Casebook 2

STRATEGIC LITIGATION CHALLENGING TORTURE AND DEFENDING DISSENT

2026

REDRESS
Ending torture, seeking justice for survivors

PREFACE

REDRESS has a long track record of using strategic litigation against torture to deliver justice and reparation for survivors, adopting a holistic approach that supports and accompanies the torture survivors through the process. We also promote this concept and technique to partner NGOs through litigation workshops and publications.

The Torture Litigation Casebook series aims to showcase emblematic case studies of strategic litigation against torture to illustrate best practice and to help strengthen the capacity of human rights lawyers worldwide. Other Casebooks in the series cover Leading Cases Against Torture and UK Cases Against Torture.

The Casebooks cover all regions, include cases brought before national, regional, and international jurisdictions, and seek to highlight different techniques of strategic litigation against torture, including national and international advocacy, collaborative partnerships, and effective media campaigns. The majority are cases brought by private parties or applicants, invoking human rights norms enshrined in national legislation or constitutions, or resorting to regional or international human rights bodies where national remedies prove ineffective. Some are criminal or inter-state actions. The Casebooks are published alongside our Practice Notes. They provide practical examples demonstrating strategies that lawyers have pursued to challenge torture.

The main criterion for deciding which cases to include was their strategic features. Rather than seeking to compile a legal casebook of the leading cases relating to the law of torture, the intention was to demonstrate the range of different ways in which strategic litigation can be deployed to challenge torture. In many instances, this has involved the use of multiple approaches and strategies on the part of civil society, including advocacy, activism, and use of the media. The Casebook presents a range of innovative legal claims or remedies, and efforts to bring about effective implementation.

The impetus for this series was a recognition that such a focus on strategic features of litigation is often not readily available to lawyers or activists preparing for litigation. Accordingly, we have chosen cases that may be well documented, and their legal outcomes widely known, but the approaches taken, and their strategic impact are less well known. In some cases, we have had conversations with those involved during the preparation of the Casebook.

The aims of the Casebook series are to serve as a reference for practitioners and for workshops that REDRESS delivers to other NGOs conducting strategic litigation relating to torture; to illustrate the main approaches or strategies that have proven most effective in the conduct of strategic litigation; and to create connections between the communities of lawyers engaged in this work.

TABLE OF CONTENTS

LIST OF ABBREVIATIONS

ACHPR	African Commission on Human and Peoples' Rights
ACtHPR	African Court on Human and Peoples' Rights
African Charter	African Charter on Human and Peoples' Rights
American Convention	American Convention on Human Rights
ECtHR	European Court of Human Rights
ECHR	European Convention on Human Rights
IACtHR	Inter-American Court of Human Rights
IACHR	Inter-American Commission on Human Rights
ICCPR	International Covenant on Civil and Political Rights
UDHR	Universal Declaration of Human Rights
UNCAT	UN Convention against Torture
WGAD	UN Working Group on Arbitrary Detention

INTRODUCTION

Through strategic litigation, human rights lawyers seek to challenge both individual acts of torture and other ill-treatment, and the policies and practices that enable it to take place. Using this approach, survivors[1] can pursue accountability and be part of campaigning for policy and legal reform to prevent such treatment from reoccurring in the future. In addition to pursuing legal cases, a holistic approach to strategic litigation uses other civil society techniques to bring about change, such as advocacy for structural reforms (national, regional, international), activism, community organising, capacity building, and engaging the media, academia, and public in general (for further information, see *Practice Note on Holistic Strategic Litigation against Torture* and *Practice Note on Evaluating the Impact of Strategic Litigation against Torture*).

This Casebook catalogues leading cases against torture used to silence dissent, intimidate human rights defenders and journalists, and target protesters and political dissidents. It covers cases across the globe that used strategic litigation and that serve as examples of the potential of creative litigation to transform the law, prompt policy reforms, and trigger broader practical changes. It tells the stories of 26 cases brought before different jurisdictions such as the IACtHR, the ACHPR, the ACtHPR, the ECOWAS Court, the ECtHR, and UN treaty bodies and Special Procedures, including the CEDAW Committee and the UN WGAD.

These are stories not just of legal cases, but of courageous and inspiring survivors, family members, activists, and advocates. Some of the stories are of hard-won success and lasting impact, while others reflect perseverance to transform structural challenges that continue to this day. It should be noted that not all the cases included are primarily concerned with torture as distinct from other forms of ill-treatment, but all are significant in some way for the law on torture as a body of jurisprudence. While not an exhaustive list of key cases on dissent, those selected were chosen due to their strategic features and are intended to reflect best practice, addressing the use of torture, its impact on freedom of expression and dissent, and potential remedies.

Again, in compiling this Casebook we have not aimed to present a comprehensive overview of all strategic anti-torture cases, but to showcase those that we find ourselves referring to time and time again in our own work. Our aim was to produce a digest that will be useful for practitioners and activists alike, to help them quickly identify key cases and their relevance for their work. The Casebook, therefore, presents a distilled overview of each case, offering a breakdown of its individual impact as well as various strategic features.

This publication was led by Ana Cutts Dougherty, Legal Consultant at REDRESS. A REDRESS team contributed to its preparation, including Renata Politi (Legal Advisor), Alejandra Vicente (Head of Law), Dianne Magbanua (Communications and Digital Officer), Micah Lesch (Legal Fellow), T Horrow (Legal Fellow), Andrew Lane (Legal Assistant), Lauren Schaefer (Legal Fellow), Alejandro Rodriguez (Legal Officer), Annelies Van Twembeke (Legal Fellow), Katherine Bartos (Legal Fellow), April Barton (Legal Fellow), Grace Shepherd (Administrative Assistant), Simran Deokule (Legal Fellow), Malak Khalil (Advocacy and Survivor Participation Fellow), and Chris Esdaile (Senior Legal Advisor), with oversight and contributions from Eva Sanchis (Head of Communications) and Rupert Skilbeck (Director).

1 The terms 'victim' and 'survivor' are used interchangeably in this publication. Whereas 'victims' conveys a legal definition, the non-legal term of 'survivor' is often understood by many as more empowering and representative of a sense of autonomy.

We are also deeply grateful to the survivors, family members, NGO representatives, lawyers, and practitioners who provided invaluable information and insight which has made this publication possible: Magdulein Abaida, María Luisa Aguilar Rodríguez (Centro de Derechos Humanos Miguel Agustín Pro Juárez – Centro Prodh), Pablo Arenales (Reiniciar), Hossam Bahgat (Egyptian Initiative for Personal Rights), Başak Çalı (Bonavero Institute of Human Rights at the University of Oxford), Luciano Coco Pastrana (Environmental Law Alliance Worldwide), Toby Collis (European Human Rights Advocacy Centre – EHRAC), the Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH) team, Raquel da Cruz Lima (Artigo 19), María Alejandra Escobar Cortázar (Colectivo de Abogados "José Alvear Restrepo"), Finja Henke (Consorcio para el Diálogo Parlamentario y la Equidad Oaxaca – Consorcio Oaxaca), Viviana Krsticevic (Center for Justice and International Law – CEJIL), Philip Leach (Middlesex University), Gisela de León (CEJIL), Lucas Mantelli (CEJIL), Alexia Martínez Montalban (Centro Prodh), Carolina Maya (Reiniciar), Raúl Molano (Reiniciar), Sibongile Ndashe (Initiative for Strategic Litigation in Africa, formerly INTERIGHTS), Mojirayo Ogunlana (Digital, Media and Gender Rights Advocate; Principal Partner, M.O.N. Legal), Mariami Okruashvili (Georgian Young Lawyers' Association), Nelson Olanipekun (Citizens' Gavel), Florencia Reggiardo (CEJIL), Daisy Ribeiro (Terra de Direitos), Soledad Sánchez (CEJIL), Yesica Sánchez Maya (Consorcio Oaxaca), Jürgen Schurr (Lawyers for Justice in Libya), and Gurpreet Singh Johal (brother of Jagtar Singh Johal).

Words will never fully capture the bravery, dedication, and perseverance of so many behind each of the cases in this Casebook, but we hope that these examples will offer guidance, strength, and hope to those exercising and protecting their rights, challenging torture, and defending dissent around the globe.

This publication was funded by the European Eunion and produced under the United Against Torture Consortium (UATC) initiative. Its contents are the sole responsibility of REDRESS and do not necessarily reflect the views of the European Union.

PROTESTERS

EGYPTIAN INITIATIVE FOR PERSONAL RIGHTS AND INTERIGHTS V. EGYPT (2011)

Link to the decision

African Commission on Human and Peoples' Rights

PROTESTERS • FREEDOM OF EXPRESSION • GENDER-BASED VIOLENCE • FREEDOM OF ASSOCIATION AND ASSEMBLY • POLITICAL RIGHTS • ACCESS TO PUBLIC INFORMATION

CASE SUMMARY

In May 2005, approximately 50 individuals gathered in Cairo to protest proposed amendments to the Egyptian Constitution that would allow multi-candidate presidential elections. The demonstration was soon surrounded by riot police. During the protest, supporters of then-President Hosni Mubarak and the ruling National Democratic Party (NDP) violently attacked the demonstrators, while the riot police stood idle.

Four female journalists present at the protest – Nawal Ali Mohamed Ahmed (*Al Gil*), Abir Al- 'Askari and Shaimaa Abou Al-Kheir (*Al Doustour*), and Iman Taha Kamel (*Nahdat Misr*) – subsequently brought a complaint before the ACHPR. They alleged that they were subjected to insults, intimidation, physical violence, and sexual harassment by both non-state actors and State officials. They further argued that senior Ministry of Interior officials and riot police witnessed the attacks but failed to intervene or provide assistance. They were also later denied medical assistance and threatened by intelligence officials, and they suffered serious physical and psychological harm, including depression and periods of hospitalisation.

THE FACTS AND PROCEDURAL HISTORY

On 25 May 2005, the Egyptian Movement for Change (*Kefaya*) organised a demonstration at the Sa'ad Zaghloul Mausoleum in Cairo to express discontent with the proposed amendments to Article 76 of the Egyptian Constitution. Protesters were violently assaulted and intimidated by supporters of the NDP without any intervention by the riot police which had surrounded the demonstration. The four journalists were subjected to severe physical attacks including sexual violence, insults, and intimidation. Three of the victims were hospitalised following the assault.

The victims filed complaints with the Public Prosecutor's Office (PPO) despite receiving threats to withdraw them. The complaints' alleged offences were classified as misdemeanours and dismissed a few months later by the PPO due to insufficient evidence to identify the perpetrators. The victims appealed, but on 1 April 2006 the Appeal Misdemeanours Chamber of the First Instance Court of Southern Cairo upheld the PPO's decision not to prosecute.

The victims subsequently brought their complaint before the ACHPR, alleging that Egypt had violated their human rights under the African Charter, including their right to be free from torture, freedom of expression, rights to equality before the law and to have access to effective remedies. The victims also referred to other relevant international instruments, including the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the UDHR, the ICCPR, and UNCAT. The ACHPR declared the communication admissible in November 2006.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its decision issued in December 2011, the ACHPR found that the sexual assaults and harassment suffered by the victims amounted to inhuman and degrading treatment, and that Egypt failed to conduct a prompt and effective investigation into these allegations, in breach of Article 5 of the African Charter. It also found Egypt responsible for breaching its obligations under: Article 1, for failing to give effect to the Charter's guarantees; Article 9(2), for suppressing the victims' right to freedom of expression; Article 3, on the right to equality before the law; Article 16(1), on the right to health and bodily integrity; Article 18(3), on women's rights against discrimination; and Article 26 on the right to effective judicial review and remedies.

Freedom of Expression and Political Participation

Drawing on its earlier jurisprudence, including *Amnesty International and Others v. Sudan (1999)*, the ACHPR emphasised that freedom of expression is fundamental to political participation, personal development, and democratic governance. This case marked a significant development in African human rights law, affirming that sexual violence against women journalists not only violates personal dignity but also suppresses political and journalistic freedom.

Reparations Ordered

To redress individual harm and address the root causes of gender-based violence and impunity, the ACHPR ordered Egypt to pay each victim 57,000 Egyptian pounds (approximately EUR 950) in compensation for physical and emotional harm; to amend national legislation in line with the African Charter; to investigate the violations and prosecute those responsible; and to ratify the Protocol to the African Charter on the Rights of Women in Africa (the Maputo Protocol).

WIDER IMPACT OF THE CASE

Recognising and Advancing Women's Human Rights in Africa

This case marked a milestone as the first decision on women's rights issued by the ACHPR. Although the ACHPR did not apply the Maputo Protocol, its recognition of gender-based violence as both a form of discrimination and a violation of women's human rights significantly advanced the interpretation of State obligations under the African Charter. The decision underscored that sexual harassment and violence experienced by women in public spaces are rooted in gender stereotypes and systemic discrimination, and that States have a duty to address and prevent such abuses.

Reparations and Implementation Challenges

Despite the ACHPR's clear findings and the reparations ordered in this case, Egypt has failed to implement the prescribed reparation measures to date. The lengthy delays in the resolution of this case presented a barrier to implementation, as over time the perceived relevance and urgency of the case likely diminished as Egypt's political landscape shifted.

The ACHPR has found Egypt in violation of Article 5 (prohibition of torture and ill-treatment) in at least three other communications. Across the four cases, the common reparations ordered by the ACHPR include: compensation to the victims; the effective investigation into the violations for purposes of holding the perpetrators accountable; capacity strengthening and trainings to facilitate change in State practice and attitudes towards torture; and legislative and policy changes to ensure non-repetition by improving basic minimum anti-torture safeguards. To date, Egypt has failed to implement the requested reparations, thus fostering impunity for torture and denying redress to survivors.

A Jurisprudential, Legal, and Academic Reference

The case has since been cited in subsequent ACHPR jurisprudence, such as in El Sharkawi v. Egypt (2021) and in *Mahmoud and Abdel-Rahman v. Egypt* (2023), to reinforce findings concerning Egypt's violations related to torture and inhuman treatment. It has also been frequently referenced in reports by human rights organisations such as REDRESS and the International Commission of Jurists, in studies of the ACtHPR, and by legal scholars and academic commentators as a landmark precedent recognising gender-based violence as a manifestation of discrimination and a violation of the right to human dignity. The decision continues to inform discourse on States' positive obligations to prevent, investigate, and punish sexual violence, including when such acts are committed by non-state actors in public contexts.

STRATEGIC FEATURES OF THE CASE

Shedding Light on Gender-Based Violence as Discrimination

According to Sibongile Ndashe, one of the victims' lawyers in this case, the legal team supported the victims in bringing several key issues to the ACHPR's attention, including the inaction of the police when the Government-organised militia came in to disrupt the protest, and the authorities' failure to conduct effective investigations and their apparent lack of interest in pursuing the women's allegations concerning their ill-treatment.

Crucially, the victims and their legal team wanted to show the ACHPR that the violence committed against the women protesters was gender-based violence of a sexual nature, which was fundamentally different from attacks against men protesters. At the time that this case was brought before the ACHPR, gender-based violence had not yet been recognised as a tactic used by the Egyptian authorities. Jurisprudence on gender-based violence as a form of discrimination was lacking. The victims and their legal team sought to demonstrate that gender-based violence was used as a repressive tool to stop women from engaging in public protest, whether as protesters or as journalists who were there to tell the story of what was happening.

In their merits submission to the ACHPR, the victims and their legal team emphasised the overwhelmingly gender-specific nature of the violence suffered by the four women protesters. They prepared detailed affidavits of each of the four women, each of whom was telling an important part of the story. Drawing on the similarities between all four accounts of the violence the women protesters had suffered, they demonstrated that this violence was not isolated but rather deliberate and discriminatory. These strategies led to a significant decision recognising gender-based violence as discrimination, and surfacing violence against women in public spaces aiming to silence their dissent.

The Legal Representatives for the Complainants were the Egyptian Initiative for Personal Rights (EIPR) and INTERIGHTS.

ADDITIONAL RESOURCES

- ACHPR, 'Communication 424/12 – Samira Ibrahim Mohamed Mahmoud and Rasha Ali Abdel-Rahman (Represented by the Egyptian Initiative for Personal Rights and Interights) v. The Arabic Republic of Egypt (merits)' (Decisions on Communications, 24 November 2025).
- ACtHPR, Comparative Study on the Law and Practice of Reparations for Human Rights Violations (2019).
- 'EIPR v. Egypt' (Global Freedom of Expression Columbia University).
- 'EIPR and Interights v. Egypt' (London School of Economics Landmark Cases Database).
- 'Egyptian Initiative for Personal Rights and INTERIGHTS v. Egypt, Merits, Communication No 323/06, IHRL 3805 (ACHPR 2011), 12th December 2011, African Commission on Human and Peoples' Rights [ACHPR]' (Oxford Public International Law Database, 12 December 2011).
- International Commission of Jurists, Egypt: A Return to a Permanent State of Emergency? (June 2018).
- International Commission of Jurists, Women's Access to Justice for Gender-Based Violence Practitioners' Guide (2016).
- International Federation for Human Rights and others, Egypt: Keeping Women Out (2014).
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (adopted 11 July 2003, entered into force 25 November 2005) UNTS 3268.
- Ramtu Marie and Nabaneh Satang, Undermining the African Commission: A Focus on Egypt (Coalition for the Independence of the African Commission, 2021).
- REDRESS, Defying Justice: Egypt's Failure to Implement the African Commissions' Decisions on Ending Torture (October 2024).

CESTARO V. ITALY (2015)

Link to the decision

European Court of Human Rights

PROTESTERS • POLICE VIOLENCE • SEVERITY OF INJURIES • EFFECTIVE INVESTIGATION • POSITIVE OBLIGATIONS • LEGISLATIVE REFORMS

CASE SUMMARY

Arnaldo Cestaro was one of the demonstrators present in Genoa, Italy, during the 2001 G8 summit and was staying, together with other protesters, in a school building used as temporary accommodation. During the night, Italian police forces carried out a violent raid on the school. Although Arnaldo was peacefully and lawfully present, he was subjected to repeated kicks and severe beatings with police batons. Numerous other non-violent demonstrators sheltering in the building were subjected to similar treatment.

Arnaldo sustained multiple fractures and long-term injuries, including permanent impairment to his right arm and leg. The ECtHR held that the treatment inflicted during the police raid amounted to torture within the meaning of Article 3 ECHR, noting the severity of the injuries and the deliberate, punitive nature of the violence. This was the first case in which the ECtHR found Italy had violated Article 3 in relation to torture.

THE FACTS AND PROCEDURAL HISTORY

The events took place during the twenty-seventh G8 summit in July 2001, when several demonstrators gathered for an alternative, anti-globalisation summit in Genoa, Italy. On the night of the last day of the summit, 500 police officers carried out an operation to identify and possibly arrest members of a group responsible for acts of violence. They searched two schools used as night shelters for "authorised" demonstrators, including the one where Arnaldo Cestaro was staying.

When the police arrived, Arnaldo was sitting with his back to the wall and his arms raised. He was struck several times, especially on his head, arms, and legs, causing multiple fractures. As a result, Arnaldo underwent surgery,

was hospitalised for four days, and was declared temporarily unfit for work for over 40 days. Arnaldo was left with permanent weakness in his right arm and right leg, and did not fully recover from his injuries.

After an investigation opened by the public prosecutor's office, only 30 members of the police stood trial. Arnaldo joined the proceedings as a civil party. As torture was not criminalised in the Italian criminal code, the defendants faced charges of a lower nature. Some charges were time-barred, and, after sentence reductions, the prison sentences served were for terms between three months and one year, and only for attempting to justify ill-treatment and unlawful arrest. No one was convicted for the torture itself.

In 2011, Arnaldo brought a complaint before the ECtHR for the violations he suffered.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its decision of 7 July 2015, the ECtHR found Italy responsible for procedural and substantive violations of the prohibition of torture under Article 3 ECHR. The Court held that the ill-treatment sustained by Arnaldo when the police raided the school amounted to torture. In relation to the procedural violation, the ECtHR held that the Italian criminal legislation was inadequate to punish acts of torture and lacked the necessary deterrent effect to prevent similar violations in the future.

Statute of Limitations

The ECtHR found that the absence of an adequate criminal offence of torture in Italian law, combined with the application of statutes of limitation to the lesser offences pursued, resulted in de *facto* impunity for the police officers responsible for Arnaldo's torture. The Court criticised this outcome and indicated that, where the prohibition of torture is at issue, a State's margin of appreciation does not extend to the application of inflexible limitation periods.

WIDER IMPACT OF THE CASE

Calling on Italy to Change its Laws

The ECtHR examined the structural features of the Italian legal system and concluded that Italy's lack of adequate laws on torture had contributed directly to the failure to investigate, prosecute, and punish those responsible in this case. At the time of the ECtHR judgment, nine bills aimed at introducing the offence of torture into the Italian legal system had been drafted, but none had been approved by Parliament. Legislative efforts to introduce a specific offence of torture into the country's Penal Code spanned more than two decades. Relying on Article 3 ECHR and Article 4 UNCAT, the Court signalled that Italy could not delay this process any longer, stressing the State's positive obligation to criminalise torture.

Criminalisation of Torture in Italy

The non-governmental organisations (NGOs) Antigone and Amnesty Italia (the Italian section of Amnesty International) used *Cestaro* as a strategic opportunity to renew pressure on Parliament to adopt legislation criminalising torture. Their campaign centred on the events at the Diaz-Pertini and Bolzaneto schools in Genoa, encapsulated in the slogan that "torture existed, but the crime of torture did not". In 2017, Parliament finally adopted a torture offence into law after two additional ECtHR judgments arising from the same incidents – *Blair and Others v. Italy* and *Azzolina and Others v. Italy* – motivated legislators to codify the definition.

In a 2024 meeting of the Council of Europe's Committee of Ministers, the Committee acknowledged that the criminalisation of torture in Italy represented progress, but also expressed concern regarding the effectiveness of accountability mechanisms in Italy. Committee members urged Italy to reinforce training programmes for law enforcement, introduce stronger disciplinary measures for officers implicated in abuse, and establish independent mechanisms to oversee police conduct.

STRATEGIC FEATURES OF THE CASE

Highlighting Flaws in Italy's Legal System

Although the facts in *Cestaro* focused primarily on the torture suffered by Arnaldo at the hands of the police, the litigation unfolded against the backdrop of years of attempts by civil society organisations to incorporate the offence of torture in the Italian legal system. Arnaldo's representatives argued before the ECtHR that the responsible officers "had not been appropriately penalised" for Arnaldo's torture because the offences had become statute-barred and some convictions were reduced through sentence remissions. They also noted that no disciplinary sanctions were imposed.

It was further argued that, by not characterising the facts as torture and establishing adequate penalties commensurate to the gravity of the crime, Italy had failed to prevent and punish the violence that was central to Arnaldo's claim. Scholarly analysis of the case emphasises that the Court viewed the issues in the case to be structural in nature. This may have been the result of the framing that Arnaldo's legal team used when submitting the case, highlighting flaws in Italy's legal system. In its decision, the Court criticised inadequacies in Italy's legal system, stating that the structural nature of the problem was "undeniable".

Specifying Physical Harm

In concluding that the severe beatings suffered by Arnaldo amounted to torture under Article 3 ECHR, the Court repeatedly referred to the severe injuries he endured as a result of police violence. The nature of the injuries and their long-term impact were key determinants of the Court's finding that torture occurred. The Court cited *Egmez v. Cyprus*, where it found that police violence did not amount to torture, in part because of an "absence of long-term after-effects" from the injuries inflicted. This highlights the importance of providing detailed evidence and argument on the severity and long-term consequences of injuries in torture claims.

The Legal Representatives for the Applicant were Nicolò Paoletti, Natalia Paoletti, Joachim Lau, and Dario Rossi. Third-party interventions were submitted by No Peace Without Justice, Nonviolent Transnational Cross-party Radical Party, and Italian Radicals.

ADDITIONAL RESOURCES

- Antigone and CILD, *Joint Submission to the UN Human Rights Committee Concerning Italy* (119th Session – 06 March to 29 March 2017).
- 'Reato di tortura, Amnesty International Italia e Antigone: "rischio che anche questa legislatura non lo approvi" [Crime of torture, Amnesty International Italy and Antigone: "risk that this legislature won't approve it"]', (Antigone, 11 June 2015).
- Giorgia Catena, 'The crime of Torture: an in-depth analysis from its origins to the latest proposed amendment' (Master's Thesis, Luiss University 2022-2023).
- Guilia Pecorella, 'Italy and the Crime of Torture: a story of impunity', (International Law Blog, 27 April 2015).
- Marta Picchi, 'Prohibition of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Some Remarks on the Operative Solutions at the European Level and Their Effects on the Member States. The Case of Italy' (2017) 28 Criminal Law Forum.
- Natasa Mavronicola, *Torture, Inhumanity and Degradation under Article 3 of the ECHR: Absolute Rights and Absolute Wrongs* (1st edn, Hart Publishing 2021) chapter 4.
- Nikola Kieresińska, 'Follow-up decisions of the Committee of Ministers (CoE) adopted in 2024 on Italy's implementation of the ECtHR judgments' (Human Rights Center Antonia Papisca, 10 January 2025).
- Pietro Pustorino, 'A New Case on Torture in Europe: Cestaro v. Italy' (EJIL: Talk!, 13 May 2015).

WOMEN VICTIMS OF SEXUAL TORTURE IN ATENCO V. MEXICO (2018)

Link to the decision

Inter-American Court of Human Rights

PROTESTERS • SEXUAL TORTURE • GENDER-BASED VIOLENCE • EXCESSIVE USE OF FORCE • COMMAND RESPONSIBILITY

CASE SUMMARY

A diverse group of 11 Mexican women sought justice for the sexual torture and other forms of gender-based violence they suffered in the context of protests held in May 2006 in two towns in Mexico. They alleged that police officers had threatened, sexually assaulted, beaten, and tortured them. In 2018, the IACtHR found Mexico responsible for multiple violations of their human rights, and confirmed that these women had been subjected to sexual torture and gender-based discrimination as a deliberate tool of repression.

This case is emblematic of the use of sexual torture and gender-based violence by State security forces to silence and oppress women and other vulnerable groups. It has drawn international attention to discriminatory violence and helped shape a new understanding of sexual torture and gender-based violence in Mexico and the Latin American region, highlighting the need to prevent these abuses and ensure accountability for perpetrators.

THE FACTS AND PROCEDURAL HISTORY

In May 2006, protesters took to the streets after police prevented a group of flower vendors from setting up their stalls at the local market in Texcoco, Mexico, in the context of larger demonstrations against the construction of a new airport for the Mexican capital. The confrontation escalated into violent clashes with state and federal police, leaving two people dead and many others injured or arrested.

Between 3 and 4 May 2006, 11 women – Yolanda Muñoz Diosdada, Ana María Velasco Rodríguez, Angélica Patricia Torres Linares, María Patricia Romero Hernández, María Cristina Sánchez Hernández, Norma Aidé Jiménez Osorio, Claudia Hernández Martínez, Mariana Selva Gómez, Georgina Edith Rosales Gutiérrez, Suhelen Gabriela Cuevas Jaramillo, and Bárbara Italia Méndez Moreno – were detained in Texcoco and San Salvador

Atenco and subjected to physical, psychological, and sexual torture. They were among dozens of women who were verbally, physically, and sexually abused by the police during the detention and transfer, as well as in detention centres. Adequate medical attention was not provided in the detention facilities.

In February 2009, the Supreme Court of Mexico found that 31 of the 50 detained women had suffered sexual violence. With the assistance of human rights organisations, 11 of the women petitioned the IACHR on 29 April 2008, alleging that police officers had threatened, sexually assaulted, beaten, and tortured them during their detention and transfer.

On 28 October 2015, the IACHR issued a decision finding Mexico responsible for the violations and making recommendations on reparations. However, despite several extensions to report on its compliance with the recommendations, Mexico failed to make progress. The Commission ultimately referred the case to the IACtHR on 17 September 2016.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its decision issued on 28 November 2018, the IACtHR found Mexico responsible for the following violations of the American Convention: right to have physical, mental, and moral integrity respected, and prohibition of torture or cruel, inhuman, or degrading punishment or treatment (Articles 5(1) and 5(2)); right to personal liberty (Article 7), right to a fair trial, including due process guarantees (Articles 8(1) and 8(2)); right to privacy (Article 11); right of peaceful assembly (Article 15); and right to judicial protection (Article 25(1)). The Court also found violations of Articles 1 and 6 of the Inter-American Convention to Prevent and Punish Torture, and Article 7 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará).

Sexual Torture as a Tool for Repression of Protesters

The IACtHR ruled that the abuses and attacks suffered by the women constituted acts of torture, reaffirming that rape can amount to torture and threats can constitute psychological torture. It also found that Mexican State agents had used sexual violence "as a tactic or strategy of control, domination and imposing authority", strongly condemning the use of sexual violence as a tool to repress protesters. It further held that the police treated the women's bodies as instruments to convey a message of repression and punishment in response to demonstration. In doing so, they objectified the women in order to humiliate, dominate, and instil fear in those expressing dissent. Sexual violence formed part of a broader repressive operation, used alongside other coercive measures such as the use of tear gas, to disperse protesters and deter challenges to State authority.

Tackling Gender Stereotypes and Discriminatory Attitudes Towards Women

The judgment comprehensively addressed the role of gender stereotypes in the ill-treatment of the 11 women. Police officers verbally and psychologically abused the women, using gender-based stereotypes, such as suggesting they should be at home cooking rather than protesting. Following the violence, senior Government authorities cast doubt on the victims' allegations and subjected them to public stigmatisation as members of an insurgent group. The IACtHR noted that such responses were unacceptable, reflected gender-based stereotypes,

and violated the State obligations to prevent and punish violence against women. It found that discriminatory statements made by officials had created adverse conditions for an effective investigation and encouraged impunity.

The IACtHR further stressed that States must "take active and positive measures to combat stereotypical and discriminatory attitudes" and ordered the Mexican Government to implement a training program for police officers on both the lawful use of force in demonstrations, and the discriminatory nature of gender stereotypes.

Responsibility to Investigate Chain of Command

The Court found that Mexico had failed to investigate the criminal responsibility of the superiors in the chain of command for the violence committed against the 11 women. It emphasised that a State's duty to investigate with due diligence requires investigating all possible criminal responsibilities – including that of commanders – and following all logical lines of investigation, which the Mexican authorities failed to do in this case.

WIDER IMPACT OF THE CASE

A New Understanding of Sexual Torture

Atenco broadened the understanding of sexual violence in Mexico to encompass not only physical abuse but also verbal and psychological harm, recognising that the threat of sexual violence itself constitutes a form of violence. Building on its earlier rulings that rape can amount to torture, the IACtHR went further in *Atenco*: it recognised that sexual violence in many different forms can amount to torture, and acknowledged its use as a tool of repression in protest contexts.

Policy Reform Regulating the Use of Force against Protesters

The IACtHR recognised that although States have an obligation to guarantee security and maintain public order, the use of force must always comply with the principles of legality, absolute necessity, and proportionality. As a result of the judgment, on 14 August 2020, the Government of Mexico City established an agreement on police action to prevent violence during demonstrations in Mexico City, explicitly acknowledging that the Atenco judgment demonstrated the need to create an accountability framework to ensure police actions are supervised before, during, and after the use of force. Similarly, on 9 August 2022, the state-level Government of the state of Mexico adopted a protocol on police conduct during demonstrations, with a focus on protecting women's rights. While the establishment of such guidelines on the use of force in demonstrations is certainly a step in the right direction, the different levels of law enforcement – municipal, state, and federal security forces – in Mexico pose challenges to ensuring that policies are adequate, consistent, and actually implemented across the country at all levels. This challenge has only been heightened since the federal police was replaced by the National Guard in 2019, with the new force recently becoming formally part of the Defence Ministry, which has been increasingly militarising public security policy in Mexico.

Implementation Challenges

In terms of reparations, the IACtHR ordered Mexico to: thoroughly investigate the violence and torture suffered by the 11 women victims and prosecute and punish all those responsible; provide free medical and psychological care to the victims; publish the judgment; publicly acknowledge international responsibility and make a public apology; train security forces on the use of force and establish a supervision and monitoring mechanism to promote accountability and monitor police use of force; grant educational scholarships to three of the victims; create a plan to strengthen the Mechanism to Monitor Cases of Sexual Torture against Women (established in 2015); and pay compensation to the victims.

To date, Mexico has still not fully implemented the ruling. Despite the referral of the case to the Special Prosecutor's Office for Crimes of Violence against Women and Trafficking in Persons, there has been no substantive progress in the investigation. The Prosecutor's Office has restricted the participation of victims in the investigation, and has further failed to investigate the chain of command to hold accountable those responsible at all levels of authority.

The Mechanism to Monitor Cases of Sexual Torture against Women has been strengthened, including through the completion and publication in 2022 of a National Diagnostic Report on Sexual Torture Committed against Women in Detention in Mexico. Though progress has been slow, this report represented national recognition that sexual torture is taking place, countering the discourse that torture does not exist in Mexico. A second, updated version of this National Diagnostic Report is due to be published in 2026.

At the time of writing, the Observatory on the Use of Force has yet to be established, despite multiple proposals submitted by the victims and their representatives. Moreover, following the creation of the National Guard, it appears unlikely that the Armed Forces would consent to the implementation of external oversight mechanisms.

STRATEGIC FEATURES OF THE CASE

An Inspiring Social Movement Reflecting the Bravery of the 11 Women

The social movement that emerged around the women subjected to sexual torture in Atenco, including the legal case, remains a source of inspiration for other movements. It reflects the victims' persistent efforts (and their representatives' support) to hold the State accountable for the gendered and excessive use of force against the protesters. The bravery of the 11 women in this case is particularly notable given the stigma associated with sexual violence. According to the *Centro de Derechos Humanos Miguel Agustín Pro Juárez* (Centro Prodh), the survivors felt that it was important to denounce what had happened to them not only as violent State repression of protesters but specifically as sexual violence, where the authorities had used discriminatory violence against their bodies to send a message. In addition to their involvement in the legal case, the survivors initiated a campaign to support other survivors and bring visibility to the practice of sexual torture in detention in Mexico.

Support and Solidarity from the Beginning

Centro Prodh supported the victims from the outset. The day after the repression of the protests, its staff documented sexual violence and torture, gathering testimony from protesters. In the months and years that followed, Centro Prodh worked closely with the women to develop advocacy and legal strategies, recognising their diversity and the different objectives that emerged. Some had participated in the protests, while others

had not; some wished to focus on their individual experiences (as they continued to face legal processes for years following the events), others on the broader repression; and some emphasised the distinct violence they faced as women. What apparently united them was not only their shared experience of repression, but their determination to seek justice for gender-based discrimination, which shaped the litigation.

Together, the lawyers and victims sought to demonstrate that sexual torture had been used as a gendered tool of repression, tolerated – if not encouraged – by high-level authorities. This emphasis on gender-based violence met resistance within parts of the broader movement, where some questioned whether it should take precedent over the wider violence suffered by all protesters. However, as the Mexican "drug war" intensified and increasing numbers of women were detained by State authorities and subjected to sexual violence, the urgency of addressing such abuses became more apparent. In Atenco, the women's testimony and sustained advocacy contributed to a regionally significant ruling on the gendered nature of torture in protest contexts.

The Legal Representatives for the Petitioners were *Centro de Derechos Humanos Miguel Agustín Pro Juárez A.C.* (Centro Prodh) and the Center for Justice and International Law (CEJIL).

