

B E T W E E N:

NAIT-LIMAN

Applicant

-and-

SWITZERLAND

Respondent

-and-

THE REDRESS TRUST (REDRESS) and WORLD ORGANISATION AGAINST TORTURE
(OMCT)

Interveners

APPLICATION NUMBER 51357/07

SUBMISSIONS OF REDRESS AND OMCT TO THE GRAND CHAMBER

A. Introduction

1. These submissions are filed with the permission of the Grand Chamber by its letter of 10 January 2017. They may be read in addition to REDRESS and OMCT (the Interveners) first submissions to the European Court of Human Rights (the Court) dated 15 September 2011 (First Submission).
2. The present case concerns denial of access to justice in a case in which a violation of the absolute prohibition of torture is alleged. The Interveners set out in their First Submission that a limitation on a resident of a Convention State's right of access to a court in accordance with Article 6 (1) in a case alleging torture, where no other means of redress can reasonably be sought, does not pursue a legitimate aim and is disproportionate.¹ The Interveners also emphasised that the application of Article 6 (1) in this case should be viewed against a

¹ See Section C of the Interveners' First Submission.

background of developments during the last decade which have sought to combat impunity for torture and prioritise the rights of victims to an effective remedy and reparation.²

3. The Interveners in these submissions seek to provide the Court with additional information on both these points, focussing on the role of (i) forum of necessity jurisdiction and (ii) universal jurisdiction to provide victims of torture access to justice where there is no alternative forum.

B. Recognition of forum of necessity jurisdiction and residence as a sufficient connecting factor

4. Many Convention States recognise implicitly through case law or explicitly by statute the forum of necessity. These include **Austria, Belgium, the Netherlands, Estonia, Finland, France, Germany, Luxembourg, Poland, Portugal, Romania, Russia, Spain, Sweden, and Turkey**. Other countries providing for forum of necessity, either through case law or by statute, include **Argentina, Canada, Mexico, Uruguay, Costa Rica, Iceland, Japan and South Africa**.³ The recognition of the forum of necessity by an increasing number of States is also reflected in the International Law Association (ILA)'s 2015 'Sofia Guidelines on best practices for international civil litigation for human rights violations' (Sofia Guidelines) and its assessment "that a forum of necessity was essential to the effectiveness of civil actions for human rights violations."⁴ According to the ILA, the "forum of necessity is increasingly recognised. This is the one instance where the Committee [Committee on International Civil Litigation and the Interests of the Public] would encourage States that do not have such a rule to import it into their system."⁵
5. Statutory provisions and case law on forum of necessity suggest two common conditions for its application: (1) the impossibility of the plaintiff to bring his/ her case in an alternate forum,⁶ and (2) a connection between the case and the forum where the plaintiff seeks jurisdiction. The ILA included presence of the claimant in the jurisdiction in a list of non-exhaustive factors as a sufficient connection to the forum, as well as "some activity of the defendant."⁷ In respect of the latter, the Interveners refer this Court to their First Submission, highlighting that the defendant's presence in the jurisdiction, even if only temporary, may give rise to positive obligations to ensure practical and effective access to a court.⁸ While the type of connecting factor that is required varies between States, "there is a general consensus that the required connection exists at least when the plaintiff is domiciled or habitually resident in the forum State."⁹ Indeed, a link other than for instance nationality or territoriality is what distinguishes

² Ibid, Section A; para.13.

³ See further Arnaud Nuyts, 'Study on residual jurisdiction in EU Member States: General Report', 3 September 2007, conducted for the European Commission, with references to legislative provisions and caselaw which can all be found here: http://ec.europa.eu/civiljustice/publications/publications_en.htm, at Section 16 ('Forum *necessitatis*') (Nuyts, Study on Residual Jurisdiction: General Report). See also Chilenye Nwapi, 'A Necessary Look At Necessity Jurisdiction', (2014)U.B.C.L.Rev 47 211 (Chilenya Nwapi, 'A Necessary Look At Necessity Jurisdiction'), pp.225-226; International Law Association (ILA), Final Report of the Committee on International Civil Litigation and the Interests of the Public, August 2012, (ILA, Final Report of the CICLIP, August 2012), p.19.

