many pits did you see?

It was night, but around us there were many.

• Four or five holes?

No, no, it was more.

• More than five, six, seven holes?

Yes, yes.

• Describe your pit.

The pit was like a tank dugout. They put us in that kind of a hole.

• They pushed you directly off the truck into the pit?

Yes....

• How many people were put inside?

One pit to every truck.

• And how many people were in a truck?

About one hundred people....

• Was it cut very precisely by a machine?

By bulldozers as you would make a pit for a tank....

- Soldiers were surrounding the whole grave?

Yes....

- And how many men were circling around the grave?

They were all around, but only two soldiers were doing the shooting.

- The shooting started after you were all inside the grave?

Yes.

- Can you describe it?

The shooting.... There were two soldiers, standing here and there [he marks out their locations on the ground, as being at opposing corners of the pit]. We sat in the pit, and they fired bullets at us.

- Were the people with you inside the hole saying anything?

Nothing.

- Was anyone protesting? Did anyone shout out or try to run away, or do something against the soldiers?

No, nobody did anything.

- You just wanted to die and get it over with.

Yes."

(2) Continued Human Rights Violations

The Kurds were not the only Iraqis affected by the government's repressive policies. Although the end of the Iran-Iraq War caused the Ba 'thist government to announce some moves toward increasing popular participation in politics and better respect for individual rights, there was no substantial improvement in the human rights situation in Iraq. Torture, arbitrary arrest and imprisonment, and extra judicial executions remained common in Iraq despite the

end of the war. The United Nations, Amnesty International, and Middle East Watch have documented a large number of cases of torture and denial of due process during this period.

One of the most egregious of these violations involves the case of an Iraqi army medical corpsman who covered a corpse in the street. The security forces interpreted this act as a sign of support for the insurgents and charged the medic with harboring Communist sympathies. He was taken to Baghdad where he was threatened with the rape of his sisters if he did not confess to the charges against him. When his two sisters were exhibited before him, he agreed to confess and went to prison.

The use of the threat of rape to force a confession in this case is not an isolated incident. Iraqi security forces often employ rape or the threat of rape in their operations; the threat is applied either to women themselves or to their relatives. Videotapes made by the security forces themselves confirm the use of rape in interrogations. One ghoulissh videotape records interrogators playing cards on the dead body of a woman they have recently raped and murdered.

Available evidence makes it abundantly clear that the Iraqi state violated both Iraqi and international law during this period. Both the Iraqi Constitution and the Code of Criminal Procedure forbid the use of torture, and Iraqi law includes provisions for due process. The use of torture also violates numerous widely-accepted international conventions, including the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These violations were not confined to the Kurdish citizens of Iraq; they extended to cover the entire Iraqi population.

3. The Case of Farzad Bazoft

On 15 September 1989, the Iraqi government arrested Farzad Bazoft, a journalist of Iranian Kurdish extraction who carried British travel papers. Bazoft had previously visited an Iraqi military facility at Iskandariya and taken

soil samples; the facility carried on research related to Iraq's ballistic missile program. The Iraqi intelligence services accused Bazoft of spying on behalf of Israel and Britain and, on 10 March 1990, after a summary trial in front of a kangaroo court, he was sentenced to hang for the crime of espionage. Despite repeated appeals for clemency from Britain and the Western countries, the Iraqi government remained obdurate in its insistence on the execution. On 15 March 1990, the Iraqi government hanged Farzad Bazoft, claiming that it had acted in accordance with Iraqi law in trying and convicting an agent of foreign intelligence services.

D. Phase Four: From The Invasion Of Kuwait To The Gulf War

A few months after the execution of Bazoft, the Ba'hist government committed a second crime against peace by invading and annexing the sovereign state of Kuwait, a state member of the United Nations and of the Arab League. The Iraqi invasion of Kuwait is entirely unjustifiable on grounds of self defense. The invasion, combined with the later annexation of Kuwait, constitutes a crime against peace and a violation of Article 2(4) of the United Nations charter which forbids "the use or threat of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." During the occupation of Kuwait and the Gulf War that followed it, the Iraqi government committed a number of crimes against humanity including violations of the Geneva Conventions of 1949 both with regard to treatment of hostages and prisoners of war and with regard to its behavior in occupied Kuwait.

(1) The August 2, 1990, Invasion of Kuwait

The invasion of Kuwait itself constituted a crime against peace and a clear violation of Article 2(4) of the United Nations Charter. The Iraqi regime invaded Kuwait with the

intent of destroying the sovereignty of the Kuwaiti state and incorporating the territory of that state into Iraq. The invasion represented, in the language of Article 2(4), “the use... of force against the territorial integrity or political independence of [a] state.” The Iraqi government has never advanced the argument that its invasion of Kuwait was in response to an imminent Kuwaiti military attack on Iraq; it therefore cannot argue that its attack on Kuwait constituted self-defense. In this context, the Iraqi invasion constitutes aggression and a crime against peace.

(2) Other War Crimes

The Iraqi seizure of Western hostages and mistreatment of prisoners of war represented violations of customary international law and of the Geneva Conventions of 1949. The Iraqi government, while it never admitted the illegality of its action in detaining foreign nationals as “guests,” did make a de facto acknowledgment of the illegality of its action by releasing the vast majority of its civilian “guests” before the commencement of hostilities. Iraqi treatment of prisoners of war during the Gulf War violated the Convention Relative to the Treatment of Prisoners of War. It is a widely-recognized offense under international law to torture or otherwise mistreat prisoners of war. Accounts of captivity submitted by American and British airmen make it clear that the Iraqis violated the prohibition against torture and excessive interrogation. The Iraqi government also violated the Convention by exhibiting prisoners of war before television cameras.

(3) Occupation Crimes

After violating the accepted international norm against aggression by its invasion of Kuwait, the Iraqi government proceeded to violate almost every international norm governing the behavior of military forces in occupied territory. The Iraqi occupation forces in Kuwait violated the established provisions of international law on a massive scale. These norms are embodied primarily in the Convention Relative to the Protection of Civilian Persons in Time of War, one of the Geneva Conventions of 1949.

The Conventions contain prohibitions against:

- violation of the persons, honor, family rights, religious convictions and practices, manners, and customs of peoples under occupation
- rape, enforced prostitution and indecent assault
- coercion — including torture, medical experimentation, and all other forms of brutality
- arbitrary arrest and extra judicial punishment
- pillage
- hostage-taking
- individual or mass forcible transfers.

Iraqi forces in Kuwait violated every one of these prohibitions.

'Ali Hasan al-Majid, the individual who supervised the Anfal operations in the Kurdish areas of Iraq, supervised a policy aimed at the destruction of the Kuwaiti polity and the elimination of Kuwaiti culture. Kuwaitis were deprived of any rights to free expression and association they had possessed under the Kuwaiti government. The Iraqis also extensively requisitioned and occupied Kuwaiti homes and businesses without military justification. Further, the Iraqi authorities made publishing and the production of video tapes or films illegal. Kuwaitis were required to accept Iraqi identity papers and automobile registrations and the Kuwaiti currency was exchanged at artificially low rates and then replaced by the Iraqi dinar. These actions constitute attempts to alter the manners and customs of Kuwaitis and are forbidden under the Geneva Conventions as they apply to territories under occupation.

During the occupation of Kuwait, Iraqi forces used rape and torture as interrogation techniques. The Maternity Hospital in Kuwait treated 65 women for injuries sustained in rape, of whom 37 were pregnant. Kuwaiti sources estimate that as many as 1,000 women may have suffered

rape at the hands of the Iraqi occupying forces --though they admit that this figure may well be an underestimation. Women are unwilling to report rapes in a society as traditional as Kuwait's and so it is impossible to reliably estimate the number of rapes that occurred. Amnesty International has compiled a number of individual accounts of rapes at the hands of Iraqi occupation forces, including the case of:

"A Jordanian girl aged about 20 [who] was raped by five Iraqi soldiers. She told me that they had abducted her when she left her building to go to the grocers. They abducted her, raped her and then threw her onto the street....I examined her and found her vagina swollen from extensive penetration. She was also scratched and bruised on her face, back and hands."

Women were not the only victims of Iraqi abuses. Iraqi torture of Kuwaitis is well documented. Methods used included beatings, falaqa (beatings administered to the soles of the feet), suspension from the ceiling, breaking of limbs or ribs, removing fingernails and toenails, gouging out eyes, shooting to wound, electric shocks, burns, acid baths, mock executions, sleep deprivation, and psychological tortures --which included threatening to rape or torture relatives of the prisoner before his or her eyes. These abuses were too widespread to be the initiatives of individual Iraqi officers. They represented an official policy approved at the highest levels.

The Iraqi occupation forces also engaged in collective punishment of Kuwaitis and in extra judicial killing. Iraqi soldiers often swept entire neighborhoods that were suspected of harboring insurgents, often destroying the houses of those they suspected of assisting the insurgents. In such cases, the Iraqis often arbitrarily arrested and executed residents of the area of suspected insurgent activity. On one occasion, after a firefight with Kuwaiti insurgents, Iraqi forces arrested seven men who lived near the site of the engagement. They executed five of them and displayed the bodies in the street for two days. Iraqi

soldiers also routinely killed suspected insurgents in the presence of their families.

Iraqi forces also routinely looted Kuwaiti homes, businesses and hospitals. The pillage was particularly focused on medical facilities: doctors and dentists often found their offices and operating theaters totally smashed. These actions seem to have formed part of an attack on the Kuwaiti medical infrastructure. A Kuwaiti doctor reports that he found his clinic ransacked during the early days of the occupation. On the wall of the facility was a message reading "Dear Kuwaiti Doctors: We are sorry but we are under orders." The Iraqis also looted Kuwaiti food supplies, depriving Kuwaiti civilians of necessary sustenance.

In February 1991, the Iraqi forces began to arrest young men for deportation to Iraq. Nearly two thousand Kuwaitis were arrested in the week before the Iraqi retreat from Kuwait; all but 100 of these were later released and repatriated. Their arrest and deportation, however, constituted a violation both of the provision of the Geneva Convention granting residents of occupied territories the right to due process and the provision forbidding forcible deportations. A substantial number of Kuwaitis are still unaccounted for; they disappeared into Iraqi custody and have not been returned. The Kuwaiti government reported that 2,101 Kuwaitis were still in Iraqi custody in 1991; the Association to Defend War Victims has registered at least 1,182 missing persons. Since the Kuwaiti government now has control over all Kuwaiti territory, any missing Kuwaitis still alive must have been transferred to Iraqi territory.

E. Phase Five : Following the Gulf War - The Uprising and After

The end of the Gulf war coincided exactly with the beginning of the Iraqi uprising against the regime in Baghdad. The uprisings in the Kurdish areas of northern

Iraq and in the Shi'ite areas of the South precipitated a government reaction of such unbelievable excess that all international humanitarian norms must have been violated. In their attempts to suppress the rebellions, government forces engaged in wide-scale mass killings. The suffering of the Shi'ites in southern Iraq was especially intense, since government forces in the North were restricted by the presence of Coalition forces and United Nations observers. After the suppression of the rebellion in the South, the Iraqi government implemented a series of policies aimed at the destruction of the Shi'ite community of southern Iraq. These policies focused especially on religious institutions and holy sites in the cities of Kerbala' and Najaf. The regime, in an operation aptly named the 'Third River Project', also staged a series of attacks on the Shi'ite Marsh Arabs of the South in an effort to reduce support for Shi'ite insurgents in the marshes along the Tigris and Euphrates rivers. Despite the fact that Iraqi government abuses of human rights have been concentrated in the Shi'ite and Kurdish areas of the country, Iraqis who belong to neither of these groups have not been immune to government abuses.

(1) Crimes in Southern Iraq During the Uprising

The rebellion in the Shi'ite cities and marshes of southern Iraq began a week before the uprising in the Kurdish areas. Insurgents --some of whom were deserters from the Iraqi regular army, others of whom were citizens of the areas that revolted --began their revolt in the city of Basra. From there the revolt spread to Najaf, Kerbala', al-Nasiriyya and Kut, among others. The Ba'athist Government responded to the uprising by deploying the remnants of the Republican Guard Force Corps against the insurgents. The actions of the government forces make it apparent that the Iraqi government's goal was both to suppress the insurrection and to eliminate the Shi'ite identity that had made the revolt possible. In addition to massive arrests of suspected insurgents, the Iraqi government attempted to destroy the religious and cultural institutions that form the basis of Iraqi Shi'ite identity. These attacks constitute a violation of the Genocide Convention's prohibition against the physical

elimination of an ethnic or religious group and of Protocol II's protection of non-combatants in a non-international conflict.

Iraqi government forces substantially violated international humanitarian norms in their attacks on Shi'ite rebels in the cities of southern Iraq. Many of their attacks were directed at civilians and seem to have been aimed at the physical destruction of the Shi'ite community. The slogan that the government blazoned on its tanks, "*NO MORE SHI'ITES AFTER TODAY*" seems to have been a matter of policy and not individual initiative. In Basra, Hussein 'Ali Kazim witnessed the mass execution of 400 people shortly before he fled the city. The government forces committed other outrages as well. They shot civilians attempting to gather water; they murdered doctors and other civilians who had given medical treatment to or otherwise assisted the insurgents. They also murdered civilians during sweeps through the neighborhoods of the city. One witness reports that:

"We went into a house... In the living room, there were the bodies of two young girls, completely naked, hung from the fan that was suspended from the ceiling.... In another room was the rest of the family — at least eight bodies, including a child under the age of two. The bodies were bloated — it had been at least two days. The streets of the neighborhood were full of bodies, lying in heaps. I saw whole families cut to pieces — arms, hands, legs."

Government forces carried out thorough searches of the neighborhoods suspected of supporting the rebels. On such searches they arrested all adult and adolescent Shi'ite males and took them to holding centers for interrogation. They often raped or otherwise abused women who would not reveal the location of their male relatives. Children who would not reveal the whereabouts of their parents were executed, sometimes by lighting a gasoline-soaked tire placed around their heads.

After the insurgencies in the Shi'ite cities had been repressed, the government began a full-scale campaign against the religious and cultural institutions of the Iraqi Shi'ites. Ayatollah Khomeini, the *Marja'i al-Taqlid* (the most senior Shi'ite clergyman world-wide), was arrested early in the aftermath, along with his entire family. Unable to stand or walk - being 91 years old - he was forced to make a television appearance with Saddam Hussein in which he denounced the uprising and expressed his support for the government. The strain of captivity contributed to the deterioration of his health and quickened his death. The government also arrested all the religious scholars studying at the Shi'ite seminaries of Najaf and Kerbala', along with the entire faculties of the institutions. Government forces looted and defaced the shrines in the two cities, destroying two of the most extensive collections of 'Abbasid Dynasty art and manuscripts in the world. Government forces also destroyed the cemeteries of Najaf and defaced the tombs of innumerable Shi'ites. These attacks on the Shi'ite seminaries and shrines of Najaf and Kerbala' amount to the elimination of the central institutions that have sustained the identity of the Shi'ite communities of southern Iraq for more than one thousand years. The government justified these actions with a series of attacks on the religion and practices of the Shi'ites published in the government organ, *al-Thawra*. These articles portrayed the Shi'ites as primitive subhumans of foreign origin. The *al-Thawra* articles represented an attempt on the government's part to defame and dehumanize the Shi'ites.

(2) *Crimes In Northern Iraq During the Uprising*

A massive popular uprising in the cities and countryside of the Kurdish areas of Iraq began immediately after the Gulf War. The cities of Sulaimaniyya, Kirkuk, Arbil, 'Amadiyya, and Tuz fell to the rebels, though Sulaimaniyya, Kirkuk, and Tuz were later recaptured by government forces. Iraqi artillery and helicopter gunships engaged in indiscriminate attacks on civilian targets and consistently fired on columns of refugees. After retaking cities that had fallen to the insurgents, government forces engaged in large-scale massacres, looting and forcible

expulsions of Kurdish civilians.

There are numerous accounts of Iraqi government attacks on unarmed and unthreatening civilian targets including groups of refugees and hospitals. Many Kurdish refugees reported being attacked by helicopter gunships during their flight from the cities. Middle East Watch interviewed a Kurdish refugee who reported that "he had seen people dying on the road between Chamchamal and Sulaimaniyya after they had been attacked by gun fire from four helicopters. "They were all unarmed and fleeing." Another refugee reported that:

"As we were leaving [Arbil], helicopters attacked the road we were on, the Arbil- Küysanjaq road. I saw 25 bodies on the road. People [were] trying to leave Arbil, but no one could help the wounded. They used napalm. I know this because of the brown burns on the bodies. Some had 25 burns. I also saw hands and legs separated from bodies."

After retaking the city of Kirkuk, Iraqi government troops attacked Saddam Hussein hospital in the city. According to witnesses present at the scene:

"When the tanks entered Kirkuk on March 27, they went to Saddam [Hussein] Hospital. My house is very near the hospital. About 150 meter away from me, I saw troops enter the hospital and then I saw peshmerga [Kurdish insurgents] being thrown out of the windows. After they threw them on the ground, they shot those who were not dead from the fall.

Another witness of the same incident reports that:

"Iraqi soldiers opened fire from tanks and helicopters on the hospital. When they reached the hospital they entered went upstairs, where they killed all of the patients, about 30 children, 50 women, and 20 young men. I saw them slit the throats of patients with knives and throw some of the patients off the roof or out of windows on the top floor. I personally saw five persons thrown out of windows."

Iraqi troops also demolished large numbers of houses and expelled their residents from the area. This policy, in addition to the indiscriminate use of artillery against Kurdish towns and cities, led to a massive exodus of Kurdish refugees into Turkey and Iran. Kurds who stayed often had their possessions destroyed or stolen by Iraqi soldiers or security officers.

(3) Continued Repression

While the Kurds and Shi'ites suffered heavily from the abuse of the Ba'thist Government, repression is not limited to the Kurdish and Shi'ite areas of the country. The atmosphere of repression and disregard for human rights extends throughout Iraq. All Iraqis, not just Kurds and Shi'ites continue to be deprived of every basic human right.

Institut kurde de Paris

III

THE LEGAL GROUNDS FOR THE INDICTMENTS

A. The Legal Basis For the Establishment of a Tribunal To Try the Iraqi Leadership

(1) Introduction

The Iraqi National Congress proposes the establishment of a Tribunal to try the Iraqi Ba'hist leadership, headed by President Saddam Hussein. The INC insists that the Tribunal be conducted according to due process of law, allowing all defendants full rights of defense and a fair trial. As such, the INC recognizes that defendants may be acquitted of the charges filed, if the evidence of their guilt is not conclusive.

The proposal for the Tribunal is fully based on international law and legal precedents, as are the charges. The INC does not request any innovation in the law, but only the enforcement of international law against violations committed by the Iraqi leadership. To further legitimize the Tribunal, the INC requests that the United Nations Security Council adopt a resolution establishing this Tribunal.

(2) Precedent for the Establishment of a Tribunal

(a) The Lessons of the First World War

The most widely known tribunal for trying war crimes was the International Military Tribunal (henceforth the "Nuremberg Tribunal"), established after the end of the Second World War to try Nazi German leaders. The Nuremberg Tribunal however was not a total innovation. Indeed, the process of prosecution for initiating an unjust war goes back to the thirteenth century. Nor was Nuremberg the first time that an international body prosecuted an individual for war crimes.

It was not until the end of the First World War, specifically at the Treaty of Versailles, that the punishment of war criminals was recognized in a treaty. Under the relevant articles of the Treaty, Articles 228 through 230, the German government acknowledged the right of the Allies to bring before military tribunals individuals accused of acts in violation of the laws and customs of war, agreed that the accused would be tried in military tribunal and agreed to turn over all documents and information necessary to the tribunals. Although due to a compromise the German government subsequently tried the defendants in national court, the principle was established in modern international law that authorization for the trial of war criminals can be established by treaty.

(b) The Nuremberg Tribunal - The Next Step

During the Second World War, the Allies declared that "atrocities, massacres and cold blooded mass executions which [were] being perpetrated by the Hitlerite forces..." should be the object of criminal prosecutions and punishment. Following protracted negotiations between the United States, Great Britain, the Soviet Union and France at the end of the war, an agreement was reached by which an international military tribunal was to be created to try the German war criminals. Accompanying the agreement was a Charter of the International Military Tribunal (henceforth the "Nuremberg Charter"), and together, they were the constitutive authority for the Nuremberg Tribunal.

By creating the Nuremberg Tribunal, the allies demonstrated that the results of the First World War, with regard to prosecuting war criminals, were not satisfactory. The dissatisfaction did not solely arise from the results of the Treaty of Lausanne (by which a general amnesty was issued for all massacres committed during the First World War), but also from the trial of German war criminals by German courts rather than by an international tribunal, the result of which were unduly light punishments for serious crimes.

The Nuremberg Charter and the Nuremberg Tribunal introduced innovations into international law, especially the notion of individual accountability for violations of international legal norms. The Charter's major contributions related to the creation of the three charges in Article 6 (Crimes Against Peace, War Crimes and Crimes Against Humanity), the prohibition of the defenses of superior orders and the prohibition of the defense of the Act of State. The establishment of the Tribunal, and the trial of the war criminals by an international tribunal, was in itself the major innovation in international criminal law.

The conduct of war had been 'regulated' since the 1907 Hague Convention, which prescribed certain rules on Prisoners of War, hostilities and military occupation. Therefore, the first two charges in Article 6 of the Nuremberg Charter - namely Crimes Against Peace and War Crimes - were codification of earlier international norms.

It was the third charge - Crimes Against Humanity - which was the major innovation among the charges. The Charter took a universalistic approach to these crimes, namely that the crimes are so heinous and grave in nature that they become 'international crimes' against universally practiced concepts of morality.

The Charter was, as mentioned earlier, created after extensive negotiations between the four allies. To bolster international support for it, another nineteen states expressed their adherence to its principles. Moreover, the

United Nations General Assembly, on December 11, 1946, unanimously affirmed the principles of the Nuremberg Charter. Therefore, even though the Nuremberg Charter's principles may have been innovations, they were affirmed by the international community at large and so were deemed to have become part of customary international law.

B. Jurisdiction of the Tribunal

One possible argument against the establishment of the Tribunal is that such a Tribunal will have no jurisdiction over the trial of Saddam Hussein and the other Iraqi leaders. Such an argument however is flawed, and was demonstrated to be flawed by the Nuremberg precedent. There were several bases for holding the Nuremberg Tribunal to have jurisdiction over the trials of German war criminals. Although some of the jurisdictional bases were not included in the Nuremberg Charter itself, several international publicists have deduced what the bases were. These same bases can be used for the proposed Tribunal to try the Iraqi leadership.

(1) Universal Jurisdiction

The first jurisdictional argument used for the Nuremberg Tribunal is that the crimes committed by the German leadership were so atrocious that there existed universal jurisdiction over them. The perpetrators of such crimes are deemed to be *hostes humani generis*, or common enemies of mankind. This was the primary theory of jurisdiction behind the Nuremberg Tribunal, as is evidenced in Article 5 of the Moscow Declaration. Essentially what this theory posits is that the Tribunal was created by the four powers, on behalf of the entire world community of civilized nations, to bring to trial the major German war criminals. This theory was also evidenced in the Nuremberg Charter's preamble, which stated that the four nations were acting "in the interests of all the United Nations".

The logical Conclusion of this specific jurisdictional basis

of the Nuremberg Tribunal is that there are certain crimes for which universal jurisdiction exists and for which certain powers can act - on behalf of the world community - to prosecute the criminals. The same principles can easily be applied to the Iraqi case.

(2) Unconditional Surrender

Following Iraq's defeat in the Gulf War, the Government of Iraq unconditionally surrendered to the allied coalition, which was acting on behalf of the United Nations. In a letter dated March 3, 1991, former Iraqi Foreign Minister Tariq Aziz, on behalf of the Government of Iraq "agreed to fulfill its obligations under the said resolution". It is interesting to note that under article 2(b), Iraq is to "[a]ccept in principle its liability under international law for any loss, damage, or injury...".

As a general rule, the authority of international courts to adjudicate a given international dispute depends on the acceptance of the jurisdiction by the parties to the dispute. Therefore, under this general rule, Iraq and the individual defendants are obligated to agree to appear before the proposed Tribunal. This agreement does not have to be explicit however. The unconditional surrender of Iraq to the allied coalition is legally analogous to the unconditional surrender of Germany to the Allies at the end of the Second World War. This unconditional surrender to the allied coalition acting on behalf of the United Nations provides the latter with the "undoubted right" to establish the proposed Tribunal, and both the government of Iraq and the individuals charged are estopped by the Nuremberg precedent from objecting to the establishment of the Tribunal and its jurisdiction. Therefore, through the unconditional surrender, they are deemed to have accepted the jurisdiction of the proposed Tribunal when it is established. They can only object if they are not provided with a fair trial.

(3) The United Nations

Regardless of the Iraqi unconditional surrender to the allied coalition and the United Nations, the United Nations

Charter (henceforth "UN Charter") provides the United Nations Security Council with the right to establish such a Tribunal. Article 29 of the UN Charter provides that "[t]he Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions." Moreover, Articles 42 and 51 of the UN Charter give the Security Council power "to take at any time such action as it deems necessary", including military operations, to restore international peace and security, and deter aggression. Authorizing a Tribunal would certainly fall under this grant of authority. In addition, Articles 39 and 41 provide the Security Council with added power to establish the proposed Tribunal. Under Article 39, "[t]he Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security". Article 41 provides still clearer authority: "[t]he Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the members of the United Nations to apply such measures."

Between August 1990 and March 1991, Iraq violated and refused to accept numerous U.N. Security Council Resolutions. Therefore, the proposed Tribunal would be the type of 'measure' envisioned under Article 41 to be employed to give effect to Security Council resolutions.

To supplement the above articles of the UN Charter, article 25 provides that "[t]he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter." The Government of Iraq would therefore be obligated to accept a Security Council resolution establishing a Tribunal, and would be required to turn over any defendants that the Tribunal indicts.

(4) The Genocide Convention

In addition to the above, there are other bases for the

jurisdiction of the Tribunal. One of the charges listed in the draft Charter of the Iraq Tribunal is the Crime of Genocide. The charge is based on the Convention on the Prevention and Punishment of the Crime of Genocide, which the Government of Iraq ratified, accepted and approved without qualifications on January 20, 1959. Article VI of the Convention provides that "[P]ersons charged with genocide or any other acts enumerated... shall be tried... by [an] international penal tribunal...". This convention therefore provides another basis for the jurisdiction of the proposed Tribunal.

For the above mentioned reasons , the proposed Tribunal would have jurisdiction over the Iraqi leadership.

C. The Charges in the Draft Charter

(1) Introduction

The focus of this report is on the violations of international law carried out by the present Government of Iraq inside Iraq and bearing upon the people of Iraq. There will be a focus on the charges of Crimes Against Humanity and the Crime of Genocide, areas not covered comprehensively in the literature on Iraqi Crimes of Aggression.

The draft Charter of the proposed Tribunal lists four crimes with which the Iraqi leadership will be charged. Three of the charges - crimes against peace, war crimes and crimes against humanity - were included in Article 6 of the Nuremberg Charter. The fourth charge - the crime of genocide - is derived from the Convention on the Prevention and Punishment of the Crime of Genocide, which entered into force on January 12, 1951.

A fifth charge - Crimes Against the Environment - was contemplated but the INC decided not to include this crime in the draft Charter. There was some debate about creating the charge of Crimes Against the Environment, for the

Government of Iraq's actions of intentionally spilling oil into the Persian Gulf and for igniting Kuwaiti oil wells. The INC strongly sympathizes and endorses the idea of creating such a charge. Nevertheless, the INC realizes that such a charge would be a total innovation in international law and would weaken the established positive grounds for creating the Tribunal, because present international law provides only for civil, not criminal, liability for damage intentionally done to the environment, and the Tribunal intends to primarily try the defendants for criminal liability.

(2) Sources of International Law

A brief discussion of the sources of international law will highlight the legal strength of the Iraqi National Congress' argument for the establishment of a tribunal to try the Iraqi leadership for War Crimes and Crimes Against Humanity.

Article 38 of The Statute of the International Court of Justice (henceforth the "ICJ Statute") lists five primary sources of international law - treaties, custom, judicial decisions, qualified publicists and the general principles of law.

There are numerous treaties and conventions that delineate the prescribed activities of warring factions in a war. A key example of these sources of law is that the Government of Iraq voted along with the other Member States of the United Nations General Assembly affirming the principles of the Nuremberg Charter, including the introduction of the charge of Crimes Against Humanity.

The ICJ Statute defines custom as a general practice that is accepted as law. For example, prior to the Second World War, there was no general practice of prosecuting persons for Crimes Against Humanity. Therefore, such a custom could not be deemed part of customary international law. However, after the Nuremberg Tribunal convicted German defendants for this crime in particular, custom was established. Therefore, it can be deemed that the practice of prosecuting those who committed Crimes Against Humanity has subsequent to the Nuremberg trials become

part of customary international law.

Judicial decisions, especially those of the ICJ, being the third source of international law according to the ICJ Statute, also point to certain acts as constituting war crimes.

The fourth source of international law is the work and opinions of the so-called "most highly qualified publicists". Numerous qualified publicists have highlighted the global necessity for prosecuting War Crimes and Crimes Against Humanity. The work of these publicists therefore is deemed to constitute part of international law.

Finally, the Statute of the International Court of Justice refers to "general principles of law" as the last source of international law. The term "general principles of law" is, at first glance, not clear. However, since 1945, when the Statute of the International Court of Justice was written, there has been a narrowing of the meaning of the term to mean the general principles of law as those recognized by the community of nations. Therefore, in essence, certain crimes, such as murder, extermination, enslavement and mass deportation are generally recognized as criminal acts by the community of nations. Any state within the community of nations would therefore recognize such acts as criminal.

In short, the clearest composite of the sources of international law is Article 38 of the ICJ Statute. It is from this Statute that the proposal for prosecuting the Iraqi leadership emanates.

A final and key issue to be clarified with regard to international law relates to the concept of the evolution of law. Where the above-mentioned sources of international law adopt a new 'theory' or 'law' as part of international law, then the new rule would hence be deemed an integral part of international law. For example, on December 9, 1948, the Convention on the Prevention and Punishment of the Crime of Genocide was reached, and it entered into force in January 1951. Once this Convention entered into force, it was deemed a source of international law, this

being a convention. Any acts that would henceforth fall under the Convention's definitions of genocide would therefore be deemed crimes and are punishable.

(3) Crimes Against Humanity

The first manifestation of this crime was Article 6(c) of the Nuremberg Charter, which defined Crimes Against Humanity as:

"murder, extermination, enslavement, deportation, and other inhumane acts committed against civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated."

There were two other manifestations of this charge in the trials after the Second World War - in Article 5(c) of the Tokyo Charter and Article II(c) of the Allied Control Council Law No.10. Although all three manifestations of the charge of Crimes Against Humanity were based on the principle that there were certain crimes that were so heinous that they were crimes not only against individuals but against humanity as a whole, there were certain crucial differences among the three formulations of this charge.

The major and crucial difference for the INC's contention of creating an international tribunal to try the present Iraqi leadership relates to the fact that it is not clear whether crimes against humanity committed before a war started could be prosecuted under the Nuremberg Charter. There has been much debate on this issue. A brief discussion of this debate will highlight the strength of the INC's contentions.

