

6.

Awwad Hamad Al-Bandar

In the Name of Allah, the Most Merciful, the Most Compassionate

Republic of Iraq
Iraqi High Tribunal
Office of the Chief Judge of the First Trial Chamber

Lawsuit Number: 1/1st
Criminal/2005
Date: 2006 May 15

Accusation Document

Judge: Ra'uf Rashid Abdul Rahman	Chief Judge of the First Trial Chamber
Name of the Defendant: Awwad Hamad Al-Bandar	(Former) Presiding Judge of the Revolutionary Command Court
Scene of the Crime	Town/Al-Dujayl Salah-al-Din Governorate/Baghdad
Date of the Crime	July 8, 1982 until January 16, 1989
Names of the Plaintiffs	The State and the plaintiffs whose statements are verified in the interrogation and trial records and whose names are indicated in the case record

I, Judge Ra'uf Rashid Abdul Rahman, the Chief Judge of the First Trial Chamber of the Iraqi High Tribunal accuse you, (Awwad Hamad Al-Bandar), of the following:

At the time you were the Chief Judge of the Revolutionary Command Court, and after the accused (Saddam Hussein Al-Majid) visited the town of (Al-Dujayl) on July 08, 1982, and under the claim that gun shots were fired in the direction of the escort cars in his motorcade, and after the arrest and interrogation of townsmen from Al-Dujayl by the Intelligence Service lead by the accused (Barzan Ibrahim Al-Hasan), the National Security Affairs Department of the (disbanded) Presidential Diwan referred (148) names to you on May 27, 1984, including the names of some people who died under torture administered by intelligence officers at the Interrogation and Investigation Directorate (Al-Hakimiyyah) and in (Abu Ghurayb) prison. Some of the slain individuals include (Ya'qub Yusif Husayn Al-'Ubaydi, Jasim Muhammad Latif Al-Salami, Salih Muhammad Jasim, Qasim 'Ali Asad Al-Haydari, and 'Alwan Hasan Husayn Al-Salami). Among those arrested were minors under the age of 18. These are the serial numbers given to the minors, as indicated in the sentence issued against them: (Mahmud Hasan Muhammad Al-Haydari (118), 'Abbas Habib Kazim Al-Musawi (65), Mahdi Husayn 'Ali Al-Musawi (107), Habib Jasim Juwad (116), Hashim 'Ali Laftah Al-Zubaydi (12), Ahmad 'Abd Juwad Al-Zubaydi (16), Mahmud 'Abd Juwad Al-Zubaydi (2), Muhammad Hasan Mahdi Al-Aswadi (108), Hadi Hasan Mahdi Al-Aswadi (126), Khamis Kazim Ja'far Al-'Ubaydi (84), Husayn 'Ali Habib Al-'Ubaydi (117), Hadi 'Abd-al-Wahab Ja'far Al-'Ubaydi (24), Maytham Mahdi 'Abbas Al-Salami (85), 'Ali Anwar Husayn Al-Salami (11), Ja'far 'Ali Husayn Al-Musawi (88), Mu'ayyad Salim Majid Al-Haydari (106), Thamir 'Abd-al-'Aziz Juwad Al-Zubaydi (122), Ahmad Jasim Muhammad Rida (123),

Jasim Naji ‘Abd Al-Aswadi (133), Husayn Salman Muslih Al-Khazraji (134), Husayn Dahham Sultan Al-Lami (23), ‘Amir Dahham Sultan Al-Lami (22), Yusif ‘Abd ‘Ali Hasan Al-‘Ubaydi (68), Mahmud Jasim ‘Abd-al-Hasan (27) Hafiz Muhammad Hadi Al-Kallabi (14), Ibrahim Salih Kazim Al-Musawi (87), Muslim ‘Abd ‘Ali Hasan Al-‘Ubaydi (17), Hashim Muhammad Latif Al-Salami (56), Muzhir Jamil Ayyub Al-Khazraji (44), Husayn Suhayl Najm Al-Salami (124), ‘Ali Najm ‘Abbud Al-Salami (99), Ahmad Jasim ‘Abd-al-Hasan (105), Mahdi Sa’id ‘Abbud (109), Qasim Muhammad Jasim Al-Zindah (144), Salim ‘Abd ‘Abbas ‘Ali (131), Haydar Jasim Husayn Al-Salami (153). After holding a brief trial lasting only one session in the (disbanded) Revolutionary Command Court, you issued an irrevocable sentence to hang all 148 detainees to death. The sentence was enumerated in decision number 944/C/1984 on June 14, 1984, and was later ratified by the accused (Saddam Hussein), the (former) President of the Republic, in Presidential Decree Number (778) on June 16, 1984. At that time, the sentence was implemented. The execution of the minors in the trial directly violated article 79 of the (amended) penal code number (111) of 1969, the juvenile protection code number () of 1983, and the amended Law of Criminal Procedure number (23) of 1971. The sentence also violated article 6, paragraph 5 of the International Covenant on Civil and Political Rights, dated December 16, 1966, made effective on March 23, 1976, and which the Iraqi Republic ratified on February 18, 1969. The trial is considered a complementary part of a methodical and widespread attack carried out against the townspeople of Al-Dujayl town for the purpose of annihilating a large number of the residents and destroying their properties and lands.

Based on the above, you have committed crimes in violation of Article 12, paragraph 1, sub-paragraph A of the Statute of the Iraqi High Tribunal, Law No. 10 of 2005 which states:

Article 12

First: For the purposes of this Law, “crimes against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack

A. Willful killing;

You are liable for these crimes in accordance with Paragraphs 1, 2 (sub-paragraphs A, B, and D), and 3 of Article 15 of the Statute of the Iraqi High Tribunal, Law No. 10 of 2005 which states:

Article 15

First: A person who commits a crime within the jurisdiction of this Tribunal shall be individually responsible and liable for punishment in accordance with this Law.

Second: In accordance with this Law, and the provisions of the Penal Code, a person shall be criminally responsible if he [or she]:

- A. Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that [other] person is criminally responsible;
- B. Orders, solicits or induces the commission of such a crime, which has occurred or has been attempted;
- D. Participating by any other way with a group of persons, with common criminal intention to commit or attempt to commit such a crime, such participation shall be intentional and shall either:
 - 1. Be made for the aim of consolidating the criminal activity or criminal purpose of the group, where such activity or purposes involve the commission of a crime within the jurisdiction of the Court; or
 - 2. Be made with the knowledge of the intention of the group to commit the crime.

Third: The official position of any accused person, whether as president of the State, chairman or member of the Revolution Command Council, prime minister or member of the cabinet, or a member of the leadership of the Ba'ath Party, shall not relieve such person of criminal responsibility nor mitigate punishment. No person is entitled to any immunity with respect to any of the crimes stipulated in Articles 11, 12, 13 and 14 of this Law.

Based on the abovementioned, and in light of the facts that were verified by official documents and other evidence that were cited during interrogation and trial, and as the Chief Judge of the First Trial Chamber of the Iraqi High Tribunal, and according to the mentioned charges, I order the process of your trial by virtue of the penal articles that I read before you.

How do you plea? Are you guilty or innocent?

The Judge
[TC: The signature of the judge is included]

The accused replied (admitted or denied)

I read and clarified the charges to him.

The Judge

[TC: The signature of the judge is included]