ADDITIONAL RESOURCES

- 'Case of Women Victims of Sexual Torture in Atenco v. Mexico' (Global Freedom of Expression Columbia University).
- Centro de Derechos Humanos Miguel Agustín Pro Juárez A.C. (Centro Prodh), *Mujeres con la Frente en Alto – Informe sobre la Tortura Sexual en México y la Respuesta del Estado* (2018).
- Daniela Kravetz, 'Holding States to Account for Gender-Based Violence: The Inter-American Court of Human Rights' decisions in López Soto vs Venezuela and Women Victims of Sexual Torture in Atenco vs Mexico' (EJIL: Talk!, 21 January 2019).
- 'Dossier de Prensa: Mujeres denunciantes de tortura sexual en Atenco [Press Dossier: Women reporting sexual torture in Atenco]' (Centro Prodh, 11 December 2017).
- 'DeFondho Número 23 – Mayo 2025' (Centro Prodh, 14 May 2025).
- 'Gobierno de CDMX presenta acuerdo de actuación policial durante protestas' (Latinus, 3 August 2020).
- Guillermo E. Estrada Adán and Patricia Cruz Marín, 'Reparation without Access to Justice: The Incomplete Compliance with the Judgments of the Inter-American Court of Human Rights in Mexico' in Rainer Grote, Mariela Morales Antoniazzi and Davide Paris (eds), *Research Handbook on Compliance in International Human Rights Law* (Edward Elgar Publishing 2021).
- John Restrepo, Juliana Sinisterra and Carolina Trujillo, 'Punitivismo violento. Una mirada a la violencia de género estructural desde la sentencia mujeres de Atenco vs Estados Unidos Mexicanos [Violent Punitivism. A look at structural gender violence from the Atenco Women vs. United Mexican States Judgment]' (2024) 21(2) Revista Jurídica 122.
- REDRESS, the Academy on Human Rights and International Humanitarian Law at American University Washington College of Law, and the Latin American Network for Gender-Based Strategic Litigation (ReLeG), 'Sexual and Gender-Based Violence in the Context of Social Protest in Latin America' (July 2025).
- 'Rompiendo el silencio' (Centro Prodh).
- Secretaria de Gobernación, Subsecretaría de Derechos Humanos, Población y Migración, Conavim, *Diagnóstico Nacional sobre Tortura Sexual Cometida Contra Mujeres Privadas de la Libertad en México* (2022).
- Sthepane Lizett Cuevas Valladares, 'Los derechos humanos y la represión de Atenco' in John Kenny Acuña Villavicencio (ed), *Conflicto y acción colectiva. Una mirada desde Guerrero* (2024) 173-182.

ZAKHAROV AND VARZHABETYAN V. RUSSIA (2020)

Link to the decision

European Court of Human Rights

PROTESTERS • DUTY TO INVESTIGATE AND PROSECUTE • FREEDOM OF EXPRESSION • FREEDOM OF ASSEMBLY • JURISDICTION AND TEMPORAL CHALLENGES • LESS-LETHAL WEAPONS

CASE SUMMARY

When police violently dispersed a large opposition protest in Moscow in 2012, two demonstrators, Viktor Zakharov and Turana Varzhabetyan, were struck on the head with rubber truncheons and suffered serious injuries. After national authorities failed to investigate and hold perpetrators accountable, they took their case to the ECtHR. The Court held that the force used against them was not justified, necessary, or proportionate, in violation of their right to be free from torture, inhuman and degrading treatment under Article 3 ECHR. It noted that such unjustified force against protesters is prohibited even when protests turn violent by other demonstrators, and that it was likely to have a chilling effect on participation in public assemblies. The ECtHR also found that the authorities had failed to conduct an effective investigation, breaching procedural obligations under Article 3.

THE FACTS AND PROCEDURAL HISTORY

On 6 May 2012, the day before Vladimir Putin's third presidential inauguration, between 20,000 and 60,000 protesters joined a city-authorised pro-democracy march in central Moscow. The demonstration, led by opposition figures including Alexei Navalny and Boris Nemtsov, culminated in a rally at Bolotnaya Square. Tensions escalated when police restricted access to the square, leading to clashes between some protesters and officers. The authorities responded by dispersing the crowd with force. Victor Zakharov and Turana Varzhabetyan – aged 46 and 67 respectively – were struck on the head with rubber truncheons, sustaining injuries. Victor lost consciousness and suffered a contused frontal lobe. Turana, who had disabilities, was hospitalised with head trauma and subsequent complications.

Both victims lodged complaints with the Investigation Committee of the Russian Federation in June and October 2012, alleging police ill-treatment and seeking the opening of a criminal investigation. Their complaints were

dismissed without an individualised assessment. Attempts to challenge those decisions before domestic courts were unsuccessful. Turana also tried to pursue civil compensation in relation to the ineffective investigation, without success.

The victims subsequently brought complaints before the ECtHR on 1 May 2014 and 26 September 2017. They claimed breaches of the ECHR, in particular, the prohibition of torture and inhuman or degrading treatment (Article 3), the right to freedom of expression (Article 10), the right to freedom of assembly (Article 11) and the right to an effective remedy (Article 13). The Court joined the cases and rejected the Government's admissibility objections on the lack of exhaustion of domestic remedies.

THE DECISION AND ITS SIGNIFICANCE

In its judgment of 13 October 2020, the Court found violations of Articles 3, 10, and 11 ECHR and did not consider it necessary to examine Article 13 separately. It also awarded financial compensation to both victims: EUR 16,000 to Victor, and EUR 16,900 to Turana.

Reaffirming the State's Duty to Investigate

The ECtHR reiterated that where there are clear indications of ill-treatment, the State has a duty to initiate an effective investigation, even in the absence of a formal complaint. It rejected the Government's argument that delays in lodging complaints had hampered the investigation, emphasising that the authorities were under an obligation to act on their own initiative, particularly given their awareness of violence during the rally. The ECtHR noted that the authorities had sufficient information on the specific incidents, including the fact that an ambulance had been called to attend to one of the victims at the demonstration.

The ECtHR further found that the Russian authorities failed to properly examine medical evidence and photographs, and relied on deficient pre-investigation inquiries. In particular, it noted that the preliminary inquiry failed to clarify when and how the injuries had been inflicted. These procedural deficiencies, in the Court's view, amounted to an Article 3 violation.

Finding of Ill-Treatment as the Burden of Proof Shifted to the State

The Government did not dispute that the victims had sustained injuries, but denied responsibility for them. The victims provided medical records, photographs, video material, and detailed accounts of police ill-treatment during the protest. The Court reiterated that, in cases concerning alleged ill-treatment in the context of policing demonstrations, victims must first establish a *prima facie* case that their injuries resulted from the use of force by the police. Once such a case is made out, the burden shifts to the Government to provide a satisfactory and convincing explanation of the injuries.

In assessing whether this threshold was met, the Court attached particular weight to the fact that the injuries were sustained in an area where law enforcement authorities were conducting an operation involving the use of force to quell unrest. In the absence of an effective investigation and any convincing alternative explanation from the Government, the ECtHR concluded that the victims' injuries were caused by police use of force. It found that force had not been shown to be strictly necessary or proportionate, in violation of Article 3.

This decision therefore reinforces an important evidentiary safeguard in protest policing cases, requiring States to account convincingly for injuries sustained during crowd-control operations by law enforcement.

Impact of an Article 3 Violation on the Right to Peaceful Assembly

Although the Government had claimed that the force used was to arrest protesters who were violent, the ECtHR found that the victims had not engaged in any violent conduct and that the force used against them was unnecessary and excessive, in violation of Article 3 ECHR. It stressed that even though the Police Act allowed some force and equipment to be used to prevent a crime and supress resistance towards a police officer – and therefore pursued a legitimate interest –, the victims in this case were not among the violent demonstrators, and consequently the force used against them was unnecessary. This finding of the Court clearly establishes that State authorities must differentiate between violent and non-violent demonstrators, and that force cannot be used indiscriminately in protests, even when these turn violent. The Court emphasised that the use of force, which was contrary to Article 3, was "not necessary in a democratic society" and "could have had a chilling effect" on the right to peaceful assembly.

WIDER IMPACT OF THE CASE

Consistent Application of Principles Governing the Use of Force

The ECtHR reaffirmed the State's duty to initiate an effective investigation into allegations of torture and ill-treatment even in the absence of a formal complaint, particularly where the authorities are aware of incidents of violence in a protest. It also highlighted that the State's failure to conduct an effective investigation, including by not examining medical evidence or by conducting inadequate pre-investigation inquiries, amounted to a procedural violation of Article 3 ECHR. This analysis is consistent with the application of standards governing the use of force in the context of mass protests. The Court's application of such standards has contributed to consolidating the caselaw available for lawyers, judges, academics, and members of civil society on when the use of force in a protest and the lack of effective investigation constitute violations of Article 3.

Implementation Challenges

As of the time of drafting this Casebook, the Russian Federation had not complied with the ECtHR's order to pay compensation to the victims. This highlights the broader challenges of securing reparations in repressive contexts, and the limits of the ECtHR's powers of enforcement. In a related case concerning violations in the May 2012 protests, the Russian Supreme Court refused to overturn a conviction of a protester in defiance of an ECtHR judgment.

Geopolitical developments have further complicated enforcement. Russia was suspended from the Council of Europe on 25 February 2022 due to its full-scale invasion of Ukraine, and ceased to be a member on 16 March 2022, effectively severing its formal obligations under the ECHR system.

The judgment nevertheless had an important symbolic and normative impact. It provided an authoritative record of the violations and publicly acknowledged the harm suffered by the victims, a form of establishing the truth, which is often unavailable in repressive States. Since the decision, there have been further systemic rights abuses documented in Russia.

STRATEGIC FEATURES OF THE CASE

Making Use of Limited Avenues for Justice

Although Russia remains a party to UNCAT, it has not ratified its Optional Protocol, which would enable international monitoring and oversight of places of detention and risks of torture. Nor has it accepted the individual complaints procedure. Russia has also demonstrated reluctance to cooperate with UN Special Procedures, including the Special Rapporteur for Russia. Litigation before the ECtHR made use of one of the few avenues available for abuses to be judicially examined and recognised, serving as a formal acknowledgement of rights violations for victims and survivors. This case is a particularly successful example, forming part of a broader set of cases litigated before the ECtHR about the Bolotnaya Square protest on 6 May 2012, which, alongside civil society reports such as Amnesty International's reports of 2013 and 2014, establish a detailed record of events and recognise the suffering of victims and survivors.

The Legal Representatives for the Applicants were S.A. Minenkovand and A.N. Laptev.

ADDITIONAL RESOURCES

- Amnesty International, 'Anatomy of Injustice: The Bolotnaya Square Trial' (Public Statement, 10 December 2013).
- Claire Big, 'Bolotnaya: The One Incident That Symbolizes Putin's Crackdown' (The Atlantic, 15 April 2013).
- Council of Europe/ECtHR, 'Guide on the case-law of the European Convention on Human Rights – Mass protests' (31 August 2025).
- 'Democracy has to be fought for' Twelve years after the Bolotnaya Square protests, Meduza's Russian readers reflect on what went wrong' (Meduza, 16 May 2024).
- Department for the Execution of Judgments of the ECtHR, 'Russian Federation'.
- European Parliament, *Russia: sentencing of demonstrators involved in the Bolotnaya Square events – European Parliament resolution of 13 March 2014 (2014/2628(RSP)* (13 March 2014) 2017/C 378/29.
- *Frumkin v. Russia* Application no. 74568/12 (2016).
- International Expert Commission, *May 6 2012 Events on Bolotnaya Square in Moscow: Expert Evaluation* (2013).
- OHCHR, Report of the Special Rapporteur on the Situation of Human Rights in the Russian Federation (11 October 2024) A/79/508.
- 'Russia: Bolotnaya Square protestor released' (Amnesty International, 9 July 2014).
- 'Russia: Investigate Police Use of Force Against Peaceful Protesters' (Human Rights Watch, 8 May 2012.

SAMIRA IBRAHIM MAHMOUD AND RASHA ALI ABDEL-RAHMAN V. THE ARAB REPUBLIC OF EGYPT (2023)

Link to the decision

African Commission on Human and Peoples' Rights

PROTESTERS • SEXUAL TORTURE • GENDER-BASED VIOLENCE • VIRGINITY TESTING • FORCED GENITAL EXAMINATIONS • FREEDOM OF EXPRESSION

CASE SUMMARY

Samira Ibrahim Mahmoud and Rasha Ali Abdel Rahman were arbitrarily detained and tortured by the Egyptian military following the dispersal of a peaceful demonstration in Tahrir Square, Cairo, in March 2011 during the Egyptian popular uprising. Both women were subjected to forced genital examinations (also known as 'virginity testing') and other forms of gender-based violence during detention. They were also criminalised for their participation in the peaceful demonstration.

The landmark decision adopted by the ACHPR in their case explores, for the first time in the region, the use of forced genital examination as a form of sexual torture to intimidate female protesters, as well as the discriminatory element of such practice and its chilling effect to silence democratic dissent.

THE FACTS AND PROCEDURAL HISTORY

On 9 March 2011, Samira and Rasha were arrested by military officials in Tahrir Square in central Cairo for their participation in a protest during the Egyptian popular uprising. The protest related to demands for a new Constitution, the removal of the Prime Minister, as well as the military's brutal dispersal of a prior peaceful demonstration on 25 February 2011.

During their arrest, Samira and Rasha were verbally abused by soldiers, who called them prostitutes and swore at them. Samira was also beaten and given electric shocks with a taser.

After their arrest, they were held in a military prison, where in separate incidents they were forcibly stripped of their clothes and in full view of male military officers, who took pictures of them and laughed about it. After their clothes were removed, a military doctor also conducted forced genital examinations with his bare hands

without their consent, purportedly to verify their "virginity". No explanation was given for the examinations. Samira and Rasha were also verbally abused during the incidents and Rasha was threatened with rape.

Both were given one year's suspended prison sentences by a military judge on trumped-up charges after a short hearing in which they did not have legal representation.

In March 2012, a military court in Egypt found the doctor accused of performing the forced genital examination innocent of all charges.

Following this decision, Samira and Rasha filed their case before the ACHPR on 11 September 2012. The ACHPR declared the case admissible in November 2013.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its decision adopted in May 2023 (but made public in November 2025), the ACHPR found that Egypt had violated Samira and Rasha's rights under the African Charter, including: the right to non-discrimination (Articles 2 and 18); the prohibition of torture and cruel, inhuman and degrading treatment (Article 5); duty to guarantee the independence of the courts (Article 26); the right to equality before the law (Article 3); the right to freedom of expression and opinion, and freedom of assembly (Articles 9 and 11); and the obligation to protect and respect rights (Article 1).

Virginity Testing as a Form of Torture

The ACHPR considered that forced genital examinations (or 'virginity testing') constituted a form of rape, consistent with international jurisprudence on the matter. It noted that it is a particularly grave violation when committed against women who are held in detention, amounting to torture.

The ACHPR found no medical or legal justification for the 'virginity testing' perpetrated against the victims, and noted that it was "illegal, torturous, inhuman and degrading". It highlighted that virginity testing reinforces stereotypes and gender inequality and is a violation of the rights of women and girls.

Egypt was also found to have breached its obligation (not only under the African Charter, but also under UNCAT and the ICCPR), by failing to effectively investigate the facts.

Discriminatory Treatment of Female Protesters

The ACHPR considered that the evidence in the case showed that the violations were gender-specific and that female protesters were treated differently. It concluded this because of (i) the demeaning terms and verbal assaults used by State officials against the victims, such as "prostitute", "bitch" and "slut", which were meant to degrade women of their integrity for not abiding by traditional religious and social norms; (ii) the commission of sexual and physical violence that can only be directed at women, such as the 'virginity testing', breast fondling and touching; and, (iii) the threats against the victims accused of prostitution for participating in a protest, which the ACHPR considered to be gender-specific. Finally, the ACHPR noted that the events took place in a broader context of systematic violence targeting women who took part in peaceful demonstrations.

As an example of broader institutional discrimination, the ACHPR paid attention to the way the prosecutor – who was meant to assist one of the victims and bring the perpetrators to justice – instead questioned her regarding why she was working in Cairo while not residing there and not being married, as well as what she was wearing at the time of her arrest. These attitudes, in the Commission's view, suggest negative and gender stereotypes against women protesters.

Sexual Violence to Suppress Dissent

The ACHPR found that the arbitrary arrest and torture of the victims was done in response to Samira and Rasha's exercise of their freedom of expression and assembly, as a way to punish, intimidate, and discourage them from demonstrating.

Reparations Ordered

The ACHPR urged Egypt to investigate and prosecute the perpetrators as well as to financially compensate Samira and Rasha for the harm caused. In addition, the Commission ordered reparations aimed at preventing similar violations in the future, including: the reform of military prison procedures to include guarantees to respect personal integrity during searches, medical check-ups, and during detention; and for civil courts to have exclusive jurisdiction to investigate any violations by military personnel.

WIDER IMPACT OF THE CASE

A Pioneering Legal Precedent

This is the first case to examine the compatibility of forced genital examinations, and in particular 'virginity testing', with the African Charter in the continent. It is also the first decision by any human rights body to examine this practice, which means the standards developed by the Commission are likely to have wider impact beyond Africa. This is significant, given the practice of 'virginity testing' is still committed in countries around the world.

Shedding Light on Sexual Violence against Women Protesters

The decision also brings ACHPR jurisprudence in line with IACtHR legal precedents on the use of sexual violence (including verbal insults, rape, and other forms of gender violence) to punish the participation of women in peaceful demonstrations and protests (see *Women Victims of Sexual Violence in Atenco v. Mexico*). The recognition of the gendered nature of the violations also sheds light on sexual violence suffered by women protesters, and provides an opportunity to address the root causes of such violence. Considering that gender violence in Africa is common in electoral periods, the decision is expected to serve as a useful tool for practitioners and policy makers working to eradicate this form of torture in the region.

STRATEGIC FEATURES OF THE CASE

Interdisciplinary Legal Team

The litigation benefited from the legal expertise of a group of lawyers who developed arguments on the case from different perspectives. While the initial legal team, Egyptian Initiative for Personal Rights (EIPR) and INTERIGHTS, built strong arguments around 'virginity testing' and other forms of sexual violence as forms of discrimination against women protesters, the later intervention by REDRESS reinforced arguments around this type of violence as a form of torture with the purpose to suppress dissent.

The Role of Forensic and Scientific Evidence

The litigation of the case greatly benefited from forensic medical evidence introduced in the proceedings by third parties. In particular, in February 2015, the International Council for Rehabilitation of Torture Victims (IRCT) submitted an expert statement on 'virginity testing' by an Independent Forensic Expert Group. The expert statement explored the impacts of forced virginity testing on the physical and psychological wellbeing of women, concluding that, when forcibly conducted, this practice constitutes a form of sexual assault and rape. The expert statement also showed that the practice is medically unreliable and inherently discriminatory, and when conducted forcibly, it causes significant physical and mental harm.

In its decision, the ACHPR paid due consideration to the expert statement mentioned above, as well as the joint statement by the Office of the High Commissioner for Human Rights, UN Women, and the World Health Organization, that 'virginity testing' has no scientific or clinical basis and that "no examination can prove a girl or woman has had sex, as the appearance of a girl's or a woman's hymen cannot prove whether they have had sexual intercourse, or are sexually active or not".

The Legal Representatives for the Complainants were the Egyptian Initiative for Personal Rights (EIPR) and INTERIGHTS. REDRESS joined the case in 2013.

ADDITIONAL RESOURCES

- Marc Español, 'Abogadas de víctimas egipcias del test forzado de virginidad celebran una sentencia histórica que lo considera "una forma de tortura" [Lawyers for Egyptian victims of forced virginity testing celebrate landmark ruling that considers it "a form of torture"]' (El País, 22 January 2026).
- Independent Forensic Expert Group, 'Statement on Virginity Testing' (2015) 25(1) Torture Journal: Journal on Rehabilitation of Torture Victims and Prevention of Torture 62.
- World Health Organization, 'Eliminating Virginity Testing: An Interagency Statement' (2018) WHO/RHR/18.15.

TAVARES PEREIRA AND OTHERS V. BRAZIL (2023)

Link to the decision

Inter-American Court of Human Rights

PROTESTERS • RIGHT TO LIFE • FREEDOM OF ASSEMBLY • FREEDOM OF MOVEMENT • EXCESSIVE USE OF FORCE • USE OF WEAPONS IN PROTEST • MILITARY JURISDICTION

CASE SUMMARY

On their way to Curitiba on 2 May 2000 to participate in a demonstration, a convoy of rural workers from the *Movimento dos Trabalhadores Rurais Sem-Terra* (MST) was intercepted by State forces on a highway in Paraná, Brazil. The authorities used live ammunition and less-lethal weapons to disperse the protesters. The excessive use of force by military police resulted in the death of Antônio Tavares Pereira and the injuries of dozens more, and became a stark illustration of the violent repression faced by those challenging land inequality and promoting agrarian reform in Brazil. The IACtHR held Brazil responsible for several human rights violations, including the right to life, personal integrity, and peaceful assembly. This case marked a critical turning point in protecting the right to protest, as it reaffirmed the standards on the use of force in peaceful assemblies, ensuring that the voices of rural human rights defenders can no longer be silenced without consequence.

THE FACTS AND PROCEDURAL HISTORY

The *Movimento dos Trabalhadores Rurais Sem-Terra* (MST) is a mass social movement of landless workers who have been challenging social injustices in rural areas in Brazil. On 2 May 2000, MST members were travelling by bus to Curitiba, Paraná, to participate in a demonstration for agrarian reform. A judicial decision had been issued in anticipation of possible protests, aimed at preventing the invasion of public buildings and property damage. Military police nonetheless intercepted several buses, searched passengers, and confiscated items. The buses were ordered to return to their cities of origin.

During the return journey, some protesters, including Antônio Tavares Pereira, disembarked to join others gathered on the BR-277 highway. Military police, who had ordered passengers not to exit the bus, responded by firing at demonstrators. A bullet fired by a military officer ricocheted off the asphalt and struck Antônio Tavares

in the abdomen. He was not assisted by the authorities and was taken to the hospital by fellow protesters, where he died. The military police also used tear gas, rubber bullets, dogs, batons, and physical force to disperse protesters. As found by the IACtHR, the State's response resulted in at least 69 injured persons among nearly 200 persons affected (including workers and their family members) by the unlawful use of force.

Investigations were initiated within the military justice system, but were archived in October 2000 on the basis that military officers had acted in legitimate self-defence. Criminal proceedings in the ordinary Courts were also instituted for the murder of Antônio Tavares, but equally dismissed in April 2003, and no one was held criminally responsible. In December 2002, civil proceedings for damages were brought by Antônio Tavares' family, and Courts awarded them monetary compensation for the material and moral damages suffered, for the legal fees, as well as the provision of special pension payments to the family members, although these measures have not been fully implemented.

On 1 January 2004, the case was submitted to the IACHR by the MST, *Justiça Global* and *Terra de Direitos*, and two other organisations on behalf of Antônio Tavares and a group of victims (185 individuals). On 6 February 2021, the IACHR referred the case to the IACtHR, before which victims were represented by *Justiça Global and Terra de Direitos*. The Court expressed concern that 17 years had passed between the initial petition before the Commission and the case submission before the Court.

THE DECISION AND ITS SIGNIFICANCE

Violations and Reparations

In its decision issued on 16 November 2023, the IACtHR found Brazil responsible for the violation of the following rights under the American Convention: right to life (Article 4), right to humane treatment and to personal integrity (Articles 5 and 5(1)), right to freedom of thought and expression (Article 13), right of assembly (Article 15), rights of the child (Article 19), and right to freedom of movement (Article 22). The Court also found Brazil responsible for violating the right to judicial guarantees and protection of Antônio Tavares' family members and 69 of the victims under Articles 8(1) and 25 of the American Convention.

The Court ordered reparations, including free medical and psychological rehabilitation for Antônio Tavares' family and all injured victims, compensation, satisfaction through a public acknowledgement of the State's responsibility, and guarantees of non-repetition. Regarding guarantees of non-repetition, the Court ordered the adequate training of civil and military forces to ensure that use of force during protests is employed in line with the principles of necessity, proportionality, and exceptionality, and that law enforcement are informed of their absolute duty to respect and protect the civilian population. It also ordered Brazil to adapt its domestic legal framework concerning the jurisdiction of military justice, to ensure that it does not have the competence to hear or judge any crime committed against civilians.

States' Obligation to Facilitate Assemblies

The Court's decision clarified the positive obligations of States to facilitate peaceful assemblies. It noted that the State must guarantee protesters' access to public spaces and protect them from external threats. The Court emphasised this duty particularly when protests involve marginalised communities or groups excluded from public discourse.

The Prohibition of the Use of Firearms to Disperse Protests

The IACtHR reaffirmed that the indiscriminate use of firearms is prohibited for dispersing protesters during peaceful assemblies, and stressed that firearms are not an adequate instrument for policing protests. It noted that firearms can only be used as a last resort and only where there is an imminent risk to life or personal integrity. It found that in this case the State failed to prove that the protesters were engaging in a confrontation that caused an imminent risk to life that would justify the intensity and lethality of the means used. With reference to the UN Human Rights Committee's General Comment No. 37, the Court reiterated that agents must be duly informed and trained on the legal standards on the use of force in public assemblies, including on the principles of legitimacy, absolute necessity, and proportionality.

The Excessive Use of Force and Weapons in Protests

The IACtHR ruled that the use of tear gas grenades, kinetic impact projectiles, and attack dogs against protesters was not justified by the simple objective of dispersing protesters to vacate the highway. It clarified that the prohibition of firearms to disperse protests extends to the use of rubber-coated metal bullets, given these also pose a threat to life. The Court condemned the indiscriminate use of lethal and of less-lethal weapons (tear gas, rubber bullets and attack dogs), noting that force was employed against the crowd rather than targeting specific individuals who posed a concrete threat. Even after the arrival of MST legal representatives and a federal agent to mediate the situation, the use of force continued unabated. It also concluded that the use of force was disproportionate considering that many protesters were already subdued, had surrendered, or were lying or sitting down at the time of the attacks. The illegality of the operation was further compounded by the State's failure to provide immediate medical assistance to victims.

WIDER IMPACT OF THE CASE

Recognition of Violations against Rural Activists and Victims, and Collective Memory

The judgment carries strong symbolic and political significance. It recognises that the protest was a legitimate exercise of the right to assembly by rural workers advocating for agrarian reform and acknowledges the broader context of stigmatisation and hostility faced by rural social movements. The IACtHR emphasised the heightened duty of protection owed to historically marginalised communities and recognised the violations against rural workers, including women and children present at the protest.

This recognition also extends beyond individual harm. By affirming the status of the victims and ordering measures such as the protection of the monument to Antônio Tavares and a public act acknowledging State responsibility, the Court reinforced the importance of historical memory and collective remembrance. For the MST, the judgment represents both legal validation and symbolic acknowledgment of the violence suffered in the context of social struggle.

Standards on the Use of Force in Protests

The case also plays an important role in consolidating IACtHR standards on the use of force in the context of public assemblies. The Court reaffirmed that firearms must not be used to disperse demonstrators and clarified

strict limitations on the use of tear gas, kinetic impact projectiles, and other potentially lethal or high-risk (or less-lethal) weapons. By emphasising the principles of legality, absolute necessity, and proportionality, and by rejecting the use of indiscriminate force against a crowd, the judgment strengthens regional jurisprudence on protest policing. It reinforces that maintaining public order cannot justify excessive or collective punishment of demonstrators, particularly where assemblies involve historically excluded groups.

Implementation and Structural Challenges

Since the judgment was issued, implementation is ongoing. Some progress has been made in relation to measures of compensation and access to health services, although not without challenges. However, guarantees of non-repetition remain politically sensitive and difficult to implement. Structural reforms, including those relating to the competence of the military justice system, and accountability of security forces, face institutional resistance and are yet to be fully implemented. Legal representatives of the victims and survivors continue to follow the process and advocate for the full implementation of reparation measures.

STRATEGIC FEATURES OF THE CASE

Evidence Collection for Long-Term Litigation

From the outset, lawyers in the case recognised that cases involving violence against rural human rights defenders in that context required immediate and independent evidence collection. In the immediate aftermath of the events, members of the National Network of People's Lawyers (RENAP) in Paraná travelled to the scene to assist detained protesters and ensure access to forensic medical examinations. This was critical in a context where State authorities often fail to properly collect evidence or document injuries. Such documentation became central to substantiating the scale and seriousness of the violations before both domestic courts and the IACtHR. Over time, the evidence, *amicus curiae* briefs, and technical reports also strengthened the legal arguments before the IACtHR.

Emphasising the Right to Protest of Historically Marginalised Rural Communities

From the early stages, the litigation emphasised the violation of the right to peaceful assembly and the broader context of violence against rural social movements. This particular demonstration was part of a long-standing struggle for agrarian reform. The case brought before the IACtHR emphasised the protection owed to historically marginalised communities; the stigmatisation of social movements such as MST; the impact of State violence on women, children, and adolescents present at the protest; and the legitimacy of the MST as a social movement. This framing ensured that the judgment addressed not only the excessive use of force, but also recognised the broader context of structural discrimination and violence, as well as the protection of vulnerable groups in protest contexts.

Solidarity Networks, Political Advocacy, and The Peoples' Tribunal

Sustaining litigation for over 20 years required strong social movement support and concerted political advocacy. The MST's organisational strength was essential in maintaining momentum, public attention, and collective commitment. Annual public acts at the monument of Antônio Tavares helped preserve memory and reinforced mobilisation. Political advocacy, including engaging parliamentarians, religious, and federal authorities also kept the case visible during long periods of procedural delay.

In 2002, the MST organised a Peoples' Tribunal against crimes of the *latifundio* to publicly denounce the violations and apply political pressure for the advancement of investigations. Such tribunals have been used in situations where State justice is perceived as ineffective or complicit. While not legally binding, the Peoples' Tribunal maintained public scrutiny, strengthened collective memory and public narrative, and reinforced collective commitment to accountability.

Challenging Military Jurisdiction

A core strategic objective was to contest the role of the military justice system in investigating and adjudicating violations committed by military personnel against civilians. As noted above, early proceedings were conducted within the military justice system and archived. This argument became central to litigation both domestically and internationally, as addressing military jurisdiction was seen as essential to confronting the entrenched patterns of institutional impunity. The judgment reaffirmed that military jurisdiction should not be used to try any crime against civilians and required Brazil to review its domestic framework accordingly within the period of one year since the issuance of the judgment.

The Legal Representatives for the Petitioners before the IACtHR were *Terra de Direitos* and *Justiça Global*.

ADDITIONAL RESOURCES

- 'Casos Emblemáticos: Antonio Tavares [Emblematic Cases: Antonio Tavares]' (Terra de Direitos, 13 March 2024).
- IACHR, *Informe No. 6/20, Caso 12.727, Informe de Fondo – Antonio Tavares Pereira y otros vs Brasil [Report No. 6/20, Case 12.727, Merits Report – Antonio Tavares Pereira and others v. Brazil]* (3 March 2020) OEA/Ser.L/V/II.175.
- 'Repositorio: Tavares Pereira y otros v. Brasil [Repository: Tavares Pereira and others v. Brazil]' (Escuela de la Defensa Pública, 2023).

OBIANUJU CATHERINE UDEH, PERPETUAL KAMSI, AND DABIRAOLUWA ADEYINKA V. NIGERIA (2024)

Link to the decision

The Community Court of Justice of the Economic Community of West African States

PROTESTERS • FREEDOM OF ASSEMBLY AND ASSOCIATION • FREEDOM OF EXPRESSION • USE OF WEAPONS IN PROTESTS • COMPENSATION

CASE SUMMARY

In 2020, young Nigerians filled the streets to protest police brutality and demand justice, calling for the disbandment of the notorious Special Anti-Robbery Squad (SARS), a police unit long accused of extortion, torture and extrajudicial killings. Their peaceful demonstration, known as #EndSARS, was met with violence as security forces opened fire on protesters and used excessive force to suppress dissent. Some victims brought a case before the ECOWAS Court of Justice, describing the physical and psychological harm they suffered during the #EndSARS protests. The ECOWAS Court found Nigeria responsible for failing to prevent and investigate the abuses committed by its security agents, and for using unnecessary and disproportionate force against its citizens.

The judgment is a landmark for both Nigeria and the wider region. It reinforced ECOWAS's role in safeguarding human rights in the context of protests within its Member States, and reinforced States' obligations to protect protesters, investigate violations, ensure accountability for perpetrators, and redress victims.

THE FACTS AND PROCEDURAL HISTORY

On 20 October 2020, Obianuju Catherine Udeh, Perpetual Kamsi, and Dabiraoluwa Adeyinka took part in an #EndSARS protest at the Lekki Toll Gate in Nigeria. The #EndSARS protests, which peaked in October 2020, arose in response to widespread allegations of police brutality and extrajudicial killings carried out by the Special Anti-Robbery Squad (SARS) — a tactical unit within the Nigerian Police Force originally created to combat violent crime. Public anger intensified following the alleged killing of 20-year-old musician Daniel Chibuike, also known as Sleek, by SARS officers in early October 2020. Daniel's killing was seen as emblematic of the profiling and violence against young people. His death became a catalyst for nationwide demonstrations demanding justice and police reform.

The situation escalated tragically, when Nigerian law enforcement opened fire on protesters at the Lekki Toll Gate in Lagos, resulting in casualties that are now referred to as the "Lekki Massacre". Nine protesters were initially confirmed killed, but evidence later emerged in 2023 revealing 103 #EndSARS-linked killings and many more seriously injured.

On 15 December 2021, three victims – Obianuju Catherine Udeh, Perpetual Kamsi, and Dabiraoluwa Adeyinka – brought a case before the ECOWAS Court of Justice, seeking accountability for the violence at Lekki Toll Gate. They argued that Nigeria had violated their fundamental rights under the African Charter, including the rights to life, personal security, freedom from torture and cruel treatment, and freedom of assembly, by failing to protect peaceful protesters and by using excessive and disproportionate force against them.

Obianuju Catherine Udeh had live-streamed the Lekki Massacre after seeking cover, capturing footage of soldiers firing at protesters. In her application before the Court, she explained that she received threats and was forced to seek asylum. Perpetual Kamsi recounted being hospitalised after soldiers opened fire following a power outage at the protest site. Dabiraoluwa Adeyinka narrowly avoided being shot, and witnessed soldiers obstructing ambulances from reaching the injured.

Nigeria denied liability, characterising the gathering as unlawful and arguing that military and police forces had adhered to strict engagement protocols without resorting to excessive or lethal force. Nigeria further claimed that the aim of its military and police forces was to restore order and to ensure public safety, having accused the victims of incitement of violence.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its judgment issued on 10 July 2024, the ECOWAS Court held Nigeria responsible for violating the following provisions of the African Charter: the obligation to give effect to the African Charter (Article 1), the right to life (Article 4), the right to liberty and security of person (Article 6), the right to receive information and freedom of expression (Article 9), freedom of association (Article 10), and the right to assembly (Article 11).

Physical and Psychological Harm Amounting to Torture

The ECOWAS Court held that the prohibition of cruel, inhuman or degrading treatment or punishment must be interpreted widely to include a broad range of physical and mental stress, noting also that psychological – and not only physical – acts can amount to torture. The Court found that the victims had provided evidence establishing the physical, mental, emotional, and psychological harm they suffered in the context of a protest, in an area controlled by State security agents who were heavily armed and shooting. It concluded that the state of fear, anxiety and psychological distress suffered by the victims amounted to torture, which had been perpetrated through the disproportionate use of force and acts of the Nigerian security forces.

Reparations Ordered

The ECOWAS Court ordered a new investigation and prosecution of those responsible, drawing attention to Nigeria's failure to implement recommendations made by the Judicial Panel of Inquiry that had been set up

in the wake of the protests. It also ordered monetary compensation for the victims, noting the severity and multiplicity of the violations committed. Specifically, the Court awarded each applicant a sum of two million Naira (approximately EUR 1,100) for each violation. It implied that compensation is not meant to cover all of the victims' damages, and instead it serves as a symbolic measure to deter future violations. The Court, however, did not take the opportunity to order non-monetary reparations such as guarantees of non-repetition. The Court ordered Nigeria to report on the measures taken to implement the judgment within six months. However, despite the ECOWAS Court's writ of enforcement, at the time of writing, the Nigerian Government has yet to implement the judgment.

WIDER IMPACT OF THE CASE

Reinforcing States' Obligations and Accountability

The decision marks a pivotal moment in ECOWAS human rights jurisprudence, strengthening regional accountability of Member States with respect to their obligations under the African Charter in the context of protests. By affirming Nigeria's responsibility for violations during the #EndSARS protests, the Court clarified States' obligations under the African Charter, particularly in responding to civic dissent. By awarding damages and mandating the Government to properly investigate the allegations, the Court also indicated that human rights violations must not go unpunished.

