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Israel Charged with War Crimes and Genocide. Complete Judgment of Kuala Lumpur Tribunal

By Kuala Lumpur War Crimes Tribunal

November 26, 2013

“The perpetrators had committed acts against the Palestinians, with intent to kill, cause serious bodily or mental harms and deliberately inflict conditions of life calculated to bring about the physical destruction of the Palestinians as a whole or in part.”

“The Tribunal recommends to the War Crimes Commission to give the widest international publicity to this conviction and grant of reparations, as these are universal crimes for which there is a responsibility upon nations to institute prosecutions.

The Tribunal deplores the failure of international institutions to punish the State of Israel for its crimes and its total lack of respect of International Law and the institutions of the United Nations.”

THE KUALA LUMPUR WAR CRIMES TRIBUNAL

20 – 25 NOVEMBER 2013

Case No. 3 – CHG – 2013

**The Kuala Lumpur War Crimes Commission
Against
Amos Yaron
Case No. 4 – CHG – 2013**

**The Kuala Lumpur War Crimes Commission
Against
The State of Israel**

The Kuala Lumpur War Crimes Tribunal (Tribunal) reconvened on 20 November 2013 to hear two charges against Amos Yaron (first Defendant) and the State of Israel (second Defendant). The first Defendant was charged with war crimes, crimes against humanity and genocide, whilst the second Defendant was charged with the crime of genocide and war crimes.

The charge against the first Defendant is as follows –

“The Defendant Amos Yaron perpetrated War Crimes, Crimes Against Humanity, and Genocide in his capacity as the Commanding Israeli General in military control of the Sabra and Shatila refugee camps in Israeli occupied Lebanon in September of 1982 when he knowingly facilitated and permitted the large-scale Massacre of the Residents of those two camps in violation of the Hague Regulations on Land Warfare of 1907; the Fourth Geneva Convention of 1949; the 1948 Genocide Convention; the Nuremberg Charter (1945), the Nuremberg Judgment (1946), and the Nuremberg Principles (1950); customary international law, jus cogens, the Laws of War, and International Humanitarian Law”

The charge against the second Defendant [State of Israel] is as follows –

“From 1948 and continuing to date the State of Israel (hereafter ‘the Defendant’) carried out against the Palestinian people a series of acts namely killing, causing serious bodily harm and deliberately inflicting conditions of life calculated to bring about physical destruction.

The conduct of the Defendant was carried out with the intention of destroying in whole or in part the Palestinian people. These acts were carried out as part of a manifest pattern of similar conduct against the Palestinian people.

These acts were carried out by the Defendant through the instrumentality of its representatives and agents including those listed in Appendices 1 and 2.

Such conduct constitutes the Crime of Genocide under international law including the Convention on the Prevention and Punishment of Genocide 1948 (‘the Genocide Convention’) in particular Article II and punishable under Article III of the said Convention.

It also constitutes the crime of genocide as stipulated in Article 10 of the Charter of the Kuala Lumpur Foundation to Criminalise War.

Such conduct by the Defendant as an occupying power also violates customary international law as embodied in the Hague Convention of 1907 Respecting the Laws and Customs of War on Land, and the Fourth Geneva Convention of 1949.

Such conduct also constitutes War Crimes and Crimes against Humanity under international law.”

The charges (together with the particulars of the charges) had been duly served on the Defendants, and were read in open court by the Registrar as these proceedings commenced.

Neither Defendant was present in these proceedings, but both were represented by the Amicus Curiae-Defence Team.

[Read Complete Judgment \(pdf\)](#)

The Kuala Lumpur War Crimes Commission (KLWCC) versus the State of Israel

The proceedings directed against the State of Israel were led by the Kuala Lumpur War Crimes Commission.

Members of the Kuala Lumpur War Crimes Commission (KLWCC) are:

Tun Dr. Mahathir Mohamad (Chairman), Prof. Michel Chossudovsky, Dr. Denis Halliday, Mr. Musa Ismail, Dr. Zulaiha Ismail, Dr. Yaacob Merican, Dr. Hans von Sponeck.

Working in liaison with their Malaysian counterparts, commissioners Dr. Denis Halliday, former Assistant Secretary General of the United Nations and Prof. Michel Chossudovsky, Director of the Centre for Research on Globalization were present in Kuala Lumpur throughout the proceedings.