During the drafting of the Charter, there was substantial discussion as to whether Crimes Against Humanity should be somehow connected to War Crimes and Crimes Against Peace. A proposal was introduced by which a semicolon would be placed after the phrase "before or during the war"

in Article 6(c). Such a semicolon would have permitted the conviction of the Nuremberg defendants on charges of Crimes Against Humanity both before and during the Second World War. However, the drafters of the Nuremberg Charter found that there was no legal basis for such a wide interpretation of the scope of the charge of Crimes Against Humanity. Therefore, the scope of the charge was narrowed and in the final draft of Article 6(c), the phrase "before or during the war" was followed by a comma; this, in effect, tied the crimes committed to War Crimes and Crimes Against Peace. A seemingly illogical result took place: the defendants were acquitted by the Tribunal for the persecution and murder of Jews prior to September 1, 1939, but were convicted for the same crimes if committed after September 1, 1939. The decision of the Nuremberg Tribunal highlights this issue:

"With regard to Crimes Against Humanity, there is no doubt whatever that political opponents were murdered in Germany before the war, and that many of them were kept in concentration camps in circumstances of great horror and cruelty. The policy of terror was certainly carried out on a vast scale, and in many cases was organized and systematic. The policy of persecution, repression, and murder of civilians in Germany before the war of 1939, who were likely to be hostile to the Government, was most ruthlessly carried out. The persecution of the Jews during the same period is established beyond all doubt. To constitute Crimes Against Humanity, the acts relied on before the outbreak of war must have been in execution of, or in connection with, any crime within the jurisdiction of the Tribunal. The Tribunal is of the opinion that revolting and horrible as many of these crimes were, it has not been satisfactorily proved that they were done in execution of, or in connection with, any such crime. The Tribunal therefore cannot make a general declaration that the acts before 1939 were Crimes Against Humanity within the meaning of the Charter, but from the beginning of the war in 1939 War Crimes

were committed on a vast scale, which were also Crimes Against Humanity; and in so far as the inhumane acts charged in the Indictment, and committed after the beginning of the war, did not constitute War Crimes, they were committed in execution of, or in connection with, the aggressive war, and therefore constituted Crimes Against Humanity."

The Nuremberg Tribunal convicted two Germans (Streicher and Von Schirach) of only Crimes Against Humanity, but even here, these convictions were for crimes committed by the two during the war. Streicher was convicted of advocating the extermination of the Jews and Von Schirach was convicted of the use of forced labor in Austria, which was treated as part of Germany, during the War. To simplify the matter, the Nuremberg precedent would therefore be that Crimes Against Humanity must have been committed in connection with Crimes Against Peace and War Crimes.

Elsewhere, however, the charge of Crimes Against Humanity was treated differently. For example, as mentioned earlier, Article II(c) of the Control Council Law No.10, which established courts inside Germany to try so-called minor war criminals removed any such connection between Crimes Against Humanity and the other two crimes. Even though Article II (c) has been criticized for 'straining' international legal precepts, defendants were nevertheless prosecuted, and convicted, under it.

In reaction to the differing perspectives on the application of Crimes Against Humanity, the International Law Commission in its report made pursuant to a mandate by the General Assembly of the United Nations, reached a compromise. Principle VI (c) defines Crimes Against Humanity as follows:

"Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or

religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace or any war crime."

In essence therefore, the ILC removes the "war connection with respect to the specific crimes of "murder, extermination, enslavement, deportation and other inhumane acts", thus extending such violations to peaceful contexts. But it retains the connection to crimes against peace and war crimes for "persecution on political, racial, or religious grounds".

The INC's proposal on this issue conclusively fits all the categories. The proposal is to separate Iraq's Crimes Against Humanity into five distinct phases.

(1) July 1979 - September 1980: from Saddam's accession to power to the Iraqi invasion of Kuwait. During this phase, there was a large purge of the Ba'thist leadership, the beginning of the deportations and the execution of several Shi'ite clerics.

(2) September 1980 - July 1988: during which Iraq was at war with Iran. During this phase, Crimes Against Humanity were committed against the Kurdish, Shi'ite and Assyrian communities; the crimes were committed in connection with the commission of War Crimes and Crimes Against Peace.

(3) August 1988 - August 1990 : during which Iraq was not involved in an international war. During this phase, the Iraqi Government completed the Anfal operation, otherwise known as the "Final Anfal" or 'Final Solution'.

(4) August 1990 - March 1991: during which Iraq invaded and occupied Kuwait, and was involved in a war against the coalition. During this phase crimes were committed against the various communities inside Iraq, as well as against Kuwaitis.

(5) March 1991 - present: during which Iraq was involved in a campaign of extermination of Kurds, Shi'ites and Assyrians, and during which Iraq violated international law, under Article 25 of the U.N. Charter, by not adhering to U.N. Security Council resolutions, especially 688 (1991).

The ILC's definition of Crimes Against Humanity, as well as the Crime of Genocide, are applicable during all four phases. Moreover, during the first and third phases, the Nuremberg precedent directly applies. In the fourth phase, the brutal murder and suppression of Iraqi citizens that took place during the March 1991 uprising was a continuation of the Gulf War, especially as Iraq had refused to comply to the terms of the cease-fire resolutions at the end of the Gulf War. Therefore, in that phase, the Nuremberg doctrine also directly applies.

There are therefore several existing and established legal bases for applying the charge of Crimes Against Humanity to the atrocities committed by the Iraqi Government against its own population.

(4) Genocide

A fourth charge against the Government of Iraq for which international jurisdiction clearly exists is the Crime of Genocide. The primary document codifying this crime is the Convention on the Prevention and Punishment of the Crime of Genocide (henceforth the "Genocide Convention"), which was done at New York on December 9, 1948. The Government of Iraq ratified, accepted and approved without qualifications this convention on January 20, 1959, and so is bound by its terms. Since the Crime of Genocide is deemed part of international law, there will be jurisdiction for an international tribunal to try the Iraqi leadership on the charges of genocide.

Articles II and III of the Genocide Convention read as follows:

"Article II. In the present Convention, genocide means any of the following acts committed with

intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group.

Article III. The following acts shall be punishable:

- (a) genocide;
- (b) conspiracy to commit genocide;
- (c) direct and public incitement to commit genocide;
- (d) attempt to commit genocide;
- (e) complicity in genocide."

Article IV of the Genocide Convention goes further and requires the punishment of those who committed genocide, whether they are constitutional leaders, government officials or private individuals. It is significant that Article VII states that genocide shall not be deemed a political crime for the purposes of extradition, it being a general principle of international law that extradition requests will not be granted for political crimes. The Government of Iraq would therefore be legally compelled to extradite any defendants, as it pledged to do under Article VII of the Convention. Finally, Article VI of the Convention allows for the trial by an international penal tribunal of those who committed genocide.

There is ample evidence that the Government of Iraq and its officials have committed the Crime of Genocide. Such genocide has been committed against the Kurds, the Shi'ites, the Turkomans and the Assyrians, among others. All communities are native Iraqi communities, and the genocide has been committed from 1979 through to the present.

D. Rebuttal of Possible Iraqi Defenses

In this section, the INC will rebut the primary defenses that the Iraqis may attempt to use against the crimes with which they are charged. There are three primary defenses that the Iraqis may use, which are:

- (1) The acts committed were acts of state.
- (2) Some of the defendants were following superior orders.
- (3) The Tribunal can not apply laws ex post facto.

(1) The Act of State.

The Act of State defense was specifically addressed in Article 7 of the Nuremberg Charter, which stated that:

"Article 7. The official position of defendants, whether as Heads of State or responsible officials in Government Departments, shall not be considered as freeing them from responsibility or mitigating punishment."

This Article addressed this matter because, prior to the Nuremberg and Tokyo Tribunals, classical international law had not found that the plenary tribunals had standing to hold individuals accountable for breaches of international law. Prior to Nuremberg, states had the discretion to prosecute their own citizens for such breaches. In this regard, Nuremberg was an innovation. Yet, since the Nuremberg precedent was accepted under international law, holding individuals responsible for international

crimes committed is now part of international legal doctrine.

(2) Superior Orders

The second possible defense, that of superior orders, was also expressly addressed by the Nuremberg Charter.

"The fact that the defendant acted pursuant to [an] order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determines that justice so requires."

Prior to Nuremberg, this defense was based on the military regulations of almost all states, which provided for an absolute or qualified defense of "obedience to superior orders". Indeed, obedience to superior orders is a primary aspect of military law.

Since Nuremberg, there has been much written on this subject. The basic conclusion is that the Nuremberg precedent was not an innovation, but was premised on a principle that "where a person relies on a command of legal authority as a defense, it is essential that the command be a lawful one...". At the Nuremberg Tribunal, this matter was a hotly debated issue; the judgment of the Tribunal rejected this defense and agreed with the Chief American Prosecutor, Justice Jackson, when he argued that the orders of the German Commander in Chief, Hitler, could not have been implemented had not others implemented them, knowing full well that they were illegal. In short, therefore, this defense was debunked at Nuremberg.

(3) Ex Post Facto Laws

A third possible defense is that the defendants should not be tried for crimes on an ex post facto basis. The Nuremberg Tribunal addressed a similar defense, when the German defendants stated that the charge of Crimes Against Humanity was an innovation and that they could not be tried for something that was not clearly defined as a crime when committed.

The Tribunal addressed this issue by first analyzing the sources of international law. If one subscribes to the theories of the sources of international law as listed by the Statutes of the International Court of Justice, then treaties are only one element of the sources. In fact, the Tribunal held that "treaties do no more than express and define for more accurate reference the principles of law already existing." The other sources of international law, such as general principles of law recognized by civilized nations, provide additional bases of support. Therefore, when one looks at the sources of international law, one can see that there are general principles that are not clearly defined, yet are upheld and followed as general principles of international law. Such principles carry with them responsibilities. The Nuremberg Tribunal held that a crime against a general principle of international law, even though not clearly defined, carries with it responsibilities for which the perpetrators are accountable. Through this approach, the defendants were convicted for crimes committed *ex post facto*.

To summarize therefore, the principle defenses that can be raised by the Iraqi defendants were all raised at Nuremberg by the German defendants, and they were all dismissed by the Nuremberg Tribunal. The dismissal of these defenses has therefore created precedents for the dismissal of these defenses under international law.

IV



THE PROPOSED INDICTMENTS

"Crimes against international law are committed by men not abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced." Borrowing these words of the Nuremberg Tribunal's, the INC has good reason to conclude that a small circle of men, led by Saddam Hussein, have primary liability for the crimes listed in Article 3 of the Draft Charter, as summarized in Section III of this report. With this in mind, two categories of people are listed below.

Category A includes individuals whom the INC believes should be indicted by the proposed Tribunal on the basis of the principle of command responsibility, and on the grounds of evidence which suggests individual responsibility for exceptionally brutal behavior and excessive use of force. Both criteria were jointly taken into consideration in the decision to include or exclude a given person. In particular, the individuals listed here are accused of zealous engagement in the collective murder, extermination, and unusually cruel persecution of their fellow Iraqi citizens. These crimes fall within the jurisdiction of the international tribunal, as outlined in Section 3 B of this report.

Category B includes individuals who the INC believes should be investigated further, by the prosecutors of the Tribunal or the proposed Commission, for the same crimes and under the same criteria.

The proposed amnesty, whose terms are set out in Section I of this report is not extended to the individuals listed in Category A. Furthermore, it will only be extended to the individuals listed in Category B if further investigation into the charges made against them proves the allegations to be unfounded. All other Iraqi citizens, not listed in categories A and B, are covered by the terms of the general amnesty set out in Section I, irrespective of any evidence that might be brought against them in the future --provided that they meet the conditions set out in Article 43 of the Draft Charter.

CATEGORY A :

THE INDIVIDUALS THAT THE INC RECOMMENDS FOR INDICTMENT BY THE INTERNATIONAL TRIBUNAL

1. SADDAM HUSSAIN (37 COUNTS)

Born in Tikrit, Iraq on April 28, 1937. President of the Republic of Iraq (1979-); Chairman of the Revolutionary Command Council (1979-); Secretary General of the Regional Command of the Ba'th Party; Secretary General of the National Command of the Ba'th Party; Commander in Chief of the Iraqi Armed Forces.

(A) Charges:

(1) Committed Crimes Against Peace:

COUNT I. Under the principle of command responsibility and as commander-in-chief of the Iraqi armed forces, Saddam Hussein is liable for ordering the invasion by Iraqi armed forces of the Islamic Republic of Iran on September 22, 1980 in violation of customary international law, several international conventions and the U.N. Charter.

COUNT II. Under the principle of command responsibility and as commander-in-chief of the Iraqi armed forces, Saddam Hussein is liable for ordering strikes by Iraqi aircraft against non-combatant oil tankers in the Persian Gulf in the years 1984 - 1988.

COUNT III. Under the principle of command responsibility and as commander-in-chief of the Iraqi armed forces, Saddam Hussein is liable for ordering the invasion by Iraqi armed forces of the Emirate of Kuwait on August 2, 1990 in violation of customary international law, several international conventions and the U.N. Charter.

COUNT IV. Under the principle of command responsibility and as commander-in-chief of the Iraqi armed forces, Saddam Hussein is liable for ordering the invasion of Saudi Arabia by Iraqi armed forces in January of 1991, when Iraqi armed forces invaded the Saudi town of Khafji.

COUNT V. Under the principle of command responsibility and as commander-in-chief of the Iraqi armed forces, Saddam Hussein is liable for ordering the shelling --using aircraft and surface to surface missiles - of civilian targets in other countries.

COUNT VI. As President of the Republic of Iraq, Saddam Hussein is liable because Iraq violated article 2, sections (1) and (4) of the United Nations Charter, of which Iraq is a signatory, by violating the sovereignty of Kuwait and Iran.

COUNT VII. As President of the Republic of Iraq, Saddam Hussein is liable because Iraq violated the General Treaty for Renunciation of War as an Instrument of National Policy, when it resorted to wars of aggression against Kuwait and Iran to solve an international dispute.

COUNT VIII. As President of the Republic of Iraq, Saddam Hussein is liable because Iraq violated article 25 of the UN Charter when it refused to accept and carry out numerous specific resolutions adopted by the Security Council.

(2) Committed War Crimes:

COUNT IX. Under the principle of command responsibility and as commander-in-chief of the Iraqi armed forces, Saddam Hussein is liable for violation of the Convention Relative to the Protection of Civilian Persons in Time of War (Geneva IV) during the war with the Islamic Republic of Iran and during the occupation of the Emirate of Kuwait. The following specific articles of this convention were violated : Articles 18 (Failure to respect civilian hospitals), 56 (Failure to maintain the operation of civilian hospitals), 20 (Failure to protect civilian hospital administrators), 25 (Prohibition of correspondence between occupied territory and the outside), 27 (Violation of the rights of protected persons, especially their inhumane treatment), 28 (Use of protected persons to shield strategic and military targets), 31 (Use of physical and moral coercion to obtain information), 33 (Refusal to allow protected persons to leave Iraq and occupied territory of their own free will, and engagement in collective forms of punishment), 53 (Destruction of real and personal property), 59 (Prevention of relief supplies from reaching occupied territory), 62 (Prevention of protected persons from receiving consignments), 63 (Prohibition of relief agencies from undertaking relief operations), 140 (Failure to establish an information bureau), 49 (Forcible transfer and deportation of protected persons), 55 (Failure to supply food and medical supplies to occupied territory) and 34 (Taking of hostages).

COUNT X. Under the principle of command responsibility and as commander-in-chief of the Iraqi armed forces, Saddam Hussein is liable for the violation, by the Iraqi armed forces, of Protocol I to the Geneva Conventions during the occupation of parts of the Islamic Republic of Iran and of the Emirate of Kuwait. Specifically, article 75(2) was violated when Iraqi soldiers committed violence upon the life, health, physical or mental well-being of Kuwaiti citizens, as well as subjecting these citizens to degrading and humiliating treatment.

COUNT XI. Under the principle of command

responsibility and as commander-in-chief of the Iraqi armed forces, Saddam Hussein is liable for the violation, by the Iraqi armed forces of article 37 of Protocol I of the Geneva Conventions, when Iraq captured the town of Khafji in Saudi Arabia through the use of Perfidy, which is defined as feigning an intent to negotiate or surrender and then engaging in aggressive behavior.

COUNT XII. Under the principle of command responsibility and as commander-in-chief of the Iraqi armed forces, Saddam Hussein is liable for the violation, by the Iraqi armed forces, of the Convention Relative to the Treatment of Prisoners of War (Geneva III) ("POW's"). Specifically, the following articles were violated: Articles 13 (Humane and non-violent treatment of POW's), 19 (Quick evacuation of POW's from areas of combat), 23 (Use of POW's as human shields to protect strategic and military targets), 122 (Failure to provide notification of capture of enemy persons), 17 (Use of physical and mental torture on POW's) and 69 - 78 (Failure to allow contact between POW's and the outside world). Article 12 of this Convention provides personal responsibility of the commander in chief of the armed forces for violations of these rules. Article 130 provides that the commander in chief of the armed forces and other senior officers will be held criminally liable for violation of Articles 19 and 23 of this Convention.

COUNT XIII. Under the principle of command responsibility and as commander-in-chief of the Iraqi armed forces, Saddam Hussein is liable for the violation, by the Iraqi armed forces, of articles 22, 23(e) and (g), and 25 of the Hague Convention Respecting the Laws and Customs of War by launching surface to surface missiles into populated cities designed to instill terror:

COUNT XIV. Under the principle of command responsibility and as commander-in-chief of the Iraqi armed forces, Saddam Hussein is liable, under customary international law, general principles of international law and specific treaties, for the use of chemical warfare against troops of the Islamic Republic of Iran.

COUNT XV. Under the principle of command responsibility and as commander-in-chief of the Iraqi armed forces, Saddam Hussein is liable, under customary international law and general principles of international law, for the intentional release of oil into the Persian Gulf and for the intentional ignition of oil fields and oil wells in Kuwait, there being no military necessity for these actions.

(3) Committed Crimes Against Humanity:

Under the principle of command responsibility, as commander-in-chief of the Iraqi armed forces, as President of the Republic of Iraq and as Chairman of the Revolutionary Command Council, Saddam Hussein is liable under international law for the commission of the following acts upon the people of Iraq:

(a) **COUNT XVI.** The deportation of hundreds of thousands of Iraqi citizens, including thousands of Fayli Kurds holding Iraqi passports, starting in April 1980. The number of deportees have been estimated to exceed 400,000.

(b) **COUNT XVII.** The action taken against Iraqi prisons, in which torture, extermination, murder, rape and other inhumane acts regularly and routinely took place in large numbers.

(c) **COUNT XVIII.** The employment of official "rapists" and the keeping of "rape rooms" in Iraqi prisons.

(d) **COUNT XIX.** The use of chemical weapons against the Iraqi population. There are recorded cases of such use in the villages of Halabja, Quptapa and Sheikh Wisan.

(e) **COUNT XX.** During the 1979 purge of the Ba'th Party, by which Saddam Hussein came to power, the murder and extermination of hundreds of members of the Ba'th Party. Also during that period, the holding of numerous families of Ba'th Party members as hostages.

(f) **COUNT XXI.** The scientific experimentation on human beings that was conducted in Iraqi prisons.

(g) **COUNT XXII.** The elimination of villages, specifically Dujail and Jezan al-Chol, in 1983. The whole village of Dujail was held collectively responsible for an assassination attempt on Saddam Hussein's life that took place there that year.

(h) **COUNT XXIII.** The elimination of over 4,000 Kurdish villages during the "Anfal" and "Khatimat al-Anfal" operations that took place in the period 1987 - 1989.

(i) **COUNT XXIV.** The internal deportations of thousands of Iraqi citizens from their villages and towns to other parts of Iraq. There are reports of the forced internal deportation of Kurds from their homelands, and of "Marsh Arabs" from their homelands.

(j) **COUNT XXV.** Random and arbitrary imprisonment of thousands of Iraqi citizens, without any solid evidence of crimes committed by these individuals.

(k) **COUNT XXVI.** The forced expropriation and sale of property of Iraqi citizens, without any compensation paid to these citizens.

(l) **COUNT XXVII.** The brutal suppression of the March 1991 uprising, by which thousands of Iraqi citizens were summarily executed by forces of the Iraqi Government and the Ba'th Party. There was no military necessity for the summary executions of these citizens.

(m) **COUNT XXVIII.** The issuing of orders to execute Iraqi citizens on sight. There was no military necessity for such orders. (See orders issued by Ali Hasan al-Majid - Document 6 in Appendix A).

(n) **COUNT XXIX.** The destruction of cultural and religious property after the March 1991 uprising,

specifically in the cities of Najaf and Kerbala. Such destruction included the closing of universities and schools, as well as the burning of libraries and religious artifacts.

(o) **COUNT XXX.** The destruction of cultural and religious property of the Assyrian Community.

(p) **COUNT XXXI.** The persecution of members of the Shi'ite clerical class, including numerous executions, beginning in April 1980, with the murder of Ayatullah Muhammed Baqir al- Sadr.

(4) Committed the Crime of Genocide:

Under the principle of command responsibility, and as commander-in-chief of the Iraqi armed forces, as President of the Republic of Iraq, as Secretary General of the Ba'ath Party and as Chairman of the Revolutionary Command Council, Saddam Hussein is liable for the commission of the Crime of Genocide for the following acts:

(a) **COUNT XXXII.** The "Anfal" and "Khatimat al-Anfal" operations in Iraqi Kurdistan. These operations were designed to, and did, destroy over 4,000 Kurdish villages. During these operations, chemical weapons were used.

(b) **COUNT XXXIII.** The forcible transportation of thousands of Kurdish tribesman, "Marsh Arabs" and Assyrians from their homelands to other areas of Iraq.

(c) **COUNT XXXIV.** The campaign to dry out the marsh lands in Southern Iraq, intended to wipe out the village life of the "Marsh Arabs".

(d) **COUNT XXXV.** The elimination of numerous Assyrian villages calculated to bring about the partial destruction of the Assyrian community.

(e) **COUNT XXXVI.** The campaign against the Turkoman community of Northern Iraq.

(f) **COUNT XXXVII.** The campaign against the so-called "Fayli Kurdish" community of Eastern Iraq.

2. ALI HASAN AL-MAJID (12 COUNTS)

Born 1941. Director General, National Secretariat of the Revolutionary Command Council (1981 - 1990). Member of the Regional Command of the Ba'th Party (July 1986 -). Minister of Defense (1991 -). Member of the National Security Council (also known as the Higher Security Committee; this council coordinates the activities of the four intelligence directorates - the General Security Directorate (Al-Amn al-A'am), the Special Security Directorate (Al-Amn al-Khass), the Intelligence Directorate (Mukhabarat) and Military Intelligence). Military Governor of Kuwait Province (August 1990 - October 1990). Minister of the Interior (1986 - 1990). Minister of Local Government (June 1989 - 1990). Secretary of the Bureau for the Organization of the North (with special comprehensive powers over all northern Iraqi affairs; appointed by RCC decree issued on March 29, 1987)(March 1987 - 1989). Director of the General Security Directorate (1986 -1988).

(A) Charges:

(1) Committed War Crimes:

COUNT I. As the Military Governor of Kuwait and as Minister of Defense, under the principle of command responsibility, he is liable for gross violations of the four Geneva Conventions and Protocols I and II that were committed by the occupying Iraqi armed forces during the occupation of Kuwait. [Specific violations listed in the indictment of Saddam Hussein].

COUNT II. As the Secretary of the Bureau for the Organization of the North, under the principle of command responsibility, he is liable for the chemical gas attack on the town of Halabja in March 1988, during the Iran-Iraq

war, as a result of which 5,000 noncombatant Iraqi Kurdish civilians were killed.

COUNT III. As a member of the National Security Council, under the principle of command responsibility, he is responsible for the actions constituting War Crimes committed by the intelligence directorates during the occupation of Kuwait.

(2) Committed Crimes Against Humanity:

COUNT IV. As the Secretary of the Bureau for the Organization of the North, he is liable under the principle of command responsibility for the Anfal operations, during which at least 100,000 noncombatant Iraqi Kurdish citizens were rounded up by the Security forces, 'disappeared' and were allegedly killed. [During a meeting of officials of the Bureau for the Organization of the Affairs of the North on January 26, 1989, which was recorded on tape, he acknowledges that these citizens were buried in mass graves dug with mechanical shovels.]

COUNT V. He is reliably reported to have been personally responsible for the elimination of the village of Dujail in 1983, the extra judicial summary murders of many of its inhabitants and generally collectively punishing the inhabitants of Dujail. [Dujail is a village north of Baghdad which was destroyed following an assassination attempt against Saddam Hussein that originated from there.]

COUNT VI. As Minister of Defense, under the principle of command responsibility, he is liable for the brutal actions, such as mass executions, carried out by the Iraqi armed forces in suppressing the uprising of March 1991.

COUNT VII. As Minister of the Interior and Director of the General Security Directorate, under the principle of command responsibility, he is liable for torture, murder, ill-treatment and rape undertaken by the General Security Directorate during his command.

COUNT VIII. As a member of the National Security Council, under the principle of command responsibility, he

is liable for the actions constituting Crimes Against Humanity committed by the intelligence directorates.

(3) Committed the Crime of Genocide:

COUNT IX. As Secretary of the Office for the Organization of the North, he is liable for the Anfal Operations against the Kurdish population and villages, during which over 100,000 people were killed and over 4,000 villages were destroyed.

COUNT X. As Minister of Defense, under the principle of command responsibility, he is liable for the brutal suppression of the Shi'ite population of southern Iraq in 1991 and the destruction of Shi'ite Muslim life and culture. [Reliable reports have indicated that tanks rolled into Southern villages with the slogan - "No More Shi'ites after today".]

COUNT XI. As a member of the National Security Council, under the principle of command responsibility, he is liable for the actions constituting Genocide committed by the intelligence directorates.

(4) Crimes Against Peace:

COUNT XII. As a member of the National Security Council, under the principle of command responsibility, he is liable for the role of the intelligence directorates in the planning of and the actual invasion of Kuwait.

(B) The Following Additional Charge Needs to Be Investigated:

Complicity in the Commission of Crimes Against Peace: Reportedly aided in the planning of the invasion of Kuwait in 1990.

3. BARAZAN IBRAHIM AL-HASAN AL-TIKRITI

(7 COUNTS)

Born in Tikrit in 1951. Special Advisor to the President of the Republic with rank of Minister (Feb. 1993 -)

Permanent Representative of the Government of Iraq to the United Nations Commission on Human Rights, in Geneva (January 1989 -). Chief of Intelligence Directorate (Mukhabarat) (July 1979 - October 1983).

(A) Charges:

(1) Committed Crimes Against Humanity:

COUNT I. As Chief of Intelligence (Mukhabarat), under the principle of command responsibility, he is liable for the murder, rape, torture and other ill-treatment by the Intelligence Directorate during his command.

COUNT II. He reportedly took personal charge of an operation by which several thousand male members of the Barazani tribe were apprehended in 1982 from the town of Gushtapa, south of the Kurdish town of Arbil. The men were loaded in trucks and the convoy was last seen in the outskirts of Baghdad. They have been presumed dead for a number of years. He is therefore personally liable for the murder of these individuals. Alternatively, under the principle of command responsibility, he is liable for the murder of these individuals by officials in the Intelligence Directorate. [Eyewitness accounts report that they personally saw him supervise the loading of the men on the trucks. The names of these men have been lodged with the United Nations Human Rights Commission for a number of years.]

COUNT III. He reportedly took personal charge of an operation which led to the summary arrest by the Intelligence Directorate of over ninety members of the Hakim family in May 1983. The detainees were held hostage, and six members selected at random were summarily executed on May 20, 1983. He is therefore personally liable for the murder of these six individuals. Alternatively, under the principle of command responsibility, he is liable for the murder of these individuals by officials in the Intelligence Directorate. [One of the members of the Hakim family, who had been arrested was released and deported to Iran. He acknowledged that Barazan al-Tikriti was personally

involved in their interrogation and in the selection of the people murdered.]

COUNT IV. He reportedly participated in the collective punishment in 1983, including the mass murder of inhabitants of the village of Dujail, as well as the deportation of the survivors and the elimination of the whole village. He is therefore personally liable for these actions. Alternatively, under the principle of command responsibility, he is liable for these actions committed by the Intelligence Directorate. [The village was destroyed and its inhabitants murdered or deported because an attempt on the life of Saddam Hussein allegedly took place there.]

COUNT V. He reportedly was responsible for the elimination of the village of Jazan al-Chol in 1983; the inhabitants of the village were murdered or deported. He is therefore personally liable for these actions. Alternatively, under the principle of command responsibility, he is liable for the participation of officials of the Intelligence Directorate in this incident.

COUNT VI. He reportedly personally murdered a large number of people, including Abdel Wahid al-Haj Mo'aidi, his wife Mrs. Mo'aidi, Murtadha al-Hadithi, his brother Kurdi al-Hadithi, Muhsin al-Dhaba, Muhammed Sabri al-Hadithi, Saleh Flayyeh, Ali Ja'afar, Mun'im Hadi, Riadh Ibrahim and Riadh al-Qedoo.

(2) Committed the Crime of Genocide:

COUNT VII. He is personally liable for the murder and extermination of the male members of the Barazani tribe in 1982. [See Count II above]. The intent was to collectively punish and exterminate the tribe because of its link to Mr. Masoud Barazani and his late brother Mr. Idriss Barazani.

(B) The Following Additional Charges Need to be Investigated:

(1) Complicity in the Commission of Crimes Against Peace:

He reportedly aided in the planning of the invasion of

Kuwait in 1990. [His presence at a meeting held in Geneva on December 16, 1990, between an Iraqi delegation, led by Foreign Minister Tariq Aziz, and a U.S. delegation, led by Secretary of State James Baker, is evidence of this complicity. At the meeting, Iraq refused to withdraw from Kuwait, an action that led to the Gulf War.]

(2) Committed Crimes Against Humanity:

He reportedly is responsible for the assassination of Iraqi dissidents outside Iraq. He allegedly is responsible for planning the assassination of Ayatullah Mehdi al-Hakim, in the Sudan, on January 17, 1988, and the assassination of Dr. Ayad Habashi, in Rome, on October 16, 1986. His role in these assassinations needs to be investigated.

4. TAHA YASEEN RAMADHAN (11 COUNTS)

Born 1939. Member of the Ba'th Party National Command. Member of the Ba'th Party Regional Command. Member of the Revolutionary Command Council. Commander-in-chief of the Popular Army, the armed militia of the Ba'th Party. Vice President of the Republic. First Deputy Prime Minister (October 1979 -).

(A) Charges

(1) Committed Crimes Against Humanity:

COUNT I. As commander-in-chief of the Popular Army, under the principle of command responsibility, he is liable for all the acts of rape, torture, murder, deportation and general ill-treatment of Iraqi citizens that officials of the Popular Army committed.

COUNT II. He has allegedly raped a number of women himself. He is therefore liable for these acts.

COUNT III. As commander-in-chief of the Popular Army, under the principle of command responsibility, he is liable for the mass killings that the Popular Army carried out in southern Iraq in March 1991.

COUNT IV. He is reported to have been personally responsible for ordering the brutal interrogations, murder and extermination of the citizens of Najaf in March 1991. He is therefore personally liable for these acts. [He is reported to have ordered the murder of a group of suspected insurgents by having tanks run over their heads.]

COUNT V. As a member of the Revolutionary Command Council, under the principle of command responsibility, he is liable for the actions, of the regime's various organs, constituting Crimes Against Humanity.

(2) Committed the Crime of Genocide:

COUNT VI. As commander-in-chief of the Popular Army, under the principle of command responsibility, he is liable for the actions committed by the Popular Army that amount to genocide. [The Popular Army was very active in suppressing the uprising in South Iraq in March 1991.]

COUNT VII. As a member of the Revolutionary Command Council, under the principle of command responsibility, he is liable for the regime's crime of Genocide, in particular the Anfal operations, the campaign against Assyrian community and the 'Third River Project'.

