

¹ *The Special Prosecution Process of War Criminals and Human Rights Violators in Ethiopia*, (Office of the Special Prosecutor, Transitional Government of Ethiopia, Addis Ababa), Feb. 1994, at 23 [hereinafter *The Special Prosecution Process*].

² "Tens of thousands of Ethiopians were tortured, murdered or 'disappeared' after arrest during the period from 1974 to 1991." AFRICA WATCH, ETHIOPIA: RECKONING UNDER THE LAW 3 (1994) [hereinafter RECKONING]. See also ALEXANDER DE WAAL, EVIL DAYS: THIRTY YEARS OF WAR AND FAMINE IN ETHIOPIA 3-4 (1991).

³ RECKONING, *supra* note 2, at 10.

⁴ *Intervention by Mr. Girma Wakjira* (U.N. Comm'n on Hum. Rts., Geneva), Feb. 17, 1994, at 4 [hereinafter *Intervention*]. The Special Prosecutor's Office, once created, lacked computers and even a photocopier, and there was no public defender system to aid those detained. *Proposal for Financial Assistance* (Office of the Special Prosecutor, Transitional Government of Ethiopia, Addis Ababa), June 1, 1993, at 2-3 [hereinafter *Proposal for Financial Assistance*].

⁵ *Written Statement submitted by the Special Prosecutor Office of the Transitional Government of Ethiopia*, (U.N. Comm'n on Hum. Rts., Geneva), Feb. 17, 1994, at 5 [hereinafter *Written Statement*]. See also *The Special Prosecution Process*, *supra* note 1, at 13-14.

⁶ Special Prosecutor Girma Wakjira made this clear to the U.N. Commission on Human Rights in stating:

Some think a country like Ethiopia can not [sic] afford such actions. The opposite is the fact: as a nascent democracy we can not [sic] afford a continuation of governmental impunity, we can not [sic] afford a lack of confidence in democratic institutions, like the courts. We cannot afford old wounds to fester and infect our society for years to come.

Intervention, *supra* note 4, at 5.

⁷ As a signatory to the International Covenant on Civil and Political Rights, Ethiopia is obligated to respect its provisions regarding trial procedure. Telephone Interview with Todd Howland, Special Advisor to the Office of the Special Prosecutor (Sept. 24, 1994). See also *Written Statement*, *supra* note 5, at 4. The discussion of whether to use international law standing alone or as codified in the Ethiopian Penal Code and whether to use any non-international law-based sections of the Penal Code had been ongoing, but was settled. See *infra*, text accompanying notes 117-32.

⁸ International Covenant on Civil and Political Rights, G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, at 59, U.N. Doc. A/6316, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) [hereinafter ICCPR or "Covenant"].

⁹ *Intervention*, *supra* note 4, at 5.

¹⁰ *Id.*

¹¹ RECKONING, *supra* note 2, at 6.

¹² *Africa--Situation in Ethiopia, July 27, 1994: Hearings on the Situation in Ethiopia Before the Subcomm. on Africa of the House of Rep. Comm. on Foreign Affairs*, 103d Cong., 1st Sess. (1994) (Testimony of

Abdulahi An-Na'im, Human Rights Watch/Africa), *available in* LEXIS, News Library, CURNWS File [hereinafter *Hearings*].

¹³ DAWIT WOLDE GIORGIS, RED TEARS: WAR, FAMINE AND REVOLUTION IN ETHIOPIA 6 (1989).

¹⁴ *Id.* at 15.

¹⁵ *Id.* at 7.

¹⁶ DE WAAL *supra* note 2, at 56-57, 63, 65-69.

¹⁷ GIORGIS, *supra* note 13, at 7.

¹⁸ *Id.*

¹⁹ *Id.* at 11.

²⁰ *Id.* at 11, 12.

²¹ "Dergue" is a word from an ancient Ethiopian language and means "council" or "Committee." *Id.* at 12; *Intervention*, *supra* note 4, at 1.

²² GIORGIS, *supra* note 13, at 12.

²³ *Id.*

²⁴ *Id.* at 12-13.

