

Guernica 37 End of Year Newsletter 2021



Guernica 37 Group

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A Message from the Co-Founders of The Guernica 37 Group,

As we commemorate the end of our fifth year, we are pleased to underline some of the most significant highlights of our achievements throughout the year 2021.

During the past five years, we have grown, we have matured, and we have seen our hopes and vision for our model materialised. As we approach a new year, we are delighted to introduce **The Guernica 37 Group**. According to our vision and approach, **The Guernica 37 Group** brings together **G37 Chambers** and our philanthropic branch, **G37 Centre**, under a single umbrella. Additionally, we are very excited to see in 2022, **G37 The Hague**, come to fruition.

As 2021 draws to a close, following the introduction of The Guernica 37 Group, we say farewell to the Guernica 37 Chambers Newsletter, and usher in our new **Guernica 37 Group Newsletter**, incorporating the achievements of both **Guernica 37 Chambers** and **Guernica 37 Centre**.

This past year has seen expansion across **Guernica 37** both in terms of personnel and our work. We have developed our presence in Kosovo, Lebanon, Libya, Nigeria, Syria, Venezuela and Yemen. We are delighted to have brought new members to Chambers including Sir Howard Morrison CBE QC and Carolyn Edgerton. G37 Chambers took the decisive step to add a senior Clerk, Mark Cornell, and added Ben Emmerson QC and human rights expert lawyer from Nigeria, Chidi Anselm Odinkalu to our Advisory Council. We are also proud to continue our renowned Academy Internship programme that offers short term placements to those most in need of assistance. 2021 also saw the inauguration of the Guernica 37 fellowship programme – an educational scholarship fund.

Throughout 2020-2021, we established the Guernica Accountability Podcast, with eleven episodes looking at accountability around the world. In 2022, we will be continuing with new guests, new areas of interest and a new format.

We hope you will enjoy this Final Edition of our Newsletter and await with enthusiasm our New Edition in 2022. In the meantime, we wish you all the best for the new year ahead,

Almudena and Toby



During this difficult time of uncertainty, we would like to assure you that Guernica 37 International Justice Chambers remains committed to all its clients and will take every measure to ensure that they are not affected by the challenges being adopted globally.

Guernica 37 will remain open and committed to its clients, notwithstanding the current emergency. As a responsible Barristers' Chambers, we will follow the Government and Bar Council guidelines that are consistent with ensuring the measures taken are strictly necessary and proportionate.

Furthermore, our team remain ready to attend to any new needs and demands that the #Coronavirus crisis imposes and stands ready to assist any of those affected, wherever they may be.

Kind regards,
The Guernica Team

From the Team at Guernica 37 We would like to wish you a
Merry Christmas And a Happy and Prosperous Year



G37

Wishing You All
A Very Happy Holiday Season

Bringing Accountability For International Crimes & Human Rights Violations

We do the right work, we do it the right way and we do it with the right people.

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Chambers' Report (2021)

Over the last twelve months Chambers has gone from strength to strength with the very welcome additions of Sir Howard Morrison QC and John Cubbon in the spring.

Helena Boxberg became a member in October, following successful completion of her pupillage, and Jack Sproson started his pupillage in September.

We were very fortunate to have Lucia Brieskova return to us and, the highlight of the year, the appointment of Almudena Bernabeu as Joint Head of Chambers in the summer.

In the last twelve months Chambers has rebranded and work has started to establish and market our brand.

In November we were joined by Mark Cornell, as Senior Clerk, and Emma Le Mesurier joined The Centre as Director of Impact and Strategy. They have already started working together to bring Chambers and The Centre closer together and we wait eagerly to see what the synergy produces.

On the work front, our cases continue to hit the headlines with our ongoing case in the Kosovo Specialist Chambers and the high profile “impunity” case in the People’s Tribunal. Both Toby and Almudena are regularly interviewed to comment on high profile international cases which is a measure of how respected Guernica 37 is becoming in the International Criminal arena.



Justice in Hard Times: Persevering Through 2021

*Michael Reed Hurtado,
Director of Operations of the Guernica 37 Centre*

Partnering with communities and key civil society actors, the Guernica Centre for International Justice (Guernica 37 Centre) continued to design and implement context-oriented strategies for meaningful and transformative accountability for human rights violations and international crimes in Mexico, El Salvador, Nicaragua, Colombia, Venezuela, Syria, Lebanon, and Nigeria. The scope and depth of our programmatic engagement varies in each country; we are, however, attentive to all opportunities to chip away at impunity, which overwhelmingly looms over atrocities worldwide.

The Covid-19 pandemic continued to show its profound impact on human life. The effects of the health epidemic and derelict or abusive state responses have caused fatigue, frustration, displacement of goals and, often, loss of long-term strategic thinking by many stakeholders in the accountability field. These hard times have demonstrated the importance of continuing the good fight, maintaining our stamina, and enhancing our technique to procure justice, even in adverse settings.

Guernica adapted its methods of work, ensuring the safety of its staff and partners, to progressively return to in-country work in Colombia and elsewhere in Latin America. With accountability stalled in many countries, because of arbitrary state action (for example, in Nicaragua and El Salvador), we have identified constraints and are finding ways to press on, motivated by the overwhelming confirmation (by all our partners) of the need to continue prioritizing the struggle against impunity of human rights perpetrators.

In addition to deep country programs, Guernica has responded positively to legal support requests and seized the opportunity to take on innovative and impactful cases that will promote accountability for international crimes and human rights abuses in national jurisdictions. For example, we are promoting

a few cases before the Spanish courts, including a complaint for crimes perpetrated by persons linked to the Equatorial Guinean regime, and another regarding pillage and looting of protected heritage and goods, as war crimes committed in the context of armed conflict in Libya. Furthermore, to enhance our capacity in the United States of America, we have teamed up with outstanding US litigators, who have integrated one of our associates into their actions to sue US based companies involved in human trafficking. As with all legal action, the procedural developments are complex and slower than we would like; nonetheless, we are persistently demanding diligence and intervening in strategic ways to achieve results that will contribute positively to the overall quest for human rights accountability.

As we take stock of the five years since the Guernica project was set in motion and both, we have realized the need to invest time and resources to adjust our vision and to strengthen our impact, which includes evaluating the Centre's approach to promoting justice. For this reason, we began in late 2021 a reflexive process that examines the Guernica Approach, in a critical and constructive fashion so that we can learn more about our methods of work. This reflexive exercise is oriented at testing and identifying how programs and projects that are designed to promote justice (actually) work.