(3) Committed War Crimes:

COUNT VIII. As commander-in-chief of the Popular Army, under the principle of command responsibility, he is liable for all war crimes committed by the Popular Army during the occupation of Kuwait.

COUNT IX. As a member of the Revolutionary Command Council, under the principle of command responsibility, he is liable for the breaches of the Geneva Conventions, and Protocols I and II, committed by Iraqi Armed Forces during the Iran - Iraq War, the occupation of Kuwait, and the Gulf War.

(4) Complicity in the Commission of Crimes Against Peace:

COUNT X. He played an important decision-making role

in Iraq's refusal to withdraw from Kuwait. He led an Iraqi delegation to Egypt for an Arab League summit on August 9, 1990, at which time he declared Iraq's unwillingness to withdraw from Kuwait.

COUNT XI. As a member of the Revolutionary Command Council, he is liable for the decision by the RCC to invade Iran in 1980 and Kuwait in 1990. [Article 41 of the Interim Constitution of Iraq requires that any matter be put for a vote, and a majority needs to vote in favor of such matter before it is adopted.]

5. LIEUTENANT-GENERAL HUSAIN KAMIL AL-MAJID (8 COUNTS)

Born 1954. Special Advisor to the President with rank of Minister (Feb. 1992 -). Deputy Prime Minister (1992 -). Minister of Defense (October 1990 - 1991). Minister of Oil (1991). Member of the National Security Council (also known as the Higher Security Committee). Minister of Industry and Military Industrialization (1987 - 1990). Supervisor of Military Industries Organization (1987 - 1990). Chief of Special Security Directorate (al-Amn al-Khass) (1987 - 1990). Senior Officer in Republican Guard (October 1982 -).

(A) Charges:

(1) Committed Crimes Against Humanity:

COUNT I. He reportedly led Republican Guard units that brutally suppressed the uprising in Hillah, Kerbala and Najaf. These units committed mass murders and torture on a wide scale. He is therefore liable for these actions.

COUNT II. He reportedly supervised mass summary executions in the Infantry Training Center in Hillah and in the Mahawil military base. Under the principle of command responsibility, he is liable for these summary executions, which reportedly averaged 120 per day during the month of March 1991.

COUNT III. As a member of the National Security Council, under the principle of command responsibility, he is liable for the actions constituting Crimes Against Humanity committed by the intelligence directorates.

(2) Complicity to the Crime of Genocide:

COUNT IV. As Minister of Industry and Military Industrialization, under whose responsibility the development of the chemical weapons program took place, he is liable for participating in the decision-making process by which such chemical programs were used by the Iraqi Armed Forces against Iraqi civilians, particularly in the towns of Shaikh Wisan, Halabja and Gushtapa in 1988.

COUNT V. As a member of the National Security Council, under the principle of command responsibility, he is liable for the role of the intelligence directorates in the commission of the crime of Genocide, in particular the Anfal operation and the 'Third River Project'.

(3) Committed War Crimes:

COUNT VI. As Minister of Industry and Military Industrialization, under whose responsibility the development of the chemical weapons program took place, he is liable for participating in the decision-making process by which such chemical weapons were used by the Iraqi Armed Forces against the Iranian Army during the Iran-Iraq war.

COUNT VII. As a member of the National Security Council, under the principle of command responsibility, he is liable for the breaches of the Geneva Conventions, and Protocols I and II, committed by the intelligence directorates during the occupation of Kuwait and the Gulf War.

(4) Complicity in the Commission of Crimes Against Peace:

COUNT VIII. As a member of the National Security Council, under the principle of command responsibility, he is liable for the role of the intelligence directorates in the

planning of and actual invasion of Kuwait.

(B) The Following Additional Charge Needs to be Investigated:

Complicity in the Commission of Crimes Against Peace:

He reportedly personally aided in the planning of the invasion of Kuwait in August 1990.

6. QUSAI SADDAM HUSAIN AL-TIKRITI
(9 COUNTS)

Born 1967. Chief of the Special Security Directorate (Jihaz al-Amn al-Khass)(1990 -). Deputy Chief of the Intelligence Directorate (Mukhabarat)(1989 - 1990). Member of the National Security Council (also known as the Higher Security Committee). Deputy Commander of the Popular Army in Kuwait during occupation (1990 - 1991). Heads many ad hoc security apparatuses and interrogation committees closely linked to his father, Saddam Hussein.

Charges:

(1) Committed Crimes Against Humanity:

COUNT I. As Deputy Chief of the Intelligence Directorate, under the principle of command responsibility, he is liable for the murder, torture, rape and general ill-treatment of civilians carried out by officials of the Intelligence Directorate.

COUNT II. As Chief of the Special Security Directorate, under the principle of command responsibility, he is liable for the murder, torture, mass executions, rape and general ill-treatment of civilians carried out by officials of the Special Security Directorate.

COUNT III. He reportedly took personal responsibility for the Radhwaniyeh Prison, where in 1991 and 1992, most of the individuals arrested for participating in the March 1991 uprising were taken. He reportedly ordered mass

executions and torture of prisoners in that prison, as well as ordering the creation of mass graves to bury the executed individuals. He also reportedly tortured many prisoners personally. He is liable for these actions.

COUNT IV. He reportedly personally took charge of the brutal suppression of the demonstrations in Madinat al-Thawra, a suburb of Baghdad, in March 1991.

COUNT V. As a member of the National Security Council, under the principle of command responsibility, he is liable for the actions constituting Crimes Against Humanity committed by the intelligence directorates.

(2) Committed War Crimes:

COUNT VI. As Deputy Commander of the Popular Army in Kuwait during the Iraqi occupation, under the principle of command responsibility, he is liable for the actions of the Popular Army in Kuwait.

COUNT VII. As a member of the National Security Council, under the principle of command responsibility, he is liable for the breaches of the Geneva Conventions, and Protocols I and II, committed by the intelligence directorates during the occupation of Kuwait and during the Gulf War.

(3) Committed the Crime of Genocide:

COUNT VIII. As a member of the National Security Council, under the principle of command responsibility, he is liable for the role of the intelligence directorates in the commission of the crime of Genocide, in particular the 'Third River Project'.

(4) Complicity in the Commission of Crimes Against Peace:

COUNT IX. As a member of the National Security Council, under the principle of command responsibility, he is liable for the role of the intelligence directorates in the planning of and actual invasion of Kuwait.



7. WATBAN IBRAHIM AL-HASAN AL-TIKRITI **(8 COUNTS)**

Minister of the Interior (1990 -). High Official in the Special Security Directorate (Jihaz al-Amn al-Khass). Member of the National Security Council (also known as the Higher Security Committee). Special Advisor to the President of the Republic with rank of Minister (1986 - 1990). Governor of Salah al-din Province (1979 - 1983). Former Chief of Staff of Presidential Office.

Charges

(1) Committed Crimes Against Humanity:

COUNT I. In his position as an official in the Special Security Directorate, he reportedly took personal responsibility for the liquidation of opponents of the regime during the late 1980's. He is liable for the murder of these individuals.

COUNT II. As Minister of the Interior, under the principle of command responsibility, he is liable for the murder, torture, rape and other ill-treatment of Iraqi civilians by the officials of the Ministry of the Interior.

COUNT III. He reportedly took charge of the brutal suppression of the March 1991 uprising in Baghdad, and some of its districts (Thawra, Shu'la, Hurriya' Bayya' and Mahmoudiya), and in the village of Yousifiyya. He reportedly took part in the mass summary executions of suspected dissidents in those areas. He is liable for these actions.

COUNT IV. As Minister of the Interior, under the principle of command responsibility, he is liable for the summary executions of forty-two merchants in Baghdad in July 1992.

COUNT V. He was an accomplice to the murder of several thousand individuals in 1982, when he accompanied his brother, Barazan Ibrahim al-Hasan al-Tikriti, who was Chief of the Intelligence Directorate (Mukhabarat) at the time, to the village of Qushtapa, near Arbil. At Qushtapa,

several thousand male members of the Barazani tribe were loaded into trucks and subsequently disappeared. Eyewitness accounts have stated that they saw him order officials during the loading operations.

COUNT VI. As a member of the National Security Council, under the principle of command responsibility, he is liable for the actions constituting Crimes Against Humanity committed by the intelligence directorates.

(2) Complicity to the Crime of Genocide:

COUNT V. In 1982, he was an accomplice to the murder of several thousand individuals, when he accompanied his brother, Barazan Ibrahim al-Hasan al-Tikriti, who was Chief of the Intelligence Directorate (Mukhabarat) at the time, to the village of Qushtapa, near Arbil. At Qushtapa, several thousand male members of the Barazani tribe were loaded into trucks and subsequently disappeared. Eyewitness accounts have stated that they saw him order officials during the loading operations.

COUNT VI. As a member of the National Security Council, under the principle of command responsibility, he is liable for the role of the intelligence directorates in the commission of the crime of Genocide, in particular with regard to the Anfal operations and the 'Third River Project'.

(3) Complicity in the Commission of Crimes Against Peace:

COUNT VII. As a member of the National Security Council, under the principle of command responsibility, he is liable for the role of the intelligence directorates in the planning of and actual invasion of Kuwait.

(4) War Crimes:

COUNT VIII. As a member of the National Security Council, under the principle of command responsibility, he is liable for the breaches of the Geneva Conventions, and Protocols I and II, committed by the intelligence directorates during the occupation of Kuwait and the Gulf War.

8. SAB'AWI IBRAHIM AL-HASAN AL-TIKRITI (10 COUNTS)

Chief of the General Security Directorate (al-Amn al-A'am)(October 1990 -). Chief of the Intelligence Directorate in Kuwait (Mukhabarat)(August 1990 - October 1990). Member of the National Security Council. Chief of the Intelligence Directorate (Mukhabarat)(December 1989 - August 1990). Deputy Chief of Police (1979 - 1983).

(A) Charges

(1) Committed Crimes Against Humanity:

COUNT I. As Chief of the Intelligence Directorate in Kuwait, under the principle of command responsibility, he is liable for the executions, murder, torture, rape and other ill-treatment of Kuwaiti citizens committed by the officials of the Intelligence Directorate during the occupation of Kuwait.

COUNT II. As Chief of the Intelligence Directorate, under the principle of command responsibility, he is liable for the executions, murder, torture, rape and other ill-treatment of Iraqi citizens committed by the officials of the Intelligence Directorate.

COUNT III. As Chief of the General Security Directorate, under the principle of command responsibility, he is liable for the execution, murder, torture, rape and other ill-treatment of Iraqi citizens carried out by the officials of the General Security Directorate.

COUNT IV. He reportedly personally ordered mass executions during the suppression of the March 1991 uprising. He is liable for such actions.

COUNT V. He reportedly participated in the killing of a large number of detainees in the Radhwaniyeh Military Base, near Baghdad. He is liable for such actions.

COUNT VI. As a member of the National Security Council, under the principle of command responsibility, he is liable for the actions constituting Crimes Against

Humanity committed by the intelligence directorates.

(2) Committed War Crimes:

COUNT VII. As Chief of the Intelligence Directorate in Kuwait, under the principle of command responsibility, he is liable for the violations of the four Geneva Conventions and Protocols I and II by the officials of the Intelligence Directorate during the occupation of Kuwait.

COUNT VIII. As a member of the National Security Council, under the principle of command responsibility, he is liable for the breaches of the Geneva Conventions, and Protocols I and II, committed by the intelligence directorates during the occupation of Kuwait and the Gulf War.

(3) Complicity to the Crime of Genocide:

COUNT IX. As a member of the National Security Council, under the principle of command responsibility, he is liable for the role of the intelligence directorates in the commission of the crime of Genocide, in particular with regard to the 'Third River Project'.

(4) Complicity in the Commission of Crimes Against Peace:

COUNT X. As a member of the National Security Council, under the principle of command responsibility, he is liable for the role of the intelligence directorates in the planning and actual invasion of Kuwait.

(B) The Following Additional Charge Needs to Be Investigated:

Committed Crimes Against Humanity:

He reportedly aided his brother, Barazan Ibrahim al-Hasan al-Tikriti, in the assassinations of Iraqi dissidents abroad.

9. IZZAT IBRAHIM AL-DOURI (8 COUNTS)

Born 1942. Vice Chairman of the Revolutionary Command Council. Deputy Secretary General of the Ba'th Party Regional Command. Former Head of the Revolutionary Court.

(A) Charges

(1) Committed Crimes Against Humanity:

COUNT I. He reportedly took charge of army units that brutally suppressed the uprising of March 1991. He is liable under the principle of command responsibility for the mass murder, executions and other ill-treatment of Iraqi civilians by the units under his command.

COUNT II. As Head of the Revolutionary Court, he issued a large number of summary execution orders, without trials. He is liable for these orders. [Being an extra-judicial body, members of the Revolutionary Court do not have judicial immunity.]

COUNT III. In his role as a senior party official, he reportedly ordered a number of summary executions and torture.

COUNT IV. As a member of the Revolutionary Command Council, under the principle of command responsibility, he is liable for the actions of the regime constituting Crimes Against Humanity.

(2) Complicity in the Commission of Crimes Against Peace:

COUNT V. He reportedly played an important role in the planning of the invasion of Kuwait in August 1990. [He led the Iraqi delegation to Jeddah, Saudi Arabia, on August 1, 1990 for discussions to end the crisis between Kuwait and Iraq.]

COUNT VI. As Vice Chairman of the Revolutionary Command Council, he is responsible for the decision by the RCC to invade Kuwait. [The RCC unanimously

adopted the decision to invade Kuwait. Article 41 of the Interim Constitution of Iraq requires that all RCC resolutions be adopted by majority vote.]

(3) Complicity to the Crime of Genocide:

COUNT VII. As Vice Chairman of the Revolutionary Command Council, under the principle of command responsibility, he is liable for the actions of the regime constituting the Crime of Genocide, in particular the Anfal operations and the 'Third River Project'.

(4) Committed War Crimes:

COUNT VIII. As Vice Chairman of the Revolutionary Command Council, under the principle of command responsibility, he is liable for the breaches of the Geneva Conventions, and Protocols I and II, committed by the Iraqi Armed Forces during the Iran-Iraq War, the Iraqi occupation of Kuwait and the Gulf War.

10. MUHAMMED HAMZA AL-ZUBAIDI

(3 COUNTS)

Born 1938. Prime Minister (1992 -). Member of the Ba'th Party Regional Command (1982 -). Special Advisor to the President with ministerial rank (1982 - 1987). Secretary of the Ba'th Party Northern Bureau (1986 - 1992). Minister of Transportation and Communications (1987 - 1992). Member of the National Assembly.

(A) Charges

(1) Committed Crimes Against Humanity:

COUNT I. He reportedly took charge of the brutal suppression of the uprising in March 1991 in the cities of Samawa, Nassiriya, Basra, Amara and Kut. He is liable for the murder, mass executions, torture and other ill-treatment of Iraqi civilians by those under his command. [He is recorded on official government video tape kicking and beating people on the head in the city of Nassiriya during

the uprising].

COUNT II. As Secretary of the Ba'th Party Northern Bureau, under the principle of command responsibility, he is liable for the activities undertaken by the Ba'th Party against the Kurdish population during his tenure, including the Ba'th Party's role in the execution of the Anfal operation in Kurdistan.

(2) Committed the Crime of Genocide:

COUNT III. As Secretary of the Ba'th Party Northern Bureau, under the principle of command responsibility, he is liable for the Ba'th Party's role in the execution of the Anfal operation in Kurdistan.

11. TARIQ AZIZ (7 COUNTS)

Born 1936. Member of the Revolutionary Command Council (August 1979-) [Specifically in charge of the Council's Arab Liberation Movement Bureau]. Member of the Ba'th Party's National Command. Member of the Ba'th Party's Regional Command. Minister of Foreign Affairs (1983 - 1991). Deputy Prime Minister (1984 -). Minister of Information (1975 - 1983).

(A) Charges

(1) Committed Crimes Against Humanity:

COUNT I. As a member of the Revolutionary Command Council, under the principle of command responsibility, he is liable for all the regime's Crimes Against Humanity.

COUNT II. He reportedly personally took part in the executions that resulted from the purges of the Ba'th Party in July - August 1979. At the very least, he is an accomplice to these executions.

(2) Complicity to the Crime of Genocide:

COUNT III. As a member of the Revolutionary Command Council, under the principle of command responsibility, he

is liable for all the regime's Crimes of Genocide, particularly the Anfal operations, the campaign against the Assyrian community and the 'Third River Project'.

(3) Committed War Crimes:

COUNT IV. As a member of the Revolutionary Command Council, under the principle of command responsibility, he is liable for all the regime's breaches of customary international law and the breaches of the Geneva Conventions, and Protocols I and II, committed by the Iraqi Armed Forces in the Iran-Iraq War, during the occupation of Kuwait and in the Gulf War.

(4) Complicity in the Commission of Crimes Against Peace:

COUNT V. As a member of the Revolutionary Command Council, under the principle of command responsibility, he is liable for conspiring and planning to invade Iran in 1980.

COUNT VI. As a member of the Revolutionary Command Council, under the principle of command responsibility, he is liable for conspiring and planning to invade Kuwait in 1990.

COUNT VII. He personally played a role in bringing about war between the Allied Coalition, acting under U.N. auspices, and Iraq. [Specifically, he led an Iraqi delegation to a meeting in Geneva with Secretary of State James Baker, in December 1990, by which he unequivocally stated that Iraq will not withdraw from Kuwait. His refusal to discuss the matter of withdrawal was an indication that war was inevitable.]

12. UDAI SADDAM HUSAIN AL-TIKRITI

(8 COUNTS)

Born 1964. Son of Saddam Hussein. Member of the National Security Council (also known as the Higher Security Committee). Head of the Iraqi Olympic

Committee (March 1986 - October 1988; 1989 -). Head of the Iraqi Football Federation (1986 -). Editor and Publisher of the Government Owned "Babel" Newspaper. Deputy Chief of the Intelligence Directorate (1985 - 1988).

(A) Charges

(1) Crimes Against Humanity:

COUNT I. As Deputy Chief of the Intelligence Directorate, under the principle of command responsibility, he is liable for all the actions constituting Crimes Against Humanity committed by the officials of the Intelligence Directorate during his tenure.

COUNT II. He has reportedly sexually assaulted a large number of Iraqi women, often abusing his position as the son of Saddam Hussein to do so.

COUNT III. He summarily killed several individuals. [In front of eyewitnesses, he personally summarily murdered Kamil Hanna Jejou, an aide to Saddam Hussein. He also reportedly personally summarily executed General Faleh Akram Fehmi.]

COUNT IV. He played an active role in the brutal suppression of the March 1991 uprising. In March 1991, in the city of Basra, he reportedly executed a large number of dissidents, whom he personally selected, in front of a large group of detainees.

COUNT V. As a member of the National Security Council, under the principle of command responsibility, he is liable for the actions constituting Crimes Against Humanity committed by the intelligence directorates.

(2) Committed War Crimes:

COUNT VI. He reportedly oversaw and personally participated in the destruction and theft of property from Kuwait during the Iraqi occupation of Kuwait.

COUNT VII. He reportedly ordered the deportation of Kuwaitis from Kuwait to Iraq, as well as the torture of

Kuwaitis during the Iraqi occupation of Kuwait.

COUNT VIII. As a member of the National Security Council, under the principle of command responsibility, he is liable for the breaches of the Geneva Conventions, and Protocols I and II, committed by the intelligence directorates during the occupation of Kuwait.

13. AZIZ SALIH AL-NOMAN (6 COUNTS)

Governor of Kuwait Province (November 1990 - February 1991). Head of the Popular Army in Kuwait (August 1990 - February 1991). Special Advisor to the President, with rank of Minister (1987 - 1991). Former Minister of Agriculture. Former Governor of Kerbala and Najaf Provinces.

(A) Charges

(1) Committed Crimes Against Humanity:

COUNT I. As Governor of Kerbala and Najaf Provinces, under the principle of command responsibility, he is liable for the regime's repression in the provinces during his tenure.

COUNT II. While Governor of Kerbala and Najaf Provinces, he reportedly personally ordered the wanton destruction of holy sites, ancient libraries and graveyards in those cities.

COUNT III. He reportedly played an active role in the brutal suppression of the March 1991 uprising, personally ordering a large number of summary executions.

COUNT IV. While Governor of Kerbala Province, he personally ordered the deportation of a large number of individuals and families.

COUNT V. As Governor of Kuwait, under the principle of command responsibility, he is liable for the actions constituting Crimes Against Humanity committed by the Iraqi Armed Forces, the members of the Ba'th Party and

the intelligence directorates during the occupation of Kuwait.

(2) Committed War Crimes:

COUNT VI. As Governor of Kuwait, under the principle of command responsibility, he is liable for the breaches of the Geneva Conventions, and Protocols I and II, committed by the Iraqi authorities during the occupation of Kuwait and during the Gulf war.

CATEGORY B:

THE INDIVIDUALS THAT THE INC REQUESTS BE INVESTIGATED FURTHER BY THE TRIBUNAL'S SPECIAL PROSECUTORS

1. LIEUTENANT GENERAL HUSAIN RASHID MUHAMMED AL-TIKRITI

Chief of Staff of the Armed Forces (November 1990 -). Armed Forces Assistant Chief of Staff for Operations (July 1988-November 1990). Commander of the First Army Corps (July 1987-July 1988). Commander of the Presidential Guard, (later renamed the Republican Guard Corps) (April 1986 - July 1987).

Proposed Charges To Be Investigated:

(1) Crimes Against Peace: Under the principle of command responsibility, as Armed Forces Assistant Chief of Staff for Operations, he is liable for complicity in the invasion of Kuwait.

(2) War Crimes: Under the principle of command responsibility, as Chief of Staff of the Armed Forces, he is liable for the war crimes committed by the Iraqi Armed Forces during the Gulf War.

(3) *Crimes Against Humanity*: Under the principle of command responsibility, as Chief of Staff of the Armed Forces, and as overall coordinator of the operations that put down the March 1991 uprising, he is liable for the actions of the Iraqi Armed Forces that constitute Crimes against Humanity.

2. HASHIM HASAN AL-MAJID

Governor of Kirkuk Province. Former Governor of Babil Province.

Proposed Charge To Be Investigated:

Crimes Against Humanity: He was reportedly responsible for mass executions and other atrocities in the towns of Hilla and Nassiriya in Southern Iraq during the March 1991 uprising. He was seen on official government film physically abusing and kicking-in the heads of captured insurgents in Nassiriya.

3. ABDUL GHANI ABDUL-GHAFUR

Secretary of Ba'th Party Southern Bureau (1991). Member of the Ba'th Party Regional Command (1982 -). Special Advisor to the President, with rank of Minister (1982-). Former Minister of Religious Endowments.

Proposed Charge To Be Investigated:

Crimes Against Humanity: As Secretary of the Ba'th Party Southern Bureau, he issued orders to detain and execute numerous dissidents in the cities of Basra, Nassiriya and Amara.

4. MUHAMMED ZAMAM AL-SA'DOUN

Member of the Regional Command of the Ba'th Party. Secretary of the Ba'th Party Southern Bureau (1991 -).

Allegedly a member of the Revolutionary Command Council.

Proposed Charge To Be Investigated:

Crimes Against Humanity: Reportedly actively participated in the brutal suppression of the March 1991 uprising.

5. KHODHR ABDUL-AZIZ HUSAIN AL-DOURI:

Member of the Revolutionary Command Council. Member of the Regional Command of the Ba'ath Party. Secretary of the Ba'ath Party Northern Bureau. Member of the National Security Council (also known as the Higher Security Committee). Former Director of the General Security Directorate (Al-Amn al-A'am). Military Governor of Kerbala and Najaf Provinces (appointed immediately after uprising).

Proposed Charge To Be Investigated:

Crimes Against Humanity: Reportedly very actively involved in the brutal suppression of the March 1991 uprising in the south of Iraq.

Under the principle of command responsibility, as a member of National Security Council, which has overall responsibility for the coordination of the activities of the Security Directorates, he is liable for the activities of the Security Directorates that constitute crimes against humanity.

6. TAHER TAWFIQ (AL-ANI)

Governor of Nineveh Province (1987 - 1991). Executive Assistant to the Secretary of the Bureau for the Organization of the North (Assistant to Ali-Hasan al-Majid)(1986-1987).

Proposed Charges To Be Investigated:

(1) *Crimes Against Humanity:* As Executive Assistant to

the Secretary of the Bureau for the Organization of the North, under the principle of command responsibility, he is liable for the Anfal operations. (There are documents in the INC's possession that order mass murder and torture, signed by Taher Tawfiq.)

(2) *Genocide*: As Executive Assistant to the Secretary of the Bureau for the Organization of the North, under the principle of command responsibility, he is liable for the Genocidal aspects of the Anfal operations, especially ordering the elimination of numerous villages.

7. MAJOR GENERAL TALÍ' AL-DOURI

Military Governor of Najaf Province (1991 -). Commander of the Fifth Army Corps (October 1986 - July 1987). Commander of the Third Army Corps (April - October 1986) Commander of the Presidential Guard (later named the Republican Guard Corps)(until 1986).

Proposed Charges To Be Investigated:

(1) *War Crimes*: Reportedly ordered and oversaw mass killings in the North of Iraq during the Iran-Iraq War.

(2) *Crimes Against Peace*: Reportedly an active participant in the planning of the invasion of Kuwait.

(3) *Crimes Against Humanity*: Reportedly ordered mass executions in the towns of Hilla and Najaf during the uprising of March 1991. Was seen on Iraqi Television physically abusing citizens of Najaf.

Reportedly ordered the bombing, using surface to surface Scud missiles, of the towns of Najaf and Kerbala in March 1991.

8. MAJOR GENERAL IAYAD KHALIL ZAKI

Commander of the Fourth Army Corps (1988).

Proposed Charges To Be Investigated:

(1) *Crimes Against Humanity*: The Fourth Army Corps was very active in the implementation of the second Anfal operation, which covered the Kifri and Qara Dagh areas. Under the principle of command responsibility, he is liable for the activities of the Fourth Army Corps in the Second Anfal Operation. (Communiqué no.3109, broadcast on Baghdad Radio on April 2,1988, identified him as leading the "Second Anfal Operation".)

(2) *Genocide*: He is liable, under the principle of command responsibility, for the actions, that constitute genocide, of the Fourth Army Corps in the Second Anfal Operation.

9. MUSLIM HADI AL-JIBOORI

Former Chief of Revolutionary Court and former public prosecutor.

Proposed Charge To Be Investigated:

Crimes Against Humanity: Reportedly issued a large number of execution orders, following trials that lacked any due process of law.

10. COLONEL KAMIL YASEEN

Head of Saddam Hussein's Bodyguard Unit (1988 -). Close aide and companion to Saddam Hussein from 1968.

Proposed Charge To Be Investigated:

Crimes against Humanity: Reportedly executed many of the orders of Saddam Hussein personally. Such acts included rape, murder, torture and detention. Reportedly participated in the executions of a large number of military personnel.

11. LIEUTENANT COLONEL ABDEL-KARIM AL-JOUHAIFI

Officer in Iraqi Armed Forces.

Proposed Charges To Be Investigated:

(1) *Crimes Against Humanity*: Reportedly directly responsible for the murder and burning of 700 women, children and elderly persons in the northern village of Sourey. This according to information provided by a report of the Special Rapporteur on Iraq for the U.N. Human Rights Commission, Mr. Max van der Stoel.

(2) *Genocide*: Reportedly actively participated in the genocidal operations against the Assyrian community of Northern Iraq.

12. MAJOR GENERAL RASHAASH JIYAD WATRA AL-IMARA

Commander of the Fifth Army Corps in 1980's. Senior Officer in the Republican Guard.

Proposed Charges To Be Investigated:

(1) *Crimes Against Humanity*: Reportedly participated in the destruction of many villages in the Dokan area of Northern Iraq.

Reportedly participated in the chemical bombing of the town of Halabja in 1988.

Reportedly murdered and ordered the executions of numerous Iraqi soldiers in the Iran-Iraq war.

(2) *Genocide*: His participation in the destruction of many Kurdish villages in the Dokan area and in the chemical bombing of Halabja make him liable for the crime of genocide.

13. COLONEL SADDAM KAMIL AL-MAJID

Senior Officer in the Special Security Directorate (Al-Amn al-Khass). Senior Officer in the Missile Corps (duties involved coordination with the Ministry of Industry and Military Industrialization).

Proposed Charges To Be Investigated:

(1) *Crimes Against Humanity*: His duties in the Special Security Directorate reportedly involve the supervision of the torture and of interrogation in the prisons run by the Directorate.

Reportedly in charge of the military operations in the south of Iraq since 1992. These operations include:

(a) the "Third River Project", aimed at drying up the Southern Marshes; and

(b) mass killings of dissidents living in the Southern Marshes.

(2) *Genocide*: He is liable for the crime of genocide for his responsibility in planning, directing and implementing the "Third River Project" in the Southern Marshes.

14. MAJOR GENERAL SABIR AL-DOURI

Director of the Intelligence Directorate (Mukhabarat) (1991 -). Director of Military Intelligence (until transfer to Intelligence Directorate). Member of the National Security Council (also known as Higher Security Committee; it coordinates the activities of the four intelligence directorates).

Proposed Charges To Be Investigated:

(1) *Crimes Against Humanity*: As the Director of Military Intelligence, under the principle of command responsibility, he is liable for the actions - that constitute Crimes Against Humanity - of the officials of Military Intelligence during the brutal suppression of the uprising.

As Director of the Intelligence Directorate, under the principle of command responsibility, he is liable for the actions - that constitute Crimes Against Humanity - of the officials of the Intelligence Directorate.

Reportedly implemented orders for the wide scale detention of military personnel and civilians after the end of the Iran-Iraq war.

Reportedly ordered the detention of Kuwaiti civilians during the occupation of Kuwait.

Reportedly participated in the chemical bombing of the Halabja in March 1988.

Reportedly issued orders for the mass execution of individuals in the South during the March 1991 uprising.

(2) *Crimes Against Peace*: As Director of Military Intelligence, he is liable under the principle of command responsibility for the role of Military Intelligence in the planning and invasion of Kuwait.

(3) *War Crimes*: As Director of Military Intelligence, he is liable under the principle of command responsibility for the breaches committed by officials in Military Intelligence of the Four Geneva Conventions, and Protocols I and II, during the Iraqi invasion of Kuwait, the occupation of Kuwait and the Gulf War.

15. BRIGADIER GENERAL KAMAL MUSTAFA ABDALLAH SULTAN

Member of the National Security Council (also known as Higher Security Committee). Commander of the military divisions of the ad hoc Emergency Forces (created as a special unit to participate in the suppression of the March 1991 uprising.)

Proposed Charges To Be Investigated:

(1) *Crimes Against Humanity*: As a member of the National Security Council, under the principle of command

responsibility, he is liable for the actions - that constitute Crimes Against Humanity - of the intelligence directorates.

As a commander of the military divisions of the Emergency Forces, under the principle of command responsibility, he is liable for the actions --that constitute Crimes Against Humanity --of the Emergency Forces.

He reportedly ordered mass executions of individuals, as well as the detention and torture of a large number of people, during the March 1991 uprising.

(2) *Crimes Against Peace*: As a member of the National Security Council, under the principle of command responsibility, he is liable for the role that the intelligence directorates had in the planning and invasion of Kuwait.

(3) *War Crimes*: As a member of the National Security Council, under the principle of command responsibility, he is liable for the breaches of the intelligence directorates of the Geneva Conventions, and Protocols I and II, during the invasion of Kuwait, the occupation of Kuwait and the Gulf War.