According to the litigants, the judgment has been cited in various academic articles and referenced by others pursuing human rights claims in the West African region. And yet, the grossly disproportionate and violent response of the Government against peaceful protesters has had a chilling impact on dissent in Nigeria, with many fearing State reprisals if they speak out. The use of propaganda by the Nigerian Government to promote its version of events has had a lasting impact on the ability of citizens to freely engage in protests, and the use of violence against protesters by Nigerian security forces has continued.

Whilst the case is likely to continue to serve as a benchmark for future claims related to political dissent and encourage civil society to harness the ECOWAS Court as a useful forum, it is important to consider the complex socio-political landscape in Nigeria, the ongoing crackdown on dissenters, and the lack of enforcement of reparations, which continue to bear on the climate surrounding freedom of expression and association.

STRATEGIC FEATURES OF THE CASE

Security Protocols

Given the Nigerian Government's motivation to obscure the truth of what had happened at the Lekki Toll Gate, victims and/or witnesses coming forward in this case, as well as lawyers working with them, faced serious security concerns and the risk of (potentially violent) retaliation. In the absence of any witness protection program from Nigeria or the ECOWAS Court, some witnesses ultimately decided not to come forward.

The lawyers working on the case were very careful about their security protocols when communicating or meeting with victims and/or witnesses. They communicated only via secure channels. When in-person meetings were

needed, they were held outside of Lagos, but where possible, conversations were held virtually to reduce the risk associated with physical gathering. The coordinating organisation provided witness protection and access to safe houses for the witness and the victims to ensure the safety of the process, debriefing, and coordination. One of the victims took the precautions of using an alias and not sharing their location with the lawyers working on the case. Digital evidence was also encrypted and password-protected. The organisations involved in the case sought to keep the victims away from the public eye and to protect them to the greatest extent possible. They also worked with some of the survivors of the Lekki Massacre, ensuring that they received psychosocial support.

Strong Teamwork from the Beginning

This case was a product of civil society cross-collaboration, with information sharing, evidence gathering, and a rapid legal response team working together from the beginning. The combined expertise of the legal team and civil society meant the case could be pursued successfully despite serious security concerns and the threat of government backlash.

Expert Reports

Amnesty International intervened in the case as *amicus curiae*, filing a brief which was accepted by the ECOWAS Court alongside the victims' submissions and referred to at multiple points in the final judgment. The brief provided the Court with an independent analysis of international legal standards on the use of force, State obligations under human rights treaties, and best practices for accountability. By situating the victims' claims within broader jurisprudential trends and comparative doctrine, the *amicus curiae* submission bolstered the legal framing of excessive use of force, the duty to investigate, and the obligations owed by States with particular reference to the right to life and peaceful assembly.

In addition, the Independent Forensics Expert Group (IFEG) conducted medico-legal evaluations of the victims and provided an expert report establishing the effect of the State's violent repression on the victims. The legal team relied on this report to establish the psychological and emotional trauma that the victims had experienced.

Pursuing Alternative Accountability Avenues in Parallel

Alongside the strategic litigation of this case at the ECOWAS Court, NGOs (including REDRESS) pursued an additional accountability avenue by submitting a detailed sanctions recommendation file urging the UK Government to impose targeted human rights sanctions on the alleged perpetrators of the Lekki Massacre. Unfortunately, to date no such sanctions have been imposed.

The Role of Lawyers in the Context of Protests

According to Mojirayo Ogunlana, one of the victims' lawyers in this case, this case serves as a reminder of the importance of having experienced lawyers on standby when planning a protest in order to obtain legal advice on freedom of expression and freedom of assembly, both to shape how a protest is carried out, and to analyse the State's response.

Use of Digital Evidence

The ECOWAS Court's reliance on extensive digital evidence, including live-stream videos and verified video analysis from the University of Essex Digital Verification Unit, illustrates how survivor testimony combined with technological verification can substantiate allegations of State violence in contested contexts. The use of video footage combined with forensic analysis provided a strategic way to capture the gravity of the events underpinning the claim. In considering the evidentiary weight of the University of Essex Digital Verification Report, the Court specifically noted that it provided further detail on photographic evidence, with time, date, and location data – which Nigeria did not contest.

The case illustrates the use of digital evidence as a significant tool in human rights litigation, which can harness the ability of witnesses to document violations in real time, and transform contested narratives into credible accounts that satisfy legal standards.

The Legal Representatives for the Applicants were Bolaji Gabari, Mojirayo Ogunlana, Nelson Olanipekun, and Osai Ojigho. A third-party intervention was submitted by Amnesty International. Communications and advocacy work was carried out by Chioma Agwuegbo and REDRESS.

ADDITIONAL RESOURCES

- Ben Mariem Salma, 'ECOWAS court rules Nigeria violated human rights during October 2020 protests' (JURIST, 11 July 2024).
- 'Ecowas Court holds Nigeria liable for deadly protests' (LegalBrief, 15 July 2024).
- Giada Giacomini, 'The Responsibility of the Nigerian Government for Human Rights Violations During the #EndSARS Protests: An Analysis of the ECOWAS Court Ruling' (Federalismi.it, 23 December 2021).
- Natalie Lucas and Nelson Olanipekun, 'Nigeria Condemned by ECOWAS Court for Torture of Protesters at Lekki Toll Gate' (REDRESS, 31 July 2024).
- Okafor Obiora Chinedu and others, 'Explaining the Comparatively Less Robust Human Rights Impact of the ECOWAS Court on Legislative and Judicial Decision-Making, Process, and Action in Nigeria' (2024) 61 Canadian Yearbook of international Law/Annuaire canadien de droit international 167.
- REDRESS, 'Nigeria: UK Sanctions – Briefing for Parliamentarians'.
- 'Nigeria – Events of 2024' (Human Rights Watch).
- 'Nigeria: Authorities must disclose identities of #EndSARS protesters due for mass burial' (Amnesty International, 24 July 2023).
- Stanley Ibe, 'ECOWAS Court Overlooked Nigeria's Due Diligence Obligations in #ENDSARS Decision' (Oxford Human Rights Hub, 9 September 2024).
- Wallace Fan, 'How to organize a collaborative OSINT project for litigation purposes: Takeaways from Project Tollgate' (University of Essex Human Rights Centre Blog).

TSAAVA AND OTHERS V. GEORGIA (2025)

Link to the decision

European Court of Human Rights

PROTESTERS • POLICING OF PROTESTS • USE OF FORCE • USE OF WEAPONS IN PROTESTS • RUBBER BULLETS • FREEDOM OF EXPRESSION • FREEDOM OF ASSEMBLY

CASE SUMMARY

A violent police response to anti-government demonstrations in Tbilisi, Georgia, left dozens of protesters and journalists seriously injured, many by so-called rubber bullets (kinetic impact projectiles). The events became one of the most controversial episodes of policing in Georgia's recent history, raising questions about the regulation and accountability of less-lethal weapons in the policing of protests.

In its Grand Chamber judgment, the ECtHR held that the authorities' use of rubber bullets and other force during the dispersal of the protest was neither strictly necessary nor proportionate. The Court also criticised the prolonged failure to effectively investigate the facts and bring perpetrators to justice. The judgment marks a significant ruling on the regulation of this type of less-lethal weapon and reinforces the standards on the use of force during the policing of protests, as well as States' human rights obligations in this context.

THE FACTS AND PROCEDURAL HISTORY

On the night of 20-21 June 2019, a large demonstration was organised outside the Georgian Parliament in Tbilisi. The protest was triggered by political controversy surrounding a Russian parliamentarian speaking from the Georgian parliamentary speaker's chair during an international assembly meeting, which sparked widespread public outrage.

Approximately 12,000 protesters gathered outside Parliament. The demonstration began peacefully but tensions escalated after some protesters attempted to enter the parliamentary building. Police formed cordons around the building and eventually deployed tear gas, water cannons, and kinetic impact projectiles – commonly called rubber bullets – in an effort to disperse the crowd. Approximately 800 rounds of rubber bullets were fired by

the police over three to four hours. More than 200 people were injured, including protesters, journalists, and police officers. Many of the victims in the case sustained serious injuries, including loss of eyesight, fractures, and other wounds caused by rubber bullets or physical force.

A domestic investigation was opened by the Prosecutor General's Office within two days of the events, and some steps were taken in the first year or two of the investigation. However, the investigation remained ongoing for over five years, without leading to the identification and accountability of those responsible. Some victims also initiated domestic claims for compensation in 2020 and 2021.

Between 29 February 2020 and 2 August 2021, five applications were lodged with the ECtHR. The cases related to 26 individuals who were either participants in the protest or journalists covering it, except for one individual who was a bystander. Most of them had sustained injuries from the use of rubber bullets; others were assaulted by police officers.

In May 2024, the cases were jointly examined by a Chamber of the ECtHR, which found a procedural violation of the right to be free from torture, inhuman or degrading treatment (Article 3 ECHR) due to the State's failure to conduct an effective investigation. However, the Court refrained from deciding on the substantive violation of Article 3, as well as the admissibility or merits related to violations of freedom of expression (Article 10 ECHR), and peaceful assembly (Article 11 ECHR). On 1 August 2024, some of the victims requested the case be referred to the Grand Chamber, which later delivered its final judgment.

THE DECISION AND ITS SIGNIFICANCE

Violations

On 11 December 2025, the Grand Chamber of the ECtHR held that Georgia had violated the victims' right to be free from torture, inhuman or degrading treatment (Article 3 ECHR) in relation to 24 victims, freedom of expression (Article 10 ECHR) in relation to 14 victims, and freedom of peaceful assembly (Article 11 ECHR) in relation to 11 victims. The Court also found the State responsible for a procedural violation of Article 3 due to its failure to investigate the facts, and ordered the State to conduct an effective investigation and adopt safeguards regulating the use of kinetic impact projectiles. The Court also ordered Georgia to pay compensation to the victims, for non-pecuniary damages and loss of future earnings due to injuries, totalling EUR 671,000.

Regulation of Kinetic Impact Projectiles in Protest Policing

A central aspect of the judgment concerns the use of kinetic impact projectiles (or rubber bullets) during demonstrations. The ECtHR held that the firing of these projectiles against protesters and journalists was neither strictly necessary nor proportionate. The police appeared to have used rubber bullets as a general crowd-control weapon, and the Court found no evidence that the injuries suffered by the victims had been the inevitable consequence of their own conduct. The ECtHR emphasised the serious health risks associated with such weapons, and concluded that Georgia's legal framework regulating their use was insufficient. Importantly, the Court articulated the minimum standards that domestic legal frameworks must include when regulating these weapons, which represented a development in the Court's caselaw. These include clear operational guidelines to ensure they are employed only in a targeted manner, strict oversight of their use, and safeguards

designed to minimise risks to individuals during demonstrations. This judgment is a detailed pronouncement of the Court on the use of this type of less-lethal weapon in crowd control.

Policing of Demonstrations and the Use of Force

While the ECtHR accepted that the authorities could have, in principle, legitimate grounds to disperse the protest after attempts were made to storm the Parliament building, it held that the manner in which the operation was carried out was disproportionate. Drawing on its earlier jurisprudence on the use of force in protests, including in *Zakharov and Varzhabetyan v. Russia*, the ECtHR reiterated that even where dispersal is justified, the force used by authorities must remain necessary, proportionate, and carefully controlled. To assess these requirements, the Court considers the nature, characteristics, and degree of force used; the seriousness of the injuries resulting from it; and the exact circumstances in which those injuries were caused. Relevant consideration is also given to whether steps were taken to regulate and organise the operation to minimise risks, whether authorities displayed a degree of tolerance before trying to disperse a crowd, and to the domestic system regulating such operations and the use of force.

In *Tsaava*, the Court found that the authorities failed to meet those requirements. Among other things, it noted that approximately 800 rubber bullets had been fired in a three to four hour period, often towards people's heads and upper bodies – as in the case of 17 victims in this case –, and without any prior warning. The ECtHR also noted the officers' lack of training on the safety risks posed by these weapons and the absence of a strict chain of command.

WIDER IMPACT OF THE CASE

Developing Standards on Weapons Used in Protests

Tsaava advanced the ECtHR's jurisprudence on weapons used by law enforcement in protests, particularly on the use of kinetic impact projectiles. By outlining the minimum regulatory requirements for the use of kinetic impact projectiles and synthesising the principles for the regulatory framework for less-lethal weapons more generally, the Court strengthened European human rights standards governing protest policing. Importantly, as noted by the litigants in this case, the Court used *Tsaava* to bring the existing international soft law standards on the use of kinetic impact projectiles under the requirements of Article 3 ECHR, making them enforceable against Council of Europe Member States. While the exact impact of the case is yet to be seen, the ruling is likely to influence future litigation, caselaw, and possibly policy reform concerning the use of rubber bullets and similar weapons across Council of Europe Member States.

Visibility for Violence against Protesters and Journalists

The case also brought international attention to the victims of the 2019 protests, including individuals who suffered severe and permanent injuries. By recognising the harms suffered by demonstrators and journalists alike, the judgment contributed to broader recognition of the human rights implications of aggressive crowd-control tactics. Its finding related to freedom of expression was also particularly significant as the Court emphasised States' obligations to have in place an effective system of protection for journalists during protests. Nonetheless, as noted below, concrete steps are yet to be taken by authorities to ensure that Georgia's legal

framework and State authorities comply with international standards. The litigants have also noted that since the 2019 events, the regulatory framework for the use of less-lethal weapons has weakened in Georgia.

Challenges Related to Accountability and Repetitive Violations

The Court's finding that the investigation remained ineffective more than five years after the events highlights persistent accountability challenges in cases involving excessive force by law enforcement in Georgia. To date, perpetrators remain unpunished due to amnesty legislation and, such impunity, combined with repressive laws effectively criminalising peaceful protests, enables the perpetuation of similar violations. Since after the events, protests have repeatedly been met with violent crackdowns, with civil society organisations documenting ill-treatment by law enforcement and the misuse of less-lethal weapons. For instance, during a demonstration in 2024, the excessive use of force by authorities was well-documented by civil society organisations, including reports suggesting the use of chemical irritants mixed in water cannons. Organisations such as the Georgian Young Lawyers' Association (GYLA) continue to document and have recently brought new legal action to challenge such abuses in protests. In this context, the implementation of *Tsaava* provides an opportunity for the Committee of Ministers of the Council of Europe to assess the ongoing actions of the authorities related to the use of force in protests. Litigants suggest that whilst rubber bullets continue to be deployed in the policing of protests in circumstances which potentially indicate their improper use, the frequency of use has been significantly reduced since the events of Tsaava.

STRATEGIC FEATURES OF THE CASE

Use of Extensive Evidentiary Material

The litigation relied on extensive evidentiary material, including video footage, photographs, medical reports, witness statements, and forensic evidence. These included material recorded by journalists and demonstrators during the protest. This evidence was instrumental in reconstructing the events and demonstrating how force had been used during the dispersal of the demonstration. It also showed the severe impacts on victims, and that many of them were targeted directly with rubber bullets.

Strategic Appeal to the Grand Chamber

After the ECtHR Chamber judgment declined to rule on key substantive issues, the victims successfully sought referral to the Grand Chamber. This strategic step ensured that the Court addressed the central human rights questions raised by the case, particularly the legality of the use of kinetic impact projectiles and the protection of journalists and demonstrators, and indeed, whether the Court was empowered to refrain from deciding on these issues in the first place.

Civil Society Engagement and Collaboration

The case was brought by 26 victims who were supported by national and international organisations. Beyond individual cases, the approach taken by litigants enabled the Court to assess the policing operation as a whole beyond isolated incidents, and to highlight systemic failures in the regulation and use of force. Third-party

interventions by the Network of Civil Liberties Organizations (INCLO) and PEN International, PEN Georgia, and PEN English, also assisted the Court by clarifying the health and human impacts of rubber bullets and other weapons (INCLO), and reinforcing the particular protections that media freedoms require when reporting on matters of public interest such as demonstrations and protests (PEN centres).

The Legal Representative(s) for the Applicants in three applications was N. Londaridze, and in the other two applications, T. Oniani (Georgian Young Lawyers' Association – GYLA), and T. Collis and J. Gavron (European Human Rights Advocacy Centre – EHRAC). Before the ECtHR Grand Chamber, those Applicants were represented by D. Javakhishvili, and A. Pataraia and S. Tsiklauri (GYLA), and T. Collis, J. Gavron and C. Alonzo (EHRAC). Third-party interventions were submitted by nine members of the International Network of Civil Liberties Organizations (INCLO), and PEN International, PEN Georgia, and English PEN.

ADDITIONAL RESOURCES

- 'ECHR ruling: Georgia violated rights of protesters and journalists with CCWs' (INCLO, 16 December 2025).
- 'Georgia: PEN centres intervene in European Court of Human Rights case on journalistic protections' (English PEN, 25 February 2025).
- 'Georgia: Repressive Laws Effectively Criminalize Peaceful Protests' (Human Rights Watch, 4 December 2025).
- 'Georgia: Unprecedented Police Brutality Requires Firmer International Response' (REDRESS, 4 December 2024).
- 'GYLA Initiates Legal Action Over Alleged Chemicals in Water Cannons' (Civil.ge, 15 February 2026).
- 'GYLA: Instead of Maintaining Law and Order, MIA Commits Crimes' (Civil.ge, 2 December 2024).
- 'Landmark Judgment from the Grand Chamber of the European Court of Human Rights on Protest Rights in Georgia' (3VB – Three Verulam Buildings Barristers, 15 December 2025).
- Patrycja Grzebyk (OSCE Rapporteur), 'OSCE fact-finding mission on Georgia (2026) under paragraph 12 of the Moscow Mechanism Document – Report on Developments in Georgia in Respect of Human Rights and Fundamental Freedoms since Spring 2024' (24 February 2026).
- Tamaz Kirtava and others, 'Human Rights Situation in Georgia in 2025 – Assessment by the Georgian Young Lawyers' Association' (10 December 2025).
- 'When Water Burns – BBC Eye investigates potential use of World War One chemical against anti-government demonstrators in Georgia' (BBC, 1 December 2025).

JOURNALISTS

HUSEYNOVA V. AZERBAIJAN (2017)

Link to the decision

European Court of Human Rights

JOURNALISTS • RIGHT TO LIFE • EFFECTIVE INVESTIGATION • FREEDOM OF EXPRESSION • CONTINUED ABUSES AGAINST JOURNALISTS • IMPLEMENTATION CHALLENGES

CASE SUMMARY

Elmar Huseynov, a prominent Azerbaijani journalist and editor-in-chief of the weekly magazine *Monitor*, was shot dead in the stairwell of his apartment in March 2005 after years of threats and legal harassment linked to his outspoken reporting on both the Azerbaijani Government and the opposition. Following his death, his widow, Rushaniya Huseynova, pursued access to information about the murder investigation and ultimately brought a case to the ECtHR, alleging that the authorities had failed to protect her husband's life and conduct an effective investigation.

The Court found no evidence directly implicating State agents in Elmar's murder, but held that Azerbaijan had breached its procedural obligations under Article 2 ECHR (right to life) due to serious deficiencies in the investigation. The case underscores persistent challenges in protecting journalists in Azerbaijan and remains a reference point in international human rights advocacy despite limited practical impact on the practices of the Azerbaijani Government.

THE FACTS AND PROCEDURAL HISTORY

Elmar Huseynov was a renowned independent journalist and the editor-in-chief of the weekly magazine *Monitor*, widely recognised for his fearless reporting and outspoken criticism of both the Azerbaijani Government and opposition figures. Over his career, Elmar became a leading voice for press freedom in Azerbaijan, publishing investigative articles that exposed corruption and challenged official narratives. Elmar was repeatedly targeted for his work: 34 separate civil and criminal proceedings were brought against him by public officials, and he regularly received threats as a result of his reporting. In January 2004, for example, a police officer explicitly threatened to kill him if he continued publishing articles critical of the President and his family.

On 2 March 2005, Elmar was shot seven times in the stairwell of his apartment building in Baku as he returned home from work. Elmar's killing attracted extensive national and international media attention and was met with unanimous condemnation from politicians, international bodies, and both domestic and international NGOs. Azerbaijani authorities opened a criminal investigation into Elmar's death.

Following Elmar's death, his widow, Rushaniya Huseynova, left Azerbaijan for Norway, where she was granted asylum in 2006. As the criminal investigation proceeded in Azerbaijan, she repeatedly sought information about its progress and requested access to the case file. Despite having been formally recognised as a victim in the case, she was consistently denied access. Only occasional oral updates were provided, while years passed with little meaningful progress in the case.

On 17 February 2010, five years after her husband's death, Rushaniya Huseynova lodged an application with the ECtHR. She argued, under Articles 2 (right to life) and 10 (freedom of expression) ECHR, that her husband had been killed by or with the complicity of State agents due to his work as a journalist (substantive violation), and that the authorities had failed both to protect his life despite prior threats and to conduct an adequate and effective investigation into his murder (procedural violation).

THE DECISION AND ITS SIGNIFICANCE

Violations

The ECtHR issued its judgment on 13 July 2017. On the substantive limb of Article 2 ECHR, while acknowledging Elmar's publication of articles critical of senior officials, the Court found no evidence establishing beyond reasonable doubt that State agents were involved in his killing. It further held that there was no evidence that authorities had been aware of any danger to his life or had held any information which might give rise to such a possibility, which might indicate a failure to prevent. As a result, the Court found no violation of the substantive obligation under Article 2.

Turning to the procedural limb of Article 2, however, the Court was highly critical of the investigation. Under the Court's caselaw, Article 2 requires that investigations into unlawful deaths be effective, meaning they must be capable of leading to the identification and punishment of those responsible. This is understood as an obligation of means rather than result: the State is not required to guarantee a successful outcome, but it must take all reasonable steps within its power to secure evidence and pursue lines of inquiry. The Court identified serious and persistent shortcomings in Elmar's case: the authorities' failure to pursue prosecution of two identified suspects, including by seeking to transfer proceedings to Georgia; the repeated denial of the Rushaniya Huseynova's access to the case file, despite her being granted victim status; the lack of promptness, with the investigation dragging on for over 12 years; and the inadequate consideration of whether the killing was linked to Elmar's journalistic work, despite its apparent planning and potential chilling effect on press freedom. The Court held that these deficiencies rendered the investigation ineffective, in breach of the State's procedural obligations under Article 2.

Rushaniya Huseynova also alleged a breach of Article 10, arguing that her husband was murdered because of his journalistic work. The Court, however, declined to examine this claim separately, reasoning by a majority of five to two, that the issues raised were already addressed under Article 2 and that there was no evidence directly linking State agents to the killing or to a failure to protect Elmar's life. Dissenting votes criticised this

approach, contending that the failure to assess the freedom of expression dimension diminished the broader significance of the case. Judges stressed that the murder of a journalist represents one of the most extreme forms of censorship and poses a serious threat to democracy, warranting specific consideration under Article 10. Drawing an analogy with racial discrimination cases, they argued that violations involving targeted attacks on journalists should be recognised under both Article 2 and Article 10 to properly reflect the gravity and motives behind such killings.

WIDER IMPACT OF THE CASE

Visibility of Attacks on Journalists and Continued Violations

Huseynova highlights Azerbaijan's persistent failure to investigate attacks on journalists effectively and sets a clear standard under Article 2 ECHR that killings of journalists must be treated with particular diligence given their potential chilling effect on press freedom.

Despite this, subsequent developments in Azerbaijan suggest that the case has had limited impact on State practice to protect journalists from violations and refrain from harassing them. In recent years, the Government has intensified its crackdown on critical voices, with journalists and human rights defenders facing harassment, arbitrary detention and criminal prosecution. As of June 2025, Azerbaijan held the highest number of imprisoned media workers on politically motivated charges since it joined the Council of Europe in 2001, underscoring the growing repression of independent journalism.

Implementation Challenges

These ongoing abuses raise concerns about Azerbaijan's compliance with its obligations under ECHR and the effectiveness of ECtHR judgments in prompting structural reform in the country. Human rights organisations continue to invoke this judgment and similar ECtHR rulings to press for greater accountability, but the Government's repeated failures to implement these standards underscore a broader culture of impunity. Azerbaijan has one of the highest numbers of cases before the ECtHR, and one of the lowest rates of compliance with its judgments. The situation has become so strained that Azerbaijan has openly threatened to withdraw from the ECtHR. Against this backdrop, the case remains emblematic of the tension between international human rights standards and entrenched State practices of repression.

STRATEGIC FEATURES OF THE CASE

Emphasising that Elmar Huseynov's Murder was Intended to Silence Him

In this case, Rushaniya Huseynova not only alleged that the State was responsible for her husband's murder and that the investigation was inadequate, but also that her husband's murder violated his right to freedom of expression, emphasising the motive behind his killing and alleging that he had been targeted because of his work as a journalist. Though the Court ultimately declined to make a finding under Article 10, Rushaniya's emphasis of Elmar's role as a journalist, and his murder as an effort to silence him, did lead the Court to explicitly hold that

the investigation into his death should have explored the motives behind his killing given his journalistic work. The emphasis in Rushaniya's allegations on the violation of Elmar's freedom of expression likely influenced the Court's findings on the violation of Elmar's right to life.

The Legal Representative for the Applicant was Knut Rognlien.

ADDITIONAL RESOURCES

- 'Azerbaijan: Seven journalists sentenced in latest shocking crackdown on free speech – Amnesty International' (Amnesty International, 20 June 2025).
- International Partnership for Human Rights and Campaign to End Repression in Azerbaijan, 'Azerbaijan's Defiance: A Decade of Contempt for the Council of Europe' (December 2024).
- Szymon Zaręba, 'Azerbaijan Faces Uncertain Fate in the Council of Europe' (The Polish Institute of International Affairs, 21 March 2024).
- ECHR, 'Inadequate investigation into murder of well-known journalist' (Press Release, 13 April 2017).
- ECHR, 'Huseynova v. Azerbaijan – 10653/10' (Legal Summary, April 2017).
- Eleanor Rose, 'FBI Case File Shows How Azerbaijan Botched Investigation Into Journalist's Death' (Organized Crime and Corruption Reporting Project, 2 March 2021).
- 'Huseynova v. Azerbaijan' (Global Freedom of Expression Columbia University).
- Organization for Security and Co-operation in Europe, 'Murder of prominent Azerbaijani journalist appalls OSCE Office in Baku' (Press Release, 3 March 2005).
- 'One year passes since murder of journalist Elmar Huseynov' (Human Rights House Foundation, 5 March 2006).
- 'Three years after editor's murder, Azerbaijan journalists still abused' (Amnesty International, 29 February 2008).

HERZOG V. BRAZIL (2018)

Link to the decision

Inter-American Court of Human Rights

JOURNALISTS • CRIMES AGAINST HUMANITY • AMNESTIES • STATUTE OF LIMITATIONS • MILITARY DICTATORSHIP • JUS COGENS • CONTINUING VIOLATIONS

CASE SUMMARY

The death of journalist Vladimir Herzog occurred in the context of serious human rights violations committed during the civil-military dictatorship that was in power in Brazil between 1964 and 1985. In this ground-breaking decision, the IACtHR ruled for the first time that a crime of the Brazilian dictatorship constituted a crime against humanity, which should not be subject to amnesties or domestic statutes of limitation such as that imposed by Law No. 6.683 (1979 Amnesty Law). The case also addressed the intimidating effect of the crimes on other journalists who were critical of the military regime, and the impact of breaching the right to truth on freedom of expression and the right to information in the country.

THE FACTS AND PROCEDURAL HISTORY

On 24 October 1975, agents of the Second Army's Department of Informational Operations of the Centre for Internal Defense Operations (DOI/CODI) appeared at *TV Cultura* headquarters to take Vladimir Herzog, the Director of the channel's journalism department. The DOI/CODI suspected that Vladimir had ties to the Brazilian Communist Party (PCB). Vladimir was asked to accompany the agents to provide a statement. After the Director of the channel intervened, the agents agreed that Vladimir would "voluntarily" report to give a statement the following morning.

On 25 October 1975, Vladimir reported to the DOI/CODI. He was detained, interrogated, and tortured. That afternoon, members of the DOI/CODI murdered him. On the same day, the DOI/CODI announced that Vladimir had died by suicide by hanging. According to expert opinion provided to the National Truth Commission regarding his death, evidence indicated that Vladimir had been murdered by strangulation. His death caused an uproar in Brazilian society. Journalists and university students hosted strikes for several days and thousands of people

attended his funeral. In response to the public outrage, the military launched an investigation into the events, which falsely confirmed that his death was caused by suicide.

On 19 April 1976, Vladimir's family filed an application to the Federal Court of São Paulo to obtain a declaration of the State's responsibility for his arbitrary detention, torture, and death. On 27 October 1978, a federal judge found that Vladimir was illegally detained and tortured, and that the DOI/CODI killed him while he was in their custody. The judge also declared, considering the evidence presented at trial, that the military's investigation into Vladimir's death was fabricated. The Government filed an appeal against the judgment, and on 18 May 1994, the Federal Regional Court rejected the appeal.

In August 1979, the Brazilian Government passed the 1979 Amnesty Law which granted pardons to all individuals who committed "political or related crimes" between 2 September 1961 and 15 August 1979.

In 1996, the State-established Special Commission on Political Deaths and Disappearances recognised the State's responsibility for Vladimir Herzog's death. The Special Commission was also responsible for awarding compensation to the next of kin of those who were killed or were disappeared. In 1997, Vladimir's wife, Clarice Herzog, received approximately USD 100,000 in compensation. On 16 May 2012, the National Truth Commission was established, which found that Vladimir was unlawfully detained, tortured, and murdered by agents of the State. As of 2018, no decision had yet been made by a Brazilian Court to overturn the 1979 Amnesty Law.

On 10 July 2009, multiple civil society organisations submitted a petition to the IACHR which alleged the State's responsibility for Vladimir Herzog's death. After conducting its own investigation into the facts, the IACHR concluded that the State was internationally responsible for multiple violations of the American Convention, and recommended that the State accept responsibility and issue reparations to Vladimir's family. On 22 April 2016, the Commission submitted the case to the IACtHR after the State failed to adopt its recommendations.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its judgment of 15 March 2018, the IACtHR held that the Brazilian Government violated its obligations under the American Convention and the Inter-American Convention to Prevent and Punish Torture by failing to investigate, prosecute, and punish those responsible for the arbitrary detention, torture, and murder of Vladimir Herzog. It specifically found the following violations:

Arbitrary Detention, Torture, and Extrajudicial Execution as Crimes Against Humanity

The Court found that the Brazilian agents' actions constituted a crime against humanity as defined by international law, because the torture and execution of Vladimir took place in the context of widespread violations during the dictatorship. In reaching this conclusion, the IACtHR noted that Vladimir was arbitrarily detained by State officials and subjected to torture while under State custody, leading to his death – acts committed by State agents as part of a plan to carry out a widespread and systematic attack against the civilian population. The Court also stressed that these acts were motivated by discrimination against journalists and alleged members of

the PCB. Further, the Court emphasised that Vladimir's death was the consequence of egregious acts of physical and psychological torture which took place as part of a "well-organised repressive machine" overseen by the Army to eliminate the regime's perceived political opponents.

Application of the Amnesty Law and Failure to Adapt Domestic Law

The Court held that Brazil's authorities fabricated investigations into Vladimir's death and that the 1979 Amnesty Law illegally prevented accountability. The Court specifically held that the Amnesty Law breached the rights to judicial guarantees and judicial protection (Articles 8(1) and 25(1) of the American Convention, in relation to Articles 1(1) and 2; Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture). The Court highlighted, following its own jurisprudence, that amnesty laws are permitted when hostilities cease and are used to enable a return to peace, provided that they are not leveraged to cover up war crimes and crimes against humanity. Further, the Court held that the application of amnesty provisions, statutes of limitation, or similar domestic measures to bar prosecution of torture, extrajudicial execution, and crimes against humanity is incompatible with the American Convention. In applying legal frameworks that granted immunity from prosecution to the State agents who tortured and murdered Vladimir, Brazil violated Article 2 of the American Convention, which requires States to adapt domestic law to ensure the effective protection of American Convention rights. The Court noted that the State violated the general obligation to respect rights (Article 1(1) of the American Convention).

Denial of the Right to Truth and Harm to the Victims' Family

The Court determined that Brazil violated the right to know the truth (Articles 8 and 25 of the American Convention, in relation to Article 1(1)) about what happened to Vladimir, both as an individual right of Vladimir Herzog's family and as a collective right of society. Specifically, the Court held that Brazil violated the right to truth by not officially accepting that Vladimir's suicide was fabricated. It also found that Brazil violated his family's rights to personal integrity (Article 5(1) of the American Convention, in relation to Article 1(1)) in light of decades-long impunity for the perpetrators and a delay in and denial of justice. On this violation, the Court noted that the prolonged concealment of the facts, the falsification of the cause of death, and the lack of accountability caused continuous suffering and mental anguish to Vladimir's family.

Affirmation of the Right to Truth and Access to Information

The Court highlighted that States must take positive measures to uncover and preserve information about serious violations. The Court discussed the National Truth Commission's statement that the Army's refusal to provide public access to its files prevented the Commission from discovering the truth about what happened to Vladimir. In light of this, the Court found that the State had an obligation to make a substantive effort to "reconstruct information that was presumably destroyed", and permit independent review, including by permitting judges, prosecutors, and other investigating authorities to access relevant materials.

WIDER IMPACT OF THE CASE

Widespread Media Attention

Academics refer to Vladimir Herzog's death as "the most notorious incident" that occurred during the military dictatorship, emphasising that, at the time, the case received substantial international media coverage. The Court noted that Vladimir Herzog's death "caused great shock in Brazilian society" and that several days of strikes followed. The case became a symbol of victims' fight for accountability for the crimes of the dictatorship, and it has been featured by prominent media outlets. After the IACtHR handed down the ruling, then-Presidential candidate Jair Bolsonaro dismissed the findings saying he "was not there" to confirm the regime's responsibility for the killing.

Legislative Changes Challenging Impunity

In *Herzog*, the Court concluded that because the prohibition of crimes against humanity is a peremptory norm of international law (*jus cogens*), States are prevented from invoking statutes of limitation, *ne bis in idem* norms (double jeopardy), amnesties, and any other legal doctrine that could allow a perpetrator to avoid criminal liability. Although *Herzog* was not the first IACtHR case that confirmed that these legal doctrines cannot apply to torture, extrajudicial executions, and crimes against humanity, this case reaffirms this fact and reinforces the regional and international consensus that such crimes cannot be committed with impunity.

Brazil's move to criminalise enforced disappearance as a heinous, non amnesty eligible crime, and to make it not subject to statutes of limitation, is currently advancing through Congress. This legislative push reflects the long term impact of *Herzog* and other IACtHR cases, which exposed Brazil's persistent failure to investigate and acknowledge dictatorship era abuses. Together with other judgments, *Herzog* has helped drive Brazil toward recognising enforced disappearance as a distinct and exceptionally serious human rights violation requiring stronger legal consequences.

Impact on Domestic Reparations and Transitional Justice Debates in Brazil

In Brazil, *Herzog* has played an important role in Brazil's ongoing debates on transitional justice and accountability for crimes committed during the military dictatorship. In June 2025, Brazil's Government signed an agreement accepting responsibility for the killing of Vladimir Herzog and agreed to pay his family compensation for damages, as well as a monthly pension to Vladimir's widow. Shortly after the Court came to their findings in *Herzog*, the Government ordered Brazilian notaries to issue hundreds of corrected death certificates for individuals whose deaths were not natural, as these certificates had indicated, but rather the result of torture and violence committed by the State during the military dictatorship. In October 2025, in an official act in memory of Vladimir *Herzog*, the President of the Superior Military Tribunal apologised for the crimes committed during Brazil's dictatorship. The ceremony was organised by *Comissão Arns* and the Vladimir Herzog Institute at Sé Cathedral, recreating the historic act held in 1975, which brought together thousands of people in a silent protest against the regime and became a symbol of democratic resistance in Brazil.

