



2021  
ANNUAL REPORT

Enforcing  
human rights  
through  
legal means

**ECCHR**



**2021  
ANNUAL REPORT**

**ENFORCING HUMAN  
RIGHTS THROUGH  
LEGAL MEANS**

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AIDA SILVESTRI: CONTAGION — COLOUR ON THE FRONT LINE

# Global solidarity and human rights

WOLFGANG KALECK

Global solidarity and human rights—both terms have gone through multiple reinterpretations throughout their long history, and many attempts have been made by the powerful to appropriate them for their own political ends. Nevertheless, we at the European Center for Constitutional and Human Rights (ECCHR) continue to use these terms in our struggle and to fight, above all, *for* their substance. Solidarity was an important political watchword in the labor and women's movements, in whose tradition we situate our own efforts. Their idea of solidarity was such that it should not only serve the interests of these large groups, but rather, at its core, it should always aim to fundamentally change social conditions. Our global solidarity is directed in word, and even more so in legal deed, at the disenfranchised and downtrodden of this world.

Contrary to popular opinion and against the eternal cynics, we say: not everything has gotten worse. In various respects, we—as those who strive for a fundamental transformation of society in terms of human rights—are gaining ground.

Just a few examples of our work: almost 25 years after the Chilean dictator Augusto Pinochet was arrested, trials now occur regularly in Germany that are based upon the principle of universal jurisdiction—most recently against Syrian state officials who tortured people and/or had them tortured. →P.12 This was equally as unforeseeable several years ago as the parliamentary and societal majority that stood in favor of corporate legal accountability, which culminated in the German Supply Chain Act in the summer of 2021. →P.23 Even if these decisions do not go far enough from a human rights perspective, at a time when people continue to be tortured and companies continue to exploit workers, these are steps in the right direction.

## Human rights are gaining ground

At the same time, we cannot ignore the ambivalence of the law. As Katharina Pistor, a professor in the US, rightly observes in her seminal work *The Code of Capital* and emphasized at a joint event with ECCHR in June 2021: trade, economic, tax, and property law have in recent years been shaped by lawyers working in the service of financial elites. However, we choose to see this process as reversible.

In the spirit of Pistor, new rights must be established and put into practice, such as the global right to health. Long recognized in law, yet too infrequently implemented in practice, such a right would mandate that, in the current pandemic situation, all people everywhere in the world have equal access to medical care—in other words, to medical

infrastructure, as well as to vaccines—guaranteeing that no one in the world will die because they lack access to clinics and to medical care. Such a structure would also help, and here we come back to solidarity, to ensure that viruses do not migrate from one part of the globe to another, setting in motion an eternal cycle of pandemics that, like climate change, would amount to the destruction of our planet, or at least the people living on it.

Regarding the movement for climate justice, we think in similar terms, but with an emphasis that differs sharply from conservative nature preservationists. For us, first and foremost, it is necessary to account for the historical guilt of large industrial corporations and states in the West and the Global North. Secondly, we advocate that all efforts to address climate change be implemented in a socially just manner—taking into consideration that parts of the world have already suffered for quite some time from the consequences of early-onset climate change. →P.37 +38

## New rights must be established and put into practice

Along these lines, climate refugees must be given the opportunity to live in regions of the world that are more conducive to human survival than their home countries. This requires a much more reasonable and, above all, humane migration policy in Europe, which we are currently far away from. At the moment, we are only fighting against the excesses of the existing policy, namely, collective expulsions, as well as abuses at European borders and on European soil. →P.47

All these struggles are significant and certainly not easy. That is why we rely on support, which we now kindly ask for once again. We would like to express our sincere gratitude to all those who have stood by us in the past years, with advice, action and financial resources. It is encouraging to know that so many people support our work and have joined us along the way.

WOLFGANG KALECK IS GENERAL SECRETARY OF THE EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS (ECCHR).



# International Crimes and Accountability

I.

AIDA SILVESTRI  
SUGAR  
2020 →



## Fighting impunity to bring atrocities to justice

Seeking justice for the most severe human rights violations often requires challenging high-level state actors. But, whether in democracies or dictatorships, those responsible for such crimes often manage to shield themselves behind a wall of impunity.

ECCHR combats impunity for international crimes such as torture, systematic sexual violence or crimes against humanity within a range of different legal forums, including the International Criminal Court. Yet, beyond international bodies, ECCHR has been very successful in applying the principle of universal jurisdiction in several European countries to investigate crimes and bring perpetrators to trial.

Enforcing human rights is not only a future reckoning with crimes past. By bringing the gravest crimes to the attention of the courts, even if they are not brought to trial, ECCHR works to generate the political and public pressure necessary to prevent them from happening again.



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Holding even the most powerful  
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Political and economic power cannot be  
allowed to shield those who commit crimes  
against humanity. We intervene to stop  
torture, sexual violence and war crimes  
from going unpunished.

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## “With this trial, the story of my arrest comes to an end”

RUHAM HAWASH

Esteemed Judges,

with full confidence in my lawyers who represented me in the trial, I have decided to speak to you in person today because this trial session is not a routine procedure for me, and this day is not an ordinary day. Today is our day, we, the victims who, through this trial in this court, have been able for the first time to regain our agency and take action against those who have deprived us of our liberty, and against the crimes that have been committed against us.

I have chosen to speak before you today, despite the difficulty of this task, also out of a sense of responsibility towards all those who have gone through a similarly painful experience and do not have access to this court or any other similar legal body.

But primarily, I speak today out of a sense of duty towards those who are still being held in the detention centers of the Assad regime and in all other prisons in Syria, those who do not know that we are standing here today and may never know.

On the one hand, my participation in this trial was a painful experience for me. I had to dig up a lot of memories that I have always tried to bury and forget forever, a process that has had an enormous impact on my physical and mental health. At the beginning of the trial, I did not know what to think or expect from it. Today, however, I can say that this difficult experience has restored my faith in justice. Justice is not an illusion, but a necessity, and it can become a reality.

With this trial, the story of my arrest comes to an end. I used to tell people how I was arrested, deprived of my freedom, and how my rights were violated. Today, I can continue to tell my story and say that I helped to bring one of those individuals to justice who is guilty of this, which has given me back a part of my violated dignity.

Like many other Syrians, I lost hope for a very long time. My participation in this trial, and my involvement in the many details of these proceedings, has restored my faith in the meaning and benefits of the fight for a more just world, and it has shown me the potential attainability of justice and change. This has resuscitated the hope within me that what has happened to us in Syria and what is still happening there every day is not the end.

**My involvement in the  
proceedings has restored  
my faith in the meaning  
of the fight for a more  
just world**

I am saying all this today in full awareness that what I am trying to express here in emotions and words is my individual experience, and it may seem an illusion to millions of Syrians who have lost their faith in justice in the world. On the broad public level, this trial might not seem like a big step, but on a personal level, it means a lot to me.

That is why I wish—and I will continue to strive for it with hope—that we will all experience the time when our capacity to act and our faith in the meaningfulness of our efforts will be restored.



Esteemed Judges,

the defendant claims to have helped the prisoners. I say to you today that the very fact that we are here in this room in Germany, exiled from our country, is proof that neither the defendant nor any of his colleagues provided us with any form of help, cooperation or empathy.

But if the defendant were to ask me today what outcome of this trial I hope to see, I would answer: I don't want you to experience the horror I had to experience, and I don't want you to sit and wait for a long time without knowing what will happen next. This is what burdened me the most during the days of my imprisonment.

Justice, dignity and freedom are the fundamental rights of all people

But most of all, I do not wish for you to experience torture, to die under it, or to be detained and unlawfully imprisoned, as you and other criminals have done to me and to millions of Syrians many times. But I do wish that this court gives you time, a lot of time, enough time to think about us, the victims and witnesses who have appeared here in this court. To think about the faces, voices and dreams of all those you encountered during the years of your work in the detention center. I wish you a lot of time to think about this, as I am convinced that you will not be able to escape these thoughts.

We Syrians have fought and are still fighting for the liberation of our country from an inhuman regime, for justice and the restoration of our dignity, and this is our right.

Justice, dignity and freedom are the fundamental rights of all people. What is happening here today must not remain a one-time event. It is not a generous gift from anyone. Rather, it is the human, legal and governmental duty of every human being, of every judiciary and of every state.

Lastly, I believe that the verdict that this court will pronounce will not bring full justice to the Syrian people, nor can it be seen as an alternative to a comprehensive and sustainable solution to the issue of detainees in Syrian prisons or to the Syrian conflict in general. But this verdict must serve as an urgent call to the German government and all governments around the world to take real action to save those still held in the regime's dungeons and in the big prison called "Assad's Syria."

**RUHAM HAWASH, SYRIAN-PALESTINIAN ACTIVIST AND JOINT PLAINTIFF IN THE AL-KHATIB TRIAL, HELD THIS CLOSING STATEMENT ON 8 DECEMBER 2021 IN THE KOBLENZ COURT. ON → [ECCHR.EU/TRIAL-REPORTS](https://ecchr.eu/trial-reports), YOU WILL FIND OTHER JOINT PLAINTIFF STATEMENTS BY NOURAN ALGHAMIAN, HUSSEIN GHRER AND WASSIM MUKDAD.**

## Courage, strength and unity

MICHELLE TRIMBORN

"Fiat Justitia": let justice be done. On many occasions during the course of the al-Khatib trial, I gazed up at these words written above a door in Room 120 of the Koblenz Higher Regional Court—including on the 105<sup>th</sup> day of the proceedings, one of the final days of the trial, the day of the closing statements by the joint plaintiffs.

I followed the trial from the very beginning; I was there (at the time in a different building) when the representatives of the Federal Public Prosecutor's Office read aloud the indictment. I listened to the defendant's statements and, with the ECCHR Syria team, accompanied the joint plaintiffs to their hearing. And I asked myself the question over and over again: will the upcoming verdict bring justice?

As Hussein Ghrer, Nouran Alghamian, Ruham Hawash and Wassim Mukdad, four of the joint plaintiffs, approached the podium one after the other in that room on 8 December 2021, I felt that, perhaps, it would not be the pronouncement of the final judgment—but, rather, this very moment—that would stand out as one of the trial's most important in the effort to help those affected to achieve justice.

What had the strongest effect on me and everyone else in the courtroom that day was not the suffering they recounted. Rather, it was the courage, unity and strength with which they spoke to the court in their very own words, making it resoundingly clear: "we are not standing here as victims, but as survivors. We are subjects. This is about us."

"I don't know whether to feel happiness because I survived or sorrow for the tens of thousands of unfortunate people who are still being held in conditions of enforced disappearance," Hussein Ghrer began his statement. And his fellow joint plaintiffs also emphasized this: their participation in the trial is not a personal matter. They stood there for the many friends, acquaintances and unknown Syrians who did not and will not ever have this opportunity—because they were killed, were disappeared or died while fleeing to find a better life. The four demanded justice for all of them.

They are not standing here as victims, but as survivors

When facing the atrocious crimes in Syria, the question of what true justice should be will most likely never be answered. Yet Nouran, Wassim, Hussein and Ruham on that day demonstrated something that is far more important. It's not about justice *for* those affected but, rather, *with* them.

**MICHELLE TRIMBORN IS SENIOR COMMUNICATIONS OFFICER AND HAS BEEN INVOLVED IN THE AL-KHATIB TRIAL SINCE IT BEGAN. AS PART OF ECCHR'S OUTREACH EFFORTS, SHE WORKED CLOSELY WITH THE SYRIAN TORTURE SURVIVORS WE SUPPORTED IN THE TRIAL.**

# State torture in Syria

## Historic ruling in the global fight against impunity

Without the determination of the witnesses and joint plaintiffs, many of whom suffered and still suffer from the violent crimes of the Assad regime, the world's first trial on Syrian state torture—in which two former officials in the Syrian General Intelligence Service were held accountable—would likely not have come to pass. Despite threats to their safety and having to relive traumatic experiences, nearly 40 survivors decided to testify at the trial. Their hope: fair proceedings under the rule of law that would also serve as a turning point in coming to terms with Syrian crimes.

Syria's systematic attack  
against its own population is  
a crime against humanity

In January 2022, the trial that spanned almost two years in the Koblenz Higher Regional Court finally drew to a close. Anwar R, former head of an investigative unit at the al-Khatib detention facility of the Syrian General Intelligence Service, was pronounced guilty as a co-perpetrator of torture, murder, severe bodily harm, and sexual violence, and was sentenced to life in prison. His former associate Eyad A had already been convicted in February 2021 of aiding and abetting torture. This is the first time a court has confirmed that the violent actions of the Syrian regime under President Bashar al-Assad are a systematic attack against its own population—a crime against humanity.

Too often, the perpetrators of such horrific crimes go unpunished. Too often, those affected go unheard. But this trial, carried out under the principle of universal jurisdiction, demonstrates that it is possible to address these crimes, even when such a regime, as in the case of Syria, is still in power. Surely, there are aspects of the proceedings that deserve criticism. Surely, there are numerous missed opportunities. Of course, addressing Syrian crimes in third countries is not ideal. Nevertheless, the historic verdict offers a ray of hope in the fight against impunity and an initial step towards more justice for many Syrians.

And the reckoning with past crimes continues. Only several days after the verdict was handed down in Koblenz, the trial against the former Syrian doctor Alaa M, who allegedly tortured, killed and sexually abused people in military hospitals, began in the Frankfurt Main Higher Regional Court. This trial will also not be the last of its kind.