This important judicial process has received very little coverage in the Western media. Global Research will be publishing several reports following this historic judgment against the State of Israel.

Selected Excerpts

2 Prosecution’s Case

The Prosecution’s case against the first Defendant is that the first Defendant had committed War Crimes, Crimes Against Humanity, and Genocide in his capacity as the Commanding Israeli General in military control of the Sabra and Shatila refugee camps in Israeli-occupied Lebanon in September of 1982 when he knowingly facilitated and permitted the large-scale Massacre of the Residents of those two camps. These crimes were in violation of, inter alia, the Fourth Geneva Convention of 1949, the 1948 Genocide Convention, jus cogens, International Humanitarian Law; and Articles 9, 10, and 11 of the Charter of the Kuala Lumpur Foundation to Criminalise War.

The Prosecution's case against the second Defendant is that from 1948 and continuing to date the State of Israel had systematically carried out against the Palestinian people a series of acts namely killing, causing serious bodily harm and deliberately inflicting conditions of life calculated to bring about physical destruction – with the intention of destroying in whole or in part the Palestinian people.

These acts constitute the Crime of Genocide under international law including the Convention on the Prevention and Punishment of Genocide 1948 ('the Genocide Convention') in particular Article II and punishable under Article III of the said Convention. It also constitutes the crime of genocide as stipulated in Article 10 of the Charter of the Kuala Lumpur Foundation to Criminalise War.

In his opening statement, the Chief Prosecutor Prof Gurdial Singh said that the Prosecution will adduce evidence to prove the counts in the indictment through oral and written testimonies of victims, witnesses, historical records, narrative in books and authoritative commentaries, resolutions of the United Nations and reports of international bodies.

6. The Defence case

Mr. Jason Kay Kit Leon of the Amicus Curiae-Defence Team submitted that in the charges against the two Defendants, the Prosecution had listed war crimes, crimes against humanity and crimes against peace. Apparently the Prosecution had abandoned these charges, concentrating only on genocide.

He said that the offence of genocide is defined in Article 2 of the Genocide Convention 1948, whilst the OED defines it simply as "the deliberate killing of a large group of people, especially those of a particular nation or ethnic group".

He submitted that the charge of genocide is unique; it means that you don't like a group, you kill them; you kill them in a grand manner. Genocide means that at the end of the act, you have a lesser number of victims than before the genocide started.

He further submitted that when one talks of "massive killing", it is many hundreds of thousands to millions of people. To suggest that an isolated event, the unfortunate murder of 3,000 people (Sabra and Shatila) is the same as massive killing is almost disrespectful of the true horror of massive killing (as in Rwanda, where 800,000 people were killed in 100 days).

With regard to the Kahan Report, the Amicus Curiae-Defence Team said that it also identified other people as being responsible, with two other names other than Yaron still alive. The question is why only Yaron was charged? Why was Defence Minister Ariel Sharon spared?

He also submitted that the PLO had repeatedly violated the July 1981 cease-fire agreement. By June 1982, when the IDF went into Lebanon, the PLO had made life in northern Israel intolerable through its repeated shelling of Israeli towns.

On Cast Lead, the Amicus Curiae-Defence Team submitted that the IDF had come out with two reports. The point is if you are going to kill people nilly willy, you do not report it.

On the issue of the wall, the Amicus Curiae-Defence Team submitted that the primary consideration is one of security of the Israeli settlers. The State of Israel has a duty to defend their lives, safety and well-being.

On the issue of checkpoints, the Amicus Curiae-Defence Team said countries have a right to immigration laws. With regard to Plan Dalet, the Amicus Curiae-Defence Team said that it is subject to divergent opinions, with historians on one side asserting that it was entirely defensive, while other historians assert that the plan aimed at an ethnic cleansing.

4. Prosecution's closing submission

In his closing submission, the Chief Prosecutor said that he had called 11 witnesses (some of whom had testified through Skype), tendered 15 exhibits and furnished several documents and reports to the Tribunal during the course of the proceedings.

He urged the Tribunal to bear in mind that this is a Tribunal of Conscience and the case before it is an extraordinary case, which Winston Churchill used to call as a "crime without a name".