STRATEGIC FEATURES OF THE CASE

Framing Impunity as a Continuing Violation

The victims in *Herzog* argued – and the Court accepted – that the Government agents' impunity was not merely historical but ongoing until the State investigated and confirmed that it murdered Vladimir Herzog. In its analysis of Vladimir's torture and murder, the Court analysed whether crimes of torture and extrajudicial execution were crimes against humanity, which carry consequences tied to continuing obligations to investigate and punish. The petitioners argued that the State's decades-long failure to investigate, prosecute, and punish the agents who murdered Vladimir constituted a continuing violation, particularly because statutes of limitations, as the Court confirmed, cannot apply to crimes against humanity. This framing of impunity as a continuing violation allowed the Court to delineate that the temporal distance of events does not diminish State responsibility when an individual is victim to crimes against humanity. Additionally, this framing permitted the Court to find that delayed justice can itself generate new violations, such as harm to Vladimir's relatives' personal integrity.

The Legal Representatives for the Petitioners were the Center for Justice and International Law (CEJIL), the Inter-American Foundation for the Defense of Human Rights, the "Santos Días" Center of the Archdiocese of São Paulo, and *Tortura Nunca Mais* of São Paulo.

ADDITIONAL RESOURCES

- Alonso Gurmendi, 'At Long Last, Brazil's Amnesty Law Is Declared Anti-Conventional' (Opinio Juris, 16 August 2019).
- 'Câmara aprova tipificação de desaparecimento forçado após décadas de pressão internacional e luta das famílias [Brazilian Chamber approves classification of enforced disappearance after decades of international pressure and struggle by families]' (Justiça Global, 3 March 2026).
- Camila M. Risso Sales and João R. Martins Filho, 'The Economist and Human Rights Violations in Brazil During the Military Dictatorship' (2018) 40 *Contexto Internacional 2*.
- Cuong "Andy" Cao, 'Herzog et al. v. Brazil' (2020) 44(2) Loy. L.A. Int'l & Comp. L. Rev. 32.
- Eléonore Hughes, 'Family celebrates compensation to the widow of a journalist killed during Brazil's dictatorship' (AP News, 6 February 2025).
- Emilio Peluso Neder Meyer, 'Brazil in the Dock: The Inter-American Court of Human Rights Rulings Concerning the Dictatorship of 1964-1985' (Verfassungsblog, 3 December 2018).
- Gabriela Sá Pessoa, 'Brazil agrees to compensate family of journalist killed during dictatorship 50 years ago' (AP News, 26 June 2025).
- Redação g1 SP, 'Durante ato em memória de Vladimir Herzog, president do STM pede perdão por crimes da ditadura [During a ceremony commemorating Vladimir Herzog, the president of the Superior Military Court (STM) apologizes for crimes committed during the dictatorship]' (globo.com, 26 October 2025).
- '"Suicídio acontece, pessoal pratica", diz Bolsonaro ao se referir a Herzog ["Suicide Happens, people commit it," Bolsonaro said, referring to Herzog]' (Folha de S. Paulo, 7 July 2018).
- 'The Murder of Brazil's Leading Journalist' (BBC News – Witness History, 30 October 2017).

ZONGO AND OTHERS V. BURKINA FASO (2015)

Link to the decision

African Court on Human and Peoples' Rights

JOURNALISTS • DUTY TO INVESTIGATE • FREEDOM OF EXPRESSION • JURISDICTION AND TEMPORAL CHALLENGES • CONTINUING VIOLATIONS • REPARATIONS ORDERED

CASE SUMMARY

Norbert Zongo, an investigative journalist in Burkina Faso, was killed on 13 December 1998, along with two colleagues and his younger brother, allegedly due to his investigation into the death of David Ouedraogo, the driver of the brother of then-President Blaise Compaoré. On 11 December 2011, the victims' relatives lodged a complaint against Burkina Faso before the ACtHPR, alleging violations of the rights to life, to be heard by a competent court, freedom of expression, and equality before the law under the African Charter.

The Court found that Burkina Faso's legal proceedings were unduly prolonged, that important aspects of the case were not adequately investigated, that attempts to bring civil suits for damages were unjustly delayed, and that criminal charges were prematurely dropped, denying the victims' relatives justice and breaching their right to have the case heard by competent national courts. The ACtHPR ordered the State to compensate the victims' relatives, investigate the acts in order to bring the victims' killers to justice, and issue a public apology.

THE FACTS AND PROCEDURAL HISTORY

On 18 January 1998, David Ouedraogo, the chauffeur of the brother of the President of Burkina Faso, died as a result of torture. On 13 December 1998, Norbert Zongo, a journalist investigating David Ouedraogo's death and other government-related scandals, and three other victims (two colleagues, Abdoulaye Nikiema and Blaise Ilboudo, and his younger brother, Ernest Zongo) were found burnt to death in the car in which they had been travelling. Police arrived at the scene the same day; the state prosecutor for the Ougadougou High Court inspected the scene the following day, and the bodies were identified by a doctor at Leo Medical Centre two days later. On 24 December 1998, the state prosecutor referred the case to an Investigating Magistrate.

Of six suspects (all members of the presidential bodyguard), only one was charged on 2 February 2001. After more than seven years, in July 2006, the Investigating Magistrate ordered that proceedings be terminated due to a lack of evidence. The appeal against this order was dismissed by the Criminal Appeal Chamber of the Ougadougou Court of Appeal.

Proceedings before the ACtHPR were initiated by the victims' relatives and *Mouvement Burkinabe des Droits de l'Homme* (MBDHP) on 11 December 2011. They claimed that Norbert Zongo's assassination and the failure to investigate violated several rights under international law, including the right to life (Article 4 of the African Charter and Article 6(1) ICCPR), the right to equality before the law (Article 3 of the African Charter), the obligation to give effect to the rights in the Charter (Article 1), the right to be heard by a competent, independent and impartial tribunal (Article 7 of the African Charter and Article 14 ICCPR), the right to an effective remedy (Article 8 UDHR), and freedom of expression (Article 9 of the African Charter and Article 19(2) ICCPR).

Burkina Faso raised jurisdictional challenges in April 2012, arguing that the alleged violations occurred before the Protocol establishing the Court entered into force in 2004. The Court accepted this objection with respect to the right to life, finding that the killing in 1998 was a completed act to which the principle of non-retroactivity applied. However, it held that the allegations relating to the right to be heard by a competent tribunal, freedom of expression, equality before the law, and the protection of journalists constituted continuing violations and were therefore admissible.

Burkina Faso also argued that domestic remedies had not been exhausted and that the proceedings had not been unduly prolonged. The Court rejected these objections and further found that the victims' families' delay in bringing the case, while awaiting action by the State, was reasonable. The case then proceeded to the merits stage.

THE DECISION AND ITS SIGNIFICANCE

Violations of Investigative and Remedial Obligations

In its judgment delivered in March 2014, the ACtHPR concluded that the legal proceedings in Burkina Faso had been unduly prolonged and rejected the State's objection that domestic remedies had not been exhausted. It also found that key aspects of the investigation had not been pursued, that there were unreasonable delays in the Investigating Magistrate's consideration of the civil claim for damages, and that charges against suspected perpetrators were dropped prematurely. These shortcomings left the victims' relatives without justice and violated their rights to have the case heard by competent national courts within a reasonable time, as guaranteed by Article 7 of the African Charter.

The Court further held that the absence of adequate legal measures to guarantee the rights under Article 7 constituted a violation of Article 1 of the African Charter. However, it found that the authorities' handling of the case did not amount to a violation of equality before the law under Article 3, nor did the State's failure to bring the perpetrators to justice constitute a violation of freedom of expression under Article 9.

Reparations Ordered

On 5 June 2015, the ACtHPR ordered reparations, directing Burkina Faso to pay CFA 25 million (approximately EUR 38,000) to each victim's partner, CFA 15 million (approximately EUR 22,000) to each of their children,

and CFA 10 million (approximately EUR 15,000) to each of their parents, as well as legal fees. A token 1 CFA was ordered to MBDHP. The Court also ordered Burkina Faso to reopen the investigation into the killings, and bring the perpetrators to justice. It also mandated the publication of the French summary of its judgment in the Official Gazette of Burkina Faso, a widely disseminated daily national newspaper, and on the Government's official website for a year. Finally, Burkina Faso was required to report on the implementation of these orders within six months.

WIDER IMPACT OF THE CASE

Landmark Award of Reparations at the ACtHPR

The Court's approach in *Zongo* significantly contributed to the development of its jurisprudence on reparations, as it was the first case in which the Court ordered reparations extending beyond the publication of the Court's judgment (considered a form of reparation in itself both in Zongo and in the earlier case of *Mtikila v. the United Republic of Tanzania*). This decision provided guidance for subsequent cases, such as *XYZ v. Republic of Benin*. However, it was criticised by Court monitors for providing vague guidance in its order to reopen the investigation as to the scope, steps, and standards of this investigation, and for not ordering an award to the NGO assisting the victims' families in the claim.

Important Legal Precedent on Freedom of Expression

The case has been cited in a number of subsequent cases such as in *Konaté v. Burkina Faso*, and *Guehi v. Tanzania*. It has been cited in other judicial forums such as by the IACtHR in *Leguizamón v. Paraguay*, as a landmark authority including to establish that a violation of freedom of expression can arise when the State fails to adequately investigate the killing of a journalist.

Continuing Violations Addressed

The ACtHPR's approach to jurisdictional issues also set a valuable precedent for future litigation, establishing that the Court may have jurisdiction over continuing violations that began before a treaty's ratification but continued afterward.

Efforts to Bring François Compaoré to Justice

Following the ACtHPR decision in *Zongo*, significant domestic steps were taken to bring François Compaoré to justice for his alleged involvement in the killing. On 7 April 2015, investigations into Norbert's killing were reopened, resulting in the arrest of three former presidential bodyguards as suspects. On 5 May 2017, an international arrest warrant was issued against Compaoré, charging him with incitement to murder. This was followed by a request for from Burkinabe authorities for his provisional arrest through Interpol, which ultimately resulted in Compaoré's arrest in October 2017.

In 2018, the Burkinabè authorities requested François Compaoré's extradition from France, where he had been residing since leaving Burkina Faso. French courts authorised the extradition that same year, and in 2020 the

French Minister of Justice issued a decree formally approving it. In 2021, France's Council of State, the country's highest administrative court, confirmed the decree's legality. However, on 7 September 2021, the ECtHR intervened after Compaoré's defence lodged an application arguing that extradition to Burkina Faso would expose him to inhuman or degrading treatment. The ECtHR ruled that France must reassess the extradition decree in light of these concerns.

Subsequently, on 13 December 2023, the extradition chamber of the Paris Court of Appeal annulled the ministerial decree authorising Compaoré's extradition. In response, on 22 December 2023, the Norbert Zongo National Press Centre expressed deep disappointment with the cancellation, calling it a "black day for human rights defenders".

STRATEGIC FEATURES OF THE CASE

Family Members and NGOs Mobilised to Support Litigation

In *Zongo*, family members and NGOs played a crucial role in supporting litigation and collaborating to seek justice. The victims' families, alongside the MBDHP, filed the initial application, demonstrating a coordinated effort to address the human rights violations. Their collective action not only strengthened the case but also highlighted the importance of civil society in advocating for human rights and ensuring accountability for violations.

Regional Litigation to Prompt Accountability Processes

The application before the ACtHPR formed part of a strategy to challenge domestic impunity through regional litigation. By bringing the case before the Court, the victims' families and the MBDHP sought to expose the failures of the national investigation and compel renewed action by the authorities. The Court's findings placed international scrutiny on Burkina Faso's handling of the case and contributed to the reopening of domestic investigations, the arrest of suspects, and the issuance of an international arrest warrant against François Compaoré. Although his extradition from France was ultimately blocked, the proceedings before the ACtHPR played an important role in challenging impunity and maintaining pressure on the State to address the murder of Nobert Zongo and the other victims.

The Legal Representatives for the Applicants were Chidi Odinkalu and Ibrahima Kane (Open Society Foundations – OSF); Donald Deya (Pan-African Lawyers Union – PALU); and Sankara Benewende (*Mouvement Burkinabe des Droits de l'Homme* – MBDHP).

ADDITIONAL RESOURCES

- 'Abdoulaye Nikiema (Norbert Zongo) v. The Republic of Burkina Faso' (Global Freedom of Expression Columbia University).
- 'Affaire Norbert Zongo: vers la réouverture du dossier? [Norbert Zongo case: towards the reopening of the case?]' (Ouestaf, 6 December 2013).
- 'Burkina Faso: Massive Victory for Justice and Fight Against Impunity' (Media Foundation For West Africa, 11 June 2015).
- 'BURKINA FASO: The Norbert Zongo National Press Center criticizes the government for failing to extradite Compaoré' (WADR, 22 December 2023).
- Chidi Odinkalu, 'African Court Orders Remedies and Damages in Case of Murdered Journalist' (Open Society Justice Initiative, 9 June 2015).
- *Compaore v. France* Application no. 37726/21 (2023).
- 'France cancels François Compaoré's extradition decree' (Africa News, 13 August 2024).
- 'France clears extradition of Burkina Faso ex-president's brother' (Aljazeera, 31 July 2021).
- Oliver Windridge, 'Another first: Zongo and others v. Burkina Faso' (The ACtHPR Monitor, 6 August 2015).
- 'Three arrests in reopened Zongo murder investigation' (Reporters Without Borders, 21 December 2015).
- 'Zongo case: justice for the death of a Burkinabe journalist' (Amnesty International, 25 June 2023).

FEDERATION OF AFRICAN JOURNALISTS AND OTHERS V. THE GAMBIA (2018)

Link to the decision

The Community Court of Justice of the Economic Community of West African States

JOURNALISTS • FREEDOM OF EXPRESSION • CRIMINALISATION OF JOURNALISM • ARBITRARY DETENTION AND TORTURE • REPRESSIVE MEDIA LAWS • REPARATIONS AND LEGAL REFORM • CIVIL SOCIETY ENGAGEMENT

CASE SUMMARY

The arrest, detention, torture, and prosecution of four journalists under sedition and criminal libel laws in The Gambia prompted a complaint before the ECOWAS Court of Justice. The complaint, lodged by the four journalists and the Federation of African Journalists (FAJ), argued that the Gambian Government had unlawfully targeted them, violating their rights to freedom of expression, liberty, and security, as well as their right to be free from torture; this persecution ultimately forced them into exile.

The ECOWAS Court found that The Gambia's enforcement and continued maintenance of these laws violated the applicant's rights under international law. The Court noted that the offences of sedition, criminal libel (defamation), and publication of false news had a chilling effect on journalism and public debate. The judgment stands as a landmark affirmation that criminal sanctions for speech-related offences are incompatible with international law and cannot be used to justify the repression of independent journalism.

THE FACTS AND PROCEDURAL HISTORY

The case was brought before the ECOWAS Court of Justice by the Federation of African Journalists (FAJ) and four Gambian journalists: Fatou Camara, Fatou Jaw Manneh, Alhagie Jobe, and Lamin Fatty.

Fatou Camara was arrested in 2013 and charged under false news provisions in the Gambian Criminal Code after publishing an article critical of the President. She fled to the United States fearing an unfair trial. Fatou Jaw Manneh was detained and convicted in 2008 for sedition and false news, fined heavily, and also fled to the United States. Alhagie was arrested in 2013, tortured while in custody, and detained for 17 months before being acquitted. He fled to Senegal after learning that the State intended to appeal his acquittal. Lamin later joined as a plaintiff, as he had also faced detention for similar charges.

The case began with an application filed by FAJ, a representative body of journalists in Africa, in conjunction with Fatou Camara, Fatou Jaw Manneh, and Alhagie. The Gambian Government responded with a preliminary objection challenging the Court's jurisdiction, which was dismissed by the Court. Lamin joined as a further applicant in this preliminary hearing. Several international organisations, including Amnesty International, Article 19, and Reporters Without Borders, jointly submitted a third party intervention as *amici curiae*.

The journalists and FAJ alleged that The Gambia had violated several human rights under international law: freedom from torture (Article 5 of the African Charter and Article 7 ICCPR), the right to liberty and security of person (Article 6 of the African Charter and Article 9(1) ICCPR), freedom of expression and opinion (Article 9 of the African Charter and Article 19(2) ICCPR), and right to movement (Article 12 of the African Charter and Article 12(4) ICCPR). They argued that sedition and criminal libel (defamation) laws were incompatible with international human rights standards and sought a court order to repeal or amend these provisions. They also sought reparation for the harm they suffered.

THE DECISION AND ITS SIGNIFICANCE

Violation of Freedom of Expression through Repressive Media Legislation

In its judgment of 13 February 2018, the ECOWAS Court held that the legal framework under which the journalists were arrested and detained, specifically, the application of provisions on "false news" and related media offences, was vague, disproportionate, and incompatible with The Gambia's obligations under regional and international human rights law. The Court found that these laws were used in a manner that unjustifiably restricted freedom of expression and facilitated the arbitrary deprivation of liberty of journalists engaged in lawful professional activities. As a result, the detention of the applicants was deemed arbitrary, in violation of their right to liberty and security of the person. The judgment highlighted the systemic dangers posed by legislation that restricts speech, demonstrating how such laws increase journalists' exposure to prolonged detention and ill-treatment.

State Responsibility for Torture and Cruel, Inhuman or Degrading Treatment

The Court further found that the treatment of two of the journalists while in custody amounted to torture and ill-treatment, in breach of the absolute prohibition of torture and cruel, inhuman, or degrading treatment. In reaching this conclusion, the Court emphasised that allegations of torture in detention required strict scrutiny and engaged heightened State responsibility. It reaffirmed that no exceptional circumstances, including the enforcement of domestic criminal laws, may be invoked to justify torture or ill-treatment. The judgment underscored the State's obligation not only to refrain from such conduct, but also to prevent its recurrence through appropriate legal and institutional safeguards.

Reparations Ordered

The Court ordered guarantees of non-repetition, ordering The Gambia to repeal and amend sedition laws, criminal libel (defamation) laws, and the "false news" provisions which enable the persecution of journalists. It also ordered monetary compensation, with two of the applicants awarded 2 million Gambian Dalasi (approximately EUR 25,000) and the other two awarded 1 million Gambian Dalasi (approximately EUR 11,000).

WIDER IMPACT OF THE CASE

The Incompatibility of False News Provisions with International Law

This case helped to consolidate a growing body of African regional jurisprudence affirming that criminal defamation and false news laws, which are commonly used to stifle dissent, are incompatible with international standards on freedom of expression.

Mixed Domestic Implementation

The impact of the case in The Gambia itself has been mixed. The Court's ruling that legal provisions criminalising speech violate international law was a positive precedent for scrutinising Gambian law and similar legislation across the region. Nevertheless, "false news" offences continue to exist in the Gambian legal framework. Most recently, a Cybercrime Bill introduced to the National Assembly in 2024 has sought to reinforce such offences, alongside the Criminal Offense and Procedure Bill introduced in 2025, which contained the offence of "False Publication and Broadcasting". The Secretary General of The Gambia Press Union has warned that these offenses "are likely to affect specifically the media, human rights activists, opposition activists, and generally, members of the public and social media users".

STRATEGIC FEATURES OF THE CASE

Public Interest Framing through Journalists' Union Involvement

A central strategic feature of this litigation was the decision to bring the case through the FAJ alongside the individual victims. By acting as a co-applicant, the journalists' union framed the violations not as isolated abuses, but as part of a broader pattern of State repression targeting the press in The Gambia. This collective approach emphasised that the case raised issues of structural and public interest significance, extending beyond the individual circumstances of the applicants.

Challenge to Repressive Media Legislation

The case was deliberately framed as a challenge to the statutory framework itself, rather than merely to individual human rights violations. The case focused on the operation of "false news" provisions and sedition laws as tools routinely used to intimidate, detain, and silence journalists critical of the President and the Government. This strategy enabled the Court to examine the compatibility of the legislation with regional and international human rights obligations, including the rights to liberty and security of person, freedom of expression, freedom of movement, and protection from torture and ill-treatment. By exposing the systemic effects of the legal framework, particularly the link between arbitrary detention and the risk of custodial abuse, the case sought remedies with broader preventative and reform-oriented impact.

USE OF AMICUS CURIAE

Another notable strategic element was the involvement of leading human rights organisations as amici curiae, which strengthened the normative and comparative dimensions of the case. Amicus submissions assisted the Court by situating the applicants' experiences within wider international standards on press freedom, arbitrary detention, and torture prevention. This collaborative litigation model reflects a strategy aimed at maximising the case's jurisprudential value and reinforcing the ECOWAS Court's role as a regional accountability mechanism.

The Legal Representatives for the Applicants in this case were Noah Ajare, Angela Uwandu, and Hadiza Sule.

ADDITIONAL RESOURCES

- 'Ecowas Court Urges Gambia To Scrap Bad Media Laws' (The Standard, 15 February 2018).
- 'FAJ Challenges Gambia Repressive Media laws in ECOWAS Court' (International Federation of Journalists, 9 December 2015).
- 'Federation of African Journalists (FAJ) and others v. The Gambia' (Global Freedom of Expression Columbia University).
- 'Gambia: Journalist Lamin Fatty convicted' (English PEN).
- 'Key Developments, June 1, 2023 – May 31, 2024' (Freedom House).
- 'Key Developments, June 1, 2024 – May 31, 2025' (Freedom House).
- Tetevi Davi, 'A Victory for Media Freedom and another Blow Dealt to Criminal Defamation and Sedition Laws by the East African Court of Justice' (Opinio Juris, 20 August 2019).
- 'The Gambia: imperilled free press seek urgent help from ECOWAS Court' (Media Defence, 19 April 2016).

HUMAN RIGHTS DEFENDERS

KAVALA V. TÜRKIYE (2019 AND 2022)

Links to the 2019 and 2022 decisions

European Court of Human Rights

HUMAN RIGHTS DEFENDERS • ARBITRARY DETENTION • POLITICAL REPRESSION • NON-COMPLIANCE • INFRINGEMENT PROCEEDINGS • PRE-TRIAL DETENTION • CIVIL SOCIETY PARTICIPATION

CASE SUMMARY

Osman Kavala, a prominent Turkish businessman and human rights defender, was subjected to prolonged detention on charges of attempting to overthrow the Government and the constitutional order in connection with the 2013 Gezi Park protests and the 2016 attempted coup in Türkiye. In 2019, the ECtHR found that Osman's detention was arbitrary, unsupported by reasonable suspicion, and pursued an ulterior political purpose, in violation of several rights under the ECHR. The Court ordered his immediate release.

Türkiye's refusal to comply with the judgment led to the initiation of infringement proceedings under Article 46(4) ECHR, for only the second time in the Court's history. In 2022, the Court found a violation of Article 46(1) due to Türkiye's continued detention of Osman Kavala on the same factual basis which the Court already found in breach of the ECHR in 2019. Osman's case has become emblematic of the wider deterioration of civil society freedoms in Türkiye. The ECtHR judgments in his case reinforced key principles on the limits of pre-trial detention, the protection of human rights defenders, and the binding force of ECtHR judgments. However, at the time of writing, Osman remains in prison in Türkiye, illustrating the limitations of the ECtHR's enforcement power when a State refuses to comply with its judgments.

THE FACTS AND PROCEDURAL HISTORY

Osman Kavala is a Turkish businessman, philanthropist, and prominent human rights defender, known for founding and supporting numerous initiatives in the fields of human rights, culture, historical reconciliation, and environmental protection. On 18 October 2017, he was arrested in Istanbul, and on 1 November 2017 was placed in pre-trial detention, accused of attempting to overthrow the Government and the constitutional order in connection with two events: the 2013 Gezi Park protests and the attempted coup of 15 July 2016. The charges

alleged that Osman Kavala was an instigator and played a leading role in the Gezi Park protests, which began in opposition to plans to demolish a public park in central Istanbul, which the Government deemed to be an insurrection and subsequent coup attempt.

In July 2018, after exhausting domestic remedies, Osman applied to the ECtHR. On 10 December 2019, the Court found his detention arbitrary, holding that there was no "reasonable suspicion" he had committed a criminal offence, and that the authorities had sought to silence him for his human rights work. It found violations of Articles 5(1) and 5(4) ECHR which concern the right to liberty and security, as well as Article 18 ECHR (taken together with Article 5(1)) on the limitation on restrictions on rights of the ECHR. The Court ordered Osman's immediate release under Article 46(1). However, the Turkish authorities did not comply with the judgment.

Osman was briefly acquitted of the charge of attempting to overthrow the Government but immediately re-arrested on similar charges. On 25 April 2022, he was convicted of attempting to overthrow the Government and sentenced to aggravated life imprisonment in Türkiye, based on the same evidence the ECtHR had found insufficient in 2019.

In February 2022, the Committee of Ministers of the Council of Europe initiated infringement proceedings under Article 46(4) ECHR. On 11 July 2022, the Court held that Türkiye had failed to fulfil its obligation to implement the Court's 2019 judgment. The Court noted that Turkish authorities had employed a series of measures to circumvent compliance, including bringing multiple criminal proceedings on the same facts, and taking other steps to prolong Osman's detention.

THE DECISION AND ITS SIGNIFICANCE

The 2019 Judgment

In its judgment on 10 December 2019, the ECtHR found multiple violations of the ECHR in relation to Osman Kavala's pre-trial detention. The Court held that there had been a breach of Article 5(1) due to the lack of reasonable suspicion that Osman had committed the offences of attempting to overthrow the Government or the constitutional order "by force and violence". The case file revealed no material evidence indicating that he had used, instigated, or supported violent acts during the Gezi Park protests or the attempted coup. The evidence relied upon activities falling within the legitimate exercise of rights protected under the Convention. In its analysis of Türkiye's derogation under Article 15, the Court held that the measures taken against Osman were not strictly required by the exigencies of the situation.

The Court also found a violation of Article 5(4) owing to the absence of a "speedy" review of the lawfulness of Osman's detention. Significant delays before Türkiye's Constitutional Court, both during and after the state of emergency (initially declared by the Turkish Government on 20 July 2016 and extended until July 2018), could not be justified solely by the court's increased workload.

Notably, the Court found a violation of Article 18 (taken together with Article 5(1)), holding that the extension of Osman's detention pursued the ulterior purpose of silencing him as a human rights defender, with a chilling effect on civil society. The questions posed during his police interview and the charges in the indictment bore little connection to the alleged violent offences, instead focusing on his legitimate civil society activities. The Court also noted the considerable delay of four years between the events in question and his arrest, for which the Government offered no plausible explanation.

Under Article 46(1) ECHR, the Court ordered Türkiye to take measures to secure Osman Kavala's immediate release.

Infringement Proceedings in 2022

Following Türkiye's failure to implement the 2019 judgment, the Committee of Ministers, under Article 46(4) ECHR, initiated infringement proceedings. The ECtHR delivered its judgment on 11 July 2022. It found that Türkiye had failed to fulfil its obligation to abide by the final judgment, in violation of Article 46(1). Osman's continued detention was based on the same factual context and insufficient grounds already examined by the Court in 2019. The mere reclassification of charges by the State did not alter the underlying facts or the basis of the original findings.

The Court awarded Osman EUR 7,500 in respect of non-pecuniary damages.

WIDER IMPACT OF THE CASE

ECtHR's Infringement Proceedings

The *Kavala* case marks only the second time the Committee of Ministers has invoked infringement proceedings under Article 46(4) ECHR (the first being *Ilgar Mammadov v. Azerbaijan*) concerning the continued imprisonment of an opposition politician. In Mammadov, the proceedings ultimately led to the applicant's release. By initiating infringement proceedings in Kavala, the Committee of Ministers reinforced its willingness to use this exceptional enforcement mechanism where a State persistently refuses to comply with the ECtHR's judgments.

Challenging Hostility against Human Rights Defenders in Türkiye

Kavala fits within a series of significant ECtHR judgments — including *Mehmet Altan*, *Sahin Alpay*, and *Alparslan Altan* — which have condemned Türkiye's post-2016 coup pre-trial detention practices. In each, the Court rejected the notion that the difficulties facing Türkiye during the post-coup period provided a carte blanche to detain individuals without verifiable evidence or a sufficient factual basis. In these cases, the Court scrutinised politically motivated detentions and reaffirmed that national security concerns cannot override the basic safeguards of Article 5 ECHR.

Kavala has become emblematic of the broader deterioration in the situation of human rights defenders in Türkiye, who face severe restrictions, judicial harassment, smear campaigns, and arbitrary criminal prosecutions. In a third-party intervention, the Council of Europe Commissioner for Human Rights stressed that Osman Kavala's detention had a significant chilling effect on civil society. The Court's findings under Article 18 ECHR directly addressed this concern, highlighting the criminalisation of peaceful association and expression — as exemplified by the Gezi Park protests — and issuing a clear warning against politically motivated misuse of detention powers.

However, despite its jurisprudential and symbolic value, this case also illustrates the limits of the ECtHR's enforcement power when a State refuses to comply with its judgments. At the time of writing, Osman remains in prison despite the Court having ordered his release. In this most important respect, the legal case at the ECtHR has thus far failed to achieve its primary goal, which was to secure Osman's release.

STRATEGIC FEATURES OF THE CASE

Coordination with Osman's Domestic Legal Representatives

The legal team in this case communicated closely with Osman's domestic lawyers, as his domestic criminal trial was ongoing at the same time as the infringement proceedings at the ECtHR. The lawyers representing Osman before the ECtHR sought to ensure that they fully understood the domestic criminal trial issues, and that Osman's domestic lawyers agreed with the approaches taken at the ECtHR. Osman's domestic and international lawyers collaborated closely and coordinated their strategies.

Advocacy Efforts to Implement the Judgment

Osman's legal team has been carrying out ongoing advocacy for his release, meeting regularly with the Committee of Ministers, the body charged with supervising the execution of ECtHR judgments. They have also met with and written letters to other bodies of the Council of Europe and with diplomats and other European leaders, with the aim of increasing the political pressure on Türkiye to release Osman from prison.

Lodging a New ECtHR Application

In January 2024, Osman lodged another application with the ECtHR, alleging new violations perpetrated against him since the ECtHR's 2019 judgment. In this application, he argues that his rights under EHCR Articles 3, 5, 6, 7, 10 and 11, taken together with Article 18, have been violated as a result of the continuing arbitrary and politically motivated deprivation of his liberty which breached the terms of the ECtHR's 2019 judgment. According to Osman's legal team, this new case, if successful, will establish repeated and new violations of Osman's rights since 2019, and will also lead to a further process of supervision before the Committee of Ministers. The hearings in this new case will represent an important opportunity to put further pressure on the State and keep the profile of Osman's case high. This application is still pending at the time of writing.

REDRESS was granted leave to intervene in this case as a Third Party. REDRESS' intervention examined the interface between torture, ill-treatment, and indefinite arbitrary detention, and how the uncertainty surrounding such detention in breach of ECtHR judgments could result in harms similar to those of detainees under irreducible life sentences or lengthy periods spent on death row.

The Legal Representatives for the Applicants in this case are Başak Çalı and Philip Leach. REDRESS submitted a third-party intervention in 2024.

ADDITIONAL RESOURCES

- 'About Osman Kavala' (Free Osman Kavala).
- Başak Çali and Philip Leach, 'An explanatory Note on the Case of Osman Kavala v. Turkey and the Infringement Proceedings before the Grand Chamber of the European Court of Human Rights' (Free Osman Kavala, 9 June 2022).
- Başak Çali and Philip Leach, 'The fate of Osman Kavala matters' (POLITICO, 20 October 2022).
- Emre Turkut, 'Osman Kavala v. Turkey: unravelling the Matryoshka dolls' (Strasbourg Observers, 12 December 2019).
- 'Landmark Judgment Against Turkey for Ignoring European Ruling: European Court of Human Rights Rules on its Order to Free the Rights Defender Osman Kavala' (Human Rights Watch, 12 July 2022).
- REDRESS, 'Kavala v. Türkiye (third party intervention)' (September 2024).
- 'Turkey timeline: Here's how the coup attempt unfolded' (Al Jazeera, 16 July 2016).
- 'Turkish court sentences activist Osman Kavala to life in prison' (Al Jazeera, 26 April 2022).
- Umut Uras, 'What inspires Turkey's protest movement?' (Al Jazeera, 5 June 2013).

MAGDULEIN ABAIDA V. LIBYA (2021)

Links to the decision

UN Committee on the Elimination of Discrimination against Women

HUMAN RIGHTS DEFENDERS • GENDER-BASED VIOLENCE • DISCRIMINATION • GENDER-BASED TORTURE • WOMEN'S HUMAN RIGHTS DEFENDERS • REPARATIONS

CASE SUMMARY

When Magdulein Abaida worked to promote women's rights and equality in post-revolution Libya, she became a target of State authorities and affiliated militia groups. Her activism, which challenged entrenched gender norms, was met by violent retaliation, including arbitrary detention and torture. In 2021, the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) found Libya responsible for failing to investigate, prosecute, punish, and provide reparation for the torture she suffered.

The case marks the first CEDAW Committee decision on gender-based violence against a human rights defender, and the first individual complaint decided by the CEDAW Committee from the Middle East and North Africa (MENA) region. Magdulein's case is emblematic of risks faced by women's human rights defenders in conflict-affected and authoritarian contexts. It expands the normative framework for protecting women activists, reaffirming that States have a positive obligation to protect defenders and adequately respond to gender-based violence.

THE FACTS AND PROCEDURAL HISTORY

Magdulein Abaida was active in promoting gender equality in post-Gaddafi Libya, including campaigning for equality in the Constitutional reform process, joining public demonstrations, and founding the Hakki Organisation for Women's Rights in 2012. Her activism soon made her a target of authorities and militias.

During two trips to Benghazi in 2012, she was arrested and interrogated by security forces. On the first occasion, while working as a translator for foreign journalists, she was detained and questioned for several hours. On the second, armed men believed to belong to a militia group disrupted a women's rights workshop and took her to a Ministry of Defence compound. Although released the following day, she was detained again a day

later, subjected to verbal sexual abuse, beaten, threatened with death at gunpoint, and accused of running a "prostitution organisation", in reference to her women's rights work.

Following these events, Magdulein fled Libya after continued harassment made her activism impossible and put her safety at great risk. In 2013, from exile, she filed a complaint with the Libyan Prosecutor, but no investigation was known to have been initiated. She then brought her case to the CEDAW Committee, alleging violations of her rights under the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and seeking reparations. As Libya failed to engage with the proceedings despite invitations and follow ups, the CEDAW Committee issued its decision in the absence of State submissions.

THE DECISION AND ITS SIGNIFICANCE

Violations

On 7 April 2021, the CEDAW Committee found that Libya failed to investigate and prosecute Magdulein's arbitrary arrest and torture, and discriminated against her on the basis of her sex and her work as a women's human rights defender. It also ruled that Libya failed to take adequate measures to prevent and respond to violence against women and to protect women's human rights defenders. It concluded that Libya breached Articles 2(b), (d), (e) and 7(c), read in conjunction with Article 1 of the CEDAW.

Discrimination Based on Sex and as a Human Rights Defender

The CEDAW Committee held that the treatment of Magdulein was discriminatory based on her sex and as a women's human rights defender. It reached this conclusion based on gender-based verbal abuse, accusations linking her activism to prostitution, and public statements by State officials criticising her advocacy for women's freedom. The Committee reaffirmed that gender-based violence constitutes discrimination under CEDAW and highlighted its General Recommendation 28, particularly, the State's obligation to "respect, protect and fulfil women's rights to non-discrimination and to enjoyment of equality" and to "react actively against discrimination against women". It also stressed the State's duty to prevent, investigate, punish, and redress gender-based violence committed by private actors.

Gender-Based Torture

The CEDAW Committee affirmed the need to adopt a gender-sensitive approach to assess claims of torture, "to understand the level of pain and suffering experienced by women". It stressed that gender-specific or sex-based abuse may satisfy the purpose and intent requirements of torture. It also determined that Magdulein suffered gender-specific abuse, which at a minimum, was inflicted with the consent or acquiescence of public officials, and therefore amounted to torture. It based this finding on (i) the fact that she was arrested by forces affiliated with Libya's Interior Ministry; (ii) the physical and verbal abuse inflicted upon her; and, (iii) the fact that despite her visible injuries, public officials questioned her about her women's rights organisation. It then concluded that Libya failed to investigate, prosecute, punish, and provide reparation for the torture she suffered.