²⁵ *Id.* at 14.

²⁶ *Id.* at 14-15.

²⁷ *Id.* at 15. Haile Selassie was 80 years old when he was arrested. He died precisely one year later under circumstances that were unclear. The public was led to believe he died of prostate cancer, but there appeared to be an "understanding" within the Dergue that he was killed so there would be no threat of his return to power. *Id.* at 16. The initial group of officials to go on trial are formally charged with the Emperor's death. Jennifer Parmelee, *Leaders of Ethiopia's '70's Dictatorship Go on Trial for Murder*, WASH. POST, Dec. 14, 1994, at A32.

²⁸ GIORGIS, *supra* note 13, at 21.

²⁹ *Id.* at 18, 22.

³⁰ *Id.* at 19, 29. Amman committed suicide rather than be arrested, and Teferi was executed along with other members of the Dergue's Steering Committee. *Id.*

³¹ *Id.* at 19-20. *See also The Special Prosecution Process*, *supra* note 1, at 3.

³² GIORGIS, *supra* note 13, at 21.

³³ *Id.* at 26.

³⁴ DE WAAL, *supra* note 2, at 102-03.

³⁵ GIORGIS, *supra* note 13, at 31-32. The *kebeles* were the political, administrative, and security units of the revolution. *Id.* at 31.

³⁶ DE WAAL, *supra* note 2, at 103. *See also, The Special Prosecution Process, supra* note 1, at 3.

³⁷ DE WAAL, *supra* note 2, at 103. Some of the victims were as young as 12 years old. AMNESTY INT'L, HUMAN RIGHTS VIOLATIONS IN ETHIOPIA 14 (1978).

³⁸ DE WAAL, *supra* note 2, at 104.

³⁹ *Id.* at 105.

⁴⁰ AMNESTY INT'L, *supra* note 37, at 7.

⁴¹ DE WAAL, *supra* note 2, at 110-11.

⁴² RECKONING, *supra* note 2, at 6.

⁴³ *Id.*

⁴⁴ *Id.* *See also The Special Prosecution Process, supra* note 1, at 3.

⁴⁵ DE WAAL, *supra* note 2, at 86, 118.

⁴⁶ *Id.* at 117.

⁴⁷ *Id.* at 86 (citation omitted).

⁴⁸ *Intervention, supra* note 4, at 2.

⁴⁹ *Written Statement, supra* note 5, at 2.

⁵⁰ *Intervention, supra* note 4, at 2.

⁵¹ DE WAAL, *supra* note 2, at 5.

⁵² *Id.*

⁵³ RECKONING, *supra* note 2, at 7.

⁵⁴ *Id.* The EPRDF was made up of the Tigrayan People's Liberation Front, the Amhara National Democratic Movement, the Oromo Peoples Democratic Organization, and the Ethiopian Democratic Officers

Revolutionary Movement. *Hearings, supra* note 12.

⁵⁵ Jonathan Clayton, *Ethiopian Rebels Tighten Grip on Capital*, Reuters World Serv., Apr. 5, 1991, available in LEXIS, News Library, REUWLD File.

⁵⁶ RECKONING, *supra* note 2, at 7.

⁵⁷ *Id.*

⁵⁸ *Id.* at 8 (citation omitted).

⁵⁹ INTERNATIONAL HUMAN RIGHTS LAW GROUP, ETHIOPIA IN TRANSITION: A REPORT ON THE JUDICIARY AND THE LEGAL PROFESSION 1 (1994) [hereinafter ETHIOPIA IN TRANSITION].

⁶⁰ THE TRANSITIONAL PERIOD CHARTER OF ETHIOPIA, art. 1 (in NEGARIT GAZETA No. 1, July 22, 1991) [hereinafter CHARTER].

⁶¹ *Id.*

⁶² RECKONING, *supra* note 2, at 8.

⁶³ CHARTER, *supra* note 60, arts. 7-9.

⁶⁴ *Hearings Before the Subcomm. on Africa of the House of Rep. Comm. on Int'l Relations*, 104th Cong., 1st Sess. (1995) (Testimony of Holly Burkhalter, Human Rights Watch), available in LEXIS, News Library, CURNWS File.