⁴ ILA, Sofia Guidelines on best practices for international civil litigation for human rights violations, August 2012, para.2.3; according to para. 2.3 (2) a denial of justice occurs where no other court is available or the claimant cannot be reasonably expected to seize another court.

⁵ ILA, Final Report of the CICLIP, August 2012, p.32.

⁶ See on this point the First Submission, paras. 29-33.

⁷ According to the ILA, Final Report of the CICLIP, August 2012, the threshold for activity should not be set high, and "some activity" is sufficient, p. 33.

⁸ See the First Submission, paras. 26-28.

⁹ See Nuyts, Study on Residual Jurisdiction: General Report, above, n. 3 p.66.

this form of jurisdiction from more traditional forms of jurisdiction, such as territorial, active or passive personality jurisdiction.

6. The purpose of the forum of necessity is the prevention of denial of justice.¹⁰ Commentators, including those interpreting the Swiss Code of Private International Law, have argued that the greater the risk to a denial of justice, the less strict the connection to the forum state should be applied.¹¹ The ILA considered that while some link was necessary before a court could exercise jurisdiction under the rule on the forum of necessity, the “link need not be very strong.”¹²
7. The approach to the forum of necessity in Convention States and its overriding objective to avoid a denial of justice have been further underlined for instance in *El-Hojouj v Unnamed Libyan Officials*. In that case, the District Court of The Hague, Netherlands, considered a claim brought by a Palestinian doctor who claimed to have suffered damages following unlawful imprisonment and torture in Libya.¹³ The only connecting factor to the Netherlands was the plaintiff’s presence there. The defendants’ place of residence was unknown, as they were unidentified Libyan government officials. The Dutch Court relied on the forum of necessity provisions enshrined in Article 9 of the Dutch Civil Procedure Code, allowing Dutch courts to exercise jurisdiction over civil claims where bringing those claims outside the Netherlands is impossible, either legally or practically. Assuming jurisdiction in the case, the Court heard the case and issued a judgment in default of 1 Million Euro for the harm suffered as a result of the Claimant’s unlawful imprisonment and torture in Libya.

C. International law recognises the right of victims of torture to an effective remedy and to reparation from the individual responsible without explicit territorial limitations

8. The Interveners recall that universal jurisdiction is a principle enshrined in international law, based on international consensus that certain crimes – including torture, genocide, crimes against humanity, war crimes, enforced disappearances – constitute crimes under international law and that perpetrators of these crimes must be held accountable, irrespective of where the crimes were committed, and irrespective of the nationality of the perpetrator and the victim.¹⁴ Where States with ordinary bases of jurisdiction do not or cannot take legal action against individuals suspected of committing international crimes such as torture, universal jurisdiction

¹⁰ See for instance, ILA, Sofia Guidelines, para.2.3; see also Chilanya Nwapi, who describes the “[A]voidance of denial of justice [as] the cornerstone of necessity jurisdiction,” in ‘A Necessary Look At Necessity Jurisdiction,’ p.264.

¹¹ See e.g. Stephen V. Berg and Lorenz Droese, ‘Artikel 3’ in Heinrich Honsell, Nedim Peter Vogt, Anton K. Schnyder, Stephen V. Berti (eds),

‘Internationales Privatrecht. Basler Kommentar’, 3rd edn, Helbing Lichtenhahn Verlag, 2013, p. 33.

¹² ILA, Final Report of the CICLIP, August 2012, p.33.

¹³ The Hague District Court, *El-Hojouj/Unnamed Libyan Officials*, 21 March 2012, LJN: BV9748.

¹⁴ See for example International Court of Justice on the obligation to exercise universal jurisdiction over torture as enshrined in the UN Convention against Torture and Other, Cruel, Inhuman or Degrading Treatment or Punishment, (CAT) where the Court stated that State Parties to CAT must implement the principle of universal jurisdiction “to achieve the object and purpose of the Convention, which is to make more effective the struggle against torture by avoiding impunity for the perpetrators of such acts,” in Questions relating to the obligation to prosecute or extradite (*Belgium v Senegal*), Judgment of 20 July 2012, para. 74; see further for the international law (customary and conventional) basis of universal jurisdiction, Council of the European Union, ‘AU-EU Expert Report on the Principle of Universal Jurisdiction,’ 16 April 2009, para. 9.