Freedom of Association as a Women's Human Rights Defender

The CEDAW Committee recognised that Magdulein was targeted because of her work as a defender of women's human rights and that the abuses she suffered ultimately impeded her from continuing her activism. It emphasised the significance of States in encouraging and protecting the work of NGOs working for women's rights, and recalled that women's participation in civil society is a prerequisite for democracy, peace, and gender equality, as stated in its General Recommendation 30.

WIDER IMPACT OF THE CASE

First CEDAW Committee Precedent for Women Defenders and MENA Region

The decision establishes an important precedent by recognising gender-based torture against women's human rights defenders as a distinct and serious human rights violation, expanding the protection of this group. As the first case decided by the CEDAW Committee concerning the MENA region, it signals to defenders across the region that international mechanisms can award and provide some form of redress when domestic remedies fail. It also contributes to gender-sensitive interpretations of torture, to advocacy efforts for reform, and to the documentation of gender-based violence in Libya.

Comprehensive Reparations

The case stands out for its comprehensive approach to reparation. The CEDAW Committee ordered Libya to provide individual reparation to Magdulein, including adequate compensation, and conducting effective and independent investigations into her treatment. In addition, it outlined several broader structural reforms needed in Libya to guarantee non-repetition. These included adopting anti-discrimination and gender-based violence legislation, ensuring effective protection against violence by State and non-State actors, including through the provision of health services, counselling, and financial support, and by ensuring accountability for perpetrators. It also called for a national action plan to protect women's human rights defenders, as well as public recognition of their legitimacy, the elimination of harmful or discriminatory institutional practices, and mandatory training for law enforcement and judicial officers on gender-sensitive handling of violence against women. Despite these detailed orders, Libya has not implemented reparation orders, a gap that underscores both the importance of the CEDAW Committee's normative contribution and the grave and persistent human rights challenges in Libya.

STRATEGIC FEATURES OF THE CASE

Forum Choice

Bringing Magdulein's complaint before the CEDAW Committee – rather than to other human rights bodies, such as the UN Human Rights Committee – was a deliberate choice. The CEDAW Committee has a unique mandate to interpret gender-based violence against women as a form of discrimination. This allowed Magdulein's case to highlight both the gender-specific nature of the abuse and the State's obligations toward women's human rights defenders, who often suffer forms of violence distinct from those against other human rights defenders. The

forum choice was also informed by the fact that this could lead – as it did – to the CEDAW Committee deciding its first case against a MENA State on this issue, increasing its symbolic and strategic value.

Supporting Documentation

The case was strengthened by extensive documentation. Evidence included a robust testimony from Magdulein, a medico-legal report documenting psychological harms, photographs of physical injuries, and organisational records linking her targeting to her activism, including documents related to the Hakki Organisation for Women's Rights. This comprehensive documentation was critical in strengthening both the credibility of her claims and the discriminatory motive behind the abuse.

The Legal Representatives for the Complainant were REDRESS lawyers: Jürgen Schurr and Emily Hindle during litigation, and Alejandra Vicente and Renata Politi during implementation.

ADDITIONAL RESOURCES

- 'Emblematic Decision on Gender Violence Against a Libyan Human Rights Defender' (REDRESS, 7 April 2021).
- International Commission of Jurists, *Towards Gender-Responsive Transitional Justice in Libya – Addressing Sexual and Gender-Based Crimes against Women* (2022).
- 'Libya: Marking 16 Days of Activism against Gender-Based Violence, the ICJ calls for an end to violence against women human rights defenders' (International Commission of Jurists, 11 December 2023).
- 'Libya violated rights of 'targeted' woman activist, says anti-discrimination committee' (UN News, 7 April 2021).
- UN Committee on the Elimination of Discrimination against Women, 'General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women' (16 December 2010) CEDAW/C/GC/28.
- UN Committee on the Elimination of Discrimination against Women, 'General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations' (1 November 2013) CEDAW/C/GC/30.
- 'UN experts find Libya violated rights of woman human rights defender' (International Service for Human Rights, 30 April 2021).

MEMBERS OF THE "JOSÉ ALVEAR RESTREPO" LAWYERS COLLECTIVE V. COLOMBIA (2023)

Links to the decision

Inter-American Court of Human Rights

HUMAN RIGHTS DEFENDERS • WOMEN HUMAN RIGHTS DEFENDERS • RIGHT TO DEFEND HUMAN RIGHTS • LIMITS TO STATE INTELLIGENCE • COMPREHENSIVE REPARATIONS

CASE SUMMARY

For over 30 years, members of the *Colectivo de Abogados "José Alvear Restrepo"* (CAJAR), a human rights defenders' organisation dedicated to protecting victims of serious human rights violations in Colombia, suffered persecution promoted, perpetrated, or tolerated by the State. This pattern of harassment included threats against family members of CAJAR lawyers and the systematic use of State intelligence to stigmatise and intimidate them.

In *CAJAR v. Colombia*, the IACtHR emphasised the States' obligations to respect and guarantee the right to defend human rights. The ruling introduces several innovative elements, notably the recognition of the autonomous right to defend human rights as a protected right under the American Convention, and the establishment of a legal framework governing the use of State intelligence in line with international human rights standards. The case also brought to light the differentiated and gender-based violence experienced by the women victims involved, which amounted to torture in some cases.

THE FACTS AND PROCEDURAL HISTORY

The *Colectivo de Abogados "José Alvear Restrepo"* (CAJAR) is an NGO that has defended victims of serious human rights violations in Colombia for more than 40 years. Since its establishment, CAJAR has litigated cases involving torture, extrajudicial executions, enforced disappearances, and massacres committed during the armed conflict, often attributed to State agents and members of paramilitary groups. CAJAR has represented victims in several emblematic cases before the IACtHR that helped shape regional jurisprudence on the international responsibility of States in contexts of armed conflict, including *Mapiripán Massacre v. Colombia, Rodríguez Vera et al. (The Disappeared from the Palace of Justice) v. Colombia*, *Manuel Cepeda Vargas v. Colombia*, and *Santo Domingo Massacre v. Colombia*.

Due to their role as human rights defenders, members of CAJAR and their relatives have been subjected to different forms of harassment, with some being forced into exile for several years. CAJAR members suffered physical assaults, death threats, public stigmatisation, illegal intelligence surveillance, and more. Harassment included invitations to their own funerals, approaches by unknown and armed individuals, calls in which their private information was mentioned, surveillance of calls, surveillance carried out from offices or apartments rented out near to their homes, messages written on the walls of their homes, calls to relatives, people going through their household waste, and the stealing of their information.

Those acts were not effectively investigated by the Colombian authorities, and perpetrators continue to enjoy impunity. These violations took place in a broader context of violence against human rights defenders in Colombia, marked by killings, enforced disappearance, threats, stigmatisation, harassment, and other violations perpetrated by paramilitary groups and State security forces. This pattern has been widely documented by national and international organisations, including UN human rights mechanisms. Following the signing of the 2016 Peace Agreement, violence against human rights defenders has increased, with UN mechanisms identifying Colombia as the country with the highest rate of murders of human rights defenders in Latin America.

In this context, CAJAR and the Center for Justice and International Law (CEJIL) submitted a case to the IACHR in April 2001, challenging the systematic illegal use of State intelligence against human rights defenders to invalidate their work. Despite precautionary measures issued by the IACHR (both before and after this case had been submitted to the IACHR) requesting the Colombian State to protect the security and physical integrity of CAJAR members, serious intimidation continued. This was promptly reported to the Commission and eventually to the IACtHR.

The IACHR adopted its Merits Report in May 2019, concluding that Colombia was responsible for violations of several human rights, including the rights to life, freedom of expression, and access to justice. The Commission recommended the State to redress the harm caused, including through measures of satisfaction, compensation, and guarantees of non-repetition. Following State non-compliance, the IACHR referred the case to the IACtHR in July 2020.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its judgment issued in February 2023 and published in March 2024, the IACtHR found Colombia responsible for violating multiple rights under the American Convention, including the rights to life (Article 4(1)), personal integrity (Articles 5(1) and 5(2)), protection of children (Article 19), private life (Articles 11(2) and 11(3)), freedom of expression (Article 13(1)), freedom of movement and residence (Article 22(1)), freedom of assembly (Article 16(1)), informational self-determination (Articles 11(2) and 13(1)), the right to know the truth (Article 13(1)), honour (Article 11(1)), access to justice (Articles 8(1) and 25(1)), rights of the family (Article 17(1)), and the right to defend human rights (Articles 4(1), 5(1), 8(1), 13(1), 16(1), and 25(1), taken together with Article 1(1)).

Reparations

The Court ordered comprehensive reparation measures (i) for the individuals whose rights were violated, (ii) for CAJAR as an organisation, and (iii) for human rights defenders in Colombia more broadly. Such measures included

the effective investigation of the facts and prosecution of those responsible; the provision of psychosocial and medical support; public apologies and official acknowledgment of the violations; the production of a documentary on the role of human rights defenders in Colombia; a nationwide awareness-raising campaign on the importance of human rights defenders; the establishment of a trust fund to support and protect their work; the designation of an official national day for human rights defenders; and financial compensation for both material and non-material damages.

The Court ordered specific structural measures, including the purging of intelligence archives to identify additional victims of arbitrary intelligence activities carried out by the Administrative Department of Security (DAS); the design and implementation of a comprehensive system for collecting data on violence against human rights defenders; the amendment of the legal framework governing intelligence activities — particularly Law 1621 of 2013 and Decree 2149 of 2017 — to ensure its compatibility with international standards; the adoption of legislation on informational self-determination; and the revision of intelligence and counterintelligence manuals to ensure their full alignment with international human rights standards.

Unprecedented Ruling on the Illegal Use of Intelligence Services

The Court examined evidence of the unlawful use of State intelligence, including the interception of communications for the purpose of gathering information on, and indirectly or directly intimidating, those who opposed the Government, such as human rights defenders, politicians, and social leaders. The Court set out the applicable standards governing the use of intelligence and communications interception, including that these must pursue aims that are legitimate and necessary in a democratic society. For the first time, the Court recognised the existence of an autonomous right to informational self-determination. This right entails an obligation on the State to respect the rights to privacy, honour, and human dignity.

The IACtHR found that the State had unlawfully used its intelligence services to intimidate members of CAJAR. This included public stigmatisation by State authorities, creating a situation of risk for CAJAR members, as well as the State's tolerance of, or contribution to, the ongoing harassment by paramilitary groups. The evidence revealed that the State had not only carried out illegal intelligence activities, but also designed and implemented coordinated operations aimed at neutralising and discrediting CAJAR. In particular, under the so-called “Operation Transmilenio” led by the DAS, intelligence efforts sought to establish alleged links between CAJAR and guerrilla groups, including through the fabrication and dissemination of false information. These actions were further reinforced by stigmatising statements from high-level public officials, who publicly portrayed human rights defenders as associated with subversive or terrorist groups.

The Court also noted that acts of violence against women defenders had a differentiated impact because the intimidation directed at them was based not only on their role as defenders, but also on their gender. For example, threatening messages directed at women often contained sexist elements and were frequently extended to their children.

First IACtHR Ruling on the Human Right to Defend Human Rights

The Court found that the harassment and violence against members of CAJAR and their families, and the lack of effective prevention and protection measures by the State, breached their right to personal integrity, with one incident of harassment against a female defender and her family reaching the threshold of torture.

For the first time, the Court recognised the violation of the autonomous right to defend human rights, which entails the real possibility of freely carrying out, without restrictions or risks, various activities aimed at promoting, monitoring, teaching, demanding, and protecting universally recognised human rights and fundamental freedoms.

WIDER IMPACT OF THE CASE

Underscoring the Important Work of Human Rights Defenders

As the first IACtHR judgment recognising the defence of human rights as a right in itself, the case reinforces the important work of human rights defenders, and sets standards to ensure that State violence will not be used to silence them. The recognition of such a right expands the scope of State obligations by affirming that human rights defenders must be able to carry out their work safely, with full respect for their integrity and dignity. The judgment clarified that the concept of human rights defenders is "wide-ranging and flexible", encompassing anyone doing activities to promote and protect rights – even if only intermittently or occasionally.

By publicly acknowledging the many ways in which human rights defenders in Colombia had been attacked and persecuted, the judgment also helped transform the public narrative by countering the stigmatisation and reaffirming the importance of human rights work.

Defining Limits on the Use of State Intelligence

The IACtHR judgment established a comprehensive human rights framework for the use of State intelligence, which can serve as a reference for other countries where illegal surveillance against defenders takes place. This framework defines clear limits on the collection and use of information by the State and explicitly prohibits the use of State intelligence for private or political purposes. The IACtHR expressly stressed the restriction on the use of State intelligence — including the interception of communications — against journalists and lawyers, as necessary to safeguard the confidentiality of their work.

Implementing Reparations and Ongoing Challenges

As noted above, several reparations measures were aimed at ensuring the non-recurrence of similar violations in Colombia. For example, the Court ordered the State to bring its intelligence and counterintelligence legislation, as well as military procedures, into conformity with the human rights standards set out in the judgment. It also mandated the State to conduct public campaigns to combat the stigmatisation of human rights defenders and to ensure the systematic collection of data on violence committed against them.

In October 2025, the President of Colombia issued an official public apology to the victims, with their active participation in the design of the event. Another positive step has been the adoption of regulations to declassify the archives of Colombia's Administrative Department of Security (DAS) in order to contribute to investigations and the establishment of the truth.

However, CAJAR and CEJIL have reported that the State has taken only limited action to comply with the Court's judgment, and noted that full implementation will take time and requires sustained efforts. In its judgment,

the Court sought to ensure that CAJAR would take part in important discussions on implementation and on the protection of human rights. Yet in IACtHR implementation hearings, the victims' representatives have argued that a hostile climate for human rights defenders persists, underscoring the urgent need to implement, inter alia, the ordered guarantees of non-repetition.

STRATEGIC FEATURES OF THE CASE

Dual Role as Victims and Litigators

One unique aspect of the case is that the victims were also litigants, allowing the case to be pursued in a truly survivor-centred and survivor-led way. According to CAJAR and CEJIL, the process ensured meaningful and effective participation and consultation with the victims. Additionally, the collaboration between CEJIL (as a regional organisation) and CAJAR (as a local organisation) enabled the development of a comprehensive strategic approach to the litigation. By engaging a wide range of actors, their coordinated efforts produced significant results and demonstrated the effectiveness and strength of their alliance.

Context as a Key Aspect of the Litigation Process

This case was brought not on behalf of a single individual but rather a group of human rights defenders, thereby highlighting patterns of harassment. The victims and their representatives also situated the case within the broader historical context of violence against human rights defenders in Colombia. In their submissions, they provided the Court with extensive documentation on the various forms of violence suffered by defenders over the past 30 years, drawing on official sources, NGO reports, UN mechanisms, and other relevant materials. This enabled the Court to conduct a comprehensive contextual analysis of the situation of human rights defenders in Colombia from the 1990s up to the time of its judgment. It also informed the Court's reasoning in recognising the systemic nature of the threats faced by human rights defenders, the increasing violence against them particularly following the signing of the 2016 Peace Agreement, and the State's long-standing failure to adopt effective protective measures. Moreover, this broader context shaped the non-repetition and satisfaction measures ordered by the Court, which aimed to address the structural and ongoing nature of violence against human rights defenders.

Challenging Violence against Human Rights Defenders

In Colombia and across Latin America, violence against human rights defenders has become normalised, partly due to entrenched structural impunity. One of the key objectives of CAJAR and CEJIL was to challenge this situation by underscoring the seriousness of the threats, harassment, attacks, and other forms of intimidation directed at defenders and their families. The case enabled the comprehensive documentation of these abuses, and their gravity was recognised by the Court. Importantly, the litigation also helped clarify the State's obligations to protect defenders and its duty to investigate violence perpetrated against them. A crucial element of this process was the extensive documentation compiled by CAJAR to record acts of intimidation against its members and other human rights defenders over time.

Media Campaign

CAJAR conducted a nationwide campaign, using the hashtag **#ParaQueNoSeRepita** (*So it does not happen again*) to raise awareness about the case, highlight the crucial role of CAJAR and human rights defenders in Colombia's democracy, and share updates on the litigation process, including the delivery of the judgment.

The Legal Representatives for the Petitioners in this case were the *Colectivo de Abogados* "José Alvear Restrepo" (CAJAR) and the Center for Justice and International Law (CEJIL).

ADDITIONAL RESOURCES

- Brent Patterson, 'PBI-Colombia accompanies CAJAR at ceremony at which President Petro apologizes for acts of violence and persecution during the 1990s' (PBI, 22 October 2025).
- CAJAR Press, 'Histórico, Corte Interamericana encuentra responsable internacionalmente a Colombia por violar el derecho a defender derechos humanos [Historic ruling: Inter-American Court finds Colombia internationally responsible for violating the right to defend human rights]' (CAJAR, 18 March 2024).
- CAJAR Press, 'Víctimas y organizaciones exponen ante la Corte IDH los incumplimientos del Estado colombiano en el caso CAJAR, a casi dos años de la sentencia [Victims and organizations present to the Inter-American Court of Human Rights the non-compliance of the Colombian State in the Cajar case, almost 2 years after the ruling' (CAJAR, 15 September 2025).
- CEJIL, 'Colombia – Caso CAJAR: el derecho de defender derechos [Colombia – CAJAR Case: the right to defend rights]' (YouTube, 20 March 2024).
- IACtHR, *Miembros de la Corporación Colectivo de Abogados "José Alvear Restrepo" [Members of the Colectivo de Abogados "José Alvear Restrepo"*], Ref: Case No. 12.380, 8 July 2020.
- Lucía Camacho, 'Histórica sentencia de la Corte Interamericana de Derechos Humanos: La protección de datos aplica en las tareas de inteligencia [Historical sentence by the Inter-American Court of Human Rights: Data protection applies to intelligence operations]' (Derechos Digitales, 12 July 2024).
- 'New historic judgment: Members of José Alvear Restrepo Lawyers' Collective v. Colombia' (Privacy International, 13 June 2024).
- Rafael Barrios Mendivil, '#ParaQueNoSeRepita [#SoThatItNeverHappensAgain]' (CAJAR, 16 May 2022).
- 'The Inter-American Court holds Colombia accountable for violating the right to defend human rights' (CEJIL, 18 March 2024).

AMIN MEKKI MEDANI AND FAROUQ ABU EISSA V. THE REPUBLIC OF SUDAN (2022)

Links to the decision

African Commission on Human and Peoples' Rights

HUMAN RIGHTS DEFENDERS • ARBITRARY DETENTION • INHUMAN TREATMENT • FREEDOM OF OPINION AND ASSOCIATION • DENIAL OF MEDICAL ASSISTANCE • LEGAL REFORM

CASE SUMMARY

Dr. Amin Mekki Medani, a Sudanese human rights defender, and Mr. Farouq Abu Eissa, a Sudanese politician and activist, were detained in 2014 by Sudanese authorities without charges and held *incommunicado* in poor conditions. They were eventually charged with unsubstantiated offences, including incitement to terrorism. While no official reason for their detention was provided, the victims had been involved in the adoption of the "Sudan Call", a 2014 declaration committing political opposition parties, rebel movements, and civil society to working towards peace in Sudan.

Throughout their detention, they were subjected to inhuman treatment and denied access to medical care. The victims alleged several violations under the African Charter, including the right to be free from torture and ill-treatment and their freedom of expression and association. In 2022, the ACHPR found that Sudan had violated the victims' rights and that Sudanese domestic law was incompatible with the State's obligations under the African Charter, ordering individual reparations and measures of non-repetition.

THE FACTS AND PROCEDURAL HISTORY

Dr. Amin Mekki Medani, aged 75, was a prominent Sudanese human rights defender and lawyer. Mr. Farouq Abu Eissa, aged 78, was a well-known Sudanese politician and activist. Prior to their arrests, they had been involved in the "Sudan Call", an agreement made by Sudanese opposition parties, rebel movements, and civil society committing signatories to pursuing peace in Sudan and implementing legal, institutional, and economic reforms.

On 6 December 2014, three days after the adoption of the "Sudan Call", Dr. Medani and Mr. Eissa were arrested by the Sudanese National Intelligence and Security Services (NISS), without ever being informed of the charges

against them. The NISS refused to bring their daily medication; Dr. Medani suffered from diabetes and high blood pressure, and Mr. Eissa was diabetic with a heart condition and cyanosis.

Dr. Medani was detained in a small cell with a bright light kept on at all hours and air conditioning set to cold temperatures, and he slept on the floor with only a small sheet. He was not given his medication regularly, nor was his blood sugar measured to determine an appropriate insulin dosage. Mr. Eissa was similarly held in a small cell and slept on the floor. Both reported that the food provided during their detention was "inedible". The men were held *incommunicado* for 16 days without access to a lawyer or visits from their families. Dr. Medani met his lawyer for the first time 17 days after his arrest and saw his family the following day, when he received food compatible to his health needs. Following his release, Dr. Medani died in 2018 due to the deterioration of his health caused by the conditions of his detention. Mr. Eissa also met his lawyer for the first time 16 days after his arrest, when he was taken to hospital for high blood pressure, and saw his family there.

On 12 February 2015, 68 days after their arrest, Dr. Medani and Mr. Eissa were charged under provisions of the 1991 Sudanese Criminal Procedure Act (CPA) and the 2001 Anti-Terrorism Act, some of which carried the death penalty. Despite wide condemnation of their arbitrary arrest by international and regional human rights organisations, they were tried before a Special Court established under the Anti-Terrorism Act. On 9 April 2015, the Minister of Justice abandoned the prosecution and all charges were dropped, resulting in their release after four months in detention.

The victims initiated legal action shortly after their arrest: on 12 December 2014, six days after their arrest, they filed a Complaint to the Sudanese Supreme Court challenging the treatment of detainees under Article 51 of the National Security Act (NSA). On 19 December 2014, human rights lawyers filed a *habeas corpus* petition before the Constitutional Court, arguing that their arrest, lack of access to lawyers, and *incommunicado* detention were unlawful. On 21 January 2015, they filed another complaint before the Constitutional Court. However, both the Supreme Court and the Constitutional Court failed to respond; the Constitutional Court only responded to their initial petition after their release, rendering this remedy ineffective.

The victims then filed a complaint with the ACHPR on 20 February 2015. Before their release, the Commission granted provisional measures, requesting that Sudan ensure unhindered access to medical treatment and their lawyers.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its decision issued in November 2022, the ACHPR found Sudan responsible for violations under the African Charter, including the victims' right to be free from torture and other ill-treatment (Article 5), their right to personal liberty (Article 6), fair trial rights (Article 7(1)), freedom of expression (Article 9(2)) and freedom of association (Article 10). It also ordered the State to provide compensation for the victims, investigate and prosecute those responsible, and to implement broad legislative and policy reforms.

Pattern of Torture and Ill-Treatment of Human Rights Defenders

The ACHPR recognised that the treatment of the victims reflected a broader pattern of abuse against human rights defenders by Sudan's NISS. The victims were arrested without explanation, held *incommunicado* for approximately 15 days, denied medical care and access to lawyers, and detained in degrading conditions, which the ACHPR found amounted to torture and inhuman or degrading treatment. Together with other cases decided by the ACHPR, such as *Monim Elgak, Osman Hummeida and Amir Suliman v. Sudan* and *Safia Ishaq Mohammed Issa v. Sudan*, the decision in Dr. Medani and Mr. Eissa's case sheds light on the systematic torture and ill-treatment of Sudanese human rights defenders by the NISS to intimidate and punish human rights defenders. In its decision, the ACHPR ordered Sudan to adopt safeguards against torture, train security officials, and improve detention conditions in accordance with international human rights standards.

The Criminalisation of Human Rights Defenders in Sudan

The ACHPR further emphasised that the proceedings against the two human rights defenders reflected a structural issue of criminalisation of human rights activism in Sudan and violations of their fair trial rights. The ACHPR observed that the victims were arrested and prosecuted in connection with their peaceful political engagement and were detained under legal frameworks that enabled arbitrary deprivation of liberty. In particular, it found that provisions of the NSA has granted the NISS broad powers of arrest and detention without adequate safeguards, thereby undermining the right to personal liberty and fair trial guarantees. The Commission has therefore recommended that Sudan adopt legislative reforms to address these issues.

Violations to Silence Dissent in Sudan

The Commission further noted that the arrest and detention of the victims were intended as reprisals to silence dissent, which is a pattern of oppression that continues to take place in Sudan. Reprisals against activists and human rights defenders have a significant impact on their ability to document and report on human rights abuses in the country, which perpetuate systematic impunity.

WIDER IMPACT OF THE CASE

Identifying the Need for Broader Reforms in Sudan

In addition to finding individual violations, the ACHPR took the opportunity to detail how domestic legislation was incompatible with Sudan's international obligations, which demonstrates how strategic litigation can lead to broader impact beyond individual reparations.

The ACHPR held that provisions in the NSA contradicted the African Charter's right to personal liberty (Article 6). While the Constitution of Sudan and the CPA provided due process guarantees and guidelines that aligned with international standards, the NSA Article 50(e-h) contrarily allowed for the unchecked extension of pre-trial detention. The ACHPR noted the arbitrariness of the law, stating that "if the law is arbitrary, it goes without saying that the arrest or detention would also be arbitrary". This finding suggested that any arrest or detention pursuant to the NSA violates Article 6 of the African Charter.

The ACHPR also held that the CPA, NSA, and the Anti-Terrorism Act violated the right to be tried in a timely manner by an impartial court. For example, CPA Section 58(1) granted the Minister of Justice the absolute right to stay proceedings against the accused after an investigation, leaving those arrested in detention indefinitely without access to a judge or a preliminary hearing. NSA Article 51(2) similarly derogated from fair trial rights by making the right to inform family members of one's detention and communicate with counsel conditional on not prejudicing the progress of the investigation. The ability for a detained person to question the legality and duration of their detention was significantly impaired by the laws establishing Special Courts. According to the ACHPR, Sudan did not, and more significantly, *could not*, fulfil its obligations under the African Charter so long as these legal provisions existed.

The ACHPR also ruled that NISS's immunity from prosecution for arbitrary arrest and detention made "a mockery of justice" and rendered any attempt to seek redress in courts "inadequate and ineffective".

STRATEGIC FEATURES OF THE CASE

Regional and International Intervention

This case is an excellent example of how leveraging and mobilising regional and international bodies can support litigation efforts. Soon after Dr. Medani and Mr. Eissa's arrests, several African and international human rights organisations wrote open letters to UN mechanisms and the ACHPR, urging them to demand Dr. Medani and Mr. Eissa's release. In addition, UN Special Rapporteurs submitted a letter of allegation concerning the situation of human rights defenders in Sudan; the UN Commissioner for Human Rights called for Dr. Medani and Mr. Eissa's immediate release; the European Parliament adopted a resolution strongly condemning their arbitrary arrest and detention; and the WGAD adopted an Opinion that Sudan had violated its obligations under both the UDHR and the ICCPR. Advocacy efforts were key in securing the release of Dr. Medani and Mr. Eissa.

The Legal Representatives for the Complainants were REDRESS, the African Centre for Justice and Peace Studies (ACJPS), International Federation for Human Rights (FIDH), and the World Organisation against Torture (OMCT).

ADDITIONAL RESOURCES

- 'African Commission should call on Sudan to release prominent activists facing stiff penalties in national security trial' (International Federation for Human Rights Press Release, 20 February 2015).
- 'African Commission: Sudan violated the African Charter in the Medani & Eissa Case' (International Federation for Human Rights, 14 September 2023).
- 'Amin Mekki Medani & Farouq Abu Eissa v. Sudan' (REDRESS).
- European Parliament, 'European Parliament resolution of 18 December 2014 on Sudan: the case of Dr Amin Mekki Medani' (18 December 2014) 2014/3000(RSP).
- National Security Act 2010 (Republic of the Sudan).
- OHCHR, 'Press briefing notes on Sudan detentions' (12 December 2014).
- OHCHR, 'Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst' (19 January 2016) A/HRC/31/55/Add. 1.
- OMCT, 'Open Letter concerning the arbitrary arrest and incommunicado detentions of Dr Amin Mekki Medani, Mr Farouq Abu Eissa, and Dr Farah Ibrahim Mohamed Alagar by the Government of Sudan' (19 December 2014).
- REDRESS, 'Serious Human Rights Violations Perpetrated in the Context of Mass Civilian Detention in Sudan' (2024).
- 'Sudan: Arrest of Dr. Amin Mekki Medani' (International Federation for Human Rights Press Release, 7 December 2014).
- 'Sudan: Release of human rights defender Dr. Amin Mekki Medani and political activists Faruq Aby Eissa and Farah Ibrahim Alagar' (International Federation for Human Rights, 13 April 2015).
- UN Working Group on Arbitrary Detention, 'Opinion adopted by the Working Group on Arbitrary Detention at its seventy-second session, 20-29 April 2015' (5 August 2015) A/HRC/WGAD/2015/9.

THE CASE OF JAGTAR SINGH JOHAL CONCERNING INDIA (2021)

Links to the decision

UN Working Group on Arbitrary Detention

HUMAN RIGHTS DEFENDERS • ARBITRARY DETENTION • TORTURE-TAINTED EVIDENCE • SILENCING DISSENT • DOUBLE JEOPARDY • IMPUNITY

CASE SUMMARY

Jagtar Singh Johal is a British human rights activist and blogger from Scotland who has been arbitrarily detained since 2017 in India. He was arrested and subjected to various forms of torture by the Indian police. He faces a possible death sentence following charges based on a confession extracted under torture. In 2021, the WGAD issued an Opinion finding Jagtar's detention to be arbitrary and without legal basis, and that he had been subjected to torture. The WGAD further found that Jagtar's detention was based on discriminatory grounds owing to his Sikh faith, political activism, and his status as a human rights defender.

Despite the WGAD's call on the Indian Government to immediately release Jagtar, and a verdict by the Moga District Court in Punjab in 2025 acquitting him of all charges in one of the cases against him, Jagtar remains in detention facing charges in eight other cases filed by India's National Investigation Agency. The remaining eight cases are based on the same tainted evidence as the first case which was dismissed. The similarities between the remaining cases raise serious concerns of having Jagtar going through trial more than once for the same alleged crime, in violation of the principle of double jeopardy.

THE FACTS AND PROCEDURAL HISTORY

On 4 November 2017, three weeks after his wedding, a group of men took Jagtar from his car in the city of Jalandhar in Punjab, placed a black hood over his head, and put him into an unmarked vehicle. On 5 November 2017, Jagtar was taken into police custody and for ten days he was held incommunicado in an undisclosed location with no access to a lawyer, his family, or a representative of the British High Commission.

Jagtar asserts that between 4 and 9 November 2017, Indian police interrogated and tortured him by applying electric shocks to his ears, nipples, and genitals, forcing his limbs into painful positions, depriving him of sleep,

and that police threatened to shoot him and burn him alive, at one point bringing petrol into his cell. Jagtar also asserts that he was forced to sign blank pieces of paper by the police which were later presented by the authorities as a confession.

On 18 December 2017, REDRESS and the NGO Ensaaf submitted an urgent appeal to the UN Special Rapporteur on Torture, urging him to call on the Government of India to ensure that Jagtar was protected from torture and ill-treatment, that the allegations of torture were investigated, and that he was provided with medical treatment and legal counsel. On 29 January 2018, the UN Special Rapporteur on Torture, the UN Special Rapporteur on Freedom of Religion or Belief, and the Vice-Chair of the WGAD sent a joint urgent appeal to the Government of India.

On 19 November 2021, following a submission by Advocate Ximena Vengoechea, working alongside REDRESS and Reprieve on the case, the WGAD issued an Opinion finding that Jagtar was subjected to torture, that his detention in India lacked legal basis and is arbitrary, and calling on India to immediately release him.

In August 2022, Jagtar's legal team at Leigh Day filed a legal claim in the UK High Court, supported by REDRESS and Reprieve, which alleged that the UK's intelligence agencies – the Security Service (MI5), the Secret Intelligence Service (MI6) and the Government Communications Headquarters (GCHQ) –, contributed to Jagtar's detention and torture by sharing intelligence with the Indian authorities when there was a real risk that Jagtar could be tortured, mistreated, or face the death penalty. Jagtar is asking the UK Government to grant him redress for the harm he has suffered and recognise its actions were unlawful. This case is continuing. He has separately sought a public apology for the UK Government's role in his suffering.

In the first domestic case against him to reach a verdict, in March 2025, Jagtar, who was represented by lawyers in India, was acquitted of all charges by the Moga District Court in Punjab. The court found that prosecutors had failed to present any reliable evidence despite having had over seven years to develop their case, stating they had "miserably failed to prove" that he had committed any of the alleged offences. Despite his acquittal, Jagtar faces eight additional cases filed by India's National Investigation Agency, all based on the same confession that was allegedly extracted under torture.

Since this acquittal, Jagtar's prison conditions have worsened. He is held in almost total solitary confinement, with minimal contact with other prisoners, and is subjected to frequent searches of his cell. India has taken no steps to investigate the serious allegations of torture, as far as REDRESS is aware.

THE DECISION AND ITS SIGNIFICANCE

In November 2021, the WGAD found that Jagtar's detention is based on discriminatory grounds owing to his Sikh faith, political activism, and his status as a human rights defender. The WGAD referred the case to UN Special Rapporteurs, including the UN Special Rapporteur on Torture, and stated that the appropriate remedy would be to release Jagtar immediately and provide him with compensation and other reparations. The WGAD also urged the Government of India to ensure the circumstances of his arbitrary detention are investigated and those responsible held accountable.

In September 2025, REDRESS and Reprieve submitted a follow-up letter to the WGAD, highlighting that India has not implemented any of the recommendations in its 2021 decision, and updating the WGAD on developments since that time.

WIDER IMPACT OF THE CASE

REDRESS and Reprieve have conducted and supported Jagtar's family in several advocacy initiatives before the UK Government. Although Jagtar remains detained in India, advocacy and campaigning work pushing for his release has yielded some positive developments, including commitments from UK senior officials to raise the case with Indian officials.

Consular Assistance as a Measure to Prevent Torture

Consular officials were not able to see Jagtar until 16 November 2017, almost two weeks after his detention. The British High Commission "raised the case immediately on notification of his detention and continued to press for consular access until it was granted". These interventions are significant and can be hugely important, especially for those who have suffered torture or who are vulnerable to it. However, despite the considerable potential of consular assistance to protect the rights and wellbeing of British nationals detained abroad such as Jagtar, its provision by the UK Government remains discretionary. This stands in contrast to the UK's positive obligations under international law, which include, for example, an obligation to use all available means to prevent torture, wherever it occurs. Consular assistance – founded on freedom of communication and access between consular officials and a detained person – enables the UK Government to provide three key protections to its nationals abroad: preventing human rights abuses; providing redress for human rights abuses when they do occur; and ensuring procedural safeguards to prevent further violations. Jagtar's family are among many who have called for the UK Government to introduce a right to consular assistance for those at risk of human rights abuses abroad.

Protection of Nationals Arbitrarily Detained Abroad

Jagtar's case is a good example of a complex detention case, which creates challenges for the "normal" approach of the UK Government to the provision on consular assistance. High-profile cases such as Jagtar's case have highlighted the importance of the adoption of a strategic approach to the cases of those who are in detention for long periods, and whose families face uncertainty, while ministers are forced to respond reactively under intense public and political pressure. Jagtar's family have been part of advocacy efforts which have supported the appointment of a Special Envoy to focus on such complex cases, on the basis that the appointed person should have sufficient authority, mandate, and resources to lead diplomatic responses, while treating families as trusted partners. The UK Government has committed to appointing a Special Envoy for Complex Consular Detentions, following earlier recommendations from the UK Parliament's Foreign Affairs Committee, but at the time of writing, such an appointment has not been made and the scope of their proposed role is still not known.

STRATEGIC FEATURES OF THE CASE

Making Use of Limited Avenues for Justice

India is one of only 21 countries globally that has yet to ratify UNCAT. Since India is not party to UNCAT, individual cases of torture in India cannot be brought before the UN Committee against Torture. Although India has ratified the ICCPR, which also contains provisions prohibiting torture, India has not accepted the individual complaints

mechanisms under the ICCPR. Survivors and victims of torture in India therefore have few international avenues available to seek acknowledgement, justice, and reparation for the violations they have endured.