(4) *Genocide*: As a member of the National Security Council, under the principle of command responsibility, he is liable for the role of the intelligence directorates in the commission of the Crime of Genocide, in particular with regard to the 'Third River Project'.

16. ABD-HAMOOD HAMEED

Personal Advisor to the President with Ministerial Rank. Member of the National Security Council (also known as the Higher Security Committee).

Proposed Charges To Be Investigated:

(1) *Crimes Against Humanity*: Reportedly participated in the extra judicial detention and execution of a large number of military personnel and civilians.

As a member of the National Security Council, under the

principle of command responsibility, he is liable for the actions constituting Crimes Against Humanity committed by the intelligence directorates.

(2) *Genocide* : As a member of the National Security Council, under the principal of command responsibility, he is liable for the actions constituting the Crime of Genocide committed by the intelligence directorates, specifically the continued genocide being committed against the Marsh Arabs.

17. MAJOR GENERAL HISHAM SABAH FAKHRI

Military Governor of Al-Ta'mim Province. Military Governor of Nassiriya Province (During March 1991 uprising). Armed Forces Assistant Chief of Staff for Operations (March 1985 - July 1987). Commander of the 'East of Tigris' Force (February 1984 - March 1985). Chief of the Intelligence Directorate (Mukhabarat)(October 1983 - January 1984). Commander of the Fourth Army Corps (1980 - October 1983).

Proposed Charges To Be Investigated:

(1) *Crimes Against Humanity*: As Chief of Intelligence, under the principle of command responsibility, he is liable for the actions constituting Crimes Against Humanity of the officials of the Intelligence Directorate.

As Military Governor of the Nassiriya Province during the March 1991 uprising, he is liable for the Crimes Against Humanity that took place in the province during the brutal suppression of the uprising.

He reportedly participated in mass executions in Basra during the March 1991 uprising.

He reportedly ordered the summary mass execution of 400 army personnel, including officers, in the Sporting Stadium of the town of Amara, in 1983.

(2) *War Crimes*: As Armed Forces Assistant Chief of Staff

for Operations, he is liable under the principle of command responsibility for the breaches of the Geneva Conventions, and Protocols I and II, committed by the Iraqi Armed Forces during the Iran-Iraq War.

He reportedly ordered the summary execution of a large number of Iranian Prisoners of War.

18. FADHIL SULFAIJ MHAIMED AZZAWI

Governor of Salah al-Din Province. Director of Intelligence Directorate (1989 - 1991). Former diplomat and ambassador. Reportedly a member of the Revolutionary Command Council.

Proposed Charges To Be Investigated:

(1) *Crimes Against Humanity*: Under the principle of command responsibility, he is liable for the actions constituting Crimes Against Humanity committed by officials of the Intelligence Directorate during his tenure as Chief of the directorate.

He reportedly personally ordered numerous detentions and torture of individuals.

(2) *War Crimes*: As Chief of the Intelligence Directorate, he is liable under the principle of command responsibility for the breaches, committed by officials of the Intelligence Directorate, of the Geneva Conventions, and Protocols I and II.

19. ABD-HASAN AL-MAJID

Deputy Chief of the Intelligence Directorate (Mukhabarat). Chief of the Special Operations Bureau of the Intelligence Directorate. Member of the National Security Council (also known as the Higher Security Committee). (Reportedly most powerful individual in the Intelligence Directorate, more powerful than the Chief, Sabir al-Douri [see 32 above]).

Proposed Charge To Be Investigated:

Crimes Against Humanity: Under the principle of command responsibility, as a member of the National Security Council, he is liable for the actions constituting Crimes Against Humanity committed by the intelligence directorates.

As Deputy Chief of Intelligence, he is liable under the principle of command responsibility for the actions constituting Crimes Against Humanity committed by officials in the Intelligence Directorate.

Reportedly supervised the extra judicial detention and torture of a very large number of individuals.

Reportedly involved in coordinating terrorist activities outside Iraq.

Reportedly had a very active role in suppressing the March 1991 uprising in the south of Iraq.

20. MAJOR GENERAL KAMAL AL-MAJID

Commander of the Presidential Guard.

Proposed Charge To Be Investigated:

Crimes Against Humanity: He reportedly actively participated in the brutal suppression of the March 1991 uprising in the south. (He was seen on videotape brutalizing suspected rebels).

21. STAFF GENERAL AHMAD RIDHA

Deputy Director of Military Intelligence.

Proposed Charges To Be Investigated:

(1) *Crimes Against Humanity:* As Deputy Director of Military Intelligence, he is liable under the principle of command responsibility for the actions constituting Crimes

Against Humanity committed by Military Intelligence.

(2) *Genocide*: As Deputy Director of Military Intelligence, he is liable under the principle of command responsibility for the role of Military Intelligence in the commission of Genocide, especially with regard to the Anfal operations and the 'Third River Project'.

(3) *Crimes Against Peace*: As Deputy Director of Military Intelligence, he is liable under the principle of command responsibility for the role of Military Intelligence in the invasion of Kuwait.

(4) *War Crimes*: As Deputy Director of Military Intelligence, he is liable under the principle of command responsibility for the breaches of the Geneva Conventions, Protocols I and II, committed by officials of military intelligence during the occupation of Kuwait and the Gulf War.

22. MAJOR GENERAL FANER AL-TIKRITI

Present Director of Military Intelligence.

Proposed Charges To Be Investigated:

(1) *Crimes Against Humanity*: As Director of Military Intelligence, he is liable under the principle of command responsibility for the actions constituting Crimes Against Humanity committed by officials of Military Intelligence.

(2) *Genocide*: As Director of Military Intelligence, he is liable under the principle of command responsibility for the role of Military Intelligence in the commission of Genocide, especially in relation to the current 'Third River Project', whose goal is to dry up the southern marshes.

23. FADHIL AL-ZARGANI

Senior Officer in two security services, the General Security Directorate (al-Amn al-A'am) and the Intelligence

Directorate (Mukhabarat). His tenure included posts as regional director of the two directorates in Diwaniyya, Basra and the Thawra district of Baghdad. He was also chief of the Fifth Division of the Intelligence Directorate.

Proposed Charge To Be Investigated:

Crimes Against Humanity: Reportedly participated in the interrogation, torture and murder of Iraqi citizens accused of religious activism, including the execution of Sayid Muhammed Baqir al-Sadr and his sister (April 1980), Arif al-Basri 1975, Noori Tu'ma and his group, and Sayid Qasim Shubbar, who was executed along with 90 other individuals between July 1979 and September 1980.

24. LIEUTENANT GENERAL HAMID SHABAN AL-TIKRITI

Former commander of air force.

Proposed Charge To Be Investigated:

Genocide and Crimes Against Humanity: Supervised and directed massive aerial bombardment on Kurdish villages. Directed the use of chemical weapons on civilians in the north of Iraq.

25. LIEUTENANT GENERAL IYAD FTEIH AL-RAWI

Former Chief of Staff of the Iraqi army.

Proposed Charge To Be Investigated:

Genocide and Crimes Against Humanity: One of the architects of the Anfal Campaign. Directed destruction of Kurdish villages and mass murder of civilians.

26. LIEUTENANT GENERAL SULTAN HASHIM AHMAD

Deputy Chief of Staff of the Iraqi army.

Proposed Charge To Be Investigated:

Genocide and Crimes Against Humanity: Carried out, at command level, mass murder during Anfal Campaign and ordered the use of chemical weapons.

27. SA'DOUN SHAKIR

Born 1939. Member of the Revolutionary Command Council (1977 - September 1990). Member of the Ba'th Party Regional Command (1977 -). Secretary of the Ba'th Party Central Vocational Bureau (1977 -). Minister of the Interior (October 1979 - August 1987). Chief of the Intelligence Directorate (Mukhabarat) (1973 - 1975). Special Prosecutor in the ad hoc Revolutionary Court set up to try the Ba'th Party leaders in July - August 1979. [He has been a close confidante of Saddam Hussein ever since he helped him escape from prison. Has been reportedly out of favor with the inner leadership since 1992.]

Charges To Be Investigated:

(1) Committed Crimes Against Humanity:

COUNT I. As Minister of the Interior, under the principle of command responsibility, he is liable for all the actions constituting Crimes Against Humanity committed by the officials of the Ministry of the Interior.

COUNT II. As a member of the Revolutionary Command Council, under the principle of command responsibility, he is liable for all of the regime's Crimes against Humanity.

COUNT III. He reportedly personally carried out a large number of extra judicial tortures and executions, as well as the rape and disappearance of a large number of Iraqi women in the prisons of the regime.

COUNT IV. As Special Prosecutor of the ad hoc Revolutionary Court that tried Ba'th Party officials in July and August 1979, he is an accomplice to the execution of these Ba'th Party officials.

COUNT V. He reportedly personally participated in the summary execution of several Ba'th Party officials in the July - August 1979 purge.

(2) Committed The Crime of Genocide:

COUNT VI. As a member of the Revolutionary Command Council, under the principle of command responsibility, he is liable for the commission of Genocide during the Anfal operations, including the campaign against the Assyrian community.

(3) Committed War Crimes:

COUNT VII. As a member of the Revolutionary Command Council, under the principle of command responsibility, he is liable for the war crimes committed by the Iraqi Armed Forces during the Iran-Iraq war.

(4) Complicity in the Commission of Crimes Against Peace:

COUNT VIII. As a member of the Revolutionary Command Council, under the principle of command responsibility, he is liable as an accomplice to the commission of Crimes Against Peace, as it relates to the Iraqi invasion of Iran in 1980 and the Iraqi invasion of Kuwait in 1990.

Institut kurde de Paris

THE PROPOSED TRIBUNAL AND THE PRINCIPLES BEHIND ITS ESTABLISHMENT

The proposal of the Iraqi National Congress for the creation of an ad hoc tribunal to try the Iraqi leadership for war crimes, crimes against peace, crimes against humanity and the crime of genocide has been demonstrated to be based on international legal precedents. There is no legal innovation in the proposal.

The reason behind the proposal for an ad hoc Tribunal is that there is no other effective mechanism to try the Iraqi leadership. The INC notes that the United Nations and the International Law Commission are exploring the establishment of a permanent international criminal court. But progress on that front is slow, and events in Iraq are moving fast. The issue of justice in the transition between dictatorship and democracy is one of the most urgent matters facing the INC.

The lack of progress on the establishment of an international criminal court has been recognized by the United Nations Security Council. This is evidenced by Security Resolution Council 808 (1992), which authorized the establishment of a War Crimes Tribunal to try defendants for the atrocities committed in the former Yugoslavia. The INC supports the trial of the perpetrators of war crimes in the former Yugoslavia, and much like the

situation there, the atrocities committed in Iraq do not allow for the luxury of waiting for the creation of a permanent International Criminal Court, as envisioned by the International Law Commission. Something needs to be done now in Iraq.

(A) The United Nations

The INC proposal for the establishment of an ad hoc Tribunal to try the Iraqi leadership begins with the United Nations Security Council. It is the Security Council that authorized the coalition which drove Iraq out of Kuwait; and it is the Security Council that issued several resolutions that the Government of Iraq has constantly violated. It is also the Security Council, through Resolution 808 (1992), that authorized the creation of the ad hoc Tribunal for Yugoslavia.

The INC therefore requests that the Security Council issue a resolution, along the lines of Resolution 808, to authorize the creation of a Tribunal. Even though such a tribunal can be created by the members of the allied coalition, to whom the Government of Iraq unconditionally surrendered in February of 1991, a Security Council resolution would provide more legitimacy. A draft Security Council Resolution is included in Appendix E.

(B) The Special Rapporteur of the U.N. Human Rights Commission

The Tribunal set up for Yugoslavia under Security Council Resolution 808 created, as its starting point, a Commission of Experts. The purpose of this Commission is to investigate the atrocities committed in the former Yugoslavia, including the various human rights abuses. The INC recognizes that this is an important step for the Yugoslavia Tribunal; however the situation is different with Iraq. Pursuant to Security Council Resolution 688, the U.N. Human Rights Commission appointed Mr. Max van

der Stoel as the Special Rapporteur on the human rights situation in Iraq. Mr. van der Stoel has issued several reports on the human rights situation in Iraq, as well as compiling a large number of documents and other evidence on human rights violations in Iraq. Therefore, effectively, he has already completed much of the work that the Commission of Experts on the former Yugoslavia is now undertaking. As such, there is no need for the Iraq Tribunal to have, as its starting point, the creation of a Commission of Experts.

The INC recommends that the first effective step of the proposed Tribunal be the appointment of a Procurator General, who will work closely with Mr. van der Stoel in analyzing the information on Iraq. There are several independent organizations, including the U.N. Human Rights Commission, that have acquired a substantial amount of information on the human rights situation inside Iraq. In addition, the Kurds have acquired numerous Iraqi government documents, especially those emanating from the security organizations.

Since the proposed Tribunal is to try individuals for War Crimes and Crimes Against Peace, as well as Crimes Against Humanity and Genocide, the Procurator General should also be in contact with the Governments of Kuwait and Iran to obtain information from them on the violations of the Iraqi army during the war with Iran and the occupation of Kuwait. Both governments have substantial detailed evidence on the violations committed by the Iraqi armed forces. Additionally, governments that were members of the allied coalition have such information, some of which is public.

The INC believes that, even if the Government of Iraq does not cooperate with the Procurator General and thereby violates the Security Council Resolution establishing the Tribunal, there is substantial first hand evidence in independent hands for the Procurator General to commence the process of a criminal inquiry.



(C) The Tribunal

The proposed Tribunal is to be established by a United Nations Security Council Resolution. The INC has proposed a draft Charter for the Tribunal that is to be an inherent part of the Resolution. This draft Charter is included below in part B. Once the Resolution is passed, the Charter would immediately go into effect.

1. The Charter and the Standing Committee:

The Charter is to govern the functioning of the Tribunal. Every Member State of the United Nations will then be invited to ratify the Charter. By ratifying this Charter, these member states will then be automatically invited to become members of the Standing Committee of the Tribunal. Basically, the Standing Committee will appoint the seven judges of the Tribunal's court, as well as the Procurator-General, the Grand Jury and the Secretary of the Tribunal. There are other functions of the Standing Committee enumerated in Article BB of the draft Charter. Essentially, the Standing Committee is to act as the governing body of the Tribunal, created to avoid a constant return to the Security Council.

2. Other Bodies of the Tribunal:

There are four other bodies in the proposed Tribunal. They are the Court, the Procuracy, the Grand Jury and the Secretariat. The Court is to be composed of seven judges and it is to try the cases brought forth by the prosecutors. The INC proposes that a judge of Iraqi origin, is appointed as one of the judges, as long as that judge is determined to be impartial. Such an inclusion will give added light to the crimes committed within the state of Iraq. The Procuracy will be composed of all the prosecutors and their staff. The Grand Jury is to investigate the indictments of the public prosecutors and decide whether there is enough basis in law and fact to proceed forth with the indictments of the individuals charged. The Secretariat will basically fulfil all the administrative functions of the Tribunal.

3. The Crimes:

Article 3 of the Tribunal enumerates the crimes to be tried by the Court. There are four essential crimes - Crimes Against Peace, War Crimes, Crimes Against Humanity and the Crime of Genocide. The crime of complicity to commit Crimes Against Peace is included within the charge of Crimes Against Peace. The Tribunal only has jurisdiction to try defendants for the above charges.

4. The Rights of the Defendants:

Section VI of the draft Charter, which includes Articles 31 to 34, outline the rights of the defendants to a fair trial. This Section reflects the strong beliefs of the INC that all defendants in the Tribunal should have rights and be entitled to a fair trial. Moreover, the inclusion of this section signifies the INC's condemnation of the practice of summary trials in Iraq, both now and in the future.

5. Trial in Absentia:

One issue that has been raised relates to whether the defendants should be tried in absentia, if the Government of Iraq refuses to hand any party indicted and thereby violate the U.N. Resolution. Since the proposed Tribunal is partially based on the Nuremberg precedent, the INC notes that at Nuremberg, one defendant - Bormann - was tried in absentia. Thus, there is a precedent for a trial in absentia. The second view holds that indictments should be handed down; and if and when the indictees come within the jurisdiction of the Tribunal then the trial shall commence. The INC endorses the first view, namely that trials should commence, even in absentia. If during that period, the indictees come within the jurisdiction of the Tribunal, then they will be allowed to participate in the proceedings.

6. Criminal Organizations:

Article 43 of the draft Charter allows the Court of the Tribunal to determine whether, in its opinion and according to the evidence provided at trial, any group or organization that is an organ of the Government of Iraq is a

criminal organization. The Tribunal will have the right to issue a declaratory judgment holding that a specific organization or group is criminal. This Article is based on Articles 9 and 10 of the Nuremberg Charter. However, in light of the INC's proposed amnesty for those not indicted by the Tribunal, instead of holding all members of such groups as criminals under international law, the INC proposes that the Tribunal issue a declaratory judgment holding that a specific organization or group is criminal, and order the Government of Iraq to disband it, and will order its members to resign from it. The Government of Iraq will be obligated to disband such an organ on the date of the declaratory judgment. Any member of an organization or group - that was declared criminal - who continues to participate in its activities after such declaration, will incur liability for his continued involvement in such activities. The terms of the amnesty, as set out in Section III above, will no longer apply to such an individual.

THE DRAFT CHARTER OF THE TRIBUNAL

I. CONSTITUTION OF THE INTERNATIONAL TRIBUNAL FOR IRAQ

ARTICLE 1. In pursuance of United Nations Resolution XXXX, dated YYYY, there shall be established an International Tribunal for Iraq (henceforth the "Tribunal") for the just and prompt trial of accused individuals in the inner circle, headed by President Saddam Hussein, of the Iraqi Ba'thist Government.

ARTICLE 2. The Tribunal, its members or their alternates, cannot be challenged by the prosecution, or by the Iraqi Defendants or their counsel.

II. JURISDICTION AND GENERAL PRINCIPLES

ARTICLE 3. The Tribunal shall have the power to try and punish the persons, who acting in the interests of the Iraqi Ba'thist Government, whether as individuals or as members of organizations, have committed any of the following.

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

(a) CRIMES AGAINST PEACE: the planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

(b) WAR CRIMES: violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, the taking and killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity;

(c) CRIMES AGAINST HUMANITY: atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape or other inhumane acts committed against any civilian population, or persecutions on political, racial, ethnic or religious grounds, whether or not in violation of the domestic laws of the country where perpetrated, and whether or not such persecutions are carried out in execution of or in connection with any crime against peace or any war crime.

(d) THE CRIME OF GENOCIDE: crimes committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group. Such crimes are to include, but not be limited to, killing members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part and forcibly transferring members of the group, including children, from their traditional homesteads to another area.

Leaders, organizers, instigators and accomplices

participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.

ARTICLE 4. The Tribunal shall consist of the following organs:

- (a) the Court, composed of the seven judges and their alternates, and their aides;
- (b) the Procuracy, composed of the prosecutors;
- (c) the Grand Jury;
- (d) the Secretariat; and
- (e) the Standing Committee of States party to this Charter.

ARTICLE 5. The desired permanent seat of the Tribunal is Iraq, but if that is not possible, the Court, may upon the approval of the Standing Committee, meet in the territory of any State party to this Convention.

ARTICLE 6. The Tribunal shall have the right to take proceedings against a person charged with crimes set out in Article 3 of this Charter in his absence, if he has not been found or if the Tribunal, for any reason, finds it necessary, in the interests of justice, to conduct the hearing in his absence.

ARTICLE 7. The Court shall draw up the Rules of the Tribunal to regulate the functions and activities of the Court, the Procuracy, the Grand Jury and the Secretariat; these rules are to be consistent with this Charter.

III. THE COURT

ARTICLE 8. The Court shall consist of seven members, each with an alternate. The members of the Tribunal (henceforth "judges") shall be appointed by the Standing Committee of nations party to this Charter. Each judge

shall be a citizen of a different state, and the alternate shall be a member of the same state as that judge. The Standing Committee should, to the best of its ability, choose a representative Tribunal, taking into account the wishes of the five permanent members of the Security Council as well as the Arab and Islamic sensibilities of the people of Iraq and the Middle East.

ARTICLE 9.

(a) The presence of all seven members of the Tribunal, or their alternates, shall be necessary to constitute a quorum.

(b) The members of the Tribunal shall, before any trial begins, agree among themselves upon the selection from their number of a President, and the President shall hold office during that trial, or as may otherwise be agreed by a vote of not less than four members. However, if a session of the Tribunal takes place on the territory of one of the members of the Tribunal, the member of the Tribunal representing that country shall preside.

(c) The alternates shall be present at all sessions of the Tribunal. In case of an illness of any member of the Tribunal, or due to his or her incapacity, the alternate shall take his or her place.

ARTICLE 10. The decision of the Tribunal shall take place by a majority vote; the decisions related to sentencing shall be decided by the affirmative votes of at least five members of the Tribunal. Any sentencing decision that may involve capital punishment must have the affirmative vote of at least six members of the Tribunal.

ARTICLE 11. Judges shall be persons of high moral character and have the legal competence and qualifications required for appointment to a criminal court of the member nations of the Standing Committee.

ARTICLE 12. In the event of the death or resignation of a

judge, or if there is a vacancy for any other reason, the Standing Committee shall appoint a new judge. Judges shall be appointed for a term of five years.

ARTICLE 13. Judges shall not engage in any activity which interfere with their judicial functions at the Tribunal and avoid any appearance of lack of impartiality.

IV. THE PROCURACY

ARTICLE 14. The first task of the Procuracy is to investigate the available information on Iraq, collect other evidence, and prepare the Indictments on the individuals, for whom it finds a basis both in law and fact to try. The other function of the Procuracy is to prosecute the individuals accused of the crimes as determined in scope by this Charter. One or more of the prosecutors may take part in the prosecution of each trial and defendant.

ARTICLE 15. The Standing Committee shall by agreement appoint the prosecutors, after determining the adequate number to carry out their tasks dutifully. They shall be lawyers of high international repute.

ARTICLE 16. The Procurator-General is the chief officer of the Procuracy and the Chief Public Prosecutor. He shall be elected by the Standing Committee from a list of at least three nominees submitted by the States parties to the Convention.

ARTICLE 17. The Procuracy shall employ other prosecutors, investigators and clerical staff as necessary to carry out its responsibilities and consistent with the budget established by the Standing Committee.

V. THE SECRETARIAT

ARTICLE 18. The Secretariat is the administrative, financial and clerical organ of the Tribunal. The Secretary of the Tribunal is the chief officer of the Secretariat, and

shall be elected by the judges. The Secretariat shall employ such staff as appropriate to perform its functions consistent with the budget established by the Standing Committee.

ARTICLE 19. The Secretariat shall:

- (a) prepare a budget for the ensuing financial year for each of the Tribunal's organs;
- (b) publish an annual report on the activities of the Tribunal;
- (c) coordinate the translations of the trials and transcripts; and
- (d) perform any other function provided in this Charter.

VI. THE STANDING COMMITTEE

ARTICLE 20. The Standing Committee shall represent the States that are party to this Charter. It shall consist of one representative appointed by each State party to this Charter. It shall perform the functions expressly assigned to it under this Charter, namely:

- (a) call judges to serve on the Court;
- (b) elect the Procurator-General;
- (c) determine the adequate number of and select the Prosecutors;
- (d) assist the Tribunal in carrying out its functions;
- (e) monitor compliance by the states that are party to this Charter;
- (f) ensure compliance with the Tribunal's judgments and other decisions of the Court;
- (g) select the members of the Grand Jury; and
- (h) perform any and all other functions that it deems would further the purposes of this Charter.

ARTICLE 21. The Standing Committee shall elect from among the representatives a presiding officer. The Presiding Officer shall convene regular meetings of the Standing Committee at least twice a year at the seat of the Tribunal. Extraordinary meetings can be called by the Presiding Officer if more than one third of the members of the Standing Committee so request.

ARTICLE 22. The decisions of the Standing Committee shall be taken by a majority of the members participating in the vote. In the event of a tied vote, the vote of the presiding officer shall prevail.

VII. THE GRAND JURY

ARTICLE 23. The Grand Jury shall consist of five persons chosen by the Standing Committee. They shall be lawyers or human rights activists of high international repute.

ARTICLE 24. The main function of the Grand Jury is to review the prepared indictments of the public prosecutors and decide whether there is sufficient basis in fact and law to proceed with the indictment. If the Grand Jury so decides, then it shall affix its signature to the indictment and forward such indictment to the Secretariat. Such indictments shall not be deemed to go into effect unless the Grand Jury has affixed its signature to it. This process is designed to further provide the defendants with rights. Decisions of the Grand Jury shall be by majority vote. The Grand Jury shall select, from among its members, a Presiding Officer, who shall be the one to sign such indictments. In making its decision, the Grand Jury shall have the right to call in the defendants or their counsel, and to investigate all the documentation related to the indictment.

VIII. RIGHTS OF THE DEFENDANTS

ARTICLE 25. An individual charged with a crime under

the provisions of this Charter shall be entitled without discrimination to the following guarantees:

(a) No one shall be subjected to arbitrary arrest or detention.

(b) All persons deprived of their liberty will be treated with humanity and with respect for the inherent dignity of the human person.

(c) All persons shall be equal before the Tribunal.

(d) In the determination of any criminal charge against him, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial Tribunal. The present Tribunal will be impartial and independent of the wishes of the States that are party to this Charter.

(e) The Press and the public may be excluded from all or part of a trial to the extent strictly necessary in the opinion of the Tribunal and where publicity would prejudice the interests of justice.

(f) Everyone charged with a criminal offense shall be presumed innocent until proven guilty according to law.

(g) Every defendant shall have the right to counsel. If he cannot afford counsel, one will be appointed for him.

(h) All court proceedings shall be translated into a language understood by the defendants.

(i) A person indicted by the Tribunal shall not be subject to prosecution or punishment for any other crime than for which he has been indicted.

(j) Everyone charged shall have the right of a grand jury investigation prior to indictment.

ARTICLE 26. No person who has been tried, acquitted or convicted by the Tribunal shall be subsequently tried for the same crime in any court within the jurisdiction of any State party to this Convention.

ARTICLE 27. The official position of defendants, whether as Heads of State or responsible officials in Government Department, shall not be considered as freeing them from responsibility or mitigating punishment.

ARTICLE 28. The fact that a defendant acted pursuant to an order of the Government of Iraq or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determines that justice so requires.

IX. THE INQUIRY AND INITIATION OF THE TRIAL PROCESS

ARTICLE 29. A criminal inquiry shall be conducted as soon as the prosecutors have reason to believe that a crime falling within the jurisdiction of the Tribunal has been committed.

ARTICLE 30. The Procurator-General shall appoint one of the prosecutors of the Procuracy to conduct the inquiry in the capacity of a public prosecutor. The public prosecutor shall have the right to call witnesses to the examination, to request evidence and to call experts. The person subject to inquiry shall have the right to be heard in respect of the complaint. He shall also have the right of counsel, who can submit information and inspect any document introduced during the inquiry.

ARTICLE 31. The public prosecutor may request the States party to this Charter to assist in the performance of his function and to supply relevant information.

ARTICLE 32. After having established the facts in the criminal inquiry, the public prosecutor shall either:

(a) terminate the inquiry against the alleged offender, should the complaint or suspicion appear to be unfounded in law or in fact, or

(b) decide to continue with the process of indictment, if the case is reasonably founded in fact and law.

ARTICLE 33. If the public prosecutor decides to indict the accused, he shall prepare an indictment of the accused based on the findings of the inquiry. The public prosecutor shall then present the indictment to the Grand Jury. It shall then hold a hearing, in the presence of the public prosecutor, at which it shall decide whether or not to proceed with the indictment. If the grand jury decides to proceed with the indictment, it shall sign the indictment and file it with the Secretary of the Tribunal. If it decides not to proceed with the indictment, it shall so inform the Secretary, and the charges will subsequently be dropped.

ARTICLE 34. The indictment shall contain a concise statement of the facts which constitute each alleged offense and a specific reference to the legal provisions under which the accused is charged.

ARTICLE 35. The Tribunal shall bring the indictment to the notice of the accused. The Tribunal shall not proceed with the trial unless satisfied that the accused has had the indictment and any amendment thereof served upon him, and has had sufficient time and facilities to prepare his defense.

ARTICLE 36. The public prosecutor may request the Tribunal to issue orders in aid of or for the development of a case, particularly to:

- (a) issue warrants of arrest;
- (b) issue subpoenas;
- (c) issue injunctions;
- (d) issue search warrants;
- (e) issue warrants for surrender of accused so as to enable the bringing of the accused before the Tribunal; and
- (f) issue warrants for the surrender of documents under the control of the Government of Iraq.

ARTICLE 37. Requests for such orders may be granted without prior notice to the accused. A warrant of arrest

may be issued when there exists a strong suspicion on reasonable and probable grounds that the accused person has committed the alleged offense.

X. THE TRIAL AND THE JUDGMENTS

ARTICLE 38. The proceedings at the trial shall take the following course:

- (a) The indictment shall be read in court;
- (b) The Court shall ask each defendant whether he pleads 'guilty' or 'not guilty';
- (c) The prosecution shall make an opening statement;
- (d) The defense shall then make its opening statement;
- (e) The Court shall then ask the prosecution and the defense what evidence (if any) that they wish to submit to the Tribunal, and the Tribunal shall rule upon the admissibility of evidence;
- (f) The witnesses for the prosecution shall be examined and after that the witnesses for the defense. Thereafter, such rebutting evidence as may be held by the Court to be admissible shall be called by either the prosecution or the defense;
- (g) The Court may put any question to any witness and to any defendant at any time;
- (h) The prosecution and defense shall interrogate and may cross-examine any witnesses and any defendants who give testimony;
- (i) The defense shall address the Court. This address may include a statement by the individual defendants themselves;
- (j) The prosecution shall address the Court; and
- (k) The Court would then deliberate in closed session.

ARTICLE 39. The Court shall have the right to call witnesses for examination and to request evidence from witnesses and other appropriate evidential material and to call experts. When all evidence respecting guilt and innocence has been presented and argued by both the prosecution and the defense, the Tribunal shall close the hearing and retire for deliberations.

ARTICLE 40. The Court shall announce its judgment orally, in full or in summary, in open court. A judgment shall state, in relation to each accused, the reasons upon which it is based. A judge may issue a concurring or dissenting opinion. The judgments must also be issued in writing and released to the public.

ARTICLE 41. The Court shall have the power to impose the following penalties:

- (a) the deprivation of liberty;
- (b) fines;
- (c) confiscation of the proceeds of criminal conduct;
- (d) order the disbanding of an organization or group that is an organ of the Government of Iraq; and
- (e) the death penalty.

ARTICLE 42. Penalties are to be enforced on behalf of the Court in a State that is party to this Charter, or inside Iraq. A penalty can also be enforced in another State that is not party to this Charter, if such State so consents.

ARTICLE 43. At the trial of any individual member of any group or organization that is an organ of the Government of Iraq, the Court may declare that the group or organization of which the individual was a member of to be a criminal organization. In such a case, the Court will order the Government of Iraq to disband this organization or group. No individual liability shall arise for members of this group not on trial simply for belonging to this group. Any individuals who continue to work for the organization or group after such organization or group has been

declared illegal by the Court may incur liability for the charges listed in Article 3 of this Charter.

ARTICLE 44. The Court shall not be bound by technical rules of evidence, as the Charter recognizes that the evidence presented and available may not meet those requirements. It shall adopt and apply to the greatest possible extent expeditious and non-technical procedure, and shall admit any evidence which it deems to have probative value. The Court may require to be informed of the nature of any evidence before it is offered so that it may rule upon the relevance thereof.