can serve as an effective forum to ensure accountability and to provide victims with an access to justice.¹⁵

9. At the same time, international law recognises that victims of torture and other serious human rights violations have a right to an effective remedy and to reparation.¹⁶ In its General Comment No.3 on the interpretation of Article 14 UN Convention Against Torture (CAT) by States parties, the Committee Against Torture - the authoritative body on States' obligations under the UN Convention Against Torture - states that "the application of article 14 [CAT] is not limited to victims who were harmed in the territory of the State party or by or against nationals of the State party."¹⁷ The Committee emphasises that "article 14 requires States parties to ensure that all victims of torture and ill-treatment are able to access remedy and obtain redress."¹⁸ Accordingly, where States do restrict victims' access to a remedy in civil universal jurisdiction cases, the Committee has urged States to "ensure the provision of compensation through its civil jurisdiction to all victims of torture."¹⁹ In the Committee's concluding observations on Canada's state report in 2012, the Committee urged Canada to "ensure that all victims of torture are able to access remedy and obtain redress, wherever acts of torture occurred and regardless of the nationality of the perpetrator or victim."²⁰ Further, in its concluding observation on the United Kingdom the Committee in 2013 recommended to adopt "the Torture (Damages) Bill that would provide universal civil jurisdiction."²¹
10. The Institute for International Law for instance considers in its 2015 Resolution on Universal Civil Jurisdiction with regard to Reparation for International Crimes that a court should exercise jurisdiction over claims for reparation by victims including in cases where "one or more other States have...stronger connections, [but where] such victims do not have available remedies in the courts of any such other State."²² Where that is the case, courts "shall be considered to provide an available remedy if they have jurisdiction and if they are capable of dealing with the claim in compliance with the requirements of due process and of providing remedies that afford appropriate and effective redress."²³

¹⁵ See further, International Law Commission, 'The Obligation to extradite or prosecute (aut dedere aut judicare): Final Report of the International Law Commission,' 2014, at para.18: "Universal jurisdiction is a crucial component for prosecuting alleged perpetrators of crimes of international concern, particularly when the alleged perpetrator is not prosecuted in the territory where the crime was committed."

¹⁶ See further the Interveners' First Submission, Section A, highlighting that all major human rights treaties recognise victims' right to redress, including the Convention Against Torture, which in Article 14 specifically requires States to provide an effective remedy for the violation of the prohibition against torture; see also UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UN G.A. Res 60/147 (2005).

¹⁷ UN Committee Against Torture, General Comment No.3 on the implementation of Article 14 by States parties, para.22.

¹⁸ Ibid.

¹⁹ Committee Against Torture, Concluding Observation on Canada, CAT/C/CR/34/CAN, 7 July 2005, para. 5f; this recommendation was a direct reaction to the 2004 case of *Bouzari v the Islamic Republic of Iran*, in which the Ontario Court of Appeal had declined jurisdiction to hear a case involving allegations of torture and brought by an Iranian national who was living in Canada, against the Iranian government.

²⁰ Committee Against Torture, Concluding Observations on Canada, CAT/C/CAN/CO/6, 25 June 2012, para.15.

²¹ Committee against Torture, Concluding Observation on the United Kingdom, CAT/C/GBR/CO/5, 24 June 2013, para. 22.

²² Institute of International Law, 'Resolution on Universal Civil Jurisdiction with regard to Reparation for International Crimes,' 30 August 2015, Article 2 (1) (b).

²³ Ibid, Article 2 (2).