⁶⁵ ETHIOPIA IN TRANSITION, *supra* note 59, at 28.

⁶⁶ *The Special Prosecution Process, supra* note 1, at 2.

⁶⁷ ETHIOPIA IN TRANSITION, *supra* note 59, at 29. As of May 1994, there were 45 Ethiopian prosecutors and eight foreign advisors working in the SPO. RECKONING, *supra* note 2, at 11. The SPO has received an immense amount of financial and staff assistance from several foreign governments and private groups. The U.S. Agency for International Development and the Swedish International Development Authority have provided financial support, while the United States, the Carter Center, Great Britain, the Netherlands, Norway, and Argentina have provided support staff in the areas of human rights law, the judiciary, forensics, and computers. RECKONING, *supra* note 2, at 11; ETHIOPIA IN TRANSITION, *supra* note 59, at 31.

⁶⁸ *Proposal for Financial Assistance, supra* note 4, at 4.

⁶⁹ *Id.*

⁷⁰ *Id.* at 4-5. Human Rights Watch reports another team which is concerned exclusively with high officials of the Dergue. RECKONING, *supra* note 2, at 11.

⁷¹ Peter Hillmore, *Case for Prosecution Written in Blood*, THE OBSERVER, July 24, 1994, at 13. See also John Balzar, *A Day of Reckoning in Ethiopia*, L.A. TIMES, Dec. 13, 1994, at A1.

- ⁷² Donatella Lorch, *Africa First: Ethiopia War-Crime Trial*, INT'L HERALD TRIB., Nov. 12, 1994.
- ⁷³ *Red Terror Relived*, THE ECONOMIST, July 30, 1994, at 37-38.
- ⁷⁴ STUART H. DEMING, ABA TASK FORCE ON WAR CRIMES IN ETHIOPIA, ETHIOPIAN TRIP REPORT 2 (Feb. 1994). In addition to taping meetings, government officials also taped some torture sessions. *Red Terror Relived*, THE ECONOMIST, July 30, 1994, at 37-38.
- ⁷⁵ Jennifer Parmelee, *Argentine Team Digs Up Ethiopia's Hidden Truth*, WASH. POST, June 11, 1994, at A18.
- ⁷⁶ *The Special Prosecution Process*, *supra* note 1, at 2.
- ⁷⁷ Between February and July 1993, the Central High Court had heard 1,300 habeas corpus petitions. ETHIOPIA IN TRANSITION, *supra* note 59, at 29.
- ⁷⁸ ICCPR, *supra* note 8, art. 9(4).
- ⁷⁹ RECKONING, *supra* note 2, at 13.
- ⁸⁰ CRIMINAL PROCEDURE CODE OF ETHIOPIA, art. 59.
- ⁸¹ RECKONING, *supra* note 2, at 13.
- ⁸² *Id.*
- ⁸³ *Id.*
- ⁸⁴ ETHIOPIA IN TRANSITION, *supra* note 59, at 29-30. Article 29 of the Criminal Procedure Code requires the detainee's presence in court "so soon [after arrest] as local circumstances and communications permit." CRIMINAL PROCEDURE CODE OF ETHIOPIA, art. 29(1).
- ⁸⁵ ETHIOPIA IN TRANSITION, *supra* note 59, at 30 n.70.
- ⁸⁶ RECKONING, *supra* note 2, at 13.
- ⁸⁷ *Id.* at 14.
- ⁸⁸ *Ethiopia Set to Begin Trials of Former Regime's Officials*, DEUTSCHE PRESSE-AGENTUR, Sept. 3, 1994, available in LEXIS, News Library, CURNWS File; Tsegaye Tadesse, *Ethiopia Charges Mengistu and Former Officials*, Reuters World Serv., Oct. 27, 1994, available in LEXIS, News Library, REUWLD File [hereinafter *Ethiopia Charges*].
- ⁸⁹ *Ethiopia Charges*, *supra* note 88 (quoting Special Prosecutor Girma Wakjira). The number of individuals was reduced the next week to 66, because seven of those originally charged had died of natural causes in custody. Tsegaye Tadesse, *Ethiopia sets Trial Date for Ousted Dictator*, Reuters World Serv., Nov. 1, 1994, available in LEXIS, News Library, REUWLD File.