We are applying academic methods to learn about what we do, how we do it and how our actions interact with myriad factors in the process of pursuing justice. Though the idea is quite simple, it is rarely operationalized. With the support of our advisor, Pablo de Greiff, this process is on the way and, throughout 2022, we will be adjusting the Guernica Approach and contributing to policy debates on the state of accountability by providing empirically grounded answers and informed pathways to much needed change on how we promote justice.

G37 Chambers - Highlights of the Year 2021

Republic of Yemen

On 30 August 2021, Guernica 37 submitted an Article 15 Communication to the Prosecutor of the International Criminal Court calling for the opening of a preliminary examination into War Crimes and Crimes Against Humanity committed during the six-year international armed conflict in the Republic of Yemen on behalf of the Saudi-led coalition. The Communication sets out evidence in relation to an attack against a school bus in August 2018; a double missile attack launched in October 2016 at a funeral gathering which led to at least 110 deaths; the torture and murder of civilians in Aden by mercenaries under the command of a US private military company contracted to the United Arab Emirates.

Furthermore, on 20 October 2021, Guernica 37 submitted a legal complaint with the War Crimes Unit of the Metropolitan Police Service Counter-Terrorism Command (SO15) to open a formal investigation into senior figures in the Governments of Saudi Arabia and the United Arab Emirates for alleged War Crimes and Crimes Against Humanity committed during the conflict in the Republic of Yemen. Neither Saudi Arabia nor the UAE are parties to the ICC, hence Guernica 37 is relying on the principle of universal jurisdiction in order to hold those persons accountable.

Kosovo Specialist Chambers – Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj

On December 2020, the legal team from G37 Chambers were instructed to represent Nasim Haradinaj before the Kosovo Specialist Chambers (KSC) in The Hague. The charges against the Vice President of the Kosovo Liberation Army War Veterans' Association, include allegations of offences against the administration of justice.

The long-awaited trial started in September and at the opening of the trial, the Specialist Prosecutor Jack Smith gave a speech setting out the nature of the charges and the

jurisdiction of the KSC. The Defence for Mr. Haradinaj, joined by the Defence for Mr. Gucati, argued that the Specialist Prosecutor's remarks, which were published on the Court's website, violated the presumption of innocence. The Prosecution presented its case from 18 October to 5 November 2021, calling four witnesses. During the presentation of the prosecution case, the KSC heard submissions on the admissibility of hearsay statements, chain of custody, investigative standards, the application of a whistleblower defence and the extent to which a defence of entrapment may be argued. On 10 November 2021, the Prosecution officially closed its case.

On 17 November 2021, the Defence filed their respective motions to dismiss the charges against Mr. Haradinaj. The Defence sought to dismiss all six counts on the basis that there is no evidence capable of supporting a conviction beyond reasonable doubt. On 26 November 2021, the Panel denied the motions to dismiss the charges. The Haradinaj Defence gave its opening speech on 15 December 2021 and will present its defence case after the winter recess from 11 January 2022.

Whistleblowing – Jonathan Taylor and Trevor Kitchen

Jonathan Taylor, a former in-house lawyer for oil firm SBM Offshore based in Monaco, blew the whistle in 2013 on a \$275 million international network of bribes paid by Monaco-based Dutch oil platform company. He subsequently provided evidence to the UK Serious Fraud Office, investigators in Brazil and the Netherlands as well as the FBI and the Department of Justice in the United States. This resulted in fines to SBM Offshore of over \$800 million. Nine years later, on 30 July 2020, he was arrested at Dubrovnik Airport whilst travelling to Croatia for a family holiday with his wife and three teenage children on the basis of an INTERPOL Red Notice issued by the Monégasque Public Prosecutor on charges of bribery and corruption. Jonathan Taylor was trapped in Croatia for a year, and was finally permitted

to return home to his family after the country's Justice Minister Ivan Malenica overturned a decision to extradite him to Monaco. Mr. Taylor, who received the Whistleblower of the Year Award 2021, was represented by Guernica 37 throughout his ordeal.

Trevor Kitchen, a British former financial chief, who helped expose the scandal in Switzerland a decade ago, was arrested in Portugal after Switzerland brought criminal defamation proceedings against him. He was represented pro-bono by the legal team at Guernica 37, who assisted his Portuguese lawyers, in successfully fighting extradition to Switzerland in what was argued to be retribution for him blowing the whistle on a multi-million-pound currency scandal. On 9 June 2021, the Supreme Court ruled against Switzerland. The legal team from Guernica 37 continue to represent Mr. Kitchen in seeking to have the criminal investigation in Switzerland terminated.

UN Working Group on Arbitrary Detention (UN WGAD) and current situation – Christian Michel

Christian Michel, a British national, has been held in Tihar jail in New Delhi, India, for a total of three years without charge and during his time in detention, he has suffered considerably by being subjected to repeated and prolonged interrogations aimed at securing a confession by way of duress, but also to inhuman or degrading treatment of such severity that it constitutes torture. His case is renowned for being a politically motivated rendition from the UAE to India as part of a quid pro quo for the return of Sheikha Latifa bint Mohammed bin Rashid Al Maktoum, daughter of Dubai's ruler Sheikh Mohammed bin Rashid Al Maktoum. The legal team from Guernica 37 filed an "Urgent Communication", alongside Zimeray & Finelle Avocats, with the UN Working Group on Arbitrary Detention (WGAD). On 26 February 2020, the WGAD published Opinion No.88/2020 which ruled that Christian Michel was being arbitrarily detained, in breach of the UDHR and ICCPR and recommended his release and ensure the right to compensation.

As a result of the repeated failures by the Indian authorities, and the UK Government from taking any real steps to intervene, Mr. Michel commenced a hunger strike on 25 November 2021 and wrote a personal

letter to Prime Minister Boris Johnson seeking urgent intervention. In 2022, the legal team at Guernica 37 and Zimeray & Finelle Avocats will take the case back to the UN for failing to implement the recommendations.