11. In the Chamber's judgment in this case, the majority of the Chamber considered that a restriction of access to a court in accordance with Article 6 (1) of the Convention is legitimate where it aims at ensuring the proper administration of justice, finding that "universal jurisdiction in a civil context, would risk creating considerable practical difficulties for the courts, particularly regarding the administration of evidence and the enforcement of such judicial decisions." The Interveners respectfully submit that these types of arguments have sometimes been used to refer civil claims attached to a criminal proceeding (adhesion claims) in the context of criminal proceedings to a separate, civil, court. The Interveners are not aware of any case in which they have been used by a civil court to decline jurisdiction over civil matters which are properly before it.
12. In cases involving adhesion claims, any assessment of practical difficulties, for instance regarding the administration of evidence and enforcement of judicial decisions, would be a separate matter from the assessment of whether there is jurisdiction to examine a specific claim. Such considerations would be done in relation to actual facts in an actual case and therefore are matters which must be examined on a case by case basis.
13. Refusal to entertain a civil claim solely on the basis that practical difficulties may arise at some point in the future of the proceedings, in particular in cases involving serious violations such as torture and where no reasonable alternative forum exists, would appear to be disproportionate²⁴ and undermine the principles on which Article 6 (1) is based.²⁵
14. While cases involving alleged human rights abuses may be complex and/or present challenges, this will not always be the case; and it does not necessarily mean that civil claims could not be heard. There are many instances of civil claims regarding serious violations of human rights which have been successfully resolved through adhesion proceedings following a criminal prosecution. There are no known cases of civil claims regarding serious violations of human rights which have been rejected by civil courts because they have been judged to be too complicated.
15. Many Convention States currently permit victims of serious international crimes to seek monetary compensation by way of civil party actions within criminal proceedings based on universal jurisdiction.²⁶ At least ten of those States have initiated criminal investigations or prosecuted cases involving criminal universal jurisdiction,²⁷ and courts in several Convention

²⁴ See for instance *Osman v United Kingdom*, no.23452/94, paras.150-152, ECHR 1998-VIII.

²⁵ *De Jorio v Italy*, no. 73936/01, §45 and 56, 3 June 2004; *Ielo v Italy*, no. 23053/02, §44 and 53, 6 December 2005.

²⁶ These States include Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Norway, Poland, Portugal, Romania, Spain and Sweden; other States permitting a civil claim in criminal cases, including on the basis of universal jurisdiction, include Argentina, Bolivia, China, Colombia, Costa Rica, Senegal and Venezuela, see Amnesty International, 'Universal Jurisdiction: The Scope of Universal Civil Jurisdiction,' 1 July 2007, at <https://www.amnesty.org/en/documents/ior53/008/2007/en/>; see also European Commission, 'Brief of the European Commission on behalf of the European Union as Amicus Curiae in Support of Neither Party,' in *Kiobel et al v Royal Dutch Petroleum Ca., et al*, Supreme Court of the United States, 13 June 2012, n.48, at [http://www.sdsllaw.com/pdfs/European%20Commission%20on%20Behalf%20of%20the%20European%20Union%20\(Revised\).pdf](http://www.sdsllaw.com/pdfs/European%20Commission%20on%20Behalf%20of%20the%20European%20Union%20(Revised).pdf).

²⁷ See for an overview of universal jurisdiction proceedings, REDRESS and FIDH, 'Extraterritorial Jurisdiction in the European Union: A Study of the Laws and Practice in the 27 Member States of the European Union, December 2010, at [http://www.redress.org/downloads/publications/Extraterritorial Jurisdiction in the 27 Member States of the European Union.pdf](http://www.redress.org/downloads/publications/Extraterritorial%20Jurisdiction%20in%20the%2027%20Member%20States%20of%20the%20European%20Union.pdf); Human

States have used relevant civil party provisions in practice to award compensation to victims. In France, the Cour d'Assises of Nîmes in 2005 convicted a Mauritanian army officer for torture and complicity in torture committed twelve years earlier in Mauritania against Mauritanian nationals. The suspect had only briefly been present in France before he managed to escape while on bail. The proceedings continued in his absence, and even though the French authorities could not investigate the crimes in Mauritania itself, the court found that the civil parties submitted sufficient evidence demonstrating Ely Ould Dah's responsibility and sentenced him to ten years imprisonment. The court furthermore considered that the claims of five victims, who had joined the criminal proceedings as civil parties, were admissible and that it had sufficient information to award 15.000 Euro in damages to each of the victims.²⁸