⁹⁰ *Ethiopia Charges, supra* note 88.

⁹¹ PENAL CODE OF THE EMPIRE OF ETHIOPIA OF 1957, art. 281 (NEGARIT GAZETA, Extraordinary Issue No. 1 of 1957) [hereinafter PENAL CODE].

⁹² *State Begins Filing "Genocide" Charges Against Mengistu and Former Officials*, BBC Summary of World Broadcasts, Oct. 29, 1994 (from the Voice of Ethiopia external service, Addis Ababa, Oct. 27, 1994), available in LEXIS, News Library, CURNWS File [hereinafter BBC].

⁹³ SPO UPDATE, Issue 7 (Office of the Special Prosecutor, Transitional Government of Ethiopia, Addis Ababa), July 20, 1994, at 2 (internal quotations omitted).

⁹⁴ BBC, *supra* note 92.

⁹⁵ Aidan Hartley, *Ethiopian Former Marxist Rulers Go on Trial*, Reuters North American Wire, Dec. 13, 1994, available in LEXIS, News Library, REUWLD File.

⁹⁶ Jennifer Parmelee, *Leaders of Ethiopia's '70's Dictatorship Go on Trial for Murder*, WASH. POST, Dec. 14, 1994, at A32. This recitation was a reminder of the days of the Red Terror when the government radio broadcast the names of those who had been executed. *Id.*

⁹⁷ Tsegaye Tadesse, *Ethiopia Adjourns Trials of Former Marxist Rulers*, Reuters World Serv., Dec. 16, 1994, available in LEXIS, News Library, REUWLD File.

⁹⁸ Tsegaye Tadesse, *Ethiopia's Former Marxist Rulers Deny Genocide*, Reuters World Serv., Mar. 7, 1995, available in LEXIS, News Library, REUWLD File.

⁹⁹ *Trial of Former Ethiopian Rulers Adjourned*, Reuters World Serv., Mar. 16, 1995, available in LEXIS, News Library, REUWLD File.

¹⁰⁰ SPO UPDATE, Issue 12 (Office of the Special Prosecutor, Transitional Government of Ethiopia, Addis Ababa), May 1995, at 1.

¹⁰¹ Tsegaye Tadesse, *Ethiopia Adjourns Trial of Former Marxist Rulers*, Reuters World Serv., Oct. 11, 1995, available in LEXIS, News Library, REUWLD File.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ Andrew Meldrum, *Ethiopia's Ex-Ruler is Exiled but Not Cut Off*, THE GUARDIAN, Dec. 6, 1994, at 11.

¹⁰⁶ Aidan Hartley, *Ethiopian Junta Leader Defends his Record at Trials*, Reuters World Serv., Dec. 15, 1994, available in LEXIS, News Library, REUWLD File.

¹⁰⁷ *Africa News Highlights*, Reuters World Serv., Nov. 17, 1994, available in LEXIS, News Library, REUWLD File.

¹⁰⁸ *Written Statement*, *supra* note 5, at 21.

¹⁰⁹ See Dianne Orentlicher, *Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime*, 100 YALE L. J. 2537, 2562, 2593 (1991); see also RECKONING, *supra* note 2, at 10.

¹¹⁰ Orentlicher, *supra* note 109, at 2540.

¹¹¹ Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, art. 4, S. TREATY DOC. NO. 81-1, 97th Cong., 2d Sess. (1988), 78 U.N.T.S. 277, 280 (entered into force Jan. 12, 1951) [hereinafter Genocide Convention]. Ethiopia signed the Genocide Convention on Dec. 11, 1948, and ratified it on July 1, 1949. Telephone Interview with the United Nations Office in Washington, D.C. (Oct. 21, 1994).

