



NEWSLETTER CRIMINOLOGY AND INTERNATIONAL CRIMES

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EDITORIAL

After the closure of the ICTR in December 2016, the ICTY has now too closed its doors. The ruling in the Mladic case was highly anticipated by many people, but it was the dramatic suicide in court by the defendant Praljak after hearing his verdict which probably stands out in people's memory. The ICTY would have deserved a better closure – after the tough start it managed to prosecute and convict a large group of defendants and has produced a lot of important case law – see for analysis of the legacy of the ICTY the contribution of Barbora Hola and Mirza Buljubasic. It is now time for the ICC to take over and continue this legacy. But the ICC is facing hard times as well and it has to be seen to what extent the withdrawal of Burundi will affect the court – as discussed by James Nyawo. Unfortunately there is still much left to do as Joris van Wijk shows in his contribution on Bangladesh and the Rohingya Refugees. National courts should take their responsibility as well. The Dutch district court in The Hague is one of the European courts which takes its task seriously as becomes clear from the contribution of Thijs Bouwknecht. Maartje Weerdesteijn discusses the change of power in Zimbabwe where Robert Mugabe was forced out of the presidency after 37 years.

In the research section, Pieter Nanninga discusses the challenges and benefits of his fascinating research in which he interviews Islamic State supporters online. Adina Nistor writes about the conference on punishing international crimes in

domestic courts and Melanie O'Brien talks us through the bi-annual conference of the International Association of Genocide Scholars (IAGS). There is a broad selection of new books, compiled by Suzanne Schot and myself and the recommended book is *All Rise* – by Tjitske Lingsma. Carola Lingaas summarizes her PhD on the concept of race in international criminal law, which she defended at Oslo University recently. There is a slight change in the editorial board as Roelof Haveman has stepped down as editor-in-chief. We wish to thank Roelof for his work as editor-in-chief for the last few years and are glad he stays on as an ordinary board member. Thanks Roelof!

AGENDA

- 4-7 April 2018, International Studies Association (ISA), San Francisco, US, <https://www.isanet.org/Conferences/San-Francisco-2018>
- 12-14 June 2018: Stockholm Criminology Symposium, Stockholm, Sweden. Deadline: 28 February 2018 <http://www.criminologysymposium.com/>
- 4-7 July 2018 INOGS International Conference, Marseille, France. Deadline: 15 March 2018, <https://inogs.com/conferences/>
- 29 August – 1 September 2018, European Society of Criminology (ESC) – annual conference, Sarajevo, Bosnia and Herzegovina. <https://www.esc-eurocrim.org/index.php/conferences/upcoming-conferences>
- July 2019: IAGS Conference, Phnom Penh, Cambodia, <http://www.genocidescholars.org/iags-conferences>

If you organize a conference, workshop or symposium related to international crimes, please inform us a.l.smeulers@rug.nl and we will make a reference on our website and in the newsletter.

SHORT ARTICLES

Ethiopian “Red Terror” trial in The Hague – the case of Eshetu Alemu

By: Thijs Bouwknecht

At the time The Hague’s “international justice bubble” was rejoicing the grandeur of the UNICTY’s “legacy”, the city’s District Court rendered its latest war crimes verdict on 15 December 2017. A second of its kind in 2017 (Kouwenhoven re. Liberia and Guinea), it virtually went unobserved. Absent from the courtroom during sentencing at the Court was the main character, the accused, now convict: Eshetu Alemu. It was in protest against his expected life sentence for mass atrocities in Ethiopia, 39 years ago. The 10-day trial before the ‘International Crimes Chamber’ was one of the most intense, unique and historical trials I attended in the past 15 years. After 39 years, eight victims shared their grievances before foreign judges. In time and space, the crime scene was distant. In the dock sat a conversational, intelligent but unsettled perpetrator.

As the UNICTY had only just issued its first arrest warrant, no less than 44 men appeared in a courtroom in Addis Ababa. At the “African Nuremberg”, on 13 December 1994, the members of the former ultra-communist regime (the Derg) heard genocide charges relating to the mass persecution and murder of political opponents in the late 1970s. One of the defendants was Melaku Tefera, the “butcher” of Gondar. His reign was murderous, his campaigns against “contra-revolutionaries” tormenting. In 1977, the 23-year old Alemu was Tefera’s assistant, acquiring the tricks of the trade, delivering “revolutionary measures.” In the next year, Alemu took office in the nationalised palace of Debre Marcos, from where he governed his own province, Gojam. Like Tefera, Alemu was charged by the Special Prosecutor’s Office (SPO) for similar atrocity crimes and in the same mega trial (73 defendants in total) in the 1990’s. However, by then he was already in the Netherlands, as a refugee, working as a nursing intern in a hospital in Amsterdam. Like many Ethiopians from the feared military junta, including its leader Mengistu Haile Mariam, Alemu was tried in absentia.