### 2000

**JULY**

Bashar al-Assad succeeds his father Hafez as president of Syria. The country has been under the dictatorial rule of the Assad family since 1970

### 2002

**JUNE**

Germany's Code of Crimes against International Law (*Völkerstrafgesetzbuch*) comes into force. The principle of universal jurisdiction makes it possible to investigate grave crimes, even if they were not committed in Germany

### 2012

ECCHR begins project to address human rights crimes in Syria

### 2017

**MARCH**

ECCHR files first criminal complaint in Germany against Syrian Military Intelligence officials for human rights crimes<sup>1</sup>

**SEPTEMBER**

Criminal complaint in Germany against Syrian Intelligence Service and Military Police officials; thousands of "Caesar photos" documenting corpses from Syrian detention centers are handed over to the Federal Public Prosecutor

**NOVEMBER**

Criminal complaint in Germany against members of the Syrian Air Force Intelligence, including its head Jamil Hassan

### 2019

**FEBRUARY**

Criminal complaint in Sweden

German Federal Court of Justice has two former members of the Syrian General Intelligence Service, Anwar R and Eyad A, arrested in Germany

**OCTOBER**

German Federal Prosecutor charges Anwar R and Eyad A with crimes against humanity and other crimes

**NOVEMBER**

Criminal complaint in Norway

### 2021

**FEBRUARY**

Eyad A is sentenced to four years and six months in prison

**MARCH**

Sexual violence in al-Khatib Branch charged as a crime against humanity

**JULY**

Federal Prosecutor's Office brings charges against Syrian doctor Alaa M. He is alleged to have tortured Syrian civilians in military hospitals, among other crimes

Academics and lawyers for the joint plaintiffs request that the charges be expanded to include the crime of enforced disappearance, as well as that audio recordings of the proceedings be provided. Both requests are denied

### 2011

**MARCH**

Arab Spring, Syrians openly demonstrate against the Assad government

Assad reacts with intensive, systematic violence, arrests, disappearances and torture. Syrians increasingly flee the country, including to Europe

Germany's Federal Prosecutor opens structural investigations into Syria

### 2016

**NOVEMBER**

Those affected, ECCHR and Sherpa file a criminal complaint in France against the French cement manufacturer Lafarge for aiding and abetting war crimes in Syria, alleging that Lafarge colluded with the Islamic State, among other crimes

### 2018

**MAY**

Criminal complaint in Austria

**JUNE**

German Federal Court of Justice issues arrest warrant for Jamil Hassan, thanks in part to ECCHR's criminal complaints

### 2020

**APRIL**

The world's first trial on Syrian state torture, the al-Khatib trial, against Anwar R and Eyad A, begins in Koblenz, Germany

**JUNE**

Criminal complaint concerning sexual and gender-based violence in Syrian detention centers as a crime against humanity

**NOVEMBER**

For the first time, a German citizen joins a criminal complaint against the Syrian intelligence services. He was detained in Syria in 2018 as a humanitarian aid worker

### 2022

**JANUARY**

Anwar R is sentenced to life in prison for committing crimes against humanity

The Frankfurt Higher Regional Court in Germany begins proceedings against Alaa M for crimes against humanity

Investigations against high-ranking Syrian officials in Germany, Austria, France and Sweden continue

**1 ECCHR SUBMITTED ALL CRIMINAL COMPLAINTS TOGETHER WITH SYRIAN TORTURE SURVIVORS AS WELL AS SYRIAN AND LOCAL PARTNERS**

**YOU CAN FIND MORE INFORMATION ON OUR SYRIA WORK ON → [ECCHR.EU/SYRIA](https://ecchr.eu/syria).**

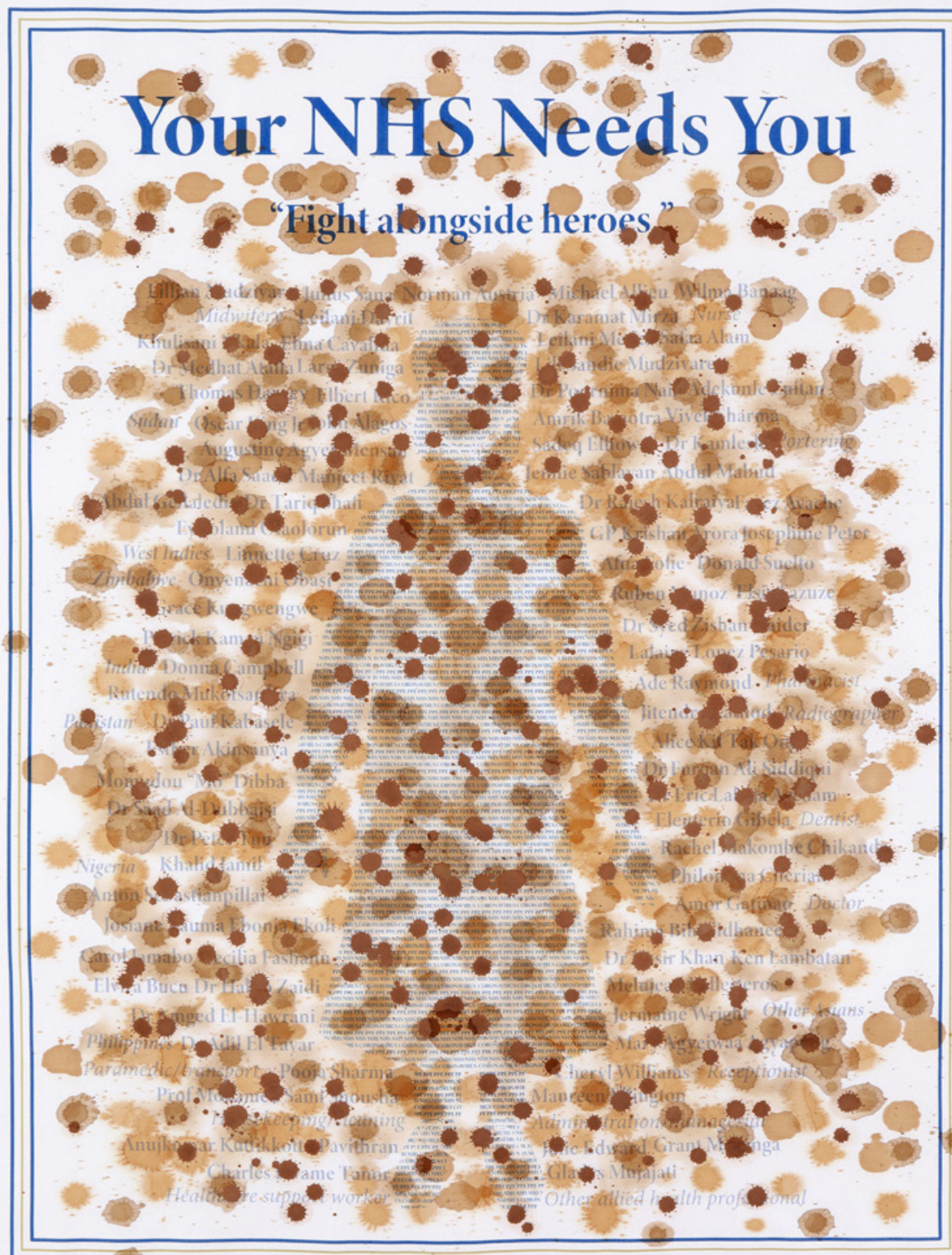


Migrants and refugees are systematically exploited and subject to extensive violence by various conflicting parties vying for power and resources in Libya. They are viewed as free labor and all too often become a source of criminal income. In some cases, those seeking protection are even forced to participate directly or indirectly in armed combat in the civil war.

Migrants and refugees are systematically exploited by various conflicting parties

The ICC has already been investigating the crimes in Libya for eleven years. Since 2017, the court has also monitored severe human rights abuses against migrants and refugees, yet it has not publicly opened an investigation into these crimes. It is time for the ICC to finally initiate proceedings and issue arrest warrants for those responsible.

And we demand even more than this: the EU's policy contributes decisively to the inhumane situation of refugees and migrants in Libya. We call on the EU to cease its support of the Libyan authorities on migration management, as long as human rights violations continue in the region. The EU must uphold its human rights obligations at its borders.





# Brutal persecution of LGBTQ in Chechnya

Dear Mr Federal Public Prosecutor,

The European Center for Constitutional and Human Rights eV (ECCHR) and the Sphere Foundation hereby submit this

criminal complaint

concerning the perpetration of the following crimes during the period from February 2017 to April 2017 in three detention facilities in the Chechen cities of Argun, Tsotsi-Yurt and Grozny,

as well as during the period from December 2018 to March 2019 in a detention facility in the Chechen capital of Grozny:

homicide, extermination, torture, sexual assault and rape, enforced disappearance, infliction of serious bodily or mental harm, deprivation of liberty, and persecution as crimes against humanity under Section 7(1)(1), (2), (5), (6), (7), (8), (9), and (10) of the Code of Crimes Against International Law, along with other relevant offenses. [...]

The non-governmental organizations Sphere Foundation [...] and the European Center for Constitutional and Human Rights (ECCHR) submit the following criminal complaint with the aims of providing law enforcement authorities with important information concerning the crimes committed against international law in the Chechen Republic of the Russian Federation between 2017 and 2019, as well as requesting that the Federal Public Prosecutor initiate investigations into the reported crimes against international law and the perpetrators responsible for them. [...]

The crimes hereby reported are part of the systematic arrests, detentions, torture, rapes, and other acts committed by Chechen law enforcement officials against at least 235 citizens of the Russian Federation who identify their sexual orientation as homosexual or bisexual. These acts of violence were committed during several periods, spanning multiple months since 2017 within various official and unofficial detention facilities in the Chechen Republic. [...]

The targeted assaults against gay and bisexual men in the Chechen Republic from 2017 to the present should be viewed against the backdrop of years of ongoing repression against [...] LGBTQ persons.

THIS TEXT CONTAINS TRANSLATED EXCERPTS FROM A CRIMINAL COMPLAINT SUBMITTED BY ECCHR AND SPHERE FOUNDATION TO THE FEDERAL PUBLIC PROSECUTOR'S OFFICE IN GERMANY IN FEBRUARY 2021. GERMANY CAN TAKE ACTION AGAINST THE CRIMES AGAINST LGBTQ IN CHECHNYA UNDER THE PRINCIPLE OF UNIVERSAL JURISDICTION.

# Guantánamo 2.0

MANSOOR ADAYFI

*At the age of 18, Mansoor Adayfi left his home in Yemen for a cultural mission to Afghanistan. He never returned. Kidnapped by warlords and then sold to the US after 9/11, he was disappeared to Guantánamo Bay, where he spent the next 14 years as Detainee #441. He now lives in Belgrade, Serbia, where he writes, creates artwork, and advocates for prisoner and detainee rights.*

When I arrived in Serbia [after 14 years of imprisonment in Guantánamo without charge or trial], I was told: “We have nothing for you. You’re going to be deported in two years.” That wasn’t the truth, because we were promised by the US State Department that we were going to be treated like Serbians. But when I arrived here, I was denied education. The first time I applied to college, I got accepted, but was then expelled, just because I had been in Guantánamo.

At Guantánamo I was  
fighting for my freedom;  
now I’m fighting for my life

I used to go to a mall that has a small library on the first floor. They have tables and internet, so I thought it would be good to have a change of scenery and work or study there. I had to give the information desk my ID to enter the library. When they ran my ID through the system, they panicked. Later, when I went to pray on the balcony, the guards came, and I was detained. The police were called, and counter-terrorism forces came. I was really scared. I thought, are they going to shoot me? I was interrogated and asked to leave.

The conditions I was given were that I would not be able to travel for two years. Now, Serbia has said I can travel, but in reality, I’m not allowed to have travel documents. I have been asking for the last four years to get documents from Serbia or my own government, [but both] refuse to provide me with a passport. Simply because I was in Guantánamo. I tried to get married. I found a really lovely woman who accepted my proposal, and her family also accepted me. It was one of the best moments of my life, to find someone who loves me. I just needed a travel document. The woman waited for me, but nobody can wait forever.

Welcome to our lives. Again, we try to survive. I try to help my brothers and to help myself. At Guantánamo I was fighting for my freedom; now I’m fighting for my life.

THIS TEXT IS PART OF AN INTERVIEW WITH MANSOOR ADAYFI IN ECCHR'S ANTHOLOGY → RUPTURE AND RECKONING: GUANTÁNAMO TURNS 20, PART OF AN INTERDISCIPLINARY SERIES REFLECTING ON THE LEGACY OF THE NOTORIOUS GUANTÁNAMO DETENTION CAMP AND US COUNTER-TERRORISM POLICY TWO DECADES AFTER 9/11. TO VIEW THE FULL ANTHOLOGY, ONLINE ART EXHIBITION AND OTHER EVENTS, VISIT → ECCHR.EU/GUANTANAMO20.



# Business and Human Rights

## II.

AIDA SILVESTRI  
TEA  
2020 →





## Exposing crimes of transnational trade networks

Global trade is comprised of a vast network of supply chains, whose less-visible operations breed routine violations of human rights and acts of ecological violence. Forced labor is woven into the fabric of textile brands. Extractive industries poison the well of biodiversity, destabilizing the ecosystems of multiple communities, while accelerating planetary warming. Companies in the Global North inflame the ravages of dictatorships and war economies through exports of their weapons and surveillance technology. Yet, parent companies still claim ignorance or innocence in the face of those abuses which sustain their profits.

ECCHR's interventions have forced some such violations into the open, mounting pressure on companies to divest from harmful practices and to take accountability for enforcing human rights due diligence across their extended trade networks.

Donate  
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Enforcing human rights up and  
down the supply chain.

We hold corporations and their  
subsidiaries accountable for engaging  
in war profiteering, forced  
labor and environmental degradation.

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## Profiting from war The Lafarge cement company in Syria

In September 2021, the French Supreme Court, in a globally unprecedented decision, ruled that a corporation can be charged with complicity in crimes against humanity. What is behind this historic step in the Lafarge case?

Lafarge Cement Syria (LCS), the Syrian subsidiary of French company Lafarge (today Holcim), had been operating for several years in the north-eastern part of the country when armed groups invaded the region in 2012. However, instead of closing its factory in al-Jalabiya, Lafarge, through various intermediaries, paid the militias—among them the Islamic State—for raw materials and access to transport routes. The Syrian employees had to continue coming to the factory every day, risking their lives—even after dozens of them had been kidnapped on their way to work.

The ruling stands as a  
milestone in the field  
of corporate accountability

From 2012 to 2014, Lafarge is said to have paid up to 13 million euros to armed groups. France's highest court has now ruled: "Knowingly paying several million dollars to an organization whose sole purpose was exclusively criminal suffices to constitute complicity, regardless of whether the party concerned was acting to pursue a commercial activity." Lafarge, as the parent company, may therefore be charged with complicity in crimes against humanity—as serious evidence indicates that the headquarters in France approved these decisions.

In 2019, Lafarge appealed the charges of crimes against humanity. Now with the clear verdict from the Supreme Court, the case will be sent back to the Paris Appeals Court, while the judicial inquiry continues. In this complex case, eight former directors, including former CEOs of the holding company and of its subsidiary, remain charged with crimes, including the deliberate endangerment of their employees' lives. The company Lafarge is also facing charges for the financing of terrorism.

The ruling of 2021 stands as a milestone in the field of corporate accountability. It came as the result of a criminal complaint filed by eleven former Syrian Lafarge employees together with ECCHR and Sherpa in 2016. "Lafarge did not simply do business, but recklessly endangered my life and the lives of my colleagues—just for financial gain," claimed Mohammad, a plaintiff and one of the former LCS employees.

