

Kjetil Tronvoll, Charles Schaefer and Girmachew Alemu Aneme (eds), *The Ethiopian Red Terror Trials: Transitional Justice Challenged* (James Currey, Suffolk and New York, 2009) ISBN 978-1-84701-320-0, 158 pp.

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The Red Terror trials in Ethiopia are the trials of the officials of the former Derg government that ruled the country from 1974 up to 1991. The trials began in 1994 following the establishment of the Special Prosecutor's Office in 1992 by the Transitional Government of Ethiopia with a mandate to prosecute the former Derg officials. In 2006 the former head of the Derg and president of the country Colonel Mengistu Hailemariam and his top colleagues were convicted of genocide and crimes against humanity and sentenced to life imprisonment. The Red Terror trials are left with a few cases that still await final decision by courts. The *sui generis* nature of the Red Terror trials lies in the ambitious attempt of putting the whole government on trial. Despite the numerous issues that require analysis, there is scanty research conducted on the Red Terror trials to date.

The Ethiopian Red Terror Trials: Transitional Justice Challenged is the first analytic work to critically examine the Red Terror Trials. By adopting a unique multi-disciplinary approach, the anthology looks into the trials not only from a purely legalistic but also an historical and political prism which makes the volume the first comprehensive analysis of the Red Terror trials and a laudable contribution to the burgeoning scholarship on transitional justice. This book certainly fills the glaring void of treatises on the Red Terror trials.

The book is the result of a long and unswerving research effort by the editors and contributors. The editors are well known for their contribution to the scholarship on Ethiopia and the Red Terror trials. Kjetil Tronvoll is a Professor at the Norwegian Center for Human Rights, University of Oslo. Professor Tronvoll is a political anthropologist renowned for his long standing research on different issues relating to Ethiopia since the 1990s. Charles Schaefer is an Associate Professor of History at Valparaiso University who has also taught at the Addis Ababa University. Dr. Schaefer has researched and published on the Ethiopian historical understanding of vengeance and forgiveness. The third editor, Girmachew Alemu Aneme, is an Assistant Professor at the Faculty of Law of Addis Ababa University. Dr. Girmachew has been following the Red Terror trials from the beginning and has published articles on different aspects of the trials.

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The book is divided into nine informative chapters written by specialists on Ethiopia from several disciplines. The nine chapters employ a well-structured and clear approach and they coherently follow each other. In their introductory chapter entitled “The ‘Red Terror’ Trials: The Context of Transitional Justice in Ethiopia”, the editors explain the objective of the book: ‘The different contributions in this anthology analyze the approach taken by the current government of Ethiopia led by the Ethiopian Peoples’ Revolutionary Democratic Front (EPRDF) to deal with the massive human rights violations that took place from 1974 up to 1991...’(p.2).

In chapter two, the veteran historian Professor Bahru Zewde explores the antecedents and precursors of the Red Terror and its historical ferment. In his contribution, *The History of the Red Terror: Contexts and Consequences*, Professor Bahru draws parallels among the classical revolutions like the French and Russian revolutions with that of the Ethiopian Revolution focusing on the euphoria preceding all the revolutions and the ensuing anguish and remorse accompanying them. He invokes the Ethiopian Revolution as a classical manifestation of the contrasting faces of revolutions whereby the very proponents were persecuted (p. 17). He succinctly explains the execution of terror as the defining feature of revolutions noting some exceptions. Furthermore, Professor Bahru makes a very arduous effort and confronts the daunting task of explicating the antecedents of post-revolution Ethiopia. He broadly outlines the warrior and militarist tradition and religious and doctrinal orthodoxy as paving the way for the dogmatic ideological adherence to entrenched political positions as culprits for the horror which unfolded in the course of the Red Terror. These two negative traditions were demonstrated by both the Derg and its civilian and military adversaries, who were vying for political power up on the demise of the imperial monarchy in 1974. (p. 22)

In the subsequent sections of the chapter, Professor Bahru proceeds to clarify the build up to the Red Terror dividing the period into three phases. He sets out with recounting the clamp down on military units who endorsed the “Provisional Popular Government” (PPG), which was the rallying point of the civilian and military opponents of the Derg. (p. 23) He has also scrutinized the relationship prevailing between the adversaries of the Derg such as the Ethiopian Peoples Revolutionary Party and *Ma’ison* which was initially cozy but became poisoned shortly afterwards in early 1975 following the decision of *Ma’ison* to shift strategy from opposition to critical support and the land reform the Derg embarked on (p. 24). Having clarified the lack of unanimity on issues such as when the Red Terror started and who started it, Professor Bahru went on to skillfully outline the three phases of the Red Terror. He then brings the discussion to an end by wrapping up the consequences of the Red Terror.