In 1998, when Alemu had obtained Dutch citizenship, his SPO case was heard back home. Dozens of documents from the Derg’s scrupulously documented security offices were tendered, witnesses put Alemu at the scene of ghastly mass executions. These details came to the attention of the Dutch only briefly, in a report published in a Dutch weekly, in which copies of Ethiopian death

lists were published; all annotated, signed and stamped by Alemu. An Ethiopian witness recognised a name on the list of a man who had a nail hammered through his hand, from which he then was to drink his own blood. Yet, in the absence of an extradition treaty with Ethiopia and a specialised war crimes unit in the Netherlands to probe international crimes in far-off place, the information was shelved. Alemu lingered in impunity and lived in a flat building in Amstelveen while Ethiopian courts convicted him twice. In 2000 he received the death penalty for murdering 197 people and in 2003 he was convicted for genocide, for which he received "rigorous imprisonment for life."

Only in 2009, a year after the conclusion of Ethiopia's mega-trial, which also convicted Mengistu, would a new, large and ambitious International Crimes Unit reopen the cold case of Alemu in the Netherlands. In 2013, police investigators retrieved some 214 pages of copies from Alemu's SPO file (including witness statements) in Ethiopia. But it was the only evidence obtained on the ground. Unhappy with the Dutch refusal to extradite the *génocidaire*, Ethiopia ceased cooperation in 2015. Isolated from the crime scene, the criminal examination shifted to the USA, Canada and the Netherlands, where 28 witnesses were questioned, including Alemu's ex-wife, children and old friends. An undercover agent spoke to Alemu, while his phone was wire-tapped. However, foundational evidence came from victims' testimonies gathered in north America. On that basis, Alemu was arrested at his home on 29 September 2015 and an investigative judge heard the testimony of 18 witnesses, now including an historian, handwriting expert and former SPO Prosecutor. Slated to commence in 2016, the trial was delayed for a year after Alemu changed his defence team.

From 30 October 2017 onwards, the 10-day trial was a summoning of and *rendez-vous* with the past. But historical scores are hard to settle. Not all victims are ready to face the authors of their suffering. In the corridors of The Hague District Court building, an Ethiopian lady was writing a message in a small bible. "I want to give it to him," she says. "I feel pity for the man, [...] He needs forgiveness and I am ready to give it to him, through God." A man next to her, sees it differently. "My justice is in there." He points at the big brown door of the courtroom number E1, where he had attended all hearings. "You do not know what I have seen," he tells the lady, who softly replies: "My hands and legs were tied together and I was pulled up to hang from the ceiling of a prison cell. I was 13 years old."

The lady was not the only school student who fell victim to a pattern of persecution, torture and abuse during the "Red Terror." Gruesome stories like these filled the courtroom, time and again. Their alleged protagonist, an aged man of flesh and blood, wearing a padded jacket, jeans and Nike trainers, was sitting in dock. In the soberly decorated courtroom, sitting under a prominent portrait of King Willem Alexander, the Chamber discussed his dossier. "Good morning, Mr. Alemu." "Good afternoon Mr. Alemu." Dressed in a black toga with a white bib, the Court's President, Judge Mariette Renckens, greets him. Every time he is brought into court through a side door - sturdy, tenacious and flanked by two police officers - Alemu nods at the bench, strides to his black stacking chair and participates vigorously in his trial. From the start he had settled with the outcome of the proceedings. "I accept your judgement, I accept it."

Indeed, by virtue of his position, as a superior, he was responsible by default. Besides, the allegations were too prodigious to deny. One of the largest Dutch criminal trials ever, Alemu faced a catalogue of atrocities, chaptered in four war crimes charges under a 1952 law. What transpires from the case is that Alemu had no taste for due process and international human rights, concepts of which he had "no knowledge" in 1978. A former army nurse and private, he became a disciple of the charismatic Mengistu. Alemu too was all about the revolution as he had grown up poor in "miserable" Addis Ababa. A vocal student, he made his way up in the Derg, even travelling to Moscow and Havana. Alemu, who had a natural talent for public speaking, became an important conveyer of Marxism in Gojjam. Driven around by a personal chauffeur and escorted by bodyguards, Alemu would educate locals at public gatherings, something he says he was "good at" and "proud of."

At the trial, victims memorised Alemu as a young viceroy, a man with power, a superior to *kadres*, *kebeles* and policemen. However, according to witnesses, Alemu's speeches were not at all about propaganda or indoctrination. No, they claim they must have been "exposure meetings", mass-meetings where people were forced to confess they were anti-Derg, reactionaries, counter-revolutionaries and were sent to prison, where often they were killed by the *kebele*-militia. After at least one such meeting in late February 1978, Alemu sanctioned his men to round up 321 people, mostly students, sometimes as young as twelve years old. None of them received an indictment or a trial. All were sent to what witnesses described as a "prison camp" at the Debre Marcos' police bureau, which was under Alemu's helm.