International Court of Justice (ICJ) – Syria

The Syrian authorities responded to the 2011 protests with violence. Civilians attending the demonstrations were attacked and beaten in the streets, or were shot by security agents who opened fire into the crowds. Many protesters were seized immediately following demonstrations, and other suspects were seized during subsequent house searches or military operations. During security and military operations and at checkpoints, beatings and ill-treatment at those checkpoints and other points of arrest took place.

Guernica 37 submission covered the years 2011-2014 and it included, inter alia, the existence of systematic and widespread torture in Syrian detention facilities as well as military hospitals, based on international reports, witness statements and further evidence, which established a pattern of acts of torture and ill-treatment.

Guernica 37 is assisting the Government of the Netherlands in this important step to ensure that impunity is brought to an end and that there is justice and accountability for all victims of torture in the Syrian Arab Republic. The Government of the Netherlands has taken a critically important first step in addressing the Syrian State's failure to respect its obligations under international treaty law for widespread human rights violations, including acts of torture prohibited by the Convention Against Torture, a treaty to which Syria is a party. Guernica 37 has been working alongside the Government of the Netherlands in the collection of evidence and ensuring the input from Syrian victims.

International Criminal Court (ICC) – Syria

Between 2019-2021, Guernica 37 filed three Article 15 Communications applying the Myanmar/Bangladesh decision on jurisdiction to the situation in Syria/Jordan with the ICC Prosecutor. It was argued that just as the Pre-Trial Chamber ruled that the ICC had jurisdiction

over the crime of ‘Forced Deportation’ by virtue of Bangladesh’s position as a State Party to the Rome Statute, the same established legal principle could and should be applied to the Situation in the Syrian Arab Republic, given that more than a million civilians had been forcibly deported out of Syria and into neighbouring Jordan – the jurisdictional link being that the Hashemite Kingdom of Jordan became a State Party to the Rome Statute on 11 April 2002: the first and only Gulf State to do so. Further, subsequent submissions sought to develop the legal arguments as to why the exodus of civilians out of Syria into Jordan constitutes the Crime of Forced Deportation as a Crime Against Humanity for the purposes of the Rome Statute. The issue is whether civilians have been given a ‘real choice’ when considering whether to flee or otherwise, and it is abundantly clear, that in Syria, the choice is whether to flee or risk death or imprisonment and torture. By drawing upon the ICC’s own jurisprudence concerning the crime of ‘Forced Deportation’, ‘Persecution’. and ‘Other Inhuman Treatment’, and applying these to the evidence collected, the submission concludes that the constituent elements have been satisfied.

Asma al-Assad

On 13 March 2021, Guernica 37 submitted a confidential referral with the War Crimes Unit of the Metropolitan Police Service Counter- Terrorism Command (SO15) to open an investigation against Asma al-Assad, the wife of Syrian dictator Bashar al-Assad, a dual Syrian-British national.

Asma al-Assad is facing possible prosecution for inciting and encouraging acts of terrorism against the Syrian population, including incidents of chemical attacks. In March 2011, the people of Syria began peaceful demonstrations against Bashar al-Assad’s regime demanding political reforms and freedoms, which led to an armed response in which the Syrian Government adopted a systematic approach to torture and murder of civilians. Asma al-Assad is alleged to have delivered speeches supporting the Syrian armed forces, which have targeted civilian areas, including hospitals and schools, deploying barrel bombs, chemical weapons, artillery and airstrikes. In December 2021, a further submission was made including additional evidence.



G37 Centre - Main Projects

The Guernica 37 Centre continues to put in place context-based strategies for meaningful and transformative accountability for human rights violations and international crimes in Mexico, Nicaragua, Colombia, Venezuela, Syria, Lebanon and Nigeria – and is immersed in implementing these plans together with local partners. With the expertise of G37 Chambers, we are also undertaking litigation efforts for international crimes in Spain, the United Kingdom and the United States.

We partner with communities and key civil society actors in different countries to design and implement context-oriented strategies for meaningful and transformative accountability for human rights violations and international crimes. We listen to the affected communities and spend the necessary time to understand their claims and act accordingly. We are committed to studying and learning from past and present efforts so that we can continually strengthen and improve our approach to the quest for accountability and justice.

Some examples are:

Colombia: A Deep-Rooted Quest for Accountability

In 2017, the Guernica 37 Centre began implementing a three-phased project designed to foster victims' participation within Colombia's transitional justice mechanisms. Alongside our partner in Colombia—the Institute of Intercultural Studies of the University Javeriana of Cali—our team has worked closely with Afro-descendant, indigenous and rural communities in Northern Cauca, Buenaventura, Montes de María, and Putumayo to identify and document international crimes that occurred during the armed conflict. During this past year, Guernica effectively catalyzed victims' participation in the TJ mechanisms. Aided by technical and legal expertise, communities have managed to position their justice demands before the SIVJRNR through the crafting of well-documented legal and contextual reports that analyze criminal patterns as well as the responsibility of different actors

in crimes prioritized by the communities. Thus far, four contextual reports (one per geographic region) and seven legal reports have been submitted to the JEP and the CEV by the communities with which we work.

Venezuela: Looking Beyond the Crisis to Promote Justice

Since 2014, the governance situation in Venezuela has progressively worsened as a result of the gradual breakdown of democratic institutions, heightened political tensions and a humanitarian situation. Hyperinflation, severe shortages of food and medicine and the curtailing of fundamental rights and freedoms have already forced over 5 million citizens to leave the country. Rule of law principles, including separation of powers and effective controls to the abuse of power, have been debased. As reported by the United Nations International Fact-Finding Mission on Venezuela, gross human rights violations have been widely committed by State authorities; the situation is exacerbated by the weakening of democratic, judicial and accountability institutions. Over the past year, Guernica 37 Centre has continued to work closely with Venezuelan partners to maximize the impact of civil society organizations in their search for truth and justice, preparing the ground for a future comprehensive accountability strategy. As a result, Guernica 37 now sits at the heart of several complementary initiatives, having gained the trust of varied sectors of society.