ARTICLE 45. The Court shall not require proof of facts of common knowledge but shall take judicial notice thereof. It shall also take judicial notice of official governmental documents and reports of the United Nations. It may also take note of the records and findings of military or other sources of any of the Member States of the United Nations, or organizations with which they are related to.

XI. ADMINISTRATIVE AND OTHER MATTERS

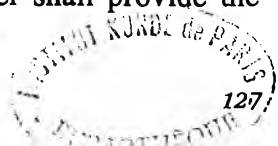
ARTICLE 46. The working languages of the Tribunal shall be English and Arabic. The Tribunal may decide to use any other language in a particular case.

ARTICLE 47. All members of the Tribunal, including judges, members of the Grand Jury, prosecutors and members of the Secretariat shall, while performing their duties, enjoy the respective privileges and immunities accorded to judges or other persons connected with the International Court of Justice.

ARTICLE 48. The costs of the Tribunal shall be met by the States party to this Charter, as well as by the funds of the Government of Iraq frozen in other countries pursuant to U.N. Security Council Resolutions.

ARTICLE 49.

(1) All the States party to this Charter shall provide the



Tribunal with all internationally recognized means of legal assistance, which should include but not be limited to:

- (a) ascertaining the whereabouts and addresses of persons;
- (b) taking the testimony or statements of persons in the requested State;
- (c) effecting the production or preservation of judicial and other documents and articles of evidence;
- (d) service of judicial and administrative documents;
- (e) authentication of documents.

(2) The Tribunal may ask, in matters of urgency, of a State party to this Charter to:

- (a) provisionally arrest the person sought for surrender;
- (b) seize evidence needed in connection with the proceedings; and
- (c) undertake protective measures to prevent the escape of any defendants or destruction of evidence sought.

ARTICLE 50. The Tribunal is authorized to seek the cooperation of States that are not party to this Charter as appropriate.

ARTICLE 51. All communications in relation to this Charter shall be in writing and shall be between the competent national authority and the Secretariat of the Tribunal.

ARTICLE 52. All States that are party to this Charter undertake to surrender, extradite or transfer to the Tribunal on the basis of this charter any person under investigation, charged, sought to be tried, or convicted by the Court in accordance with the jurisdiction of the Tribunal. For purposes of extradition, the crimes for which the

defendants have been charged with shall not be deemed to be political crimes.

ARTICLE 53. Amendments to this Charter may be proposed by any State party to it and must be accepted by all States that are members of the Standing Committee.

XII. SIGNATURE AND ENTRY INTO FORCE

ARTICLE 54. The Office of the Secretary General of the United Nations in New York City shall serve as depository of this Charter, and the Charter shall be open for signature at the United Nations Headquarters on

Institut kurde de Paris

Institut kurde de Paris

APPENDICES

- A. Samples of Iraqi Government Documents**
- B. Summary of Reports on Human Rights Violations in Iraq**
- C. Eyewitness Accounts from the International Press**
- D. Audio-Visual Evidence of Human Rights Violations**
- E. Draft UN Security Council Resolution Establishing the Tribunal**

Institutul kurde de Paris

Appendix A

Samples of Iraqi Government Documents

Included herein are summaries and facsimiles of a handful of Iraqi government documents captured from the security and secret-police offices of the Iraqi government during the March 1991 uprisings. The documents included here are currently in the possession of the INC. These are provided only for purposes of giving an idea of the kind of evidence that is available for proceedings for an international tribunal to try the Iraqi leadership on the basis of the charges set out in Article 3 of the Draft Charter (See Section VI of the report).

Other documents in the possession of the INC, but not enclosed here, include:

- a set of maps detailing schemes to drain the Amara marshes. The maps were dated April to July 1992 and were in the possession of a government engineer reportedly captured by insurgents in the marshes in October 1992.
- photographs of tortured and executed individuals. The photographs, believed to have been taken for documentation purposes by the security forces themselves, show corpses of individuals believed to have died as a result of torture and/or of executions. Some of the photographs show a blood-stained body lying on a tiled

counter-top of what appears to be a morgue. Others display men in military uniform posing around a corpse, or a corpse lying in a field. The photographs were captured by rebels from the Sulaymaniyya Security Headquarters during the March 1991 uprisings.

In addition, the most recent report of Max van der Stoel, the United Nations' Special Rapporteur on the Situation of Human Rights in Iraq ([E/CN.4/1993/45], 19 February 1993), contains five other documents not included here. They are:

- the text of an RCC decision prescribing the death penalty for any present or past member of the Arab Ba'ath Socialist Party who conceals previous political links; has connections with any other political party while committed to the Party; or joins for the interests of other parties after leaving the Party.

- a letter from Ali Hasan al-Majid, then Director General of the National Secretariat, stating the July 21, 1981, RCC decision guaranteeing those units assigned to track down deserters and evaders of military service immunity against any hearing/proceedings for infliction of physical torture or material damage. Under the decision, any such proceedings shall be closed.

- a request from the Directorate of Security at Arbil (Technical Department) to the Criminal Investigation Office for the evaluation of clandestine and non-clandestine bugs and recording devices in interrogation rooms. Followed by a reply from the Criminal Investigations Security Captain that interrogation rooms can be used when officers decide to "wear down the nerves of a suspect and subject him to psychological pressure" by keeping him without sleep. The investigating officers are given the right to take such actions in the case of some suspects.

- a demand for lists of names and photographs of detained and evacuated relatives of alleged subversives and those

with relatives who have joined "the subversives."

■ a report detailing: the expulsion of relatives of "subversives" and the detention of the males between the ages of 15 and 50; the exclusion of families of martyrs, missing persons, or fighters in the National Defense Brigade (except for mother with any sons); and that "subversives" who repent between September 6 and October 7, 1987, can return after surrender of weapons.

Institut kurde de Paris

Document 1

(cited in the UN Special Rapporteur's Report [E/CN.4/1993/45], 19 February 1993; Arabic text and English translation thereof attached)

Memorandum of instructions from the Bureau for the Organization of the North to the top military leadership in the North. Seven-step procedure for dealing with villages in the North that are "prohibited for security reasons." Procedures include: capture, detention, arrest, and execution of villagers found in the "prohibited areas." Signed: Ali Hasan al-Majid, June 20, 1987.

قيادة مكتب تنظيم الشمال
مكتب الكركشاية

المعد ٤٠٠٨/٢٨

التاريخ ١٩٨٧/٦/٢٠

من/ قيادة مكتب تنظيم الشمال

إلى/ قيادة الفريق الأول/ قيادة الفريق الثاني/ قيادة المواقع الخماس

م/التعامل مع القرى المحظورة اسمها

بالنظر لأهمية الصلة المتعلقة رسمياً لتجميع هذه القرى والتي يستلزم موضعها يوم ١٩٨٧/٦/٢١، قررنا المعد اعتماد من يوم ١٩٨٧/٦/٢٢ صودا سياتي (١) ضمير صوبه القرى المحظورة اسمها والتي لم تزال لحد الآن أماكن لتواجد المخربين معه، اهسران وتلبيس القيادة وإسماهم من غونة العراق (٠) (٢) يحرم التواجد البشري والحيواني فيها نهائياً وتتميز منطقة محميات مطرمة ويكون الرمي فيها حراً غير مقيداً بأيئة تعليمات ما لم تصدر من طرفنا (٠) (٣) يحرم الفرصها والسباها او الزرائع والاشجار الزراعي او الصافي والحيواني وعلى جميع الاجهزة المختصة مقاومة هذا الموضوع بجدية كل من اختصاصه (٠) (٤) عند قيادات الفيلق ضربات خاصة بين متسرة واخرى بالمدمعية والرشقيات والطائرات لقتل اكبر معد ممكن من يتواجد من هذه المحرمات وخلال جميع الاوقات ليلاً ونهاراً واعلمنا (٠) (٥) يحجز جميع من يلقى عليه الشك لتواجده من لدى هذه المنطقة وتعلق معه الاجهزة الأمنية ويخضع حكم الامداد حسن يتجاوز صوره (١٥) منذ داخل صودا الى صبر (٧٠) منذ داخل بعد الاستفادة من معلوماته واعلمنا (٠) (٦) تقوم الاجهزة المختصة بالتحقيق مع من يتلم شكه الى الاجهزة الحكومية او الحزبية لعدة اياماً ثلاثة ايام واذا طلب الامر لحد مطرمة ايام لا به من اعلامنا من مثل هذه الحالات واذا استوجب التحقيق اكفر من هذه الادة عليهم الحسنة سواقتنا هاتعيا او برقيا وعن طريق الرقيب ظفر الصابي (٠) (٧) يتمر كل ما يحصل عليه مستشارو الحواج الدفاع الوطني او مقاتلهم يؤول اليوم مجاناً ما عدا الاطعمة الثقيلة والسادة والستويطة اما الاطعمة الخفيفة فتجب عليهم ويتم اعلامنا بأعداد هذه الاطعمة لظ وعلى قيادة الجوائل ان تحتفظ لتسليم جميع المستشارين وامراء السرايا والمبارز واعلمنا بالتفصيل من نقاطهم ضمن الحواج الدفاع الوطني (٠) مكرر رشامة المجلس القشري (٠) رشامة المجلس الخلفي (٠) جهاز المخابرات (٠) رشامة ارکان الجيش (٠) محافظو رؤساء اللجان الأمنية) نهوي ، التاميم ، ميالي ، سلاح الدين ، السليمانية ، اربيل ، موك (٠) اسناء من فرود المحافظات اعلاه (٠) مديرية المخابرات الحكومية الصاية (٠) مديرية الامن العامة (٠) صهر امن منطقة الحكم الذاتي (٠) منطقة المخابرات المنطقة الشمالية (٠) منطقة المخابرات المنطقة الشرقية (٠) مدراء امن محافظات - نهوي ، التاميم ، ميالي ، سلاح الدين ، السليمانية ، اربيل ، موك (٠) برجي الاطلاع والمدمعية كل من اختصاصه (٠) اسبونا .

(شوقي)

الرقيب

على صن المجيد

BUREAU FOR THE ORGANISATION OF THE NORTH - HEADQUARTERS

Ref: 28/4008

Date: 20 June 1987

From: Bureau for the Organization of the North - Headquarters

To: The Commanders of the First, Second and Fifth Army Corps

Subject: Procedure to deal with the villages that are out of bounds for security reasons

In view of the fact that the officially announced deadline for the amalgamation of these villages expires on 21 June 1987, we have decided that the following action should be taken with effect from 22 June 1987: (i) All the villages in which subversives, agents of Iran and similar traitors to Iraq are still to be found shall be regarded as out of bounds for security reasons; (ii) They shall be regarded as operational zones that are strictly out of bounds to all persons and animals and in which the troops can open fire at will, without any restrictions, unless otherwise instructed by our Bureau; (iii) Travel to and from those zones, as well as all agricultural, animal husbandry and industrial activities, shall be prohibited and carefully monitored by all the competent agencies within their respective fields of jurisdiction; (iv) The corps commanders shall carry out sporadic bombardments using artillery, helicopters and aircraft, at all times of the day or night in order to kill the largest number of persons present in those prohibited zones, keeping us informed of the results; (v) All persons captured in those villages shall be detained and interrogated by the security services and those between the ages of 15 and 70 shall be executed after any useful information has been obtained from them, of which we should be duly notified; (vi) Those who surrender to the governmental or Party authorities shall be interrogated by the competent agencies for a maximum period of 3 days, which may be extended to 10 days, if necessary, provided that we are notified of such cases. If the interrogation requires a longer period of time, approval must be obtained from us by telephone or telegraph or through comrade Tahir al-Ani; (vii) Everything seized by the advisers and troops of the National Defence Brigades shall be retained by them, with the exception of heavy, mounted and medium weapons. They can keep the light weapons, notifying us only of the number of those weapons. The corps commanders shall promptly bring this to the attention of all the advisers, company commanders and platoon leaders and shall provide us with detailed information concerning their activities in the National Defence Brigades.

(Signed) Comrade Ali Hassan al-Hajjaj
Member of the Regional Command and Secretary,
of the Bureau for the Organisation of the
North

[Stamp of the Revolution Command Council,
Northern Affairs Committee.]

cc: Chairman of the Legislative Council;
Chairman of the Executive Council;
Party Intelligence;
Chief of the Army General Staff;
Governors (Chairmen of the Security Committees) of Nineveh, Ta'mim,
Diyala, Salahuddin, Sulaimaniya, Arbil and Dohuk;
Branch secretaries of the above-mentioned governorates;
General Directorate of Military Intelligence;
General Directorate of Security;
Director of Security of the Autonomous Region;
Security Services of the Northern Region;
Security Services of the Eastern Region;
Security Directors of the governorates of Nineveh, Ta'mim, Diyala,
Salahuddin, Sulaimaniya, Arbil and Dohuk.

For information and action within your respective fields of jurisdiction.
Keep us informed.

Document 2

(cited in the UN Special Rapporteur's Report [E/CN.4/1993/45], 19 February 1993;
English translation attached)

From the General Directorate of Military Intelligence to the Corps Commanders at the headquarters of the Bureau for the Organization of the North. Measures to be taken in the northern region to end the "long line of traitors from the Barzani and Talabani clans and the Communist Party, who have joined ranks with the Iranian invader enemy." Signed: the Deputy Secretary, Headquarters of the Bureau for the North, June 7, 1987.

In the Name of God the Merciful the Compassionate

Office of the President of the Republic

The Secretary

General Directorate of Military Intelligence
Eastern Region Intelligence Organization

Seali: I come to you from Sheba with sure tidings
General Directorate of Military Intelligence

Please quote the full reference number
(The martyrs will continue to be the noblest of us all)

Highly confidential and personal

Ref: Section 3/Division 3/Saddam's Qadisiya/1134

Date: 10 June 1987

To: General Directorate of Military Intelligence (Section 3)

Re: Transmission of copy of a letter

Enclosed is a photocopy of highly confidential and personal letter No. 3726 dated 6 June 1987 from the Headquarters of the Bureau for the Organization of the North.

Please take note.

Enclosures:

1 photocopied letter

(Signed) p.p. Staff Colonel
Director, Eastern Region Intelligence Organization
Staff Lieutenant Colonel
Salman Abed

Manuscript notes:

To be kept on file
11 June

Highly confidential and personal

A Single Arab Nation With An Eternal Message

Arab Baath Socialist Party

Iraqi Region

Headquarters of the Bureau for the Organization of the North

Highly confidential and personal

Ref: 28/3726 Rectangular seal: Eastern Region Intelligence Organization

Date: 6 June 1987

Ref: 175

Date: 7 June 1987

To: Corps commanders

Re: Implementation of measures

Comradely greetings.

The following instructions have been issued subsequent to the measures taken in the northern region aimed at ending the long line of traitors from the Barzani and Talabani clans and the Communist Party, who have joined ranks with the Iranian invader enemy with a view to enabling it to acquire territory belonging to the cherished homeland. The measures contained in the plan were carried out by the armed forces of the Great Commander, with the assistance of valiant fighters from the Popular Army and the very finest of the people, who consequently inflicted heavy losses on the long line of traitors and their collaborators, reduced their area of movement, cut off their village supply sources, destroyed their rest stations and eliminated their sources of funding, thereby compelling them to undertake suicide missions in order to demonstrate their continued strength. The most recent incidents, entailing attacks on the three sectors, are evidence of their demise. In order to put an end to such attacks and inflict heavy losses on the enemy, the following measures should be taken:

1. The combat readiness of all armed forces and Popular Army sectors should be stepped up. The state of alert and vigilance should also be increased in order to counter any attacks, the aim being to inflict the greatest losses on the traitors, who are agents of the racist Iranians.
2. Security at the various sectoral headquarters of the Popular Army should be strengthened and they should be placed on extremely high alert, as the primary aim of the subversive traitors is to gain control over the sectoral command post in order to cut the chain of command and thus create a state of confusion. You are well aware of the outcome of such actions.
3. In our estimation, the attacks on the sectors, which comprise three governorates, were part of a plan devised by the subversive traitors, in conjunction with the Iranian enemy, with a view to giving citizens in all

governorates the impression that they continued to maintain their strength and were capable of inflicting harm on the armed forces and the fighters from the Popular Army.

4. The military commands which issue orders to all Popular Army sectors are to visit them and give briefings on the situation and on the latest developments in the theatre of operations in the northern region, thereby enabling them to organize their defensive positions and ensure that they are highly capable of a strong and rapid response against the traitors and the Iranian enemy in the event of attack.

5. The security agencies are to be responsible for providing us with intelligence information before the traitors attack, or, at the very least, within 24 hours of such attacks occurring. Accordingly, your members should be urged to take action to monitor the movements of subversive traitors.

Please take note and inform us of whatever necessary action is taken.

Regards.

Maintain the faith and the struggle.

(Signed) Comrade Radhi Hassan Salman
Deputy Secretary
Headquarters of the Bureau for
the Organization of the North

cc: Comrade Secretaries of the branch offices: for the purpose specified above. Please keep us informed. Regards.

Comrade Directors of Security in the northern governorates) For the purpose
Directorate of the Eastern Region Intelligence Organization) specified in
Directorate of the Northern Region Intelligence Organization) para. 5 above.
Please keep us informed. Regards.

Manuscript notes:

1. Operations to be carried out precisely according to the instructions of the Headquarters of the Bureau for the Organization of the North.
2. Information which we receive on the activities and plans of subversives is to be sent to Headquarters, to Section 3 and, if necessary, to the corps concerned.
3. Please bear this in mind and provide the Bureau for the Organization of the North with all the information we have.
4. I believe there is no need for distribution to the centres.
5. To be kept with the Director of Section 3.

6 June 1987

The Director

Please take note and order as you see fit regarding distribution to the competent sections and centres.

(Signed) Lieutenant Colonel
7 June 1967

Division officers: Please take note and act accordingly, as indicated in the comments of the Director, and return the letter to me.

(Signed)
9 June

Read and noted.

(Signed)
10 June

Read and noted.

(Signed)
10 June

Institut kurde de Paris

Document 3

(cited in the UN Special Rapporteur's Report [E/CN.4/1993/45], 19 February 1993;
English translation attached)

Instructions from the Security Committee in the Governorate of Ta'mim [Kirkuk] to exempt from a previous order – that villages which pose no threat should only be demolished with consent of Ali Hasan al-Majid – villages from which shots are fired on the military and which are inhabited by "subversives." Dated September 28, 1987.

In the Name of God the Merciful the Compassionate

Eastern Region Intelligence Organization

Confidential and personal

Ref: Section 3/Division 3/2127

Date: 28 September 1987

To: All centres other than branch committees

Re: Demolition of villages

Letter no. 5866 dated 17 September 1987, which was transmitted to us by way of confidential and personal letter no. 5/1493 dated 23 September 1987 from the Security Committee in the governorate of Ta'mim, gave instructions that villages which pose no security threat should be demolished only with the consent of valiant Comrade Ali Hassan al-Majid, Secretary of the Bureau for the Organization of the North. Exceptions are villages from which shots are fired at military convoys or which are used by subversives to attack government installations and defy the State.

Please take note and carry out the instructions precisely.

(Signed) Lieutenant Colonel

p.p. The Director

Eastern Region Intelligence Organization

Document 4

(cited in the UN Special Rapporteur's Report [E/CN.4/1993/45], 19 February 1993;
English translation attached)

RCC Decision no. 10: that "the death sentence shall be carried out [and shall apply retroactively] ...on every deserter or draft evader...if the duration of his desertion or draft evasion exceeds one year or if he has committed the crime of desertion more than once."
Signed: Saddam Husain, January 3, 1988.

REVOLUTION COMMAND COUNCIL

Decision No. 10

3 January 1988

Decision

In accordance with the provisions of article 42, paragraph (a), of the Constitution, at its meeting held on 3 January 1988 the Revolution Command Council decided as follows:

A. Revolution Command Council Decision No. 677 (six hundred and seventy-seven) dated 26/8/1987 (twenty-six August of the year nineteen hundred and eighty-seven) is hereby amended to read as follows:

1. The Party organizations shall carefully examine the situation of military deserters and draft evaders who are captured.
2. The death sentence shall be carried out by the Party organization, after that examination, on every deserter or draft evader who is captured if the duration of his desertion or draft evasion exceeds one year or if he has committed the crime of desertion more than once.
3. A draft evader or deserter who returns repentant or whose period of draft evasion or desertion amounts to one year or less, even if captured, shall be handed over to his unit to be dealt with in accordance with military law and regulations.
4. The provisions of this Decision shall apply to all persons who evaded military service prior to the date of its promulgation and who do not present themselves for re-enlistment within 30 days from the date of its publication in the Official Gazette.

B. This Decision shall be published in the Official Gazette and shall supersede any text that conflicts with its provisions.

(Signed) Saddam Hussein
Chairman of the Revolution Command Council



Document 5

(cited in the UN Special Rapporteur's Report [E/CN.4/1993/45], 19 February 1993; English translation attached)

Report on the security situation, "having eliminated the subversive groups and fifth-columnists in our beloved North" [following the Anfal Operation], and instructions on the proper responses -- in the use of force and disciplinary action -- to further "subversive activities." The report also touches on the "correct behavior" and monitoring of amnestied Kurdish citizens to prove their loyalty to Iraq. Dated November 21, 1988.

Office of the President of the Republic

The Secretary

General Directorate of Security

Directorate of Security in the Autonomous Region

Ref: 14951

Date: 21 November 1988

Personal and confidential

To: The Security Directors in the Autonomous Region/Sulaimaniya

Subject: Instructions

The head of the Bureau for the Organization of the North has informed us as follows:

Having, with God's help, eliminated the subversive groups and fifth-columnists in our beloved North, the new situation in the region necessitates the adoption of security measures consistent with the changed circumstances in order to guard against any new course of action to which the remnants of the subversives might resort in an attempt to create pockets of subversion to engage in activities that might give their sympathizers and foreign masters the impression that they still possess footholds in our territory or that they are still capable of continuing their acts of subversion. Henceforth, we will certainly not encounter large subversive groups operating from fixed bases and engaging in large-scale activities with far-reaching repercussions; we will find only small groups of 10-15 subversives who will move from place to place, engage in subversive activities and then wait to see the extent of our actual reactions. If those reactions are normal and routine, they will diligently endeavour to expand their bases and engage in larger-scale operations at later stages. They will also endeavour to re-establish their internal organizations and, to that end, will remain in contact with some of their accomplices who benefited from the Amnesty Decree, particularly those misguided persons who will adopt a deceitful course of action with a view to furthering the cause of the subversives and their masters. In order to counter such attempts and nip them in the bud before they become dangerous, the conference held on 8 November 1988 to examine these potential developments and means to deal with them decided that action should be taken in accordance with the following

I. In regard to security

(a) Hostile activity must be strictly prohibited in the governorates in the Northern Region and also in the cities, towns, settlements and villages in the governorates of Nineveh, Diyala and Salahuddin. The organizational structure of hostile groups must be disrupted wherever they are found.

(b) Subversive activities, even on a small scale, must not be permitted to resume after 4 January 1988, the date on which the subversion ceased to escalate. Reasonable force and severity must be used to counter such criminal activities as soon as they are committed.

(c) A rapid and resolute response must be made to any incident, however small. The magnitude of such incidents must be exaggerated and they must be recorded on photographs and/or videotape.

(d) Persons who, on investigation, are found to have acted deviously or to have collaborated with the enemy must be dealt with in a harsh and determined manner.

Kurdish citizens must be treated in the same way as any Iraqi citizen in regard to their rights and obligations, with the exception of those who have benefited from Amnesty Decree No. 734 of 8 September 1988, who must not be regarded as having the same rights and obligations as Iraqis unless they show, through their good intentions and correct behaviour, that they have completely abandoned their past association with the subversives and prove themselves to be more loyal to Iraq than their fellow Kurds who benefited from the above-mentioned Amnesty Decree. In such a case, they must be treated in accordance with the following rules:

1. They shall not be eligible for election to the National Assembly, the Legislative Assembly, the People's Councils, the Municipal Councils or the Republican Organisations.

2. Persons who have benefited from the Amnesty Decree shall not be entitled to buy, sell, rent or lease land or property owned by the State, nor shall they be entitled to enter into a contract with a government department for the performance of any private manual or professional work, until two years after they have returned to the national fold.

3. The competent agencies shall monitor the conduct of persons benefiting from the Amnesty Decree and shall ascertain their intentions by actively and carefully infiltrating their ranks.

II. In the economic sphere

In the light of the new situation following the elimination of the subversive groups, a review must be made of the economic measures previously necessitated by the exceptional circumstances in order to create a good impression of the new situation brought about by the re-establishment of order and security. This means that the status of emergency must be lifted, since the continuation of the economic blockade would give the impression that we are still suffering from shortages. Accordingly, the following action must be taken:

(a) Petrol stations and gas cylinder depots should be allowed to operate without restrictions on their opening hours but in the manner deemed appropriate by the Committee to Combat Hostile Activity in the governorate concerned.

(b) The ban should be maintained on the sale of tinned meats, all types of legumes and cheeses and all tinned foods.

(c) Agencies in the settlements should be allowed to sell foodstuffs, except those specified in paragraph (b).

(d) Rationing should be reimposed on settlements from which you have reason to believe that foodstuffs are being passed on clandestinely to the remaining pockets of subversion or used for purposes of trafficking or smuggling.

We are fully confident that everyone will act with the same zeal and diligence that they have shown in serving our loyal people and our beloved country under the banner of our leader President Saddam Hussein, the hero of victory and peace (may God preserve and protect him). Please take the necessary action and keep us informed. Regards.

(Signed) Security Brigadier
Director of Security in the Autonomous Region

Document 6

(facsimile follows)

Plan of Action for the Marshes

A private and secret memorandum from the Director of Security for the Governorate of Arbil to the Shaqlawa Security Director. Reports on the security situation in the Marshes, which are being used by "deserters and subversives as bases to launch terrorist operations in accord with organized political directives received from Iran." After delineating the "terrorist activities" of the "hostile groupings," the report lists the steps to be taken "to end the enemy presence" in the Marshes, in line with the course of action decided on at a December 5, 1988, conference in Basra "attended by the respected Supreme Commander" and the plan of action for the Marshes adopted in 1987 and approved by "Mr. Leader President (May God Preserve him)." Steps include: "technical security operations against terrorist elements in the Marshes, such as poisoning, explosions, and burning of houses against friends and relatives of subversives in the Marsh areas as a lesson to others"; assassination of "hostile elements"; controlling traffic; burning and demolishing houses; use of planes; and "continuing the economic blockade more efficiently to limit provision of their daily living needs," by: withdrawing all food supply agencies, banning the sale of fish, "taking the most severe measures against those who supply food to deserters and unlawful and hostile elements," prohibiting the traffic of goods, and using tribes. Dated January 30, 1989.

بسم الله الرحمن الرحيم

الامن العام

مدينة آين محافظة اربيل

سري وشخصي وضع بالذات العدد / ٥ / ١٦٥٧

التاريخ ١ / ١ / ١٩٨١

السيد مدير امن ~~الاربيل~~ / كاتبة دولت علي الاصل

م / خطة العمل الاهوار

من خلال استقراء الوضع الاضي للاهوار في الوقت الحاضر ودراسته محصلة العمليات الكبيرة التي تم تنفيذها ضد الهاربين والمعادين فقد وجدنا بان هذه العناصر مازالت تمارر نشاط تخريبي مختلفه مناطق الاهوار كقواعد انطلاق لهذه العمليات كما اتضح لنا ان هذه المجاميع لازالت تعمل ضمن توجهات تنظيمه سياه ترد اليها من ايران عبر طريق وسطاء يتسللون لهذا الغرض .

حيث اجبر المجرم محمد باقر الحكيم رئيس عيسى ب (المجلس الاعلى للثورة الاسلاميه في العراق) بان هذه العناصر هم النواة الاولى لما يسمى بالجيش الاسلامي لتحرير العراق وزاد من دعمه لها من خلال تصريحاته كما ان كافة الحركات المعاديه التواجد في ايران وبعد فشل مخططاتها في المنطقة الشماليه اخذت تركز جهودها بدفع عدد من عناصرها الدربه في ايران للاتصال بالمجامع المعاديه في الاهوار لاستخدامها كورقة جديده للتاثير على الوضع الاضي لقطرنا وخاصة بعد التفجيرات التي طرقت سياسة النظام الايراني نتجة قبوله بقرار وقف اطلاق النار الذي اثر على نشاط وهي الحركات المعاديه على الساحه الايرانيه فما تطلب اعادة تقييم عملنا ودراسته خطة العمل التي اقرت في العام الماضي ومحصلة العمل الايجابي بخمسة تمهيداً وكذلك الحالات الموقوف على اسماها .

تمت لطفاً -
رئيسة قسم الوثائق
والاستشارة
الوزارة من العمل
[Signature]

بتاريخ ٥ / ١٢ / ١٩٨٨ تم عقد مؤتمر في مقر مدينة آمن محافظة البصرة بحضور السيد العام المحترم تم فيه مناقشة الوضع الاضي لناطق الاهوار والمبجل الواجب اتباعها لانها • التواجد المعاد فيها وواجبات جهاز الامن في المنطقة الجنوبية للمرحله القادمه وكما يلي :-
الاولا: التوجهات الحاليه للمجاهد المعاديه في الاهوار التي وردتهم من ايران عن طريق
الوسطاء وهرب :-

١. استمرار العمل مع المحافظه على اتية العمل وكمكان السر •
٢. يجب ان يكون العمل يحقق اكبر ضرر لاحاطه دون ان يلحق بهم خسائر •
٣. تنفيذ عمليات خارج الاهوار لابعاد الشك عن مجاميع الاهوار والمحافظة على اتية
عليها ان (تنفيذ عليه واحده في الاهوار ولابعاد الشك - تنفيذ عدة عمليات في مناطق اخرى)
من قبل عدس المجاميع •
٤. تجرئة المجاميع بواسطة تكاؤها بعمل ما وتنفيذ • مجموعته اخرى لمعرفة هل هناك
مجموعه تدعى بمعناها •
٥. نقل تفاصيل العمليات يدقه والتركيز على الزمان والمكان •
٦. جمع المعلومات عن الاشخاص المهمين •
٧. التوصل الى اساليب كشف المجاهدين بى اى صوره •
٨. التوصل الى بناء علاقات مع العسكريين والتركيز على توجيههم ووحدهاتهم •
٩. التعامل بنقل المعلومات بالجفره •
١٠. العمل على تامين خطوط ارتباطهم بين المجاميع المنتشرة في اهوار ذي قار ويسان والبصرة
لتسهيل العمل •
١١. تكليف المجاميع بالحصول على البرقيات السريه والجفر والترددات المتخذة من قسبي
الوحدات العسكريه •

- يتبع لطفًا -

- ١٢ • يجوز قتل اعداء السلطة والاستيلاء على اموالهم وهذه الاموال - يجوز التصرف بها للممل
الاسلامي ويجوز تعذيبهم عند امرهم للحصول على المعلومات منهم ويجوز قتل الاسرى منهم
وكذلك يجوز اختطاف ابناءهم لتحقيق بعض اهداف المجاهدين على حد زعمهم .
- ١٣ • يجوز اختطاف وقتل الاجانب ممن يعملون بالشركات الاجنبية وخاصة منهم من الدول الغير
الاسلاميه لانهم يعملون على تقوية النظام .
- ١٤ • الذين يعملون انفسهم للسلطة ويظلموها على امرار المؤمنين يجوز قتلهم .
- ١٥ • اختيار القتولين من الهاربين من الجيش اثناء الحملات بحكم الشهداء فيما يخصهم
(سقوط النسل وكفن) .
- ثانياً : التأكيد على خطة الممثل مع الاهوار التي اقرت في عام ١٩٨٢ والتي حظيت بموافقة
الميد الرئيس القائد (حفظه الله) والتي كانت تتضمن الاتي :-
- ١ • القيام بعمليات اتية فيه ضد عناصر التخريب في مناطق الاهوار مثل (التسمم - التفجير
احراق دورهم) وذلك من خلال الاصداقاء والمؤمنين لاصحابهم بان مناطق الاهوار ليست
اتية
- ٢ • انتقاء عدد من المصادر الكفوة والجيدة من ضمن الهاربين المتواجدين في الاهوار
لكي يتم تكليفهم بعمليات اغتيال العناصر المعادية وتنفيذ بعض المهمات التي تخدّم علنا الاضي
مقابل افعالهم من جريمة الهروب والتخلف والتباعد القانونيه الشرطه على ذلك في حالة التنفيذ .
- ٣ • القيام بعمليات مدروسه ضمن مناطق تجمع المعادين على ان تضمن فيها سرية هياكله
العمليات وقايتها وان تكون نتائجها موازيه لحجم القطعات المشاركه فيها .
- ٤ • اختصار واجبات الجيش الشعبي للاشخاص المالكين في الاهوار وعلى حافاتها لحماية
الامن في تلك المناطق وبخاصة في محافظات البصرة ويسان وذي قادر .