One jail is featured specifically in the trial: Demmelash. The facility was located right at the foot of the hill where Alemu's Palace office was. "We were kept at his feet, literally," a past captive attested during the trial. In the unsanitary "dark rooms" at Demmelash, the detainees received no medical attention, were served unpalatable food and dirty drinking water. At some point, the juvenile captives were shackled together at night. When one would move, all woke up. There were countless restless nights. On one day, a forced labourer had an 'x' carved on his back with the bayonet on a Kalashnikov. Maltreatment and torture were the rule rather than the exception in Demmelash. In the months to pass, according to the judgement, at least six prisoners faced these type of "revolutionary measures", including YT (anonymised), a student. During trial, he testified that he was relentlessly molested by guards and special interrogators, people who were to report to Alemu. YT and other witnesses testified that there was kicking, whipping with a 'giraffe' (a kind of whip) or even spoons. Prisoners were hit on their faces, private parts, soles of their naked feet. The torture has left YT's "left ear ringing." Next to this degrading, inhumane and deadly maltreatment, at least 75 prisoners were strangled to death on 14 August 1978, on the orders of Alemu. The crime scene was a church building at Demmelash. After the massacre, executed by those under Alemu's superior responsibility, at least 240 identified prisoners were continued to be detained and mishandled, until at least 31 December 1981.

The outcome of the trial – a war crimes conviction for arbitrary detention in cruel and degrading circumstances, torture and killing, which resulted in a sentence of life imprisonment and reparations awarded to five victims – was no surprise. But it was particularly the trial as such, that was unique, intense and intimate. Different from the distant, symbolic and elite justice rendered at the international tribunals and courts, these proceedings were tangible, at least to those present, through interpretation when necessary. For most days, the single space of one small courtroom was packed, in silence. At the bench, including the registry, sat seven women and one man (an alternate judge). Three trial judges, two prosecutors, Alemu and his two defence lawyers were the main protagonists. Two lawyers represented the victims, some of whom flew over from north America. They sat closely, listening attentively, holding on to the printouts of their statements, just 2 metres away from their former tormentor. On one day, they were given the floor, to narrate their ordeals, to show their pain and to await Alemu's response from the dock. The atmosphere was mostly tense. One victim walked out of court in tears as Alemu were

shifting his personal responsibility to the Derg, as a regime and organisation.

Also unique was the fact that defendant spoke elaborately, answering a barrage of questions from the bench. "I am not here to defend the Derg, Derg-members, or the Derg leader, I am here to defend myself." In the history of international(ised) justice, where lawyers usually do the talking for defendants, that is an absolute rarity. Only a handful of trials – such as Adolf Eichmann, Slobodan Milosevic, Duch and Charles Taylor – provided a space for the accused to place their perspectives, insights, even emotions, at the heart of the trial. If trials could serve as a lens into the minds of perpetrators, Alemu's case must become a resource for students in this field. For in the dock sat a struggling man, 63 years old, obviously presenting to the bench a counter-narrative, a human face, to the prosecution's depiction of him as a monster. While doing just that, one observes a troubled man, Chameleon-like, adjusting to his various audiences. First and foremost, he had to make sure that in their intimate convictions, the judges would find him not guilty, while also not offending the victims in the courtroom. At the same time, he needed to rationalise, formulate and narrate his past acts and omissions to himself.

Through the trial, in a live setting, Alemu was balancing out all the factors. In his own words, he used his "last breaths" to do that. At times he was repentant, asking the victims for forgiveness. All atrocities troubled him, shocked him. His time had come to face them once more. Simultaneously, we saw a defiant man. He "did not do it" himself nor did he know abuses were going on under his watch: "I would have stopped it," he said, "punished the perpetrators." In fact, he was never in Demmelash, he argued. In one of his versions, witnesses confuse him with another man; an infamous special interrogator from Addis Ababa, Eshetu Andergie. "You have the wrong man in front of you," he told the chamber. "It wasn't me!" At times, Alemu got agitated: "I already told you a 100 times." Disturbed by his past, Alemu showed several faces. He felt sorry for those who had suffered. But he also believed that the Marxist ideology had good intentions. On the other hand, Alemu came to accept that the ideology caused more suffering than prosperity to his beloved country. For that he feels guilty. But then he turned again: "If I was guilty of the atrocities myself I could not live with myself, I would be an animal." His only explanation is that he was guilty by the "virtue of [his] membership of the Derg and that now, after 39 years, in the dock and in the media became the "Black sheep of all that had happened."

Meanwhile, Alemu has appealed the verdict and sentence, which means the case will see additional investigations and proceed to a second trial round, now at The Hague Appeals Court. To be continued here in this newsletter.