Nigeria: First Steps in Confronting Delayed and Denied Justice

In 2011, conflict erupted in north-eastern Nigeria between the militant extremist group Boko Haram and the Nigerian state. In response to the thousands of killings and abductions of women, boys, and girls committed by Boko Haram, the Nigerian Security Forces (NSF) have arrested and detained more than 25,000 people suspected of being Boko Haram sympathizers and executed thousands extrajudicially. According to data

collected by NGOs, more than 7,000 people have died in military custody and thousands remain missing. As a result of this armed conflict, figures by the UNDP and UNHCR show that there have been 350,000 deaths, 3 million displaced persons in the Lake Chad Basin, and more than 310,000 Nigerian refugees. The Guernica 37 Centre is working in partnership with the Allamin Foundation and lawyers in Borno state in northeastern Nigeria on justice and accountability efforts related to human rights violations and the perpetration of crimes against humanity and war crimes by both Boko Haram and the NSF. Most recently, the Centre, in collaboration with local partners, has drafted a brief on behalf of an individual being arbitrarily detained that Nigerian partners will submit to the ECOWAS Community Court of Justice (ECCJ).

Lebanon: A Civil Society Movement for Change

Lebanon has experienced deep-rooted corruption and governmental negligence for years, to the extent that some of these practices have been normalized and many state institutions are co-opted by private interest. Traditional political elites appear caught in power grabbing exercises that do not provide avenues for change; renewed attention by the international community offers some room for hope, however needed transformations can only come from the strategic and enduring engagement by civil society in Lebanon. Citizen involvement and civic trust in public affairs need to be re-established. A key step in devising forward-looking solutions relates to achieving meaningful accountability and justice for the gross malfeasance that has been experienced: holding

offenders accountable and, in the process, enhancing national judicial independence and capacity, as a means of breaking the cycle of impunity and promoting prevention – goals that have been prioritised by our partners.

Narra: Leveraging Information Technology to Enhance Accountability

The Guernica 37 Centre has taken concrete steps to promote the pioneering use of social sciences to strengthen the quest for meaningful accountability in relation to gross human rights violations. We have fostered a partnership with Freed Object, a Canadian firm specializing in information management and software development, to put in practice an information system called Narra that can analyze the patterns of systematic crimes as well as the role of specific individuals or groups in their perpetration. Serving as both a documentation repository and innovative data analysis tool, Narra is enhancing the ability of the Guernica 37 Centre and its partner organizations to document, organize, and analyze human rights violations and abuses.

Proper documentation and analysis of system crimes are important steps in crafting accountability strategies, and ultimately establishing responsibilities for violations. The nature and dynamic of the crimes defy traditional or flat documentation methods; through our Narra-based projects we support the efforts of our partners around the world to confront situations that reflect organizational wrongdoing and complex patterns of perpetration.



Desmond Tutu Left this World a Better Place

By Howard Varney

Desmond Tutu left this world a better place. He was South Africa's enduring voice of reason. Level-headed but always speaking from the heart. He saw hope in the darkest of times.

The Arch had little time for airs and graces. In the early 1980s I recall him chewing the cud with student activists in the SRC offices of Natal University in Durban, reclining with his feet on a desk, before giving a rousing address to students in the Students' Union Hall. In 2007 I went to see him in his Soweto home to seek his support for a court case against a new government prosecution policy, which promoted impunity for apartheid-era perpetrators. He was not well at the time and was in bed. As there were not enough chairs in his bedroom, he insisted I sit on his bed to brief him. His wife, Leah, mildly scolded us for consulting with him in bed!

In his supporting affidavit he wrote that the approach of the ANC government stood as a deep betrayal of all those who participated in good faith in the TRC process, in particular the victims who had been waiting for the prosecutions of those who failed to apply for amnesty or who were denied amnesty.

One of his greatest regrets was the failure of the ANC government to make good on the promises of South Africa's historic transition. He was particularly critical of the government's refusal to provide adequate reparations to apartheid-era victims and its blocking of justice for apartheid criminals. In early 2016, after the National Prosecuting Authority was forced to indict the suspects implicated in the 1983 kidnapping, torture and murder of the young freedom fighter, Nokuthula Simelane, he issued this statement:

“What has taken them so long? Why did the authorities turn their backs on the family of Nokuthula, and so many other families, for so many years? Why did the pleas of her family fall on deaf ears for decades? Why did it take a substantial application to the High Court to get the National Director of Public Prosecutions (NDPP) and the police to do their jobs? Why did the

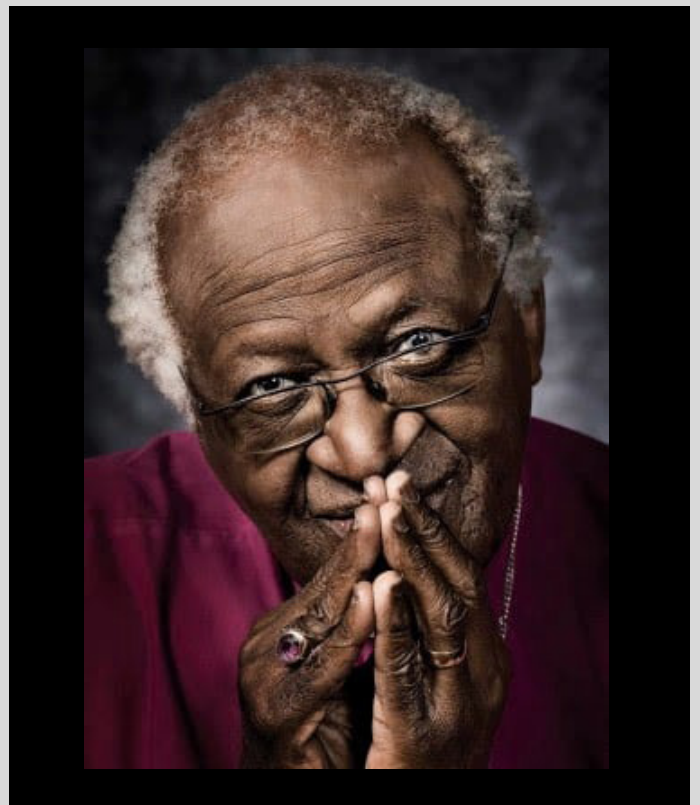
post-apartheid government take steps to obstruct the course of justice?”

I maintain that healing is a process. How we deal with the truth after its telling defines the success of the process. And this is where South Africa has fallen tragically short. By choosing not to follow through on the commission's recommendations, government not only compromised the commission's contribution to the process, but the very process itself.

The commission was a beginning, not an end. It united South Africans around a common fireplace for the first time in history to hear the stories of our past, so that we could begin to understand each other – and ourselves – and take forward the job of developing the compassionate and just society for which so many had suffered and laid down their lives.”

