

The Iraqi Secret Police Files: A Documentary Record of the Anfal Genocide

BRUCE P. MONTGOMERY

RÉSUMÉ Après la défaite des forces armées irakiennes lors de la guerre du Golfe en mars 1991, les rebelles kurdes ont lancé une révolte populaire contre le régime irakien, prenant d'assaut et brûlant les bureaux de la police secrète, les prisons et les centres de torture. Au cours de cette insurrection, les Kurdes irakiens ont pu mettre la main sur des dépôts importants de dossiers de la police secrète provenant de plusieurs villes de la région nord du Kurdistan irakien, et ce avant que les forces armées de Saddam Hussein ne reviennent écraser la révolte après avoir réprimé les soulèvements de masse des Chiites dans le sud du pays. Les documents qui ont été pris par les rebelles ont rapidement pris une importance internationale parce qu'ils contenaient des preuves indiscutables des crimes contre l'humanité et du génocide d'Anfal qui fut perpétré contre les Kurdes par le régime irakien à la fin des années 1980. Le parcours extraordinaire de ces documents du nord de l'Irak jusqu'aux Archives nationales à Washington, et ensuite à l'Université de Colorado à Boulder grâce à l'organisation humanitaire « Human Rights Initiative », représente une odyssee pourvue de dimensions politiques internationales. Les documents ont une grande signification au niveau du monde contemporain puisqu'ils sont au centre d'une campagne internationale très large menée par divers groupes de droits de la personne, par le gouvernement américain, par des autorités judiciaires étrangères et d'autres afin de mettre en accusation et d'amener devant un tribunal international Saddam Hussein et ses principaux leaders. Quoi qu'il arrive de l'effort pour poursuivre et juger les dirigeants irakiens, l'histoire entourant ces documents est loin d'être terminée.

ABSTRACT In March 1991, after the defeat of the Iraqi armed forces in the Gulf War, Kurdish rebels rose in popular revolt against the Iraqi regime, storming and burning secret police stations, prisons, and torture centres. In the uprising, the Iraqi Kurds seized an enormous cache of secret police files from several cities and towns in the northern region of Iraqi Kurdistan before Saddam Hussein's armed forces returned to crush the revolt after having quelled mass uprisings in the south among the Shiites. The captured documents quickly took on international importance, as they contained direct evidence of crimes against humanity and the Anfal genocide that had been perpetrated against the Kurds by the Iraqi regime during the late 1980s. The extraordinary journey of these documents from northern Iraq to the National Archives in Washington, and then to the University of Colorado at Boulder's Human Rights Initiative has been an odyssey of international political dimensions. The documents have great international significance as they comprise the evidentiary centrepiece of a broad-based international campaign by human rights groups, the United States government, judicial

authorities overseas, and others to indict and bring to justice Saddam Hussein and his top leadership before an international tribunal. Whatever occurs in the current effort to prosecute the Iraqi leadership, it is clear that the story surrounding these documents is far from over.

“Yes, I’ll certainly look after [the Kurds]. I’ll do it by burying them with bulldozers. That’s how I’ll do it.”¹

Ali Hassan al-Majid
22 January 1989

In an off-site facility in Colorado sit eighteen metric tons of captured Iraqi secret police files. The documents provide evidence of the “heroic” Anfal campaign, an extermination operation carried out by the Iraqi security forces against the Kurds in northern Iraq. The term “Anfal” refers to an incident in the Koran in which the followers of the prophet Mohammed attacked and pillaged non-believers.² According to Human Rights Watch/Middle East (HRW/ME), the New York-based global human rights group, the campaign, waged from 29 March 1987 to 23 April 1989, amounted to genocide and crimes against humanity. Ten years after the United States military airlifted the documents out of northern Iraq following their seizure by Kurdish rebels, the documents continue to have great currency in the international arena and international human rights law. Based on evidence found in the documents and other sources, both HRW and the United States government are pursuing the creation of an international tribunal in which to prosecute the Iraqi leadership. Upon examination of this same evidence, judicial authorities in Belgium may also soon be issuing an international warrant for the arrest and prosecution of senior members of the Iraqi regime. The creation of an Iraqi tribunal, if it comes to pass, would be similar to the special tribunals trying war crimes suspects from Rwanda and the former Yugoslav federation. Beyond containing definitive or near definitive evidence of genocide and crimes against

1 Quotation in published investigative field report, Human Rights Watch/Middle East and Physicians for Human Rights, *Unquiet Graves: The Search for the Disappeared in Iraqi Kurdistan* (New York, 1992). Ali Hassan al-Majid, a cousin of President Saddam Hussein, served as Iraq’s Defense Minister in the late 1980s and was responsible for Iraq’s northern regions. The statement is derived from an audio tape found by one of the Kurdish parties after the seizure of the secret police documents. This and other investigative reports are based on field interviews, victim and survivor testimony, examination of forensic evidence, and analysis of other direct evidence.

2 See Kanan Makiya, “The Anfal: Uncovering an Iraqi Campaign to Exterminate the Kurds,” *Harpers* 284, no. 1704 (May 1992), pp. 56–57. Al-Anfal refers to the eighth sura, the seventy-five verse revelation that came to the prophet Mohammad after the first battle of the new Muslim faith at Badr (A.D. 624). Here a group of 319 Muslims defeated nearly 1,000 Meccan non-believers. The first Muslims saw their victory as a vindication of their new faith and the result of the direct intervention of God. In this sura, the Arabic word al-Anfal means “spoils,” as in the spoils of war.

humanity, the Iraqi documents provide insight into the inner workings of a sophisticated modern police state. This article therefore aims to explore the nature of these materials, their provenance and contents, and what they reveal about the bureaucratic machinations of the Iraqi police state.

The extraordinary journey of these documents from northern Iraq to the National Archives in Washington and then to the University of Colorado at Boulder's Human Rights Initiative (HRI) has been an odyssey of international political dimensions.³ The Iraqi documents say as much about the actual machinations of bureaucratic terror as they do about genocide and crimes against humanity. After all, the preparation of mass murder takes careful planning and relies on the complicity or acquiescence of many different forces: of industry, science, the civil service and bureaucracy, and of the modern mechanisms of communication. It often depends on collaborators and informers, on rousing historic, religious, or ethnic hatreds, and on the belief that the destruction of a people, in whole or in part, is not only justified but serves the highest interests of the state. It is perhaps ironic that many repressive regimes and their functional security apparatuses have a penchant for recording their own crimes in great detail, an unwitting form of self-indictment when such records fall into open hands. This phenomenon has occurred with stunning frequency since the end of the Cold War. The 1989 overthrow of communist dictatorships throughout Eastern Europe, for example, enabled the secret archives of many of these ruling regimes to be exposed by their democratic successors. After 1991, Boris Yeltsin seized and opened the archives of the Communist Party of the old USSR to reveal incriminating evidence of Soviet atrocities with the aim of discrediting his communist enemies and outlawing the Communist Party of the new Russian Federation.⁴ In El Salvador, Chile, South Africa, and Cambodia, successor governments have opened the secret archives of the former regimes in part to initiate a process of national reconciliation. Reconciliation without prosecution of those responsible for committing crimes against humanity, however, has been a highly dubious affair. In the

3 The Human Rights Initiative (HRI) currently located at the Archives, University of Colorado at Boulder was launched in 1992 with the aim of documenting the international human rights movement and human rights affairs. Since that time, the project has evolved into the world's largest collection of human rights archives. The HRI collections include the archives of the American arm of Amnesty International, Human Rights Watch, the Physicians for Human Rights, Guatemala Commission for Human Rights, Humanitas International Committee for Human Rights, the Union of Councils for Soviet Jews and affiliated organizations, Tutela Legal, Socorro Juridico Christiano, the Nongovernmental Commission of El Salvador, the Iraqi Secret Police Files, and many other collections. These archives and collections in other institutions represent an emerging field of international documentation. For a more detailed description and analysis of these archives, see Bruce P. Montgomery, "Human Rights: A Survey of Archival Sources in the United States and Canada," *Human Rights Quarterly* 23, no. 2 (May 2001), pp. 431–63.

4 See Bernard Butcher, "Cracking the Kremlin Files," *Hoover Digest* 4 (1999), p. 6.

past, accountability and justice have often been abandoned as the price for maintaining fragile stability. The overriding fear in many post-authoritarian countries has been that prosecution would destabilize democratic governance and return the country to civil conflict or military rule.⁵

Repressive regimes rarely countenance their own overthrow or fall from grace and the ramifications of their secret archives being exposed to the world. Perhaps no better example of this occurred than with the swift collapse of the Third Reich in the spring of 1945 when the confidential archives of the German government and all its branches, including Heinrich Himmler's secret police, fell into Allied hands. "Hitherto," the journalist William Shirer noted in *The Rise and Fall of the Third Reich*, "the archives of a great state, even when it was defeated in war or overthrown by revolution, as happened to Germany and Russia in 1918, were preserved by it, and only those documents which served the interests of the subsequent ruling regime were ultimately published."⁶ With the 1989 revolutions in Eastern Europe, however, several of these democratic successor governments publicized portions of the secret archives of their Communist predecessors. This phenomenon has also occurred in Cambodia where the confidential files of the Pol Pot regime have been uncovered, collected, and publicized with the assistance of the international community.⁷ Unlike these

5 In 1983, the President of Argentina, Raul Alfonsin, established a truth commission to investigate "disappearances" during seven and a half years of military rule. Alfonsin also ordered that prosecutions take place for the crimes found by the commission. The commission would thus establish the truth and then assure that justice was done. Although several military leaders, including two former presidents of Argentina, were convicted and sentenced, attempts to carry out justice were soon abandoned, as lower military officials instigated several military rebellions, leading Alfonsin to call off the trials. Truth commissions were also established in El Salvador and Chile, both of which ruled out prosecutions. In Uruguay, a popular referendum upheld a general amnesty for military officers who committed human rights abuses out of fear of destabilizing the country. In South Africa, the Truth and Reconciliation Commission granted amnesty to those on all sides of the conflict who agreed to testify and fully acknowledge their crimes. Although prosecution appeared unlikely in the 1980s, there has been considerable momentum for human rights trials and tribunals in recent years, including the special international tribunals for Rwanda and the former Yugoslav Federation, the movement for the institution of the International Criminal Court, and the arrest of Augusto Pinochet in London in October 1998 at the request of a Spanish magistrate. See Aryeh Neier, "The Quest for Justice," *The New York Review of Books* 48, no. 4 (8 March 2001), p. 31.

