

Newsletter

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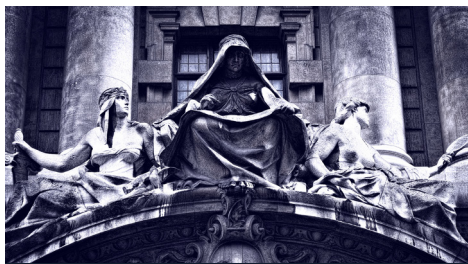
GUERNICA 37

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JUSTICE

‘Representing the interests of victims, we empower them to demand justice both locally and internationally’



ACCOUNTABILITY

‘We are committed to conceive and develop strategies necessary to further accountability for human rights abuses globally’



SUSTAINABILITY

‘We work on effective atrocity prevention through transnational initiatives, promoting meaningful national transformations’

A Message from the Co-Head of Chambers,

We are delighted to present the newest edition of the Guernica 37 Newsletter and to highlight a number of important developments.

As we approach the summer recess, we continue to strengthen our team globally, continue to expand our work in all areas of domestic work, international criminal and human rights law, international commercial law and arbitration, and climate justice.

We are particularly delighted to announce that our Co-founder and joint Head of Guernica 37 Chambers, Almudena Bernabeu, is relocating to London this summer following the decision to bring the two entities, Guernica 37 Chambers and Guernica 37 Centre, closer together as we continue to collaborate on projects involving The Gambia, Lebanon, Libya, Syria, Venezuela and Yemen.

We are pleased to announce that we have now selected candidates for interview for the Academy Internship and will conduct interviews during July. As ever, the process was highly competitive, and a large number of highly qualified and highly motivated candidates applied.

Our work campaigning for Whistleblowers continued with the release of Jonathan Taylor in Croatia and Trevor Kitchen in Portugal, both of whom were released following the discharge of extradition requests by Monaco and Switzerland, respectively. Our team will be representing a further whistleblower, Nasim Haradinaj, when he goes to trial before the Kosovo Specialist Chambers in The Hague this Autumn.

We hope you enjoy this edition of our newsletter.

Toby and Almudena



Welcome to The Guernica 37 Group

A specialist group of international practitioners that bring together the core values of a socially committed and multi-disciplinary legal practice in the international criminal law field.

Guernica 37 Group Founder Members
Toby Cadman & Almudena Bernabeu



OUR STORY

Almudena and Toby met in 2011 when they both were lawyers at their previous posts. Almudena had specialised as a plaintiff/victims attorney seeking accountability from a public interest or non-profit platform. Almudena had adapted and although legal pro Bono counsel had largely supplemented her work, she always recognised that the field of international law when it came to litigation, lacked the necessary expertise. Toby on the other hand, had forged a career professionally serving private clients but concerned and aware of the social dimension of the work and those - the victims - inevitable excluded. Almudena was rather outspoken about serving victims and their communities from and with a different approach and model, so was Toby, a model that would count, as part of the same team, highly regarded counsel trained in private practice with highly regarded counsel coming from public interest with deep knowledge and exposure of the national realities at stake. Effective accountability needed both, deep legal understanding and experience inform by detailed knowledge of the realities it aims to impact.

Guernica was born with the aspiration that such a model is possible. That Justice and Accountability are never standard, even if human rights and aspirations must be. We wanted a model that is truly international, diverse, with a wider and a deeper reach. That is Guernica 37.

The Month In International Legal News



More than 50 former foreign ministers, prime ministers and senior international officials, including two British Conservative former ministers, have signed an open letter condemning political interference in efforts by the ICC to investigate alleged war crimes in Palestine.

One of the Sicilian mafia's most notorious killers, believed to have murdered more than 100 people, has been released from prison after 25 years behind bars. Giovanni Brusca, 64, nicknamed "the swine" or "u scannacristiani" (the people-slayer), who set off the explosive that killed anti-mafia prosecutor Giovanni Falcone in 1992, is now a free man. Enrico Letta, the leader of the centre-left Democratic party, stated that "it is a punch in the stomach that leaves you breathless".

The European Commission officially confirmed that the European Public Prosecutor's Office (EPPO) will start operating on 1 June. Vice-President for Values and Transparency, Věra Jourová, said that "we are on the home stretch now: we are about to launch the first-ever independent EU office to investigate and prosecute crimes affecting the EU budget."

