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**PRESS RELEASE
FOR IMMEDIATE RELEASE**

Tribunal Dismisses Prosecution's Application to Recuse Judge Eric David.

KUALA LUMPUR, 21 August 2013 – The Kuala Lumpur War Crimes Tribunal, which commenced today to hear war crimes and genocide charges against the State of Israel and Amos Yaron, a retired Israeli army general hit a snag.

To begin with, the Prosecution made an application that, to preserve the sanctity of the tribunal, Judge Eric David be recused for his alleged possible connection with the Mossad, the intelligence agency of Israel. There have been allegations including from US officials that the Peoples Mujahedin Organisation of Iran (PMOI) is supported by Mossad. The PMOI is listed as a terrorist organisation that has carried out terrorist activities against Iran. According to the prosecution, Judge Eric David had written a legal opinion that the PMOI be removed from the list of terrorist organisations.

Amicus curiae Jason Kay appointed under Article 15 of the Charter, raised the point that the allegations were not supported by clear evidence. And that

perceived bias does not amount to actual bias. The Prosecution further argued that there must not even be any perceived bias on the part of any judge of the tribunal in deciding a case.

The Tribunal adjourned the hearing to deliberate further and later returned dismissing the prosecution's application to recuse Judge Eric David, as they felt there was no threat of real bias. However, the prosecution disagreed and the hearing was adjourned once again.

When the hearing resumed, the President of the Tribunal, Tan Sri Dato Lamin bin Haji Mohd Yunus Lamin, expressed the panel's disquiet of the breakdown of the forum stressing that once an objection had been overruled, it should be accepted and respected. He instructed the registrar to expunge all the allegations levelled against Judge Eric David from the records.

In their response, the prosecution accepted the panel's decision but conveyed the serious concerns of the witnesses who had come all the way from Palestine to have their day in court. The witnesses, through the Chief Prosecutor Prof Gurdial S Nijar made known their three points of concerns to the panel of judges.

One, the fact, that, they have come to the Tribunal seeking justice after literally years of being unheard. They have come for justice and are prepared for any decision but in the present situation, they are not comfortable to appear before a judge that may be biased. They want the process of obtaining justice untainted in any way. Otherwise, in their view, it would be worthless. Secondly, they fear for their personal security in having come all the way to Kuala Lumpur to testify and thirdly, it is a matter of principle to them and if they lack confidence in the panel of judges, they would essentially be insecure and thus unable to tend evidence. As such, the Prosecution recommended that the hearing be adjourned *Sine Die*(indefinitely).

In that highly charged moment, and despite the prosecution's acceptance of the President of the Tribunal's decision of expunction of records and overruled objection, Judge Alfred Lambremont Webre chose to revisit the issue and rebuked the prosecution for falsely maligning a respected member of the tribunal, who he maintained is a highly respected member who had appeared in several Russell Tribunal proceedings previously. He expressed his annoyance and displeasure quite explicitly.

At that point, the President of the Tribunal, Tan Sri Dato Lamin bin Haji Mohd Yunus Lamin called for an adjournment and for the matter to be rightly taken into chambers. After further deliberation and a request that the prosecution consult the witnesses again, the judges called the legal teams into chambers and after a lengthy discussion, announced that the tribunal would resume the followed day.

Essentially, this is the first time war crime charges are being heard against the State of Israel and the retired general in compliance with the due legal process. In November last year, the Kuala Lumpur War Crimes Commission (KLWCC) heard the testimonies of nine complainants from Palestine (Gaza and West Bank) and the Sabra – Shatila refugee camps in Lebanon. The Commission proceeded to investigate these complaints, which resulted in the institution of formal charges on war crimes against the accused.

The trial, which is being held before the Kuala Lumpur War Crimes Tribunal constitutes of eminent persons with legal qualifications.