Nonetheless, Jagtar's arrests, torture, and prolonged detention were brought before the WGAD, a UN body comprised of independent experts. The WGAD made unequivocal findings that Jagtar's detention is arbitrary and based on discriminatory grounds. The WGAD has acknowledged that he was subjected to torture, which the Indian Government had initially denied, and accordingly referred the case to the UN Special Rapporteur on Torture. These findings are significant to challenge the State's narrative and establish the truth on what happened to Jagtar, which can be used in further advocacy to secure his release as well as in future litigation work.

Pursuing Accountability for State Complicity in Torture

The legal claim that has been brought before the UK High Court in 2022 alleging that the UK's intelligence agencies contributed to Jagtar's detention and torture by sharing intelligence with the Indian authorities, is an example of pursuing accountability for State complicity in torture, which is crucial for the upholding of the absolute prohibition of torture.

The Legal Representatives for the Complainants were REDRESS, Reprieve, Ximena Vengoechea, and Leigh Day.

ADDITIONAL RESOURCES

- Communication from REDRESS and Ensaaf on 'Urgent Appeal to UN Special Rapporteur on Torture – Torture of Jagtar Singh Johal, in Punjab, India' to Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (18 December 2017).
- 'Jagtar Singh Johal' (REDRESS).
- Katie Hunter, 'MPs call for 'quick' action to free Jagtar Singh Johal' (BBC News, 1 May 2025).
- 'MI5 and MI6 Tip Off Tied to Torture of British Blogger at Risk of Death Penalty' (REDRESS Press Release, 22 August 2022).
- Patrick Wintour, 'Arbitrary detention victims urge Starmer to press Modi on jailed British Sikh' (The Guardian, 1 October 2025).
- REDRESS, 'Jagtar Singh Johal: Update on Developments for the Special Rapporteur on Torture' (13 November 2018).
- REDRESS, 'Torture Normalised: State Violence in India' (June 2025).

INDIGENOUS, LAND, AND ENVIRONMENTAL HUMAN RIGHTS DEFENDERS

KAWAS-FERNÁNDEZ V. HONDURAS (2009)

Links to the decision

Inter-American Court of Human Rights

ENVIRONMENTAL DEFENDERS • FREEDOM OF ASSOCIATION • EFFECTIVE INVESTIGATION • RIGHTS OF FAMILY MEMBERS

CASE SUMMARY

Blanca Jeannette Kawas-Fernández was an environmental defender from Honduras who was murdered in her home on 6 February 1995. At the time of her death, she was President of the *Fundación para la Protección de Lancetilla, Punta Sal, y Texiguat* (PROLANSATE), an organisation dedicated to improving the living conditions of communities living near the watersheds of the Bahía de Tela in the Department of Atlántida. Blanca Jeannette reported cases of illegal logging, attempts to seize the Punta Sal Peninsula, and damage to the National Park, and publicly opposed various economic development projects in the area.

In its 2009 judgment, the IACtHR found Honduras responsible for violating Blanca Jeannette's rights to life, judicial guarantees and protections, freedom of association, and her family's right to humane treatment. The decision marked a substantial development in Inter-American jurisprudence, as the Court recognised environmental defenders as human rights defenders, and reinforced States' positive obligations to protect environmental defenders.

THE FACTS AND PROCEDURAL HISTORY

In 1990, Blanca Jeannette Kawas-Fernández founded the *Fundación para la Protección de Lancetilla, Punta Sal, y Texiguat* (PROLANSATE) to promote the preservation of natural resources for the benefit of the Bahía de Tela watershed communities in the Department of Atlántida in northern Honduras. In her role, Blanca Jeannette successfully lobbied for Honduras to formally recognise the Punta Sal area as a national park. Blanca Jeannette also regularly lobbied the National Farmers Union – an organisation that aimed to settle low-income families inside the Punta Sal National Reserve – as well as the HONDUPALMA African palm oil company, for exploiting Honduran national resources.

On 4 February 1995, Blanca Jeannette led a demonstration to protest the Honduran State's plan to sell land in the Punta Sal National Reserve to agribusinessmen and farmers. On 6 February 1995, Blanca Jeannette was home with her personal assistant when two unidentified men appeared in a white pick-up truck, broke in, and shot her in the back of her neck, killing her instantly. Though public security forces came to remove her body, no steps were taken to arrest the perpetrators.

On 7 February 1995, the Tela Criminal Magistrate's Court opened an investigation into Blanca Jeannette's murder, and on 6 March, the Court issued orders for the arrest of two men, Juan Mejía Ramírez and Sabas Mejía Ramírez, as suspects. Following these arrests, the Criminal Magistrate's Court transferred the case to the District Court of First Instance.

On 30 October 2003, the General Bureau of Criminal Investigation issued a report stating that Sergeant Ismael Perdomo was the main suspect in Blanca Jeannette's murder. The report alleged, based on a witness statement, that Sergeant Perdomo was seen travelling in a white pick-up truck on the day of Blanca Jeannette's murder. A month later, the Public Prosecutor's office issued a report which alleged that Sergeant Perdomo met multiple times with an Army Colonel and a member of the death squad known as "Mano Blanco", and that he was involved in Blanca Jeannette's murder.

On 3 March 2004, the District Court issued a warrant for Sergeant Perdomo's arrest, but the warrant was never executed, as Sergeant Perdomo appealed his case to the Ceiba Atlántida Appellate Court.

On 13 January 2003, the case was submitted to the IACHR on behalf of Blanca Jeannette. On 20 July 2006, the Commission recommended that the State investigate the circumstances surrounding Blanca Jeannette's murder. After the State failed to adopt its recommendations, the Commission referred Blanca Jeannette's case to the IACtHR in February 2008.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its judgment of 3 April 2009, the IACtHR found Honduras internationally responsible for multiple violations of the American Convention in relation to Blanca Jeannette's murder and the subsequent failure to investigate her death. These included violations of the right to life (Article 4); the right to judicial guarantees and to a hearing within a reasonable time (Article 8); the right of recourse before a competent court (Article 25); the obligation to respect and ensure rights without discrimination (Article 1(1)); freedom of association (Article 16); and, with respect to Blanca Jeannette's family, the right to humane treatment (Article 5).

Failure to Protect the Right to Life and State Responsibility

The IACtHR found that the State failed to protect Blanca Jeannette's life (Article 4 of the American Convention). The Court held that the State bore responsibility for her death by permitting multiple miscarriages of justice, including the police threatening witnesses, the use of coercive tactics to throw the investigation off track, and the failure to perform the steps that are customarily taken to arrest perpetrators. In failing to perform a complete and effective investigation of the events in line with Honduras' duty to guarantee the right to life, the Court found that the State violated Article 4 of the American Convention.

Lack of Effective Investigation and Judicial Protection

The IACtHR determined that Honduras violated Articles 8 and 25 of the American Convention due to its inability to conduct a serious, impartial, and effective investigation into Blanca Jeannette's killing. The Court has repeatedly noted that States Parties are obligated to provide effective judicial remedies to victims (Article 25) and that such remedies must be granted in accordance with due process (Article 8). These guarantees fall under the State's broader obligation to guarantee the right to justice for the relatives of deceased victims. Ultimately, the Court found that the 14 years it took the authorities in Honduras to carry out the investigation into Blanca Jeannette's murder exceeded the reasonable amount of time established in the Court's caselaw, and constituted a flagrant denial of justice to Blanca Jeannette's next of kin.

Family's Pain and Suffering

The Court also found that the suffering of several of Blanca Jeannette's relatives following her death amounted to a violation of the right to humane treatment under Article 5(1) of the American Convention, which guarantees the right to have one's "physical, mental, and moral integrity respected". However, it noted that the suffering did *not* amount to a violation of the right to humane treatment under Article 5(2) which prohibits torture and other cruel, inhuman, or degrading treatment. The Court detailed the ways in which Blanca Jeannette's murder had severe financial, physical, and psychological effects on her relatives. Furthermore, the Court found that the way Blanca Jeannette was killed, as well as the inefficiency of the measures adopted to investigate her death and punish the perpetrators, caused her family pain and suffering and an "undermining [of] their moral integrity".

Freedom of Association and Environmental Defenders

The Court found that Blanca Jeannette's murder violated her right to freedom of association enshrined in Article 16(1) of the American Convention. In its analysis, the IACtHR noted that States have a duty to provide the necessary means for human rights defenders to freely conduct their work, to protect them when they are subject to threats to their safety, and to refrain from creating restrictions on their work. To permit human rights and environmental defenders to be subjected to threats and persecution, the IACtHR found, is tantamount to violating their freedom of association under the American Convention. Given that at least one agent of the State was involved in the events that led to Blanca Jeannette's death, and that her murder was the result of her work in defence of the environment through the PROLANSATE foundation, the Court found that her death resulted in the deprivation of her right to associate freely with others. Further, the Court explained that Blanca Jeannette's murder, along with the State's inability to effectively punish the perpetrators, had an intimidating effect on environmental defenders, thereby undermining others' rights to association as well.

Reparations

The IACtHR ordered Honduras to pay damages and expenses to Blanca Jeannette's relatives, to investigate her death, prosecute those responsible, publicise the judgment, formally and publicly acknowledge international responsibility, build a monument in Blanca Jeannette's memory, and provide psychological care and treatment to her relatives. It also ordered that there be "a national awareness and sensitivity campaign regarding the importance of the work performed by environmentalists in Honduras and their contribution to the defense of human rights".

WIDER IMPACT OF THE CASE

Environmental Defenders as Human Rights Defenders

A significant outcome of this case was the recognition of the relationship between the protection of the environment and other human rights. Indeed, the case marked the first time that the IACtHR recognised an "undeniable link between the protection of the environment and the realisation of other human rights". The Court held that all State signatories to the American Convention are obligated to create legal and factual conditions in which human rights defenders can carry out their work, and that to not do so would be equivalent to limiting the freedom of association enshrined in Article 16(1). By explicitly recognising that Blanca Jeannette's killing was linked to her environmental advocacy, and that the State's failure to investigate constituted an independent violation of the American Convention, the Court underscored that environmental defenders are due the same protections as human rights defenders. Civil society organisations, including Amnesty International and Human Rights Watch have cited the case in reports and *amicus* submissions to demonstrate how attacks against environmental defenders function not only as individual acts of violence, but as systematic tools of intimidation.

Influence on Regional Jurisprudence and State Obligations

The decision has had a lasting influence on the development of Inter-American jurisprudence concerning State obligations to protect human rights defenders and to conduct impartial and effective investigations into threats and attacks against them. Subsequent IACtHR judgments (such as in the *Case of Human Rights Defender et al. v. Guatemala*) and precautionary measures issued by the IACHR have drawn on the *Kawas-Fernández* case in affirming that States must adopt preventative measures where defenders face foreseeable risks, and must investigate crimes with a focus on identifying motives linked to human rights work. The case was also mentioned in a 2016 report by then UN Special Rapporteur on the situation of human rights defenders, noting that in the vast majority of instances in which environmental defenders in Latin America had received threats for their work, they had not benefitted from adequate protection from law enforcement despite the Court establishing in *Kawas-Fernández* that States have a positive obligation to protect environmental defenders.

STRATEGIC FEATURES OF THE CASE

Framing the Violations Through the Impact on the Victim's Family

A key strategic feature of the litigation was the deliberate framing of the violations of Articles 8 and 25 of the American Convention through the direct personal, psychological, and even financial impact that Blanca Jeannette's murder had on her family and next of kin. Rather than presenting the shortcomings of the investigation as mere procedural defects, the applicants emphasised how the significant delays in the investigation and the police's lack of diligence caused concrete harm to Blanca Jeannette's family, including suffering, uncertainty, and a denial in access to justice. In centring the family's experiences following her murder, the litigation reinforced the argument that the State's failure to investigate was itself a violation that perpetuated the harm caused by Blanca Jeannette's killing.

The Legal Representatives for the Petitioners were *Equipo de Reflexión, Investigación and Comunicación de la Compañía de Jesús* (ERIC) and the Center for Justice and International Law (CEJIL).

ADDITIONAL RESOURCES

- Amnesty International, 'Americas: State Protection Mechanisms for Human Rights Defenders' (AMR 01/6211/2017, May 2017).
- Heather Hassan, 'Kawas-Fernández v. Honduras' (2014) 36 Loy. L.A. Int'l & Comp. L. Rev. 1645.
- 'Honduras sentenced by the Inter-American Court for the murder of an environmentalist' (Center for Justice and International Law, 8 May 2009).
- Human Rights Watch, Amicus Brief for Colombian Constitutional Court on the Escazú Agreement, (Case No. LAT0000484, 30 September 2023).
- Lauri R. Tanner, 'Kawas v. Honduras – Protecting Environmental Defenders' (2011) 3(3) Journal of Human Rights Practice 309.
- UN General Assembly, 'Report of the Special Rapporteur on the Situation of Human Rights Defenders' (3 August 2016) A/71/281.

THE CASE OF BERTA CÁCERES CONCERNING HONDURAS (2009 AND 2016)

Link to the 2016 decision and 2021 follow-up resolution

Inter-American Commission on Human Rights

INDIGENOUS, LAND, AND ENVIRONMENTAL DEFENDERS • PRECAUTIONARY MEASURES • EFFECTIVE INVESTIGATIONS • DOMESTIC CONVICTIONS

CASE SUMMARY

Berta Cáceres, a Lenca Indigenous leader and environmental activist, was a prominent leader in opposition to the Agua Zarca hydroelectric project on the Gualcarque River in Honduras. The project, developed by *Desarrollos Energéticos S.A.* (DESA), threatened the Lenca Indigenous communities' access to the river and their territorial rights.

In 2009, the IACHR granted precautionary measures to protect Berta in light of persistent harassment and threats she had received for her activism. Years later, on 2 March 2016, Berta was assassinated in her home in Intibucá, Honduras. Berta's murder was an attempt to silence her and was in retaliation for her leadership in opposition to the hydroelectric project. After protracted criminal proceedings ending only in February 2025, the Supreme Court of Honduras confirmed sentences of the men responsible for Berta's murder.

Berta's story has become emblematic of the violence that Indigenous, land, and environmental defenders face, and of the profound importance of their activism.

THE FACTS AND PROCEDURAL HISTORY

Berta Cáceres was born in 1971 in La Esperanza, Honduras. She was a leader and activist from a young age. In 1993, at the age of 22, she co-founded the *Consejo Cívico de Organizaciones Populares e Indígenas de Honduras* (COPINH) with the aim of protecting the rights and livelihoods of Lenca communities against the growing threats of illegal logging.

The Agua Zarca hydroelectric project first came to the attention of community members in the Rio Blanco region of western Honduras when machinery and construction equipment began to arrive in their town. In 2006, they

turned to COPINH for help protecting the river, which has great spiritual importance to the Lenca people. Berta Cáceres therefore started to build a campaign against the Agua Zarca Dam, organising a local assembly in which the community formally voted against the dam, leading peaceful protests, filing complaints with Honduran authorities, bringing the case to the IACHR and lodging appeals against the project's funders. In 2015, Berta was awarded the Goldman Environmental Prize in recognition of her tireless leadership of a successful grassroots campaign opposing the development of the Agua Zarca Dam.

As Berta led the opposition to the Agua Zarca Dam, she suffered harassment, constant threats, and criminalisation. On 29 June 2009, the IACHR granted precautionary measures for Berta as it had received information that military forces were patrolling her home. The IACHR requested that Honduras take the necessary measures to ensure Berta's life and personal integrity.

On the night of 2 March 2016, Berta was assassinated in her home in Intibucá, Honduras. Fellow human rights defender Gustavo Castro Soto had also been staying in Berta's home that night and was injured in the attack, but he survived. Berta was murdered in retaliation for her leadership in opposing the Agua Zarca Dam. Two days after Berta's assassination, the IACHR extended precautionary measures for members of COPINH and Berta's family, as well as Gustavo Castro Soto.

On 30 November 2018, the National Criminal Court of Honduras convicted seven men for Berta's murder and Gustavo Castro Soto's attempted murder. On 5 July 2021, an eighth man, David Castillo, was found guilty as a co-perpetrator. David Castillo was sentenced to 22.5 years in prison in June 2022. All of those convicted filed appeals, and after long delays, on 25 November 2024 the Supreme Court of Honduras confirmed the sentences of seven of the eight convicted men. On 7 February 2025, the Supreme Court confirmed the one conviction that had not been confirmed in November 2024.

THE DECISION AND ITS SIGNIFICANCE

IACHR Precautionary Measures

As mentioned previously in this Casebook, the IACHR can issue precautionary measures as a method to avoid irreparable harm and protect the exercise of human rights. It examines the problem, the effectiveness of State action to address it, and the vulnerability to which individuals are exposed if precautionary measures are not adopted. It therefore evaluates the seriousness of the issue, the urgency of measures, and risks of irreparable harm.

On 29 June 2009, the IACHR granted precautionary measures to Berta, requesting that Honduras adopt the necessary measures to safeguard her life and personal integrity. In July 2013, the IACHR indicated that it would continue to follow up on Berta's situation. In the years leading up to her murder in 2016, Berta had repeatedly reported to the IACHR threats, harassment, and intimidation she had experienced. In its effort to monitor the situation, the IACHR met with a State delegation from Honduras in October 2015 and also sent a letter to the State of Honduras in December 2015 requesting information on the protection and investigation measures it had ordered. Despite having been on notice for many years of the threats facing Berta, the State failed to adopt effective measures to protect Berta's life or to address the underlying risk factors associated with the conflict over the Agua Zarca Dam.

As mentioned above, immediately following Berta's assassination, the IACHR extended precautionary measures in favour of certain people closely linked to Berta. Over the next several years, the IACHR held meetings with the State of Honduras and with the organisations representing the beneficiaries, noting that threats and violent attacks against the beneficiaries were persistent, and that there were many shortcomings in terms of protection measures provided by the State. As part of the follow up process, the IACHR monitored the progress of the criminal proceedings against those accused in connection with Berta's murder, repeatedly "call[ing] on the Honduran authorities to […] establish the truth of what happened, and to punish the perpetrators and masterminds in the murder of Berta Cáceres, in order to prevent impunity".

Though the State of Honduras made some efforts to comply with the precautionary measures in this case, its failure to adequately protect Berta and other human rights defenders reflects a deeper structural problem of persistent violence against Indigenous, land, and environmental human rights defenders in Honduras.

Domestic Criminal Proceedings

On 30 November 2018, the Honduran National Criminal Court convicted seven men, finding that DESA company executives had hired them to kill Berta because the protests she had led were causing the company delays and financial losses. On 5 July 2021, the Criminal Sentencing Court in Tegucigalpa, Honduras, found former DESA president and U.S.-trained military intelligence officer, David Castillo, guilty as co-perpetrator of Berta's murder. Telecommunications data extracted from the phones of those convicted of Berta's murder in 2018, as well as from Berta's phone and that of Daniel Atala, financial director of DESA, was relied upon as key evidence in the case proving Castillo's involvement in the planning and execution of the plan to assassinate Berta. Following appeals from the eight convicted men, the Supreme Court of Honduras ultimately confirmed their sentences in November 2024 and February 2025.

Honduras's conviction of eight men in connection with Berta Cáceres' murder was historic, as securing murder convictions in Honduras is generally challenging, and there is widespread impunity in Honduras and across Latin America for crimes against Indigenous, land, and environmental defenders. However, COPINH repeatedly emphasised that "the road to justice has been arduous and marked by obstacles created by those working to guarantee impunity for the masterminds of the crime".

According to Berta's family and COPINH, those convicted were mainly lower-level players in the plot to murder Berta, and the intellectual authorship of her assassination must still be clarified. On 2 March 2025, COPINH stated: "This ruling confirmed the existence of the criminal structure that killed Berta, linked to the Atala Zablah family and state security forces. Yet, impunity still protects the masterminds. Members of the Atala Zablah family continue to use their power to obstruct truth and justice". The Atala Zablah family is reportedly one of Honduras' most powerful families and was a key shareholder in the DESA project at the time of Berta's murder.

WIDER IMPACT OF THE CASE

International Scrutiny Contributed to Concrete Outcomes

Any discussion of the impact of the IACHR's precautionary measures in Berta's case must first acknowledge that they fundamentally failed to save her life. However, the precautionary measures in Berta's case and their

extension in favour of her close contacts did provide a platform through which Berta's family and other members of COPINH could make demands to the State of Honduras. The involvement of the IACHR and its monitoring of the criminal proceedings in Berta's case likely contributed to the historic conviction of eight men involved in her murder.

Corporate Responsibility for Violence against Defenders

Furthermore, on 15 October 2024, the IACHR, the State of Honduras, and Bertha Zúñiga Cáceres (Berta's daughter, as the representative of the beneficiaries of the precautionary measures) signed an agreement to create an Interdisciplinary Group of Independent Experts (GIEI) to provide technical support to the State of Honduras to investigate the masterminds of Berta's murder and other related crimes. On 12 January 2026, the GIEI released its Final Report on the assassination of Berta Cáceres. The GIEI concluded that Berta's murder was the result of an organised criminal operation and that the State of Honduras violated its duty of due diligence to prevent it. It particularly noted that funds disbursed by international development banks were used to finance illicit activities linked to Berta's murder. It also found that her murder "was a crime with an entrepreneurial motive", that directors of DESA were willing to resort to violence, that the State "failed to exhaustively investigate the role of senior directors and company shareholders", and that the structural cause of the violence was the State's failure to uphold the Lenca people's right to collective property. The GIEI's report also proposed a Comprehensive Reparation Plan and provided detailed recommendations to the State encompassing a broad range of issues relevant to the protection of human rights and the environment.

STRATEGIC FEATURES OF THE CASE

Berta, her Family, and COPINH's Unwavering Commitment to Truth and Justice

In her many years as an activist, leader, and Indigenous, land, and environmental defender, Berta was a powerful voice fighting for her communities' rights and challenging corporations harming the environment. Berta's own activism had garnered international attention, which then sparked global outcry and mobilisation in response to her assassination. Following her murder in 2016, Berta's family – particularly her daughter Bertha Zúñiga Cáceres – and wider community have campaigned tirelessly for justice, continuing her legacy and defending their rights and homes. Members of Berta's family and COPINH have shown bravery and unwavering commitment in demanding that the truth be uncovered, and that not only low-level perpetrators but also the masterminds of her killing be held to account.

The organisations that requested precautionary measures in this case were the *Consejo Cívico de Organizaciones Populares e Indígenas de Honduras* (COPINH), the Center for Justice and International Law (CEJIL), and *Comité de Familiares de Detenidos Desaparecidos en Honduras* (COFADEH).

ADDITIONAL RESOURCES

- 'Berta Cáceres: 2015 Goldman Prize Winner' (The Goldman Environmental Prize).
- 'Berta Cáceres Case' (Civic Space Case Tracker – Robert & Ethel Kennedy Human Rights Center, 14 February 2025).
- 'Blood River: An environmental activist is shot dead, sparking a long and twisting investigation. But will her killers get away with murder?' (Bloomberg).
- Eli Moskowitz and Mariana Castro, 'New And Repeated Failures': CABEI's Many Mistakes in Funding the Agua Zarca Dam' (Organized Crime and Corruption Reporting Project, 1 November 2023).
- Grupo Interdisciplinario de Expertos Independientes (GIEI) Honduras, 'INFORME FINAL. Informe sobre el asesinato de la defensora de derechos humanos Berta Cáceres y delitos conexos. Medidas de reparación integral y recomendaciones. [FINAL REPORT. Report on the assassination of human rights defender Berta Cáceres and related crimes. Comprehensive reparations measures and recommendations.]' (12 January 2026).
- 'Honduras: Tribunal declara culpable a David Castillo, ex ejecutivo de energía de DESA, de ayudar a planear el asesinato de Berta Cáceres en 2016 [Honduras: Tribunal finds David Castillo, former DESA energy executive, guilty of helping to plan the 2016 murder of Berta Cáceres' (Business and Human Rights Resource Centre, 6 July 2021).
- IACHR Resolution 88/2021 'Berta Isabel Cáceres, her nuclear family, members of COPINH, et al. regarding Honduras' (15 November 2021) Precautionary Measures No. 405-09 and 112-16.
- 'Justicia para Berta Cáceres: Conoce la Causa Berta Cáceres [Justice for Berta Cáceres: Learn about the Berta Cáceres cause]' (COPINH).
- Lisa Veneklasen, 'Berta Vive! Lessons from Honduras on resistance' (openDemocracy, 3 March 2017).
- Oxfam and Terco Producciones, 'Berta Vive' (Tercer Piso).
- Wendy Rayón Garay, 'Caso Berta Cáceres. Corte Suprema de Justicia de Honduras ratifica la sentencia de Sergio Rodríguez [Berta Cáceres Case: The Supreme Court of Justice of Honduras upholds the sentence of Sergio Rodríguez]' (Cimacnoticias, 12 February 2025).
- Zachary Gianotti, 'Berta Cáceres: Honduran Indigenous Rights Activist and Environmental Martyr' (Santa Clara Markkula Center for Applied Ethics).

THE CASE OF PABLO LÓPEZ ALAVÉZ CONCERNING MEXICO (2017)

Link to the decision

UN Working Group on Arbitrary Detention

INDIGENOUS, LAND, AND ENVIRONMENTAL DEFENDERS • EROSION OF DUE PROCESS • RIGHT TO A FAIR TRIAL • ARBITRARY DETENTION • DISCRIMINATION

CASE SUMMARY

Pablo López Alavéz is an Indigenous environmental activist from Mexico who was arrested without a warrant, subjected to a flawed judicial process, and sentenced after a trial marked by serious irregularities. The WGAD found his incarceration to be arbitrary and concluded that his conviction lacked a legal basis, resulted from discrimination and retaliation for his environmental and community activism, and violated fair trial guarantees.

The decision's significance lies in its broad legal and advocacy impact. It is one of the WGAD's clearest articulations of how the criminalisation of Indigenous environmental defenders constitutes arbitrary detention under international law.

THE FACTS AND PROCEDURAL HISTORY

Pablo López Alavéz is from the Indigenous community of San Isidro Aloápam, Mexico. He is a farmer and defender of ecological, Indigenous, and community rights. For 20 years, Pablo worked to defend forests and water rights in the San Miguel and San Isidro Aloápam regions against illegal deforestation programmes. Through these efforts, Pablo held several public-facing leadership positions, which made him the target of authorities and militias. According to the Indigenous Magonista organisation CIPO-RFM, Antorcha Campesina (National Torch Movement) – a political organisation that has repeatedly been accused of corruption in the logging business – consistently targeted Pablo for his activism.

On 15 August 2010 in Rio Virgen, Ixtlán de Juárez, Oaxaca, Pablo was driving with his wife, Yolanda, and their grandson, when a truck cut them off the road and forced him to pull over. Fifteen men in black clothing with their faces covered exited the truck carrying rifles. Some of the men forced Yolanda and her grandson to the ground

at gunpoint, while the others dragged Pablo out of his vehicle and beat him. The men then tied him up, forced him into the back of their truck, and drove to another town where they handed him over to the state police. The next day, the police detained Pablo in Villa de Elta, Oaxaca, on charges of committing aggravated homicide in San Miguel Aloápam on 18 June 2007. The official record states that Pablo committed the alleged homicide after a long-standing land and forestry dispute between San Isidro Aloápam and San Miguel Aloápam, a neighbouring community. Oaxaca state authorities framed the murder as being the result of a local, inter-community conflict because the victim, according to judicial filings, was a member of the neighbouring community.

Pablo told the state police that he was innocent and that he was not in San Miguel on 18 June 2007, but rather was working construction in a community eight hours away. He provided witness statements proving this fact, as well as a statement from that community's police department. Nevertheless, in 2017, Pablo was sentenced to 30 years in prison. In October 2018, the Second Criminal Chamber of the Superior Court of Justice of Oaxaca confirmed this sentence. In October 2020, the proceedings were reopened due to multiple irregularities in the Court's opinion from the first trial. Finally, on 6 March 2025, the First Court for the Conclusion of Traditional Criminal Cases of the State of Oaxaca sentenced Pablo to 30 years imprisonment and a fine of 112,000 Mexican pesos (over 5,000 EUR).

His case was taken to the WGAD, which transmitted a communication to the Mexican Government on 8 February 2017. However, the Government failed to respond before the WGAD's deadline.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its Opinion adopted in April 2017, the WGAD found that Pablo López Alavéz's imprisonment violated several international human rights, specifically: the rights to freedom of expression and participation in public affairs (Articles 19 to 21 UDHR; Articles 19, 21, 22, and 25 ICCPR; and Articles 13, 15, 16, and 23 of the American Convention); the right to be informed of charges in a timely manner (Article 9(2) ICCPR); and the right to equality before the law (Article 7 UDHR, Articles 2 and 26 ICCPR, and Article 24 of the American Convention). The WGAD determined that Pablo's incarceration was arbitrary according to the Working Group's definition, specifically in WGAD categories I (no legal basis for the deprivation of liberty), II (the deprivation of liberty results from the exercise of certain rights and freedoms guaranteed by the UDHR and the ICCPR), III (violation of the right to a fair trial), and V (the deprivation of liberty constitutes a violation of international law on the grounds of discrimination).

The WGAD requested the Government of Mexico to take the steps necessary to remedy the situation and bring it into compliance with the relevant international norms under the UDHR and the ICCPR.

Arbitrariness and Lack of Legal Basis for Detention

The WGAD found that Pablo's imprisonment was arbitrary because it lacked a legal basis. It found that the authorities failed to produce a valid arrest warrant or to demonstrate that the deprivation of liberty complied with domestic and international procedural standards. Pablo was reportedly not informed promptly and in detail of the reasons for his arrest, nor brought before a judge without delay, violating the requirements under the ICCPR.

Violation of Fundamental Freedoms (Discriminatory or Retaliatory Motive)

The WGAD also found that Pablo's arrest and imprisonment were linked to his status and activities as an environmental and community leader in Oaxaca. It highlighted that Pablo was repeatedly harassed and threatened by the police for exercising his rights to freedom of opinion, expression, and association. The WGAD concluded that the targeting of Pablo demonstrated that his deprivation of liberty was not based on genuine criminal grounds, but on discriminatory and political motives designed to suppress his activism.

Denial of Fair Trial Guarantees

The WGAD held that the proceedings leading to Pablo's conviction were so fundamentally flawed that they violated his right to a fair trial. Throughout the judicial process, he was subject to several due process violations, including evidentiary issues; the court ignoring inconsistencies in the dates, times, and places of the alleged events; and a failure by the court to involve experts in the proceedings, among other violations. Moreover, his prolonged pre-trial detention and the lack of effective judicial review violated the UDHR and other relevant international instruments that Mexico has ratified.

WIDER IMPACT OF THE CASE

Discrimination Against Environmental Defenders

The WGAD's Opinion became a key reference point in efforts to curb the criminalisation of human rights defenders, particularly Indigenous, land, and environmental defenders in Latin America. In recognising that Pablo's detention was arbitrary in part because it was motivated by his legitimate activism defending forests and Indigenous land rights, the WGAD highlighted the use of detention as a tool of repression. Multiple civil society organisations including the World Organisation Against Torture (OMCT), Front Line Defenders, and the International Federation for Human Rights (FIDH), have since invoked the case in their respective advocacy materials to illustrate a pattern in how State authorities in Latin America misuse criminal justice mechanisms to silence Indigenous, land, and environmental defenders.

Raising Awareness Internationally

Following the WGAD's findings, the case prompted greater scrutiny of Mexico's use of pre-trial detention and its handling of cases involving Indigenous defendants. Specifically, NGOs cited the Working Group's Opinion in a shadow report for the 2018 session of Mexico's Universal Periodic Review before the UN Human Rights Council to illustrate Mexico's non-compliance with the ICCPR's due-process guarantees. Moreover, the Special Rapporteur on the situation of human rights defenders, Mary Lawlor, referenced Pablo's case in her report to the Human Rights Council in December 2020 and again in a public statement in November 2024, specifically to express concern about the arbitrary detention of Indigenous human rights defenders in Mexico. Despite the widespread impact that the WGAD Opinion has had on advocacy work in this area, at the time of writing, Pablo remains arbitrarily detained and the campaign to free him continues.

STRATEGIC FEATURES OF THE CASE

Yolanda Pérez Cruz's Advocacy

The organisation that supported Pablo in bringing his case before the WGAD is a women's rights organisation, *Consorcio para el Diálogo Parlamentario y la Equidad Oaxaca* (Consorcio Oaxaca). Before working on Pablos' case, Consorcio Oaxaca had already been supporting Pablo's wife, Yolanda Pérez Cruz, who is an Indigenous environmental defender in her own right. Yolanda is dedicated to defending her community and protecting its natural resources. She has also been very active in campaigning for her husband Pablo's release since his arrest, and has suffered many threats due to her advocacy. Yolanda's activism and her relationship with Consorcio Oaxaca originally led the organisation to represent Pablo, and her involvement has greatly strengthened advocacy efforts on Pablo's behalf.

Generating International Political Pressure

Pablo's representatives brought his case before the WGAD not necessarily with the intention that the Working Group's decision would lead to immediate changes in the criminal case against him. Instead, they brought the case with the purpose of generating international political pressure on the Mexican Government, and to create visibility of the case as one that is emblematic of the criminalisation of Indigenous environmental defenders in the country.

Framing the Case in the Broader Context of Repression

Rather than representing Pablo's case as a singular miscarriage of justice, his representatives framed the facts of his case as part of a broader pattern of repression against Indigenous and environmental defenders in Mexico. The litigation strategy drew explicitly on precedents involving other detained defenders, most notably the case of Damián Gallardo Martínez, who was released following political negotiations and the publication of a similar WGAD Opinion. Pablo's representatives contextualised his arrest and detention within the systemic criminalisation of social protest and the widespread repression in Mexico that is often linked to land, resources, and infrastructure disputes.

Integration of Litigation and Advocacy

In order to ensure that the WGAD Opinion had a meaningful impact, Pablo's representatives coordinated their legal efforts with international advocacy and media engagement. The WGAD Opinion was used to inform public statements by international actors, including the UN Special Rapporteur on human rights defenders. Civil society organisations have also used the Opinion to bolster further advocacy on Pablo's case with European Union actors. Finally, the legal representatives ensured that there was sustained media attention on Pablo's case, both before and after the WGAD published its Opinion.

The Legal Representatives for the Complainant are *Consorcio para el Diálogo Parlamentario y la Equidad Oaxaca* (Consorcio Oaxaca).

ADDITIONAL RESOURCES

- Alejandro Santos, 'In jail with Pablo López Alavez, 13 years behind bars in Mexico for a crime he did not commit' (El País, 1 August 2023).
- 'Arbitrary Detention of Damián Gallardo Martínez' (Front Line Defenders).
- Chico Phat-Fingers, 'Communique from CIPO-RFM Demanding Freedom for Political Prisoner Pablo López Alavéz and Justice for the Indigenous Communities of Oaxaca' (Voices in Movement, 20 June 2018).
- Ligimat Perez, 'The Case of Pablo López: A Murder Trial That Could Shape the Future of Mexican Forests' (Front Line Defenders Blog, 6 November 2019).
- 'Mexico: Due Process Analysis of the Criminalization of Indigenous Defender Pablo López Alavéz' (American Bar Association, 18 September 2024).
- 'Mexico: Next sentencing hearing of human rights defender Pablo López Alavez' (Front Line Defenders, 3 March 2025).
- 'Mexico: Organisations reject the 30-year imprisonment sentence against Pablo López Alavez' (International Federation for Human Rights, 14 March 2025).
- Suchitra Vijayan, Front Line Defenders and Consorcio Oaxaca, 'Pablo López Alavez – 15 Years in Prison for Defending Forest and Indigenous Territories in Mexico' (The Polis Project, 15 August 2025).
- Thomas Graham, 'He fought to stop the forest being felled. The price was 30 years in prison for a murder he says he did not commit' (The Guardian, 24 April 2025).
- UN Working Group on Arbitrary Detention, 'Opinions adopted by the Working Group on Arbitrary Detention at its seventieth session, 25-29 August 2014' (3 November 2014) A/HRC/WGAD/2014/23.