6 See William L. Shirer, *The Rise and Fall of the Third Reich: A History of Nazi Germany* (New York, 1959), p. ix.

7 See the Web site of the Cambodian Genocide Programme, Yale University, <<http://www.yale.edu/gcp/more/bk/giornale.htm>>. See also Cambodian Genocide Programme, Yale Center for International and Area Studies, "The Cambodian Genocide Programme, 1994–1997. A Report to the United States Department of State Bureau of East Asia and the Pacific" (February 1998) <<http://www.yale.edu/gcp/report.html>> (accessed 29 June 2001). The database constructed by the Cambodian Genocide Program has since been transferred to the Manuscripts Department, Yale University Libraries. For an archival perspective on the project, see Dawne Adam, "The Tuol Sleng Archives and the Cambodian Genocide," *Archivaria* 45 (Spring 1998), pp. 4–26. Also see Bruce P. Montgomery, "Human Rights: A Survey of Archival Sources in the United States and Canada," *op. cit.*

cases, however, the Iraqi documents are highly unique, having fallen into open hands while the regime that carried out the enormous atrocities was still in power.

Background

Kurdistan is a curved swath of territory that extends across the mountainous area along the borders of Turkey, Iraq, and Iran into Armenia and northern Syria. The region is primarily inhabited by the Kurds, a distinct ethnic and linguistic group from the majority Arab population of Iraq. The Kurds constitute the Middle East's fourth largest ethnic and linguistic group after the Arabs, Turks, and Persians. The Kurds date to antiquity, originally as an Iranian people possessing their own language and culture and a historic tradition of resistance to outside rule. Today, the Kurdish people number about 20 million, with more than three million living in Iraq, 12 to 15 million in Turkey, and six million in Iran. Smaller numbers live in Syria and the former Soviet republics. Most are Sunni Muslim, although there are also Shiites in Iran and Turkey.⁸

Kurdistan's rich natural resources have largely precluded it from becoming an independent state. In Iraq, for example, the Kurdish region includes major oil fields, rich agricultural land, minerals, and the Tigris River. For a brief time following the collapse of the Ottoman Empire after World War I, the Kurds obtained an independent Kurdish state under the 1920 Treaty of Sevres, one of a series of post-war treaties that established the modern states of Iraq, Syria, and Kuwait, among several others. In 1925, however, the League of Nations rescinded Kurdish statehood at the insistence of the British government and gave the oil-rich Mosul to the newly formed state of Iraq, an act of betrayal that sparked open revolt among the Kurds time and again in the decades that followed. From 1961 to 1975, the Kurds were in a continuous state of open rebellion that the Iraqi armed forces could not subdue. In 1970, two years following the seizure of power by the Baath Socialist Party, the Kurds forced what appeared to be several Iraqi concessions, including the right of representation and autonomy in the predominately Kurdish provinces in the northeastern region. Nevertheless, by and large the Baath Party granted the Kurds little power and minimized their participation in national affairs. In reality, the Manifesto on Kurdish autonomy, while on paper granting the Kurdish minority more rights as a nationality than ever before, amounted to little more than a strategy for the Baath Party to temporarily halt the fighting and gain time to

8 See the following published investigative field reports: HRW/Middle East and Physicians for Human Rights, *Unquiet Graves: The Search for the Disappeared in Iraqi Kurdistan* (1992), p. 5; and HRW/Middle East, *Whatever Happened to the Iraqi Kurds?* (11 March 1991), p. 4. These reports may be found in the Human Rights Watch archives, University of Colorado at Boulder. Also see Human Rights Watch, *Iraq's Crime of Genocide: The Anfal Campaign Against the Kurds* (New Haven and London, 1995), p. xvi; and Ismet Sheriff Vanly, *People Without a Country* (London, 1980).

consolidate their power. Shortly afterward, in the early 1970s, the Iraqi began their Arabization programme, expelling Kurds from their villages and confiscating their land for Arab settlement.⁹

By 1977 Baghdad had crushed the long simmering rebellion, forcing tens of thousands of Kurds to flee to Iran. The Iraqi army expelled thousands more along the Iran-Iraq border, imprisoning them in camps in the desert. Iraqi pronouncements no longer referred to the Kurdish region as “The Autonomous Region of Kurdistan” but merely “The Autonomous Region.” With the outbreak of the Iran-Iraq War in September 1980, the Iraqi regime loosened its grip on Kurdistan to bolster military operations in the south. As an apparent conciliatory gesture, the regime permitted thousands of resettled Kurds to return to Kurdistan, many of whom had fled to areas controlled by the two main Kurdish rebel factions, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK).¹⁰

In 1988, with the war with Iran drawing to a close, the Iraqi regime ended its conciliatory stance towards the Kurds. On 20 August, just one day following the ceasefire, President Saddam Hussein unleashed his forces against the Kurds. According to investigative reports of Middle East Watch, the Physicians for Human Rights, and others, Iraqi forces bombarded Kurdish rebel forces and civilian settlements with chemical weapons and systematically razed towns and villages, “expelling their inhabitants, and sending large numbers to camps and ‘model villages’ in the plains of the Kurdish Autonomous Regions, and to the South where many of them reportedly vanished without a trace.”¹¹

On 27 February 1991, the United States and the Allied forces ended Operation Desert Storm, after decimating the Iraqi military and liberating Kuwait. Iraq’s ignominious defeat sparked a massive uprising among anti-Saddam Shiite rebels in the south aimed at overthrowing Saddam Hussein. To crush the spreading rebellion, Saddam Hussein dispatched forces from the north to southern Iraq. With the withdrawal of Iraqi forces, Kurdish rebels saw their chance, launching a popular uprising against the central government that quickly spread throughout the Kurdish regions of northern Iraq. The Kurds took control of all the major Kurdish towns and cities, including the important oil centre of Kirkuk. Within three weeks, however, Saddam Hussein sent reinforcements to crush the Kurdish revolt after having quelled the rebellion in the south.

9 Published investigative field report, HRW/Middle East and Physicians for Human Rights, *Unquiet Graves*, p. 5; and the Iraq Documentation Project, Harvard University, <<http://fas-www.harvard.edu-irdp/ref/ref03.html>> (accessed 7 March 2001). Also see Ismet Sheriff Vanly, *People Without a Country* and HRW/Middle East, *Whatever Happened to the Iraqi Kurds?* p. 4.

10 Published investigative field report, HRW/Middle East and Physicians for Human Rights, *Unquiet Graves*, p. 6.

11 *Ibid.*, p. 6.

By April, Iraqi troops had retaken several key cities and towns, exacting brutal revenge on civilians and sending more than a million in desperate flight across the mountains to neighbouring Iran and Turkey. In mid-April, the Allies in the war with Iraq in the Persian Gulf War, primarily the United States, Great Britain, and France, intervened on behalf of the Kurds. They established a safe haven for the Kurds beginning at the Turkish border and extending to the 36th parallel. The safe haven permitted most of the displaced Kurdish population to return to their homes. Finally, in October 1991, Iraqi forces, unable to reassert central government control, withdrew unilaterally from most of the Kurdish areas, excluding the strategic oil-producing city of Kirkuk. Since that time, Iraqi Kurdistan has been in a state of precarious peace with the Iraqi regime, largely under the protection of U.S. and British airpower. The region exists under the control of the Kurdish rebels and, after the elections in May 1992, of a Kurdish regional government.

Capture of the Iraqi State Files

In the early hours of the March 1991 uprising, the Kurds captured massive quantities of Iraqi state documents upon storming intelligence agencies and Baath Party buildings throughout Kurdistan.¹² In the chaos and confusion, many of the documents were burned or destroyed, but the Kurds spirited most of them away to remote mountain hideouts before Iraqi security forces returned from the south, after crushing the Shiite rebellion, to suppress the revolt. The Kurds' interest in the documents initially lay in discerning whether they had been penetrated by Iraqi intelligence. Only later was it realized that the documents were more significant in revealing evidence about the Anfal genocide, which had ended just two years earlier.¹³ According to HRW/ME, which quickly learned of the capture of the documents, "obtaining access to official records became a Holy Grail for researchers." Indeed, the documents represented an extraordinary windfall in the investigation of Iraqi atrocities perpetrated during the Anfal. The new realities of the Kurdistan's protected

12 The Kurdish rebels had been planning the uprising against the Iraqi regime for months. Dating as far back as July 1990, the PUK high command had directed its fighters to infiltrate Iraqi rank-and-file forces in major Kurdish cities and towns. The infiltration of Iraqi military ranks relied on the critical strategy of winning over Kurdish commanders of the Iraqi militia. This information is contained in transcripts of interviews with Jalal Talabani, PUK leader (28 December 1991), and Ako Mohammed Wahbie, PUK political officer in Sulaymaniyah (27 December 1991), in HRW/Middle East archives.

13 Telephone conversation with Joost Hilterman, Director of the Iraqi Documents Project at HRW/Middle East (April 1997). See also Amy Kaslow, "Documents Give Evidence of Atrocities Against Iraqi Kurds," *The Christian Science Monitor* (10 June 1992), pp. 1, 4; and Barton Gellman and Jonathan C. Randal, "U.S. to Airlift Archive of Atrocities Out of Iraq," *The Washington Post* (19 May 1992), p. A12.

status after the Gulf War enabled outside observers, including human rights researchers, unprecedented access to northern Iraq. With the opportunity to interview survivors and to exhume mass graves, and then to read the official account of what transpired in the Iraqi government's own words, while the "regime that had carried out the outrages was still in power, was unique in the annals of human rights research."¹⁴

Claims of enormous atrocities against the Kurds had been circulating in the West for years before the events of 1991. Kurdish leaders claimed that Iraqi government forces had destroyed 4,000 villages and that about 182,000 persons disappeared in 1988 alone. Most foreign observers had considered these claims too fantastic to be believed, but inside Iraq the Anfal was well known, especially inside Iraqi Kurdistan. Nonetheless, few Kurds understood the true dimensions and highly organized nature of the Iraqi extermination campaign. Divided by "mountainous geography, their own political fractiousness, and the divide and rule policies of regional governments at the time," the Kurds had few sources on which to rely to verify the comprehensiveness of the Anfal. In its 1990 report, *Human Rights in Iraq*, however, HRW/ME was able to reconstruct with considerable accuracy what had transpired from exile sources.¹⁵ The report's findings described the Baath Party's modus operandi for controlling the Iraqi population through terror, including forced relocation and deportation, arbitrary arrest and detention, torture, disappearances, and summary political execution. The report also described the Iraqi use of chemical warfare against the Kurds, a fact that should have lent more credence to Kurdish allegations of widespread atrocities by Iraqi security forces. It was not until after the events of 1991, however, when human rights researchers dug up bones of single and mass graves, interviewed survivors, and began analysing the mass store of captured Iraqi state documents that the scale of suffering inflicted on the Kurds became clear and legitimated Kurdish claims of enormous abuses.