A cross-party group of MPs and peers said that proposals to restrict judicial review are an affront to the principles of fairness and government accountability and should be dropped.

The progressive New York representative Alexandria Ocasio-Cortez has criticised Vice-President Kamala

Harris for saying undocumented migrants from Guatemala should not come to the US. She also had a clear message that undocumented Guatemalan migrants would not find solace at the US border under the Biden administration.

The European Commission launched a legal action against Germany, after determining that last year's controversial ruling on bond-buying by the country's Constitutional Court "constitutes a serious precedent" that puts at risk the EU's legal order. In May 2020, Germany's most senior court, based in Karlsruhe, ruled that the European Central Bank (ECB) had gone beyond its competence with bond purchases.

A Court in Moscow has banned political organisations linked to Alexei Navalny, classifying them as "extremist". Activists will risk prison sentences if they continue their work and anyone who publicly supports Mr. Navalny's political network can now be barred from running for public office.

A Ministry of Justice report sets out the Government's response to the recommendations made by the UN's Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) for places of detention across the UK.

Albania, Brazil, Gabon, Ghana and the United Arab Emirates (UAE) were elected by the 75th session of the General Assembly to serve as non-permanent members

of the UN Security Council for the 2022-2023 term. According to the final tally, Ghana received 185 votes, Gabon 183, UAE 179, Albania 175 and Brazil 181 votes.

Outgoing ICC Prosecutor Fatou Bensouda requested the Pre-Trial Chamber to open investigations into the situation in the Philippines, alleging that crimes against humanity of murder occurred in the context of the country's war on drugs.

Mr Karim Asad Ahmad Khan QC gave his solemn undertaking and formally took office as the Prosecutor of the ICC during a ceremony held at the Seat of the Court in The Hague. Mr Khan was elected as ICC Prosecutor on 12 February 2021, for a nine-year term, at the second resumed nineteenth session of the Assembly of States Parties to the Rome Statute ("ASP") in New York. Prosecutor Khan stated, "the Rome Statute architecture is a promise to the future that tomorrow need not be as bleak and sorrowful as yesterday".

NATO allies have agreed to defend each other if war breaks out in space amid fears that it could become a new front line as China and Russia step up tests of anti-satellite weaponry. Jens Stoltenberg, the NATO Secretary General, stated that any attack on satellites or other space assets could trigger the North Atlantic Treaty 1949 Art.5, invoking a collective military response. NATO member states formally agreed that such attacks could be as damaging as a conventional attack.

A human rights watchdog said that digital sex crime is now so pervasive in South Korea that the fear of it is affecting the quality of life for women and girls, with many victims saying they had considered suicide or leaving the country.

The US Supreme Court has ruled food giants Nestlé USA and Cargill cannot be sued for child slavery on African farms from where they buy their cocoa. In its decision, written by Justice Clarence Thomas, the court

ruled that while Nestlé USA and Cargill provided the farms with technical and financial resources, there was no evidence that business decisions made in the US led to the men's forced labour.

Alieu Kosiah, a Liberian rebel commander, was sentenced in Switzerland to 20 years in jail for rape, killings and an act of cannibalism, in one of the first ever convictions over the West African country's civil war. The case was also Switzerland's first war crimes trial in a civilian court.

MPs and peers have warned that the restrictions on protests in the controversial new policing bill breach human rights laws and will increase the risk of peaceful demonstrators in England and Wales being criminalised.

An expert panel convened by Netherlands-based Stop Ecocide International unveiled a draft definition of ecocide as a potential fifth international crime, to sit alongside genocide, crimes against humanity, war crimes and the crime of aggression. According to the draft definition ecocide means "unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts".

The New York Times reported that four Saudis who were involved in the 2018 killing of the Washington Post journalist Jamal Khashoggi received paramilitary training in the US the previous year under a contract approved by the State Department.

The Lord Chief Justice and senior president of tribunals want all judges to feel confident to speak up about any wrongdoing, according to a new whistleblowing policy unveiled this week. The 12-page Judicial Whistleblowing Policy: How to report wrongdoing document was published on the judicial intranet on 23 June.