16. Spanish law similarly allows civil claims to be brought as part of criminal proceedings, including on the basis of universal jurisdiction. In 1998, at the request of civil party lawyers representing Chilean torture victims in Spain, Spanish courts issued an order freezing the assets of Augusto Pinochet, who was accused of torture and other crimes committed in Chile, to satisfy his potential civil liability for those crimes.²⁹ Civil party lawyers eventually traced and discovered assets belonging to Pinochet in 2004, almost six years after the decision to freeze his assets. In 2005, the investigating judge quantified Pinochet's potential civil liability at 1,445,530,116 euros.³⁰ A trust fund was established in which 8 million USD of the traced assets was paid in the interests of victims who had filed the complaint in Spain, but also others who the Chilean state had recognised as victims.³¹ Eventually, 22, 000 victims were awarded compensation.³²

17. In addition, several courts in Europe have awarded reparation to victims of the 1994 Rwandan genocide. In 2007, the Belgian Court d'Assises for instance convicted Bernard Ntuyahaga to 20 years imprisonment for killings relating to the 1994 genocide committed in Rwanda by Rwandan nationals, and awarded a total of 575,070 Euro to Rwandan relatives of those killed.³³ Civil parties had initiated the criminal case and filed a request for compensation based on Belgium's universal jurisdiction legislation.³⁴ In awarding compensation, the Court applied Rwandan law and took into account evidence presented by the civil parties' lawyers of the harm suffered by

Rights Watch, 'Universal Jurisdiction in Europe: The State of the Art', 1 June 2006 at <https://www.hrw.org/sites/default/files/reports/ii0606web.pdf>; Human Rights Watch, The Long Arm of Justice: Lessons from Specialized War Crimes Units in France, Germany, and the Netherlands, September 2014, at <https://www.hrw.org/report/2014/09/16/long-arm-justice/lessons-specialized-war-crimes-units-france-germany-and>.

²⁸ Cour d'Assises du Département du Gard à Nîmes, Arrêt de condamnation de la Cour d'assises du Gard, No. 70/05, 1 July 2005; see for a copy of the Court's decision, FIDH, Mauritanie: Affaire Ely Ould Dah, November 2005, pp.55-59, at https://www.fidh.org/IMG/pdf/GAJ_Ely_Ould_Dah_nov2005_OK.pdf.

²⁹ See the Indictment dated 10 December 1998, issuing a provisional declaration of civil liability and confirming a previous freezing order to secure it, at http://www.elclarin.cl/fpa/pdf/p_101298.pdf, pp 279-280, English translation available at http://www.elclarin.cl/fpa/pdf/p_101298_en.pdf, p 368

³⁰ See the ruling of Investigating Court No. 5 Madrid of 25 February 2005 (Preliminary Investigation Abbreviated Proceeding 40/2005c) at http://www.elclarin.cl/fpa/pdf/p_250205.pdf, p 8, English translation available at http://www.elclarin.cl/fpa/pdf/p_250205_en.pdf, p 5);

³¹ Ibid.

³² See further REDRESS and FIDH, Universal Jurisdiction Trial Strategies; Focus on Victims and Witnesses, November 2010, pp.65-67, at http://www.redress.org/Universal_Jurisdiction_Nov2010.pdf.

³³ Cour d'assises de l'arrondissement administratif de Bruxelles-Capitale, 19 September 2007.

³⁴ See for a detailed overview of the case, including the Court's assessment of the civil claims, Avocats Sans Frontières, 'Les Assises Rwanda 2007: Observation du processus de Bernard Ntuyahaga, Chroniques judiciaires: compilation, Bruxelles, mai-septembre 2007, at <https://www.legal-tools.org/doc/8a8e46/pdf/>; See for further information, Association française pour la promotion de la compétence universelle, 'L'affaire Bernard Ntuyahaga', 16 June 2015, at <https://competence-universelle.org/2015/06/16/laffaire-bernard-ntuyahaga/>.

their clients.³⁵ Courts in The Netherlands³⁶ and Sweden³⁷ similarly awarded compensation to victims in relation to the 1994 genocide in Rwanda.

18. These are but some examples of instances where courts in Convention States have awarded compensation to victims of torture and other serious human rights violations on the basis of universal jurisdiction. These proceedings contributed to accountability of the perpetrators and provided victims with access to an effective remedy and reparation.³⁸ These cases illustrate not only a trend to recognise victims' rights on the basis of universal jurisdiction, but furthermore show that notwithstanding challenges in the administration of evidence and the enforcement of decisions, these proceedings are feasible and often the only available route for victims to access justice.