- يتبع لطفاً -

- ١) تحديد حركة السيارات التي تعمل بين مراكز القصبات ومناطق الاهوار - بتقدير اللجنه
 اليه في المحافظه .
- ٢) القيام بحمليات تاهيبية رادعه خلال فترات متفاوتة ضد الذين يثبت تعارضهم مع المخربين
 في مكان الاهوار مثل حرق دورهم وازالتها لردع الاخرين .
- ٣) تنشيط عمل اللجان الشوكه الخاصه بمشايعة الهاربين والمتخلفين .
- ٤) تطبيق مبادئ الحصار الاقتصادي على القرى والمناطق التي يتواجد فيها المخربون وذلك
 خلال مايلي :-
- سحب كافة وكالات المواد الغذائية .
 - منع شراء الاساك .
 - اتخاذ اقصى الاجراءات بحق الذين يقومون باعمال المواد الغذائية الى العناصر الهاربه
 والخارجة عن القانون والماديه .
 - منع وصول وسائل النقل الى تلك القرى والناطق .
- ومع هذه الاجراءات استندنا على رؤساء العشائر والوجهاء الموجودين في تلك المناطق وانها مهم
 بان هذه الاجراءات سوف لاترفع الا بمنازعتهم الفعلي لانها وجود الهاربين .
- ٥) دراسة امكانية تجميع القرى المتواجده داخل الهور الى المناطق الهاميه التي يسهل السيطرة
 عليها وفتح طرق ومقترحات داخل الاهوار المعيقه .
- ٦) تجريد مناطق الاهوار والمناطق القريه منها من الزوارق والسفن التي تعمل بالحركات
 ومصادرتها وعدم السماح بتواجدها اطلاقاً .
- ٧) اشتراك طيران الجيش بمنازعتهم من طائرات سبويه في حالة طلبه دبريات الامن العميه وذلك
 بحسب الاستمانه بها في الواجبات المحدده لهذا الغرض .

- ينتهي لطفال -

- ١٢ • تولي اللجنة التي يرأسها الرقيب آهن سر مكتب تنظيم الجنوب الاشراف الكا
 على التعامل مع التواجد بين في الاهوار لتحديد سباقات هل ثابتة ومحددة يلتزم بها الجميع •
- ١٣ • التاكيد على دور المنظمات الحزبية والجماعية بالمثل على توعية اهالي
 الاهوار وتمييز الروح الوطنية •
- ثالثاً: التاكيد في المؤتمر المشار اليه بان يكون العمل في المرحلة القادمة وفق الصيغ
 التالية :-
- ١ • ان يكون العمل لمواجهة الزمر المعادية في الاهوار يوازي خطورتها كونها اصحت
 تشكل حالة نقل الامن الاستفزاز في المنطقة الجنوبية •
- ٢ • التاكيد على اخراق هذه الجاهج من خلال العمل المستمر في توجيه ودفع التماسين
 غير الكفونيين بهذا الصدد •
- ٣ • التاكيد على القيام بعمليات آتية فيه ضد هاصر التخريب في مناطق الاهوار •
- ٤ • التحديد الدقيق لاماكن الهاربين والمعادين عن طريق الحولات الاستطلاعية
 الجسرة قارتها مع مايرد من معلومات من المصادر السرية •
- ٥ • التاكيد على استمرار الحصار الاقتصادي بشكل اكثر فعالية لدوره الايجابي في تقوية
 الخفاق على حركة العناصر المجرمة في الاهوار والحد من توهير معتزلات حياتهم اليومية •
- ٦ • تاكيد العمل باستدراج المعادين بمختلف الوسائل الطرق الاية للقبض عليهم
 وصولاً الى اقتداداتهم داخل الاهوار وخارجها •
- ٧ • استمرار التنسيق مع طهران الجيش للاستفادة القصوى من الطائرات المشبه لاشتراكها
 بعمليات مطاردة الهاربين •
- ٨ • البحث عن مصادر جديدة لديها تواجد في اماكن نطقه في الاهوار •

١. اعداد برنامج زمني لقيادة التمازغيين من قبل مدراء أمن المحافظات الجنوبية بعد جمع المعلومات الكاملة همهم وفق الفقرات التالية :-
- المشيرة التي ينتمي اليها التمازون
 - خلفيات السياسة وانتشائه السابق
 - هل التمازون من اهالي الاهوار ام جاء الى الهور لتغطية هورهم
 - تقييم المعطاء الاضي للمصادر و انتاجية كل واحد
 - للاطلاع والاستفادة واعلانا رجاءا


مقدم الامن

و / مدير امن محافظة اربيل

٩١٩٧/١/٢

Document 8

(facsimile attached)

Order from the Halabja Security Directorate to the Sulaymaniyya Security Directorate, to implement the recommendations of Ali Hasan al-Majid to execute wounded civilians and raze neighborhoods of Kani Ashqan with tanks, bulldozers, and shovels. Dated May 14, 1987.

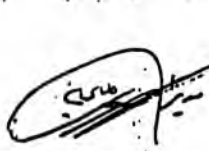
العهد / ٢٢٤٩

التاريخ / ١٤ / ٥ / ١٩٨٧

من مدير محافظة حلب / ٢٧

الى مدير محافظة السليمانية / ٢٧

اعلمنا تصاريفه من عليهم برتبة ٢٨٥٨٨ في ١٤ / ٥ / ١٩٨٧ بانك اعطيتهم
 رتبة الكميل الوطن الى حسن برصم ١٩٤٥ في ١٤ / ٥ / ١٩٨٧ ما يلي . بانك امر انك حارس العطف
 لدولة ما بعد زحف الرضفة على قمت الهنبا المتهام البرطما المدينت بعد انك اذكر من المنصة القريبة
 واذكره الامت والاشرف وزر الاستعدادات منادتهم للسطح وادواته من الشدود والبلدات
 مع قلعة كما قلت عنك انك زعمت انك في حياض الامن والشود والشمس لدار ومن الممول
 من اجودت حوزة اشعار اخر من مدير اية دار بالمدى بانك والبلدات انك لغير رتبة تاريخ
 متصل بالعلم مع التقدير



سليمانية
 ١٤ / ٥ / ١٩٨٧

(facsimile enclosed)

Report that, after the execution of "the criminals," their families were detained and their homes demolished. Signed: Tahir Tawfiq, Secretary of Committee for the Affairs of the North, September 17, 1987.

امانة عربية واحمد
ذات رسالة حاندة
اسرى للمايه وفنصر

جيب البحث العربي الاشترى
الاطير المرافى
امانة مكتب تنظيم ناشري
مكتب الطرارية
١٩٨٧ / ٩ / ١٠

ال . هلاوة اشخاصات المظلمة الشرية

زجبة رقابية

الميرى : شيلة عظيمات داخليه

شاهديهم در : ١٤ نول ١٩٨٧

- ١١ حملت اذوالله من المشرحات الوارده بكاتبكم افسانه
- ووجس اذوالله المرحمن وفهمم درهم بعد فطرسه
- حطيم الاقلام بهيم .
- ١٢ وهدم من اليوم فهدم من غلاف احمدى
- الاجهزه الاتمسه .
- ١٣ فهدم التهايل العاقل من جن المهدم - سرور مكتب تنظيم
- العقل الفكر والتدبير الى مدير المظلمه الشرقيه والى كل من
- طوسه لى هذه الهومسه .
- يرجى الاطلاع واقفصال ما يلزم واتلخسا مع التدبير .

طاهر الزينى
مكاتب لجانة هرتون العنالى

(facsimile attached)

Addressing the request of a citizen regarding the detention and execution of her family members and the demolition of their home. The report explains that all the assets of her "criminal" father have been confiscated because of his connection to an internal organization of Iran's agents. Dated September 16, 1989.



جمهوری اسلامی ایران

التكوير

مديرية اوين الثالثة

مديرية اوين الثالثة

المعد / منحة ٢٠٨

التاريخ ١٦ / ٩ / ١٩٨٩

١٦ / سبتمبر / ١٤١٠ هـ

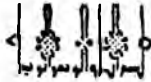
سرى لتايم

الى : مديرية اوين من العامة - ٣

م : طالب مخلصه

بريتكم / ٤ / ٥٥٨٦٠ / ١١ / ١١٨٩

ان مرفوعي بحسد قلب اموالكم باقتزاه بسر جميع من ذوى الصميم نهرهم
سر صعيد الذى ارسل اليه من مديرية اوين من خلقه الحقم الذاتى - قى ابرو جيب
تاها سرى لتايمه وتخصي ١٦١٢٨٧ في ١١٨٧/٩/٢٣ مع اربعة جبر صنين
اسين اقبلوا اليها من شذرة استعيا واعا لنظرة العرفيه مع نفسه من السلالة
الساورة من نظرية استعيا راجعا لنظرة العرفيه الى الرقيق الناضل على مسن
الجهنم الحشم طموال ليداء القطرته ونسخه من كتاب ككب تنظيم النسل القفرايه
المزم ٥٨٧٠ في ١١٨٧/٩/١٧ حول تنفيذ حكم الاعدام بحشم وحجز موالهم
وهدم الدور المائده لهم سا عدا الدور الحكويه والمؤجره وحادرة اموالهم
المنقوله والخير منقوله لا تبا عليهم بالانتشط عا لعا عليه لزمه عدا استعيا
ونهايم بحفظنا لموالطين من مديرية السلطيه واما لهم الى قرا السلطيه
الاول للزمه المذكوره وتنفيذ هم عملية احتفال الزئيق عمال لهه موطه في داهسرة
زواصة السلطيه عسولي تنظيم عا الحزب القاده و هو من القويمة الكرويه
في الساعه ١٣١٥ من يوم ١١٨٧/١٠/٢٤ تم تنفيذ حكم الاعدام رهبا بالوصاين
بالصميم المذكور والجرمين الاخرين بصوره عليمه من قبل مديريةنا وباعمال مدسر
امن الحانطه انذاته وبخبر ستلين من نظرية استعيا واعا لنظرة العرفيه
وتابهاين سر نزع السلطيه للحزب القاده وهذاه والامر الرسيه في الحانطه



رئاسة الجمهورية التركية

المكتبة

مكتبة الأمين العامة

مكتبة

العدد /

التاريخ / / ١٩٨

بنفس المكان الذي احتل الرهيق بمدا الله نوه . وقد املتنا ..
 مدينة من منطقة الحكم الذاتي - ق ٢ بموجب كتابها سرى وشخصي -
 ويفتح بالذات ١٥٧٨٩ في ١٩٨٧/١٢/٢٢ بأنه املها قيادة
 مكتب تنظيم الشمال / المكتبة بموجب كتابها المرقم ٦٨٠٦ في
 ١٩٨٧/١٢/١٢ بأنه تنصب قطع رقاب ثلاثة موازل من ذوى المجرمين
 وبغضهم طائفة المجرم برهم عمر محمد محمد مؤدومي . حدث البالموا لانه
 املاه بصوره هادئة وحجز طائفة من موازل المجرمين لمدة ستة اشهر
 وقد تم تنفيذ ذلك في حوزته . راجع ان تفصل بالذات في . مع انه يدور

و / يدور من محافظة السليطية

١٩٨٩/١/١٦



(٢ - ٢)

(facsimile attached)

Report on the inquiry by Bakhtiar Qoron about the fate of his parents. The report explains that they are the parents of the "criminal" Hoshiyar Qoron Ahmed, "an element of the gang of Iranian agents," eight of whose members had been captured and executed, and that the parents have been "liquidated" in Baghdad. Dated November 20, 1989.

بسم الله الرحمن الرحيم
 السيد مدير المخابرات
 رقم بئدر
 ١١ / ١١ / ١٩٨٩
 ١٤١٠٧

فما شئنا يا معلمك رفق نبي...
 علوا صلواتنا على حماقتك السليمانية المرقم...
 معرفتك طلب المبرر المختار ولو وجدته انتي...
 فيك عن صبر وولدك المومنان احمد جمال...
 عبد المرحوم المرحوم علي المرحوم...
 (١) - مدن المدعو لونه من المرحوم وتوجهت...
 كوار في الدين المرحوم هوشيار لونه من المرحوم...
 زهره محمد بن محمد المرحوم المرحوم الفاضل...
 نلتك جنازة اخي لقياسم بتنفيذ عمليات...
 قزيبك واغتيالك وبضربها عملي اغتيال...
 المشيد ملازم الامن عرش عبد القادر الحنوي...
 الى سرية الطوارنا وقد اهلوا جميعا بحروب...
 النضال المرحوم ١٩٨٧-١٩٨٧-١٩٨٧...
 رئاسة المرحوم الثورة صدر الحكم عليهم بالعدم...
 شقنا سقا الموت وقع التنفيذ كقرون في تمام...
 السابعة يوم ١١ / ١١ / ١٩٨٧ في بين ابراهيم

(two letters; facsimiles attached)

(a) Assi Mustafa Ahmad's letter to Saddam Husain asking for the whereabouts of his wife, daughter, and two sons.

(b) Answer to Assi Mustafa Ahmad from Sa'doun Alwan Muslih, Chief of Presidential Office, that "your wife and your children were lost during Anfal Operations that were carried out in the northern region in 1988." Dated October 29, 1990.

بسم الله الرحمن الرحيم

السيد الرئيس القائد العروب الزين صدام حسين المحترم (حفظه الله)
رئيس الجمهورية ورئيس مجلس قيادة الثورة المحترم

- احببت تحية الزملاء الثائمين والتمس لهم تنسي باني احد المواطنين المحرومين.
- اتقدم باسم هؤلاء اليتمنين لعمادنا الذي طابعت له شعبي ليد تعار بعيت لاني
- ولنا لم اجد مؤلم طبعاً مرفعة طيم شعفتي هذه طعا تحنى باعتناكم

صدي /

اسي الميخائيل ادناه (طيبى صطفى احد) العائد من الاسر في ٢٤ / ٨ / ١٩٩٠ جندى احتياط
من مواليد ١٩٥٥ عامته ليسرقة قادمة صدام الجبهة في طابع القوي ليعت من الاسر نسي
٢٧ / ٢ / ١٩٨٢ وبقيت في الاسر الى يوم صدر القرار بتبادل الاسرى نرحمت الى ارض الوطن

- قبله تراب الوطن الحبيب وركعت لمرسوة السيد الرئيس القائد الصرح صدام حسن
- وكان في قلبي الفحل اللطيف لوصول اب اسرتي ويارحون بلقاني والرم بقتناكم من مرفعة
- لفرء لا توفى

الا انه بالتمني قد وجدت ابنا رغبة طي ... عطفنا لم اجد زوجتي ولا اولادي
لما للكارثة وما للحوال قد المبروني بان الاسرة كاسة بقمته ليس يد قواه الانفال في صلية
الانفال التي جرت ليا المنظمة العالمية بقيادة الزعيم طي حسن السجيه ولا اعلم من مصيرهم عطفنا

- وهم ١ : عيسى طي احد تولد ١٩٥٥ / زوجتي
- ٢ : جود طيبى صطفى تولد ١٩٧٩ بنتي
- ٣ : مهدي تولد ١٩٨١ ابني
- ٤ : يحيى تولد ١٩٨٢

- طيه جتكم بهمني هذه واجبا التفضل بالمعطف طي واطلسي من مصورهم
- ولكم الله وحفظكم ولكم العسر والاحقرلم

السيد
العائد من الاسر

ج . احتياط / طيبى صطفى احد

يلا سكن ولا ماوي ليا لطيانه / قنا - حم - حال
طلمنة بكس / محمد حسي ابراهيم

(facsimile of sample page attached)

From Sulaymaniyya Governorate Security Directorate: a list of 87 names of people who were executed from January 1 through August 1989, with a summary of each case. Among others, "crimes" range from trespassing into forbidden zones, being an element of Iranian agents, and teaching Kurdish. Dated August 24, 1989.

تاريخ تنفيذ الحكم (الاشهر)	بومر قصته	الاسم الكامل للمتهم
11/3/1989	المذكورين من تطورات زهرة محمد واران اجنام الكويله واقواسبعة عائلات اغتال ضد العسكريين من الضابط والمقاتل في مركز حافة السليانية ومنها عائلة السيد محمد لقمه لاني وهم موصوفين في وقتنا ٦٤٠ في ١١/٣/١٩٨٩	محمد واران اجنام
11/3/1989	المذكورين قاتما نصبا سفيرة في تشويق لداوود خانة العمانية او قاتما بسكك الهنرات من طاره وعند ضرره قومه من موريشيا لبعض عليها قاتما بنتي النارمان لقمه وتم لبعض عليها ايها موضوع في وقتنا ٦٤٠ في ١١/٣/١٩٨٩	داوود خانة العمانية
13/3/1989	المرم المذكور كان مدرس في ثانوية تهودت للنس في الجليل وبتقوم بتدريس اللغوب مادة اللغة الكورديه والمكرونت اعلاضه انظر تامة النطق التجويدي ولبعضه التي قرأها فحسوا انه لان من أبناء عناصر الزمر القويدي سببا وهو من وقتنا ٦٤٠ في ١٣/٣/١٩٨٩	المرم المذكور
19/3/1989	المذكور ساعدت تكريف دائرة المادة الجارية في حافة السليانية وانه على علاقته بلعبه اصبحت من كوردي زمره السك وقاتم في احد الجرائم التي سبب عنها المرم بالسبب الكوردي لغرض التمويه على العدو في المعينه والتمويه وعند محاولة البعض على المرم من موريشيا قاتما محاولة هس نمر ليزره بالسبب الكوردي في بعض الفصول التي اتم حضورا في وطرب المرم الكوردي وهو من وقتنا ٦٤٠ في ١٩/٣/١٩٨٩	المذكر
17/3/1989	المرم المذكور من كورديه زمره في دارا انما في ١٠/١٠/١٩٨٩ تسلل الدخايع مسكروتم اتم في وقتنا ٦٤٠ في كورديه من ارمال الحاده من كورديه في بعض الفصول التي اتم حضورا في وقتنا ٦٤٠ في ١٧/٣/١٩٨٩	المرم المذكور

(facsimile of cover letter and of sample page of listing attached)

From Office of the Presidency, Secretary of Security Directorate of Sulaymaniyya Governorate. A report on, followed by a detailed list of, 44 individuals who were executed during search campaign of 1985 in Sulaymaniyya Governorate; among the 44, some, the report relates, died during interrogation. The offenses of these people range from desertion from the army, collaboration with Iran, possession of pictures of Kurdish leaders, and being relatives of fugitives. Dated June 14, 1989.

جمهورية العراق
 السليمانية
 مديرية الأمن
 مديرية الأمن
 العدد / الم / ١٩٨٩ / ١٠٦
 التاريخ / ١٩٨٩ / ١٠ / ١٤
 ل / د / القصد / ١٤٠١



الى / مديرية الامن من العامة - ٢
 م / لوز /

ترسل اليكم صيغة ما مورنا ملازم الامن عبد الحكيم حيدر حيدر
 قوائم ضلعه تشدين الصاء جبرين وعدد هم (٤٤) من الذين تم تنفيذ
 حكم الاعدام بحقهم وضم من توفي أثناء التحقيق في الحلة التفتيشية
 لعام ١٩٨٥ لمحافظة السليمانية والتي حصلت لمواقفه على تنظيم قوائم
 خاصة بهم ولم تصدر لهم قوائم وانشاء واجبين استلامها وعرضها
 على انظار السيد العام الحترم لعرضها لمواقفه على اصدار قوائم
 الرقابة لهم والتنسيق مع مديرية الامن من العامة طبعا باسمهم
 في القوائم المرسله اليكم بحسب كتاب صري وخصي الرقم ١٩٨٢٠
 ١٩٨٢/٦/٢ واملأنا ٠٠ مع القصد

مديرية الامن من محافظة السليمانية
 ١٩٨٩/٦/١٤

المرفقات
 قوائم

المرحلة	مكان التنفيذ	تاريخ التنفيذ	جهة العمل	الوزارة المعنية	المسئول	الاسم واللقب	رقم
تم التوقيع على لوائحها بالالتزامات والالتزامات لوزراء وزارة الداخلية والكويتية حيث اعتقدت لوائحها بالالتزامات والالتزامات تم تنفيذها في الكويت في ١٩٦٨ و١٩٦٩	الكويت	١٩٦٥	السفير	وزارة الخارجية / قطاع الكويت	عاطف الهادي	فارس عبدالمعز صبيح	٤٨
تم تنفيذها في الكويت في ١٩٦٨ و١٩٦٩	الكويت	~	~	~	عاصم اعلى	محمد كرم	٤٩
تم تنفيذها في الكويت في ١٩٦٨ و١٩٦٩	الكويت	~	~	~	غالب	مهدية سردار عبدالمعز	٥٠
تم تنفيذها في الكويت في ١٩٦٨ و١٩٦٩	الكويت	~	~	~	غالب	وليد فاضل علي	٥١
تم تنفيذها في الكويت في ١٩٦٨ و١٩٦٩	الكويت	~	~	~	عادل	ياسين مارتا تارا	٥٢
تم تنفيذها في الكويت في ١٩٦٨ و١٩٦٩	الكويت	~	~	~	معلم	هبة شريف محمد	٥٣
تم تنفيذها في الكويت في ١٩٦٨ و١٩٦٩	الكويت	~	~	~	غالب	سردية هبة شريف	٥٤
تم تنفيذها في الكويت في ١٩٦٨ و١٩٦٩	الكويت	~	~	~	غالب	اولاد محمد شريف	٥٥
تم تنفيذها في الكويت في ١٩٦٨ و١٩٦٩	الكويت	~	~	~	سند	لها محمد محمد	٥٦
تم تنفيذها في الكويت في ١٩٦٨ و١٩٦٩	الكويت	~	~	~	غالب	اسوكا محمد محمد	٥٧
تم تنفيذها في الكويت في ١٩٦٨ و١٩٦٩	الكويت	~	~	~	غالب	امانة محمد محمد	٥٨
تم تنفيذها في الكويت في ١٩٦٨ و١٩٦٩	الكويت	~	~	~	مكي محمد	امانة محمد محمد	٥٩

(facsimile attached)

Set of instructions for dealing with opposition demonstrations. The memorandum, dated March 6, 1991, is from Baghdad Security Headquarters to the Director General of the Dohuk Governorate Security Directorate and his subordinates. The detailed instructions state that the location of a demonstration should be surrounded, the elevated points occupied, and demonstrators should be shot at with the aim of killing 95 percent of them and saving the rest for interrogation. Another instruction calls for the technical unit [euphemism for chemical weapons] to be kept in reserve.

بسم الله الرحمن الرحيم
العدد / الاشارة /
التاريخ /
١١١١ /
١٩٩١ / ٣ / ٦

بسم الله الرحمن الرحيم

لغرض السيطرة على الوضع الاسي والمظاهر على الامن والنظام عند تعريض المدينة لاصلاحه
النظا هرا به العاد به قدر لن تكون الواجبات وفق الخطه والصيغ الموضحة اد نساءه لاحتفال
ما يلك يتخيل انما اياهه حرما ولكن استلام العمليات من قبلنا بافرد .

بسم الله الرحمن الرحيم
العدد / الاشارة /
التاريخ /
١١١١ /
١٩٩١ / ٣ / ٦

العمليات

- ١- الفعاليات كافة الضباط والفرجين والرتاب التي مقراتهم عند سماعهم بالتمهارة لسيروا مع كامل اسلحتهم وذلك لاستلام العمليات .
- ٢- تواجد جميع الكتلين بواجبها العنايه الذاتية للذيرة في واجباتهم دون بداية وتوضيح الواجب بواجباتها .
- ٣- في حالة قيام مظاهرات عادية يتم حصر هذه الجماهير بحدود النافذ والطرق المؤدية اليها والسيطرة على المناطق المهددة التي تعرف عليها .
- ٤- بعد اتخاذ الاجراءات اعلاه وحصر العناصر اعاد به يتم استخدام القوة السليطة وحسب التوجيهات المركزية بقتل ٩٥ ٪ منهم ولجلاء اهلون لغرض التطبيق .
- ٥- في حالة تعريض القوة الى نيران عادية من اتجاهات اخرى يحتل وجود عناصر مفرسة ضمن المنطقة لحماية المظاهرات ففي مثل هذه الحالة تقوم القوة بالرد بكتانه على مصادر النيران .
- ٦- تهيئة قوة احتياطية للحركة لتحديد القوة الاولى والحماية المناطق الحساسة .
- ٧- قيام قسم الفنيه بتوشيق ذلك باستخدام الوسائل الفنية وحسب العمليات وما امرات مسليط القوم ويهين الامن طاهر تحذير احد .
- ٨- التنسيق مع باقي الجهات الامنية وقوة طوارئ الحبيب لحماية باقي المناطق الاخرى من المدينة .
- ٩- اما فيما يخص الاستهين الذين لم ترد اسماهم في الملحق (١) يحتفظون قوة احتياطية في حرم سفارة الدائرة الا يملكه .

Document 17

(facsimile of sample page attached)

"Registry of Eliminated Villages"

Notebook-type volume bound in pink wrapping paper with a large violet on the front cover. Contains manuscript entries detailing the names and locations of a large number of villages "eliminated" in the Sulaymaniyya, Diyala, and Ta'mim [Kirkuk] Governorates during 1987.

الملاحة	تاريخ الازالة	الحرايط	الاحداثيات	اسم القرية الزالمة	الناحية	القضاء	المنطقة
	١٩٨٧/٥/٦	قارم	٨٦٢٧	عقار مزان	الحجر	مجمعات	لمانة
	١٩٨٧/٥/٦	س	٨٦٢٥	قذراوه			
	١٩٨٧/٥/٦	تفتت	١٢٥٢	قره قو علي	تيلكو	كلار	
	٨٧/٥/٩	س	٢٠٤٠	سبو خليل			
	٨٧/٥/٩	س	٢٤٤١	فام اعنا			
	٨٧/٥/٩	س	١٦٤٢	فقي سلطان			
	٨٧/٥/٩	س	٢٨٤٢	كويان			
	٨٧/٥/٩	مهاجر	١٠٧٧	هو سولخ			
	٨٧/٥/١١	مهاجر	٨٢٩٩	طافه شين		روكان	
	٨٧/٥/١١	س	٨١٠٩	بهر نطه	سید صادر	طبيحة	
	٨٧/٥/١١	س	٨٤٠١	رفاته امام المفلح			
	٨٧/٥/١١	تفتت	٢٤٤٦	سید مفر	تيلكو	كلار	
	٨٧/٥/١١	س	٢٤٤٦	قره جل			
	٨٧/٥/١١	س	٢٠٢٧	بکوران			
	٨٧/٥/١١	س	٢٤٤٨	نزي العفريه			
	٨٧/٥/١١	س	٢٤٤٧	نزي البركة			
	٨٧/٥/١٣	مهاجر	٨٢٠٠	كافورده ملا	سید صادر	طبيحة	
	٨٧/٥/١٣	س	٨٢٠٩	تاو طرهل			
	٨٧/٥/١٤	تفتت	٧٧٠٦	مستفا			
	٨٧/٥/١٤	بهر	٦١٢٢	كلیة در	برزنجی	هورنا	
	٨٧/٥/١٥	س	٦٢٢٧	وند دینه			
	٨٧/٥/١٥	س	٥٧٢٢	مکانو			
	٨٧/٥/١٧	س	٦٠٢٠	مبار			
	٨٧/٥/١٨	مهاجر	٥٦٨١	یا فو خیلک			
	٨٧/٥/١٨	س	٥٦٨٦	مکان سرد		دیشقان	
	٨٧/٥/١٨	س	٦٤٩١	بهر قبی			
	٨٧/٥/١٨	س	٦٤٩٤	بهر قبی			
	٨٧/٥/١٨	س	٦٢٩٧	بهر قبی			
	٨٧/٥/١٨	س	٦٦٩٦	مکانو			

Document 18

(no date; facsimile attached)

Government personnel card of Aziz Saleh Ahmed, identified as a "fighter in the popular army" whose "activity" is "violation of women's honor" [i.e., a professional rapist].

نموذج رقم (٢) امن عام

ملك رقم ٤٠٤٠٤

الاسم الكامل: **العزيز صالح احمد**
تاريخ الميلاد:

المهنة: **مقاتل في جيش الشعب**

لقبته: **الوحش الذي شرفك ابنك**

(facsimile of first page attached)

Top Secret file from General Security of Sulaymaniyya Governorate on Hamad Amin al-Jarfi, who is identified as having been "siezed by military units in 1988 in the villages prohibited for security reasons during the heroic Anfal Operations. We currently know nothing about his fate."

((بولقة سورية ولقوة))

الى / الامعاء / ش.و.م.ق. ٧
من / امن السلطانية / ٥٠٠٠٠٠
رقم القدر ((٧٨٦)) بولقتكم ج.ق. / ١١٧٦ ف.س. / ١٧ / ١٩٩٠
لدى اجراء التحقيق السرى الدقيق من ميديوي بحث بولقتكم اعلاه تبين
لنا تايلر (٥٠) للفضل بالوصلات .٠٠ من التقدير .

مد بر امن محافظة السلطانية
١٩٩٠ / ١٧ / ١٢

١- محمد امين محمد عبدالله محمد الجار / تبين لنا انه حسن السيرة والسلوك
وكذا فائقه وانه من سكة قرية وريشان سنكاو سابقا
وحالها لغا . جم جمال شهين رقم الدار ٩ / ٦١٥٣ -
مهنته عامل في بلدية سنكاو . تولد ١٩٤٨ سنكاو
سفل ساسيا . تحصيله الدراسي امي . المذكور
اعلاه اثناء مطبات الانفال البطولية تم القبض عليه في
القرى المحذوره اعلمنا من قبل اللطعات العسكرية
عام ١٩٨٨ وحالها لم نعرف شي من مصوره .

٢- بشارت محمد امين محمد الجار / حسن السيرة والسلوك وكذا فائقه
من سكة قرية وريشان / سنكاو . سابقا وحالها لغا
جم جمال - شهين رقم الدار ٩ / ٦١٥٣ . مهنته عامل
اهلي . مواليد ١٩٧٢ / سنكاو . سفل ساسيا .
تحصيله الدراسي بقرا . ويكتب . انه من العاقد بين السرى
الصف الوطني عام ١٩٨٨ بعد مواده من القرى المحذوره
اعلمنا . لم يسجل لدينا شي اخر ضده .