¹¹² Genocide Convention, *supra* note 111, art. 6.

¹¹³ *Question of the Punishment of War Criminals and of Persons who have Committed Crimes Against Humanity*, G.A. Res. 2840 (XXVI), U.N. GAOR, 26th Sess., 2025th mtg. at 88, U.N. Doc. A/Res/2840 (XXVI) (1971).

¹¹⁴ *Principles of International Co-operation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes and Crimes Against Humanity*, G.A. Res. 3074 (XXVIII), U.N. GAOR 28th Sess., 2187th mtg. at 230, 231, U.N. Doc. A/Res/3074 (XXVIII) (1973).

¹¹⁵ *Id.*

¹¹⁶ Geneva Convention I, Aug. 12, 1949, art. 49, 6 U.S.T. 3114, 3147, 75 U.N.T.S. 31, 62; Geneva Convention II, Aug. 12, 1949, art. 50, 6 U.S.T. 3217, 3250, 75 U.N.T.S. 85, 116; Geneva Convention III, Aug. 12, 1949, art. 129, 6 U.S.T. 3316, 3418, 75 U.N.T.S. 135, 236; Geneva Convention IV, Aug. 12, 1949, art. 146, 6 U.S.T. 3516, 3616, 75 U.N.T.S. 287, 386.

¹¹⁷ PENAL CODE, *supra* note 91, arts. 521-524, 526, 537-539, 544, 552, 554, 557, 414, 417, 472.

¹¹⁸ Rodolfo Mattarollo, *SPO Working Paper No. 4* (Office of the Special Prosecutor, Transitional Government of Ethiopia, Addis Ababa), Nov. 25, 1993, at 1.

¹¹⁹ See, e.g., *Report of the Secretary-General Pursuant to Paragraph 2 of Security Council Resolution 808* (1993), U.N. Doc. S/25704, at 9 (1993) [hereinafter *Report of the Secretary-General*].

¹²⁰ PENAL CODE, *supra* note 91, arts. 281-292.

¹²¹ Genocide Convention, *supra* note 111, art. 2.

¹²² RECKONING, *supra* note 2, at 21.

¹²³ CHARTER FOR THE INTERNATIONAL MILITARY TRIBUNAL, art. 6(b) (1945), *reprinted in*

¹²⁴ *Letter Dated 24 May 1994 from the Secretary-General to the President of the Security Council*, U.N. Doc. S/1994/674, para. 52 (1994). "It must be observed that the violations of the law or customs of war . . . are offenses when committed in international, but not in internal armed conflicts." *Id.* ¶ 54.

¹²⁵ RECKONING, *supra* note 2, at 22.

¹²⁶ Geneva Convention I, *supra* note 116, art. 3, 6 U.S.T. at 3116, 75 U.N.T.S. at 32; Geneva Convention II, *supra* note 116, art. 3, 6 U.S.T. at 3220, 75 U.N.T.S. at 86; Geneva Convention III, *supra* note 116, art. 3, 6 U.S.T. at 3318, 75 U.N.T.S. at 136; Geneva Convention IV, *supra* note 116, art. 3, 6 U.S.T. at 3518, 75 U.N.T.S. at 288.

¹²⁷ CHARTER FOR THE INTERNATIONAL MILITARY TRIBUNAL, *supra* note 123, art. 6(c).

¹²⁸ *Report of the Secretary-General*, *supra* note 119, at 38.

¹²⁹ PENAL CODE, *supra* note 91, arts. 281, 282, 522.

¹³⁰ *Report of the Secretary-General*, *supra* note 119, at 28.

¹³¹ RECKONING, *supra* note 2, at 24. *See also* Aidan Hartley, *Ethiopian Former Marxist Rulers go on Trial*, Reuters World Serv., Dec. 13, 1994, available in LEXIS, News Library, REUWLD File. In January 1994, the Italian delegate to the European Union's Africa Working Group submitted a proposal to that group that they jointly approach the TGE to ask that the death penalty not be handed down as a sentence. Alternatively, they requested that any death sentence given not be carried out. This proposal stems from Italy's concern for three former government officials who sought and received asylum in the Italian Embassy in Addis Ababa in 1991. The Italian government apparently feels uncomfortable with the prospect of handing these officials over to the TGE if the death penalty will be sought in their cases. *ETHIOPIA: Rome Pans Death Sentences*, INDIAN OCEAN NEWSLETTER, Jan. 14, 1995.