Looking ahead, he and his fellow plaintiffs hope that Lafarge as a company will indeed be convicted as charged for complicity in crimes against humanity, deliberately endangering the lives of others, and financing terrorism—and that the case will become an object lesson for other companies that do business in crisis regions and that have so far gone unpunished.



# Germany needs an arms export control law

BERLIN, 8 NOVEMBER 2021

To the participants in the coalition negotiations,

Your political parties ran for office with the demand to prevent the export of German arms to war zones. The impending export of German frigates by ThyssenKrupp Marine Systems to the Egyptian Navy once again shines a spotlight on questionable German arms exports. Transparency and an effective arms export control mechanism are long overdue. Germany needs an arms export control law! Such a law will finally bolster the prevention of human rights violations resulting from the use of German military goods.

The following elements are central to this law:

- a uniform, binding and conclusive regulation for all arms transfers in one single law
- a ban on the export of weapons of war and other military equipment to states that are at war, that violate human rights, or that can be considered crisis regions
- a ban on the export of small arms and light weapons and their ammunition in accordance with the UN definition
- a binding and legally enforceable human rights clause for the legitimate authorization of arms exports in exceptional cases, which ensures at least the minimum human rights standards of the International Arms Trade Treaty (ATT)
- comprehensive transparency obligations for all export authorizations and actual shipments, as well as a reporting requirement for the German government regarding the application of the human rights clause
- effective and transparent on-site end-use monitoring with robust sanctions in the event of violations
- a right enabling civil society organizations to initiate lawsuits, as well as formal participation rights for those affected by human rights violations in criminal proceedings
- a binding and legally enforceable due diligence obligation for arms manufacturers to comply with international human rights law and international humanitarian law

It is against this background that we call upon you to use the coalition negotiations to make a genuine change in arms export control and to incorporate a strong proposal for an arms export control law in the coalition agreement that includes the above elements.

For further questions or a more in-depth discussion, please do not hesitate to contact me.

Sincerely,

Dr Christian Schliemann-Radbruch

THIS TEXT CONTAINS EXCERPTS FROM AN OPEN LETTER SENT BY ECCHR TO POLITICIANS IN THE SPD, BÜNDNIS 90/DIE GRÜNEN, AND THE FDP DURING THE COALITION NEGOTIATIONS IN GERMANY IN NOVEMBER 2021. CHRISTIAN SCHLIEMANN-RADBRUCH IS A SENIOR LEGAL ADVISOR IN THE BUSINESS AND HUMAN RIGHTS PROGRAM.

# Human rights violations off the rack?

## China and the responsibility of international corporations for their supply chains

Since 2017, reports have accumulated that the Uyghur minority in the Xinjiang region is being subjected to systematic oppression and exploitation. Allegedly, tens of thousands in the northeastern province of China are forced to harvest cotton, manufacture yarn or sew garments in factories. The Chinese government has established a system of mass surveillance, cultural dispossession and exploitation in Xinjiang, in which people are sent to detention or “reeducation” camps where they are often tortured and forced into work.

We argue that European companies, such as Hugo Boss, Patagonia and Inditex, due to their business relations with suppliers from Xinjiang, have made themselves complicit in such systematic crimes, which can be classified as crimes against humanity. Thus, we and our partners filed two separate criminal complaints, one in Germany and one in the Netherlands, in 2021, as well as supported a similar complaint in France where the authorities have already launched investigations.

Supply chain acts can offer an additional tool to achieve greater global justice

Within this context, we also investigated the role of certifiers and determined in our report *Organic and more sustainable?* that sustainability certifications in no way guarantee that an article of clothing is manufactured in accordance with human rights standards.

The business practices of European brands in China exemplify a larger problem: namely, that corporations in the Global North shirk their responsibilities concerning the conditions of factories in the Global South. This is why, in the Business and Human Rights program, we have been working since 2008 to compel large companies—in court, if necessary—to guarantee human rights due diligence within their supply chains. Even though none of our cases have thus far resulted in a legal win in court, we nonetheless consider it as a success that more and more countries, including Germany in 2021, have enacted so-called supply chain acts. Even if the actual laws concerning the protection of workers across global supply chains are often in need of improvement, they nevertheless offer an additional tool to achieve greater global justice.

## “The objective is to force EDF to respect the community’s fundamental rights”

INTERVIEW WITH HANNAH RAJBENBACH

The French energy company Électricité de France (EDF) is planning the construction of a wind park in Oaxaca, Mexico, on the territory of the indigenous community Unión Hidalgo. How does the project impact the community?

The planning of this massive wind park affects the community members on different levels: first of all, the fundamental rights specifically recognized for indigenous communities are being violated, and their right to free, prior and informed consent is not being respected. Apart from that, community members are subject to harassment, pressure and violence, which escalates the destruction of the community’s social fabric, jeopardizing the health and safety of its members.

### How did you become involved in the civil case against EDF in France?

A few months after my legal traineeship at ECCHR, my former colleagues asked me to represent Unión Hidalgo community members as a lawyer in conjunction with their Mexican partner ProDESC, and bring a case against EDF in France. It was then necessary to gather a team of lawyers, so my colleagues Julie Février and Florian Curral-Stephen joined the collaboration. My previous experience working with ECCHR on strategic transnational litigation and the good working relationships established there allowed our team to develop an efficient work routine and quickly file the lawsuit—which was particularly important because the community is seeking the prevention of further violations of their human rights.

How do you coordinate with Unión Hidalgo representatives, ECCHR and ProDESC to tackle EDF’s actions?

We have established a collective approach to our work, and an essential feature of this transnational collaboration is that ProDESC is closely in touch with the indigenous community. Also, ProDESC and ECCHR have very frequent exchanges regarding the case in order to collect testimony on the ground and to better understand the community’s claims and struggles. This allows us lawyers to update the evidence and adjust our legal strategy accordingly.

### What do you expect from the legal proceedings in France?

The objective is to force EDF to recognize the community’s fundamental rights—and in particular their indigenous rights—in all its operations, whether in France or within its subsidiaries abroad. This case is based on the duty of vigilance law, and its outcome should require EDF to compensate the community for damages, as well as clarify the company’s obligations to ensure that fundamental rights to health, security and the environment are respected within all of its business operations.

HANNAH RAJBENBACH IS A FRENCH LAWYER. SHE WAS A LEGAL TRAINEE IN ECCHR’S BUSINESS AND HUMAN RIGHTS TEAM FROM APRIL TO JUNE 2019.

THE ESCALATION OF VIOLENCE IN UNIÓN HIDALGO HAS LIMITED THE OPPORTUNITIES FOR HUMAN RIGHTS DEFENDERS TO SPEAK UP ABOUT THEIR STRUGGLES. DUE TO AN ARMED ATTACK ON A COMMUNITY MEMBER IN UNIÓN HIDALGO IN FEBRUARY 2022 AFTER HE PARTICIPATED IN A PRESS CONFERENCE ABOUT THE LEGAL PROCEEDINGS AGAINST EDF, THE COMMUNITY WAS UNFORTUNATELY NOT IN A POSITION TO PARTICIPATE IN AN INTERVIEW AT THIS TIME. SEE PRODESC’S URGENT APPEAL CONCERNING THIS MATTER AT →PRODESC.ORG.MX.

## Toward a strategic engagement with the question of the corporation

### Critical remarks on Business and Human Rights

MICHAEL BADER

What is the “dark side” of Business and Human Rights? The Business and Human Rights project has a structural flaw: too often, it leaves the asymmetries in the global economy and the imperial corporate form unchallenged. The presupposition of business as a natural occurrence legitimizes the status quo, often meaning that Business and Human Rights interventions will stabilize, rather than challenge, systemic logics. Furthermore, the uncritical embrace of (human) rights as positive change-makers is problematic because their institutionalization runs the risk of masking the underlying factors that produce corporate violations in the first place. The approach of employing rights, while leaving corporate logic and prevailing global economic structures unchallenged, will continue to encourage corporations to translate human suffering into corporate risk factors to be managed, accounted for and minimized in their pursuit of profit.

The political objectives formulated by the Business and Human Rights project have been shaped not only by the neoliberal proliferation of rights as the main remedy for human suffering during the last decades, but also by a somewhat pragmatic translation of case-based struggles—lawsuits lost against corporate abuse—into world-making. But it is neither the lack of remedy, nor the formalization and institutionalization of rights that leads corporations to inflict and produce harm. Rather, it is the structural setup of the corporate form and the global economy.

It calls for a radically different organization of the global economic system

While, from a legal or, better, a lawyer’s perspective, the main problem seems to be that corporations abuse rights and avoid legal responsibilities, this does not necessarily warrant a call for more (dysfunctional) law. Rather, to put a difficult task simply, it calls for dismantling or fundamentally altering the corporate form and for a radically different organization of the global economic system. Instead of asking how we can broaden opportunities for corrective justice, we need more scholarship on and activism geared toward strategically reorganizing the corporate form and the global economy in a way that works for all equally and equitably.

MICHAEL BADER IS A BERTHA JUSTICE FELLOW IN THE BUSINESS AND HUMAN RIGHTS PROGRAM. THIS TEXT IS BASED ON HIS CHAPTER OF THE SAME TITLE FIRST PUBLISHED IN →TRANSNATIONAL LEGAL ACTIVISM IN GLOBAL VALUE CHAINS, EDITED BY MIRIAM SAAGE-MAASS, PEER ZUMBANSEN, PALVASHA SHAHAB AND HIMSELF, PUBLISHED BY SPRINGER IN SEPTEMBER 2021.



# Exploration: Imagining collective futures



AIDA SILVESTRI  
CACAO  
2020 →



# Towards putting human rights law at the behest of global movements seeking structural change

JOSHUA CASTELLINO

*This manifesto was developed within ECCHR's 2021 project and event series *Human rights in times of crises*.*

## OUR FRAGMENTED WORLD

Despite the widespread articulation of human rights standards, their successful litigation and incorporation into institutions, and their mainstreaming into the collective imagination in every jurisdiction on the planet, these rights are becoming sidelined at a time of social and environmental turbulence.

There are many factors responsible for this, which have been expressed time and again within both well-meaning, as well as malicious, critiques. Two fundamental problems amplify the undermining of rights in our societies:

- A the internal criticism delivered by those from within the human rights movement who are frustrated about the extent to which this discourse has been effective in reining in power and implementing change at scale; and
- B the seizure of these critiques by specific ideological movements to paint the critics as anti-progress in an increasingly market-oriented world, controlled by significant vested corporate interests.

Hardcore realities, such as dismal economic performances, sharp austerity measures, growing societal inequality, and tensions related to arrivals in-country of people fleeing from war zones, have not helped the agenda, with human rights law becoming a technocratic, legalistic, elite exercise that marginalized communities cannot easily interact with. In addition, the overt focus on civil and political rights, which has allowed these to become significantly more developed than socioeconomic and cultural rights, has contributed to the problem. This focus, derived from Western *laissez faire* economic thought, has shaped the discussion, emphasizing the importance of the individual in rights amelioration. As a consequence of this approach, mass deficiencies experienced at scale on a communitarian basis have not been successfully tackled, giving the impression that rights can only be guaranteed for those privileged enough to have some access to the law and to lawyers. As wealth has become increasingly concentrated in few hands, the failure to develop real tools to dismantle this economic privilege has often meant that mass movements have come to view human rights lawyers as “part of the system,” though admittedly, the more generous among them may credit us as being “the progressive part” of it.

As litigators and individuals working with administrative, legislative and judicial mechanisms that are designed to carry out the fundamental promise of a system to respect the individual rights and dignity of every person, we have a duty to reflect on how our skill-sets, mandates and tools can be put at the behest of those seeking a similar vision of social justice. The continued litigation of cases must remain a fundamental part of our strategy, supplying the teeth that can bite, so to speak, but in the face of an exponential growth in demand for our expertise—and a simultaneous shrinkage in funding for this—we need to think about how we can work smarter to multiply the sum total of our efforts. Activities which foster transnational empathy and solidarity are crucial both within our movement, as well as across the multiple movements that are emerging.

Our overt focus on seeking to change the behavior of states and to hold them accountable is an important plank to this strategy, but it must be complemented by intelligent, concerted efforts to undermine forms of privilege which have accumulated and continue to accumulate at the cost of access to rights for all. This means scaling up activities aimed at generating corporate accountability across vast transnational supply chains, co-designing specific interventions to combat and defeat entrenched patriarchies that most lawyers take for granted, and connecting better with other movements to improve tools of accountability that challenge unjust enrichment over longer spans of time and its role in constructing the edifices of privilege that have created the North-South divide.

## A NEW MANIFESTO FOR HUMAN RIGHTS LAWYERS

Our natural tendency as argumentative and critique-oriented actors means that we generate change through reaction to existing power structures. Yet, we also need to develop alternative methods and structures to fill the vacuum that will be created by the undermining of the current extractive economic model. This requires not only broad engagement with various communities and the public, but also technical discussions with policy makers and other actors to ensure that their policy-making puts the dignity and worth of individuals and communities at the heart of their work—not to mention the creation of checks and balances to assess the extent to which this has been successful. This necessarily requires lawyers to work in conjunction with others in a preventative manner, rather than in the post-violation setting where we are more accustomed to working. This also requires the drafting of policies and legislation, instead of efforts which work exclusively to improve the efficacy of such policy by directly challenging it through the lens of a particular violation. This brief document, which seeks to transcend the boundaries of our field, is designed as a calling card to engage constructively with other movements that seek social change.



While these multiple voices may appear as a cacophony at present, these movements, often driven by youth and women, are making significant inroads into public life. Their impact to date, however, is being contained by powerful institutions through cosmetic modifications to their operations, while avoiding the wholesale change required. Thus, green-washing, lip service to gender equality, and the token acknowledgements of past violations are likely to continue, but they have yet to amount to anything game-changing. At current trajectories, these movements will eventually succeed (if we still subscribe to the notion of international law as a “gentle civilizer of nations”), but at nowhere near the speed which is required. Furthermore, as the climate emergency brings home, minor modifications fall short of tackling the urgent need for system change, and as scarcities hit harder and a sense of crisis grows, human empathy is likely to become diluted rather than strengthened.

### WHO IS IT AIMED AT?

In our imagination, this manifesto is aimed at grassroots-level movements, not only to seek their input and to meaningfully listen to their concerns, but to add value: by bringing our insider knowledge of how power operates to the table. This means doing more litigation on key rights issues, as has been happening, but also doing this willfully and in conjunction with others in a transnational manner. Linking meaningfully with the feminist movement, #MeToo, #FridaysforFuture, #ExtinctionRebellion, #BlackLivesMatter and the many local movements that seek similar goals is important for building solidarity among the progressive segments of society, and for undoing the officially avowed position of political neutrality.