According to HRW/ME, the immediate "logic" of the Anfal was linked to the Iran-Iraq War.¹⁶ Following 1986, the PUK and the KDP, the two main Kurdish factions, received backing from the Iranians and joined the Iranian forces in military raids against Iraqi government positions. The KDP also had established a rear base inside Iran from which they launched guerilla raids against Iraqi forces. Nonetheless, the Anfal represented the culmination of Iraq's decades-long campaign to pacify the Kurdish resistance. HRW/ME contends that what began as a legitimate Iraqi counter-insurgency operation to restore control over Iraq's northeastern border region quickly escalated into a series of

14 HRW/Middle East, *Iraq's Crime of Genocide*, p. xx.

15 See published investigative field report, HRW/Middle East, *Human Rights in Iraq*, p. 64; and HRW/Middle East, *Iraq's Crime of Genocide*, p. xvi.

16 Telephone conversation with Joost Hilteerman, Director of the Iraqi Documents Project, HRW/Middle East (April 1997).

war crimes, “together with crimes against humanity and genocide.”¹⁷ In 1993, Joost Hilberman, a Dutch member of the HRW/ME who investigated human rights abuses in northern Iraq, stated that in “Anfal alone, perhaps as many as 180,000 people disappeared, thousands of whom were shot and buried in mass graves in a prison in the desert.”¹⁸ In addition, Iraqi forces made indiscriminate use of chemical weapons against Kurdish civilians, resulting in the deaths of thousands. In March 1988, for example, Iraqi armed forces attacked Halabja with poison gas, killing up to 5,000 civilians. The first use of poison gas by the central government, however, occurred eleven months earlier. In all, HRW/ME recorded forty separate poison gas attacks on Kurdish targets between April 1987 and August 1988. HRW/ME also estimated that in the Anfal, anywhere between 50,000 and 100,000 thousand persons, many of them women and children, perished between February and September 1988. “Their deaths did not come in the heat of battle – as collateral damage, in the military euphemism. Nor were they the result of acts of aberration by individual commanders whose excesses passed unnoticed or unpunished by their superiors. Rather, these Kurds were systematically put to death in large numbers by order of the central Iraqi government in Baghdad days or weeks after being rounded up in villages marked for destruction or while fleeing army assaults in prohibited areas.”¹⁹ Few victims were actual combatants or served as a reserve force for the rebel factions. Most of the dead were civilians who became the target of Saddam Hussein’s revenge and inhabited areas declared off-limits by the Iraqi central government.²⁰

The Iraqi state documents represent one important piece in the evidentiary trail of the Anfal. Between 1991 and 1993, after the Iraqi Kurdish Front (a coalition of seven parties) had established control of the rebel enclave, human rights researchers entered Iraqi Kurdistan to examine the scale of the mass graves that were being discovered by the Kurds at various sites. Together with forensic missions by HRW/ME and the Physicians for Human Rights (PHR) and extensive interviews of survivors, study of the Iraqi state documents have revealed an utterly convincing case that the Anfal campaign against the Kurds in northern Iraq constituted genocide.²¹

Following the capture of the documents in 1991, the Iraqi writer Kanan

17 HRW/Middle East, *Iraq’s Crime of Genocide*, p. xvii.

18 Judith Miller, “Iraq Accused,” *The New York Times Magazine* (3 January 1993), Section 6, p. 15.

19 *Ibid.*, p. xvii.

20 Transcripts of interviews with survivors of these chemical attacks may be found in the archives of HRW/Middle East and the Physicians for Human Rights in the archives at the University of Colorado at Boulder. These collections are currently under restriction and may be accessed only with the written authorization of the human rights organizations.

21 Documentation including mission reports, the results of forensic investigations, transcripts of interviews, memoranda, and other materials may be found in the archives of HRW/Middle East and the Physicians for Human Rights.

Makiya, Peter Galbraith of the U.S. Senate Foreign Relations Committee, and HRW/ME approached the Kurdish factions holding these Iraqi files about their possible transfer to the United States for analysis. Numerous questions surrounded this possible venture. How large was the cache of documents? How useful were they in documenting the operations of the Iraqi intelligence agencies? Where were they hidden? What would be the diplomatic and logistical obstacles in transporting the documents out of the country?²² After several visits to northern Iraq, Peter Galbraith and HRW/ME representatives got the agreement in May 1992 of the Patriotic Union of Kurdistan to send the greater share of its captured documents to the United States. With funding from the U.S. Senate Foreign Relations Committee, the Pentagon airlifted the documents to the United States where they were put in the temporary custody of the National Archives and Records Administration (NARA). Because under law the National Archives is mandated to house only federal records, the Senate Foreign Relations Committee temporarily declared the documents official records of the U.S. Congress, entrusting them to a safe location at NARA's records centre at Suitland, Maryland. For its part, HRW/ME agreed to analyse the documents to begin gathering evidence for a possible case of genocide against the Iraqi regime. In August 1993, the Kurdish Democratic Party agreed to the same terms and its share of the captured documents were then airlifted to the United States and stored with the PUK files. Finally, the United Party of Kurdistan, which later disbanded, sent a small cache of six boxes to join the approximately eighteen metric tons of files at the National Archives.

With the documents on American soil, an unusual collaboration ensued between HRW/ME and the Defense Intelligence Agency (DIA), under the direction of the human rights group. Under the arrangement, HRW/ME employed a four-person team headed by an experienced human rights researcher to supervise the classification and electronic recording of the estimated 5.5 million pages of documents. The Defense Department provided and funded a team of Arab linguists and CD-ROM document scanner machine operators who performed most of the work. The Pentagon assigned the DIA's Documentary Analysis Unit the task of working with HRW/ME because of its previous experience in processing vast quantities of Arab language documents in a short period of time. The task of searching through and classifying this much material, with the urgency demanded by HRW/ME's goal of bringing a genocide case against Iraq, was beyond the human rights group's capabilities or that of any other private organization. HRW/ME therefore accepted the Pentagon's offer of help on the explicit basis that its personnel would work under the direction of the human rights group.

In 1997, five years after HRW/ME had completed the analysis of the docu-

22 HRW/Middle East, *Iraq's Crime of Genocide*, p. xx.

ments, the Human Rights Initiative at the University of Colorado at Boulder entered into prolonged discussions for the acquisition of the files and the database with the U.S. Senate Foreign Relations Committee, the Defense Intelligence Agency, Human Rights Watch, and the Kurdish political factions that had seized the files in the March 1991 uprising in Iraqi Kurdistan. The Senate Foreign Relations Committee, which exercised custody over the materials on behalf of the Kurdish groups, notified the American National Archivist of the discussions and the possible release of the materials. The release and transfer of the files, however, required the specific authorization of the PUK and KDP, which retained ultimate ownership of the documents. Both Kurdish political parties agreed to the transfer of the documents to the Human Rights Initiative in the hope of making the files broadly available to the world community. Nevertheless, the transfer agreement outlined in a letter by Senators Jessie Helms and Joseph Biden of the Senate Foreign Relations Committee made clear that ownership resided with the PUK and KDP and that any request by them for the return of the documents must be honoured.²³ In addition, Human Rights Watch indicated that, should an independent Kurdish state ever be established, the Kurds would likely request the repatriation of the documents. According to Human Rights Watch and other political specialists, however, this possibility appears remote given that the surrounding countries of Turkey, Syria, and Iran with sizeable Kurdish minority populations all oppose the creation of an independent Kurdish state. The international community is further reluctant to establish the precedent of redrawing the geopolitical map by creating a new nation state on behalf of a persecuted minority for fear of giving the green light to numerous other aggrieved and restless minority populations in countries throughout the world. The documents are therefore anticipated to remain indefinitely in the United States, although it cannot be entirely ruled out that Iraqi Kurdistan may someday become an independent country.

The Iraqi leadership has never publicly claimed the documents to be stolen property for obvious reasons of what they reveal about the enormity of their crimes. Instead, the Iraqis have disavowed any connection to the documents altogether, challenging their authenticity and claiming that they are forgeries. Such claims, however, are belied by the impossibility of any mass counterfeiting operation being able to produce so many forgeries in so short a time following their seizure, examination by independent investigators, and subsequent publicity in the international press. After the March 1991 uprising and seizure of the documents, the Iraqi armed forces succeeded in reasserting control over the area within three weeks, driving the Kurds into the mountains along the borders of Turkey and Iran. After the Iraqi government announced a general amnesty and after the Allied forces gave assurances of protection, the Kurds began slowly returning to the towns, which remained mostly under gov-

23 Letter to Bruce P. Montgomery from Senators Jessie Helms and Joseph Biden, June 1997.

ernment control. In October 1991, unable to assert central government authority, the Iraqi armed forces withdrew from most of the Kurdish areas, leaving the towns and surrounding countryside in the hands of the local Kurdish inhabitants. Only then could a large-scale forgery operation have taken place, except that in November 1991 – just one month later – Western investigators were already inspecting the mass cache of documents in the possession of the Kurds.²⁴

Other points that refute Iraqi claims of forgery are the sheer volume of the materials – eighteen metric tons that contain an immense variety and complexity of materials in both form and content. For example, there are ledgers comprising codes of journal entries; folders with hundreds of chronically arranged pieces of correspondence that are dated and numbered and refer to previous pieces of correspondence; personal files that detail the background of hundreds of individuals under investigation; salary ledgers; informant lists; military orders; administrative files concerning employees and their unending requests for vacations and promotions with senior officials; and an enormous array of other types of information. In addition, as HRW/ME has argued,

