

Tribunal Finds Bush & Blair Guilty of War Crimes

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Kuala Lumpur International War Crimes Tribunal Hearing Issues Verdict: Former Prime Minister Blair and Former President Bush Guilty of War Crimes

KUALA LUMPUR, 22 November 2011 – The Kuala Lumpur War Crimes Tribunal (Tribunal) entered its fourth and final day of hearing war crimes charge of Crimes against Peace against George W Bush (former U.S. President) and Anthony L Blair (former British Prime Minister) in Kuala Lumpur. For the first time a war crime charge has been heard against these two former heads of state in compliance with due legal process, wherein complaints from war victims had been received, duly investigated and formal charges instituted by the Kuala Lumpur War Crimes Commission (Commission).

The Tribunal had decided the previous day that a prima facie case had been made out against both the accused. The Defence team presented their case and submission defending the accused. Some of the points submitted and argued are stated in the following paragraphs.

The Defence adopted their prior submissions and proceeded to raise additional grounds, relying additionally on the memoirs of the first and second accused. The Defence highlighted that as an amicus curiae, his function is to assist the Tribunal by raising points of law that are in doubt and to organise information or raise awareness of some aspect of the case that the Tribunal otherwise may miss.

No one knows what it is like to have the weight of the nation on his shoulders except a head of state. Both the accused, as former heads of state, took their nations to war. The question now is whether their actions amounted to the offence of Crimes against Peace. Did they ‘plan, prepared and invaded Iraq on 19 March 2003 in violation of the UN Charter’?

9/11 changed the world and cast it into a new atmosphere of fear. The world would be a different place. The Prosecution objected to the Defence attempts to show a video recording of the 9/11 attack, as there is no factual basis for the association of 9/11 with Iraq. The fact that the war occurred had been admitted. The war has taken its toll. The question is, was a crime committed by the accused. The Tribunal ruled that it has taken judicial notice (not having to tender evidence to established a fact) of the 9/11 attack and there was no need for the showing of the video.

The Defence submitted, that the first accused in his memoirs, on the issue of the absence of WMD, the accusation that ‘Bush lied, and people died’, would be illogical because he would not lead his nation to war on a lie which would be easily discernable after the war.

The second accused in his memoir said that he understood the need for the 2nd UN

resolution for political legitimacy but knew the difficulty in getting one due to the politics within the UN Security Council permanent members. And also that there was no UN resolution for the action in Kosovo. While the first accused was of the view that Saddam had not adhered to numerous UN Security Council resolutions

There was a moral ground that many critics of the war do not appreciate. Liberating the people of Iraq from Saddam seems to be lost on the critics. The Defence also referred that the first accused had said that Saddam was a threat. Saddam had invaded two neighbours, Iran in the 1980s and Kuwait in the 1990s. He had killed his own people. Had used chemical weapons. Had links with terrorists. And Saddam was developing WMD. And after 9/11, Saddam was a threat that could no longer be ignored.

Some have seen the brutality of war while many are fortunate to have experienced peace. In any event the Defence urged the Tribunal to evaluate the evidence and return a verdict of non-guilty.

Prosecution in their reply stated that everyone has a right to lead unmolested lives governed by law. And in the case before the Tribunal that law is international law. We have to adhere to treaties and conventions that govern international relations. From the documents tendered the first accused had conducted himself in manner that showed that he had decided to invade Iraq long before 2003. And this is also evident from his memoir, which amounts to an admission.

In a criminal trial such as this, there are two elements that need to be proven. The actus reus (the act), which was the war, which is an accepted fact. The mens rea (intention) is shown clearly from the planning and preparation as early as November 2001 when he had asked his Secretary of Defence to draw up plans for the invasion of Iraq. And that in September 2002, the Defence Secretary had informed the first accused, who was the commander in chief that it would take six months to mobilise for invasion. On 4 November 2002, the UN resolution 1441 was passed and the invasion was launched on 19 March 2003. On 17 March 2003 the first accused stated "...Saddam Hussein and his sons must leave Iraq within 48 hours. Their refusal to do so will result in military conflict, commenced at a time of our choosing". And on 19 March, the 'shock and awe' campaign called Operation Iraqi Freedom was launched.