رئيس اللجنة
خليل حوز
الرقم ١٧٠٠

Institut kurde de Paris

Appendix B

Reports on Human Rights Violations in Iraq

The following is a selected listing of reports regarding human rights conditions in Iraq. Annotations are provided for some of the reports. Where a report is not in English, it is so noted. Otherwise, all reports are in English.

A. Reports of the United Nations Commission on Human Rights Special Rapporteur on the Situation of Human Rights in Iraq, Mr. Max van der Stoep

1) *Full Report (E/CN.4/1993/45), 19 February, 1993*

The report first assesses the human rights situation in Iraq in the light of standards of international human rights laws applicable to Iraq as a result of undertakings of its own choosing, and also in the light of standards of the following conventions and obligations arising as a matter of international customary law: 1) Charter of the United Nations; 2) International Covenant on Economic, Social, & Cultural Rights; 3) International Covenant on Civic & Political Rights; 4) International Convention of the Elimination of All Forms of Discrimination vs. Women (1967); 5) International Convention on the Elimination of All Forms of Racial Discrimination (1963); 6) Convention on the Prevention and Punishment of the Crime of

Genocide: 7) The Four Geneva Conventions (12 August 1949); and 8) Constitution of International Labor Organization (ILO) and other Conventions of the ILO (Convention 98 of 1949 (the Application of the Principles of the Right of Organizing and Collective Bargaining); and Convention 107 of 1957 (the Protection and Integration of Indigenous and other Tribal & Semi-Tribal Population in Independent Countries)).

The human rights obligations of Iraq consist of abiding by the following, of which it is a co-signatory: 1) Charter of the United Nations (obligations of nondiscrimination: a) Preamble; b) Article 1 (3); c) Article 5 (c); d) Article 56; 2) Universal Declaration of Human Rights (1949); 3) Declaration of Rights of Children (1959); 4) Protection of Women & Children in Time of Emergency and Armed Conflict (1974); 5) Declaration on the Protection of All Persons being Subjected to Torture & Other Cruel, Inhuman, or Degrading Treatment or Punishment (1975); and 6) Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (1981).

Iraq's obligations *inter pares* arise from the country's multilateral human rights treaties with other states. In light of these treaties, Iraq has agreed to extend rights and protections of human rights to all falling within its jurisdiction of "permanent population" (whether citizens or non-citizens of Iraq).

Section Three of the report covers alleged human rights violations by the government of Iraq and is divided into four categories: general population; Kurds; people of the southern Marshes; and Shi'a.

With regard to the general population, there are summaries of the following practices: a) arbitrary execution, with reports on mass arbitrary killings (i.e., bombardment of the Marshes), on mass arbitrary arrest and execution on the spot and death camps, and on political killings; b) enforced or involuntary disappearances, noting that 5,573 cases of

disappearances had been submitted to the Iraqi government in 1992, and that the largest number of disappearances occurs among the Kurds (mainly the Barzani & Talabani clans); (c) torture and other cruel, inhuman or degrading treatment; (d) arbitrary arrests, detention, and disregard for due process of law, with mention of the main location of detention: Radwaniyah prison, Abu Graib prison, and 100 other detention centers; (e) denial of freedom of association and expression; and (f) deprivation to the access of food and healthcare, including the embargoes on the northern Kurdish region and the southern Marshes.

With regard to Kurds, the focus is on the 1988 Anfal Campaign, which the report describes as the genocidal practices on the northern Kurdish region under the command of Ali Hassan al-Majid (present Minister of Defense and member of the Revolutionary Command Council). Among the violations carried out during the Anfal Campaign: mass summary and arbitrary arrests and executions; mass disappearances; use of excessive force, including chemical weapons; destruction of civilian property; arbitrary detention; torture and inhuman and cruel treatment; forced relocation; disappearances; mining of civilian areas; and economic embargo.

In the southern Marsh area, the report says, operations mirror the Anfal Campaign, and it is therefore assumed that operations in the Marshes region are commanded by Ali Hassan al-Majid. Among the violations of civil rights are: military attacks; indiscriminate aerial and ground bombardment (intensified after 1992); arrests, executions, and campaign of terror under Saddam Kamil (Director of Party Intelligence); forced relocations; underwater mines; and poisoning of the water. The section also mentions destruction of the environment in the region, through the Third River Project, the water-diversion and drainage program that is destroying a whole ecosystem (the report notes evidence of dying fish) and an ancient lifestyle; and through the burning of reed beds and green areas. Finally, there is a description of the internal economic blockade, which has been intensified since the establishment of the

"No Fly Zone" by Allied powers (August 27,1992).

With regard to the Shi'a, the report covers in detail the desecration and destruction of Shi'a holy shrines; the continuing official practices and policies of discrimination in terms of equal opportunities and repression of all aspects of the Shi'a religious establishment; and the arrest of Grand Ayatollah Sayyid abul-Qasim al-Khoei along with 105 relatives, staff, religious students and senior members of the *ulema* associated with Khoei.

Section Four contains correspondences of and between the Special Rapporteur and the government of Iraq. Section Five contains the Special Rapporteur's conclusions and recommendations. Two annexes to the report contain documents found in Iraqi security offices, and documents from a single file found in Iraqi security offices.

2) *Interim Report (S/24386), 10 August ,1992*

The report, whose focus is the situation of the people of the southern Marshes region, begins by emphasizing the urgency of the human rights situation and Iraq's continued violating of mandatory Security Council Resolution 688 (April 5, 1991), which demanded that Iraq stop its policy of internal repression. The main section of the report, detailing the situation in the Marshes region, includes the videotaped instructions in the field of the Iraqi prime minister, Muhammad Hamza al-Zubaidi, to army generals to "wipe-out" specific Marsh Arab tribes. The section details some of the human rights violations committed towards the Marsh Arabs, whose majority are Shi'a Muslims: military attacks, mass bombardment, arrests, executions, and forced relocations. The forced evacuation of the Marsh lands will implement the "Third River Project", by which the water of the marshes would be diverted to allow for a third river in mainland Iraq. The project entails the destruction of the existing ancient environmental ecosystem. The Special Rapporteur notes that the government of Iraq is violating: the rights to life and physical integrity included in the Universal

Declaration of Human Rights and the International Covenant on Civil and Political Rights; and Basic Principles on the Use of Force & Code of Conduct for Law Enforcement Officials (General Assembly Resolution 34/169 annex).

In the report's third section, the Special Rapporteur recommends the creation of human rights monitors in Iraq serving the U.N. Commission on Human Rights, similar to the peacekeeping forces in El Salvador and Cambodia. He further emphasizes the need for an instrument to assess Iraq's compliance to human rights similar to the mechanisms that were created for Iraq's compliance with the campaign to destroy Iraq's weapons of mass destruction. However, it is clear that no system of human rights monitoring can function in Iraq without the government's cooperation.

3) Full Report (E/CN.4/1992/31), 18 February, 1992

One section of the report lists the obligations that the Iraqi government has agreed to undertake, of its own accord, by being a signatory to United Nations instruments -- the U.N. Charter, the U.N. Bill of Rights, the Convention on the Prevention and Punishment of the Crime of Genocide; and several international covenants on civil, political, cultural, and social rights -- and concludes with an examination of the relevance under terms of international law of "special circumstances" to observance of the above United Nations instruments. The next section of the report details at length alleged violations by the Iraqi Government with specific excerpts. The forms of violations range from mass arrest and execution to rape and torture. One section is devoted to a lengthy response by the Iraqi government to some points raised in the report, followed by the Special Rapporteur's assessment of the Iraqi government's responses. The final section covers the conclusions and recommendations of the Special Rapporteur. The first of three annexes to the report consists of Iraqi government documents pointing to human rights violations by the Iraqi security forces. The second annex is a list of 239 names of "disappeared" individuals.

The third annex lists the non-Governmental Organizations that assisted the U.N. investigative team.

4) *Interim Report (A/46/647), 13 November ,1991*

One section of the report delineates, with individual examples, some of the violations committed by the Government of Iraq: arbitrary detention; disappearances; torture and inhuman or degrading practices on detainees; extrajudicial killing; hostage-taking and the use of "human shields"; laws in force; discrimination against ethnic groups; religious and cultural violations; deprivation of food and health care. The second section of the report provides the Iraqi government's response to the report's allegations of human rights violations. That is followed by a section on "considerations of the facts." Appendix One to the report lists the names of individuals who have disappeared, while the second appendix lists the names of individuals arrested in the March 1991 during the kidnapping of Grand Ayatollah Abul-Qassim al-Khoei.

B. Amnesty International Reports

1) Annual Reports on Iraq

1992: Abolishment of Revolutionary Court (May 1991). Description of southern Marsh evacuation. Description of the detention of 500 Kurdish men and boys from Kirkuk.

1991: Human rights violations committed against Kuwaitis while Kuwait was occupied by Iraq. Continued violations inside Iraq.

1990: Similar to 1989.

1989: Description of the Anfal operations (1987-88) with its attacks on Kurdish civilians. Continued execution of Kurds despite the government's April 1988 declaration of an amnesty.

1988: Depiction of human rights violations against Kurds, against Shi'as, and against foreigners in Iraq.

1987: Disappearance of Kurdish students. Execution of former Ba'ath Party members.

1986: Focus on the arrest and execution of Kurdish fighters (pesh merga) and political party members.

1985: Mention of arrest and execution of members of Al-Da'wa al-Islamiyya, Kurdish Democratic Party, and the Patriotic Union of Kurdistan.

1984: Amnesty International visit to Iraq in January 1983 to discuss the allegations of routine and widespread torture of political detainees and the disregard of arrest and detention procedures for political suspects as laid down in Code of Criminal Procedure (breaching of international and domestic laws by RCC).

1983: Similar to 1980 and 1981.

1982: Arrest and disappearance of Kurdish schoolchildren, members of the Students Union of Kurdistan (aged 12-13) in 1981.

1981: Similar to 1980 report. Special focus on the use of torture, poisoning of political suspects, and widespread use of the death penalty.

1980: Widespread arrest of suspected/actual government opponents. Inadequacy of political trial procedures. Routine and systematic torture of political detainees. Death penalty. Execution of 21 high members of Ba'ath Party after the mid-July accession of power by Saddam Hussein as President of the Republic. Opposition from Shi'a suppressed by mass arrests and executions. Execution of Al-Da'wa al-Islamiyya members (Shi'a group illegally in existence since 1985). Violations of human rights of Kurds. All political trials held in camera, making it impossible to estimate exact number of executions.

2) *Special Reports*

AI Index: MDE/14/01/93 (February 1993)

Iraq: Written Statement to the 49th Session of the U.N. Commission on Human Rights

Human rights violations continued in Iraq throughout 1992 and into 1993. Destruction and "evacuation" of the southern Marshes since April 1992. Punitive measures against suspects of March 1991 uprising and large sectors of Shi'a Muslims.

AI Index: MDE/14/-/92 (15 September 1992)

Statement of AI on Human Rights in the Middle East Before the Subcommittees on Europe & the Middle East and Human Rights & International Organizations

Amnesty International's concerns in Iraq of extrajudicial executions/arrests, disappearances, torture, and death penalty. The target of Iraqi human rights violations are women, children, elderly people, ethnic groups (Kurds), and religious groups (Shi'a & Assyrian Christians). Deliberate evacuation of civilians from homes in northern Kurdish and southern Marsh regions.

AI Index: MDE/14/07/91 (16 July 1991)

Iraq: Amnesty International Calls for On-Site Human Rights Monitoring Operations

AI Index: MDE/14/05/91 (July 1991)

Iraq: Human Rights Violations Since the Uprising

Brutal and extreme violations of human rights carried out by the Iraqi military, intelligence, and security personnel on individuals who were suspects and non-suspects of the March 1991 uprising. Condemnation of Iraq's breaching of the U.N. Charter, ICCPR obligations, and other international laws which ensure the protection of human rights.

AI Index: MDE/14/16/90 (19 December 1990)

Iraq/Occupied Kuwait: Human Rights Violations Since 2 Aug, 1990

Abuses of human rights since 2 August 1990 invasion of

Kuwait include arbitrary arrests, detentions without trial of civilians, torture, death penalties, extra-judicial executions of civilians, 'disappearances', etc. Specific cases, testimonies, medical reports, and photographs. These abuses consistent with known abuses which have been committed in Iraq for many years. Mention of Ali Hassan al-Majid.

AI Index: MDE/14/06/90 (June 1990)

Iraq/Turkey: Iraqi Kurds at Risk of Forcible Repatriation from Turkey & the Human Rights Violations in Iraq

Due to Anfal Operations of 1987-1988, 55,000 Iraqi Kurds fled to Turkey. Estimated 27,500 of them in refugee camps in southeast Turkey without any legal protection. The five amnesties granted by the Iraqi government since September 1988, two of which were intended specifically for Kurds, have failed to be put into practice. Cases of returning Kurds who had "disappeared" or been executed or arrested. Names of Assyrians and Kurds who "disappeared" less than a month after the announcement of the amnesty declared by the Iraqi government.

AI Index: MDE/14/04/89 (February 1989)

Iraq: Children--Innocent Victims of Political Repression

AI Index: MDE/14/05/88 (August 1988)

Iraq: Oral Statement to the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities

Systematic policy of Iraq government to eliminate large numbers of Kurdish civilians. Iraq violating: International Covenant on Civil and Political Rights (Article 4), International Covenant on the Elimination of All Forms of Racial Discrimination, Third Geneva Convention Relative to the Treatment of War Prisoners, and Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War.

AI Index: MDE/14/02/88 (March 1988)

Iraq: Executions

The November-December 1987 execution of 360 people, some without charge or trial, others after imprisonment and

torture. Names of Kurds executed on 11 November 1987.

AI Index: MDE/14/05/87 (19 June 1987)

Amnesty International's Concerns in Iraq

Concerns based on the fact that Iraq is violating international laws on human rights of which it is a co-signatory by being a State Party of U.N. Charter and other international organizations. Iraqi government also violating its own Constitution. List of violations: arbitrary arrests, trial procedures, torture, ill-treatment of detainees, death penalties, and extrajudicial executions.

AI Index: MDE/14/04/87 (21 May 1987)

The Death Penalty in Iraq

List of all persons reported executed/sentenced to death between January 1985 and January 1987.

AI Index: MDE/14/Wu 01/87 (25 February 1987)

Amnesty International urging Iraqi government to stop the execution and torture of a group of 300 Kurdish children and young people seized in the North and held since 1985.

AI Index: MDE/14/06/86 (March 1986)

Torture And Executions in Iraq: Summary of Amnesty International's Concerns

Similar to the April 1985 report *Torture in Iraq 1982-1984*.

AI Index: MDE/14/02/85 (15 April 1985)

Torture in Iraq 1982-1984

Allegations of beatings, falaga (beating of the soles of feet), Al-Mangana (clamp-like instrument placed over toes), extraction of toes, eyes, sexual torture, etc., received by Amnesty International with detailed case histories. Amnesty International advocates the immediate need for the implementation of Articles 8, 9, 10, and 11 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

AI Index: MDE/14/06/83 (October 1983)

Report and Recommendations of an Amnesty International

*Mission to the Government of the Republic of Iraq, 22-28
January 1983*

AI Index: MDE/14/13/81

Iraqi government's denial of the allegations made in the Amnesty International report *Iraq: Evidence of Torture* on grounds that the legislation of Iraq protects all rights of anyone in prison or under arrest (quoting all the articles of the Iraqi Constitution which prohibit the use of torture).

AI Index: MDE/14/07/81 (1981)

Iraq: Evidence of Torture

Allegations of routine torture and cases of death under torture of detainees (political suspects) in the hand of Iraqi Govt. officials. Descriptions of the forms of torture: beatings, electric shock, mock executions, rape, etc. Iraqi government's dismissal of the allegations on grounds that torture prohibited in Iraq by both international and domestic law.

International agreements which Iraq has signed: 25 January 1971, Iraq ratified the UN International Covenant on Civil and Political Rights (ICCPR), of which Article 7 forbids the use of "cruel and inhuman or degrading treatment or punishment"; 3 September 1979, Iraqi government officially stated its intention to comply with the ICCPR declaration and implement it through national legislation. Iraq's Constitution prohibits torture in Article 22 (a) and bans the use of illegal methods to extract confessions under Article 127 of Judicial Procedures.

Description of specific cases of arrests, detention, and trial procedures with supporting medical reports and case histories.

Amnesty International's recommendations for the ensuring of human rights of detainees in Iraq.

AI Index: MDE/14/08/80 (12 June 1980)

Amnesty International launches campaign against the widespread executions in Iraq.

AI Index: Major Circular ACT/05/10/80 (14 April 1980)

Updated list of people reported to have been executed in

Iraq during the period of January 1978 to December 1979.

AI Index: Major Circular ACT/52/02/80 (10 March 1980)

Background Paper on Executions in Iraq

Divided into three sections of names of people who have been executed. The first section contains the list of members of the Shi'a community (33), the second section that of government officials and Ba'ath Party members (22), and the last section that of members of the Kurdish community (23).

AI Index: MDE/14/16/77 (15 August 1977)

Situation of the Kurds in Iraq

Description of the ongoing hostilities, arrests, executions, torture, rape, detention of Kurds by the Baghdad regime even after the application of the Autonomy Law of 11 March 1974.

C. Middle East Watch (a committee of Human Rights Watch) Reports

1) *Reports*

Current Human Rights Conditions Among the Iraqi Shi'a, summary of findings of a Middle East Watch Mission: January 8-February 14, 1993 (March 1993)

Focuses on the effects of scheme to drain the southern Marshes, repression in the South.

The Anfal Campaign in Iraqi Kurdistan: The Destruction of Koreme (with Physicians for Human Rights, December 1992)

Definitions of "genocide" as by the Convention on the Prevention and Punishment of the Crime of Genocide (8 December 1948) and of "crime against humanity" by Article 6 (c) of the Charter of the International Military Tribunal ("The Nuremberg Tribunal"). The Anfal Campaign of February 1988-September 1988 (official dates), which destroyed most Kurdish villages, and which was commanded by present-day Defense Minister Ali

Hassan al-Majid, shows all the signs of genocide against the Kurdish people and of crime against humanity. Description of the pattern of destruction.

Hidden Death: Land Mines and Civilian Casualties in Iraqi Kurdistan (Rae McGrath for Middle East Watch, June 1992)

Kurds who returned after their forcible evacuation during the Anfal Campaign found farming and pasture land littered with millions of unexploded land mines. This policy of mining the lands was carried out by the Iraqi army prior to their withdrawal from northern Iraq in April 1991. The army laid and abandoned these mines to make large areas of Kurdistan unusable. This is in disregard of the U.N. Land Mines Protocol of 1981, which prohibits the placing of mines in civilian areas, a violation of Article 54 of Protocol I of 1977, as well as of the 1949 Geneva Conventions.

Endless Torment: The 1991 Uprising in Iraq And Its Aftermath (June 1992)

Spotlights the quelling of the March 1991 uprisings that erupted throughout Iraq after the liberation of Kuwait. Based on extensive field interviews with refugees in Iran shortly after their exodus and on continued monitoring of ethnic groups still being persecuted by the Ba'ath regime, the report emphasizes the precarious human rights situation in Iraq.

Unquiet Graves: The Search for the Disappeared in Iraqi Kurdistan (with Human Rights Watch, February 1992)

Based on a forensic investigation in the Kurdish regions of northern Iraq, as well as documentary evidence. The two groups charge Iraq with having committed crimes against humanity in Kurdistan, being responsible for gassing, deporting and massacring Kurds, as well as destroying 4,000 villages. The groups call on the international community, and particularly the United Nations, to recognize their moral responsibility to help the Kurds conduct a thorough and impartial investigation of the gross violations of human rights described in the report.

Whatever Happened to the Iraqi Kurds? (1 March 1991)

Traces the fate of Iraqi Kurdish refugees who have fled to Iran, Pakistan, Turkey, and Europe. More than 100,000 returned to Iraq. Description of the destruction of Halabja, a Kurdish city of more than 70,000 inhabitants, more than 5,000 of whom were killed by a chemical weapons bombing in March 1988.

Iraqi Human Rights Violations In Kuwait: An Update (17 December 1990)

Summary executions, arrests, torture, collective punishment, medicine and food shortages, and prohibition of free-expression and assembly.

Conduct of Iraqi Troops in Kuwait Towards Kuwaitis and Non-Kuwaitis (September 1990)

Arrest and deportation of Kuwaiti residents to Iraq. Shootings, arrests, and execution of civilians. Looting of Kuwaiti property.

Middle East Watch Condemns Iraq's Practices Toward Foreigners Under Its Control & Reminds Embargo Participants of their Humanitarian Obligations (29 August 1990)

Violations by the Iraqi government in forbidding thousands of foreign nationals in Iraq and occupied Kuwait to leave. Use of these hostages as "human shields" for military targets. Violation of International Covenant on Civil and Political Rights, Fourth Geneva Convention, and others.

Human Rights Conditions in Iraq and Occupied Kuwait (Human Rights Watch World Report 1991)

No freedom of speech, mass arrests/executions, bombardments of civilians, disappearances, appropriation of Kuwaiti property by Iraqi officials, and deportation of civilian detainees (violation of Fourth Geneva Convention). Iraqi government's counterattack to the March 1991 uprising in southern Iraq followed by Kurdish North. More than 250,000 are reported to have been killed in the government's counterattack. Particular cities chosen as samples of sites of human rights violations. Ongoing government abuses of announcing amnesties but not respecting them.

The Conduct of Iraqi Troops in Kuwait (September 1990)

Iraq's Practices Toward Foreigners (August 1990)

2) Books

Human Rights in Iraq (Yale University Press, 1990)

A comprehensive investigation of brutal human rights violations told dispassionately. The book describes how the Ba'ath regime subjects Iraqi citizens to forced relocation and deportation, arbitrary arrest and detention, torture, "disappearance," and summary political execution. The book reveals the methods used by the Iraqi government to impose its rule and examines its treatment of the Kurds, including the use of chemical warfare.

The book provides a historical background, an explanation of the "Institutions of Repression," and explanations and analysis of the Ba'ath Party mechanism, authority, constitution, judiciary, and fundamental rights. An account is given of how Iraq is violating domestic and international laws that ensure human rights. A detailed list is provided of Iraq's affiliation as a co-signatory to such international laws and conventions as: International Covenant on Civil and Political Rights (18 February 1969), International Covenant on Economic, Social, and Cultural Rights (18 February 1969), Convention on the Prevention and Punishment of the Crime of Genocide (20 January 1959), International Convention on the Elimination of All Forms of Racial Discrimination (14 February 1969), Geneva Protocol (1925), the Four Geneva Conventions (1949), and UN Charter (1949).

D. United States Government Reports

1) *Senate Staff Reports to the Committee on Foreign Relations*

Human Rights Report for 1992 (February 19, 1993)

Widespread and systematic human rights abuses is the base

of the Iraqi government's power of intimidation and fear. The report is comprised of six sections, each focusing on a specific violation. The first section is concerned with the violations committed against the respect for the integrity of a person; the second section focuses on the violations of civil liberties; the third section, on political rights; the fourth section, on the government's attitude toward the allegations; the fifth section, on the discrimination based on race, sex, religion, language, age, and social status; and the final section, on workers' rights.

Kurdistan in the Time of Saddam Hussein (November 1991)

Legacy of death due to Iraqi rule in Kurdistan. Destruction of Kurdish villages, examples of Halabja (1988) and Qala Diza (1989). Description of Sulaymaniyah's Amn torture rooms. Land mines in Haj Omran. The Anfal Campaign. These are crimes against humanity as defined in Article 6 of the Charter of Nuremberg Tribunal.

Civil War in Iraq (May 1991)

Humanitarian crisis in the northern Kurdish and southern Shi'a regions as a result of the March 1991 uprising. Shelling of cities, leveling of neighborhoods, food embargoes, chemical poisoning, and massacres of civilians. The death rate is estimated at 2,000 per day. Need of foreign protection to avoid slaughtering of Kurds. Description of concentration camps.

2) *Congressional Record*

Proceedings and Debates of the 102nd Congress, First Session (Vol. 137, No. 57, April 18, 1991)

Fate of Iraq after the departure of Allied forces. Concern regarding Saddam Hussain's treatment of those who openly criticized his rule. Sanctions against Iraq to halt the military build-up of the nation will probably be retaliated by the regime of Saddam Hussein through killing of its own people. Human rights monitors are essential in Iraq. Removal of Saddam Hussein and his government to ensure a stable and secure Iraqi state. Isolate government of Iraq by documenting its criminal nature and bring charges

against it (in absentia). Possibility of giving immunity to Saddam Hussein in return for his departure.

3) *Congressional Hearings*

"Mass Killings in Iraq"

Hearing of the Senate Foreign Relations Committee, March 19, 1992, chaired by Senator Claiborne Pell (D.-R.I.). Witnesses: Andrew Whitley, Executive Director, Middle East Watch; Eric Stover, Physicians for Human Rights; Clyde Rollins Snow, forensic anthropologist; Shep Lowman, U.S. Catholic Conference; Najmaldin Karim, President, Kurdish National Conference of North America

"Human Rights Policy"

Hearing of the Human Rights and International Organizations Subcommittee of the House Foreign Affairs Committee, March 4, 1992, chaired by Representative Gus Yatron (D.-Pa.). Witness: Richard Schifter, Assistant Secretary of State for Human Rights and Humanitarian Affairs.

"Persian Gulf Refugee Crisis"

Hearing of the Immigration and Refugee Affairs Subcommittee of the Senate Judiciary Committee, May 20, 1991, chaired by Senator Edward M. Kennedy (D.-Ma.). Witnesses: Ambassador Princeton Lyman, Director, Bureau for Refugee Programs, Department of State; Lieutenant-General Martin Brandtner (U.S.M.C.), Director of Operations, Joint Chiefs of Staff.

"War Crimes and the Persian Gulf War"

Hearing of the Senate Foreign Relations Committee, April 9, 1991, chaired by Senator Claiborne Pell (D.-R.I.). Witnesses: Senator Mitch McConnell (R.-Ky.); Elie Wiesel, Boston University; Robert Woetzel, President, Foundation for the Establishment of an International Criminal Court; Anthony D'Amato, international law professor, Northwestern University.

"Human Rights Abuses in Kuwait and Iraq"

Hearing of the House Foreign Affairs Committee, January 8, 1991, chaired by Representative Dante Fascell (D.-Fl.). Witnesses: John Healey, Executive Director, Amnesty International; Andrew Whitley, Executive Director, Middle East Watch.

4) *State Department Annual Country Reports*

5) *Report on Iraqi War Crimes in Kuwait* (completed by U.S. Army investigators at the behest of the State Department in January 1992; released March 19, 1993)

E. Documentation Center for Human Rights in Iraq (Tehran, Iran)

Chronology of the Iraqi Regime's Violations of Human Rights

Monthly report detailing, day by day, acts and practices carried out by the Iraqi government and its security forces during the month. These cover a wide range of activities, including: detentions, burning homes and villages, executions and killings, population transfers, draining of rivers, bombing towns and cities, searches, curfews, military maneuvers, withdrawal of identification documents, explosions, economic sieges, monitoring of citizens, confiscation of property, mass graves, disassembly and transfer of factories, and military attacks. Indexed. In Arabic.

Mass Graves in Iraq (1992)

Details the scores of mass graves -- new and old, of soldiers, civilians, and rebels, and in 14 of the country's 18 provinces -- either discovered during and since the March 1991 uprisings or whose existence is known to eyewitnesses present at the digging or burial of the mass grave. In Arabic.

The Events of March 1991 As Shown by Eyewitnesses (1991)

Documents the events of the March 1991 uprisings based

on a large number of eyewitness testimonies. Supplies lists of people killed and people detained in many of the cities. Provides detailed lists of institutions, such as hospitals, mosques, seminaries, and prayer places, destroyed in the various cities in the course of the suppression of the uprisings. Contains many case studies of events and individuals to illustrate certain practices and violations. In Arabic.

Deportations in Iraq, an Exposition by Documents (1991)

Book-length report based on the documents of the Iraqi government dealing with deportation activities from the early 1970s to mid-1990. The survey illustrates those activities with 40 government documents of a wide variety dealing with deportation. Appendices include estimates by the author of the number of people deported over the years covered by the report. By Mustafa al-Ansari. In Arabic.

F. Various sources

Forever Kurdish: The Destruction of a Nation (Shorsh Resool, Harith Zahawi and Latif Rashid, United States, July 1990)

Detailed compilation of the villages, towns, and hamlets destroyed in Iraqi Kurdistan. It includes, for each place destroyed, the schools, mosques, and hospitals destroyed, as well as the number of families deported from that village.

Aspects of Human Rights Violations in Kuwait During the Iraqi Occupation (Kuwaiti Association to Defend War Victims, Kuwait, November 1991)

Brief report with subsections on torture of prisoners of war; rape; extrajudicial executions; denial of access to medical care; and impact of Iraqi munitions left in Kuwait. One appendix provides photographs and case profiles of 20 victims of extrajudicial executions. The second appendix has photographs of some of the torture tools used by the Iraqi occupation forces.

The Shias of Iraq: An Historical Perspective on the Present Human Rights Situation (by Barbara Stapleton, for The Parliamentary Human Rights Group, London, March 1993) Report provides a historical background and a political context to the current situation, including a section on the deportations of the early 1970s and those beginning in 1979, and a section on disappearances.

The Kurds (by David McDowall. A Minority Rights Group Report, September 1991).

CARDRI News

Newsletter of the Committee Against Repression and for Democratic Rights in Iraq, London-based organization founded by Members of Parliament in the late 1970s.

Aida, Voice of the International Committee for the Release of Detained and "Disappeared" Women in Iraq

Newsletter of the International Committee for the Release of Detained and "Disappeared" Women in Iraq, London.

A Diary of an Iraqi Soldier (National Center for Documents of Iraqi Aggression on Kuwait, Kuwait, 1992)

First-hand account of events by an Iraqi soldier stationed in Kuwait during the Allied bombing. In Arabic and in English.

Kurdistan on Fire (Kurdish Relief Association)

Compilation of virtually all articles published in the Western press on Kurds between 1986 and 1988.

Violations of Human Rights in Iraq and Occupied Kuwait (DC Info, Brussels, November 1990)

Sections on right to life and integrity of the person; attacks with chemical weapons; disappearances; torture; prisoners or political exiles; judicial guarantee; freedom of expression and information; religious freedom; political rights, including freedom of association and of assembly; workers' and trade union rights; freedom of movement, within and out of the country; discrimination; and children. Examples. Appendix on human rights situation in occupied Kuwait.

Article 19

The international organization dealing with the defense of press rights has produced reports and bulletins about freedom of the press in Iraq.

Index on Censorship

The London-based organization and magazine monitoring and publicizing cases and issues of state and private censorship from around the world.

Institut kurde de Paris

Institut kurde de Paris

Appendix C

Eyewitness Accounts from the International Press

This is a selection of articles describing some of the Iraqi regime's unlawful activities. The articles are grouped according to the type of violation that is a main focus of a particular article. Within each category of crime, the articles are arranged in reverse chronological order. It should be emphasized that this list is far from exhaustive. The articles were selected on the basis of credibility and, as they were mostly culled from an electronic database, are easily available

1. Mass Deportations/Collective Punishment

"Saddam Onslaught Aims to Kill off Marsh Arabs," Shyam Bhatia, The Observer, February 28, 1993.

"Murder in the Marshes," Shyam Bhatia, The Observer, February 28, 1993.

"Iraqi drainage scheme cripples Marsh Arabs," Robert Fisk, The Independent, February 27, 1993.

"A Twilight of Blood and Fear in Iraq," David Hirst, The Guardian, February 13, 1993.

"Kurds Build Their State in the Shadow of Saddam," David Hirst, The Guardian, February 12, 1993.

