

HUMAN RIGHTS WATCH

Iraq: Tribunal Must Improve Work in Anfal Trial

Saddam Hussein Faces Genocide Charge in Kurdish Case

(New York, August 18, 2006) – The Iraqi High Tribunal must improve its practices if it is to do justice in the upcoming Anfal trial in which Saddam Hussein and Ali Hassan al-Majid are accused of genocide, Human Rights Watch said today.

The trial, which begins on August 21, could provide a public airing of the Ba’ath Party’s 1988 extermination campaign against Iraqi Kurds that included the regime’s use of poison gas.

“The Anfal campaign was a genocide carried out against part of the Kurdish population,” said Richard Dicker, director of Human Rights Watch’s International Justice Program. “Genocide is the most serious crime there is, and it’s essential that the tribunal conducts the Anfal trial fairly.”

Based on extensive observation of the tribunal’s conduct of its first trial, where Saddam Hussein and six others were charged with crimes against humanity, Human Rights Watch believes that the Iraqi High Tribunal is presently incapable of fairly and effectively trying a genocide case in accordance with international standards and current international criminal law.

The Anfal campaign of 1988 was the culmination of a long history of assaults against Kurds in northern Iraq, whom the Ba’ath Party government saw as “a threat to the nation.” The regime designated traditional Kurdish lands “prohibited zones,” and declared the Kurds who refused to leave to be non-Iraqi “traitors,” before marking their villages for destruction.

Human Rights Watch conducted extensive research in northern Iraq in 1992 and determined that at least 50,000 and possibly as many as 100,000 Kurds were deliberately and systematically murdered over a six-month period in 1988. Innumerable villages were bombed and some were gassed. The surviving residents were rounded up, taken to detention centers and eventually executed at remote sites.

The genocide consisted of an eight-stage military campaign, which moved methodically from the southeastern part of the Kurdish region to the northwestern corner during the period from February 23 to September 6, 1988. The campaign was led by the secretary of the Ba’ath Party’s Northern Bureau, Ali Hassan al-Majid, (who became known as “Chemical Ali”).

“Our investigation showed the Iraqi government ordered the extermination of part of its Kurdish population,” said Dicker. “But individual guilt or innocence in the Anfal case can only be determined through a fair trial, where the accused are able to mount an effective defense.”

Human Rights Watch’s observation of the Dujail trial, in which the defendants are accused of ordering the murder of villagers from Dujail after a failed assassination attempt on Hussein, indicated a number of serious shortcomings in the institutional functioning of the court. None of the Iraqi judges and lawyers has shown an understanding of international criminal law. The court’s administration has been chaotic and inadequate, making it unable to conduct a trial of this

magnitude fairly. And the court has relied so heavily on anonymous witnesses that it has undercut the defendants' right to confront witnesses against them and effectively test their evidence.

These shortcomings have been compounded by the sharp deterioration of the security environment in Iraq, including the tribunal's failure to protect defense counsel targeted for assassination.

"The victims of the Anfal won't see justice done unless the Iraqi tribunal does a much better job on its second case than it did in the Dujail trial," Dicker said

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