His voice will be missed. Hamba Kahle Arch.

Howard Varney is an Associate Member of G37 Chambers



The Month In International Legal News



United Nations Secretary-General, António Guterres, said that the situation in the Occupied Palestinian Territory, including East Jerusalem, continues to pose a significant challenge to international peace and security. In a message to mark International Day of Solidarity with the Palestinian People, the UN chief warned that persistent violations of the rights of Palestinians, along with the expansion of Israeli settlements, risk eroding the prospect of a two-State solution. Despite being ‘encouraged’ by recent engagements between senior Israeli and Palestinian officials, the UN chief said that “containing the situation is not sufficient”. Mr. Guterres reiterated that the overall goal of two States living side-by-side in peace and security remains.

A shocking culture of abuse by staff towards detainees at Brook House immigration detention centre was described by a whistleblower giving evidence to a public inquiry into widespread mistreatment of detainees at the G4S-run site. The former Brook House officer Callum Tulley described repeatedly witnessing abusive behaviour by officers towards detainees, and told the inquiry that he was so disturbed by it that he had felt compelled to contact the BBC and begin undercover filming at the centre.

In a landmark verdict, a former member of the Islamic State group has been found guilty of genocide by a German court over the death of a five-year-old Yazidi girl he had bought as a slave and then chained up in the hot sun to die. The Frankfurt regional court also

convicted Taha Al-J of crimes against humanity, war crimes and bodily harm resulting in death. The 29-year-old was sentenced to life imprisonment and ordered to pay the girl’s mother €50,000 (£42,600).

According to sources with close knowledge of the matter, Saudi Arabia used “incentives and threats” as part of a lobbying campaign to shut down a UN investigation of human right violations committed by all sides in the Yemen conflict. The Saudi effort ultimately succeeded when the UN human rights council (HRC) voted in October against extending the independent war crimes investigation. The vote marked the first defeat of a resolution in the Geneva body’s 15-year history.

Dozens of human rights organisations have called on the EU to impose global sanctions on NSO Group and take “every action” to prohibit the sale, transfer, export and import of the Israeli company’s surveillance technology.

US human rights groups have criticised the reinstatement of a Trump-era policy requiring asylum seekers to wait in Mexico while claims are processed. The American Immigration Council said it was a dark day for the US and the rule of law. US President Joe Biden had suspended the policy, calling it “inhumane”, but was ordered by courts to resume it. Under the policy, thousands of migrants were forced to stay in dangerous conditions on the Mexican border. But Republicans have welcomed the decision as a way to restore order in the border regions. Mexico has now agreed to accept

the policy, known as Remain in Mexico, in exchange for concessions such as a shorter turnaround time for asylum decisions and a US-Mexico development programme for Central America.

Middle-class drug users are to be targeted as part of a 10-year strategy to be announced by Boris Johnson's government with a heavy focus on war-on-drugs-era punishment. So-called "lifestyle" users of class A drugs face losing their passports or driving licences under proposals designed to target wealthy professionals who the government will argue are driving exploitative practices with their demand.

Ousted Myanmar leader Aung San Suu Kyi has been found guilty of inciting dissent and breaking Covid rules, in the first of a series of verdicts that could see her jailed for life. Her sentence has been reduced from four years to two years. Ms Suu Kyi faces 11 charges in total and denies them all. They have been widely condemned as unjust.

A whistleblower has said that the UK Foreign Office's handling of the Afghan evacuation after the Taliban seized Kabul was dysfunctional and chaotic. Raphael Marshall said the process of choosing who could get a flight out was arbitrary and thousands of emails with pleas for help went unread. The then Foreign Secretary Dominic Raab was slow to make decisions, he added. Mr Raab told the BBC lessons would be learned but the UK did a good job compared to other countries.

A coalition of women's rights campaigners have voiced their disappointment and frustration after the Law Commission decided to reject a proposal to make misogyny a hate crime.

Amnesty International said that its Security Lab has confirmed that at least four Kazakhstani civil society

activists have had their mobile devices infected with NSO Group's Pegasus spyware. A forensic analysis shows that all four activists had been targeted and their devices infected from as early as June 2021.

UK government officials were in Tehran last week discussing legal ways to pay Britain's historical £400m debt to Iran, the Iranian ambassador to London has said. Mohsen Baharvand added that he was in live discussions with the Foreign Office, and said the issues were not insurmountable. The UK Foreign Office has refused to discuss any details of the payment to Iran, or what has been holding up the settling of the £400m debt dating back to an arms sale to Iran in the mid-1970s.

Western powers have called on Russia to lower tensions with Ukraine, ahead of a video call between US President Joe Biden and Russia's Vladimir Putin. Responding to fears of a Russian invasion, Mr Biden agreed with leaders of the UK, France, Germany and Italy to use "all the tools at their disposal".

Responding to the High Court's decision to accept the US's appeal against the decision not to extradite Julian Assange Amnesty International's Europe Director Nils Muižnieks said: "This is a travesty of justice. By allowing this appeal, the High Court has chosen to accept the deeply flawed diplomatic assurances given by the US that Assange would not be held in solitary confinement in a maximum security prison.



The Balkan Investigative Reporting Network will hold an exhibition and publish a book that commemorates journalists and media workers who were killed during and immediately after the violent break-up of Yugoslavia.

The leader of the Kosovo Liberation Army's War Veterans Organization, Hysni Gucati, and the deputy leader, Nasim Haradinaj, are on trial for war crimes before the Kosovo Specialist Chambers in The Hague. Hysni Gucati told the Court he had been "set a trap" when he was given two tranches of confidential case files from the Specialist Court.

A group of Bosnian Serbs, former wartime detainees and relatives of some of those still missing from the war, protested outside the Bosnian State Court. The demonstration was about a lack of action concerning war crimes committed against Serbs during the 1992-95 war in Bosnia and Herzegovina.

A Serbian citizen, named only as D.A., was arrested in Kosovo on suspicion of having committed war crimes against civilians during the Kosovo war, the Kosovo Special Prosecution announced. Police said the suspect

was arrested at the border crossing between Kosovo and Serbia in Jarinje and taken into custody on a court order.

Bosnia's state prosecution has filed an indictment against Milomir Djuricic 'Djure', and Vukadin Spasojevic, also known as 'Mico' and 'Era', charging them with crimes against humanity in Bosnia's eastern Visegrad area.

