

By Yvonne Ridley

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Kuala Lumpur -- IT'S OFFICIAL - George W Bush is a war criminal.

In what is the first ever conviction of its kind anywhere in the world, the former US President and seven key members of his administration were today (Friday) found guilty of war crimes.

Bush, Dick Cheney, Donald Rumsfeld and their legal advisers Alberto Gonzales, David Addington, William Haynes, Jay Bybee and John Yoo were tried in absentia in Malaysia.

The trial held in Kuala Lumpur heard harrowing witness accounts from victims of torture who suffered at the hands of US soldiers and contractors in Iraq and Afghanistan.

They included testimony from British man Moazzam Begg, an ex-Guantanamo detainee and Iraqi woman Jameelah Abbas Hameedi who was tortured in the notorious Abu Ghraib prison.

At the end of the week-long hearing, the five-panel tribunal unanimously delivered guilty verdicts against Bush, Cheney, Rumsfeld and their key legal advisors who were all convicted as war criminals for torture and cruel, inhumane and degrading treatment.

Full transcripts of the charges, witness statements and other relevant material will now be sent to the Chief Prosecutor of the International Criminal Court, as well as the United Nations and the Security Council.

The Kuala Lumpur War Crimes Commission is also asking that the names of Bush, Cheney, Rumsfeld, Gonzales, Yoo, Bybee, Addington and Haynes be entered and included in the Commission's Register of War Criminals for public record.

The tribunal is the initiative of Malaysia's retired Prime Minister Mahathir Mohamad, who staunchly opposed the American-led invasion of Iraq in 2003.

He sat through the entire hearing as it took personal statements and testimonies of three witnesses namely Abbas Abid, Moazzam Begg and Jameelah Hameedi. The tribunal also heard two other Statutory Declarations of Iraqi citizen Ali Shalal and Rahul Ahmed, another British citizen.

After the guilty verdict reached by five senior judges was delivered, Mahathir Mohamad said: "Powerful countries are getting away with murder."

War crimes expert and lawyer Francis Boyle, professor of international law at the University of Illinois College of Law in America, was part of the prosecution team.

After the case he said: "This is the first conviction of these people anywhere in the world."

While the hearing is regarded by some as being purely symbolic, human rights activist Boyle said he was hopeful that Bush and Co could soon find themselves facing similar trials elsewhere in the world.

"We tried three times to get Bush in Canada but were thwarted by the Canadian Government, then we scared Bush out of going to Switzerland. The Spanish attempt failed because of the government there and the same happened in Germany."

Boyle then referenced the Nuremberg Charter which was used as the format for the tribunal when asked about the credibility of the initiative in Malaysia. He quoted: "Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit war crimes are responsible for all acts performed by any person in execution of such a plan."

The US is subject to customary international law and to the Principles of the Nuremberg Charter said Boyle who also believes the week-long trial was "almost certainly" being monitored closely by both Pentagon and White House officials.

Professor Gurdial Singh Nijar, who headed the prosecution said: "The tribunal was very careful to adhere scrupulously to the regulations drawn up by the Nuremberg courts and the International Criminal Courts".

He added that he was optimistic the tribunal would be followed up elsewhere in the world where "countries have a duty to try war criminals" and he cited the case of the former Chilean dictator Augustine Pinochet who was arrested in Britain to be extradited to Spain on charges of war crimes.

"Pinochet was only eight years out of his presidency when that happened."

The Pinochet case was the first time that several European judges applied the principle of universal jurisdiction, declaring themselves competent to judge crimes committed by former heads of state, despite local amnesty laws.

Throughout the week the tribunal was packed with legal experts and law students as witnesses gave testimony and then cross examination by the defence led by lawyer Jason Kay Kit Leon.

The court heard how

- Abbas Abid, a 48-year-old engineer from Fallujah in Iraq had his fingernails removed by pliers.
- Ali Shalal was attached with bare electrical wires and electrocuted and hung from a wall.
- Moazzam Begg was beaten, hooded and put in solitary confinement.
- Jameelah was stripped and humiliated, and was used as a human shield whilst being

transported by helicopter.

The witnesses also detailed how they have residual injuries till today.

Moazzam Begg, now working as a director for the London-based human rights group Cageprisoners said he was delighted with the verdict, but added: “When people talk about Nuremberg you have to remember those tried were all prosecuted after the war.

“Right now Guantanamo is still open, people are still being held there and are still being tortured there.”

In response to questions about the difference between the Bush and Obama Administrations, he added: “If President Bush was the President of extra-judicial torture then US President Barak Obama is the President of extra judicial killing through drone strikes. Our work has only just begun.”

The prosecution case rested on proving how the decision-makers at the highest level President Bush, Vice-President Cheney, Secretary of Defence Rumsfeld, aided and abetted by the lawyers and the other commanders and CIA officials – all acted in concert. Torture was systematically applied and became an accepted norm.

According to the prosecution, the testimony of all the witnesses exposed a sustained perpetration of brutal, barbaric, cruel and dehumanising course of conduct against them. These acts of crimes were applied cumulatively to inflict the worst possible pain and suffering, said lawyers.

The president of the tribunal Tan Sri Dato Lamin bin Haji Mohd Yunus Lamin, found that the prosecution had established beyond a “reasonable doubt that the accused persons, former President George Bush and his co-conspirators engaged in a web of instructions, memos, directives, legal advice and action that established a common plan and purpose, joint enterprise and/or conspiracy to commit the crimes of Torture and War Crimes, including and not limited to a common plan and purpose to commit the following crimes in relation to the “War on Terror” and the wars launched by the U.S. and others in Afghanistan and Iraq.”

President Lamin told a packed courtroom: “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, no power to impose any custodial sentence on any one or more of the 8 convicted persons. What we can do, under Article 31 of Chapter VI 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 also recommends to the Kuala Lumpur War Crimes Commission that the names of all the 8 convicted persons be entered and included in the Commission’s Register of War Criminals and be publicised accordingly.

“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 if any of these Accused persons may enter their jurisdictions”.

*British journalist Yvonne Ridley is also a patron of Cageprisoners.*