He said that the Prosecution had provided evidence of facts which, examined as a whole, will show that the perpetrators had committed acts against the Palestinians, with intent to kill, cause serious bodily or mental harms and deliberately inflict conditions of life calculated to bring about the physical destruction of the Palestinians as a whole or in part.

From the testimony of Prof Pappé (PW8) the Prosecution had shown that before 1948, before UN Resolution 47, there was already a plan in place to take over the Palestinian territory, and this plan would be activated the moment the British relinquished its mandate over the territory.

At that point in time, the Palestinians were on 94% of the land, with the Jewish population settling over a mere 6% of the land. Under the UN partition plan, more than 50% of the land was to be given to the Jews.

Plan Dalet might not legally be genocidal in form at its inception, but as it took shape the ethnic cleansing metamorphosed into killing, massacre and creating impossible conditions for life for the Palestinians – either they leave or they die. The Prosecution submits this is genocide within the meaning of Article 2 of the Genocide Convention.

On Sabra and Shatila, prosecution witnesses (PW1 and PW6) had testified that the Palestinian refugees in those camps had been killed by the Phalangists, aided and abetted by the Israelis who were in complete control of the two camps.

According to the Kahan Report, all of Beirut was under Israeli control, and there was clear symbiotic relationship between Israel and the Christian forces (the Lebanese Maronite Christian militia or the Phalangists or Keta'ib).

On Operation Cast Lead in 2008, the Chief Prosecutor said that the Israeli Defence Force had used all kinds of weapons, including white phosphorus – which is an incendiary weapon. The use of incendiary weapons is prohibited under Protocol III on the Prohibitions or Restrictions on the Use of Incendiary Weapons.

As a result of the Israeli occupation of Gaza, nowhere in Gaza is safe for civilians. 1.5 million Palestinians are now trapped in despair, their fragile economy ruined. Under the Dahiya Doctrine (October 2008), the complete destruction of Gaza is the ultimate objective, the whole place must be flattened.

The Prosecution submits that the cumulative effect of the actions taken by the Israeli government, as shown by the Prosecution witnesses and the several documents tendered to the Tribunal, have shown beyond reasonable doubt that Israel is guilty of the crime of genocide under the Genocide Convention and the Charter of the Kuala Lumpur War Crimes Commission (The Charter).

Co-Prosecutor Tan Sri Abdul Aziz, submitting on the first charge against Amos Yaron, said that Amos Yaron was the commanding officer in charge of the Israeli Defence Force, in charge of the area of Beirut, and camps Sabra and Shatila. He said there were two issues which he has to deal with – first, whether or not there was a large scale massacre of the 10 residents of the two camps, and second, whether or not Amos Yaron facilitated and permitted such massacre, in violation of international law and Articles 9, 10 and 11 of the Charter?

On the first issue, he submitted there was a large scale massacre, as testified by PW1. She was there, and she saw the massacre with her own eyes. There was corroborating testimony by PW6, and further acknowledged in the Kahan Report.

On the second issue, Amos Yaron was in charge, to ensure that there would be peace and law and order. The Kahan Report itself concluded that anybody who knew about Lebanon would know that by releasing the Phalangists into Beirut, there would be massacre. Surely, Amos Yaron, the General in charge, must have known that by allowing the Phalangists to go into the two camps, the massacre would take place. But he decided to do nothing.

He received the reports of the killing of women and children, but he did not check the report. He did not pass the report to his superiors. The co-prosecutor submits that by ignoring all this despite knowing the circumstances, he himself had the intention of causing the death of the people in the two camps.

10.3 Commission's Register of War Criminals

Further, under Article 35 of the same Chapter, this Tribunal recommends to the Kuala Lumpur War Crimes Commission that the names of the two convicted parties herein be entered and included in the Commission's Register of War Criminals and be publicised accordingly.

10.4 The Tribunal recommends to the War Crimes Commission to give the widest international publicity to this conviction and grant of reparations, as these are universal crimes for which there is a responsibility upon nations to institute prosecutions.

10.5 The Tribunal deploras the failure of international institutions to punish the State of Israel for its crimes and its total lack of respect of International Law and the institutions of the United Nations. It urges the Commission to use all means to publicise this judgement and in particular with respect to the Parliaments and Legislative Assemblies of the major powers such as members of the G8 and to urge these countries to intervene and put an end to the colonialist and racist policies of the State of Israel and its supporters.