Former Bosnian Serb Army soldier Bosko Uncanin pleaded not guilty, at the Bosnian state court in Sarajevo, to involvement in the shooting of at least 78 civilians in the Kljuc area during the Bosnian war in 1992.

Serbia has moved a step closer to joining the European Union after opening talks on a series of environmental policies. However, the EU has warned progress on its path to EU membership still depends on Serbia normalising relations with Kosovo.

Former Environment Minister Lefter Koka was arrested on corruption charges related to waste incinerator contracts, drawing praise from the US ambassador to Tirana, who said it shows Albania's judicial reform is getting results.

A witness at the trial for the killing of Kosovo Serb political party leader Oliver Ivanovic told Pristina Basic Court that he does not want to name the members of organised criminal groups that operate in the Serb-dominated north of Kosovo, which Ivanovic warned about before he was killed in 2018.

Police arrested eight former Bosnian Serb soldiers and policemen suspected of involvement in war crimes in the village of Zijemlje near Nevesinje in 1992, where almost 100 Bosniaks were killed.

The G37 Accountability Podcast



You can now listen to the latest episode of the Guernica Accountability Podcast on Spotify, Google podcasts, Apple podcasts and a number of other podcast players. Make sure you subscribe to get access to new episodes as soon as they are uploaded.

Our Episodes

- Episode 1 – The Guernica Accountability Podcast – Introducing The Guernica Group, directly from the voices of those who form part of this initiative.
- Episode 2 – Guatemala – Toby Cadman speaks to Law Professor Naomi-Roht-Arriaza about the Guatemalan Genocide and the historic process that saw a former Head of State put on trial in a national court for Genocide.
- Episode 3 – Syria – Toby Cadman speaks to Waad Al Kataeb, the extraordinary young woman who produced the documentary For Sama, her husband Hamza, a surgeon from the last remaining hospital in besieged Aleppo and Catherine Marchi-Uhel, the Head of the United Nations Mechanism for Syria.
- Episode 4 – The Jesuits Massacre Case – Guernica Co-founders, Almudena Bernabeu and Toby Cadman, discuss the historic Jesuit Massacre Trial before the Spanish National Criminal Court. Almudena has been involved in the case for more than a decade.
- Episode 5 – The Secret Barrister – Guernica Co-founder, Toby Cadman discusses a broken legal system with The Secret Barrister. The Secret Barrister discusses the legal system of England and Wales, how it is broken and how it can be fixed.
- Episode 6 – The Pillars of Justice – Guernica Co-founder, Toby Cadman discusses the four pillars of transitional justice - truth; justice; reparations; and non-recurrence - with Pablo de Greiff.
- Episode 7 – Gender Crimes & Sexual Violence – Guernica Co-founder, Toby Cadman speaks to Michelle Jarvis, Deputy Head of the UN IIIM and discusses her career in international criminal justice.
- Episode 8 – An Unorthodox Barrister - Guernica Co-founder, Almudena Bernabeu speaks to Toby Cadman about his unorthodox career path to the English Bar, human rights, Guernica, Bangladesh, Syria, Kung Fu and the Rolling Stones.
- Episode 9 – Sexual Violence as a Weapon of war – Patricia Viseur Sellers takes us on a journey, looking at accountability mechanisms and the development of international law and the role it plays in combating gender violence in conflict.
- Episode 10 – “Accountability through the Lens of Diversity” - In tenth Episode episode of the Guernica Accountability Podcast we discuss Cherie Blair QC’s extraordinary career in law.
- Episode 11– Justice and Reconciliation – Guernica Co-founder, Toby Cadman speaks to Yasmin Sooka and Howard Varney on the pursuit of truth, justice and accountability in South Africa 20 years after the Final Report of the Truth and Reconciliation Commission.

<https://www.guernica37.com/podcast>

Our Expertise

Guernica 37 is an innovative International Justice Chambers specializing in transnational litigation involving the enforcement of fundamental human rights protection and international criminal norms in national courts.

International Criminal Law

International criminal and humanitarian law is at the forefront of Guernica 37's practice. Its members have been involved in several high-profile matters prosecuting, defending and acting for victims before international tribunals, hybrid courts and human rights monitoring bodies including the International Criminal Court (ICC), International Tribunal for the Former Yugoslavia, Bosnia and Herzegovina War Crimes Chamber, Bangladesh International Crimes Tribunal and Kosovo Specialist Chambers. Previous cases have included General Augusto Pinochet, President Uhuru Kenyatta, former President Pervez Musharraf, former Bosnian Vice President Ejup Ganic, General Karake Karenze of Rwanda, the political leadership of Bangladesh Jamaat-e-Islami, and more recently the President of Syria Bashar al-Assad.

Domestic Crime

Chambers' domestic criminal law expertise includes a wide range of areas including general criminal law, business and financial crime, anti-corruption and bribery, terrorism, and investigations of serious crimes. With members spanning all levels of seniority and different types of expertise, Chambers provides well-rounded representation and advice at all levels on all types of cases, whether being instructed through solicitors and through direct access.

Public International Law

Public International Law is one of the fast growing legal fields. It has been at the cutting edge of legal development in recent years and continues to develop

into many interconnected fields. The introduction of the Human Rights Act in the United Kingdom and the increasing reliance on international law in the domestic courts means that expertise in this field is now more important than ever before.

Extradition, Mutual Legal Assistance and Interpol Red Notices

Guernica 37 regularly advises and represents individuals, foreign governments and judicial authorities in extradition proceedings at all levels. Its members have been involved in a number of high-profile extradition requests for individuals facing trials in the Balkans, South Asia, Latin America, North America, Africa and numerous Member States of the European Union under the European Arrest Warrant Scheme. Human Rights Act in the United Kingdom and the increasing reliance on international law in the domestic courts means that expertise in this field is now more important than ever before.

International Commercial Law, Arbitration & Mediation

International arbitration has enjoyed growing popularity with States and Corporations. There are a number of reasons that parties elect to have their international disputes resolved through arbitration. Guernica 37 is increasingly asked to advise and represent parties in commercial matters seeking to avoid the uncertainties and local practices associated with litigation in national courts. Clients see the more efficient procedures, the relative enforceability of arbitration agreements and awards, the freedom to select and design arbitral procedures, confidentiality and other benefits.