“Why would forgers go to the trouble of manufacturing both handwritten and typewritten drafts of the same document, however innocuous in nature, even include scribbled notes that must have formed the rudimentary outline for these drafts, if it were only the final, official and signed version that could conceivably be used to bring charges against the regime? Why would they include documents that might potentially be a source of embarrassment to themselves, for example, the numerous references to kidnappings for ransom of Kurds suspected of pro-government activity by Kurdish guerrillas? And why would they create large amounts of documents, only to then hold onto some of these themselves, claiming that these are of no significance to human rights organizations but only have internal value for their own movement?”²⁵

Beyond the issue of authenticity is perhaps the ethical question of whether

24 See HRW/Middle East, published investigative report, *Bureaucracy of Repression*, (New York, 1994), pp. 22–23.

25 *Ibid.*, pp. 20, 22. HRW/ME took particular pains to respond to the Iraqi charge that the documents were forgeries: “Apart from the charge that they [documents] are fabrications, the key point in the Iraqi government’s position on the documents is the admission that the events in the Kurdish areas in the Spring of 1991 led to ‘damage and loss of most of the official documents’ there. From this statement, two possible conclusions flow. If ‘loss’ is meant to denote that the government ‘lost’ the documents, or ‘lost control’ of them, this would suggest that these same documents might well have survived the events in the north and could conceivably – and indeed, would in all likelihood – be in the possession of someone other than the Government of Iraq. If this is the correct interpretation, then the government’s statement that most of the documents were lost would contradict its accusation that the documents the Kurds claim they captured are all forgeries. The government cannot have it both ways: either the documents represent a 4-million page forgery on a scale previously unseen in history, or they are indeed the documents which the government has admitted losing. In the later case, there can be little question as to the authenticity of these documents in their totality.”

the materials should be made broadly available without qualification. The documents contain informant lists and files of Kurds who have collaborated with the Iraqi secret police, or who were otherwise engaged in pro-government activities. Given the scale of the crimes by the Iraqi secret police and armed forces in Iraqi Kurdistan, making this information available could conceivably pose substantial risks of retribution against Kurdish collaborators or government sympathizers. This issue may be considered moot, however, since the Defense Intelligence Agency distributed copies of the digital database to each of the Kurdish parties, and HRW believes with some certainty that Saddam Hussein's secret police also has obtained a copy of the database.²⁶ The availability of the original documents, therefore, poses no new risks to those Kurdish informers who have collaborated with the Iraqi regime. More than a decade after the capture of the documents, most of the collaborators have been pardoned by the Kurdish parties in Iraqi Kurdistan, have fled, or have since been killed in the aftershocks of the March 1991 uprising.²⁷

In addition, neither the international community nor human rights groups have challenged or questioned the moral legitimacy and legality of the Kurds for having seized the documents and transporting them to the United States. Nevertheless, should the documents be considered stolen property? This question would assume that a transgression has taken place against the Iraqi government requiring a form of redress or the return of the documents, an extraordinary irony should this scenario ever come to pass given what the files reveal about the mass annihilation of tens of thousands of Kurds by the Iraqi armed forces and secret police and the fact that the Iraqi leadership has denied any connection to the documents. The documents also represent a central evidentiary piece in the effort to bring the leadership of an outlaw regime to justice under international law. If there is a question of moral legitimacy and legality concerning the capture of the documents, it is that the Kurds have the right to know what precisely occurred, how the Anfal happened, who was responsible for the crimes against humanity and genocide perpetrated against them, and who specifically must be held accountable and brought to justice under international law. The aggrieved party in this case is not the Iraqis but the Kurds as the documents clearly indicate. The documents should therefore be seen not as stolen property, but as liberated documents by a people under attack by a rogue government bent on their annihilation. In this sense, the documents are no different from the Nazi files that were confiscated and removed from Germany by the Allied forces upon the fall of the Third Reich. Should Iraq – like Germany – ever become a functioning democracy, it would be an interesting question as to which party could legitimately claim ownership of the files, given the provenance of the documents, what they reveal, and the cir-

²⁶ Telephone conversation with Hilterman, April 1997.

²⁷ Telephone conversation with former PUK member Assad Gozeh, 29 November 2001.

cumstances under which they were seized.

Provenance of the Iraqi State Documents

The Kurds seized most of the documents in the three northern Kurdish governorates of Iraq: Dohuk, Erbil, and Suleimaniyeh, and also from the three major cities (bearing the same names) in these governorates. The PUK captured other substantial quantities of documents from the offices of Iraq's internal security apparatus or secret police (the Amn) in the town of Shaqlawa in the Erbil governorate. Unfortunately, the Kurds managed to save only a small cache of documents from the town of Kirkuk in the al-Ta'mim governorate, the seat of the Baath Party's "all-powerful" Northern Bureau, before Iraqi forces returned to crush the revolt. In addition, other small caches of documents were seized in the towns of Tuz Khurmatu, Khanaqin, Sheikhan, and Aqra.²⁸

The overwhelming majority of the documents relate to the offices of the General Security Directorate, the Amn, in the towns of Dohuk, Erbil, Shaqlawa, and Suleimaniyeh. The Amn operated as Iraq's internal intelligence agency or secret police under the Ministry of the Interior until 1989, and thereafter reported directly to the Office of the President. From its headquarters in Baghdad, the Amn directs the operations of its main branches in each governorate throughout the country. Each of the governorates of Suleimaniyeh, Erbil, and Dohuk, that together constitute most of the Kurdish Autonomous Region, had an Amn office that reported primarily to the headquarters office in Baghdad on Kurdish matters.²⁹

In addition, significant quantities of files pertain to the General Directorate of Military Intelligence, the Istikhbarat, which reports directly to the Office of the President in Baghdad and operates regional headquarters offices throughout the country. In the areas affecting the Kurds, the Istikhbarat operates the Northern Sector, based in the town of Erbil, which oversees the Mosul, Dohuk, and Erbil governorates, and the Eastern Sector, based in Kirkuk, which asserts authority over the al-Ta'mim, Salah al-Din, Suleimaniyeh, and Diyala governorates.

The documents show the Iraqis to be compulsive bureaucrats. Within the Iraqi regime's bureaucratic labyrinth, there seem to be overlapping operations or responsibilities among the various intelligence agencies, with some having been set up specifically to spy on the activities of the others. On the whole, a clear division exists between the Istikhbarat, responsible for military matters, and the Amn, which has purview over civilian matters. During Iraq's 1980s counter-insurgency campaign against the Kurds, the two agencies sometimes

28 Published investigative field report, HRW/Middle East, *Bureaucracy of Repression*, p. 3.

29 Ibid., p. 4.

worked in tandem. The Istikhbarat focused on gathering military intelligence concerning the activities of Kurdish guerilla forces in the countryside or in neighbouring Iran and invariably took control of any Kurdish rebels who were captured. Nonetheless, even civilians arrested by the army were turned over to the Istikhbarat rather than to the Amn. The Amn, however, operated largely in the towns in order to hunt down civilian members of the Kurdish parties and sometimes accompanied army units during attacks on villages because of its special expertise. Those arrested or captured might end up in the hands of either the Istikhbarat or the Amn.³⁰

The activities of the local offices of the Baath Socialist Arab Party, which has ruled in Iraq since 1968, also figure prominently in the files. The Baath Party holds absolute power in the country through its secretary-general, Saddam Hussein. The party's mass membership dominates Iraq's public institutions, the armed forces, places of work, educational institutions, and local communities. Advancement in Iraqi society is almost wholly dependent on party membership. The Baath Party asserts its ideological control on the country primarily through its regional bureaus. In the Kurdish region, the Baath Party operated the "all-powerful" Office of the Organization of the North, otherwise known as the Northern Bureau based in Kirkuk. During the mid to late 1980s, the Northern Bureau was responsible for formulating and directing the regime's policy towards the Kurds, including the campaign to eliminate once and for all the Kurdish insurgency. Between 1987 and 1989, the Northern Bureau directed the mass murder of tens of thousands of Kurdish civilians under its secretary-general, Ali-Hassan al-Majid.³¹

The Iraqi documents also include files from numerous other agencies, such as the following: the Presidential Cabinet of the Republic or the Office of the President; the Northern Affairs Committee of the Revolutionary Command Council (RCC) in Baghdad, which also directs policy in Kurdish areas; the Command of the Office of the Organization of the North, which is based in Kirkuk and coordinates operations between the RCC's Northern Affairs Committee and the Northern Bureau; the Central Intelligence Apparatus in Baghdad, Iraq's foreign intelligence agency which had offices in the town of Tikrit, Suleimaniyeh, and other Kurdish towns; the National Defense Contingents,

30 Ibid., p. 4; telephone conversation with Hilterman, April 1987; and discussions with Director of Documents Division, Defense Intelligence Agency, May 1987.