Jürgen Schurr
REDRESS

Carla Ferstman
REDRESS

Gerald Staberock
OMCT

³⁵ Ibid.

³⁶ Court of Appeal, Case ECLI: NL: GHSGR: 2001: BR0686, Judgment of 7 July 2011, at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI%3ANL%3AGHSGR%3A2011%3ABR0686>. In addition to convicting the Rwandan national for war crimes and torture, the Court confirmed the award of compensation to two civil parties. The Court proceeded to consider their claims after finding that they did not constitute a 'burden' in the proceedings and applied Rwandan law to identify whether the claims were statute barred (which they were not), see Section 24.

³⁷ On 16 May 2016, the Stockholm District Court convicted Claver Berinkindi, a Rwandan national who had obtained Swedish citizenship for his participation in the genocide, and sentenced him to life imprisonment. The Court awarded damages to 15 victims who had participated as civil parties, the majority following the proceedings from Rwanda. The Court awarded damages ranging from 30,000 – 100,000 Swedish Krona (approximately 3,100 – 10,500 Euro), see New York Times, 'Swedish Court Sentences Man to Life in Prison for Role in Rwanda Genocide,' 16 May 2016, at http://www.nytimes.com/2016/05/17/world/europe/sweden-rwanda-claver-berinkindi.html?_r=1; on 15 February 2017, the Court of Appeal upheld the life sentence and the damages awards, see Jurist, 'Sweden court upholds life sentence in Rwanda genocide case, at <http://www.jurist.org/paperchase/2017/02/swedish-court-upholds-life-sentence-verdict-in-rwanda-genocide-case.php>.

³⁸ See Preamble to the *Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations*, adopted by the Committee of Ministers on 30 March 2011 at the 1110th meeting of the Ministers' Deputies. See also *Recommendation Rec (2006)8 of the Committee of Ministers to Member States on assistance to crime victims*, adopted by the Committee of Ministers on 14 June 2006 at the 967th meeting of the Ministers' Deputies, §7.

ANNEX TO WRITTEN COMMENTS BY

REDRESS AND OMCT

DETAILS OF INTERVENERS

REDRESS

The Redress Trust ('REDRESS') is an international human rights non-governmental organisation based in London with a mandate to assist torture survivors to prevent their further torture and to seek justice and other forms of reparation. It has accumulated a wide expertise on the rights of victims of torture to gain both access to the courts and redress for their suffering and has advocated on behalf of victims from all regions of the world. Over the past 18 years, REDRESS has regularly taken up cases on behalf of individual torture survivors at the national and international level and provides assistance to representatives of torture survivors. REDRESS has extensive experience in interventions before national and international courts and tribunals, including the United Nations' Committee against Torture and Human Rights Committee, the European Court of Human Rights, the Inter-American Commission of Human Rights, the International Criminal Court, the Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia.

OMCT

Created in 1986, the World Organisation Against Torture (OMCT) is today the main coalition of international non-governmental organisations (NGO) fighting against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment. With 297 affiliated organisations in its SOS-Torture Network and many tens of thousands correspondents in every country, OMCT is the most important network of non-governmental organisations working for the protection and the promotion of human rights in the world.

Based in Geneva, OMCT's International Secretariat provides personalised medical, legal and/or social assistance to hundreds of torture victims and ensures the daily dissemination of urgent appeals across the world, in order to protect individuals and to fight against impunity. Specific programmes allow it to provide support to specific categories of vulnerable people, such as women, children and human rights defenders. In the framework of its activities, OMCT also submits individual communications and alternative reports to the special mechanisms of the United Nations, and actively collaborates in the development of international norms for the protection of human rights.

OMCT enjoys a consultative status with the following institutions: ECOSOC (United Nations), the International Labour Organization, the African Commission on Human and Peoples' Rights, the Organisation Internationale de la Francophonie, and the Council of Europe.