Yet beyond this, the manifesto must also make sense in popular culture and serve as a rallying cry in the hearts and minds of people to move towards collective action. This means it has to be succinct enough (and not too technical) to appeal to artists, the youth, and those involved in primary education, while also serving to galvanize communities that are in the midst of struggle who ought to be able to locate their struggle within this brief document.

### WHAT CAN BE ACHIEVED AND HOW WE FIT IN

At a minimum, what can be achieved in the short term is the overt support for movements that reflect common cause in a meaningful bid to rein in power. Broadening our efforts, however, will provide opportunities to take on important and strategic cases as they emerge from these movements, which will amplify their impact and transform protest into action. The trickle of change instigated by individual cases has become a process that states and corporations can live with:

pin pricks that can be contained and addressed in a compartmentalized fashion that will not bring about urgent systemic change. Most corporations simply set aside a portion of their profits to address these types of claims, while even these crumbs are protected behind a phalanx of legal defense teams. Amplifying these cases in conjunction with others is key to realizing the vision that unites some of the movements listed above.

This is also fundamentally an approach that will reintroduce human rights as a set of meaningful solutions to the grave contemporary problems that societies (and the planet) face. Of course, in this process, we have to be very careful not to dominate conversations. Indeed, one criticism that has arisen stems from the fact that the human rights movement remains one of the only tools for demanding accountability. Thus, there is a tendency to make everything a human rights issue, and then blame this structure for being inadequate. Our tools and resources are limited, and the value we can add is specific. Articulating what this value is remains important, and translating it into a fruitful dialogue with others committed to a progressive society (while accepting that there may be disagreements on how this is defined at the margins) is crucial to building a broad-based collaboration.

### THE ACTUAL TEXT (A FIRST ATTEMPT)

We pledge our commitment and efforts towards the following objectives:

#### A. Dismantle societal and institutional patriarchies.

The feminist movement has highlighted the inherently gendered nature of politics and policy-making, and while law has guaranteed gender-based equality *de jure*, the reality remains that in fundamental areas—notably, in access to key factors of production such as land, finance and even nationality—women face *de facto* challenges. Further cultural nuances, specifically the culture of male dominance, are dressed up as “inherent practices” of communities with little challenge to this assertion. The tendency remains to “invite” women into systems, rather than to reframe systems on the basis of full, rather than 50-percent, participation.

#### B. Challenge and transform the extractive economic model.

By way of statues and monuments, the central plazas of the cities of the Western world pay actual, not merely metaphorical, homage to individuals who cheated, lied to, exploited, and stole resources from communities throughout the world with an absolute conviction in their own racial and moral superiority.

While Western colonization was not the first, and perhaps not even the most brutal, form of exploitation in many parts of the world, its continuing legacy lies within the creation of an extractive economic model that established global trading systems that were subsequently scaled up by the acquiescence of the postcolonial state, as it merely stepped into and continued to exploit this system. Seeking a return to modest and sustainable consumption that respects the circular nature of economies and that pays due homage to nature requires large-scale systemic change, not minor adjustments.

### C.

#### Seek the accountability of contemporary economic actors for damage to societies.

Despite the extensive science that has highlighted the damage to the environment caused by certain activities for decades, contemporary economic actors have sought to obfuscate, challenge and sew false narratives about this damage. This has enabled them to generate mechanisms for unjust enrichment, benefit from tax avoidance in the name of wealth distribution and job creation, and effectively siphon funds from the public sphere. While corporations will likely remain a fundamental part of the future world, their own soul-searching concerning the impact of their activities within a tort-based model remains fundamental to freeing up key resources for societies to be able to rejuvenate.

### D.

#### Seek accountability for and mechanisms to address historical crimes, including colonization.

While moving forward requires broad consensus and collaboration, the need to address historical crimes, as a key structural component of our broken present, remains important. Some schemes, including debt forgiveness, may be a minimal condition for enabling transnational solidarity, but others will need to go deeper, and wealthier societies will need to examine the forensics of their wealth accumulation and seek pecuniary and non-pecuniary modes of reconciliation. This issue takes on an added element in view of the diversity in many parts of the world that is not reflected in the single “male victor” narrative of history, a narrative which discounts all other realities and is often inaccurate and limited in perspective and fact.

### E.

#### Uphold the “leave no one behind” principle as a key value in the UN Sustainable Development Goals.

The magnitude of the COVID-19 pandemic and its longevity has called attention to the intrinsically interconnected experience of contemporary global reality. Leaving the pandemic to fester in one part of the world means that the world as a whole will not be free of its impacts.

Similarly, the existence of deep inequalities hampers the extent to which social cohesion, progress and collective solidarity can confront greater challenges. Societies remain dominated by wealthy male elites and their beneficiaries. With women deemed as second-class citizens, especially in terms of access to education at the start of their lives and the glass ceilings encountered later in their careers, significant talent that could be drawn upon is lost. The narrative that privileges men from dominant communities at the cost of everyone else further siphons away vital human talent needed for collective efforts. Leaving no one behind is not merely a charitable and moral aim; its value is deeply pragmatic.

### F.

#### Support historians in writing accurate narratives not linked to power regimes.

The narrowness of education and its tendency towards propaganda has hurt the cause of building global solidarity. Mainstream historians and intellectuals have had a tendency to serve as handmaidens to power, framing a singular narrative and disseminating it as the only authoritative one, othering women, diverse communities, and multiple forms of human expression and activity, as well as sowing the seeds for supremacist and deeply flawed ideologies dressed up as definitive “history.” Correcting the historical narrative is key to a sustainable future: this will act as a bulwark against supremacism, but it will also serve to reflect a wider array of human experience, fostering cohesion and collaboration.

### G.

#### Take political action that is necessary to fulfill our objectives.

There has been a tendency for those who seek progress to paint themselves as politically neutral. However, as the political arena has become occupied by populists who are anti-political, this trend has been unable to stem the tide towards growing stigma and hatred. “Scapegoat politics”—essentially a process by which artificial majorities are generated in response to a specific identity group—has tapped into an angry zeitgeist, generating mediocrity in leadership that is characterized by a significant lack of qualifications, governing experience and empathy in addressing both the deeper, longer-lasting climate crisis and the more short- and medium-term need to contain the pandemic. Acting politically in support of those who are genuinely driven by legitimate political objectives is important, while it also helps to form a collective bulwark against those who merely wish to turn democracies into a game of superior numbers as opposed to values.



**H.****Ensure that the language of law is not exclusive and patriarchal.**

The legacy of the law is a deeply problematic one. Historically, law has sought to guarantee order while articulating a goal of justice. The earliest legislators were “free men”—as opposed to women and slaves—and property owners, a status that was used as a justification of their legitimacy in writing the rules. The earliest laws sought to safeguard the assets of these men from other claimants in the belief that this would guarantee order. The project of justice, on the other hand, was called upon and became central in contemporary history through the universal human rights movement. However, as the legacy of the so-called war on terror has shown, when order was threatened, or perceived to have been threatened, the quest for social justice was relegated to the sidelines. In addition, with the law functioning as an elitist discourse, its realm was shielded from the public imagination. The failure to contest ingrained social injustices—the arms trade, the vast enrichment of the few, the siphoning of public funds to tax havens, corruption at the highest levels, the failures to account for mass atrocities, and the failure to dismantle (or to support those seeking to dismantle) forms of patriarchy—made the legal discourse, and all those who work at its behest, appear to be elite, exclusivist and patriarchal. Hiding behind technical nuances reinforced this notion, for example, by using specific types of property titles as opposed to ancestral domain, or invoking statutes of limitation to prevent the scrutiny of particular episodic and systemic crimes, not to mention the general failure to ensure accountability. Challenging this is fundamental, and it also includes reforming the process of articulating laws itself.

**I.****Promote a transnational approach based on universal solidarity.**

The current crises we face are intrinsically transnational, while the attempts made at the policy level to address them are specifically national. The notion that territories remain the exclusive domain of specific sovereigns is a much-contested principle, which pits governments against each other in a spirit of competition rather than collaboration. This is born out of deep insecurities—about the extent to which “foreign interests” may dictate issues, as well as the unsavory and not-so-distant experiences of colonization. Yet, the movements now gaining traction are demonstrating the value of how people can bond together in empathy and solidarity, unencumbered by territorial boundaries. Such an empathy, especially if translated into regional approaches, can cement meaningful change and force governments to act in a manner that is far broader than any attempt to maintain their exclusive hegemony.

**J.****Collaborate and share resources with others committed to these values.**

While civil society movements have gained significant traction in recent decades—often providing the thin sliver of accountability in a world riven with injustices—their lack of sustainable models has put them under constant pressure to fulfill donor agendas. This also means that collaboration has been difficult to forge, and many progressive organizations compete against each other in the world of ideas and actions, preventing the emergence of collaborative and cohesive movements. A further divide is visible as civil society organizations based in the North succeed in gaining funding and visibility, while those in the South are neglected. For any movement to be able to galvanize change, it is imperative that these issues are addressed in a spirit of solidarity—emphasizing collective action, yet also the sharing of resources.

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## What's missing in climate lawsuits of the future?

MIRIAM SAAGE-MAASS

The coming decade will prove decisive in whether we manage to avert, or at least mitigate, the climate collapse predicted by scientists. However, a science-based approach alone will by no means be sufficient to achieve a truly equitable transition of our societies and economic systems into a climate-neutral era. What is necessary for this is, rather, a human-rights-based approach, as well as a clear understanding of the historical responsibility for the climate crisis and the grossly unequal distribution of the damages caused by climate change.

Climate protection is  
a human rights obligation  
that states must guarantee

In the spring of 2021, the German Supreme Court—like the Pakistani and Colombian Supreme Courts before it—ruled that climate protection is a human rights obligation that states must guarantee. In particular, the constitutional rights of future generations must be addressed when implementing climate policy in the present. However, a number of important questions remain unanswered: how should the globally uneven distribution of climate damage and its consequences be dealt with? How can the historical responsibility of Western industrial nations and transnational corporations be taken into account when compensating for climate damage in countries that contributed very little to climate change? How can it be ensured nationally and globally that the necessary economic and social transition succeeds equitably and not at the expense of marginalized groups?

Climate protection measures must be planned and implemented in accordance with human rights standards. Otherwise, the establishment of nature reserves or CO2 compensation areas threatens to negatively impact indigenous and poor rural populations. For example, reforestation projects or wind parks are not usually built on golf courses or luxury residential areas but, rather, on the land of indigenous and rural communities.

Social, economic and cultural human rights provide clear benchmarks for sharing the burden of climate change: a human-rights-based approach will always ask who is affected by certain climate mitigation measures. Social and economic rights, such as the right to water, land and adequate housing, offer clear guidance for governmental action.

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# Colonial crime, environmental destruction and indigenous peoples

## The problem with “protected areas”

JOSHUA CASTELLINO

“The contemporary climate emergency is directly traceable to colonial activities commenced on indigenous territories, continued under post-colonial regimes, with the active support [...] of the former colonial powers. These practices stimulated demand for ‘products,’ treated territories as resource hotbeds, ignored the human rights of indigenous peoples who were treated as objects rather than subjects of law, and resulted in the systematic destruction of habitats hastening the breach of planetary boundaries. The legal norms and techniques for framing, articulating, demanding and seeking just satisfaction for these past crimes are yet to be fully developed. Yet, two contemporary factors lengthen the impact of these crimes, harming the prospect of a climate justice that pays adequate attention to peoples as well as the planet.

The first is the determination of the climate lobby to tackle the loss of biodiversity by establishing ‘protected areas’ further extinguishing native title, and, crucially, removing the environment’s traditional guardians from their territories, leaving them in the exclusive possession of sovereign States who have exacerbated their destruction. The second, which directly implicates former colonial powers, is the continued support for protected areas, often funded by development funding pledges [...] despite lack of evidence that such a route encompasses environmental protection.

Colonial practices resulted  
in the systematic  
destruction of habitats

The attempt to seek to protect biodiversity through designating up to thirty per cent of the globe as ‘protected areas’ is synonymous not only of the continuing legacy of colonial activities, but their ability to generate damage in a contemporary context. The ostensible justification that drives this objective is uncontested. [...]

In an attempt to seek to bring in much needed protection against the further loss of biodiversity some climate scientists in conjunction with large scale conservation civil society organisations with the support of significant sections of civil society have sought to throw what in their view is a protective ring around the remaining biodiversity, seeking to safeguard this from further harm. Under this theory ensuring that some parts of the globe can thrive as wilderness is key to off-setting carbon emissions and curbing the widespread destruction that has occurred

across the globe from human activity. [...] Expressed against an overt anthropogenic domination that has assumed that the world’s resources should be exclusively available to human consumption, this policy ought to be lauded at face value.

However, significant problems exist with it. First, the areas that would immediately come under such protection, which are truly rich in biodiversity are almost exclusively the homes and territories of indigenous peoples. The policy would require and justify their eviction, reducing them to penury on the edges of peri-urban areas. Though many of these communities existed in pre-colonial times, their ‘ownership’ of the lands has often not been documented according to any colonial or post-colonial lexicon, and they are thus simply treated as illegal settlers who can be removed without compensation. But even this egregious human rights violation is only a part of the problem.

Indigenous peoples have  
often acted as the planet’s  
guardians over millennia

Indigenous peoples, in their traditions and lifestyles have often acted as the planet’s guardians over millennia. They have not been responsible for large scale biodiversity loss, but have instead been calling this out regularly over the last century as ‘settled’ ways of life first visited, (uninvited), before going on to dominate their lands on a permanent basis. They have sought to find ways to continue to live in harmony with nature, including by utilising the benefits of their environs, in a sustainable manner that promotes regeneration. Thus, the second, more crucial problem with this strategy from the perspective of the protection of biodiversity and the environment, is that it removes from the site of its greatest necessity, the traditional knowledge gained from living in close proximity with nature. [...] The ‘protected areas’ scheme regularises this marginalisation at the cost of the environment, in the name of the environment.

Protected areas per se are not the problem. Such areas may be significant to planetary regeneration, especially if envisaged as safeguarding territories from commercial exploitation and illegal settlement, and creating zones where flora and fauna may once again flourish. But seeking to create these without indigenous peoples at their very core amounts to no more than dereliction in the hope that damaged nature will be able to heal itself. Many progressive options exist: to have indigenous peoples work hand in hand with conservationists with the latter learning from the former; creating conditionalities for indigenous habitation within protected areas; articulating responsibilities upon tenure holders to regenerate the environment, and providing them with the means and resources necessary to achieve these aims.”