31 According to HRW/Middle East, before Ali-Hassan al-Majid became secretary-general of the Northern Bureau, he was head of the Amn from 1985 to 1987. In the early 1980s, al-Majid served as the director of the office of the Regional Command of the Baath Party. In this capacity, he was the third ranking Baath official after Saddam Hussein, the secretary-general, and the Izzat al-Durri, his deputy. After completing his assignment in Kurdistan, al-Majid became Minister of the Interior and then Governor of Kuwait during the brief military occupation in 1990-91. He has served as Minister of Defense since 1991. HRW/ME, *Bureaucracy of Repression*, p. 5.

which act as pro-government Kurdish militias; and the National Defense Corps Command, which governed the pro-government Kurdish militias and which had five regional headquarters in the north. Other files on the armed forces include documents on the Popular Army, largely a volunteer militia created to support the army by manning guard posts at government facilities; the commands of regular army divisions including the First Corps in Kirkuk and the Fifth Corps in Erbil; and the Command of Oil Protection Forces, a special division to protect the town of Kirkuk and surrounding oil fields. Documents on the Security Committee evince the operation of powerful regional committees that constituted representatives of the local government, armed forces, and security agencies in a single forum to co-ordinate security policy. The regional committees were based in the various governorates and district capitals and served as the Iraqi regime's executive agencies in the Kurdish areas during the 1980s. They were abolished after the Anfal, but then reconstituted during the Kuwaiti crisis. In addition, the documents cover the Committee to Fight Hostile Activity, which operates similarly to the Security Committees but on a local level; state-controlled "popular organizations," such as the Youth Union, Student Union, and Womens Union; local government offices, including the local Department of Health; and Kurdish parties established by the regime as a propaganda measure to give the impression of Kurdish opposition to the guerrilla organizations. These front organizations include the Kurdistan Revolutionary Party and the Kurdish Democratic Party, not to be confused with the KDP under the rebel leader Masoud Barzani. The files also pertain to the activities of local Iraqi police headquarters, which appear not to have had anything to do with the Anfal either in the towns or cities or in the countryside.³²

Many of these files are of special interest as they contain correspondence and memoranda concerning major decisions sent down the bureaucratic hierarchy by Iraq's senior officials. For example, there are official decrees that were issued by the Revolutionary Command Council, Iraq's highest legislative authority, under the signature of Saddam Hussein. In addition, the documents contain copies of memoranda from the Special Security Apparatus, an internal intelligence organization headquartered in Baghdad and run by Saddam Hussein's son, Qussay. The purpose of the Special Security Apparatus is to spy on the other intelligence agencies by planting agents in their midst. Major decisions or decrees are also found in the files of the National Security Council headquartered in Baghdad, which acts as an advisory group of security experts chaired by Saddam Hussein.³³ In general, the documents include memoranda, correspondence, arrest warrants, background information on suspects, activity and investigative reports, official decrees, membership rosters, lists of political prisoners who were executed or died under torture, lists of informants, salary

32 Published investigative field report, HRW/Middle East, *Bureaucracy of Repression*, pp. 5–6.

33 Ibid., p. 7.

tables of informants and secret police officials, census forms, logbooks, minutes of meetings, military and land mine maps, and other materials.³⁴ The documents also include a small cache of audio-cassettes, reel-to-reel film, and photographs of what appear to be victims of the Anfal. Most of the documents are handwritten, but files from senior authorities appear primarily typed. The physical condition of the documents also varies, reflecting the conditions under which they were seized. The surviving documents from Suleimaniyeh, for example, bear burn marks stemming from firefights during the uprising between the civilian population and the heavily armed Amn, leaving many individuals dead or wounded and the secret police headquarters building severely damaged by fire. Other documents seized from Suleimaniyeh consist of torn sheets of paper and documents that are crumpled, rolled up, sometimes stuck together with streaks of ink across pages resulting from exposure to water or moisture. Still other documents are contained in ring binders, bound ledgers, logs, or file folders tied together with shoe string with related correspondence attached to one another by pins and, sometimes, staples. Nonetheless, captured documents from the town of Shaqlawa are in excellent condition, revealing the discipline in which guerilla forces took over government buildings and seized, removed, and protected the files.³⁵

The documents reflect the daily operations of a modern police state beset by paranoia at nearly every rank of the hierarchy. Nonetheless, the language of the documents is arid and formal, often reflecting the routine tasks of career civil servants adhering closely to established procedures. As compulsive bureaucrats, the Iraqis kept track of every communication and referenced their documents to one another in meticulous detail, reflecting the interactions of the regime's vast bureaucratic web. For example, official decrees issued from

34 See translated documents in HRW/Middle East archives. One such list, for example, dated 14 June 1989 and marked "Confidential," contains the names of forty-four prisoners, most of whom were executed in 1985. Another such list dated 29 August 1989 and signed by the Security Director of the Sulaymaniyah Governorate, names eighty-seven persons and the dates of their execution. See translated Iraqi documents in HRW/Middle East archives, Directorate of Security of the Sulaymaniyah Governorate to the General Directorate of Security, 14 June 1989; and Director of Erbil Province Security Forces to Erbil Republican Hospital, 24 August 1989. In addition, an Egyptian journalist who visited the Iraqi collection at the University of Colorado in 1998 noted that salary tables contained in the files showed that Iraqi authorities paid Kurdish informants considerably more than lower level secret police officials. See also published investigative field report, HRW/Middle East and PHR, *Unquiet Graves*, p. 12.

35 The documents are contained in about 3,500 boxes and are in Arabic, mostly handwritten, and in varying states of physical condition. In June 1998, these differing types of files were identified in a two-day survey conducted with a visiting Egyptian journalist and her husband, an Arab linguist. This brief survey merely corroborated the extensive work already performed by HRW/Middle East researchers and DIA documents specialists who worked together in an unusual arrangement in identifying and classifying the documents between 1991 and 1996. All together, about two per cent of the files have been translated.

the Iraqi leadership are often passed down the chain to the lowest Amn officers in the various secret police offices throughout the country.³⁶ As HRW/ME notes, reports are then “generated on the actions that were taken in accordance with the directives, and these reports are sent back up the hierarchy, triggering new memoranda, new instructions, new reports. All decrees are numbered, and so is every piece of written communication. Most memoranda make reference to preceding correspondence and orders issued in years past.”³⁷ The fact that no single document stands alone, that it can be referenced back to preceding documents or official decrees, and that every reported action can be related to an earlier directive reveals a deliberate strategy on the part of civil servants or other agents of the state who must carry out such orders to absolve themselves of “any and all personal responsibility for any possible violations of the rights of others committed in the name of the Party, the Revolution, or the Republic.”³⁸

That these agents, who must carry out actions in accordance with the directives of the Iraqi leadership, attempt to revert accountability for their actions back up the chain of command or onto the central government authority is understandable when seen in context. In spite of attempts on his life and the outbreak of repeated and widespread revolts, Saddam Hussein has demonstrated an uncanny ability to remain in power through the ruthless use of his security forces and the periodic purging of members of his inner circle, the

36 Telephone conversation with Hilterman, April 1997; and discussions with Director of Documents Division, DIA, May 1997.

37 See published investigative field report, HRW/Middle East and PHR, *Unquiet Graves*, pp. 9–10.

38 This point is amply demonstrated in a handwritten memorandum from the Secretary of the Sersank Division Command to the Socialist Arab Baath Party, Dohuk Branch Command concerning the Iraqi regime’s Arabization programme. The memorandum reads: “Concerning the letter of the Sersank Section Command, ref. 1/1679 of 14/6/1987, letter of the Dohuk Branch Command, ref. 1/4776 of 9/6/1987, in reference to the letter of al-Ta’imim Governorate/the Office of Citizen Affairs/ Personal and Confidential/ref. 1347 of 24/5/1987, based on the letter of al-Ta’imim Branch Command, personal and confidential, ref. 55/6312 of 3/6/1987, and according to the directives of the Comrade, member of the Regional Command of the Party, the director of the Northern Bureau Command, of 11 April 1987: It has been decided to include the Arab citizens residing in the governorates in the transfer of their registration records to al-Ta’imim Governorate, and to include them in the agreed benefits (land, the agreed money grants). Please be informed. With our regards. Keep up the Struggle. Signed by Mut’eb Assaf al-Sa’doun, Secretary of Sersank Division Command.” This document illustrates the careful referencing of all previous orders for the purpose of evading responsibility and reverting accountability back up the chain of command. The Arabization campaign involved offering inducements to Arabs to move to and settle Kurdish areas in northern Iraq after the original Kurdish inhabitants had been forcibly removed. See translated Iraqi memorandum in HRW/Middle East archives, Secretary of Sersank Division Command Mut’eb Assaf al-Sa’doun to the Socialist Arab Baath Party, Dohuk Branch Command, 16 June 1987. See also published investigative field report, HRW/ME, *Bureaucracy of Repression*, p. 9.

military, and other bureaucratic agencies. In the face of such pathology, it is understandable that an acute sense of paranoia permeates Iraq's bureaucratic network.

What the Iraqi State Documents Reveal

Upon the transfer of the documents to the National Archives in Washington, a team of analysts from HRW/ME and the Defense Intelligence Agency (DIA) immediately began organizing, classifying, and studying the files. This collaboration between Human Rights Watch and the U.S. Defense Department represented an unusual arrangement since the two are often at odds with each other over American foreign policy.³⁹ DIA computer specialists also scanned the approximately 5.5 million pages of documents onto 176 CD-ROMs, which are now being put on the Web by the Iraqi Foundation in Washington with support from the U.S. State Department.

There is no accounting to what extent the original order of the documents was maintained given the chaotic conditions under which the files were captured, hurriedly carried off to remote mountain hideouts, and then transported to the United States. Nevertheless, this has little bearing on the significance of the documents as evidence of war crimes and crimes against humanity. It is clear from HRW/ME's analysis that the files contain much incriminating evidence about the enormous human rights abuses and operations of the Iraqi government and its armed forces and secret police. An examination of the screening sheets to the scanned files or database, for example, evinces a revealing portrait of the inner machinations of the Iraqi police state and the scale of their crimes.⁴⁰

HRW/ME and DIA analysts organized and classified the documents under specific subject headings that together say much about Iraq's topography of repression. Under the category "Top Leadership," for example, there are files directly concerning President Saddam Hussein, the Security Committee, the Northern Bureau, the Revolutionary Command Council, the Baath Party, and the activities of Ali-Hassan al-Majid, a cousin of President Saddam Hussein and secretary-general of the Northern Bureau of Iraq's Baath Arab Socialist Party. Ali-Hassan al-Majid deserves special comment. As the supreme commander and architect of the Anfal genocide between 29 March 1987 and 23 April 1989, al-Majid exercised near absolute power in Northern Iraq with authority over all secret intelligence, military operations, and agency functions

39 Discussions with Hilterman, HRW/Middle East, April 1997; U.S. Senate Foreign Relations Committee staffers, April 1997, and Director of Documents Division, Defense Intelligence Agency, May 1997.