THE CASE OF BRUNO ARAÚJO PEREIRA AND DOM PHILLIPS CONCERNING BRAZIL (2022)

Link to the decision

Inter-American Commission on Human Rights

INDIGENOUS HUMAN RIGHTS DEFENDERS • STATE INACTION • NEGLECT OF INDIGENOUS RIGHTS WORK • PRECAUTIONARY MEASURES • JOURNALISTS

CASE SUMMARY

Bruno Araújo and Dom Phillips were targeted for their work documenting threats to Indigenous communities in Brazil's Javari Valley, one of the largest Indigenous lands in the country and long marked by violence against environmental defenders and Indigenous peoples, and by violence committed by criminal networks. Bruno and Dom's disappearance in June 2022 – and the Brazilian State's delayed and inadequate response to their disappearance – exposed entrenched failures to protect those who defend Indigenous rights in the region.

In 2022, the IACHR issued precautionary measures, noting that Brazil had not taken sufficient measures to prevent irreparable harm and safeguard the rights of Bruno and Dom. Their case is emblematic of the systematic violence facing environmental and Indigenous human rights defenders in the Amazon and reaffirmed that States have a positive obligation to ensure their effective protection from human rights violations.

THE FACTS AND PROCEDURAL HISTORY

Bruno Araújo Pereira was an Indigenous rights defender and expert and the regional coordinator for Brazil's National Indigenous Foundation (FUNAI). Bruno and Dom Phillips, an English journalist contributing to The Guardian and other international news agencies, had been working together since 2018 to document the strategies adopted by Indigenous communities in the Javari Valley region to protect the Amazon, and the threats they faced as a result. Both men disappeared on 5 June 2022, while travelling through this remote Indigenous territory, an area bordering Peru and Colombia and marked by intense pressure from illegal mining, logging, fishing, and drug trafficking. They were last seen travelling to meet an Indigenous surveillance team, but never arrived. Their work gave origin to Dom Phillips' book, *How to Save the Amazon*, which was finalised by his family and friends.

Following their disappearance on 6 June 2022, State authorities failed to take immediate action, with military units claiming they were awaiting higher orders despite the urgency posed by the region's dense forest, known criminal activity, and risks to defenders of Indigenous rights. Civil society mobilisation prompted a petition on 7 June requesting multimodal search efforts. Although the Brazilian Navy and the Attorney General's Office later announced search operations, and a federal judge ordered the State of Brazil to facilitate aerial and riverine searches, these measures were criticised as delayed and insufficient. Indigenous communities also reported ongoing threats and harassment after publicly denouncing the absence of an effective investigative structure.

On 9 June 2022, the IACHR received a request for precautionary measures to protect the rights to liberty and personal integrity of Bruno and Dom, filed by civil society organisations in Brazil.

On 15 June 2022, Bruno and Dom were found dead after one of the individuals involved confessed to burying the bodies.

THE DECISION AND ITS SIGNIFICANCE

On 11 June 2022, the IACHR issued Resolution No. 24/2022 – Precautionary Measure No. 449-22, requesting the State of Brazil to redouble its efforts to search for Bruno and Dom and determine their situation and whereabouts. The IACHR also requested the State to report on its actions to investigate the facts, which was significant as it allowed the IACHR to further scrutinise Brazil's efforts following the order of precautionary measures.

Seriousness, Urgency, and Irreparable Harm

The IACHR can issue precautionary measures as a method to avoid irreparable harm and protect the exercise of human rights. It examines the problem, the effectiveness of State action to address it, and the vulnerability to which individuals are exposed if precautionary measures are not adopted. It therefore evaluates the seriousness of the issue, the urgency of measures, and risks of irreparable harm.

In this case, the IACHR noted that, despite State action in response to the disappearance of Bruno and Dom, they remained missing, constituting a serious situation. Their situation was especially serious because they were journalists and defenders of the rights of Indigenous peoples who had disappeared in a context marked by repetitive threats and violence against these groups. The Commission also noted the urgency of precautionary measures, given the passage of time without knowledge of their whereabouts. It also established that given the potential impact to life and personal integrity, there was a risk of irreparable harm.

Revealing Systematic Violence against Environmental and Indigenous Defenders

The investigations conducted by Brazilian authorities into their disappearance and deaths revealed that Bruno and Dom were specifically targeted because of their work monitoring and protecting the Javari Valley and its Indigenous communities. It was also clear that their disappearance and killing happened amidst a pattern of threats towards other advocates and defenders of the rights of the Indigenous peoples in the region. These violations and subsequent investigation also shed light on the insufficient protection afforded to these groups by the State of Brazil, especially given the well-documented harm to biodiversity and exploitation of natural resources by armed groups and in connection with criminal activity. While the case contributed to greater visibility of these issues, the type of violence committed against Bruno and Dom persists in the country.

WIDER IMPACT OF THE CASE

From an Individual Case to Structural Protection

The initial goal of this case was to elicit a protection response from the IACHR (which, tragically, failed to save Bruno and Dom's lives) and prompt Brazil to investigate the disappearance and eventual murders of Bruno and Dom. Later, the case strategy expanded to respond to other threats against human rights defenders. Beyond the immediate circumstances of Bruno and Dom's case, in October 2022 the measures adopted by the IACHR were expanded to encompass broader protection to communities in the Javari Valley, in recognition of systematic violence and intimidation against defenders of Indigenous rights and the environment (Resolution No. 29/22). The IACHR's Resolution and its reports on structural protection resulted in concrete changes in Brazil.

This included the creation of the *Mesa de Trabalho Conjunta*, a joint working group composed of different branches of the Government and local authorities who, for the first time, were brought together to elaborate a coordinated response to those violations and ensure sustained protection to communities in the Javari Valley. Measures also expanded beyond physical protection to include improved communication mechanisms, and served to clearly communicate that criminal activity would not be allowed in the region, although challenges remain. Litigants in the case note that this case clearly impacted the lives of Indigenous people in the region, with some reporting that it was the first time they felt official authorities showed genuine interest in their protection.

Reframing Violent Crime as Attacks on Human Rights Defenders

The case and the IACHR Resolution also contributed to recognising allegations, and prosecuting acts of violence not as "ordinary" violent crime (or non-systematic violence), but rather as targeted attacks on environmental and Indigenous defenders in the Javari Valley. As the investigation in the case unfolded and charges against perpetrators were brought, prosecutorial authorities explicitly recognised that Bruno was specifically targeted due to his work as a human rights defender. This not only served as an official acknowledgment of a larger systemic issue but contributed to increased visibility of threats and violations faced by human rights defenders. It could also provide an opportunity for relevant authorities and the criminal justice system in Brazil to identify and tackle the root causes of such violence.

STRATEGIC FEATURES OF THE CASE

Creation of the Working Group

As the strategic focus of the case expanded to encompass broader violations, the establishment of the *Mesa de Trabalho Conjunta* represented a decisive step towards closing the persistent gap between international human rights mandates and recommendations and their concrete implementation at the national level. This working group emerged as a substantive mechanism capable of facilitating dialogue with affected Indigenous groups and follow-through on the precautionary measures issued by the IACHR. It was created not only to oversee immediate IACHR measures, but also to address the systemic failures that enabled the ongoing violations against human rights defenders. As such, the working group served as a bridge to implementation — translating international decisions into coordinated national action. Litigants have suggested that, without it, some precautionary measures would likely not have been implemented. The

strategic relevance of the working group also goes beyond the individual case, serving as a model for other cases where national coordination might be required to implement structural changes in practice.

Centring Indigenous Communities

The legal team acknowledged the leadership of Indigenous communities and their role as primary actors in both the response and broader protection strategy. Javari Valley communities had surveillance systems, territorial knowledge and protective practices that State authorities lacked, which also meant they were the most effective responders after Bruno's and Dom's disappearances in 2022. Recognising this, the legal team involved in the case emphasised that Indigenous teams had already mobilised search efforts long before Government institutions acted, illustrating the necessity of shifting the focus of authority towards those with operational familiarity with the territory. This helped reframe protection not as something delivered to Indigenous peoples, but as something shaped by them. The approach taken by the legal team and their close collaboration with these communities in this case also strengthened the region's expanding Indigenous activism. As Indigenous peoples entered fields such as law and journalism following this case, the communities were empowered to articulate their own claims, document threats, and advocate for real change.

The organisations that requested the precautionary measures in this case were *ARTIGO 19 Brasil e América do Sul*, Vladimir Herzog Institute, the Regional Alliance for Free Expression and Information, *Repórteres sem Fronteiras, Associação Brasileira de Jornalismo Investigativo* (ABRAJI), TORNAVOZ, and Washington Brazil Office (WBO).

ADDITIONAL RESOURCES

- 'Brazil: three years after the murder of Dom Phillips and Bruno Pereira, RSF calls for justice and the protection of environmental journalists' (Reporters Without Borders (RSF), 5 April 2025).
- 'EVU – Equipe de Vigilância da UNIVAJA' (UNIVAJA).
- IACHR, *Rules of Procedure of the Inter-American Commission on Human Rights* (approved 2009, amended 2011 and 2013), article 25.
- Jake Spring and Anthony Boadle (Reuters), 'Brazil indigenous defender, sidelined under Bolsonaro, gave life for "abandoned" tribes' (bdnews34.com, 19 June 2022).
- Jaqueline Sordi, '2 years after Bruno & Dom's murders, Amazon region still rife with gangs' (Mongabay, 10 June 2024).
- 'Precautionary Measures: their practice as a guarantee of respecting fundamental rights and preventing irreparable damage' (IACHR – About Precautionary Measures).
- 'Remains of UK journalist Phillips identified in Brazil' (BBC, 18 June 2022).
- Secretaria de Comunicação Social, 'Federal Police concludes investigation into killings of Indigenous expert Bruno Pereira, journalist Dom Phillips' (Gov.br, 6 November 2024).
- Thiago Alves, 'Brazil police conclude investigation into murders of Dom Phillips and Bruno Pereira' (Brazil Reports, 5 November 2024).
- Tom Phillips, 'Alleged mastermind in murders of Dom Phillips and Bruno Pereira formally charged' (The Guardian, 4 November 2024).
- União dos Povos Indígenas do Vale do Javari [The Union of Indigenous Peoples of the Javari Valley] (UNIVAJA), 'Press Statement on the Disappearance of Bruno Pereira and Dom Phillips' (6 June 2022).
- WWF Brasil, 'Projeto equipa e treina indígenas para defenderem seu território em área ameaçada [Project equips and trains indigenous people to defend their territory in threatened area]' (10 December 2021).

THE CASE OF DANG DINH BACH CONCERNING VIETNAM (2023)

Link to the decision

UN Working Group on Arbitrary Detention

ENVIRONMENTAL DEFENDERS • ARBITRARY DETENTION • DEPRIVATION OF LIBERTY • POLITICAL ACTIVISM • DUE PROCESS • FAIR TRIAL RIGHTS • DISCRIMINATION BASED ON POLITICAL OPINION

CASE SUMMARY

Dang Dinh Bach is known for the impact that he has made as an environmental defender in Vietnam. Bach has dedicated his life's work to protecting communities impacted by pollution and supporting the Vietnamese Government's transition to clean energy. His advocacy efforts were eventually silenced by the Vietnamese Government in 2021, when he was arrested in his home and charged with tax fraud. Following his arrest, Bach was subjected to severe pre-trial detention conditions including *incommunicado* detention and was denied access to legal counsel. In 2023, the WGAD found that Vietnam had violated international law by depriving Bach of his liberty.

This case is part of a pattern of cases in which the Vietnamese Government has weaponised its tax law as a tool to silence and arbitrarily detain human rights defenders. Bach's case highlights an ongoing problem in the Vietnamese judicial system and the risks associated with dissenting against the Government.

THE FACTS AND PROCEDURAL HISTORY

For many years leading up to his arbitrary arrest, Dang Dinh Bach was a prominent voice in environmental activism in Vietnam. Using his legal expertise, Bach defended communities affected by industrial pollution, hydropower displacement, and coal expansion. He also helped shape national environmental policy by pushing for plastic and asbestos bans in Vietnam, and trained over 100 young lawyers in the field of public interest law. He co-founded and directed the Law and Policy of Sustainable Development Research Centre (LPSD), a non-profit organisation that supported communities to use the law to protect the environment and public health. Bach's involvement from 2011-2021 encouraged people to ask more of their Government which made Bach a "dangerous" activist in the eyes of the Vietnamese State.

In June 2021, Bach was arrested in his home without an arrest warrant. A criminal case was initiated against Bach for allegedly failing to properly account for foreign funding at his non-profit organisation. After his arrest, Bach was held *incommunicado*, meaning that he was prevented from communicating with his family or his lawyer for nearly seven months, from 24 June 2021 to 14 January 2022. When his lawyer was finally permitted to visit him on 14 January 2022, Bach informed them that he had been on a hunger strike since 10 January 2022 in protest of his *incommunicado* detention. His lawyer noted that Bach had lost significant weight because of this hunger strike. Despite Bach's hunger strike and numerous requests to speak to his lawyer and see pictures of his family, the Vietnamese authorities continued to deny Bach's requests.

Bach is currently being held in a facility eight hours away from his family. He depends on his family's supplies for food since he is a vegetarian, yet prison authorities are not providing that diet to him. Bach continues to be denied access to hot water as well as supplies such as books, hygiene products, and traditional medicines.

In preparation for his trial in January 2022, Bach was not allowed to communicate with his lawyer, who was informed of the trial date only three days in advance, leaving little time to prepare a defence. During the trial, the prosecution did not give Bach's lawyer the opportunity to question the prosecution's evidence, and the proceedings were closed to observers. Bach was also denied the right to submit a defence and his right to the presumption of innocence was consistently undermined. Although the prosecution recommended a three-year sentence, the court imposed a five-year sentence after minimal deliberation, suggesting that Bach's guilt had been predetermined. Even during the appeal process, Bach was denied communication with his lawyer and family. The appeal hearing was guarded, and Bach's family, as well as representatives from the U.S. and German embassies, were not permitted to attend. In August 2022, Bach's appeal was dismissed, and his five-year sentence was confirmed.

Bach took his case to the WAGD, and on 30 November 2022, the WGAD transmitted the allegations concerning his arrest and detention to the Vietnamese State, requesting a reply by January 2023. On 26 January 2023, the State requested an extension, which was granted. However, the State never provided a reply.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its Opinion of May 2023, the WGAD found that Bach's detention is an arbitrary deprivation of liberty, in breach of relevant human rights obligations under the UDHR and the ICCPR. The WGAD noted that Bach's detention does not comply with international norms due to his lengthy *incommunicado* detention, lack of access to legal counsel and family, vague prosecution, and disproportionate sentencing, all based on political discrimination against human rights defenders.

Deprivation of Liberty without a Legal Basis

The WGAD concluded that the Vietnamese Government failed to establish a legal basis for Bach's arrest and detention, making his detention arbitrary. According to Article 9(1) ICCPR, no one may be deprived of liberty except on grounds, and in accordance with procedures, established by law. Additionally, Article 9(2) holds that anyone who is arrested shall be informed, at the time of the arrest, of the reasons for the arrest. In this case,

Bach was not shown an arrest warrant or provided with an explanation of the charges against him. Furthermore, Article 9(3) ICCPR states that pre-trial detention should be exceptional, and not the rule. The WGAD determined that Bach's detention lacked a legal basis and was a violation of this article of ICCPR. Lastly, Article 9(4) states that individuals have a right to challenge their detention. However, because Bach was held *incommunicado*, he was unable to do so.

Criminalisation of Defenders

The WGAD found that Bach's arrest and detention were arbitrary because while Bach's detention was supposedly based on tax violations, the laws used to justify his arrest and detention were actually related to his exercise of freedom of opinion and expression. The WGAD found that the two laws under which Bach was charged are vague and overly broad, such that prosecutions under these laws are likely to discourage people from exercising their freedom of expression.

Right to Fair Trial and Due Process

The WGAD also held that Bach was denied his right to a fair trial and due process required under international law. By holding Bach *incommunicado*, the Vietnamese State violated his right to prepare an adequate defence and to meaningfully consult his lawyer. Bach's fair trial and due process rights were further violated because: the State undermined the presumption of innocence in his case; he was not tried by a competent, independent and impartial tribunal; and his appeal hearing was so flawed that the State failed to fulfil its duty to properly review his conviction and sentence.

Discrimination against Environmental Activists

Lastly, the WGAD held that Bach's detention constituted a violation of international law on the grounds of discrimination based on political or other opinion, in connection with his environmental work. In the absence of a reply from the Vietnamese State, the WGAD found it credible that Bach had been targeted because of his environmental activism, noting that there is a pattern of the State targeting environmental activists. The WGAD noted that when detention results from the exercise of civil and political rights, there is a strong presumption that the detention is discriminatory and thus a violation of international law.

WIDER IMPACT OF THE CASE

Drawing Attention to Bach's Case and Legitimising his Claims

Although Bach remains detained, the decision exposed the dangerous and illegal tactics used by the Vietnamese State to silence his voice and those of other environmental defenders in Vietnam. The opinion drew attention to Bach's case and promoted solidarity standing against imprisonment as a form of silencing activists like Bach. Bach and his advocates have since used the WGAD Opinion as an advocacy tool – for example when raising his case at the UN – and have found that the WGAD Opinion helps lend legitimacy to Bach's claims against Vietnam. At the same time, it is possible that the WGAD Opinion may have led to an instance of retaliation against Bach, as he was repeatedly stabbed by a prison guard sometime after it was issued.

Recognition of Nexus between Political Discrimination and Detention

The WGAD Opinion clearly outlines the use of arbitrary detention as a method for political discrimination against individuals exercising their freedom of expression. By adopting this Opinion, the WGAD demonstrates a clear link between arbitrary detention weaponised by States against political activists and environmental defenders such as Bach. The Opinion verified the nexus between the deprivation of liberty and grounds of discrimination based on political advocacy as a pattern of human rights violations used by the State for years. This decision led to discussion on an international level about discrimination as an underlying element of arbitrary detention for human rights defenders experiencing extreme detention conditions.

STRATEGIC FEATURES OF THE CASE

A Pragmatic Approach

According to Bach's legal team at the Environmental Law Alliance Worldwide (ELAW), they made a submission to the WGAD because challenging his arbitrary detention was their primary objective, and they considered it the fastest and most effective available avenue. The lack of independence of the judiciary in Vietnam was a critical issue in Bach's case, but attempting to make broader claims on this point to relevant UN mechanisms would be less likely to lead to Bach's release. The case strategy therefore intentionally focused on proving that Bach's detention was arbitrary.

Bach and his legal team also submitted an individual communication to the UN Special Rapporteur on Torture in February 2024, alleging that the State had failed to protect Bach's right to be free from torture or other ill-treatment while in custody, given a physical attack he suffered in prison, and given the State's ongoing failure to provide adequate food, medicine, and adequate conditions to maintain his physical and mental well-being. At the time of writing, Bach is still waiting to receive any reply to his communication from the Special Rapporteur.

Combining Legal Tools and Advocacy

In a coordinated effort, Bach's team – including ELAW and the NGO International Rivers – utilised public advocacy strategies to engage the public. For example, they created a website that was accessible to the public along with a hashtag – #standwithbach — to gain public support. Bach's case came to the attention of many, shining a light on the abuses of the Vietnamese State. According to Bach's legal team at ELAW, while public support and media attention have not yet led to Bach's release, they are likely contributing factors in ensuring that Bach has remained alive while in detention in Vietnam, as the State knows that the world is watching Bach's case.

The Legal Representatives for the Complainant are the Environmental Law Alliance Worldwide (ELAW), as well as International Rivers and EarthRights International.

ADDITIONAL RESOURCES

- 'About Dang Dinh Bach' (#StandWithBach)
- Mercy Barends, 'Vietnam Committed to Net Zero Emissions by 2050. So Why Is It Arresting Climate Change Activists?' (San Francisco Chronicle, 13 November 2023).
- 'PRESS RELEASE: Esteemed Climate Activist Hoàng Thị Minh Hồng Released from Prison in Vietnam' (350.org., 21 September 2024).
- Stephen Nellis, 'Activists press Apple to oppose Vietnam's detainments of climate experts' (Reuters, 11 April 2024).
- UN Office of the High Commissioner for Human Rights, 'Viet Nam: End Convictions and Deplorable Detention Conditions for Human Rights Defenders, UN Experts Say' (Press Release, 14 February 2024).

OTHER POLITICAL DISSIDENTS OR ABUSE IN DETENTION SETTINGS

GOIBURÚ ET AL. V. PARAGUAY (2006)

Link to the decision

Inter-American Court of Human Rights

POLITICAL DISSIDENTS • ENFORCED DISAPPEARANCE • UNLAWFUL AND ARBITRARY DETENTION • EXTRATERRITORIAL JURISDICTION

CASE SUMMARY

In the 1970s under General Alfredo Stroessner Matiauda's dictatorship in Paraguay (from 1954-1989), Paraguayan authorities illegally and arbitrarily detained, tortured, and forcibly disappeared Agustín Goiburú Giménez, Carlos José Mancuello Bareiro, and the brothers Rodolfo Feliciano and Benjamin de Jesús Ramírez Villalba, to silence their dissent. In 2006, the IACtHR found that the Paraguayan authorities disappeared these men, held them in detention, and tortured them, concealing this treatment from their families. The Court held Paraguay responsible for multiple violations of the American Convention and recognised enforced disappearance as amounting to a crime against humanity.

THE FACTS AND PROCEDURAL HISTORY

From the mid-1970s to the early 1980s, military dictatorships in Argentina, Chile, Uruguay, Paraguay, and Brazil used a coordinated system of State repression to violently persecute dissidents and quash dissent; this system was known as 'Operation Condor'.

Dr. Agustín Goiburú Giménez was a Paraguayan doctor, a member of the Colorado Party, and founder of an opposition political party. Agustín made public statements against the violent practices employed by security forces against civilians in Paraguay, and fled to Argentina to avoid a harassment campaign against him. In 1977, in a joint operation of Argentinian and Paraguayan security forces in the context of Operation Condor, Agustín was illegally arrested in Argentina and brought back to Paraguay. He was accused of plotting to assassinate General Stroessner, and although no official record of his arrest exists, multiple witnesses reported seeing him held in Paraguayan State prisons, where according to their testimony, he was brutally tortured, including by being beaten extensively and submerged in a water tank.

General Stroessner's dictatorship collapsed in 1989. In December of 1992, documents later known as the 'Terror Files' surfaced, revealing extensive evidence of mass violations committed during the dictatorship. Paraguay adopted a new constitution in June 1992, and enacted compensation measures for victims of abuses from 1954 to 1989.

In 1997, Agustín's wife, Elva Elisa Benítez de Goiburú, filed a criminal complaint against General Stroessner and others for crimes committed against Agustín. The complaint was admitted by a criminal court in Paraguay, and judicial proceedings began in 1998. The court ordered General Stroessner and another accused person to present themselves to go on trial, but neither of them appeared. The court held them in contempt, and ordered General Stroessner's extradition from Brazil, where he had been given political asylum. General Stroessner remained in Brazil until his death in August 2006.

Between 1995 and 1996, Global Rights Partners for Justice and Church Committee for Emergency Aid (CIPAE) submitted petitions to the IACHR regarding the detention, torture, and disappearance of four men: Agustín Goiburú Giménez, Carlos José Mancuello Bareiro, and the brothers Rodolfo and Benjamín Ramírez Villalba. The IACHR processed these cases together, and in 2004, adopted its Admissibility and Merits Report No. 75/04, finding Paraguay responsible for illegal and arbitrary detentions, forced disappearances, torture, and the failure to investigate and implement reparations for the victims. The IACHR made recommendations to Paraguay to remedy the violations. In 2005, after determining that Paraguay had failed to comply with these recommendations, the IACHR submitted the case to the IACtHR's jurisdiction.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its judgment issued on 22 September 2006, the IACtHR held that the Paraguayan Government had violated the following rights of the four men under the American Convention: the rights to life (Article 4(1)), humane treatment (Articles 5(1) and 5(2)), personal liberty (Article 7), the right to a fair trial (Article 8), and the right to judicial protection (Article 25). In its decision, the Court held that Paraguay was responsible for the forced disappearance, torture, and extrajudicial execution of the victims targeted under the dictatorship, and that these crimes constituted crimes against humanity. Furthermore, it found that Paraguay violated multiple rights under the American Convention by committing the abuses and failing to investigate them for decades.

Enforced Disappearance as a Crime Against Humanity

The IACtHR found that enforced disappearance is a crime against humanity when carried out as part of a systematic pattern of State repression. Additionally, it held that Paraguay bore full international responsibility for the actions of the dictatorship, including the kidnapping and disappearance of Agustín; torture and inhuman treatment; extrajudicial execution; and failure to investigate, prosecute, or punish those responsible.

The Court declared for the first time the prohibition of enforced disappearances and the obligation to investigate and punish those responsible as having attained the status of jus cogens. In other words, this case identified the gravity of enforced disappearances and the obligation to prosecute them as a fundamental principle of international law.

State Responsibility to Prevent Impunity

The facts of this case occurred within the context of systematic human rights violations which had been carried out with impunity. The Court's decision highlights the importance of combatting these crimes by determining general State responsibility and individual criminal responsibility. The Court ordered Paraguay to adopt necessary measures to ensure violations do not go unpunished, including by taking steps to further extraterritorial jurisdiction where necessary.

WIDER IMPACT OF THE CASE

Exposing Abuse and Transnational Repression During Dictatorships in South America

This case has had a significant impact on how the international human rights system understands State responsibility for past human rights violations. This ruling was the first international decision to explicitly recognise Operation Condor as a coordinated, transnational system of State terror. This recognition later helped establish a legal foundation for prosecutions in Argentina, Chile, and Uruguay. The case also expanded the obligations for States transitioning from a dictatorship. Specifically, it clarified that States have an obligation to right the wrongs of previous regimes and to fulfil the duty to investigate, prosecute, search for the disappeared, and repair the harm.

The Development of Standards to Eradicate Enforced Disappearance

The ruling of the Court on the *jus cogens* nature of the prohibition of enforced disappearance has been used by practitioners in the region to litigate later cases of enforced disappearances in many other countries, and clarify the State obligations to prevent, protect, and redress this grave violation.

STRATEGIC FEATURES OF THE CASE

Testimony of Family Members

The legal representatives in this case helped to gather and present the sworn witness statements of several family members of the four primary victims in the case. In its judgment, the Court relied on these witness statements to help establish the facts – including the intense suffering of the family members of the four men who were forcibly disappeared – ultimately finding that Paraguay had violated the family members' right to humane treatment.

The Legal Representatives for the Petitioners were International Human Rights Law Group/Global Rights Partners for Justice (Global Rights) and *Comité de Iglesias Para Ayudas de Emergencia* (CIPAE).

ADDITIONAL RESOURCES

- 'Inter-American Court' (Plan Cóndor).
- 'Goiburú et al. v. Paraguay' (Loyola Law School – Cases).
- 'Goiburú et al. v. Paraguay' (The Enforced Disappearance Legal Database).
- Laurence Burgorgue-Larsen, 'Forced Disappearance' in Laurence Burgorgue-Larsen and Amaya Úbeda De Torres, *The Inter-American Court of Human Rights* (1st edn, Oxford University Press 2011).

MAGNITSKIY AND OTHERS V. RUSSIA (2019)

Link to the decision

European Court of Human Rights

WHISTLEBLOWER RETALIATION • POLITICAL DISSENT • ILL-TREATMENT IN DETENTION • MEDICAL NEGLECT • RIGHT TO LIFE • ARBITRARY DETENTION • POSTHUMOUS CONVICTION • PRESUMPTION OF INNOCENCE

CASE SUMMARY

Sergei Magnitskiy, a Russian tax lawyer and auditor, was arrested in 2008 shortly after alleging large-scale tax fraud by State officials. While in pre-trial detention, he was denied urgent medical care despite repeated complaints and deteriorating health. He died in custody in November 2009. After his death, Russian authorities pursued a posthumous prosecution against him, ultimately convicting him of tax evasion in 2013. His widow and mother lodged applications before the ECtHR, alleging multiple violations under the ECHR.

The ECtHR found violations of several human rights under the ECHR, including that Sergei had been held in inhuman conditions, subjected to ill-treatment by prison guards, denied essential medical care, and that the authorities had failed to carry out an effective investigation into his death. It also ruled that the posthumous conviction violated the principle of the presumption of innocence and the right to a fair hearing.

This judgment highlights the systemic mistreatment of political dissidents in Russia and establishes clear standards for the State's duty to protect the lives and dignity of detainees, including through the provision of adequate healthcare and effective investigations into custodial deaths.

THE FACTS AND PROCEDURAL HISTORY

Sergei Magnitskiy worked for Firestone Duncan, a Moscow-based law and audit firm advising the Hermitage Fund. In 2007, he uncovered a scheme in which Russian officials fraudulently re-registered Hermitage subsidiaries and obtained a USD 230 million tax rebate from the Russian Treasury. After publicly implicating Ministry of Interior officials, Sergei was arrested by the very authorities he had accused, and was charged with tax evasion in November 2008.

Sergei was held in pre-trial detention for nearly a year, during which time his health deteriorated rapidly. He was diagnosed with gallstones and chronic pancreatitis, yet the prescribed surgery and adequate medical treatment were never provided. He was transferred at least 20 times between detention centres, where conditions were overcrowded and unsanitary. On the day of his death, despite signs of a medical emergency, he was denied timely access to a hospital and was allegedly beaten by prison guards. Sergei died that evening in Matrosskaya Tishina prison.

Despite his death, Russian authorities pursued criminal proceedings against Sergei. In 2013, he was posthumously convicted of tax fraud in a trial widely condemned as politically motivated.

Sergei's widow and mother lodged two separate applications with the ECtHR, alleging ECHR violations, particularly the right to life (Article 2), the prohibition of torture and inhuman and degrading treatment (Article 3), the right to liberty and security (Article 5), and the right to a fair trial (Article 6). The Court joined the applications.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its judgment of August 2019, the ECtHR found multiple violations of the ECHR.

It held that the Russian authorities failed in their substantive obligation to protect Sergei's life, in violation of Article 2 ECHR. He was denied necessary medical treatment over several months and not transferred for emergency care until it was too late. The Court also found a procedural violation, as the investigation into his death lacked diligence and independence. Crucial evidence was ignored or mishandled, and the eventual closure of the case was cursory.

It found a violation of the prohibition of inhuman or degrading treatment (Article 3 ECHR) as Sergei had been detained in overcrowded, unsanitary cells, and had suffered inhuman conditions that caused him physical and mental anguish. The Court further found credible evidence that he had been ill-treated by prison officers on the day of his death, and that the subsequent investigation into the incident was ineffective.

The ECtHR found that the authorities had failed to justify Sergei's extended pre-trial detention, and that domestic courts had repeated standard justifications without adequately considering the individual circumstances of the case. As such, Russia had violated the right to liberty and security (Article 5(3) ECHR).

The Court held that the decision to proceed with posthumous criminal proceedings against Sergei was unjustified and violated the right to a fair trial and presumption of innocence (Articles 6(1) and 6(2) ECHR). The process was inherently unfair, especially as Sergei's family had explicitly refused to seek his rehabilitation — a posthumous legal process to clear a deceased person's name — yet the authorities proceeded with the trial anyway, without the family's consent.

However, with regard to the lawfulness of Sergei's arrest and initial detention under Article 5(1) ECHR, the ECtHR dismissed the complaint, finding that the authorities had sufficient grounds to suspect him of involvement in tax evasion, and thus the claim was inadmissible as manifestly ill-founded.

Reparations

The ECtHR ordered Russia to pay Sergei's widow and mother EUR 34,000 jointly, although it remains unclear whether Russia actually paid this amount. The Russian Ministry of Justice announced it would review the ruling and decide within three months whether to appeal to the Grand Chamber but currently there is no publicly available evidence confirming that the compensation was disbursed to Sergei's family.

WIDER IMPACT OF THE CASE

Concrete Policy Changes: Establishing a Human Rights Sanctions Regime

Sergei Magnitskiy's death prompted the United States to pass the 2012 Magnitsky Act, which allowed the Government to impose targeted sanctions against Russian officials allegedly involved in Magnitskiy's mistreatment and death. In 2016, the U.S. Congress expanded the law, enacting The Global Magnitsky Act, which enables the Government to impose travel bans and targeted sanctions on foreign officials involved in corruption or rights violations worldwide. Since then, 32 countries (including 27 EU countries) have passed a version of the original Magnitsky Act, including Canada, the UK, Lithuania, Estonia and Latvia.

The Global Magnitsky Act and other Magnitsky-style sanctions regimes have played a significant role in advancing human rights and promoting accountability internationally. By enabling sanctions against individuals and entities involved in serious human rights violations or corruption, these laws have imposed meaningful financial and personal repercussions on those targeted. A 2023 report co-authored by REDRESS demonstrates that Magnitsky-style sanctions can have broader impacts as well; they not only exert personal or financial costs directly on the perpetrator(s), but can also provide some measure of public accountability, disrupt malign behaviour, influence private sector actors, and/or affect geopolitical or diplomatic relationships.

Sergei's legacy is also commemorated annually through the Magnitsky Human Rights Awards, established in 2015 by Bill Browder (CEO and co-founder of Hermitage Capital Management, the investment advisor to the Hermitage Fund) in Sergei Magnitskiy's name. The awards are held each November in London – honouring courageous journalists, activists, and politicians in the field of human rights – and serve as a high-profile platform to spotlight ongoing efforts to combat injustices globally.

Challenges Relating to the Implementation of Reparations and Ongoing Impunity

Russia's failure to reopen investigations or hold perpetrators accountable has drawn criticism from international bodies and NGOs. Despite credible evidence of medical neglect, Russian authorities dropped charges against one prison doctor due to the statute of limitations and later acquitted the second, citing insufficient evidence. The lack of accountability in these domestic proceedings has reinforced international concerns over impunity and Russia's unwillingness to pursue justice in politically sensitive cases. The case has become emblematic of the wider culture of impunity in Russia, particularly in cases involving political dissidents, whistleblowers, and detainees.

Within the Council of Europe, the Committee of Ministers continues to supervise implementation of the judgment, but enforcement efforts have been further hindered by geopolitical developments. Russia was suspended from

the Council of Europe on 25 February 2022 following its full-scale invasion of Ukraine, and formally ceased to be a member on 16 March 2022. However, the ECtHR retains jurisdiction over cases concerning events in Russia that occurred before the official date of Russia's exclusion. Whilst the judgment in this case remains legally binding, finding a way to force Russia to comply continues to be a challenge.

STRATEGIC FEATURES OF THE CASE

Truth-Telling

Sergei Magnitskiy's case is an example of a strategic approach to human rights litigation in the context of State denial and impunity. The legal team recognised the importance of the truth-telling function of this case; they worked to establish the factual narrative and to ensure it would be credible and unimpeachable, countering the Russian authorities' attempts to distort events. Recognising that the ECtHR is not a court of first instance and has limited investigative powers, the litigants introduced novel evidence and expert opinions to guide the Court in establishing factual findings. This approach allowed the Court to make authoritative determinations about the circumstances of Sergei's detention, ill-treatment, and death, despite the Russian Government's ongoing denials.

A Legal Case Embedded in a Broader Advocacy Campaign

This case was part of a larger advocacy campaign to set up an anti-corruption sanctions regime in Sergei Magnitskiy's name. This advocacy was already ongoing when the case was first brought before the ECtHR. The case was also framed within a broader context of systematic impunity in Russia, ensuring it was not seen in isolation but as part of a pattern of human rights violations.

Complementing the legal strategy, Bill Browder and the legal team implemented an effective communications and press strategy to raise public awareness around the case and amplify the impact of the judgment, in the context of the broader advocacy campaign. This media strategy elevated the profile of the case internationally, helping to generate political momentum for sanctions and reforms, and transforming Sergei Magnitskiy's name into a global symbol for accountability.

The combined legal, evidentiary, and policy-oriented strategy exemplifies how human rights litigation can achieve both judicial remedies and wider systemic impact, even when faced with a powerful State resistant to accountability.

The Legal Representatives for the Applicants were D. Kharitonov, E. Oreshnikova, Rupert Skilbeck (Open Society Justice Initiative – OSJI) and James Goldston (OSJI).