In their very informative contribution on the rights of the accused, Frode Elgesem and Girmachew Alemu Aneme undertake assessment of the Red Terror trials in light of

the rights of the defendants in the third chapter of the book. This chapter notes the human rights framework of the country including the ratification of the International Bill of Human Rights and the adoption of the 1995 FDRE Constitution which incorporated international instruments ratified by the country as integral part of the domestic law of the land. The writers also dwelt up on the use of the International Bill of Human Rights as aid in the interpretation of domestic laws (p. 35). Apart from this, they scrutinized the charges brought against three groups of defendants including senior government officials, military and civilian field commanders and individuals who actually carried out the orders based on the 1957 Penal Code and the 1961 Criminal Procedure Code (pp. 35-36). The chapter also illustrates charges brought forward by the public prosecutor in the Red Terror trials. (pp. 40-41) In the subsequent sections, the chapter focuses on the assessment of the Red Terror trials in the light of pre-trial, trial and post-trial rights of accused persons. The analysis in these sections is focused on selected judicial guarantees of due process of law Such as the rights of accused persons to be brought promptly before a court and to trial within reasonable time or to release, the right to be tried without undue delay and the right to legal counsel. The sections also look into the issue of capital punishment. The chapter makes the observation that the Red Terror trials have been fraught with violations of the rights of the accused persons.. Consequently the writers argue that ‘International law and practice dictate that the Ethiopian courts and authorities should reject or commute the death penalty in the Red Terror trials in light of the series of rights of the accused that were not respected and protected for one reason or another’ (p.50).

The fourth chapter on the *Role of the Special Prosecutor’s Office (SPO)* by Sarah Vaughan examines the activities of the Office and its relationship with other key players. The Special Prosecutor’s Office of the Transitional Government of Ethiopia was established in 1992 though it became operational in early 1993 (p.52). It was vested with a twofold mandate of investigation and prosecution of perpetrators of offences and of maintaining record for posterity of the offences committed under the Derg (p. 52). The writer substantiates the frantic effort on the part of the SPO to catch up from the outset of the Red Terror trials and the ensuing disaffection with the Office by the stakeholders. Irrespective of this disaffection, the response of many governments and donors for its request to address its capacity challenges was overwhelmingly positive (p. 53). This is followed by a detailed and informative discussion of the strategy of investigation, evidence collection and analysis and security of the SPO (pp. 53-54). This chapter also shifts attention to several considerations and arguments in defense of the decision by the government to opt for a court process and a domestic one in lieu of international reconciliatory mechanisms (pp. 57-59). The writer concludes her chapter by articulating the relationship of the SPO with the judiciary, the executive, the general public and the international community.

In the fifth chapter of the book entitled *The Red Terror Trials versus Traditions of Restorative Justice in Ethiopia*, Charles Schaefer inquires whether retributive justice was the right way to go. He confronts the vexing question of why EPRDF endorsed the trial format regardless of the fact that the history of Ethiopia is abound, though not replete, with rendering of restorative justice (p. 68). He characterizes the decision to go along the lines of retributive justice as a unique one, a break from the tradition of restorative justice in the country (p. 69). The writer examines the landmark event of the Battle of Adwa to support his argument that restorative justice as a potent tradition of conflict resolution existed in Ethiopia. The writer depicts the magnanimity Emperor Menilek displayed to the defeated Italians as emblematic or symptomatic of how Ethiopian rulers treated the vanquished. He weaves through history to demonstrate the fact that Ethiopian rulers confined themselves to overcoming the enemy short of inflicting wanton destruction.

The Derg, therefore, is singled out as marking a break or rupture from this tradition of restorative justice by denigrating time-honored methods of conflict resolution. The repudiation of the virtues of the past was so wanton that the EPRDF government found it difficult to re-discover a scenario for reconciliation (p. 80). Nonetheless, the writer points out that the total rejection of restorative justice coupled with the problems in the proper administration of retributive justice may have caused the characterization of the Red Terror trials as “victor’s justice” (p. 82).