The same is true of the second accused who had attacked Iraq. And that he had planned and prepared to invade since 1998. The reason is to bring freedom to the Iraqi people from Saddam through the use of military action.

There are 40 UN Security Council Resolutions against Israel but no action is taken. But Saddam had not adhered to 16 resolutions and Iraq is invaded. This is gangsterism.

This is a historic moment for the Tribunal to hear the distance drums of war rumbling even today due to the actions of the first and second accused. War criminals have to be dealt with, convict Bush and Blair as charged. A guilty verdict will serve as a notice to the world that war criminals may run but can never ultimately hide from truth and justice.

The Verdict

The Tribunal deliberated over the case and decided unanimously that the first accused George W Bush and second accused Anthony L Blair have been found guilty of the Crimes against Peace.

The second accused at the material time as heads of state launched an invasion on Iraq on 19 March 2003. The charge was duly served in accordance with the Charter of the Commission. The accused did not appear and an amicus curiae was appointed.

The evidence showed that as far back as 15 September 2001 the accused had planned to invade Iraq. Documents showed that this plan was conveyed by the first accused to the second accused. The accused had attempted to seek the UN approval for invasion. On 2 November 2002, UN Security Council Resolution 1441 did not authorise the use of force against Iraq. Weapons investigators had confirmed that there were no WMD. It was also established that the Iraq had no WMD. Iraq was not posing any threat to any nation at the relevant time that was immediate that would have justified any form of pre-emptive strike.

Humanitarian intervention was not a basis for the invasion. The UN Security Council must authorise any use of force. An individual state cannot replace the UN in deciding the use of force. The 9/11 attack did not show any connection with Iraq but instead the US had used this as a pretext to invade Iraq. Invasion to effect regime change has no legal basis under international law.

The Evidence showed that the drums of wars were being beaten long before the invasion. The accused in their own memoirs have admitted their own intention to invade Iraq regardless of international law. Unlawful use of force threatens the world to return to a state of lawlessness. The acts of the accused were unlawful.

The charge is proven beyond reasonable doubt. The accused are found guilty. The Tribunal orders that the names of the 2 convicted criminals be included in the war register of the KL War Crimes Commission. And the findings of this Tribunal be publicised to all nations who are signatories of the Rome Statue.

Despite all the facts both the accused had nevertheless invaded Iraq. A detailed written judgment will be published at a later date.

The trial was held in an open court from November 19-22, 2011 at the premises of the Kuala Lumpur Foundation to Criminalise War (KLFCW) at 88, Jalan Perdana, Kuala Lumpur.

Further Information

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The Tribunal Members

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Dato' Zakaria Yatim (Recused)
Tunku Sofiah Jewa
Prof Salleh Buang
Mr Alfred Lambremont Webre
Prof Emeritus Datuk Dr Shad Saleem Faruqi
Prof Niloufer Bhagwat (Recused)

The Prosecution

Prof Gurdial S Nijar
Prof Francis Boyle
Mr Avtaran Singh

Amicus Curiae (appointed Defence team)

Mr Jason Kay
And 3 other counsels.

The Charge

Crimes Against Peace filed against George W Bush (former President of the U.S.) and Anthony L Blair (former Prime Minister of the United Kingdom) wherein they are charged as follows:

The Accused persons had committed Crimes against Peace, in that the Accused persons planned, prepared and invaded the sovereign state of Iraq on 19 March 2003 in violation of the United Nations Charter and international law.

The Tribunal will adjudicate and evaluate the evidence presented on facts and law as in any court of law. The judges of the Tribunal must be satisfied that the charge is proven beyond reasonable doubt and deliver a reasoned judgement. The verdict and the names of the persons found guilty will be entered in the Commission's Register of War Criminals and publicised worldwide.

"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, former Prime Minister of Malaysia

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