40 DIA screening sheet to Iraqi database of the Iraqi state files, DIA fax to Bruce Montgomery, 13 May 1997.

of the state. Under his command, the Iraqi regular army's First and Fifth Corps, the General Security Directorate, and military intelligence were deployed in coordinated fashion to carry out the Anfal.⁴¹ The National Defense Battalions, the pro-Kurdish militia, assisted in important auxiliary operations. The resources of the entire military, security, and civilian apparatus of the Iraqi state were mobilized, in al-Majid's words, "to solve the Kurdish problem and slaughter the saboteurs."⁴² Reference to these matters is found under several topical headings in the Iraqi database, including, for example, "Security and Intelligence," "Military," and "Anfal." Other subject headings indicate a long list of Iraqi outrages against the Kurdish minority population: "relocation and resettlement," "elimination of villages," "property confiscation," "interrogation," "chemical weapons use," "punishment of relatives," "deportation," "disappeared and missing," "imprisonment," "prohibited areas," "arabization," "Halabja March 1988," "torture," "liquidation," and "purification" – one of the many Iraqi euphemisms for the razing of villages and the extermination of people.⁴³

Like the Gestapo and the Stasi, the East German intelligence agency, Baath Party Bureaucrats often cloaked their actions in euphemisms. Such terms as "collective measures," a "return to the national ranks," and the "resettlement in the south," are routinely indicative of the Iraqi lexicon in referring to the Anfal. This may be apt since it was the Stasi that trained the Iraqi secret

41 The Iraqi files contain the Revolutionary Command Council Decree 160 of 29 March 1987 signed by President Saddam Hussein. The translated version of the document is in the HRW/Middle East archives. The decree contains the order issued by President Saddam Hussein to the Revolutionary Command Council authorizing Ali-Hassan al-Majid to assume total control over all affairs in northern Iraq. In the document, Saddam Hussein describes the extent of al-Majid's authority over all security, military, and civil agencies and operations. In part, the document reads: "The Revolutionary Command Council decided in its meeting on 29/3/1987 the following: First, The Comrade Ali-Hassan al-Majid, member of the Regional Command of the Baath party will represent the Regional Command of the Party and the Revolutionary Command Council in implementing their policies in all of the northern region, including the Autonomous Region of Kurdistan, in order to protect security and order and guarantee stability and the implementation of the Autonomy Law in the region. Second, the Comrade, member of the Regional Command, will have authority over all the state's civil, military, and security apparatuses to carry out this decree, in particular the authorities of the National Security Council and the Northern Affairs Committee. Third: The following authorities in the northern regional fall under the Comrade's authority and must implement all the decisions and directives issued by him...." Immediately after al-Mahjid's appointment, chemical attacks against Kurdish civilians began and the campaign of village destruction was accelerated. See translated Iraqi document in HRW/Middle East archives, President of the Revolutionary Command Council Saddam Hussein to the Revolutionary Command Council, 29 March 1987. Also see published investigative field report, HRW/ME, *Bureaucracy of Repression*, p. 64.

42 HRW/Middle East, *Iraq's Crime of Genocide*, p. 1. "Saboteurs" is the term typically used by the Iraqi regime to describe Kurdish rebels and their supporters.

43 DIA screening sheet to Iraqi database of the Iraqi state files, DIA fax to Bruce Montgomery, 13 May 1997.

police. At the same time, military and intelligence officials often employed more transparent euphemisms, writing in numbing bureaucratic language about “liquidations,” “expulsions,” and “transfers” of the Kurdish victims who were commonly referred to as “traitors,” “saboteurs,” “criminals,” or “human cargo.” The Iraqi regime devised its own lexicon or discourse to criminalize and dehumanize their Kurdish opponents in order to justify and even glorify the extreme measures of the Anfal. Kurdish guerillas were routinely referred to as “saboteurs,” a term that was later also applied to civilians who refused to move out of the “prohibited areas.” The documents refer to the Patriotic Union of Kurdistan as “agents of Iran” or “Iranian Zionists” because of their alliance with Iranian forces during the Iran-Iraq War, and the Kurdistan Democratic Party are typically called “the offspring of treason.”⁴⁴ Civilians who voluntarily left their homes for government controlled areas are termed “returnees to the national ranks,” even though these people were immediately turned over to the Security Directorate and put to death. In addition, the phrase “necessary measures” often appears in the documents, most often referring to the execution of captives.

As one handwritten order marked “Top Secret” from the Sub-directorate of Military Intelligence to the Directorate of Security of al-Ta’imim states: “We are sending to you the families – their numbers are given below – who surrendered to our forces in the area of Sofi Raza on April 15, 1988. Please take the necessary measures against them according to directives of the Northern Bureau and acknowledge their arrival.”⁴⁵ The remainder of the document lists 139 families or 307 individuals, virtually all civilians. The term “necessary measures,” means that they were put to death. The documents contain hundreds of such lists, constituting in essence the individual receipts of murder.

44 For example, a highly important document contained in the Iraqi files and translated and analysed by HRW/Middle East provides an interesting illustration in the use of these euphemisms. In paragraph one of a memorandum from Ali-Hassan al-Majid, secretary general of the Northern Bureau, to the commands of his armed forces, al-Majid orders that “all villages in which the saboteurs – the agents of Iran [i.e., the PUK], the offspring of treason [i.e., the KDP], and similar traitors to Iraq – are still to be found shall be regarded as prohibited for security reasons.” Further, the document reads: “The presence of human beings and animals is completely prohibited in these areas, and shall be regarded as operational zones in which the troops can open fire at will, without any restriction, unless otherwise instructed by our headquarters.” See translated document in HRW/Middle East archives, Ali-Hassan al-Majid, Secretary-General of the Northern Bureau to First, Second, and Fifth Corps Commands, 20 June 1987. Also, in 1998 an Egyptian journalist who visited the Iraqi collection at the University of Colorado at Boulder found several documents referring to “Iranian Zionists,” which was later verified to mean members of the PUK.

45 Translated Iraqi document in HRW/Middle East archives, Brigadier-General Bareq of Special Forces Abdullah al-Haj Hunta to Directorate of Security of al-Ta-mim, 14 April 1988. The translated version of this document may also be found in the appendix of *Bureaucracy of Repression*, Document 23, p. 100. Several other lists also exist in the Iraqi files. These lists

Another written order from the Baath Party People's Command in Zakho, dated 14 June 1987, says: "The entry of any kind of human cargo, nutritional supplies, or mechanical instruments into the security prohibited villages under the second stage [of the operation] is strictly prohibited... It is the duty of the members of the military forces to kill any human beings or animals found in these areas." Another handwritten field report reads: "Pursuant to our telegram No. 1613, the groups belonging to Troop No. 45 are making progress in purifying their targets. A new group arrived today at 12:00 hours at the village of Zitah. It has been demolished and razed to the ground. So have the following other villages: Tirli, Delirabir, Bedran, Zarara, Sitri, Zarkan, Shanbadar. The groups are continuing their advance to their other targets." Still another reads: "From the Presidency, Directorate General of Security, Sulaymaniyah Security Directorate/Investigations. To Asst. Dir. Operations for Autonomous Region, Esq. Greetings, Referring to the telephone conversation, we list hereunder five categories of 'enemies' of Iraq, including 6 families numbering (18) persons, relatives of the criminal mentioned in the 'First' [category] above, executed by this directorate, according to directions from the esteemed North Organization Bureau (2,532) persons and (1,869) families numbering (6,030) persons, were sent to the Popular Army Camp in Ta'amim Governorate. They were arrested during the heroic 'Al Anfal' Operation."⁴⁶

Behind the euphemisms, however, the Iraqi's committed a litany of crimes with impunity that constituted genocide and crimes against humanity. The Anfal campaign between 1987 and 1989 entailed the mass executions and the mass disappearance of tens of thousands of civilians, including many women and children, and sometimes the whole population of villages. They widely used chemical weapons, specifically mustard gas and Sarin, against numerous Kurdish villages, killing thousands of people. The documents also describe the wholesale destruction of two thousand villages, which were burned, demolished, and purified, in addition to larger towns, and the destruction of mosques, schools, wells, electricity substations, and other civilian targets by army engineers. They mention the mass looting of civilian property by army troops and pro-government militia. The documents also describe the arbitrary arrest of all villagers seized in designated "prohibited areas," although these were their own homes; the arbitrary imprisonment of tens of thousands of peo-

have proved to be highly significant as HRW/Middle East was able to match the names contained in the lists with the names of people who, according to interviews conducted by HRW/Middle East researchers during investigative field research in the Kurdish areas, never returned home after their arrest by the Iraqi armed forces. Matching the names of missing individuals contained in the lists with the names collected systematically by human rights researchers in Iraqi Kurdistan has proved to be important in corroborating those who disappeared at the hands of the government.

⁴⁶ Judith Miller, "Iraq Accused," *The New York Times Magazine* (3 January 1993), Section 6, p. 13.

ple, many of them women, children, and the elderly, under extreme conditions of deprivation; and the forced displacement of hundreds of thousands of Kurdish villagers after the demolition of their homes and the destruction of their villages with no provisions for relief, housing, clothing, or food.⁴⁷ Not only were these policies aimed at destroying a significant segment of the Kurdish people, but also a vast part of their economy and infrastructure.

After being granted emergency powers in March 1987, al-Majid quickly transformed the intermittent counter-insurgency campaign against the Kurds into a wholesale operation of destruction. Within three months of assuming command of the Baath Party's Northern Bureau, al-Majid implemented a process of defining the Kurds to be targeted and enormously increased the scale of repression against all rural Kurds. He unleashed his intelligence and security forces by ordering the executions of the immediate relatives of "saboteurs" (Kurdish guerrillas) and wounded civilians whose opposition to the regime had been determined by the secret police. In addition, he ordered the forfeiture of Kurdish property rights and the suspension of legal rights of all residents in prohibited villages. These decrees cleared the way for the unmitigated attack on the Kurds. In June 1987, al-Majid issued two further standing orders to his security forces that were to govern their operations throughout the Anfal. These orders were predicated on the following principle: that in the forbidden rural areas, all Kurdish residents or civilians were to be seen and treated accordingly as insurgents. As the documents evince, al-Majid's first order forbade all human existence in the prohibited areas, which was to be enforced through an immediate shoot-to-kill policy. The second order, under SF/4008 and dated 20 June 1987, significantly altered these orders to constitute a "bald incitement to mass murder." The SF/4008 directive ordered army commanders to "carry out random 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 ... prohibited zones." In the same directive, al-Majid decreed that "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."⁴⁸ As the overlord of the Anfal, al-Majid had little reason to hide behind euphemisms.

Even while instituting this bureaucratic scheme, al-Majid wasted little time

47 HRW/Middle East, *Iraq's Crime of Genocide*, pp. 1–2. There are many documents in the Iraqi files, some of which have been translated by HRW/Middle East, pertaining to village destruction and the forced expulsion of Kurdish inhabitants. These documents describe a scorched earth policy towards Kurdish inhabited areas. See translated Iraqi documents in HRW/Middle East archives.