In chapter six of the book entitled *The Quest for Justice or the Construction of Political Legitimacy? The Political Anatomy of the Red Terror Trials*, Kjetil Tronvoll explains the Red Terror trials in terms of the political relationship of the different actors. According to the writer, EPRDF’s choice of retributive justice in the form of the Red Terror trials was meant to mark a clear break from the past (p. 85). The writer examines if the trials have achieved the stated objective based on three principles of transitional justice: Firstly, the whole truth about atrocities committed in the past must be revealed. Secondly, any politico-juridical process must reflect the will of the people. Finally, an incumbent regime must itself respect and up-hold human rights during the process of transition. Thereafter, the writer proceeds to apply these tests to the Ethiopian scenario in the context of the Red Terror trials (pp.89-91).

In her contribution under chapter seven entitled *Building State and Nation: Justice, Reconciliation and Democratization in Ethiopia and South Africa*, Elsa Van Huyssteen, compares and contrasts the effectiveness of approaches adopted by Ethiopia and South Africa in dealing with past massive human rights violations. In her introductory remarks the writer invokes the need for ‘a reckoning of some kind with the past’ up on transition from repressive regimes to democracies (p.98). This reckoning calls for two requirements, namely the need to document the abuses and

violations of the past and the need to deal with the perpetrators of those abuses (p.98). It is the second requirement of the process of reckoning, which the writer characterizes as the most daunting. After identifying strategies to address this thorny issue, which range from prosecution to *carte blanche* amnesty, she equates the debates as to the effectiveness of these strategies with that of the relative importance of justice and reconciliation in the democratization processes of the state and society (p. 98). This chapter clarifies that Ethiopia opted for prosecution of perpetrators and by so doing, the construction of an official record of what happened, when South Africa embarked up on writing an official history of abuses and giving amnesty for the perpetrators. Despite the fact the two countries employed different mechanisms, they both aimed at the same objective i.e. “providing the basis for consolidating a new state and society with a new culture of accountability and democracy where the atrocities of the past could never happen again.” (p. 99)

In chapter eight of the book entitled *Beyond the Red Terror Trials: Analyzing Guarantees of Non-Repetition* Girmachew Alemu Aneme examines the normative and institutional mechanisms put in place to prevent the recurrence of the atrocities of the Red Terror. The main objective of the analysis under chapter eight is the critical assessment of the current Ethiopian normative and institutional mechanisms against the backdrop of major standards of non-repetition as developed in the ‘Van Boven principles’ endorsed by the General Assembly of the United Nations (p.116). With this objective in view, the writer focuses on the analysis of the independence of the judiciary, the rules regulating the media, the legal profession, and human rights defenders as well as the efforts in creating a human rights culture and establishing conflict prevention and resolution mechanisms. In his analysis the writer points out the gaps and challenges of the normative and institutional guarantees of non-repetition such as the lack of qualified judges, the absence of strong professional organizations and the lack of awareness of the human rights laws and ideals at the grass-root level (pp. 122-128). In his concluding observation the writer of this chapter observes that ‘The non-repetition of the past unspeakable violations cannot be assured unless the above legal and institutional guarantees are reinforced.’(p.133).

Chapter 9 of the book entitled *Concluding the Main Red Terror Trial: Special Prosecutor v. Colonel Mengistu Hailemariam et al.* by the editors offers an analysis of the verdict and sentence as well as the appeal process in the leading case of *Special Prosecutor v. Colonel Mengistu Hailemariam et al.* In this chapter, the editors make the following insightful observation as part of the conclusion of the anthology: ‘The Red Terror trials, no matter their shortcomings described in this volume, will mark a juncture in history where ideally law trumps violence and will be understood as the starting point in the transition towards societal justice in Ethiopia’(p.151).

This book is clearly structured and well written. Nonetheless, a few typographical errors appear on some of the pages. Another challenge for the editors is to translate the book in to local vernaculars of Ethiopia so as to make it accessible to the general

public. These, however, do not affect the quality of the book. In conclusion, *The Ethiopian Red Terror Trials: Transitional Justice Challenged* is an admirable and important inquiry which is highly recommended for students, academics and practitioners of law, political science, history and sociology. Last but not least, the fact that one of the editors and contributors of this book is a member of our Faculty is certainly of something of paramount importance and a source of encouragement to the Faculty's endeavor to enhance research and publications in critical legal developments in the country.