Business and Human Rights

Over recent years, corporate responsibility has seen a change of focus. As a global population becomes ever more alive to general principles of individual human rights, they have also become aware of the social and environmental responsibility. Stakeholders, having developed a common understanding, are increasingly adopting responsibility for the issues that corporations are faced with, and seek to highlight such issues and exert pressure where they can. In the area of Business and Human Rights, Guernica 37 provides bespoke advice and assistance on compliance with human rights standards and due diligence policies, advancing the UN Guiding Principles. Guernica 37 further provides advice and assistance to organisations and States in the areas of anti-corruption initiatives, rule of law development, training, institution building, legal reform, and legislative drafting.

Anti-Corruption, Bribery & Risk Management

Business and corporate strategy is now more global than it has ever been. With the increase in international trade and associated agreements however, international scrutiny has also increased with businesses and their conduct watched evermore closely. Just as the United States has made the enforcement of the Foreign and Corrupt Practices Act a priority, so too has the United Kingdom Serious Fraud Office sought to target allegations of corruption following the enactment of the Bribery Act. It is essential therefore that businesses are alive to both their domestic and international obligations. Dealing with multi-jurisdictional investigations is now the reality for those companies seeking to conduct business in global market place. We recognise that prevention is better than a cure. Guernica 37 members are perfectly placed to assist businesses in designing and implementing appropriate 'anti-corruption' programmes with policy enactment, and employee training.

International Climate Justice

Climate change and the risk of irreversible environmental damage is one of the greatest challenges we face. It impacts on a variety of human rights and fundamental freedoms. It has immeasurable consequences of the right to life, right to health, right to housing, freedom from poverty, right to access clean water and is likely to cause catastrophic internal and external displacement. Climate change and our response to the challenges we face have a disproportionate impact on the poor and marginalised. It has disproportionate impact on women, children and the elderly and is a greater threat in certain parts of the world already at risk through poverty, conflict and the absence of sustainable economic and environmental stability.

Rule of Law Development

Guernica 37 seeks to adopt a principle to promote international justice through investigation, litigation, and transitional justice initiatives. It does this by building effective global networks, empowering victims and local partners to secure their voice in transitional justice mechanisms. It uses legal accountability to incentivise institutional reform and prevent future abuses. This way it develops transnational legal strategies to overcome entrenched impunity, fostering an exchange of expertise between legal cultures, civil society groups and victim communities to cross-pollinate accountability strategies.



One Sock at a Time

The conflict in the Syrian Arab Republic has raged for close to ten years. During that time the outside world has largely been a spectator to the suffering of the Syrian people who have been subjected to some of the worst forms of ill-treatment imaginable. More than half a million have been killed, tens of thousands remain detained in secret prisons where torture is practised on an industrial and truly frightening level, civilian neighbourhoods have been subjected to aerial bombardment and ground force attacks, attacks using chemical and other forms of prohibited weapons, and sexual and gender based violence has been incorporated as a weapon of war. More than half the pre-war population have been either killed, detained or forced to flee their homes.

The international community and the systems set up to ensure the mantra “never again” means something has failed the Syrian people. The UN Security Council has become hamstrung where an active participant in the daily atrocities can prevent any international intervention or international accountability. The humanitarian support continues but that is like using a dustpan and brush to sweep up after a devastating earthquake or a kitchen mop to clean up after a Tsunami.

The International Criminal Court was established to deal specifically with this type of conflict and yet it is unable to as a result of jurisdictional limitations. The United Nations, Arab League and OIC are all powerless or uninterested.

The Kingdom of the Netherlands seeks to change that and has initiated a process that aims, innovatively, to bring an end to the impasse and hold the Syrian Government accountable.

The initiative has received mostly widespread support from States and Syrian victims alike. There have; however, been some voices of discontent. These voices are mostly from a position of lack of awareness or understanding of the process and focus on ill perceived notions. For example, one critical voice has focused on the notion that this undermines criminal accountability and risks legitimising a criminal state. Such a proposition

is ill-conceived and regrettably displays a distinct lack of knowledge of the process. Other voices have asked “Why now?”, “Why the Netherlands?” or “Why not the ICC?” All of these questions are relevant and can be answered clearly.

The Netherlands has been a longtime advocate of accountability in Syria and was one of the first States to break diplomatic ties with the Assad Regime and has shown no sign of re-establishing diplomatic relations and allowing Syria to become a legitimate State. The Netherlands has been at the forefront of humanitarian efforts and has been active in supporting a number of transitional justice mechanisms including the UN IIIM. The Netherlands was a vocal advocate of efforts in the UN Security Council to refer the situation in Syria to the ICC and to ensure humanitarian protection to those most in need. This most recent effort is largely as a result of the frustration of the ineffectiveness of those efforts on an international level and the lack of jurisdiction at the ICC.

This effort by the Netherlands is therefore a critically important step to hold the Syrian State accountable for breaches of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It will not establish individual criminal responsibility and it will not amount to a criminal trial. However, the process is an important step in ensuring that impunity does not prevail. The Syrian regime, its Commander-in-Chief, Bashar al Assad, the Branches of Intelligence and Security, the army, law enforcement and the courts, bear responsibility for the breaches and therefore must be held accountable.

It will not frustrate or interfere in any present or future criminal trial on the national or international level. It will not replace criminal accountability; rather it will complement and reinforce those efforts and may provide a path to greater accountability on the national and international level.

See full article here:

<https://www.guernica37-media.com/one-sock-at-a-time>

Modern Warfare: Corporate Mercenaries and Wars for Profit

by Clarissa Rodio

Mercenaries are referred to as the “world’s second-oldest profession”. The private military force began to be stigmatised as a result of nation-states that effectively outlawed the private force: the Westphalian world order. The end of the Cold War catalysed an emergence of mercenary activity, which started to increase across the globe.

The use of mercenaries is growing exponentially. Recently, two former German soldiers planned to establish a mercenary force to fight in Yemen and offer their services to Saudi Arabia’s government. The UN Panel of Experts accused Russian instructors of being involved in hostilities in the Central African Republic, who have been identified as Wagner affiliates, the Wagner Group. Latin American mercenaries, particularly the Colombians, have also been involved in Yemen in support of the Saudi-led coalition. The United States still carries the stigma linked to Blackwater (now Academi) founded by Erik Prince, particularly the tragic event known as the Nisour Square massacre in 2007.