ADDITIONAL RESOURCES

- 'A Decade After His Death, Magnitsky Beats Russia in European Court' (Organized Crime and Corruption Reporting Project, 28 August 2019).
- Aryeh Neier, 'Almost a Decade after his Death, Sergei Magnitsky Gets a Measure of Justice' (Open Society Justice Initiative, 27 August 2019).
- Council of Europe European Committee on Legal Co-operation, 'Exclusion of the Russian Federation from the Council of Europe and suspension of all relations with Belarus' (Newsroom Press Release, 17 March 2022).
- ECtHR, 'ECHR finds multiple violations of the European Convention in case concerning Russian tax adviser Magnitskiy' (Press Release, 27 August 2019).
- International Lawyers Project, 'A Journey of 20: An Empirical Study of the Impact of Magnitsky Corruption Sanctions' (28 June 2023).
- Jennifer Dillard, 'Examining the Magnitsky Act, its History and its Impact Internationally' (Unpublished, 2021).
- Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law) 2017, c. 21 (Canada).
- 'Lithuanian MP proposes expanding Magnitsky Act' (LRT, 25 March 2021).
- 'Magnitsky & others v. Russia' (European Human Rights Advocacy Centre).
- 'Magnitsky death: Charges against Russia jail doctor dropped' (BBC News, 9 April 2012).
- 'Magnitsky wins Russian rights battle 10 years after his death' (BBC News, 27 August 2019).
- 'Moscow court acquits Kratov of murder charge' (AlJazeera, 28 December 2012).
- Per Olaf Salming, 'Estonia Adopts Magnitsky Style Global Human Rights Law' (UpNorth, 8 December 2016).
- REDRESS and others, 'Evaluating Targeted Sanctions – A Flexible Framework for Impact Analysis' (November 2023).
- Sanctions and Anti-Money Laundering Act 2018 c. 13 (The United Kingdom of Great Britain and Northern Ireland).
- Sinead Carolan, 'Latvia Becomes Final Baltic State to Pass Magnitsky Law' (Organized Crime and Corruption Reporting Project, 9 February 2018).
- 'The Magnitsky Awards' (The Magnitsky Human Rights Awards).

MEMBERS AND MILITANTS OF THE PATRIOTIC UNION V. COLOMBIA (2022)

Link to the decision

Inter-American Court of Human Rights

POLITICAL DISSIDENTS • POLITICAL VIOLENCE • CRIMES AGAINST HUMANITY • POLITICAL EXTERMINATION • MASS CLAIMS

CASE SUMMARY

During the 1980s and 1990s, Colombia was marked by systematic political violence particularly targeting left-wing movements, human rights defenders, and political dissidents. The *Unión Patriótica* (UP) was a left-wing dissident political movement and party established in 1985 within the framework of the peace negotiations between the Colombian Government and the former guerrilla group *Fuerzas Armadas Revolucionarias de Colombia* (FARC). As the party expanded, its members were subjected to killings, enforced disappearances, sexual violence, and other grave abuses, primarily carried out by paramilitary groups with the acquiescence and support of State agents. In several instances, State authorities directly perpetrated the violence.

In 2022, the IACtHR found that the violence committed against UP members constituted crimes against humanity and breached Colombia's obligations to respect, prevent, investigate, and prosecute those violations. It confirmed violations of political rights, freedom of assembly, freedom of expression, the rights to life and personal integrity, and protection of children. It ordered Colombia to reopen investigations, locate disappeared persons, deliver compensation and rehabilitation to victims, and implement symbolic measures such as memorials and educational campaigns. The case has been pivotal in Colombia's truth-telling process and influenced subsequent cases, with its collective approach, which covered over 6,000 victims.

THE FACTS AND PROCEDURAL HISTORY

The 1980s and 1990s in Colombia were marked by a context of political violence fuelled by authoritarian practices within the Government, including counter-insurgency measures against so-called "internal enemies". The definition of these targets was often vague and arbitrary, frequently encompassing individuals associated with leftist movements, political dissidents, or those perceived to be sympathetic to international communist

ideology. The political violence influenced the participation of dissidents in popular elections. For example, paramilitary groups intimidated left-wing political parties and voters, preventing them from participating in regional and national elections.

The left-wing political movement and party called the *Unión Patriótica* (UP) was established in 1985, and the Colombian Government committed to guaranteeing their political participation on the same terms as traditional political parties. Following its establishment, the UP rapidly gained popularity, registering over 100,000 certified members and establishing a strong presence, particularly in rural areas. In 1986, the UP took part in national and local elections for the first time, achieving significant electoral success and securing positions at various levels of Government, including seats in Parliament. Its growing influence soon provoked hostility from traditional political parties and allied paramilitary groups, which sought to counter the UP's expanding support base.

UP members faced widespread stigmatisation and multiple forms of violence. The most common acts of violence were the targeted killings of UP representatives, including parliamentarians, presidential candidates, and local officials. According to the *Centro Nacional de Memoria Histórica* (National Centre for Historical Memory), between 1984 and 2002, more than 3,100 UP members were killed, and 544 were subjected to enforced disappearance. The Centre also documented over 2,000 victims of other forms of violence, including sexual violence, threats, intimidation, and attacks, among others. Years later, those acts have been characterised as a political genocide by some Colombian authorities, including judges. For example, in 2013, the Justice and Peace chamber of the Bogota Tribunal found that paramilitary groups and State actors had committed the crime of genocide and crimes against humanity against members of the UP.

The violence against the UP continued for decades, with allegations that members still face intimidation today. These crimes have largely been met with systematic impunity. In 2002, the UP lost its legal status as a political party and was barred from participating in elections due to its failure to obtain the minimum number of votes required by law. UP members, however, argued that the UP's loss of electoral support was directly linked to the systematic extermination of its members and that the party therefore should have retained its legal recognition.

In December 1993, several members of the UP and their relatives filed a petition before the IACHR. In 2017, the IACHR issued its Merits Report, finding the Colombian State in violation of the American Convention for the acts committed against UP members and their families. The IACHR recommended that the State provide comprehensive reparation to the victims, who numbered over 6,000 in the case. Later that year, Colombia partially acknowledged its international responsibility but criticised the IACHR for allegedly failing to take into account the State's efforts to provide reparations. In June 2018, Colombia itself referred the case to the IACtHR.

THE DECISION AND ITS SIGNIFICANCE

Violations

In its judgment of July 2022, the IACtHR declared Colombia internationally responsible for multiple violations of rights under the American Convention against UP members and their relatives, including: the right to freedom of expression (Article 13); freedom of association (Article 16); political rights (Article 23); right to life (Article 4); right to juridical personality (Article 3); right to personal integrity (Article 5 (1)); right to personal liberty (Article 7); rights of the child (Article 19); prohibition of torture or cruel, inhuman, or degrading punishment

or treatment (Article 5(2)); right to privacy (Article 11); right to freedom of movement and residence (Article 22); right to a fair trial (Article 8); and right to judicial protection (Article 25). The Court ordered comprehensive reparations.

Political Extermination as a Crime against Humanity

The IACtHR emphasised that violence perpetrated, tolerated, or facilitated by the State against the UP amounted to a practice of extermination targeting the political party, amounting to a crime against humanity. The Court analysed the different layers of international responsibility, including the obligation to respect, prevent, investigate and prosecute human rights violations, finding Colombia in breach of these obligations.

Regarding political rights, freedom of assembly, and freedom of expression, the IACtHR found that these rights had been violated in relation to the UP due to the continuous attacks against its members, which aimed to prevent their participation in public life. These attacks, together with the stigmatisation of the UP as being linked to guerrilla groups and the suppression of its right to participate in elections, were key factors underpinning the Court's findings.

The Court found violations of the rights to life, personal integrity, juridical personality, freedom of movement and residence, and the protection of children, among others, due to the killings, enforced disappearances, enforced displacement, sexual violence, torture, threats, and other acts perpetrated or facilitated by the State against the victims. The Court also determined that their right to access to justice had been violated, given the widespread impunity prevailing in most of the criminal investigations.

Contextual Analysis of Political Violence in Colombia

As in other cases concerning Colombia's armed conflict and political violence, the IACtHR's judgment acknowledged the broader context of widespread violence against political dissidents and human rights defenders in Colombia. Covering events from the 1980s to the 2000s, the Court found that State strategies to fight insurgency amounted to a systematic pattern of violence against those perceived as guerrilla sympathisers. These abuses — including killings, sexual violence, enforced disappearances, and displacement – were committed by State agents or by paramilitary groups with State support. The Court's contextual analysis was key to establishing the different forms of Colombia's international responsibility.

Recognition of State Responsibility

While the State partially acknowledged its international responsibility in the UP case, the Court, supporting the victims' position, found that this recognition was fragmented and limited to specific incidents. In particular, the State only admitted responsibility for failing to prevent certain violent acts committed against UP members. According to the Court, this recognition, although significant, did not reflect the broader context of violence suffered by the UP, nor did it account for the various forms of State involvement in the human rights violations, beyond its duty to prevent. Therefore, the IACtHR concluded that the State's partial acknowledgement did not preclude the Court from conducting a comprehensive analysis of the allegations presented by the Commission and the victims' representatives.

Reparations

The Court ordered comprehensive reparations for the UP as a political party and for its individual members and their relatives. These measures included the effective continuation or reopening of criminal investigations, concrete actions to locate the victims of enforced disappearance, rehabilitation measures, and full compensation. The Court also ordered symbolic and commemorative measures, such as the establishment of a national day to commemorate the UP, the construction of a memorial, the production and dissemination of a documentary, and the organisation of national campaigns and academic forums on key issues addressed in the case.

WIDER IMPACT OF THE CASE

Contributing to Truth-Telling Process and Collective Memory

The case has played a crucial role in Colombia's truth-telling process. Its submission to the IACtHR was recorded by the National Centre for Historical Memory and has been included in reports on the political genocide against the UP. The Court's contextual analysis and its recognition of a systematic practice perpetrated and facilitated by the State have also shaped the examination of subsequent cases, including *Members of CAJAR v. Colombia*.

According to Reiniciar, a human rights defenders' organisation created by victims of the Colombian armed conflict and legal representative of UP members before both the Inter-American System and domestic authorities, the State had long denied the systematic extermination of the UP. The Court's judgment not only contributed to clarifying the facts but also helped restore the victims' dignity and safeguard their collective memory.

Recognising the Extermination of a Political Party to Silence Dissent

Regionally, this case is significant as it is one of the few international precedents recognising the systematic extermination of a political party. The IACtHR's judgment reinforces standards protecting political opposition, democratic participation, and the prohibition of persecution on ideological grounds. It affirms that democracy goes beyond holding elections; it requires concrete guarantees for the safe and free exercise of dissent.

Public Apology and Transitional Justice

In November 2025, the President of Colombia delivered the official public apology ordered by the IACtHR. During the ceremony, he acknowledged the perpetration of political genocide against members of the UP. He also reaffirmed the Government's commitment to continue implementing all measures of reparation ordered by the Court.

The significance of the case is also reflected in Colombia's transitional justice process, as the judgment is expected to facilitate ongoing investigations by domestic judicial authorities, including the Special Jurisdiction for Peace, by framing the facts within a systematic and generalised pattern of violence rather than as isolated incidents.

STRATEGIC FEATURES OF THE CASE

Framing Violations around a Collective Case

Framing the case collectively allowed the Court to consider the broader systematic and contextual circumstances, supporting its finding of a crime against humanity. The NGO Reiniciar emphasised that the violations against UP members were not isolated incidents but rather part of a deliberate pattern of conduct by the authorities. The inclusion of over 6,000 victims in the case enabled the Court to address Colombia's international responsibility collectively, while considering individual rights where needed. The collective approach facilitated the understanding of the universe of victims, including direct and indirect victims.

According to Reiniciar, this approach also facilitated access to justice for more vulnerable victims, such as those without means to obtain legal representation. The collective perspective is reflected in the reparations ordered, including truth, memorialisation, and guarantees of non-repetition, and helped strengthen Inter-American standards on preventing political persecution, protecting democracy, and ensuring access to justice.

Challenges While Building the Human Rights Claim

Due to the scale of the case, evidence collection was complex and required extensive coordination between victims and their representatives. In addition, victims were continuously harassed and threatened to prevent them from accessing justice. The litigants, including members of Reiniciar, were also subjected to threats and stigmatisation campaigns. The persistent intimidation led some victims and legal representatives to seek asylum outside Colombia, further complicating the development of the case.

To address these security challenges, the UP and Reiniciar implemented several strategies, including self-protection protocols, requests for precautionary measures before the IACHR, and coordination with the Colombian Government to prevent imminent and irreparable risks to the life and integrity of victims and their representatives. As a result of their advocacy, the Colombian Government adopted a resolution establishing preventive measures to protect the UP and other political parties at risk.

A Participative Approach to Litigation

Despite the complexity of the case, the construction of the claim was characterised by a consultation process with a territorial approach. According to Reiniciar, victims not only contributed by sharing information, but also were able to strengthen their understanding of the case and manage their expectations through trainings and other engagement. Reiniciar organised regional and local workshops with victims to understand their priorities, needs, and expectations. These spaces also served to empower victims as active participants in the litigation rather than solely as beneficiaries. Where needed, Reiniciar provided psychosocial support to victims, tailored to their individual needs and capacities.

The Legal Representatives for the Petitioners were *Corporación Reiniciar, Derechos con Dignidad* and *Centro Jurídico de Derechos Humanos*.

ADDITIONAL RESOURCES

- Diego Fajardo and Daniel Ortega, 'Fue el Estado, la sentencia de la Corte IDH en el caso Unión Patriótica [It was the State, the ruling of the IACtHR in the Unión Patriótica case]' (Revista Raya, 1 February 2023).
- IACtHR, *Caso Integrantes y Militantes de la Unión Patriótica vs. Colombia*, Resumen oficial emitido por la Corte Interamericana [Official summary issued by the Inter-American Court] (27 July 2022).
- 'Integrantes y militantes de la Unión Patriótica v. Colombia [Members and Militants of Union Patriótica v. Colombia]' (Global Freedom of Expression Columbia University).
- 'Historia de la UP' (Reiniciar – Corporación para la Defensa y Promoción de los Derechos Humanos).
- Luke Taylor, 'Colombia to pay reparations for role in extermination of leftwing party' (The Guardian, 1 February 2023).
- 'Sentencia de la Corte IDH sobre el Caso UP [Inter-American Court of Human Rights ruling on the UP Case]' (Reiniciar – Corporación para la Defense y Promoción de los Derechos Humanos).
- Valentina Gutiérrez Restrepo, 'Estado pide por fin perdón a las víctimas del exterminio de la UP [State finally apologises to the victims of the UP extermination]' (El Espectador, 10 November 2025).
- Vladimir Melo Moreno, Todo pasó frente a nuestros ojos: el genocidio de la Unión Patriótica, 1984-2002 [It all happened right before our eyes: The genocide of the Unión Patriótica, 1984-2002] (First edition, Centro Nacional de Memoria Histórica 2018).

DERAS GARCÍA ET AL. V. HONDURAS (2022)

Link to the decision

Inter-American Court of Human Rights

POLITICAL DISSIDENTS • FREEDOM OF EXPRESSION • EXTRAJUDICIAL KILLINGS • PERSECUTION OF FAMILY MEMBERS • RIGHT TO JUDICIAL PROCESS • PROTECTION OF UNION ACTIVISTS

CASE SUMMARY

Herminio Deras García was a teacher, labour activist, and leader of the Honduran Communist Party. He was killed by Honduran security forces in 1983 due to his political and union activities. Although his wife reported his murder, it took over 15 years for an arrest to be made and an additional 18 years for the sole individual convicted to begin serving his sentence. Following his killing, his family members faced aggressive State persecution, including arbitrary arrests, torture, and the repeated raiding of their workplaces and homes.

In 2022, the IACtHR found that Honduras violated the American Convention due to the killing of Herminio Deras García, his family's treatment, and its failure to properly investigate and prosecute these violations. As a result, Honduras publicly accepted responsibility for the wrongs committed against the Deras García family, and agreed to provide reparations to provide direct relief to Herminio's family, but also to address the harms resulting from its national security policies in the 1980s. This case led to the enactment of educational programs, memorialisation policies, and changes to national legislation.

THE FACTS AND PROCEDURAL HISTORY

During the 1980s and 1990s, Honduras experienced a period of human rights abuses committed by security forces, in which the Honduran military was involved in extrajudicial killings and enforced disappearances of individuals perceived as a threat to the State. In this context, Herminio Deras García, who was a teacher, leader of the Honduran Communist Party, and advisor to multiple trade unions, suffered repetitive harassment, threats, and other violations.

On 26 November 1981, agents from the Third Infantry Battalion and National Department of Investigation ("DNI") raided Herminio's home without a warrant, damaged property, and asked for Herminio's whereabouts. When Herminio arrived at the scene with his family members, the agents pointed a gun at his head and threatened to kill him. At a later date, on 1 January 1982, Herminio's home was damaged by unidentified individuals firing a machine gun, leaving 18 bullet holes in the structure. Beginning on 23 September 1982, Herminio's home was under State surveillance by agents operating from a nearby vacant house.

On 29 January 1983, Herminio was stopped by a traffic officer on the orders of the head of Battalion 3-16, Captain R.C.N. After leaving the scene, the traffic officer heard gunshots and returned to find that Herminio had been shot and killed. Although Herminio's wife, Otilia Flores Ortiz, reported his murder on 4 February 1983 to the First Criminal Court, charges against members of Battalion 3-16 were not filed until 30 July 1998, approximately 15 years later. Eventually, Marco Tulio Regalado Hernández – one of the members of Battalion 3-16 – was arrested and ultimately sentenced to 12 years in prison for Herminio's murder.

Both before and after Herminio's murder, his family members faced severe persecution from the State of Honduras. Herminio's relatives were threatened, physically assaulted on multiple occasions, and subjected to arbitrary detention and torture by State forces, including the DNI. His family members were forced into exile, had their homes and workplaces raided, were unable to secure work due to stigma, and struggled with severe mental and physical trauma for decades.

On 6 February 2002, Eustaquia García Alvarado (Herminio's mother) filed a petition with the IACHR. The IACHR adopted a Report on the Merits in September 2019. In August 2020, the IACHR submitted the case to the IACtHR due to Honduras' failure to comply with its recommendations.

THE DECISION AND ITS SIGNIFICANCE

On 25 August 2022, the IACtHR found that Honduras violated the human rights of Herminio and his family members. It ordered the State to prosecute those responsible for Herminio's murder and persecution of his family, provide medical care and monetary compensation to the remaining victims, and take steps to assume international responsibility and ensure commemoration of the harms that occurred.

Protection of Freedom of Expression of Union Workers

The IACtHR ruled that Herminio Deras García was the victim of an extrajudicial killing due to his political and union-related activities. The Court explicitly noted that "worker representatives, such as union workers, require a higher degree of protection over freedom of expression", and found that the State persecution of Herminio was intended to silence him. The Court found that Honduras had violated Herminio's rights under the American Convention, including the right to life (Article 4(1)), right to humane treatment (Article 5(1)), freedom of thought and expression (Article 13(1)), freedom of association (Article 16(1)), and right to participate in government (Article 23(1)).

Reprisals against the Victim's Relatives while Seeking Justice

The Court found that the Deras García family suffered 30 years of persecution, which included illegal and arbitrary arrests, torture and cruel, inhuman, and degrading treatment, and forced exile of family members.

It ruled that, in relation to 16 members of the Deras García family, Honduras had violated the following rights under the American Convention: right to personal integrity (Articles 5(1) and 5(2)); right to protection of honour, dignity, and privacy (Articles 11(1) and 11(2)); right to personal liberty (Articles 7(1), 7(2), and 7(3)); rights of the family (Article 17(1)); rights of the child (Article 19); and right to property (Article 21). The Court held that Honduras had violated the right to freedom of movement and residence (Article 22(1)) with regard to two family members.

As 26 years passed between Herminio's extrajudicial killing and the conviction of one of the individuals involved, the Court found that Honduras violated the right to judicial guarantees and judicial protection (Articles 8(1) and 25). The Court noted that the delays in obtaining justice were attributable to the State as it failed to conduct a proper investigation into the killing of Herminio as well as into the repeated abuse of the Deras García family.

WIDER IMPACT OF THE CASE

Shedding Light on Systematic Violations and Addressing Broader Harm

In addition to providing direct relief, this case restored the public image of the Deras García family and allowed family members to obtain satisfaction by advancing political and judicial reform. Furthermore, the case produced an official acknowledgement for the harms committed by Honduras under the "National Security Doctrine". This doctrine referred to Honduras' 1980s-1990s policy by which the military systematically carried out enforced disappearances and extrajudicial killings of politicians, teachers, labour activists, and other persons perceived as a threat to the State. Military forces acted with impunity due to control over the police and intimidation of the judiciary. The International Federation for Human Rights (FIDH), one of the organisations that represented the victims in this case, described the murder of Herminio and persecution of his family as "emblematic [of] the violence that was exercised by the Honduran State in the 1980s".

Honduras' acceptance of responsibility provided a measure of satisfaction to the wide array of individuals harmed by the violence perpetrated under the "National Security Doctrine". As part of the reparations order, the Court ordered Honduras to enact a national policy on historical memory to provide relief to all victims of enforced disappearances under this doctrine within two years of the judgment. It further instructed the State to amend its laws to allow for legal responsibility of those in the chain of command who engaged in enforced disappearances, amend the school curriculum to teach the history of this period, and preserve Government documents associated with the National Security Doctrine policy. Thus, the reparations resulting from this case will ensure that human rights violations from this period are not forgotten, and those who have waited decades for acknowledgement will have additional avenues to pursue relief.

STRATEGIC FEATURES OF THE CASE

Survivor and Civil Society Coordinated Advocacy

The Deras García family had to wait over 30 years to obtain justice for the murder of Herminio and the multitude of abuses family members suffered at the hands of Honduran security forces. A prominent advocacy campaign that highlighted the abuses suffered by both the Deras García family and other victims of the National Security

Doctrine was crucial in eventually obtaining relief. Coordination between survivors, litigants, and social groups affected by this case advanced these efforts. Public accounts from surviving victims, members of the Honduran union community, and Communist Party members ensured that the abuses from this period remained in Honduras' collective memory. Furthermore, ongoing advocacy and work by survivors in the political sphere highlighted the need for both compensation to direct victims and overarching reforms in Honduran law. This case served not only to vindicate the rights of the Deras García family, but to combat impunity, including judicial and political impunity, for all those affected by the National Security Doctrine.

Overcoming Challenges during Lengthy Litigation

The surviving victims and their legal representatives had to overcome litigation challenges during the long litigation period before the IACHR. Several key witnesses and perpetrators had passed away by the time the case reached the IACtHR. Those working on the case were able to prepare written materials, psychological expert reports, and press records to compensate for lost testimony. Survivors further presented a detailed chronology and narrative of the context in which the case took place. These efforts ensured that all evidence required to reach a just conclusion arrived before the Court. In addition, those involved in this case sought not only monetary compensation from the Government and named perpetrators, but comprehensive reparations to address the underlying issues that produced abuses. This ensured the ordered relief was satisfactory to the survivors and that the final sentence fully reclaimed the memory of Herminio Deras García.

The Legal Representatives for the Petitioners were *Comité de Familiares de Detenidos Desaparecidos en Honduras* (COFADEH) and International Federation for Human Rights (FIDH).

ADDITIONAL RESOURCES

- 'Deras García and Others v. Honduras' (Global Freedom of Expression Columbia University).
- 'Extrajudicial execution of Herminio Deras: the State of Honduras acknowledges responsibility' (International Federation for Human Rights, 13 May 2022).
- Michael Fox, '"They've hidden the past from us": New bill in Honduras seeks to rectify 1980s human rights violations' (The World, 29 May 2024).

INDEX

CITED CASE AUTHORITIES

ACHPR Cases

- *Communications 48/90-50/91-52/91-89/93, Amnesty International and Others v. Sudan*
- *Communication 511/15 – Dr. Amin Mekki Medani and Mr. Farouq Abu Eissa v. The Republic of The Sudan*
- *Communication 323/06 – Egyptian Initiative for Personal Rights and INTERIGHTS v. Egypt*
- *Communication 396/11 – Mohamed Abderrahim El Sharkawi (represented by EIPR and OSJI) v. the Republic of Egypt*
- *Communication 379/09 – Monim Elgak, Osman Hummeida and Amir Suliman (represented by FIDH and OMCT) v. Sudan*
- *Communication 443/13 – Safia Ishaq Mohammed Issa (Represented by The Redress Trust) v. Republic of Sudan*
- *Communication 424/12 – Samira Ibrahim Mahmoud and Rasha Ali Abdel-Rahman (Represented by the EIPR and Interights) v. The Arab Republic of Egypt*

ECtHR Cases

- *Armand Guehi v. United Republic of Tanzania, Application No. 001/2015 (7 December 2018)*
- *Lohé Issa Konaté v. Burkina Faso, Application No. 004/2013 (5 December 2014)*
- *Rev. Christopher Mtikila v. United Republic of Tanzania, Application No. 011/2011 (13 June 2014)*
- *XYZ v. Republic of Benin, Application No. 010/2020 (27 November 2020)*
- *Zongo & Others v. Burkina Faso, Application No. 013/2011 (28 March 2014)*

ECOWAS Court Cases

- *Federation of African Journalists & Others v. The Gambia, Judgment ECW/CCJ/JUD/04/18 (13 February 2018)*
- *Obianuju Catherine Udeh & 2 Ors v. Federal Republic of Nigeria, Judgment ECW/CCJ/JUD/29/24 (10 July 2024)*

ECtHR Cases

- *Alparslan Altan v. Turkey, Application No. 12778/17 (2019)*
- *Azzolina and Others v. Italy, Applications Nos. 28923/09 and 67599/10 (2017)*
- *Blair and Others v. Italy, Applications Nos. 1442/14, 21319/14 and 21911/14 (2017)*
- *Cestaro v. Italy, Application No. 6884/11 (2015)*
- *Egmez v. Cyprus, Application No. 30873/96 (2000)*
- *Frumkin v. Russia, Application No. 74568/12 (2016)*
- *Huseynova v. Azerbaijan, Application No. 10653/10 (2017)*
- *Ilgar Mammadov v. Azerbaijan, Application No. 15172/13 (2019)*
- *Kavala v. Türkiye, Application No. 28749/18 (2019)*
- *Kavala v. Türkiye, Application No. 28749/18 (2022)*
- *Magnitskiy and Others v. Russia, Applications Nos. 32631/09 and 53799/12 (2019)*
- *Mehmet Hasan Altan v. Turkey, Application No. 13237/17 (2018)*
- *Şahin Alpay v. Turkey, Application No. 16538/17 (2018)*
- *Tsaava and Others v. Georgia, Applications Nos. 13186/20 and 4 others (2025)*
- *Zakharov and Varzhabetyan v. Russia, Applications Nos. 35880/14 and 75926/17 (2020)*

IACHR Precautionary Measures

- *Berta Isabel Cáceres, Honduras, Precautionary Measure No. 196-09 (2009)*
- *Members of COPINH, Berta Cáceres' relatives and others), Honduras, Precautionary Measure 112-16 (2016)*
- *Bruno Araújo Pereira and Dom Phillips, Brazil, Precautionary Measure No. 449-22 (2022)*

IACtHR Cases

- *Deras García et al. v. Honduras, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No. 462 (2022)*
- *Goiburú et al. v. Paraguay, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No. 153 (2006)*
- *Herzog et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No. 353 (March 15, 2018)*
- *Human Rights Defender et al. v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No. 283 (2014)*
- *Kawas Fernández v. Honduras, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No. 196 (2009)*
- *Leguizamón Zaván et al. v. Paraguay, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No. 473 (2022)*
- *Manuel Cepeda Vargas v. Colombia, Preliminary Objections, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No. 213 (2010)*
- *Mapiripán Massacre v. Colombia, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No. 134 (2005)*
- *Members and Militants of the Patriotic Union v. Colombia, Preliminary Objections, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No. 515 (2024)*
- *Members of The "José Alvear Restrepo" Lawyers Collective v. Colombia, Preliminary Objections, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No. 506 (October 17, 2023)*
- *Rodríguez Vera et al. (The Disappeared from the Palace of Justice) v. Colombia, Preliminary Objections, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No. 287 (2014)*
- *Santo Domingo Massacre v. Colombia, Preliminary Objections, Merits and Reparations, I/A Court H.R. (ser. C) No. 259 (2012)*
- *Tavares Pereira et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No 507 (Nov. 16, 2023)*
- *Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Objection, Merits, Reparations and Costs, I/A Court H.R. (ser. C) No. 371 (Nov. 28, 2018)*

UN Treaty Body and Special Procedures Cases

- *Damián Gallardo Martínez (Mexico), Opinion No. 23/2014, UN Doc. A/HRC/WGAD/2014/23 (2014)*
- *Đặng Đình Bách (Vietnam), Opinion No. 22/2023, UN Doc. A/HRC/WGAD/2023/22 (2023)*
- *Jagtar Singh Joahal (India), Opinion No. 80/2021, UN Doc. A/HRC/WGAD/2021/80 (2022)*
- *Magdulein Abaida v. Libya, Communication No. 130/2018, UN Doc. CEDAW/C/78/D/130/2018 (2021)*
- *Pablo López Alavéz (Mexico), Opinion No. 23/2017, UN Doc. A/HRC/WGAD/2017/23 (2017)*

PHOTO CREDITS

Egyptian Initiative for Personal Rights and INTERIGHTS v. Egypt (2011). ©Hossam el-Hamalawy حسام الحمالاوي via Wikimedia Commons. Protesters in Cairo rallying against proposed constitutional changes were violently attacked by NDP supporters.

Cestaro v. Italy (2015) ©Alessandro Garofalo/Reuters. Anti globalisation protesters gathered in Genoa during the 2001 G8 summit were targeted by a police operation.

Women Victims of Sexual Torture in Atenco v. Mexico (2018). ©Centro PRODH Archive. 11 Mexican women sought justice for the sexual torture and other forms of gender-based violence they suffered in the context of protests held in May 2006 in two towns in Mexico.

Zakharov and Varzhabetyan v. Russia (2020) ©Leonid Faerberg via Wikimedia Commons. Tens of thousands marched in a city authorised pro democracy protest in central Moscow ahead of Vladimir Putin's third inauguration in 2012.

Samira Ibrahim Mahmoud and Rasha Ali Abdel-Rahman v. The Arab Republic of Egypt (2023) ©Al Jazeera English via Wikimedia Commons. Women protesters were detained and sexually abused by the Egyptian military after a peaceful demonstration in Tahrir Square in 2011, prompting a landmark human rights ruling on sexual torture and repression of dissent.

Tavares Pereira and Others v. Brazil (2023) ©Juliana Barbosa/Vitória do Movimento dos Trabalhadores Rurais Sem Terra (MST). A monument honouring agrarian reform martyrs and the police repression that killed Antônio Tavares and injured dozens.

Obianuju Catherine Udeh, Perpetual Kamsi, and Dabiraoluwa Adeyinka v. Nigeria (2024). ©Kaizenify via Wikimedia Commons. Young Nigerians protested police brutality and demanded the disbandment of the SARS unit, as the peaceful #EndSARS demonstrations were met with violent repression by security forces.

Tsaava and Others v. Georgia (2025). ©Kober via Wikimedia Commons. A violent police response to anti government protests in Tbilisi left protesters and journalists injured, sparking controversy over the use of so called rubber bullets and police accountability.

Huseynova v. Azerbaijan (2017). ©Müsəlmanislam via Wikimedia Commons. Elmar Huseynov was an independent Azerbaijani journalist, known for his outspoken criticism of both government and opposition figures.

Herzog v. Brazil (2018). ©Comissão da Verdade do Estado de São Paulo via Wikimedia Commons. Journalist Vladimir Herzog was murdered in 1975 amid widespread human rights violations under Brazil's civil military dictatorship.

Zongo and Others v. Burkina Faso (2015). ©Sputniktilt via Wikimedia Commons. Investigative journalist Norbert Zongo was killed in Burkina Faso in 1998. The ACtHPR later found serious investigative and judicial failures and ordered compensation for his family, a renewed investigation, and a public apology by the State.

Federation of African Journalists and Others v. The Gambia (2018) ©Federation of African Journalists (FAJ) Archive. The arrest and persecution of four journalists in The Gambia led the ECOWAS Court to rule that sedition and criminal libel laws violated international law and impermissibly repressed press freedom.

Kavala v. Türkiye (2019 and 2022) ©Free Osman Kavala Archive. Human rights defender Osman Kavala was arbitrarily detained in Türkiye over the Gezi Park protests. The ECtHR ordered his release, and Türkiye's non compliance made the case emblematic of shrinking civil society freedoms.

Magdulein Abaida v. Libya (2021) ©Magduleine Abaida. Libyan women's rights activist Magdulein Abaida brought a landmark CEDAW case that strengthened protections for women human rights defenders.

Case of Members of the "José Alvear Restrepo" Lawyers Collective (CAJAR) v. Colombia v. Colombia (2023) ©CAJAR Archive. Colectivo de Abogados "José Alvear Restrepo" (CAJAR) is an NGO that has defended victims of serious human rights violations in Colombia for more than 40 years.

Amin Mekki Medani and Farouq Abu Eissa v. The Republic of Sudan ©SanBonne via Wikimedia Commons. Sudanese human rights defender Dr. Amin Mekki Medani was arbitrarily detained and ill treated in 2014. The ACHPR later found multiple rights violations, ordering reparations and legal reforms.

The case of Jagtar Singh Johal concerning India (2021) ©Free Jaggi Now Campaign. British human rights activist Jagtar Singh Johal has been arbitrarily detained in India since 2017, where he has been subjected to torture, and faces charges based on a forced confession.

Kawas-Fernández v. Honduras (2009) ©CEJIL Archive. The 1995 murder of Jeannette Kawas Fernández led the IACtHR to affirm that environmental defenders are human rights defenders and that States have a duty to protect them.

The case of Berta Cáceres concerning Honduras (2009 and 2016) © Comisión Interamericana de Derechos Humanos via Flickr. Indigenous environmental leader Berta Cáceres was assassinated in Honduras in 2016 for opposing a hydroelectric project, becoming a symbol of the dangers faced by land and environmental defenders.

The case of Pablo López Alavéz (2017) ©Consorcio Oaxaca Archive. Mexican Indigenous environmental activist Pablo López Alavéz was arbitrarily detained after a flawed trial, with the UN Working Group finding his conviction discriminatory and retaliatory for his activism.

The case of Bruno Araújo and Dom Phillips concerning Brazil (2022) ©Senado Federal via Flickr. The case of Bruno Araújo and Dom Phillips highlights systemic violence against environmental and Indigenous defenders in the Amazon and affirms States' duty to protect them.

The case of Dang Dinh Bach (2023) ©#StandWithBach Archive. Dang Dinh Bach's case reflects a broader pattern in which Vietnam has used tax laws to silence and arbitrarily detain human rights defenders.

Goiburú et al v. Paraguay (2006) ©Secretaria Nacional de Cultura Paraguay Archive. Dr. Agustín Goiburú Giménez was illegally arrested under Operation Condor and brutally tortured by the Stroessner regime after speaking out against violence.

Magnitsky and Others v. Russia (2019) ©VOA via Wikimedia Commons. After exposing alleged State corruption, Russian lawyer Sergei Magnitsky died in custody in 2009, leading the European Court of Human Rights to find grave abuses in his detention and an unlawful posthumous conviction.

Members and Militants of the Patriotic Union v. Colombia (2022) ©Wikimedia Commons. Systematic violence against members of Colombia's Unión Patriótica amounted to crimes against humanity, as affirmed by the IACtHR in a landmark ruling covering thousands of victims.

Deras García et al v. Honduras (2022) ©Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH) Archive. The murder of Honduran activist Herminio Deras García by State forces led to a landmark IACtHR ruling holding the State responsible for his murder, family persecution, and decades of impunity.

redress.org

 Company/REDRESS

 RedressTrust

 Keep up to date

 Support REDRESS

REDRESS

Ending torture, seeking justice for survivors