"The Turning of a People," David Hirst, The Guardian, February 11, 1993.

"Saddam tightens his grip on Iraq's Shias," Charles Richards, The Independent, January 27, 1993.

"Iraq Accused: A Case of Genocide," Judith Miller, The New York Times Magazine, January 3, 1993.

"Marsh Arabs Fail to Escape the Wrath of Saddam," Julie Flint, The Observer, November 29, 1992.

"From Iraq's slough of despond," Emma Nicholson, The Wall Street Journal, October 9, 1992.

"Saddam Killing Shias 'Daily'; Thousands Rounded up and Villages Shelled in Answer to No Fly Zone," Julie Flint, The Observer, October 4, 1992.

"A barefoot band wages war in the Iraqi marshland; With little to sustain them, rebels press their fights against Saddam," Carol Morello, The Philadelphia Inquirer, October 4, 1992.

"Gunfire in the Garden of Eden; Hard-Pressed Shiite Rebels Battle Saddam Hussein In the Marshes of Southern Iraq. Reeds Hide the Fighters, but Troops 'Know from our Voice In the Night Where we Are,'" Kim Murphy, Los Angeles Times, October 3, 1992.

"Marsh Arabs under siege," Patrick Wintour, The Guardian, August 20, 1992.

"Iraq 'trying to wipe out Marsh Arabs,'" Leonard Doyle, The Independent, August 1, 1992.

"Tide Turns Against Marsh Arabs of Iraq," Patrick Cockburn, The Independent, May 7, 1992.

"A Race Wiped Out: Saddam's Operation Anfal," Tim Kelsey, *The Independent* on Sunday (*The Sunday Review*, pp. 8-9), January 26, 1992.

"Reports Lift Veil on Shi'ite Uprising in Iraq," Tony Horwitz, *The Wall Street Journal*, December 31, 1991.

"President Saddam Initiates Drive on Shi'ite Holy Cities," Liz Thurgood, *The Guardian*, July 23, 1991.

"Iraqi Holy Cities Become Armed Camps; Tapestry of Defeat Hangs Over Shiites Since Their Revolt Failed," Caryle Murphy, *The Washington Post*, June 30, 1991.

"Allies Let Saddam March Back into terrified Dohuk," Julie Flint, *The Observer*, June 16, 1991.

"Assault on Shias Hiding in Marshes," Julie Flint, *The Observer*, June 9, 1991.

"Iraqi Shiites Chafe Under Rule Of Saddam's Elite Military Corps," Kathleen Evans, *The Christian Science Monitor*, June 5, 1991.

"The Population of Basra Lives in fear of Political Recrimination and Cholera," Ed Vulliamy, *The Guardian*, May 18, 1991.

"Persecution of Shias Continues," Julie Flint, *The Observer*, May 12, 1991.

"The Kurds: In Flight Once Again," Clyde Haberman, *The New York Times*, May 5, 1991.

"Blood and Hatred Stain Shrines at Holy Places," Ed Vulliamy, *The Guardian*, May 1, 1991.

"Trapped Shi'ites a Prey to Saddam Hussein's Machinery of Terror," David Hirst, *The Guardian*, April 29, 1991.

"Saddam Declares War on Shias as more Kurds Come

Down from the Mountains," Julie Flint, The Observer, April 28, 1991.

"After the War; A Terrible Exodus, in Record Time," Clyde Haberman, The New York Times, April 22, 1991.

"After the War: Kurdish Refugees From '88 Exodus Still Languishing in Turkish Camps," Clyde Haberman, The New York Times, April 13, 1991.

"Death stalks the Kurdish exodus," Bob Collier, Margarette Driscoll, Andrew Alderson, Jacques-Marie Bouget, The Sunday Times, April 7, 1991.

"Loyalist Troops Recapture More Important Towns in Lightning Counter-Offensive," David Hirst, The Guardian, April 2, 1991.

"Saddam Hussein 'Offers Soldiers Bounty for Killing Babies' -- Shiites Face Retribution," Bob Drogin, The Guardian, March 29, 1991.

"Iraqi Refugees Tell U.S. Soldiers Of Brutal Repression of Rebellion," The New York Times, March 28, 1991.

"Saddam May Use Missiles on Kurds to Retake Oil City," Julie Flint, The Observer, March 24, 1991.

"Saddam's Men Reimpose Terror on Those Suspected of Helping Shia Rebels," Shyam Bhatia, The Observer, March 24, 1991.

"Bodies Litter Streets of an Iraqi Holy City Torn by Revolt," The New York Times, March 22, 1991.

"Rebels 'Hanged from Tank Barrels' by Saddam's Men," Sharif Imam-Jomeh and Nora Boustany, The Guardian, March 14, 1991.

"Crisis in the Gulf: Hostages tell of Basra's dead and dying," Robert Fisk, The Independent, March 9, 1991.

"Crisis in the Gulf: Revolt against Saddam spreads; Republican Guards shell Basra rebels as Kurds join uprising," Robert Fisk, The Independent, March 5, 1991.

"Iraq's grand executioner; Farzad Bazoft was only one of several thousand show trial victims under Saddam Hussein," Robert Fisk, The Independent, March 29, 1990.

"Execution in Iraq: Drawing back the veil on a republic of fear; Harvey Morris, Middle East Editor, examines the 11 years of suffering that have marked the dictatorship of Iraq's President Saddam Hussein," Harvey Morris, The Independent, March 16, 1990.

"Saddam accused of Shia town attacks," Harvey Morris, The Independent, January 26, 1990.

"Iraq Targets Kurds for Relocation; Western Embassies Report Violent Resistance to New Program," Patrick E. Tyler, The Washington Post, April 30, 1989.

"Mardin Journal; How the Kurds Are Cared For: 7 Months in Tents," Clyde Haberman, The New York Times, March 31, 1989.

"The Kurds: It's Not Genocide; But Iraq's Policy of Repression and Relocation Is Still Horrific," Patrick E. Tyler, The Washington Post, September 25, 1988.

"Kurds Disappoint Iraqi PR Effort; Reporters Taken to Turkish Border to See Returnees, but None Show," Patrick E. Tyler, The Washington Post, September 18, 1988.

"What Drove the Kurds Out of Iraq?," Clyde Haberman, The New York Times, September 13, 1988.

"Iraqi Official Says Kurds Fleeing Army Operation; Envoy Denies Use of Chemical Weapons," Patrick E. Tyler, The Washington Post, September 4, 1988.



2. Destruction of villages

"Saddam Onslaught Aims to Kill off Marsh Arabs," Shyam Bhatia, The Observer, February 28, 1993.

"Murder in the Marshes," Shyam Bhatia, The Observer, February 28, 1993.

"Iraq Accused: A Case of Genocide," Judith Miller, The New York Times Magazine, January 3, 1993.

"A barefoot band wages war in the Iraqi marshland; With little to sustain them, rebels press their fights against Saddam," Carol Morello, The Philadelphia Inquirer, October 4, 1992.

"Gunfire in the Garden of Eden; Hard-Pressed Shiite Rebels Battle Saddam Hussein In the Marshes of Southern Iraq. Reeds Hide the Fighters, but Troops 'Know from our Voice In the Night Where we Are,'" Kim Murphy, Los Angeles Times, October 3, 1992.

"Deep in the Marshes of Iraq, Flames of Rebellion Flicker," Chris Hedges, The New York Times, March 15, 1992.

"Kurds Returning to Razed Villages," Chris Hedges, The New York Times, February 16, 1992.

"A Race Wiped Out: Saddam's Operation Anfal," Tim Kelsey, The Independent on Sunday (The Sunday Review, pp. 8-9), January 26, 1992.

"Loyalist Troops Recapture More Important Towns in Lightning Counter-Offensive," David Hirst, The Guardian, April 2, 1991.

"Saddam accused of Shia town attacks," Harvey Morris, The Independent, January 26, 1990.

"Kurds Can't Go Home Again Because the Homes Are

Gone," Clyde Haberman, The New York Times, September 18, 1988.

"Scorched Kurdish Villages Bear Witness to Iraqi Assault; Valley Was Targeted for Relocation Drive," Patrick E. Tyler, The Washington Post, September 17, 1988.

3. Chemical and biological weapons-use

"Halabja Journal; In Town Iraqis Gassed, Kurds Now Breathe Free," Patrick E. Tyler, The New York Times, November 18, 1991.

"The Middle East: Survivors go back to gas massacre town," Jim Muir, The Daily Telegraph, April 22, 1991.

"Behind the Grim Kurdish Flight," Jim Muir, The Christian Science Monitor, April 18, 1991. Shorter version of article appears as: *"We don't trust Saddam not to use chemical weapons on us again,' FEAR: The terrible memory driving Kurdish families to flee from their homeland,"* The Daily Telegraph, April 18, 1991.

"The horror of Halabja that should have warned the world," Nicholas Beeston, The Times, August 4, 1990.

"Both Iraq and Iran Gassed Kurds in War, U.S. Analysis Finds," Patrick E. Tyler, The Washington Post, May 3, 1990.

"Iraqi Warns Of Using Poison Gas; Leader Says Attacker Faces Devastation; U.S. Decries Remarks," Patrick E. Tyler, The Washington Post, April 3, 1990.

"Iraq's Dark Victory," Alan Cowell, The New York Times Magazine, September 25, 1988.

"Iraq Denies Using Chemical Weapons on Kurds," Patrick E. Tyler, The Washington Post, September 16, 1988.

"Iraq's Right to Chemical Arms Upheld by Official," Clyde Haberman, The New York Times, September 16, 1988.

"U.S. Says It Monitored Iraqi Messages on Gas," Robert Pear, The New York Times, September 15, 1988.

"Refugees Tell Of Gas Attacks," Jim Bodgener, Financial Times, September 3, 1988.

"U.N. to Study Alleged Iraqi Gas Raid; Security Council Authorizes Sending Investigators to Northwest Iran," Patrick E. Tyler, The Washington Post, August 6, 1988.

"Iran Says 1,000 Injured in Gas Attack by Iraq," Patrick E. Tyler, The Washington Post, August 4, 1988.

"U.N. Cites Iraqi Use of Toxic Gas; Team Gives Evidence On Two Battles Prior To Iran's Truce Bid," Patrick E. Tyler, The Washington Post, August 2, 1988.

"Iraq Acknowledges Its Use of Gas But Says Iran Introduced It in War," Serge Schmemmann, The New York Times, July 2, 1988.

"Victims of Gulf War Treated at Queens Hospital," Jennifer A. Kingson, The New York Times, April 6, 1988.

"Poison Gas Attack Kills Hundreds; Iran Accuses Iraq of Atrocity in Kurdish Region Near Border," Patrick E. Tyler, The Washington Post, March 24, 1988. Shorter version of article appears as: *"Killing of Kurds Blamed on Baghdad; Gas Attack Envelops Iraqi Town in Cloud of Death,"* Los Angeles Times, March 24, 1988.

"Iraq Uses Chemical Bombs On Its Own Citizens," Andrew Gowers, Richard Johns, Financial Times, March 23, 1988.

4. Anfal/Mass disappearances

"Iraq Accused: A Case of Genocide," Judith Miller, The

New York Times Magazine, January 3, 1993.

"Kurds' Bones Tell the Story," Elizabeth Sullivan, The Plain Dealer, May 17, 1992.

"A Race Wiped Out: Saddam's Operation Anfal," Tim Kelsey, The Independent on Sunday (The Sunday Review, pp. 8-9), January 26, 1992.

"Kurds Unearthing New Evidence of Iraqi Killings," Chris Hedges, The New York Times, December 7, 1991.

"The Middle East: Survivors go back to gas massacre town," Jim Muir, The Daily Telegraph, April 22, 1991.

"Behind the Grim Kurdish Flight," Jim Muir, The Christian Science Monitor, April 18, 1991. Shorter version of article appears as: *"We don't trust Saddam not to use chemical weapons on us again," FEAR: The terrible memory driving Kurdish families to flee from their homeland,* The Daily Telegraph, April 18, 1991.

5. Invasion and occupation of Kuwait

"Tales of the Resistance; Kuwaitis recount abuse, abductions by Iraqis," Ken Fireman, Newsday, March 12, 1991.

"Crisis in the Gulf: Witnesses tell of Iraqi atrocities," Nicholas Timmins, The Independent, February 20, 1991.

"200 Kuwaitis Executed by Iraq Since War Began, Official Says," Kim Murphy, Los Angeles Times, February 15, 1991.

"As Kuwaitis Flee, Iraqi Troops Seize the Men; Refugee Women Fear Husbands Will Be Forced Into Baghdad's Army," Kim Murphy, The Washington Post, September 18, 1990.

"Something Evil Has Visited Kuwait City," Robert Fisk, The Independent, February 28, 1990.

6. Rape

"A testimony to brutality written in blood; Robert Fisk visits the cells of Iraq's secret police in Dihok and is pessimistic over the prospects for preventing new horrors," Robert Fisk, The Independent, May 27, 1991.

7. Individual torture/cruel and inhuman punishment

"Long arm of Iraq reaches dissidents in Jordan," Charles Richards, The Independent, December 10, 1992.

"Iraqi nuclear expert killed 'as defector,'" Wafa Amr, The Guardian, December 9, 1992.

"Iraq said to execute officers; war heroes allegedly opposed Saddam," Ed Blanche, The Washington Post, October 4, 1992.

"The billion-dollar monster who is shoring up Saddam; Barzan Tikriti, Saddam Hussein's half-brother and the man who put the evil into Iraq's intelligence service, is allowed to operate a worldwide sanctions-busting network from Switzerland," Julie Flint, The Observer, July 26, 1992.

"135 Iraqis purged, the Pentagon says," Michael R. Gordon, The New York Times, July 7, 1992.

"U.S. to Help Retrieve Data on Iraqi Torture of Kurds," Patrick E. Tyler, The New York Times, May 17, 1992.

"The man who holds Iraq's nuclear secrets; Top physicist tortured after refusing to build the bomb for Saddam tells his story from exile in Iran," Shyam Bhatia, The Observer, May 17, 1992.

"State Terror and the Degradation of Politics in Iraq,"
Isam al-Khafaji, Middle East Report, May/June 1992.

"President Saddam Initiates Drive on Shi'ite Holy Cities,"
Liz Thurgood, The Guardian, July 23, 1991.

"Inside Saddam's torture chamber: A report that will shock and astound the civilised world," Alastair McQueen and Ramsay Smith (four-part series), Daily Mirror(London), July 1-4, 1991.

"Kidnapped Cleric Paraded on TV," Julie Flint, The Observer, March 24, 1991.

"Uproar after Kidnapping of Shi'ite Leader," David Hirst, The Guardian, March 22, 1991.

"Rebels 'Hanged from Tank Barrels' by Saddam's Men,"
Sharif Imam-Jomeh and Nora Boustany, The Guardian, March 14, 1991.

"Iraq's grand executioner; Farzad Bazoft was only one of several thousand show trial victims under Saddam Hussein," Robert Fisk, The Independent, March 29, 1990.

"Execution in Iraq: Drawing back the veil on a republic of fear; Harvey Morris, Middle East Editor, examines the 11 years of suffering that have marked the dictatorship of Iraq's President Saddam Hussein," Harvey Morris, The Independent, March 16, 1990.

"Iraq Sentences Journalist to Die on Spy Charge; Mideast: The Reporter, an Iranian Exile, Was Investigating a Blast in a Weapons Complex for a British Paper," Kim Murphy, Los Angeles Times, March 11, 1990.

"Something Evil Has Visited Kuwait City," Robert Fisk, The Independent, February 28, 1990.

8. Environmental destruction

"Murder in the Marshes," Shyam Bhatia, *The Observer*, February 28, 1993.

"Iraqi drainage scheme cripples Marsh Arabs," Robert Fisk, *The Independent*, February 27, 1993.

"From Iraq's slough of despond," Emma Nicholson, *The Wall Street Journal*, October 9, 1992.

"Iraqis Torch Scores of Oil Facilities in Kuwait; Gulf War: At Least 150 of the Emirate's Wells Are Set Ablaze. Allies Continue to Hammer Enemy Forces," J. Michael Kennedy and Melissa Healy, *Los Angeles Times*, February 23, 1991.

"Kuwait Oil Facilities Set Afire by Gulf War: The Thick Black Smoke Hampers Allied Air Operations. It May Be Part of Baghdad's Defensive Strategy," J. Michael Kennedy and Kim Murphy, *Los Angeles Times*, January 22, 1991.

"U.N. Inspectors in Iraq Get Chemical Surprise," Peter Grier, *The Christian Science Monitor*, June 23, 1992.

9. Destruction of religious shrines

"Saddam tightens his grip on Iraq's Shias," Charles Richards, *The Independent*, January 27, 1993.

"Reflection on the Holy Cities," Michael Wood, *Dialogue* (newsletter of the Public Affairs Committee for Shia Muslims, London), February 1992.

"Islamic treasure stolen; Najaf's Shia shrine has lost priceless jewels and ancient manuscripts," Patrick Cockburn, *The Independent*, January 10, 1992.

"By the Ruins of Babylon," Michael Wood, *The Times*, August 17, 1991.

"President Saddam Initiates Drive on Shi'ite Holy Cities," Liz Thurgood, *The Guardian*, July 23, 1991.

"Iraqi Holy Cities Become Armed Camps; Tapestry of Defeat Hangs Over Shiites Since Their Revolt Failed," Caryle Murphy, *The Washington Post*, June 30, 1991.

"Iraqi Shiites Chafe Under Rule Of Saddam's Elite Military Corps," Kathleen Evans, *The Christian Science Monitor*, June 5, 1991.

"Blood and Hatred Stain Shrines at Holy Places," Ed Vulliamy, *The Guardian*, May 1, 1991.

"Southern Iraq Lies Devastated; Defeated Shiites Endure in Conditions as Grim as That of Kurds," William Drozdiak, *The Washington Post*, April 30, 1991.

"Concrete Covers Shame of Shias' Holy Sites," Adam Kelliher, *The Times*, April 29, 1991.

"Iraqi Refugees Tell U.S. Soldiers Of Brutal Repression of Rebellion," *The New York Times*, March 28, 1991.

"Uproar after Kidnapping of Shi'ite Leader," David Hirst, *The Guardian*, March 22, 1991.

"Bodies Litter Streets of an Iraqi Holy City Torn by Revolt," *The New York Times*, March 22, 1991.

10. General conditions

"Southern Iraqis feel fear, betrayal; residents still resent West's failure to aid their rebellion," Trevor Rowe, *The Washington Post*, November 21, 1992.

"West aims to turn army against Saddam," Julie Flint, *The Observer*, August 23, 1992.

"Saddam: Rehabilitation by willpower," Caryle Murphy, *The Washington Post*, July 28, 1992.

"Saddam's best ally; An eyewitness report on how the U.S.-backed sanctions are creating a powerful profiteering elite--and buoying Saddam's war-torn dictatorship," Leslie and Andrew Cockburn, Vanity Fair, August 1992.

"No exit: Saddam's popularity reaches rock bottom as Iraq's woes grow; In Baghdad, jokes are heard about ruler's manhood; some ask one more bomb; Still, no one to oust him," Tony Horwitz, The Wall Street Journal, July 25, 1991.

"What young Iraqis don't dare say to each other; Iraq's apolitical generation," Andrea W. Lorenz, The Washington Report on Middle East Affairs, August/September 1991.

"The Big Brother: Iraq Under Saddam Hussein," Elaine Sciolino, The New York Times Magazine, February 3, 1985.

Appendix D

Audio-Visual Evidence of Human Rights Violations

1) Purges of 1979

Official party videotape of a July 1979 meeting of several hundred top party officials, during which party members are called up to the stage to confess before the assembly to acts of treason. With Saddam Hussein sitting alone behind a table on the stage, people's names are called out as co-conspirators in treasonous plots and they are escorted out of the auditorium.

2) Shaykh Wisan tape

Amateur video filmed by Kurdish soldiers in the Iraqi army during the April 1987 bombing with chemical weapons of Shaykh Wisan, the first village in Iraq to be struck with chemical weapons by the current regime. The video shows plumes of smoke rising up in the valley in the distance. The film then shows the bodies of infants and other villagers being picked up for disposal. (In possession of Gwynne Roberts)

3) Nasiriyya tape

Amateur video filmed by members of the Iraqi security forces during the suppression of the March 1991 uprisings near the southern city of Nasiriyya. The film shows Iraq's prime minister, Mohammed al-Zubaidi, barking out orders "to wipe out" two tribes (the al-Juwaibir and the al-Khuwaibir, two Sunni tribes of the south, for their opposition) "as a lesson to the others" and to spare another

tribe. He also orders helicopters be sent to burn particular villages. The film also shows Hashim Hasan al-Majid kicking a detainee in the face and threatening another with a gun to his head. A third high party official shown in the film is Hasan Ali al-Amiri.

4) "The Road Back to Hell"

British documentary film about the 1988 Anfal Campaign, the nine-month-long systematic and well-documented plan to eradicate all life in the rural portions of Iraqi Kurdistan. The film surveys some of the masses of documentation liberated from the headquarters of the Secret Police in the March 1991 uprisings; shows torture cells, rape rooms, and forts used as concentration camp-type transit points; and features interviews with witnesses to and subjects of atrocities, including the 12-year-old survivor of the August 1988 mass execution of all the residents of his village. The film was produced by Gwynne Roberts and Sadie Wykeham and broadcast on January 12, 1992 on BBC Television's Everyman series. An expanded version of the film was broadcast in the United States by PBS on March 31, 1992, as Frontline's "Saddam's Killing Fields," which won the Overseas Press Club's Edward R. Murrow Award for the best television interpretation or documentary on foreign affairs.

5) Rushes of "The Road Back to Hell"

20 hours of raw footage filmed for the BBC film "The Road Back to Hell." The footage includes lengthy interviews with many survivors, witnesses, and victims of violations, including two hours with the 12-year-old survivor of the August 1988 mass execution of all the residents of his village.

6) "Prisoner of the Kurds"

1982 documentary film about the destruction of villages and harassment of civilians along the Iraq-Turkey border. The film was made by Gwynne Roberts and carried out clandestinely over four months in the region. It was broadcast on the series TV EYE of Britain's Thames Television.

7) Missing Barzanis

1985 ITN news report about the 8,000 missing members of the Barzani clans. The report shows footage of the Iraqi army in combat with Kurdish partisans.

8) Execution tape

Amateur film shot by Iraqi government officials of an execution of four individuals, most likely army deserters, in the city of Kirkuk in the mid-1980s. The film shows a crowd of men and children standing in a semi-circle and before them are brought four blindfolded young men who are tied to wooden beams. A short speech is made in which the individuals are called criminals, and then they are shot by a firing squad of five Military Police officers from a distance of approximately 10 feet. A Military Police officer then walks by the four individuals sprawled on the ground and he fires one "mercy shot" into the head of each person. He is followed by a black-coated man (most likely of the Secret Police, the Amn) who casually strolls by as he fires one shot into each prone body.

9) Interrogation tape

Amateur film shot by Iraqi government officials of an interrogation session with a Kurdish detainee. The detainee, wearing a shirt open to his stomach, looks confused and appears drugged, as he repeatedly falls from the chair against which he is constantly held and his arms lunge clumsily at objects on the adjacent desk. He is slapped several times and the three or more men surrounding him and questioning him frequently laugh at his slurred answers and physical stumbling.

10) "Lessons of Darkness"

Impressionistic film by German film director Werner Herzog about the human and environmental impact on Kuwait of the Iraqi occupation. Part of series Fine Cut and broadcast on BBC2 Television on February 29, 1992.

11) Kerbela video

Amateur film shot by three rebels during a battle between rebel forces and the Iraqi army set to retake the city. Two of the amateur filmmakers were killed in the fighting. The

third made his way to Iran with the footage and was interviewed himself on video about the uprisings and his participation and filming of it.

12) Kurdish collection

Personal collection of video tapes clandestinely filmed by a Kurdish woman while living in Iraqi Kurdistan. They include footage of people and villages struck by chemical weapons.

13) Refugee collection

Personal collection of video-taped interviews with Iraqi refugees made in southern Iran after the March 1991 uprisings.

14) Marshes collection

Personal collection of video footage from the southern Marshes and southern Iran during the March 1991 uprisings and in its aftermath.

15) Kurdish film during uprising

Amateur film shot by Kurdish partisans showing Sulaymaniyya Security Headquarters building, torture rooms and cells inside, rape trailer outside the building with clothes of victims scattered inside the trailer and hanging outside, a young woman holding the identity card of a professional rapist in the employ of the Iraqi government.

16) "The Winds of Death"

1989 British documentary film about the use of chemical weapons by the Iraqi regime. Refugees describe the gassing of Kurdish villages, and soil samples smuggled out of Iraq provide conclusive scientific evidence of their testimonies. Broadcast on Channel Four's Dispatches series.

17) Nerve gas

1990 news report showing evidence of nerve gas poisoning, by Iraqi agents, of Iraqi Kurdish refugees in Turkish camps. Produced by ITN News.

18) "Kurdistan: The Dream Betrayed"

1991 British documentary about the March 1991 Kurdish uprisings in the north, revealing first-hand for the first time from inside Iraq the methods of control and torture used by the Iraqi state and the masses of documentation liberated from the Secret Police headquarters. Features interviews with survivors of and witnesses to atrocities, including a former member of a chemical weapons unit who relates the experimentation on Iranian prisoners of war. Produced by Gwynne Roberts and broadcast in April 1991 on Channel Four's Dispatches series.

19) "Saddam's Secret Army"

British documentary film about the systematic training in torture, assassination and terrorism by the Iraqi state, both domestically and internationally. Some of the methods are described by an ex-member of the mukhabarat. The film also includes interviews with an East German who trained Iraqis extensively in the use of chemicals to poison civilian water supplies. Produced by Gwynne Roberts and broadcast in January 1991 on Channel Four's Dispatches series.

20) "The Survivor"

British documentary film about the March 1991 uprisings. By John Simpson, broadcast on BBC1 in summer 1991.

21) Opening up of mass grave

Kurdish amateur film shot after the March 1991 uprisings and showing the opening up of a mass grave near the Kurdish city of Sulaymaniyya

22) Interview with Taimour

Kurdish amateur film showing one of the first known interviews with the 12-year-old survivor of the mass killing of all the residents of his village in August 1988, during the Concluding Anfal. The interview was conducted by a member of the Patriotic Union of Kurdistan, the political party harboring Taimour.

23) Kerbela press conference

Video film showing Iraqi government official boasting

about the manner in which the uprisings were crushed.

24) Ayatollah Khomeini with Saddam Hussein

Iraqi television broadcast of the forced meeting of the Shi'a pontiff with the Iraqi president during the latter stages of the March 1991 uprisings.

25) Ali Hasan al-Majid meetings

Audio tapes of meetings headed by Majid to organize the conduct of the Anfal campaign. Includes Majid relating that the number of bodies to be buried was so large that he was obligated to commit bulldozers from all over the country for the operation

26) Saddam Hussein with top military command

Audio-taped meeting in December 1990, on the eve of war.

27) Videotaped testimonies

Testimonies of survivors and witnesses, in public fora in Paris and Teheran to gather evidence of the Iraqi regime's crimes.

Appendix E

Draft United Nations Security Council Resolution

The United Nations
Draft Resolution
Adopted by the Security Council

The Security Council,

RECALLING and **REGRETTING** that on August 2, 1990, armed forces of the Republic of Iraq invaded, occupied, and subsequently purported to annex the sovereign state of Kuwait,

RECALLING and **REAFFIRMING** its resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 669 (1990), 670 (1990), 674 (1990), 677 (1990), and 678 (1990) which together condemn the invasion and purported annexation of Kuwait as a violation of international law, order Iraq to withdraw from Kuwait, obligate Member States, under Article 25 of the Charter, to oppose Iraq's invasion of Kuwait, and authorise Member States to use all necessary means to restore peace and security to the region,

REAFFIRMING the obligation of all Member States to abide by Article 2(4) of the Charter, which prohibits the threat of use of force against the territorial integrity or

political independence of any state or in any manner inconsistent with the Purposes of the United Nations,

RECALLING WITH APPROVAL the Declaration on Principles of International Law Concerning Friendly Relations and Co-Operation among States in Accordance with the Charter of the United Nations (GAOR/2625) (1970), and the Definition of Aggression Resolution (GAOR/3314) (1974), which state that a war of aggression constitutes a crime against the peace for which there is responsibility under international law,

RECALLING the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949), which sets minimum standards for the treatment of non-combatants in time of war, as well as Protocol I (1977) and Protocol II (1977) of this Convention, which elaborate the duties of states relative to the treatment of non-combatants in time of war,

RECALLING the Geneva Convention Relative to the Treatment of Prisoners of War (1949), which sets forth minimum standards for the treatment of the prisoners of war,

RECALLING the International Convention Against the Taking of Hostages (GAOR/146, XXIV) (1979), which prohibits hostage-taking and provides for jurisdiction over and punishment of alleged offenders,

RECALLING Article 35 (3) and Article 55 of Protocol I to the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, which prohibit means of warfare intended to or that may be expected to cause severe damage to the natural environment and require that care be taken to protect the natural environment,

RECALLING that its resolution 686 called for an unconditional cease-fire to the armed conflict, and that the Republic of Iraq accepted the terms of the cease-fire unconditionally,

RECALLING and REGRETTING that the armed forces of the Republic of Iraq suppressed with absolute and unqualified brutality its own civilian population in March 1991,

RECALLING and REAFFIRMING its resolution 688 (1991), which condemned the repression of the Iraqi civilian population and demanded that Iraq immediately end this repression,

RECALLING WITH APPROVAL the Reports of the Special Rapporteur of the United Nations Commission on Human Rights on the situation of human rights in Iraq dated February 18, 1992 and dated February 19, 1993,

EXPRESSING ONCE AGAIN its grave alarm at continuing reports of widespread violations of international humanitarian law occurring within the territory of Iraq, including reports of mass killings,

RECALLING AND REAFFIRMING the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on December 10, 1948,

NOTING that the Republic of Iraq ratified, accepted, and approved without qualification the Convention on the Prevention and Punishment of the Crime of Genocide on January 20, 1959, which provides for punishment of persons who have committed genocide,

DETERMINING that this situation constitutes a threat to international peace and security,

DETERMINED to put an end to such crimes and to take effective measures to bring justice the persons responsible for them,

RECALLING WITH APPROVAL the Affirmation of the Principles of International Law Recognized by the Charter of the Nuremberg Tribunal Resolution (GAOR/95(I)) adopted by the General Assembly on 11 December 1946,

NOTING that Principle I of the Charter of the Nuremberg Tribunal, affirmed by the United Nations in Resolution 95(I) of December 11, 1946, states that any person who commits an act which constitutes a crime under international law is responsible therefor and liable to punishment.

NOTING that the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations, the Definition of Aggression Resolution, and the International Convention Against the Taking of Hostages each provide for liability of and jurisdiction over those who violate international law,

NOTING the well-settled principles of customary international law provide for universal jurisdiction over certain offenses recognized by the community of nations as so heinous and grave to be of universal concern,

NOTING that Article VI of the Convention on the Prevention and Punishment of the Crime of Genocide provides for a trial of persons charged with the genocide by a competent international tribunal, and

ACTING under chapter VII of the Charter,

1. Orders the establishment of a Tribunal for the prosecution of persons responsible for serious violations of international humanitarian law and the law of war committed by the Republic of Iraq both inside Iraq and during its invasion of Kuwait; the Tribunal, which is to be known as the "International Tribunal for Iraq," is to set up its own Charter to include its constitution and procedures;
2. Decides to remain actively seized of the matter.

Institut kurde de Paris



Institut kurde de Paris