¹³² Saba Seyoum, *Mengistu Charged with Genocide*, AGENCE FRANCE PRESSE, Oct. 27, 1994.

¹³³ *Hearings*, *supra* note 12.

¹³⁴ ICCPR, *supra* note 8, art. 9(1).

¹³⁵ *Campora v. Uruguay*, 71 I.L.R. 345, 353 (U.N. H.R. Comm. 1982) (emphasis added). The U.N. Human Rights Committee was established by the ICCPR and is charged with monitoring its implementation. Part of the Committee's job is to examine communications by countries or individuals regarding possible human rights violations by a country. After examining these communications, the Committee can relate its findings and views back to the complaining individual or country and to the country which is the subject of complaint. UNITED NATIONS, UNITED NATIONS ACTION IN THE FIELD OF HUMAN RIGHTS, paras. 182-84 (1988). Individuals can bring suit against their own country only if the country has signed on to the First Optional Protocol to the International Covenant on Civil and Political Rights. As of June 30, 1994, Ethiopia had not signed on to this Protocol. Telephone Interview with the United Nations Office in Washington, D.C. (Oct. 21, 1994).

¹³⁶ ICCPR, *supra* note 8, art. 9(2).

- ¹³⁷ Telephone Interview with Todd Howland, Special Advisor to the Office of the Special Prosecutor, Ethiopia (Oct. 11, 1994).
- ¹³⁸ Carballal v. Uruguay, 62 I.L.R. 240, 245 (U.N. H.R. Comm. 1981).
- ¹³⁹ Altesor v. Uruguay, 70 I.L.R. 248 (U.N. H.R. Comm. 1982); Cubas v. Uruguay, 70 I.L.R. 281 (U.N. H.R. Comm. 1982); De Touron v. Uruguay, 62 I.L.R. 261 (U.N. H.R. Comm. 1981).
- ¹⁴⁰ See RECKONING, *supra* note 2, at 14; ETHIOPIA IN TRANSITION, *supra* note 59, at 31.
- ¹⁴¹ ICCPR, *supra* note 8, art. 9(3).
- ¹⁴² See *supra* text accompanying note 78.
- ¹⁴³ Carballal v. Uruguay, 62 I.L.R. 240, 245 (U.N. H.R. Comm. 1981).
- ¹⁴⁴ There are numerous cases in which the U.N. Human Rights Committee cites a violation of Article 9(4). See Carballal, 62 I.L.R. at 245; Dermit v. Uruguay, 71 I.L.R. 354, 365 (U.N. H.R. Comm. 1982); Altesor v. Uruguay, 70 I.L.R. 248, 258 (U.N. H.R. Comm. 1982).
- ¹⁴⁵ European Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, Art. 5(3), 213 U.N.T.S. 221, 226 (entered into force Sept. 3, 1953) [hereinafter European Convention]. Article 5(3) states that those arrested in accordance with the European Convention "shall be entitled to trial within a reasonable time or to release pending trial."
- ¹⁴⁶ P. VAN DIJK & G.J.H. VAN HOOFF, THEORY AND PRACTICE OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS 227 (1984).
- ¹⁴⁷ "Wemhoff" Case, 7 Eur. Ct. H.R. (ser. A) at 23 (1968).
- ¹⁴⁸ *Id.* at 24.
- ¹⁴⁹ *Id.* at 22.
- ¹⁵⁰ See P. VAN DIJK & G.J.H. VAN HOOFF, *supra* note 146, at 224-25. See also Stogmuller Case, 9 Eur. Ct. H.R. (ser. A) at 40 (1969). Article 6(1) of the European Convention calls for a trial within a "reasonable time" while the ICCPR demands a trial without "undue delay" in Article 14(2)(c). For a discussion of these criteria, see *infra* text accompanying notes 162-77.
- ¹⁵¹ "Wemhoff" Case, 7 Eur. Ct. H.R. (ser. A) at 26 (emphasis added).
- ¹⁵² P. VAN DIJK & G.J.H. VAN HOOFF, *supra* note 146, at 225-26.
- ¹⁵³ "Wemhoff" Case, 7 Eur. Ct. H.R. (ser. A) at 25.
- ¹⁵⁴ P. VAN DIJK & G.J.H. VAN HOOFF, *supra* note 146, at 229.
- ¹⁵⁵ *Id.* at 229, 230. See also Stogmuller Case, 9 Eur. Ct. H.R. (ser. A) at 44; "Neumeister" Case, 8 Eur. Ct.