NAIT LIMAN v. SWITZERLAND (Application Number 51357/07)

ANNEX TO WRITTEN COMMENTS BY

REDRESS AND OMCT

LIST OF AUTHORITIES³⁹

International Court of Justice

1. Questions relating to the obligation to prosecute or extradite (*Belgium v Senegal*), Judgment of 20 July 2012
<http://www.icj-cij.org/docket/files/144/17064.pdf>

United Nations Documents

2. UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UN G.A. Res 60/147 (2005)
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>
3. Committee Against Torture, General Comment No.3 on the implementation of Article 14 by States parties, CAT/C/GC/3, 19 November 2012
http://www2.ohchr.org/english/bodies/cat/docs/GC/CAT-C-GC-3_en.pdf
4. Committee Against Torture, Concluding Observations on Canada, CAT/C/CR/34/CAN7 (2005), July 2005
<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhshvVcmWTul6%2Fu%2BWI9YGTvQdkZfKYwfoso0UPpJshA3m2H9wYAt9kuNI0dDsUexighwLI50awgSqt8KNnF6YSUiDDcwNZkbl59sV1rT9qewC5>
5. Committee Against Torture, Concluding Observations on Canada, CAT/C/CAN/CO/6, 25 June 2012
<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsglSZMQd1BoEakgym8DLljo2uGnHH3oyZYvUDrHFrWr2Tq%2bpN9cd3TbMTbllcHHXuNN2U07ZOSk4zTJzOtl8dHeh87XIBCXKn1BhKiTBgOyL>

International Law Commission

6. The Obligation to extradite or prosecute (aut dedere aut judicare): Final Report of the International Law Commission, 2014
http://legal.un.org/ilc/texts/instruments/english/reports/7_6_2014.pdf

³⁹ We have not provided ECHR materials, or widely ratified human rights treaties. Authorities are listed under each heading in the order in which they appear in the intervention.

Council of Europe Documents

7. Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations, 30 March 2011
<https://wcd.coe.int/wcd/ViewDoc.jsp?id=1769177&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>

European Union Documents

8. Nuyts, *Study on Residual Jurisdiction: General Report*, 3 September 2007
http://ec.europa.eu/civiljustice/news/docs/study_residual_jurisdiction_en.pdf
9. European Commission Study on Residual Jurisdiction: Country Reports
http://ec.europa.eu/civiljustice/publications/publications_en.htm
10. Council of the European Union, 'AU-EU Expert Report on the Principle of Universal Jurisdiction,' 16 April 2009
<http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%208672%202009%20REV%201>
11. European Commission, 'Brief of the European Commission on behalf of the European Union as Amicus Curiae in Support of Neither Party,' in *Kiobel et al v Royal Dutch Petroleum Co., et al*
[http://www.sdshhlaw.com/pdfs/European%20Commission%20on%20Behalf%20of%20the%20European%20Union%20\(Revised\).pdf](http://www.sdshhlaw.com/pdfs/European%20Commission%20on%20Behalf%20of%20the%20European%20Union%20(Revised).pdf)

Resolutions of the Institute of International Law

12. Institute of International Law, 'Resolution on Universal Civil Jurisdiction with regard to Reparation for International Crimes,' 30 August 2015
http://www.andreasbucher-law.ch/images/stories/res_iil_en_universal_civil_jurisdiction.pdf

International Law Association

13. Final Report of the Committee on International Civil Litigation and the Interests of the Public, August 2012
<http://www.ila-hq.org/download.cfm/docid/D7AFA4C8-E599-40FE-B6918B239B949698>
14. Sofia Guidelines on best practices for international civil litigation for human rights violations, August 2012
<http://www.ila-hq.org/download.cfm/docid/F784A3AA-7030-433D-96833C48F941FB28>

Domestic legislation and jurisprudence

1. **Belgium:** Cour d'assises de l'arrondissement administratif de Bruxelles-Capitale, 19 September 2007/ Avocats Sans Frontières, 'Les Assises Rwanda 2007: Observation du process de Bernard Ntuyahaga, Chroniques judiciaires: compilation, Bruxelles, mai-septembre 2007
<https://www.legal-tools.org/doc/8a8e46/pdf/>

