

War Crimes Tribunal: “Beyond Reasonable Doubt”, Israel Found Guilty of Genocide

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

By [Kuala Lumpur War Crimes Tribunal](#)
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Theme: [Crimes against Humanity](#), [Law and Justice](#)

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The Kuala Lumpur War Crimes Tribunal (KLWCT) after listening to the testimonies of 11 prosecution witnesses and voluminous documentary evidence and extensive submissions by the prosecution and amicus curiae delivered its judgement on the two charges against the State of Israel and retired Army general Amos Yaron.

After considering the evidence by the prosecution and the submissions by both the Prosecution and the Amicus Curiae Defence teams, the Tribunal found the State of Israel guilty of genocide, and Amos Yaron of crimes against humanity and genocide.

In its judgement read by the President Tan Sri Lamin, the tribunal had heard the testimonies of 11 witnesses from Gaza, West Bank, expert witnesses as well as a renowned historian.

Chahira Abouardini, a resident of Camp Shatila witnessed the cold-blooded murder of her family members by the Lebanese Phalangist militia, under the order of the Israeli forces commandeered by General Amos Yaron. There was also expert accounts on the Sabra Shatilla massacre by prominent surgeon and author Dr Ang Swee Chai, who treated the wounded at the massacre and expert witness Bayan al Hout, whose book Sabra and Shatila September 1982 covers the history of the massacre.

According to Bayan, the massacre of Sabra and Shatila was one of the worse in the 20th century. Dr Ang gave detailed accounts of the attacks that were carried out through air strikes, shelling and gunshots. Whole families were killed and brought into the hospital. Declassified reports released from the British National Archives, put the death toll of the massacre as 3,500.

The eyewitnesses from the Operation Cast Lead in Gaza, which included teenager Mahmoud Al-Sammouni and Salah al-Sammouni related the horrific events that resulted in the loss of numerous civilian lives and destruction of property where even children were victims. Expert witness Paola Manduca, a retired Professor at University of Genoa, Italy who is an expert Geneticist testified on the impact of weapons on reproductive health arising from the attacks in Gaza, especially to children. Israeli historian and socialist activist Ilan Pappé gave a revealing account of the Zionists’ leadership strategy to rid the Palestinians from their homeland since the 1940s.

The meaning of genocide as designated acts committed with intent to destroy in whole or in part a national, ethnic, racial or religious group such as 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, forcibly transferring children of the group to another group.

The Tribunal agreed with the prosecution's argument that allegations in relation to the charge of genocide against Israel be placed in a more general historical context and the precedent for such an approach is in the ICJ Advisory Opinion on the Construction of a Wall. That since 1948, there has been further massacres against Palestinians by or with the cooperation of Israelis forces, including against Palestinian refugees in the Lebanese refugees camp of Sabra and Shatila in 1982, and in Jenin and Nablus in 2002..

The three-week Operation Cast Lead, which killed 1,400 Palestinians including 300 children and hundreds of unarmed civilians, was an attack that was meticulously planned for six months. Large areas were razed and thousand were made homeless, the economy completely ruined.

The prosecution added that the destruction had cumulative effects of cultural and religious destruction, renaming villages and destruction of places of worship, troubled economic and physical effects, severe restricted freedom of movement, scarcity and control of water, adverse conditions of life and the impact of the 2006 attacks and the usage of White phosphorus ammunition in 2009 on the reproductive health of the Gaza population. Basically, the harsh conditions of life were deliberately inflicting to destroy a group and the acts are equivalent to those of war with a genocidal intent.

The prosecution had shown beyond reasonable doubt that Israel is guilty of the crime of genocide under the Genocide Convention and the KL War Crimes Charter.

The Tribunal was not with the Amicus Curiae on the argument that is no case to answer based on the argument that a State cannot be charged for criminal liability without the State having submitted to the jurisdiction of the tribunal since States have sovereign immunity.

The Tribunal found that absolute immunity is an antiquated doctrine and is inclined to break free from this restriction. The Tribunal rejects absolute immunity for genocide and war crimes, as there is no equitable application of the law. Weak nations are victimised by powerful nations with impunity. The Tribunal further found that the force employed by IDF is excessive, totally disproportionate and a violation of international law. The methods used are unspeakably inhumane and amount to war crime.

The Tribunal found that The Kahan Report clearly shows that the Israeli Defence Force (IDF) was in control at the relevant time of the Sabra and Shatilla Massacre in September 1982 and Yaron was the commanding officer in charge of the forces entering in and out of the area. He had controlled and permitted the Phalangists to carry out the massacre that went for days.

The Tribunal found that there was a long catalogue of acts since 1948 to date that are a repeated pattern against the Palestinian people, from expulsion, killing, brutal attacks with powerful weapons and other actions as shown in the trial. An unbearable condition of life has been imposed on an entire population. It is incredible that in an age of human rights, such atrocities can continue to rage for more than 6 decades and that there are people in nations who trivialise such inhumanity. The Tribunal unanimously holds that the acts committed against the Palestinians amount to genocide over the last 67 years.

The Tribunal orders that reparations commensurate with the irreparable harm and injury, pain and suffering undergone by the complainant war crimes victims be paid to them. Though the tribunal is a tribunal of conscience with no real power of enforcement, the tribunal finds that the witnesses are entitled ex justitia to the payment of reparations by the two convicted parties. The tribunal hopes that the witnesses armed with the findings of the tribunal will, in the near future, find a state or an international judicial entity able and willing to exercise jurisdiction and enforce the verdict of this Tribunal. The tribunal's award of reparations will be submitted to the War Crimes Commission to facilitate the determination and collection of reparations by the Complainant War Crime Victims.

President Lamin further read, "As a tribunal of conscience, the Tribunal is fully aware that its verdict is merely declaratory in nature. The tribunal has no power of enforcement. What we can do under Article 34 of Chapter VIII of Part 2 of the Charter is to recommend to the Kuala Lumpur War Crimes Commission to submit this finding of conviction by the Tribunal, together with a record of these proceedings, to the Chief Prosecutor of the International Criminal Court, as well as the United Nations and the Security Council.

The Tribunal further recommends under Article 35 of the same Chapter that the names of the two convicted parties be entered in the Commission's Register of War Criminals and publicised worldwide. The tribunal also recommends that conviction be given the widest international publicity, as these are universal crimes for which there is a responsibility upon nations to institute prosecutions.

The Tribunal further read that it 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. It urges the Commission to use all means to publicise the judgement and in particular with respect to the Parliament and Legislative Assemblies of the major powers such as the 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.

The judges of the Tribunal were 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 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 was open to the public, was 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.

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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