H.R. (ser. A) at 39.

¹⁵⁶ "Wemhoff" Case, 7 Eur. Ct. H.R. (ser. A) at 26.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.* at 9.

¹⁶⁰ ICCPR, *supra* note 8, art. 14(3)(c).

¹⁶¹ European Convention, *supra* note 145, art. 6(1).

¹⁶² *Dermit v. Uruguay*, 71 I.L.R. 354, 364 (U.N. H.R. Comm. 1982).

¹⁶³ *Id.* at 365.

¹⁶⁴ *Eckle Case*, 51 Eur. Ct. H.R. (ser. A) at 35 (1982).

¹⁶⁵ *Deweer Case*, 35 Eur. Ct. H.R. (ser. A) at 24 (1980).

¹⁶⁶ *Id.*

¹⁶⁷ "Neumeister" Case, 8 Eur. Ct. H.R. (ser. A) at 41.

¹⁶⁸ *Konig Case*, 27 Eur. Ct. H.R. (ser. A) at 34 (1978).

¹⁶⁹ "Neumeister" Case, 8 Eur. Ct. H.R. (ser. A) at 41-42.

¹⁷⁰ *Id.* at 17.

¹⁷¹ *Id.* at 40-41.

¹⁷² *Case of Foti and Others*, 56 Eur. Ct. H.R. (ser. A) at 19, 24 (1982).

¹⁷³ *Id.* at 20.

¹⁷⁴ *Id.* at 20-21.

¹⁷⁵ *See RECKONING*, *supra* note 2, at 14; *ETHIOPIA IN TRANSITION*, *supra* note 59, at 31.

¹⁷⁶ *See ETHIOPIA IN TRANSITION*, *supra* note 59, at 31.

¹⁷⁷ *See supra* text accompanying notes 145-59.

¹⁷⁸ ICCPR, *supra* note 8, art. 14(3)(b).

¹⁷⁹ *Id.* art. 14(3)(d).

¹⁸⁰ RECKONING, *supra* note 2, at 33. Ethiopia has never had a public defender system. It is expected this office will represent the lower level defendants, such as the kebele officials, who comprise roughly 70% of the defendants. *Id.* at 11, 33.

¹⁸¹ *Id.* at 33; Briggs Adams, *Right to Counsel Prompts Public Defender To Go Extra Mile*, CHI. LAW., Jan. 1995, at 58.

¹⁸² RECKONING, *supra* note 2, at 33-34.

¹⁸³ *Cubas v. Uruguay*, 70 I.L.R. at 286 (U.N. H.R. Comm. 1982). *See also Sendic v. Uruguay*, 69 I.L.R. 183, 192 (U.N. H.R. Comm. 1981).

¹⁸⁴ For denial of access to counsel of choice, see *Drescher Caldas v. Uruguay*, 79 I.L.R. 180, 186 (U.N. H.R. Comm. 1983). For denial of legal assistance during all of the pre-trial detention, see *De Touron v. Uruguay*, 62 I.L.R. at 266 (U.N. H.R. Comm. 1981); *Pietroroia v. Uruguay*, 62 I.L.R. 246, 255 (U.N. H.R. Comm. 1981). For denial of legal assistance for a temporary period during detention, see *Manera Lluberas v. Uruguay*, 79 I.L.R. 233, 234 (U.N. H.R. Comm. 1984).