The US white ex-police officer convicted of murdering African-American man George Floyd in Minneapolis in May 2020 has been sentenced to 22 years and six months in jail. The judge said Derek Chauvin's sentence was based "on your abuse of a position of trust and authority, and also the particular cruelty shown" to Mr Floyd.



The European Commission has sent its biannual non-paper on the state of the rule of law in Montenegro and Serbia to the Member States. The Commission noted problems with the judicial track record, independence of the judiciary, and a still problematic situation in the area of freedom of expression, among other findings.

National Assembly of Serbia voted to trigger the procedure for amending the Constitution in the field of the country's judicial system. The procedure requires the Committee on Constitutional Affairs to draw up the amendments, which will then have to be confirmed by a two-thirds majority and by the citizens in a referendum.

The Mechanism for International Criminal Tribunals in The Hague confirmed that Ratko Mladić will serve a life sentence for his role in the worst atrocities in Europe since World War II. Ratko Mladić has been sentenced to life imprisonment for crimes against humanity and genocide in Srebrenica in 1995.

Albanian MPs have recently voted to impeach President Ilir Meta for allegedly violating the constitution ahead of Albania's April election. It is now up to the Albanian Constitutional Court to give final approval within the next three months.

The president of International Residual Mechanism for Criminal Tribunals, Carmel Agius, told the UN Security

Council that the verdict in the retrial of Jovica Stanišić and Franko Simatović is still on track to be delivered this month. Stanišić, the former head of Serbian State Security, and Simatović, his former deputy, are being retried for alleged participation in a joint criminal enterprise whose aim was the forcible and permanent removal of the majority of non-Serbs, mainly Croats and Bosniaks, from large areas of Croatia and Bosnia and Herzegovina in the period from 1991 to 1995.

NATO heads of states and governments that attended the alliance summit in Brussels vowed to support the territorial integrity and stability of Bosnia while reaffirming "unity, solidarity, and cohesion, and pledging to open a new chapter in transatlantic relations" and address China's growing influence as well as Russia's aggressive actions that pose a threat to Euro-Atlantic security.

Serbian President Aleksandar Vucic and Kosovo Prime Minister Albin Kurti held their first EU-mediated meeting in Brussels. Mr Vucic stated that Pristina was not open to any compromise and said that Kurti was unwilling to take responsibility or face reality. According to Mr Kurti, the meeting was constructive and it left him optimistic.

Montenegro's parliament dismissed Minister of Justice, Human and Minority Rights Vladimir Laposavic after he expressed doubts about the rulings of the Hague tribunal classifying the 1995 Srebrenica massacre by Bosnian Serb forces as genocide. The pro-Serbian politician had argued that the UN war crimes tribunal in The Hague had no legitimacy.

The Council of Europe announced that several EU candidate countries in the Balkans had aligned themselves with the Council Decision to strengthen restrictive measures on Belarus by introducing a ban on the overflight of EU airspace and access to EU airports of Belarusian carriers of all kinds. Serbia, a country with traditionally friendly relations with Belarus, agreed to the sanctions.

The Guernica 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>

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.

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.

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.

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.

Government Advisory Work

Guernica 37 International Justice Chambers is a specialist Barristers' Chambers experienced in advising and assisting States as they commence a process of structural reform and transformation following periods of political instability, post-conflict, post-authoritarian regimes or prolonged periods of state institutions controlled by systemic and structural corrupt practices.

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.





A Civil Society Movement to Bring Meaningful Change

Addressing Corruption, Bringing Accountability

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 coopted 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 reestablished. 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.

The Guernica Centre was approached by a sector of Lebanese civil society to build a strategy aiming at collaborating with local organizations, Lebanese lawyers and retired judges, as well as leading international experts, to strategize and contribute to conditions that favor the independence of the Lebanese judiciary and its authority to administer justice, and, in turn, foster citizen oversight that will constructively contribute to the protection of the Rule of Law. Justice needs to be recovered as a cardinal value and a leading function of

the administration of power in Lebanon. An effective response by the justice system can be a meaningful catalyst in the quest for accountability and change, contributing to restore the eroded trust in government and state institutions.

In the wake of the August 4, 2020 explosion in Beirut, confronting the harm and the consequences of the malfeasance is at the core of countering the sense of generalized injustice that has taken hold over large sectors of Lebanese society.