THIS TEXT IS AN EXCERPT FROM JOSHUA CASTELLINO’S CHAPTER “COLONIAL CRIME, ENVIRONMENTAL DESTRUCTION AND INDIGENOUS PEOPLES” IN THE ANTHOLOGY COLONIAL WRONGS AND ACCESS TO INTERNATIONAL LAW, KYAW YIN HLAING, WOLFGANG KALECK AND MORTEN BERGSMO (EDS), TORKEL OPSAHL ACADEMIC EPUBLISHER, BRUSSELS, 2020 → TOAEP.ORG/PS-PDF/40-BERGSMO-KALECK-KYAW, REPRODUCED HERE WITH THE KIND PERMISSION OF THE PUBLISHER.

# The concrete utopia of human rights

## Envisioning the unimaginable and opening spaces of possibility

WOLFGANG KALECK

When James Baldwin says it, it seems so self-evident: “Not everything that is faced can be changed, but nothing can be changed until it is faced.” Because history is open, open to all of us and to all possibilities, and because we, as human beings, are continually in the midst of conjuring the “unimaginable” before us, I insist that human rights embody a concrete utopia that is worth dreaming and working toward.

Today, activists, artists and experts are breaking with staid conventions to forge counter-models for the future; people are taking to the streets to demand their rights and those of others—and human rights organizations have expanded their repertoire to include legal action. Nevertheless, more is necessary, and more is possible! For this reason, human rights work must always return to the “social question” and the enduring inequalities that lie at its root, while reinventing itself through decolonial, feminist and ecological interventions.

Human rights embody a concrete utopia that is worth dreaming and working toward

Decolonization—the long-overdue reckoning with colonial realities and their absolute antithesis to human dignity and human rights—must become a genuine human rights project. Decolonization also means coming to terms with the legacies and deformations of colonialism—hence the fight against postcolonial injustice. Access to land, resources and cultural assets for those once dispossessed must be fought for one way or the other. A more equitable world economy must be organized so that all people have access to the necessities of life, and that these are justly allocated.

Feminism also presents us with a holistic picture of the world. As younger feminists in particular have stressed in recent years, it is not just about group-specific concerns. Rather, feminism essentially amounts to a global indictment of neoliberal capitalism, the struggle to abolish the opposition between the political and the private, and the continuous fight against the discrimination of women, as well as LGBTQ groups.

Those with an internationalist bent within the climate and ecology movements have promised to stand up for climate justice. They recognize that the old industrialized countries and corporations, especially fossil fuel companies, bear a disproportionately greater share of the responsibility for the current calamity.

Thus, decolonial, feminist and climate activists have arrived at the demand that only a comprehensive change in the prevailing economic system can bring an end to the exploitation of nature, women—especially with regard to the kinds of labor historically imposed on women—and the formerly colonized. These are the forms of exploitation that classical Marxism and the political formations based on it largely ignored, both analytically and politically. These dimensions, taken together with the social question, delineate the scope of a comprehensive human rights program that includes the actual overthrow of systems of exploitation in which humans subjugate other humans.

In the prison of the day-to-day, we too seldom shift our gaze from the close-up to the wide panoramic view

Developing such a broad program requires new actors and new constellations. Individuals and organizations that work specifically on human rights locally and globally must be joined by others, namely, social movements, including those not explicitly dedicated to human rights, and interdisciplinary experts from all regions and fields. Colombian human rights activist César Rodríguez Garavito therefore proposes that the field be understood as an “ecosystem,” rather than as a unified movement or institutional architecture.

The call for a new substantive program, for a new division of labor and for new media for the human rights movement may already sound self-evident. But what is called for here does not correspond to today’s realities; this is not how the human rights movement is currently constituted. In the prison of the day-to-day, we too seldom lift our eyes, too seldom shift our gaze from the close-up to the wide panoramic view and back again; we do not question ourselves and everything around us often enough. Do we lack the time to sustain the presence of mind necessary to grasp all the contradictions and ambivalences within human rights and human life itself? I don’t even know how to answer this question for myself—so for now, I will only hold myself to the minimum standard: I will make an effort.

And who actually is this “we” that I occasionally invoke here? With this “we,” I want to address all people who stand with empathy in solidarity with others whenever human rights are at stake.

THIS TEXT BY ECCHR GENERAL SECRETARY WOLFGANG KALECK WAS FIRST PUBLISHED IN UNABRIDGED FORM IN GERMAN IN: WOLFGANG KALECK, →DIE KONKRETE UTOPIE DER MENSCHENRECHTE. © S. FISCHER VERLAG GMBH, FRANKFURT AM MAIN 2021. THIS EXCERPT IS PUBLISHED HERE WITH THE KIND PERMISSION OF S. FISCHER VERLAG GMBH, FRANKFURT AM MAIN.



# Our partner organizations

## NORTH AMERICA

- American Civil Liberties Union (ACLU) **NEW YORK**
- Center for Constitutional Rights (CCR) **NEW YORK**
- Center for Justice & Accountability **SAN FRANCISCO**
- Centro de Derechos Humanos Miguel Agustín Pro Juárez **MEXICO CITY**
- Earth Rights International **WASHINGTON, DC**
- Global Justice Center **NEW YORK**
- Human Rights Center, UC Berkeley School of Law **BERKELEY**
- International Network for Economic, Social and Cultural Rights (ESCR-Net)
- Magnum Foundation **NEW YORK**
- Open Society Justice Initiative **NEW YORK**
- PILNet **NEW YORK**
- Proyecto de Derechos Económicos, Sociales y Culturales (ProDESC) **MEXICO CITY**
- Syria Justice and Accountability Center **WASHINGTON, DC**
- Urnammu **QUEBEC**

## CENTRAL AND SOUTH AMERICA

- ANDHES **TUCUMÁN**
- Articulação Internacional dos Atingidos e Atingidas pela Vale (AIAPV) **RIO DE JANEIRO**
- Bureau des Avocats Internationaux (BAI)/ Institute for Justice & Democracy **PORT-AU-PRINCE/BOSTON**
- Centro de Estudios Legales y Sociales (CELS) **BUENOS AIRES**
- Colectivo de Abogados José Alvear Restrepo (CCAJAR) **BOGOTÁ**
- Instituto de Defensa Legal **LIMA**
- International Network of Civil Liberties Organizations (INCLO) **BUENOS AIRES**
- Episcopal Region of Nossa Senhora do Rosário (RENSER) **BELO HORIZONTE**
- Union of the People Affected by Texaco (UDAPT) **QUITO**

## ASIA

- Activist Anthropologists **DAKAR**
- Ali Enterprises Factory Fire Affectees Association **KARACHI**
- Bangladesh Legal Aid and Service Trust (BLAST) **DAKAR**
- Center for International Law (CenterLaw) **MANILA**
- Human Rights Law Network (HRLN) **NEW DELHI**
- Lawyers Beyond Borders, India Chapter **TAMIL NADU**
- Maharashtra Association of Pesticides Poisoned Persons (MAPPP) **YAVATMAL**
- Malaya Lolas Organization **PAMPANGA**

- Michael Sfard Law Office **TEL AVIV**
- Mwatana for Human Rights **SANA'A**
- National Trade Union Federation of Pakistan (NTUF) **KARACHI**
- Pakistan Institute of Labour Education and Research (PILER) **KARACHI**
- Palestinian Center for Human Rights (PCHR) **GAZA CITY**
- Pesticide Action Network Asia-Pacific (PAN-AP) und PAN India **PENANG/KERALA**
- Rasheed Razvi Centre for Constitutional and Human Rights (RCCHR) **KARACHI/LAHORE**
- Syrian Women's Network **GAZIANTEP**

## AFRICA

- Association Marocaine des Droits de l'Homme (AMDH) **NADOR**
- BOSNOO **GABARONE**
- Center for Applied Legal Studies (CALS) **JOHANNESBURG**
- Equal Education Law Centre (EELC) **CAPE TOWN**
- Legal Assistance Center **WINDHOEK**
- Legal Resources Centre **JOHANNESBURG**
- Nama Traditional Leaders Associationen **WINDHOEK**
- Ovaherero Genocide Foundation **WINDHOEK**
- Socio-Economic Rights Institute (SERI) **JOHANNESBURG**

## EUROPE

- Airwars **LONDON**
- Akademie der Künste **BERLIN**
- Amnesty International **LONDON**
- Amnesty International Deutschland **BERLIN**
- Amnesty International France **PARIS**
- Associazione per gli Studi Giudici sull'immigrazione (ASGI) **ROME/MILAN**
- Bellingscat **AMSTERDAM**
- Border Violence Monitoring Network
- Berlin Information Center for Transatlantic Security (BITS) **BERLIN**
- Berlin Postkolonial **BERLIN**
- Brot für die Welt **BERLIN**
- Bundeszentrale für politische Bildung **BONN**
- Business and Human Rights Resource Centre (BHRRC) **LONDON**
- Caesar Files Group **BERLIN**
- Campaign Against Arms Trade **LONDON**
- CCFD-Terre Solidaire **PARIS**
- Center for International Law Research and Policy (CILRAP) **BRUSSELS/BERLIN**
- Center for Peace Studies **ZAGREB**
- Centre Delàs **BARCELONA**

- Centre for the Enforcement of Human Rights International (CEHRI) **VIENNA**
- Center for Legal Aid—Voice in Bulgaria **SOFIA**
- Civil Rights Defenders **STOCKHOLM**
- Civitas Maxima **GENEVA**
- ClientEarth **BRUSSELS**
- Clean Clothes Campaign/Kampagne für saubere Kleidung **AMSTERDAM/WUPPERTAL**
- Coalizione Italiana Libertà e Diritti civili (CILD) **MILAN**
- Coalition Against Arms Trade (CAAT) **LONDON**
- Comité catholique contre la faim et pour le développement (CCFD) **PARIS**
- Commission for International Justice and Accountability (CIJA)
- Dachverband kritischer Aktionärinnen und Aktionäre **COLOGNE**
- Decolonize **BERLIN**
- Deutsche Menschenrechtskoordination Mexiko **STUTT GART**
- European Forum on Armed Drones **UTRECHT**
- European Coalition of Corporate Justice **BRUSSELS**
- Federación Andalucía Acoge **SEVILLE**
- Fédération Internationale de Ligues des Droits de l'Homme (FIDH) **PARIS**
- FIAN **COLOGNE**
- Forensic Architecture **LONDON**
- FORENSIS **BERLIN**
- Forschungs- und Informationszentrum Chile-Lateinamerika (FDCL) **BERLIN**
- Forum for International Criminal and Humanitarian Law (FICHL) **BRUSSELS**
- Fundación Raíces **MADRID**
- Germanwatch **BONN/BERLIN**
- Global Legal Action Network (GLAN) **GALWAY/LONDON**
- Global Campus of Human Rights **VENICE**
- Goethe-Institut **MUNICH**
- Goldsmiths University of London **LONDON**
- Hafiza Merkezi (Truth Justice Memory Center) **ISTANBUL**
- Haus der Kulturen der Welt **BERLIN**
- HIAS in Greece **ATHENS/LESVOS**
- HumanRights360 **ATHENS**
- Human Rights Institute, La Universidad de Deusto **BILBAO**
- Human Rights Law Centre, University of Nottingham **NOTTINGHAM**
- Human Rights Watch (HRW) **BRUSSELS/BERLIN**
- Initiative Lieferkettengesetz **BERLIN**
- Initiative Schwarze Menschen in Deutschland (ISD) **BERLIN**

- Internationale Akademie Nürnberger Prinzipien **NUREMBERG**
- Lawyers for Justice in Libya (LFJL) **LONDON**
- Lesben- und Schwulenverband (LSVD) **COLOGNE**
- LGBT Network **SAINT PETERSBURG**
- Macedonian Young Lawyers Association (MYLA) **SKOPJE**
- Medica Mondiale **COLOGNE**
- medico international **FRANKFURT (MAIN)**
- Minority Rights Group **LONDON**
- MISEREOR **AACHEN**
- Movimento Consumatori **ROME**
- Moving **EUROPE**
- Multiwatch **BERN**
- No Name Kitchen
- Norwegian Helsinki Committee **OSLO**
- Nürnberger Menschenrechtszentrum **NUREMBERG**
- Observatori DESC **BARCELONA**
- PAX **UTRECHT**
- PRO ASYL **FRANKFURT (MAIN)**
- Public Eye **ZURICH**
- REDRESS **LONDON**
- Refugee Support Aegean (RSA) **CHIOS**
- Reporter ohne Grenzen **BERLIN**
- Reprieve **LONDON**
- Republikanischer Anwältinnen- und Anwälteverein (RAV) **BERLIN**
- Rete Italiana Pace e Disarmo **ROME**
- RüstungsinformationsBüro (RIB) **FREIBURG**
- Saferworld **LONDON**
- Sherpa **PARIS**
- The Centre for Research on Multinational Corporations (SOMO) **AMSTERDAM**
- Sphere Foundation
- Sri Lanka Advocacy Group
- Syrian Archive **BERLIN**
- Syrian Center for Legal Studies and Research (SCLSR) **BERLIN**
- Syrian Center for Media and Freedom of Expression (SCM) **PARIS/BERLIN**
- Tactical Technology Collective **BERLIN**
- Transitional Justice Clinic **THE HAGUE**
- TRIAL International **GENEVA**
- Western Sahara Resource Watch **LONDON**
- Women Now For Development **PARIS**
- Women's Initiatives for Gender Justice **THE HAGUE**
- Women's League for International Peace and Freedom **GENEVA**
- World Organisation Against Torture **GENEVA**
- Yemeni Archive, Mnemonic **BERLIN**
- Zentrum ÜBERLEBEN **BERLIN**





# Migration **IV.**

AIDA SILVESTRI  
TOBACCO  
2020 →





## Contesting push-backs at Europe's external borders

Border regions have become veritable black boxes, concealing innumerable human rights violations which rarely see the light of day. The evidence of countless experiences of secret detention, abusive treatment, and often violent push-backs by border authorities is routinely “disappeared” on-site, as if border regions exist outside the law and off the public record. When such injustices do come to light, state authorities will often outright deny responsibility for the violations at their borders.

But Europe's borders are not a lawless zone. ECCHR fights alongside survivors of border violence to seek accountability for these abuses, forcing states to safeguard the human rights of migrants and refugees.

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Protecting those forced to flee from war,  
hardship and maltreatment.

We are committed to ensuring that human  
rights play a central role in shaping  
European migration and asylum policy.  
The right to have rights must be  
guaranteed for everyone.