¹⁸⁵ Now that the trials have begun, defense attorneys are alleging that prison officials are inhibiting their ability to communicate with their clients by refusing to allow attorneys and clients to meet privately. The attorneys further allege that the officials go through their papers and remain in the room while the attorneys talk to their clients, thereby preventing them from providing a complete defense. *Defense Says Talks Blocked with Ethiopian Accused*, Reuters World Serv., Mar. 15, 1995, available in LEXIS, News Library, REUWLD File.

¹⁸⁶ RECKONING, *supra* note 2, at 35.

¹⁸⁷ Anaclet Rwegayura, *Ethiopia-Politics: Genocide Concept Halts Trial*, Inter Press Serv., Dec. 17, 1994, available in LEXIS, News Library, IPS File (citations omitted).

¹⁸⁸ RECKONING, *supra* note 2, at 24.

¹⁸⁹ SPO UPDATE, Issue 2 (Office of the Special Prosecutor, Transitional Government of Ethiopia, Addis Ababa), Aug. 20, 1993, at 2 (citations omitted).

¹⁹⁰ SPO UPDATE, Issue 8 (Office of the Special Prosecutor, Transitional Government of Ethiopia, Addis Ababa), Aug. 29, 1994, at 1 (citations omitted).

¹⁹¹ ICCPR, *supra* note 8, art. 6(2).

¹⁹² *Monguya Mbenge v. Zaire*, 78 I.L.R. 18, 19 (U.N. H.R. Comm. 1983).

¹⁹³ *Id.* at 25.

¹⁹⁴ ICCPR, *supra* note 8, art. 14(3)(d).

¹⁹⁵ Monguya Mbenge v. Zaire, 78 I.L.R. at 24.

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *The Special Prosecution Process*, *supra* note 1, at 10.

²⁰⁰ Donatella Lorch, *Africa First: Ethiopia War-Crime Trial*, INT'L HERALD TRIB., Nov. 12, 1994, at 1.

²⁰¹ Monguya Mbenge v. Zaire, 78 I.L.R. at 24.

²⁰² Case of Colozza and Rubinat, 89 Eur. Ct. H.R. (ser. A) at 15 (1985).

²⁰³ *Id.* at 14.

²⁰⁴ ICCPR, *supra* note 8, art. 14(1).

²⁰⁵ *See generally* ETHIOPIA IN TRANSITION, *supra* note 59, at 9-13.

²⁰⁶ *Id.* at 10, 12.

²⁰⁷ *Id.*

²⁰⁸ *Id.* at 10.

²⁰⁹ *Id.*

²¹⁰ *Id.* at 20.

²¹¹ *Id.* at 11 (citing Proclamation No. 23/1992, art. 7).

²¹² *Id.*

²¹³ *Id.* at 12 (citing Proclamation No. 23/1992).

²¹⁴ *Id.* at 20.

²¹⁵ *Id.*

²¹⁶ Telephone Interview with Todd Howland, Special Advisor to the Office of the Special Prosecutor, Ethiopia (Oct. 11, 1994).

²¹⁷ R. WILLIAM IDE III & ANTHONY J. CARROLL, AMERICAN BAR ASSOCIATION AFRICA TRIP REPORT 20 (1993).

²¹⁸ *Id.*

²¹⁹ RECKONING, *supra* note 2, at 13.

²²⁰ *Id.*

²²¹ ICCPR, *supra* note 8, art 14(1).

²²² RECKONING, *supra* note 2, at 27. The SPO estimates the trials will last one year. *The Special Prosecution Process*, *supra* note 1, at 6.

²²³ ICCPR, *supra* note 8, arts. 14(2), 14(3)(e), 14(3)(f).

²²⁴ *See supra* text accompanying notes 178-87.

²²⁵ Saba Seyoum, *Mengistu Charged with Genocide*, AGENCE FRANCE PRESSE, Oct. 27, 1994.

²²⁶ ICCPR, *supra* note 8, art. 14(3)(b).

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