This Essay is part of the series “Contemporary Challenges and Developments in International Humanitarian Law”, published in collaboration with the Association of Young International Criminal Lawyers.

See full article here:

<https://www.guernica37-media.com/post/modern-warfare-corporate-mercenaries-and-wars-for-profit>



Guernica 37 Files Formal Submission to the UK Foreign, Commonwealth and Development Office

Guernica 37 Files Formal Submission to the UK Foreign, Commonwealth and Development Office for imposing Sanctions on Leading Members of the Government of Bangladesh and Members of the Notorious Rapid Action Battalion for Alleged Involvement in Human Rights Violations and Corrupt Practices

On 24 August 2021, Guernica 37 Chambers made a formal submission to the UK Foreign, Commonwealth and Development Office (FCDO) recommending sanctions for six leading members of the Government of the People’s Republic of Bangladesh and nine members of the Rapid Action Battalion for alleged involvement in human rights abuses and/or acts of corrupt practices. The Submission is made under the Global Human Rights Sanctions 2020 (Secondary Legislation laid

under the Sanctions and anti-money Laundering Act 2018)

The named perpetrators are current and former senior officers within the Rapid Action Battalion (RAB), a paramilitary law enforcement and counterterrorism unit of the Bangladesh Police that is comprised of officers from both the Police and Armed Forces. As senior RAB officers, all the persons named are responsible for hundreds of extrajudicial killings, enforced disappearances, and torture.

See full article here:

<https://www.guernica37-media.com/post/guernica-37-submits-formal-submission-to-the-uk-foreign-commonwealth-and-development-office>

Guernica In The News

Human Rights Watch has documented 86 cases of victims in Bangladesh who were forcibly disappeared since 2009 when the Sheikh Hasina-led government took office, and who remain missing. The Bangladesh government has repeatedly denied that security forces routinely commit enforced disappearances. Brad Adams, Asia director at Human Rights Watch, said that “the Bangladesh government should mark International Human Rights Day by welcoming an independent international investigation into the whereabouts of the victims of enforced disappearance who remain missing...the only way to move forward is to finally bring closure to the families of victims and hold those responsible accountable.”

In August 2021 the Guernica 37 Chambers law offices made a formal submission to the British Foreign, Commonwealth and Development Office recommending sanctions for 15 current and former senior RAB officers for alleged involvement in human rights abuses and corrupt practices under the Global Human Rights Sanctions Regulations 2020.

Reported in [Human Rights Watch](#).

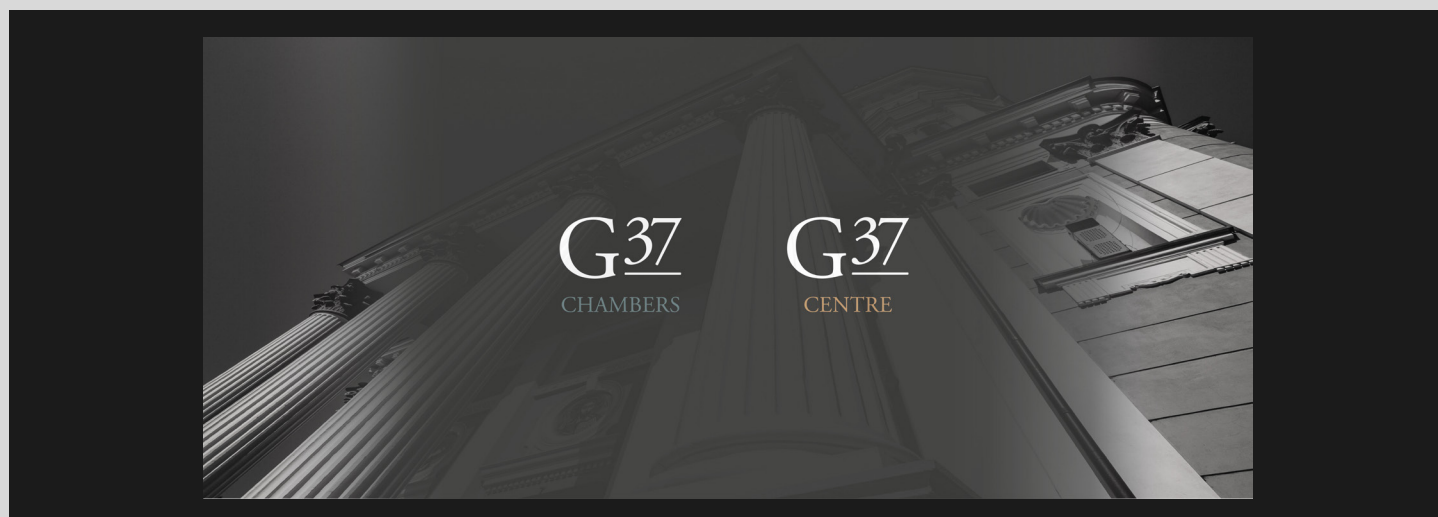
On November 29 2021, for the first time in over five years, the United Nations Security Council held a session titled “Accountability in the Syrian Arab Republic.” Chaired and organised by the permanent mission of Estonia, whose rotating term on the Council will end at the end of 2021, the session was a so-called Arria formula meeting. The meeting was held on Tuesday, with direct sponsorship from Estonia, France, Britain, and the United States.

Other participating countries were Canada, Germany, Georgia, Liechtenstein, the Netherlands, Qatar, Sweden, and Turkey. Representatives from these countries made similar statements at the first meeting, which were followed by representatives from the non-permanent UNSC members: Ireland, Mexico, Norway, and India at the second meeting, as well as those of Albania, Switzerland, Australia, Malta, Italy, Luxembourg, Slovakia, Ukraine, Denmark, and the European Union.

At the opening session, the Chair of the International Impartial and Independent Mechanism, Catherine Marchi-Uhel, and Claus Kress, a professor of criminal and international law, spoke. They were followed by Omar al-Shughari, a Syrian refugee, former detainee, and human rights activist, and Waad al-Khatib, a Syrian journalist and film director, and the Syrian lawyer and activist Ibrahim al-Olabi.

Reported in [Istituto Analisi Relazioni Internazionali](#), [The Syrian Observer](#).

Video on [YouTube](#).



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