[ECCHR.EU/DONATE](https://ecchr.eu/donate)



## “Hello, my name is Parvin” Push-backs at the Greek-Turkish border

Push-backs occur in a legal vacuum, denying people access to their human rights and rendering them and their experiences invisible. These severe human rights violations have become a routine tool of border control along the external borders of the EU. In Greece, refugees and migrants are regularly apprehended in the region bordering Turkey, secretly detained, often mistreated and violently expelled outside of any legal framework or safeguard.

What human rights institutions began documenting as early as two decades ago has developed into a systematic and widespread practice. The Greek state typically responds with denial, while simultaneously justifying and condoning the practice. To date, there has not been a single effective national investigation into a push-back, nor has anyone been held accountable. Parvin A could change that. “I promised myself during one of the push-backs that when I get to Europe, I will go to court and get some justice. We are human beings. I want to help get back some respect for human rights,” she said in a statement.

Her story reflects the  
experiences of many others

Parvin A fled Iran in 2017 and was initially recognized as a refugee in Turkey by the United Nations High Commissioner for Refugees (UNHCR). When this status was not acknowledged by the Turkish authorities, Parvin A tried to seek refuge in Greece. However, Greek officers pushed her back to Turkey six times during 2020, both across the Evros River and across the Aegean Sea. Her requests for asylum were ignored.

Her story reflects the experiences of many others, yet Parvin A's case is exceptional. Unusually, she managed to preserve a large volume of digital evidence of her experiences. She sent out live GPS locations from secret detention facilities, recorded previously unseen footage from inside the cells, and documented her injuries. Research organization Forensic Architecture analyzed her videos, photos and audio messages, and then reconstructed her experiences on [parvin.forensic-architecture.org](https://parvin.forensic-architecture.org), an interactive platform that begins with her own words: “Hello, my name is Parvin.”

Parvin A is now both seeking justice and pushing for Greece to change its border policy. In February 2022, after a year of preparation, she filed a complaint against Greece at the UN Human Rights Committee with the support of ECCHR, the Greek NGO HumanRights360 and Forensic Architecture, claiming multiple breaches of the International Covenant on Civil and Political Rights.

# New investigative practices and digital methods in the field of migration law

JACK SAPOCH

Parvin A's case <sup>→P.47</sup> is unique to the migration projects that we have pursued at ECCHR. In no small part, this was due to the role that open-source and digital methods played in her complaint to the UN Human Rights Committee against Greece and its accompanying **digital platform**, which I later helped develop with Forensic Architecture.

We wanted to enhance our understanding of the geographical context of the events

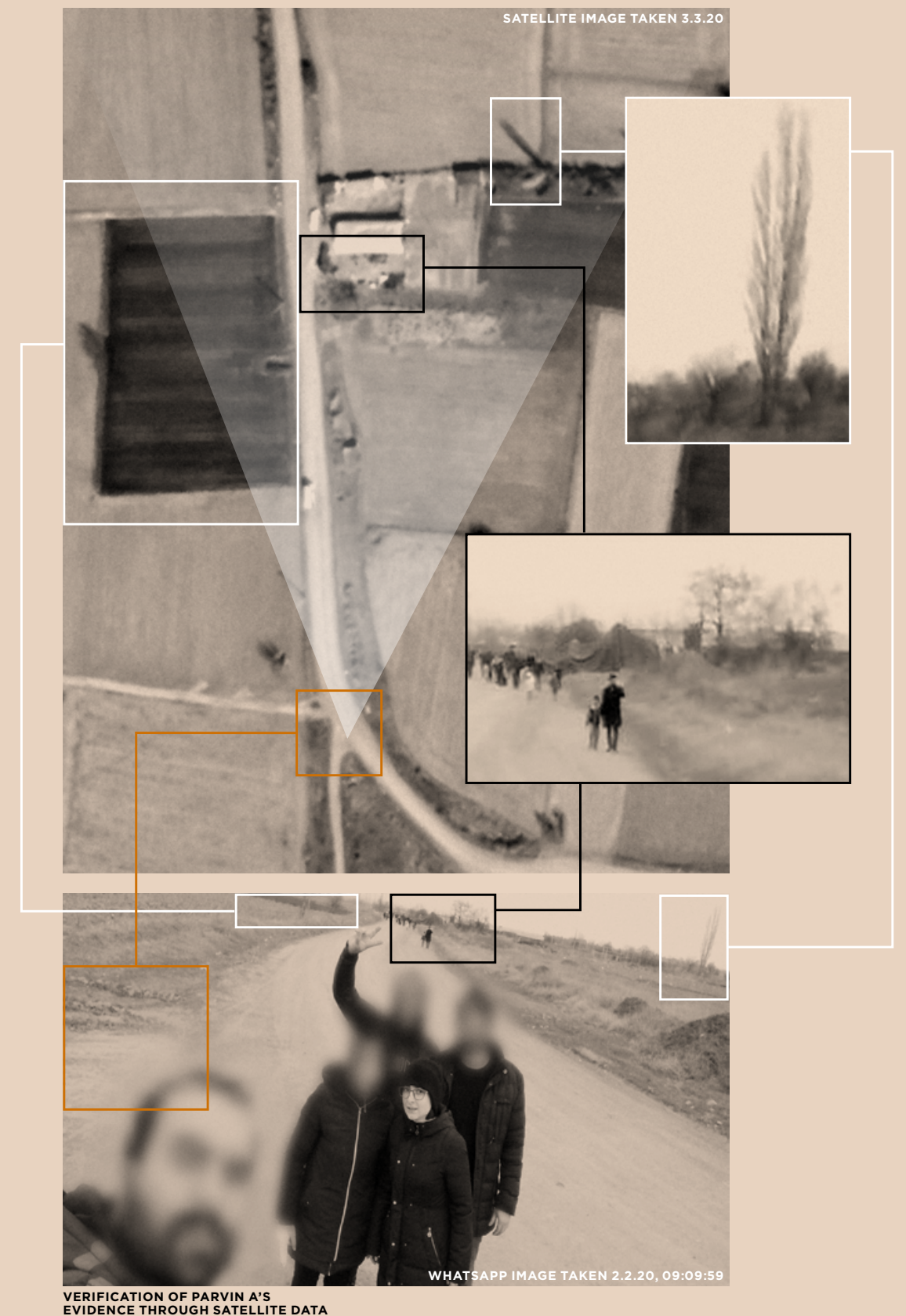
Spanning several months and six push-backs, the trajectory of Parvin's movements across the landscape of the Greek-Turkish border was complex. She documented her experiences with a series of videos, GPS locations, and images that she saved during her journey. We then utilized digital methods to verify and add clarity to her documentation and oral testimony. The project employed a variety of methods to accomplish this, primarily focusing on techniques which would enhance our understanding of the geographical context of the events. For example, we referenced Parvin's images against satellite imagery and geolocated them to map precisely where they were taken.

A great deal of the visual evidence and testimony in Parvin's case, however, concerned events that took place indoors, which presented specific challenges to our geolocation efforts. To verify these locations, it was essential to compile the records of previously released footage from inside Greek border police stations—but such material is scarce. Equally important was the collection of open-source visuals that captured what the exterior of the buildings looked like, which we then cross-referenced with the evidence provided in Parvin's images and testimony.

We also used historical satellite imagery to verify Parvin's description of a seasonally dry riverbed that she crossed on foot during her first push-back. We were able to verify the existence of the open passage offered by the dry riverbed through an image taken of the river mere days before her push-back. Additionally, we used isochrone maps to compare Parvin's estimations of travel times in her oral statement to average travel times on roads.

The adoption of digital and open-source methods ultimately helped to strengthen Parvin's complaint, which makes the prospect of expanding the application of these methods in future migration cases very exciting for us, to say the least.

JACK SAPOCH IS AN OPEN-SOURCE RESEARCHER. HE STARTED WORKING ON PARVIN A'S CASE WHILE HE WAS A TRAINEE IN BOTH ECCHR'S MIGRATION TEAM AND AT FORENSIC ARCHITECTURE FROM MAY THROUGH AUGUST 2021.





# Report for the Special Rapporteur on push-back practices and their impact on the human rights of migrants at European land borders

## A SYSTEMIC ISSUE

1. The practice of push-backs is long-standing. It is the shadow side of the European Union's migration policy of fortressing, externalization and containment. Push-backs can be simple summary returns, involving no paperwork or procedure. They also occur as automatic returns with a rubber-stamping procedure.
2. Since 2016, push-backs are used systematically by EU states and partner third countries as a form of border control—referred to by governments as “border protection.” In preparation for the EU-Turkey statement and its related policy of containment in hotspots, EU countries with land borders have been made to toughen their border control practices. They built border fences, adopted push-back practices and sometimes even included them within national law. EU policies of border control externalization also result in the systematic use of push-backs in partner third countries.
3. The number of persons pushed back with no identification and consideration for their protection needs is in the tens of thousands yearly. FRA and Frontex assessed over 35,000 cases for 2019 alone, a tenth of which were children. The number of deaths at the hands of officers in such push-back operations remains unknown, but the violence involved—often amounting to torture—is well reported.
4. The UN Special Rapporteur on racism highlights that current border policies result in racial discrimination on the ground, including during push-backs. Thus, people on the move are racially profiled and impeded from approaching border crossings—and from potentially submitting protection claims. Made to cross borders irregularly, they are then pushed back again after being racially profiled. There is no possibility to escape such racist treatment, as all documents—including those which may prove regular presence within the territory—are not considered and often destroyed. The violence during push-backs is also increasingly explicitly racist.

[...]

6. This report shows that despite the existence of a legal framework protecting those who cross borders irregularly (II), push-back practices are allowed to continue and increase in violence because of the politics of denial (III) and complete impunity (IV).

[...]

## IN PRACTICE: EVIDENCE IGNORED, REALITY DENIED

10. Faced with strong evidence of push-backs, EU countries have simply denied the reports. For example, in Croatia, whenever the government faced overwhelming evidence of push-backs, it chose to resort to denial and victim-blaming. This position necessitates the underlying assumption that all the international human rights organizations, institutional bodies and media outlets listed below publish fabricated claims. Within the EU framework described above, Croatia's efforts to join the Schengen zone is tied to its systematic push-back practice, which in turn continues to be tacitly condoned by the EU.

[...]

## IN REALITY: IMPUNITY PERPETUATED

[...]

22. In this context, the silence of European Union institutions—those which shape European states' border policies and which could have an impact on their practices—is deafening. It has only been broken by disturbing statements in support of push-back practices. This climate of complete disregard for the rule of law, doubled with utter state impunity, explains the persistence of push-back practices in Europe, their increased use, and their escalating violent character.

THIS TEXT CONTAINS EXCERPTS FROM A SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS FROM FEBRUARY 2021 WITH A FOCUS ON CROATIA'S PUSH-BACK PRACTICES. YOU CAN FIND THE WHOLE REPORT INCLUDING REFERENCES ON OUR WEBSITE AT [ECCHR.EU/EN/PUSH-BACKS](https://ecchr.eu/en/push-backs).

## A clear signal to Bulgaria

### Push-backs at the border to Turkey

A fierce gatekeeper to the EU, Bulgaria sits at the foot of the so-called Balkan corridor, traditionally one of the main migration routes into Europe. Even as numbers of refugees and migrants have decreased, Bulgaria has enforced progressively stricter border controls, and recently, it finished the construction of a heavily securitized fence along its border with Turkey. Human rights organizations have consistently reported on Bulgaria's brutal push-back practice, which denies access to asylum and has particularly impacted Turkish citizens fleeing persecution in their home country.

For the first time, in July 2021, the European Court of Human Rights clearly condemned Bulgaria for the push-back of a Turkish journalist, D. The court made a unanimous finding that Bulgaria had committed multiple violations of the European Convention on Human Rights.

#### Bulgaria committed multiple violations of the European Convention on Human Rights

The applicant D had worked for Turkish media that was deemed critical of the government. After the attempted coup in 2016, a state of emergency was declared, and a sweeping crackdown on perceived opposition took place. D was dismissed from his job and had his press accreditation revoked. He fled and was later apprehended while trying to cross Bulgaria in a truck. Within just a few hours, Bulgarian officials had returned him to Turkey.

The court criticized Bulgaria for neither assessing the risk D might face if returned to Turkey nor allowing him to apply for asylum, even though he had expressed his fear of persecution as a journalist. He was offered no legal assistance, coerced to sign documents he couldn't read, and then forcibly returned within 24 hours. In Turkey, D was immediately detained and later convicted of membership in a terrorist organization, for which he was sentenced to seven and half years in prison.

ECCHR, the Center for Legal Aid—Voice in Bulgaria, and PRO ASYL supported D with his complaint, and together, we are demanding that Bulgaria implements the court's judgment, commits to fundamental reforms and puts an end to push-backs at its borders.

## Push-backs beyond Europe

### An American variation

DELPHINE RODRIK

Increasingly violent means of border control are certainly not only a European phenomenon. In the United States, where I trained and completed my law degree, migration policies similarly aim to obstruct access to asylum and the US justice system via the swift expulsion and isolation of migrants (including asylum-seekers) who manage to enter the country or arrive at ports of entry. Through the instrumentalization of the COVID-19 pandemic and the warping of a public health law, the US has expelled migrants directly to Mexico and to other countries of origin without providing deportation orders, access to asylum procedures, or other legal protections. These are “push-backs” in plain sight.

#### The parallels are distressing

On the Tijuana side of the US-Mexico border, where the border wall claws its way into the hills and slices into the Pacific, it is impossible not to feel just how severely these policies shroud their own impacts from ordinary view—making their cruelty and absurdity largely invisible to a collective national, regional or global conscience. Organizations have documented thousands of cases of killings, sexual violence, kidnappings, and torture for ransom of migrants perceived as targets

upon their return to Mexico from the United States—not unlike the fate of those who, continents away, are returned to Libya from the Central Mediterranean in line with the policies of the EU.

Without the critical efforts of migrants and activists to draw attention to and speak out against these policies, public knowledge of these events would be even more limited. But, just as in Europe, actors expressing solidarity with migrants—by leaving water, food and other life-saving supplies in the deadly Arizona desert, for example—have faced criminal charges for their work.