48 Translated Iraqi document in HRW/Middle East archives, Ali Hassan al-Majid, secretary general of the Northern Bureau to First, Second, and Fifth Corps Commands, 20 June 1987. The original handwritten document contained in the Iraqi files and translated by HRW/Middle East

in attacking the Kurdish civilian population. His first action, however, was to launch chemical attacks on the KDP headquarters at Zewa Shkan near the Turkish border in the Dohuk governorate and on the PUK headquarters in the villages of Sergalou and Bergalou, in the governorate of Suleimaniyeh. Iraqi forces quickly followed this attack by dropping chemicals on the civilian villages of Shikh Wasan and Balisan, killing more than a hundred people, mostly women and children. These attacks marked the beginning of approximately forty chemical attacks on Kurdish civilian villages and towns over the next eighteen months, culminating in the attack on Halabja.

Indeed, one of the most significant findings in the documents is indisputable evidence of Iraq's repeated use of chemical weapons against the Kurds. HRW/ME discovered documents reporting on specific air and artillery attacks on the Kurds in 1987 and 1988, which "precisely" match the testimonies and forensic evidence gathered by HRW/ME and the Physicians for Human Rights in 1992.⁴⁹ Most important among these documents is unequivocal evidence of the 16 March 1988 chemical attack on Halabja, in which approxi-

East constitutes one of the smoking guns concerning the Iraqi regime's disposition towards the Kurds. The document sets the context of the Anfal campaign in 1988 by ordering the conversion of the "prohibited areas" into free fire zones, by ordering the arrest, interrogation and summary execution of all those aged fifteen to seventy who are found in the "prohibited areas," and by giving permission to the pro-government Kurdish militias to loot personal property. This pivotal document, however, is predated by another smoking gun decree by al-Majid on 3 June 1987 ordering that the "armed forces must kill any human being or animal present within these [prohibited] areas." This specific document represents the first explicit reference to the Iraqi regime's blanket shoot-on-sight policy. See translated Iraqi document in HRW/Middle East archives, Ali-Hassan al-Majid, secretary general of the Northern Bureau Command to the Commands of First, Second, and Fifth Corps and Directorates of Security of the Autonomous Region, Security of Erbil Governorate, Foreign Intelligence, and Military Intelligence, 3 June 1987. Also see published investigative field report, HRW/Middle East, *Bureaucracy of Repression*, pp. 68–73.

49 In December 1991, shortly after the Gulf War, HRW/Middle East and the Physicians for Human Rights led a forensic team consisting of forensic anthropologists and archeologists to Iraqi Kurdistan to investigate graves believed to contain the remains of victims of extra-legal killings. This medico-legal investigation produced the first in a series of definitive forensic evidence of mass atrocities carried out by the Iraqi regime against the Kurdish minority population. The findings of this investigation were made public in a 1992 joint investigative report by HRW/Middle East and the Physicians for Human Rights, *Unquiet Graves: The Search for the Disappeared in Iraqi Kurdistan*. Among the findings of this report, which is substantiated by transcripts of testimony and interviews in the files of HRW/Middle East and the Physicians for Human Rights, was that the poison gas attacks of March 1988 were by no means the first against the Kurds. According to interviews with Kurdish sources, chemical assaults on Kurdish villages took place in April, May, June, and September of 1987. These attacks, however, received little attention because few victims lived to bear witness. It was only when pictorial evidence became available, portraying the horror of the poison gas attacks on helpless civilians in the Kurdish town Halabja of 16 and 17 March 1988 that the world took notice. A copy of a video tape of this attack is included in the archives of Amnesty International USA at the University of Colorado at Boulder. Also see A. Hay and G. Roberts, "The Use of Poison Gas Against the Iraqi Kurds: Analysis of Bomb Fragments, Soil and Wool Samples," *Journal of the American Medical Association* 262 (1990), pp. 1065–66.

mately 5,000 Kurdish civilians died. The Iraqi state documents refer to the occupation of Halabja by Iranian troops and PUK rebel forces, in addition to the subsequent “Iraqi chemical attack on Halabja.” An Istikhbarat document explicitly states that, as a “result of the bombing by our planes and our artillery on the area of Halabja and Khurmal, approximately 2,000 enemy forces of the Persians and agents of Iran were killed.”⁵⁰ The term “agents of Iran” is a euphemism for the PUK guerillas who captured the town of Halabja with the support of regular Iranian forces several days prior to the chemical attack. This document typifies other Iraqi documents pertaining to the campaign against the Kurds in the 1980s as it “conflates the civilian population of Halabja with Iranian troops and rebel forces.”⁵¹ In addition, this same document references another chemical attack in the Qaradagh area, resulting in the deaths of some fifty guerillas. The documents contain numerous references to chemical attacks, but for reasons that remain unclear, most allusions were not explicit. Iraqi bureaucrats often only obliquely or indirectly alluded to these attacks through such euphemisms as Iraqi “special attacks” or attacks with “special ammunition.” HRW/ME was able to establish two methods by which to determine that the meaning of these terms did in fact refer to the use of chemical weapons. First, they successfully matched the documentary trail of specific references to testimonial evidence of particular chemical attacks. Such matches were numerous and unambiguous. Second, at times the documents themselves directly link the phrases with chemical attacks by stating, for example, that the Kurds acquired medical supplies or gas masks to protect themselves against “special attacks.”⁵² What is clear is that the Iraqi regime became the first nation in “history to attack its own civilian population with

50 Translated Iraqi document in HRW/Middle East archives, Captain Kifah Ali Hassan, Director of the Intelligence Centre of Kalar to the Subdirector of Military Intelligence, Eastern Sector, 27 June 1988.

51 Published investigative field report, HRW/Middle East, *Bureaucracy of Repression*, p. 11. Also See translated Iraqi letter from Military Intelligence Directorate in Suleimaniyeh, 27 March 1988, HRW/Middle East archives.

52 For example, a handwritten document marked “confidential and personal” states: “After the special strikes against the villages where the headquarters and bases of the agents were, their organization distributed a quantity of medical supplies against chemical strikes (injections and pills) among the inhabitants of those villages as well as neighboring villages.” See translated Iraqi document, General Directorate of Military Intelligence to The Subdirector of Military Intelligence, Eastern Sector, 18 May 1988, in HRW/Middle East archives. Another document states: “A number of saboteurs were killed and about 30 people lost their eyesight as a result of the bombing, including the family of Kamal Haji Khidr Agha, the commander of the 12th [PUK] division.” According to HRW/ME, this document demonstrates that the military assault must have been a chemical attack since the victims lost their eyesight. After discovering this document, HRW/Middle East located and interviewed the named victim, Kamal Haji Khidr, in Kurdistan in March 1993. He confirmed that he and his family had been temporarily blinded by the chemical attack, and that a short while later, his eighteen-month-old nephew died of the effects of the chemical assault in a hospital in Europe. See translated Iraqi document, Director of General Security of Erbil Governorate to Security Directorate of Shaqlawa, 11 June 1987, in HRW/Middle East archives.

chemical weapons.”⁵³

There are also significant quantities of documents on the destruction of Kurdish villages and towns. This operation began with the border clearances of 1977–78, was expanded to all Kurdish areas under government control in 1987 at the beginning of the Anfal, and reached its height in 1988 with the razing of most of the remaining villages. During the Anfal, village populations were forcibly removed and transported to remote locations to be “disappeared,” the preferred method during the height of the Anfal. Shortly after the April 1987 chemical attacks, al-Mahid greatly intensified the campaign of village destruction, culminating with particularly dire consequences in the national census of 17 October 1987. Under this administrative policy, Baath authorities offered civilians in prohibited areas an ultimatum: either “return to the national ranks,” – abandon their homes and accept forced relocation to squalid camps under the guard of Iraqi security forces – or lose Iraqi citizenship and be considered military deserters, which was tantamount to a death sentence. Al-Majid later ordered the preparation of dossiers on “saboteurs” (guerilla fighters) and their families who still resided in the government-controlled areas. Once completed, Iraqi forces forcibly transferred thousands of women, children, and the elderly from these areas to the desert to be “disappeared” and buried in mass graves. Such culling of the population, deciding who should live or die, represented a routine feature of the Anfal. The documents reveal the machinations of these policies in considerable detail: the orders issued by the Baath Party leadership to its various military and security forces, how the orders were implemented, the difficulties confronted in carrying out the orders, who participated in the campaign, and the casualties among the Kurdish civilian population and guerilla fighters. The documents also contain pleadings from village leaders to spare their villages, citing, for example, their history of collaboration with the Iraqi authorities, in addition to orders from senior Iraqi officials to the army to make exceptions for villages belonging to specific tribes that had shown their loyalty over the years to the Iraqi regime.⁵⁴ Nonetheless, al-Majid’s racial animus against the Kurds was such that these pleadings often went unheeded.

The Anfal’s modus operandi followed approximately the same pattern: attacks typically begin with chemical weapons or conventional shelling and bombing, accompanied by a military blitz on PUK and KDP guerilla strongholds. After the initial assault, ground troops surrounded the village or town,

53 HRW/Middle East, *Iraq’s Crime of Genocide*, pp. 5–6. Also see Peter Galbraith and Christopher Van Hollen, Jr., *Chemical Weapons Use in Kurdistan: Iraq’s Final Offensive – A Staff Report to the Committee on Foreign Relations, U.S. Senate* (Washington, D.C., October 1988); Physicians for Human Rights, *Winds of Death: Iraq’s Use of Poison Gas Against its Kurdish Population* (Somerville, February 1989); and HRW/Middle East, *Human Rights in Iraq* (New Haven, 1990), pp. 69–96.