The type of criminal offending and abuse of power transpiring in Lebanon reflect complex patterns of perpetration that involve sources of private and public power in planning, committing and covering-up egregious conduct. Guernica brings together seasoned practitioners from around the globe that have successfully led and advised accountability initiatives in similar adverse settings. Undoubtedly, the quest for accountability will be resisted by powerful players in Lebanon. Moreover, the situations that need to be addressed put traditional conceptions of legal and political responsibility to the test. The Guernica Centre will work with its local partners to ensure a multi-dimensional and incremental approach to the quest for accountability that engages society and contributes to restore trust in institutions.

In the process, this quest needs to be brightened by concrete achievements. As the Lebanon project starts

at the Guernica Centre, our partners at Guernica 37 International Justice Chambers have already provided counsel and promoted the use of legal recourses in the United Kingdom and Europe that should lead to holding perpetrators accountable and recovering funds (when possible). These cases show that exposing powerful actors acting as part of criminal enterprises is possible and, put quite simply, that justice can be achieved.

The Guernica Centre has prioritized the quest for accountability in Lebanon as part of its programmatic action in national settings. Seed funding and sweat equity for this project, so far, has come from concerned citizens in Lebanon and outside. And much of the original research on the Guernica 37 work on Lebanon came from the excellent work done by Lebanese investigative journalists, which was graciously made available to the general public.

In recent weeks, many individuals and organizations reached out to us with offers of support so we can

continue and expand our efforts to advance the cause of justice related to crimes committed against the Lebanese people. See the link below for a listing of some of these organisations.

The Guernica Centre has set up a special account for funds related to this initiative. The funding and support, apart from the time of the Guernica team, will come from Lebanese citizens and persons with ties to Lebanon that are driven exclusively by the will to converge in a quest for justice and accountability. We are seeking the support of Lebanese citizens living in Lebanon and abroad to invest in this initiative to signal their determination to continue to fight against the crimes committed against them and their country. Donations of any size, however small or large, are encouraged. Donations from PEP (Politically Exposed Persons) or PEP related individuals or entities will not be accepted.

Further details can be found [here](#).

The Guernica Academy

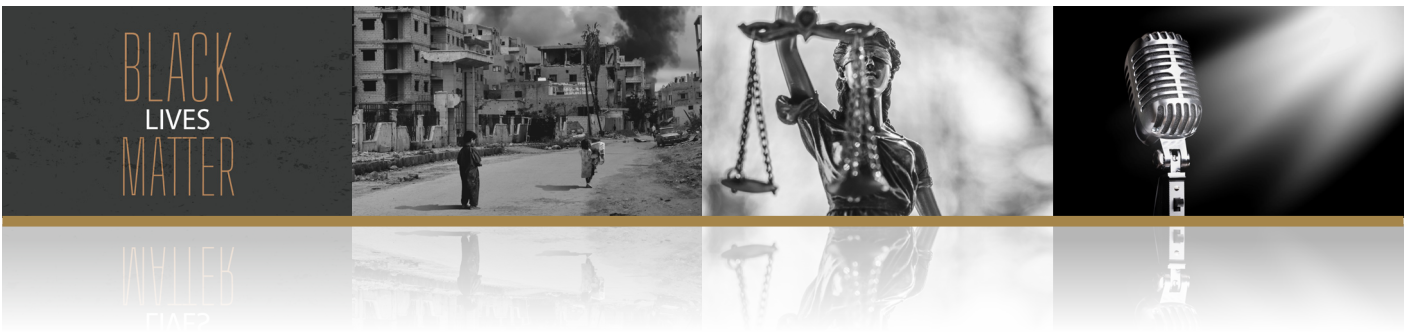
The Right Work, in The Right Way, with The Right People

Future Pupil Barrister Jack Sproson describes his memorable experience as an Academy Intern from March until June 2021. The full text is available [here](#).

Over the course of the last 3-months, I have had the privilege of participating in Guernica 37's Academy Programme, which I have enjoyed immensely. Looking back on my time at the Academy, I find myself reflecting on what it is that makes the Programme, and indeed Guernica more generally, so exceptional.

My answer, simply, is that Guernica does the right work, in the right way, with the right people, and the Academy is an unparalleled opportunity to experience that in real time.





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