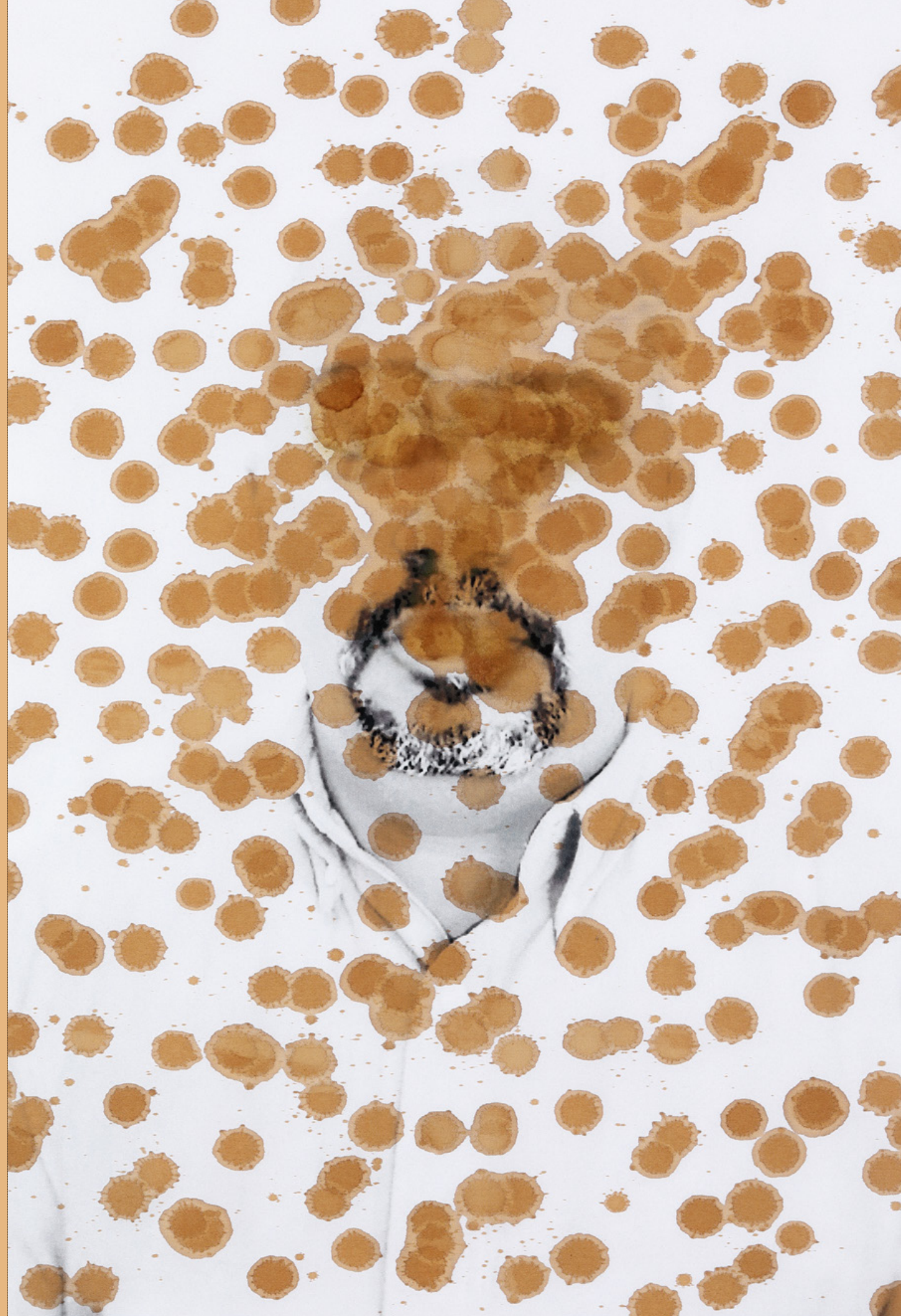
Although the parallels between the European and American contexts are distressing, they also open up opportunities for exchange regarding techniques and strategies for challenging push-backs across disparate legal frameworks and political contexts.

DELPHINE RODRIK IS A BERTHA JUSTICE FELLOW WHO CHALLENGES PUSH-BACKS AND RIGHTLESSNESS IN BORDER REGIONS IN ECCHR'S MIGRATION PROGRAM.



# Institute for Legal Intervention **V.**

AIDA SILVESTRI  
COFFEE I  
2020 →





## (Re)Shaping the law beyond the courtroom

We work collectively to strive for change: our Institute for Legal Intervention organizes various forums with partners, affected people, artists and scholars, particularly from the Global South, to navigate the complexities of and critically engage with such topics as the legacy of colonial crimes.

Beyond supporting future human rights lawyers as part of our Critical Legal Training program, we work with artists, architects and designers to generate multimedia exhibitions that visualize the dimensions of the pressing questions of our time. Finally, we bring the insights gathered from these collaborations and ECCHR's strategic litigation to bear on legal submissions to various international frameworks and institutions.

The law is not a neutral container of values, but rather often functions as an instrument of power that reinforces unjust social, economic, political and environmental realities. By adopting feminist, postcolonial and other critical approaches, we work to disrupt hegemonic power structures, (re)shape legal policy and contribute to struggles for social justice.

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Changing the law beyond the courtroom.

The legacies of unjust power structures within the law must be challenged. We initiate debates, collaborate with artists, and critically educate future human rights defenders to shape the law to meet the demands of our time.

[ECCHR.EU/DONATE](https://ecchr.eu/donate)

## An historic opportunity Coming to terms with colonialism in Namibia

At the beginning of the 20<sup>th</sup> century, German settlers, companies and traders flocked to Namibia, driven by the pursuit of grazing land, mineral resources and profit. With the help of military force, targeted killings and sexual violence, a systematic transfer of wealth took place—and the Germans then proceeded to commit a genocide, which was formally “legitimized” through racist interpretations of the law and a colonial administration.

In October 2006, the Namibian Parliament passed a resolution, which ordered the Namibian government to initiate negotiations with the German government concerning reparations. However, since then, German authorities have attempted to evade their legal responsibility for the genocide. An essential feature of the resolution was also the participation of the affected communities in the negotiations, in particular the Ovaherero and the Nama.

An opportunity to  
reject colonial  
patterns of thinking

After eight years of negotiations—from which the representatives appointed by the affected communities were excluded and which were held strictly in secret—Germany and Namibia released a Joint Declaration in June 2021 that conveyed the results of the negotiations, the success of which was dubious at best.

Together with our partners in Namibia, we criticized the violation of minimum standards under international law resulting from the lack of participation and transparency. Within a broad civil society coalition, we appealed to UN Special Rapporteurs and the UN Human Rights Committee and demanded that participation rights be respected. We also argue that the outcome of the negotiations reinforces colonial thinking and colonial legal interpretations, which can be seen in the reinterpretation of reparations as “development aid,” as well as in the application of the racist laws of the early 20<sup>th</sup> century.

Yet, a resumption of the negotiations still appears to be possible at the moment. This would present a unique, historic opportunity for both governments to now comply with minimum standards under international law, to set up the proceedings in a transparent manner and to reject colonial patterns of thinking. ECCHR will continue to actively support these efforts, as these colonial crimes must be adequately accounted for, and international law must be decolonized. There are legal obligations to provide reparations for colonial crimes and to comply with the respective minimum standards under international law.



# ECCHR EXPLORE

## Connecting art and human rights

How can we combine artistic and legal interventions to strengthen social and human rights movements? ECCHR and Allianz Kulturstiftung posed this question in our project “Transformation through the arts and law—Artistic and legal interventions.” To find out how the interplay of different voices can challenge systems and encourage societal debates, we have developed ECCHR EXPLORE, a platform that playfully inspires us to dive into different discourses connected to the arts and human rights.

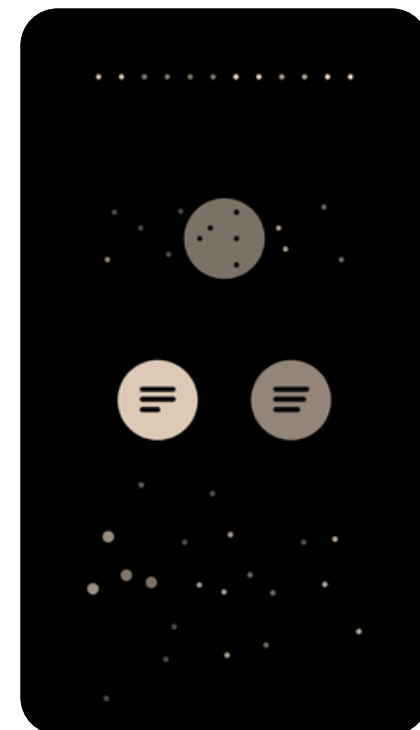


**ECCHR  
Explore**



**Dive into our  
conversations  
around Arts and  
Human Rights**

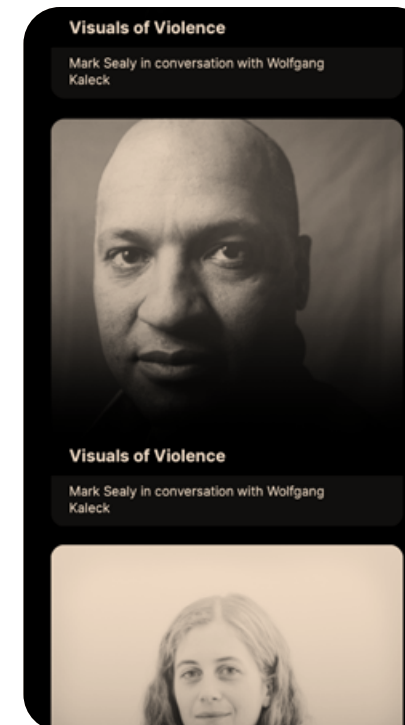
**DOWNLOAD  
OUR APP**



**...OR FOLLOW  
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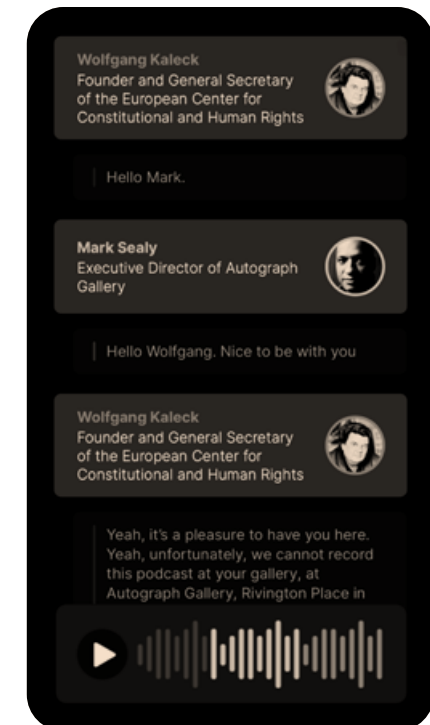
... and this  
is how it works:

### CHOOSE TOPIC

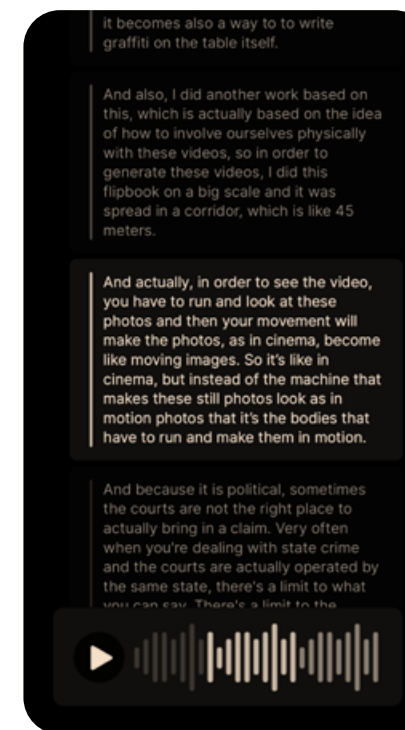


**DISCOVER  
ADDITIONAL CONTENT**

### LISTEN TO EPISODE AND READ CONVERSATION



**CONNECT IDEAS  
TO OTHER EPISODES**



## “If we can decolonize the camera, we begin to see things differently”

CONVERSATION WITH  
MARK SEALY AND WOLFGANG KALECK

**wk** Let's talk about the connection between human rights and art. What do you think, how should we deal with the force and violence of certain images?

**ms** It's a really difficult job to bring images of violence from violent situations and unpack them in a way so that people fully understand the complexities of what's going on within that situation. But I also think our audiences are not stupid. We can make them work a bit harder.

**What responsibility does the audience have in the reception of art or photography?**

In terms of visual literacy, we have to train ourselves to look outside the frame, to look beyond what's been presented. But I also talk to artists, saying it's really important that they encourage their audience to take responsibility, and that they think about how else they communicate what is going on within their art.

**Can photography bring us closer together?**

I guess, pessimistically, it hasn't. Because of all of the kinds of distancing that have gone on. The refugee is incredibly distanced through photography. Conflicts and victims are distanced through photography. Yet, we consume these images daily. We don't care about the lives of others. We have forgotten how to look into the face of the other and take responsibility for that subject. When I don't take responsibility for you as a human, I'm failing my own humanity.

**How should visual representations of violence change?**

We've seen the world, and we've seen all of its violence. So, what do we understand about that? Do we just keep on replicating that violence because we're in a cycle of it? That we can't break this coloniality, this chain of imperialism, which now market forces drive for resources? Or can we go to a decolonial space where we listen more, where we unlearn more? Where we take indigenous voices and treat them with equality? If we can decolonize the camera, that means that we begin to see things differently.

THIS CONVERSATION WITH MARK SEALY, CURATOR, AND WOLFGANG KALECK, ECCHR GENERAL SECRETARY, WAS RECORDED FOR THE PROJECT ECCHR EXPLORE. AN UNABRIDGED VERSION OF THIS TALK CAN BE FOUND ON → [EXPLORE.ECCHR.EU](#) AND OUR PODCAST CHANNEL → [FRAMING HUMAN RIGHTS](#) ON THE USUAL PODCAST STREAMING PLATFORMS.

## “This is what we call the ‘democratization’ of evidence”

INTERVIEW WITH ANNE SCHROETER

**The Investigative Commons was initiated by ECCHR, its partner Forensic Architecture, and their newly founded sister organization FORENSIS in 2020 and went public in 2021. What exactly is the Investigative Commons?**

The Investigative Commons seeks accountability for human rights violations, international crimes and environmental violence committed by states, corporations and other actors through interdisciplinary cooperation, presenting findings in courtrooms and making them available to the general public in different forums.

**This seems like an innovative approach. How does it work?**

We combine the first-hand knowledge of people directly affected by human rights violations with the expert approaches of open-source researchers, investigative journalists, architects, lawyers, artists, activists and programmers to develop new techniques and methodologies for investigating and visualizing violence. This is what we call the “democratization” of evidence—where people with different backgrounds and expertise can come together and bring new perspectives to human rights investigations.