54 Published investigative field report, HRW/Middle East, *Bureaucracy of Repression*, p. 12.

killing all Kurdish inhabitants in their path, destroying residential dwellings and other buildings, poisoning wells, looting household possessions and farm animals, and sowing the surrounding fields with land mines. As the destruction proceeded, regular army troops stood ready in the outskirts of the village to capture fleeing inhabitants, who were then typically transported to special holding facilities and transit camps from which many were “disappeared” and buried in mass graves in the desert. At the same time, as this process proceeded, the secret police hunted down Anfal escapees in the cities and towns. This pattern was repeated numerous times throughout the Anfal. A letter written on presidential stationery with the official presidential seal and marked “secret and confidential,” for example, describes the “capture” of 2,532 people and 1,869 families during an “heroic Anfal operation” and transported to a “camp.”⁵⁵ The camp’s location is not disclosed, but the fate of such captives is indicated on an audio tape of a meeting of senior Baath Party, military, and secret police officials in Kirkuk on 26 January 1989. The audio tape records al-Majid talking explicitly about the disposal of Kurds who wind up in the special holding facilities: “Taking care of them 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? So I began to distribute them across the provinces. And from there I had bulldozers going backward and forward.”⁵⁶

Indeed, the documents “reveal a certain pride in the murderous campaign” against the rebellious Kurds.⁵⁷ One document refers to the creation of an Anfal Section within Saddam Hussein’s ruling Baath Party in order to honour the noble successes of the Anfal. Another refers to the “Prohibited Villages Committee of Central Security,” revealing the significance that Baghdad placed on the purification campaign by establishing a full central committee to oversee its implementation. One of many incriminating documents comprises a complete list of all the “prohibited” villages in the Erbil Governorate that were targeted for obliteration. In other cases, analysis of the documents enabled human rights researchers to settle unresolved questions arising from interviews in the field with survivors and victims, or relatives of the disappeared. In one example, a researcher from HRW/Middle East interviewed a Kurd who stated that more than 100 people from his hamlet of Bileh had “disappeared.” None of the Kurds interviewed knew what had happened to the missing. Examination of the documents, however, uncovered a field report from the secret police in the district of Sadiq, dated 3 June 1988, stating that on “the 2nd and 3rd, 30 families from the village of Bileh Juru (upper Bileh) were received by the military command of QR45. They were counted and sur-

55 Kanan Makiya, “The Anfal: Uncovering an Iraqi Campaign to Exterminate the Kurds,” *Harpers Magazine* 284, no. 1704 (May 1992), p. 58.

56 *Ibid.*, p. 57. This document is also found in the Iraqi secret police files.

57 See Miller, “Iraq Accused,” p. 28.

veyed by us. We will presently send you lists of their names, addresses, and birth dates.” Although the document does not say what transpired, human rights researchers have proof that the missing were in the hands of government authorities before they disappeared.⁵⁸

The execution of the Anfal involved the coordination of several institutions – the Amn, the Istikhbarat, the Popular Army, and the vast Baath Party apparatus, which controls the government’s civil service agencies, educational and scientific institutions, the mass media, and other functional agencies of the state. The Iraqis constructed an infrastructure of prison camps and death convoys geographically removed from combat areas, outside the Kurdistan Autonomous Region. In most cases, the Kurds were slaughtered several days or weeks after being transported from their villages or towns, which had been destroyed. The task of murdering so many civilians while at the same time razing villages proved too difficult and inefficient; hence the need for transporting inhabitants in convoys to special holding facilities and prison camps where they were processed before being eliminated. At the holding facilities or special camps, all personal possessions were confiscated. The men were separated from the women and children, who each were provided a daily ration of one piece of bread. Soon after, they were loaded in trucks and driven to the desert where they were led blindfolded to trenches dug in the desert. Here, they were killed by firing squad and then buried with bulldozers.⁵⁹ Indeed, the camp system was somewhat evocative of the Nazi death camps. The Iraqis – like their Nazi predecessors – also used a range of execution methods, which were reminiscent of the *Einsatzkommandos* or mobile killing units deployed by the Germans throughout the occupied territories of Eastern Europe during World War II. Most of the evidence concerning how these killings took place derives from testimony of Kurdish survivors. While some prisoners were lined up and shot from the front and pushed into mass graves, others were shoved into the trenches first and then machine-gunned. Other victims were made to lie down in pairs next to fresh corpses before being murdered and still others were made to stand at the edge of ditches and were shot from the back so that they would fall forwards into the trenches. These trenches were then covered over with dirt by bulldozers. Some of these mass gravesites contained thousands of bodies. This testimony is corroborated by forensic evidence uncovered after the Gulf War and following the creation of the Kurdish safe haven by the Allies.⁶⁰

The Anfal genocide ostensibly ended with the general amnesty of 6 Sep-

58 Ibid., p. 31.

59 The precise details of how the Iraqi’s disposed of their Kurdish captives are derived primarily from testimony of survivors of such incidents. Transcripts of such testimony are contained in the archives of HRW/Middle East and the Physicians for Human Rights at the archives of the University of Colorado at Boulder.

60 See published field report, HRW/Middle East and Physicians for Human Rights, *Unquiet Graves*, for the findings of Kurdish testimony and forensic investigations.

tember 1988, but the racial animus, the razing of villages, and the disappearances of civilians continued unabated until after the 1991 Gulf War. For example, in a handwritten order, dated 22 November 1988, from the Director of Security of the Erbil Governorate to the Directors of Security Branches: "In accordance with the directives of senior authorities, it has been decided to apply Paragraph 5 of the message of Northern Bureau Command, ref. 4008 of 20/6/1987, to anyone present in the prohibited 'no man's land' areas and the areas banned for security reasons, without exception. Please be informed, take the necessary measures, and carry out [the order]. Let us know."⁶¹ As this document makes clear, the Iraqis may have ended the Anfal but in name only. Despite the general amnesty, Iraqi senior officials believed it important and necessary to remind the lower ranks of the secret police that the Northern Bureau directive SF/4008 of 20 June 1987 – which ordered the automatic death to any male between the ages of fifteen and seventy in the prohibited areas – remained in effect. Under the amnesty, the Iraqis transferred their Kurdish captives from prisons to desert camps, consisting of little more than barren earth surrounded by perimeter fences and guard towers. They were provided no means of support and the Amn hunted down anyone who attempted to provide them with help. Dozens of villages were burned or razed in late 1989, and Iraqi army engineers even destroyed the large Kurdish city of Qala Dizah, which had a population of some 70,000. The razing of Qala Dizah destroyed the last remaining major town close to the Iranian border.

The Iraqis continued their practice of killing, torture, and scorched earth policies that had always characterized the Baath Party's repression of the Kurds. Nonetheless, al-Majid had declared the Kurdish problem solved. In total, the Anfal was responsible for the slaughter of tens of thousands, the laying of waste to half of Iraq's productive farmland, and the destruction of thousands of villages. The number of Kurdish deaths is estimated to be well into the six figures. In April 1989, the Baath Party revoked the special powers that had been granted to Al-Hassan al-Majid, apparently believing that its aims had been achieved. Al-Majid, at a special ceremony to greet his successor, declared that the "exceptional situation is over" and soon moved on to other responsibilities, first as governor of occupied Kuwait and then, in 1993, as Iraq's minister of defense.⁶²

The documents themselves as well as much survivor and victim testimony currently resides with the University of Colorado's Human Rights Initiative, a global endeavour to document international human rights affairs. The Iraqi documents are considered the evidentiary centrepiece of current efforts to bring the Iraqi leadership to justice. These efforts may not succeed, but the

61 Translated Iraqi document in HRW/Middle East archives, Director of Security of the Erbil Governorate to the Directors of Security Branches, 22 November 1988.

62 HRW/Middle East, "Iraq's Crime of Genocide," p. 15.

documentary trail of Iraq's legacy of genocide is clear and unambiguous. The record of Iraq's crimes against humanity and genocide are now a matter of public record, and eventually will be permanently accessible to the international community. If nothing else, Iraq will now join Nazi Germany and Pol Pot's Cambodia in being convicted by its own words for crimes against humanity and genocide in the court history.

Up until the last days of the Clinton administration, the American government expressed hope for the establishment of an Iraqi war crimes court. In preparation for this eventuality, government officials began establishing dossiers of evidence that could be used by prosecutors in any country in which Iraqi leaders happened to travel. In the absence of an international tribunal, the War Crimes Division of the U.S. State Department began looking at various national courts around the world that might be able to exercise such jurisdiction. According to David Scheffer, then American ambassador-at-large for war crimes issues, Washington's contribution would be to examine and refine the evidence, starting with the Iraqi secret police files captured after the Persian Gulf War. According to government officials, the arrest in Britain in 1999 of former Chilean dictator Augusto Pinochet set a precedent for any country to arrest someone accused of an international crime who enters its jurisdiction.⁶³ With the election of George W. Bush as president of the United States, these efforts were put on hold. The new Bush administration, however, is taking a harder line against Saddam Hussein and it remains to be seen what role it will take in pressing this campaign forward.

Recently, the international campaign to bring the Iraqi leadership to justice has shifted to Belgium where judicial authorities are pursuing war crimes charges against Saddam Hussein and other senior Iraqi officials. The presiding judge has requested to see original documentary evidence in the Iraqi state files. Because of concern that any delay in examining the evidentiary materials might threaten the process of the investigation, discussions have taken place among the U.S. State Department's War Crimes Division, Human Rights Watch, Indict – a British-based private organization seeking the prosecution of Iraqi leaders – and Mohammed Sabir, the American representative of the Patriotic Union of Kurdistan, one of the parties that originally obtained the documents and arranged for their shipment to the United States. All of them agreed that getting the original documents to the judicial authorities was an urgent priority. As a result, arrangements were made to search for the requested evidence in order that the original documents could be sent to Belgium for examination. For legal purposes, it was best that as few people as possible participated in the search, packing, and transportation of the documents. This arrangement was made to prevent any later accusations of tamper-

63 Norman Kempster, "U.S. Accuses Iraq Regime of Atrocities Against Foes," *Los Angeles Times* (Thursday, 3 August 2000), Section A6.

ing with the chain of evidence. With the evidence now in the hands of judicial authorities in Belgium, it appears that “after more than thirteen years, there is a definite possibility that an international warrant could be issued for the arrest of the perpetrators of the crimes described in these documents.”⁶⁴ Should this possibility come to pass, it may not ensure that the Iraqi leadership will be brought to justice in the immediate or near term, but it will ensure that, should any of them venture out of Iraq for medical care or for any other purpose, they would be subject to arrest and prosecution for crimes against humanity and genocide. Whatever happens in this investigation, it is clear that the story surrounding the Iraqi state files is far from over.

⁶⁴ E-mail communications from Indict to Bruce P. Montgomery, 28 and 30 November 2001 and 2 December 2001.