

Hussein Charged With Genocide in 50,000 Deaths

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By [EDWARD WONG](#)

BAGHDAD, Iraq, April 4 — The Iraqi court trying Saddam Hussein announced Tuesday that it had charged him with genocide, saying he sought to annihilate the Kurdish people in 1988, when the military killed at least 50,000 Kurdish civilians and destroyed 2,000 villages.

The case is the first against Mr. Hussein to address the large-scale human rights violations committed during his decades in power, the same acts the Bush administration has publicized in explaining the American invasion of Iraq. Six other defendants also face charges. Mr. Hussein is already being tried for the torture and killings of 148 men and boys in the Shiite village of Dujail.

Since the United Nations adopted the genocide convention in 1948, very few courts have charged defendants with genocide, the attempt to annihilate an ethnic, religious, national or political group in whole or in part.

Convictions have been handed down in the tribunals for Rwanda and Yugoslavia. This is the first time that a Middle Eastern ruler has been charged with it.

"It was during this campaign that thousands of women, children and men were buried in mass graves in many locations," Raid Juhi, the chief judge of the Iraqi High Tribunal's investigative court, said at a news conference.

Judge Juhi said it would be up to other judges to decide when the genocide trial against Mr. Hussein would start, and whether it would overlap with the Dujail case. Defense lawyers must be given 45 days to review the case files.

The court defines the bloody Anfal campaign, whose name means "the spoils" from a favorite Koranic verse of Mr. Hussein's, as eight military operations in 1988 in the mountainous Kurdish

homeland of northern Iraq. Families who escaped death squads or were allowed to live were forced to relocate into the hinterlands or in neighboring countries.

The Kurds, who make up a fifth of Iraq's people, tried to fight back, but Mr. Hussein used chemical weapons, including mustard gas and nerve agents.

Judge Juhi said the court had gathered enough evidence, like documents and mass graves, to prosecute the defendants in the deaths of at least 50,000 civilians. Kurdish officials and human rights advocates said the death toll had been much higher. They also said the Anfal campaign began years earlier, with other massacres and forced migrations.

The parties agree that at the very least, hundreds of thousands were arrested, tortured, relocated or killed.

All seven defendants are charged with crimes against humanity and war crimes related to an internal armed conflict. Mr. Hussein and one other defendant, Ali Hassan al-Majid, known as Chemical Ali, also have been charged with genocide, which legal experts say is difficult to prove. Mr. Majid was one of Mr. Hussein's most feared aides and oversaw the north during the Anfal campaign.

The other defendants include military commanders and senior intelligence officials.

"These charges should not be addressed to President Saddam," Khalil al-Dulaimi, Mr. Hussein's chief lawyer, said in a telephone interview. "They should be addressed to the American and British forces, because they are killing the Iraqi people and using weapons of mass destruction against the Iraqi people."

President Jalal Talabani, a Kurd who for years led militiamen in northern Iraq, praised the court's decision to bring the Anfal charges, and promised that he and other government officials would not try to influence the trial.

It has taken years to assemble the evidence for the Anfal case. American officials say the Dujail crimes were selected as the first ones to try Mr. Hussein on because that case was not nearly as

complicated as some others. It is also easier in the Dujail case to establish a clear chain of command between Mr. Hussein and those who carried out the executions, the officials say.

But they say that the Anfal massacres and the suppression of the Shiite uprising of 1991, which resulted in up to 150,000 deaths, are the two cases that go much more directly to the heart of Mr. Hussein's murderous rule, and could prove more cathartic for a vast majority of Iraqis.

The Dujail trial, expected to resume Wednesday with a cross-examination of Mr. Hussein, is entering its final phase, in which the court will review formal charges and hear arguments from the defense lawyers.

If a death sentence is handed down to Mr. Hussein, it is unclear whether the court would carry out the execution before other cases begin or are concluded. Any death sentence is automatically appealed.

There is no deadline for a decision, but if the appeal is denied, then the statutes of the tribunal mandate that the defendant must be executed within 30 days. Even the president's office, which is supposed to approve all death sentences, would be able to do little to delay that, said American legal experts advising the tribunal.

Many Iraqis who despise Mr. Hussein, especially Shiites and Kurds, have denounced the tribunal and called for Mr. Hussein's immediate execution, while some officials, like President Talabani, have said they want Mr. Hussein to stay alive long enough to face trial on all possible charges.

There are about a dozen investigations under way, all of which may result in individual sets of charges. The operations of the tribunal and its oversight of the Dujail case have been tumultuous, plagued by the assassinations of a judge and lawyers, political pressure from the Iraqi government and power struggles among the judges.

Questions have been raised about why the tribunal was never set up in an international venue, where security would not be as great a concern. American and Iraqi officials have struggled to endow the trial with legitimacy, but many foreign governments and human rights advocates have continued to view it as a show court.

The bringing of charges in Anfal brings a new set of problems, they say. If the trial were to proceed concurrent with the trial on the Dujail killings, then Mr. Hussein's defense team could be placed at an unfair disadvantage, unless Mr. Hussein hired more lawyers. The prosecutors and judges do not have that problem; a separate prosecutor and five-judge panel will oversee Anfal.

With Mr. Hussein needing to focus on final arguments in Dujail, a concern is "how he could do all that and then simultaneously prepare for a larger and more complex litigation — it goes to issues of fairness," said Marieke Wierda, a senior associate at the International Center for Transitional Justice, a New York-based advocacy group.

The other seven defendants in the Dujail trial are all different than those in the Anfal case.

Kurdish officials often say that 180,000 people were killed in the Anfal campaign, but the actual number is closer to 80,000, according to Joost Hiltermann, the Middle East director of the International Crisis Group, an advocacy group.

The scope of the trial is generally limited to the eight military operations from February to August 1988, but the court will also examine evidence starting from March 1987, when Mr. Hussein chose Mr. Majid as the top official in northern Iraq.

In the years preceding Anfal, Kurds in Iraqi villages near Iran were forced to abandon their homes. Those areas were labeled "prohibited," and anyone living there was deemed to be an Iranian agent or saboteur. The Anfal campaign was undertaken to deal with those who had moved back or had not moved.

The other defendants in the Anfal case are Sultan Hashem Ahmed, the military commander of the campaign and the defense minister starting in 2001; Sabir Abdul-Aziz al-Duri, the director of military intelligence; Hussein Rashid al-Tikriti, the deputy of operations for the Iraqi forces; Tahir Tawfiq al-Ani, a governor of Mosul; and Farhan Mutlak al-Jubouri, the head of military intelligence in the north.

Abdul Razzaq al-Saiedi and Kirk Semple contributed reporting for this article.