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24 Nov 2013

## [Tribunal to Deliver Judgement on Genocide and War Crimes Charges](#)

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**PRESS RELEASE  
FOR IMMEDIATE RELEASE**

### **TRIBUNAL TO DELIVER JUDGEMENT ON GENOCIDE AND WAR CRIMES CHARGES**

KUALA LUMPUR, 24 November 2013 – The fifth day of the Kuala Lumpur War Crimes Tribunal (KLWCT) hearing on genocide and war crimes charges against the State of Israel and Amos Yaron, heard the Amicus Curiae's submission.

Amicus Curiae Jason Kay submitted that genocide requires a decrease in population of the victim/group. He quoted Article 2 of the Genocide Convention 1948 pointing out that the acts that constitute genocide includes acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group. This includes killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, imposing measures intended to prevent births within the group, and forcibly transferring children of the group to another group.

He stressed that when one talks about 'massive killing' it should mean many hundreds of thousand to millions. He submitted that the murder of 3,000 people in the Sabra and Shatilla massacre could not be considered massive killing unlike i.e. the killing of 800,000 people in Rwanda in 100 days and the systematic killing of the Jews by Nazi Germany.

On the charge against Amos Yaron, the Amicus Curiae submitted that none of the witnesses identified Yaron in any way as directly responsible for the deaths that took place in Sabra and Shatilla in September 1982. He argued that the Kahan Commission had cited that Yaron had told the Phalangists of the location of the terrorists in the camps and not to harm the civilian population.

With regard to Cast Lead Operation, the Amicus referred to the Israeli reports that did not find any wrong doing on the part of IDF. Also reference was made to Goldstone's article that said that if he had access to further evidence he would have had a different conclusion for the UN report prepared by him (Goldstone). On the subject of the Wall, the amicus submitted that the wall/fence was primarily motivated by security considerations to protect the lives of the Israelis in the area. The decision to erect the fence was made to new rise in Palestinian terrorism in 2002.

In reference to Plan Dalet, the amicus submitted that the plan was not aimed at ethnic cleansing and that it was entirely defensive. Amicus proceeded to submit that the Palestinians are supporters of Hamas, whose numerous acts could be considered crimes against humanity and war crimes.

The Prosecution submitted that they would adopt their earlier submission and responded to the Amicus Curiae submission. According to the prosecution, the law has been clearly addressed on state liability and the specific intent. On the Palestinian population, the prosecution submitted that population is not a numbers game. On ethnic cleansing, the Prosecution submitted that while ethnic cleansing does not necessarily equate to genocide but it can amount to genocide.

He further added that the Operation Cast Lead investigation by the Israeli military had been criticised and that the Goldstone article was an after thought for which there is no evidence why it occurred.

On the issue of the Wall, the prosecution submitted that it was evident that the 190 km long Wall is clearly in the Occupied Territories and that the ICJ had rejected the security and necessity argument.

On the subject of water as submitted by Amicus that there was a Olympic-sized swimming pool in Gaza indicating that the water issue was exaggerated, the prosecution stressed that the tribunal should adhere to the International Committee of Red Cross (ICRC) and United Nations reports on the dire water issues faced by the Palestinians.

On the issue of attacks and suicide bombing by Palestinians against Israelis as presented by the Amicus, the prosecution submitted that it does not take away the fact that genocide has happened. In addition, the prosecution submitted that the 730 checkpoints hindered movement and affected the everyday lives of the Palestinians. And to response to the Amicus that the day-to-day life in Gaza was not as difficult as portrayed, the prosecution replied that whilst life had not come to a standstill in Gaza, in the long run it is not going to be habitable if the current Israeli blockade and attacks continued.

After the submission from the Prosecution and Amicus Curiae, the Tribunal adjourned to deliberate on the evidence and submissions that were presented during the five days and will deliver its judgement on Monday afternoon.

The judges of the Tribunal are 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 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, and Prof Emeritus Datuk Dr Shad Saleem Faruqi, prominent academic and professor of law, Dato' Saari Yusof, former Appeal Court judge, Mr John Philpot, a senior litigation lawyer from Canada and Tunku Intan Mainura from the Faculty of Law, UiTM and a specialist in international law.

The Tribunal will adjudicate and evaluate the evidence presented as in any court of law. The judges of the Tribunal must be satisfied that the charges are proven beyond reasonable doubt and deliver a reasoned judgement.

In the event the tribunal convicts any of the accused, the only sanction is that the name of the guilty will be entered in the Commission's Register of War Criminals and publicised worldwide. The tribunal is a tribunal of conscience and a peoples' initiative.

The prosecution for the trial is led by Prof Gurdial S Nijar, prominent law professor and author of several law publications and Tan Sri Dato' Sri Abdul Aziz Bin Abdul Rahman, senior barrister, and assisted by a team of lawyers.

The trial, which is open to the public, is being held from November 20 to 25, 2013 at the premises of the Kuala Lumpur Foundation to Criminalise War (KLFCW) at 88, Jalan Perdana, Kuala Lumpur. Live feed of the tribunal hearing is also available on [www.criminalisewar.org](http://www.criminalisewar.org) at Malaysian time GMT +8.

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### **About Kuala Lumpur War Crimes Commission (KLVCC)**

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.

No Responses to "Tribunal to Deliver Judgement on Genocide and War Crimes Charges"

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