2. **France:** Cour D'Assises du Departement du Gard à Nimes, Arrêt de condamnation de la Court d'assises du Gard, No. 70/05, 1 July 2005, reprinted in *Groupe d'action judiciaire de la FIDH, Mauritanie: Affaire Ely Ould Dah*, Annex 3, (2005)
http://www.fidh.org/IMG/pdf/GAJ_Ely_Ould_Dah_nov2005_OK.pdf
3. **France:** Cour D'Assises du Departement du Gard à Nimes, *Arrêt sur l'action civil* de la Court d'assises du Gard, 1 July 2005, reprinted in *Groupe d'action judiciaire de la FIDH, Mauritanie: Affaire Ely Ould Dah*, Annex 4, (2005)
http://www.fidh.org/IMG/pdf/GAJ_Ely_Ould_Dah_nov2005_OK.pdf
4. **Netherlands:** The Hague District Court, *El-Hojouj/Unnamed Libyan Officials*, 21 March 2012, LJN: BV9748
<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBSGR:2012:BV9748&showbutton=true&keyword=BV9748>
5. **Netherlands:** Court of Appeal, Case ECLI: NL: GHSGR: 2001: BR0686, Judgment of 7 July 2011
<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI%3ANL%3AGHSGR%3A2011%3ABR0686>
6. **Spain:** Pinochet Indictment dated 10 December 1998, issuing a provisional declaration of civil liability and confirming a previous freezing order to secure it, at
http://www.elclarin.cl/fpa/pdf/p_101298.pdf (English translation available at
http://www.elclarin.cl/fpa/pdf/p_101298_en.pdf)
7. **Spain:** Ruling of Investigating Court No. 5 Madrid of 25 February 2005 (Preliminary Investigation Abbreviated Proceeding 40/2005c)
http://www.elclarin.cl/fpa/pdf/p_250205.pdf (English translation available at
http://www.elclarin.cl/fpa/pdf/p_250205_en.pdf)
8. **Sweden:** New York Times, 'Swedish Court Sentences Man to Life in Prison for Role in Rwanda Genocide,' 16 May 2016
http://www.nytimes.com/2016/05/17/world/europe/sweden-rwanda-claver-berinkindi.html?_r=1 and Jurist, 'Swedish Court upholds life sentence in Rwanda genocide case, 17 February 2017
<http://www.jurist.org/paperchase/2017/02/swedish-court-upholds-life-sentence-verdict-in-rwanda-genocide-case.php>

Articles, Books and Reports

9. Chilenye Nwapi, 'A Necessary Look At Necessity Jurisdiction', U.B.C.L.Rev 47 (2014) 211 (*hard copy supplied*)
10. Stephen V. Berg and Lorenz Droese, 'Artikel 3' in, 'Internationales Privatrecht. Basler Kommentar', 3rd edn, Heinrich Honsell, Nedim Peter Vogt, Anton K. Schnyder, Stephen V. Berti (eds), Helbing Lichtenhahn Verlag, 2013

11. Amnesty International, 'Universal Jurisdiction: The Scope of Universal Civil Jurisdiction,' 1 July 2007
<https://www.amnesty.org/en/documents/ior53/008/2007/en/>
12. REDRESS and FIDH, 'Extraterritorial Jurisdiction in the European Union: A Study of the Laws and Practice in the 27 Member States of the European Union, December 2010
http://www.redress.org/downloads/publications/Extraterritorial_Jurisdiction_In_the_27_Member_States_of_the_European_Union.pdf
13. Human Rights Watch, 'Universal Jurisdiction in Europe: The State of the Art', 1 June 2006
<https://www.hrw.org/sites/default/files/reports/ij0606web.pdf>
14. Human Rights Watch, The Long Arm of Justice: Lessons from Specialized War Crimes Units in France, Germany, and the Netherlands, September 2014
<https://www.hrw.org/report/2014/09/16/long-arm-justice/lessons-specialized-war-crimes-units-france-germany-and>
15. REDRESS and FIDH, Universal Jurisdiction Trial Strategies; Focus on Victims and Witnesses, November 2010
http://www.redress.org/Universal_Jurisdiction_Nov2010.pdf
16. Association française pour la promotion de la compétence universelle, 'L'affaire Bernard Ntuyahaga', 16 June 2015
<https://competence-universelle.org/2015/06/16/laffaire-bernard-ntuyahaga/>