The judges of the Tribunal is headed by retired Malaysian Federal Court judge Tan Sri Dato Lamin bin Haji Mohd Yunus Lamin, who also served as an *ad litem* judge at the International Criminal Tribunal for the former Republic of Yugoslavia. The other judges in the Tribunal include notable names such as Mr Alfred Lambremont Webre, a Yale graduate, who authored several books on politics, Tunku Sofiah Jewa, practising lawyer and author of numerous publications on International Law, Prof Salleh Buang, former Federal Counsel in the Attorney-General Chambers and prominent author, Prof Emeritus Datuk Dr Shad Saleem Faruqi, prominent academic and professor of law, Michael Hourigan, an internationally renowned human rights lawyer and Prof Eric David, an

International Humanitarian Law expert who was counsel at the International Court of Justice and the International Criminal Tribunal for Rwanda.

The trial is open to the public and will be held from August 21-24, 2013 at the premises of the Kuala Lumpur Foundation to Criminalise War (KLFCW) at 88, Jalan Perdana, Kuala Lumpur.

...ends...

[For further information, please contact](#)

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The Tribunal Members

Tan Sri Dato Lamin bin Haji Mohd Yunus,

Mr Alfred Lambremont Webre

Tunku Sofiah Jewa

Prof Salleh Buang

Prof Emeritus Datuk Dr Shad Saleem Faruqi

Michael Hourigan

Prof Eric David

The Prosecution

Prof Gurdial S Nijar

Prof Francis Boyle

Mr Avtaran Singh

Ms Gan Pei Fern

Amicus Curiae (appointed Defence team)

Mr Jason Kay Kit Leon

Ms Larissa Jane Cadd Detmoid

Dr Abbas Hardani

Ms Galoh Nursafinas Samsudin

About Kuala Lumpur War Crimes Commission (KLWCC)

The KLFCW established the Kuala Lumpur War Crimes Commission (The Commission), to investigate cases of war crimes that have been neglected by established institutions such as the International Criminal Court. The Commission seeks to influence world opinion on the illegality of wars and occupation undertaken by major Western powers.

The aim of The Commission is thereby to hold perpetrators of war crimes accountable for their actions especially when relevant international judicial organs fail to do so.

The Commission

The commission's function is to:

i) **receive complaints** from any victim(s) of any conflict on:

- (a) Crimes against peace
- (b) Crimes against humanity
- (c) Crimes of genocide
- (d) War crimes

ii) **investigate** the same and prepare a report of its findings. To further call for more evidence or where The Commission is satisfied to recommend prosecution

The Legal Team

The legal team's aim is to present the complaints of victim(s) of any conflict and to act on the recommendation of The Commission's report and to frame charges and prosecute accused person(s).

The Tribunal

The Tribunal shall adjudicate on the charges filed against the accused person(s) The applicable standard of proof shall be beyond reasonable doubt.

About the Kuala Lumpur Foundation to Criminalise War (KLFCW)

Malaysia's fourth Prime Minister Tun Dr Mahathir Mohamad founded the Kuala Lumpur Foundation to Criminalise War (KLFCW), a non-governmental organisation established under the laws of Malaysia on 12 March 2007.

The main objectives of the Foundation, as stated in its Statutes are, inter alia:

1. To undertake all necessary measures and initiatives to criminalise war and energise peace;
2. To provide relief, assistance and support to individuals and communities who are suffering from the effects of war and armed conflict wherever occurring and without discrimination on the grounds of nationality, racial origin, religion, belief, age, gender or other forms of impermissible differentiations;
3. To promote the education of individuals and communities suffering from the effects of war or armed conflict;
4. To foster schemes for the relief of human suffering occasioned by war or armed conflict;
5. To provide for mechanisms or procedures in attainment of the above purposes.

“WHY is it that the murder of one man is considered a criminal act whereas the killing of hundreds of thousands of innocent people committed in wars, is not considered so?

-Tun Dr Mahathir Mohamad

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