**Why do we need a democratic counter-narrative to state-sanctioned evidence?**

The use of the term “forensic” has historically been limited to evidence produced by highly skilled experts to establish a set of facts in a legal investigation. In this sense, state entities have monopolized the production and analysis of forensic evidence. The Investigative Commons operates under the assumption, however, that certain crimes under investigation by states may have been committed by actors who are actually part of this same monopoly of power. Therefore, their investigations of such crimes may not be trustworthy, and the released official narratives need to be countered.

**So, you've developed a kind of counter-forensics?**

Yes, counter-forensic investigations are a means of producing a coherent view of a particular set of facts that may counter a state-sanctioned investigation and its official narrative. As it prepares investigations to be used inside and outside of the courtroom, the Investigative Commons mobilizes critical thinking and a multitude of disciplines in order to uncover facts, and then analyze and relate them to each other. They are then presented in diverse contexts, such as multimedia art exhibitions.

ANNE SCHROETER IS THE INVESTIGATIVE COMMONS PROJECT COORDINATOR. SHE HAS, FOR EXAMPLE, CO-ORGANIZED THE → [INVESTIGATIVE COMMONS LAUNCH](#) AT HAUS DER KULTUREN DER WELT BERLIN IN SUMMER 2021. FOR MORE INFORMATION, LISTEN TO OUR PODCAST EPISODE → [FORENSIS: FORGING A POLITICAL PRACTICE](#) WITH EYAL WEIZMAN FROM FORENSIC ARCHITECTURE AND ECCHR'S WOLFGANG KALECK.



# Our 10<sup>th</sup> Alumn\* Reunion

## Motivation for the future

In exceptional circumstances, what is actually normal often feels like something extraordinary. This sensation—of being part of something special—was felt by many at ECCHR in November 2021. After long months of distancing and limited social interaction, staff, trainees, alumn\* and friends of ECCHR came together in Berlin. Yet, even more special than the chance to meet in person was the occasion itself: the celebration of our 10<sup>th</sup> annual Alumn\* Reunion.

As almost 60 of us arrived at the hybrid kick-off event at the BUFA Film Studios, excitement could be registered on everyone's faces. At the same time, a certain level of caution was also palpable: large gaps between the rows of chairs and a Covid quick-test station at the entrance where vaccination certificates were also checked. But as the conversation about the life's work of ECCHR co-founder Michael Ratner began, everyone was riveted. Reflecting on his work underscored what human rights work means to us: it requires not only professional expertise and political will; idealism, as well as a dose of radicalism, are at least equally as important. It is our conviction that our work thrives on openness, on empathy, and on the ability to establish long-term contacts—despite, or even perhaps because of, the ongoing pandemic.

Our work thrives on openness,  
on empathy, and on the ability  
to establish long-term contacts

Like every year, this was also the goal of the reunion. Whether in workshops on corporate accountability or during an animated conversation outdoors with a glass of mulled wine in hand, we were finally able to exchange ideas again—which happened mostly face-to-face (almost) without the aid of technological devices. Nevertheless, we of course wanted to give all of our alumn\* and partners around the world the opportunity to participate in the reunion, so we organized some of the events in a hybrid format, including a large online panel where, among others, whistleblower Edward Snowden spoke about systemic control in the digital world and the impetus to advocate for change.

This made us realize once again just how much our work lives from interpersonal exchange and also how much the Critical Legal Training program, in which ECCHR offers education and further training opportunities for aspiring human rights defenders, is an integral part of our work. The diverse perspectives, the courage and the fresh ideas that the participants and some of our long-standing partners bring with them always give us motivation for the future.

# Selected activities

## TRAINEE MEETINGS

“Does the law have an emancipatory potential to challenge corporations’ human rights abuses?”

Presentation: Fiona Noudjenoume

“Climate change and the role an organization like ECCHR can play in the climate justice discourse”

Presentation: Hannah Shaikh, Paula Zimmermann

“TWAiling the ICC?”

Presentation: Jing Min Tan

“Equal (human) rights for all? Migrants at the ECtHR”

Presentation: Theresa Mockel

“Exploring litigation strategies against pesticide harm: Challenging the safe use narrative”

Presentation: Anush Shetty

## LUNCH TALKS

“Postcolonialism and restitution”

Bénédicte Savoy (art historian, Technische Universität Berlin)

Moderation: Michael Bader

“Post-WWII transitional justice in Italy and colonial legacies”

Paolo Caroli (Alexander von Humboldt-Stiftung fellow)

Moderation: Georg Fritz, Noémie Louvet

“The legal framework of civil sea rescue”

Nassim Madjidian (researcher, Universität Hamburg)

Moderation: Lisa Marie Koop, Natalia Loyola Daiqui

## CRITICAL READING DEBRIEFS

“International law and social movements: Challenges of theorizing resistance”

Balakrishnan Rajagopal

Moderation: Claire Tixeire

“What difference does difference make? Diversity, intersectionality, and transnational feminist politics”

Nikita Dhawan, Maria do Mar Castro Varela

Moderation: Jing Min Tan

“Palestine: Emerging narratives in local and global justice movements”

selected texts by Maryam Jamshidi, Peter Beinart

Moderation: Lavinia Parsi

“The dark side of litigation as a social movement strategy”

Catherine Albiston

Moderation: Marie Badarne, Claire Tixeire



# Appendix VI.

AIDA SILVESTRI  
A GREAT LEVELLER, DETAIL  
2020 →

## A Great Leveller

“We are all in this together”

Racism contributing to coronavirus deaths among ethnic minorities, leaked official report says

BAME doctors hit worse by lack of PPE on front line of coronavirus outbreak may be factor in disproportionate BAME deaths among NHS staff

African Risk of coronavirus death far higher for BAME people and manual workers, research finds

Caribbean BAME groups at 'higher risk' of getting Covid-19 with deprivation among factors

Bangladeshi Chinese Why are more people from BAME backgrounds dying from coronavirus?

Report on BAME Covid-19 deaths sparks call for action

Indian Pakistani

Higher Covid deaths among BAME people not driven by health issues



# Legal interventions

## INTERNATIONAL CRIMES AND ACCOUNTABILITY

### Germany

#### Colonia Dignidad

Technical and administrative complaint regarding the discontinuation of investigation proceedings on the Colonia Dignidad complex

SUBMITTED: 28 JANUARY 2021  
MINISTRY OF JUSTICE NORTH RHINE-WESTPHALIA, GERMANY

### Germany

#### Violent persecution of LGBTQ in Chechnya

Criminal complaint regarding systematic detention and torture of LGBTQ by Chechen security forces as crimes against humanity, and the submission of a supplementary statement following the announcement by the Federal Public Prosecutor's Office that an investigation would not be opened due to lack of evidence

SUBMISSION OF CRIMINAL COMPLAINT: 1 FEBRUARY 2021  
SUBMISSION OF THE COUNTERSTATEMENT: 9 DECEMBER 2021  
FEDERAL PUBLIC PROSECUTOR'S OFFICE, GERMANY

### Germany

#### US military base in Ramstein

Support for a constitutional complaint filed by two Yemeni complainants regarding the use of the US military base at Ramstein in Germany for US drone strikes in Yemen

SUBMITTED: 23 MARCH 2021  
FEDERAL CONSTITUTIONAL COURT, GERMANY

### Germany

#### Civil war in Sri Lanka

Submission of further evidence in reference to ECCHR's 2017 criminal complaint, including systematic torture and sexual violence, by the Terrorism Investigation Division

SUBMITTED: 24 MARCH 2021  
FEDERAL PUBLIC PROSECUTOR'S OFFICE, GERMANY

### United Kingdom

#### War crimes committed

##### by British troops in Iraq

Submission against the prosecutor's decision to close the preliminary examination

SUBMITTED: 1 JULY 2021  
INTERNATIONAL CRIMINAL COURT, NETHERLANDS

### Germany

#### Al-Khatib trial

Request, together with 22 German and international scholars, scientific institutions and human rights organizations, to document the final phase of the trial using audio recordings

SUBMITTED: 1 JULY 2021  
KOBLENZ HIGHER REGIONAL COURT, GERMANY

### Philippines

#### Sexual slavery during World War II

Response on behalf of 28 survivors of sexual slavery to the Philippine government's submission

SUBMITTED: 13 JULY 2021  
UN COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, SWITZERLAND

### Germany

#### Al-Khatib trial

Support for a motion by ECCHR partner lawyers to broaden the charges against Anwar R to include enforced disappearance

SUBMITTED: 22 JULY 2021  
KOBLENZ HIGHER REGIONAL COURT, GERMANY

### Germany

#### Airstrike in Gaza

Request for access to the investigation files in order to review the legality of the public prosecutor's decision to halt the investigation

SUBMITTED: 28 SEPTEMBER 2021  
FEDERAL PUBLIC PROSECUTOR'S OFFICE, GERMANY

### Colombia

#### Crimes against humanity

Statement on the evaluation of the preliminary examination on Colombia

SUBMITTED: 6 OCTOBER 2021  
INTERNATIONAL CRIMINAL COURT, NETHERLANDS

### Italy

#### US drones at Sigonella Naval Air Station

Pre-hearing submission in the context of the freedom of information case

SUBMITTED IN ADVANCE OF THE HEARING  
ON 13 OCTOBER 2021  
ROME ADMINISTRATIVE COURT, ITALY

### Belarus

#### Suppression of anti-government protests

Criminal complaint filed against high-ranking members of the Belarusian security apparatus for crimes against humanity

SUBMITTED: 1 NOVEMBER 2021  
FEDERAL PUBLIC PROSECUTOR'S OFFICE, GERMANY

### Libya

#### Crimes against humanity

##### committed against migrants

Article 15 communication to the International Criminal Court regarding the investigation of the situation in Libya

SUBMITTED: 19 NOVEMBER 2021  
INTERNATIONAL CRIMINAL COURT, NETHERLANDS

## BUSINESS AND HUMAN RIGHTS

### Italy

#### Italian arms exports to coalition

##### parties in the Yemen war

Brief on the criminal investigation of RWM Italia SpA managers and Italian arms export authority officials for their contribution to alleged war crimes in Yemen

SUBMITTED: 18 JANUARY 2021  
JUDGE FOR PRELIMINARY INVESTIGATIONS IN ROME, ITALY

and

Brief regarding the public prosecutor's obligation to investigate the defendants' responsibility for the offence of abuse of power and for the deaths and personal injuries of Yemeni airstrike victims

SUBMITTED: 6 MAY 2021  
PUBLIC PROSECUTOR'S OFFICE, ITALY

### Portugal

#### States' responsibility for climate change

Joint submission regarding the case of Duarte Agostinho and Others v. Portugal and 32 Others to reaffirm Portugal's and other states' human rights obligation to adopt and enforce effective measures to address climate change

SUBMITTED: 6 MAY 2021  
EUROPEAN COURT OF HUMAN RIGHTS, FRANCE

### Switzerland

#### Pesticide poisoning in India

Civil litigation suit filed by three farmers from Yavatmal, India, asking Swiss pesticide manufacturer Syngenta for compensation for loss of life and serious damage to health

SUBMITTED: 16 JUNE 2021  
CIVIL COURT IN BASEL, SWITZERLAND

and

Support in mediation proceedings with Syngenta on the poisoning of 51 Indian farmers

START: 31 MARCH 2021  
SWISS NATIONAL CONTACT POINT FOR THE  
OECD GUIDELINES FOR MULTINATIONAL  
ENTERPRISES, SWITZERLAND

### Europe

#### War crimes in Yemen

Launch of interactive platform to illustrate how European arms industries and governments continue to profit from the war in Yemen by exporting weapons to Saudi Arabia and the United Arab Emirates

LAUNCH: 22 JUNE 2021

Germany

Public investment in agribusiness

Support of lawsuit by FIAN against the Kreditanstalt für Wiederaufbau to obtain access to the environmental and social action plan as agreed upon by KfW’s subsidiary Deutsche Entwicklungsgesellschaft and the agribusiness company Paraguay Agriculture Cooperation (PAYCO)

SUBMITTED: 22 JUNE 2021  
ADMINISTRATIVE COURT IN FRANKFURT  
AM MAIN, GERMANY

and

Support of lawsuit by FIAN against the Deutsche Entwicklungsgesellschaft to obtain access to the environmental and social action plan as agreed upon by the DEG and the agribusiness company Paraguay Agriculture Cooperation (PAYCO)

SUBMITTED: 5 OCTOBER 2021  
ADMINISTRATIVE COURT IN COLOGNE, GERMANY

China

Alleged forced labor in Xinjiang

Criminal complaint against several German textile brands and retailers who are possibly abetting and profiting from alleged forced labor of the Uyghur minority in the Xinjiang region in China

SUBMITTED: 5 SEPTEMBER 2021  
FEDERAL PUBLIC PROSECUTOR’S OFFICE GERMANY

and

Criminal complaint against several Dutch textile brands and retailers who are possibly abetting and profiting from alleged forced labor of the Uyghur minority in the Xinjiang region in China

SUBMITTED: 2 DECEMBER 2021  
PUBLIC PROSECUTOR’S OFFICE, NETHERLANDS

Switzerland

States’ responsibility for climate change

Amicus curiae in the case of *Verein Klima-Seniorinnen Schweiz and Others v. Switzerland* to reaffirm Switzerland’s human rights obligation to adopt and enforce effective measures to address climate change

SUBMITTED: 22 SEPTEMBER 2021  
EUROPEAN COURT OF HUMAN RIGHTS, FRANCE

France

French arms exports to Saudi Arabia and the United Arab Emirates

Request for information from the French customs authorities on the type of material, date and quantity of France’s military equipment exports to Saudi Arabia and the United Arab Emirates

SUBMITTED: 23 SEPTEMBER 2021  
FRENCH ADMINISTRATIVE COURTS, FRANCE

and

Joint submission regarding France’s positive obligation under the International Covenant on Civil and Political Rights to protect civil and political rights, in particular by ensuring that French private actors such as arms companies do not impede the exercise of such rights through their activities abroad

SUBMITTED: 18 MAY 2021  
UN HUMAN RIGHTS COMMITTEE, SWITZERLAND

MIGRATION

Europe

EU push-backs and human rights

Submission to the UN special rapporteur on the human rights of migrants on push-back practices at the EU’s external borders and their impact on human rights

SUBMITTED: 1 FEBRUARY 2021  
OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER  
FOR HUMAN RIGHTS, SWITZERLAND

Europe

Frontex’s participation in push-backs in Croatia

Additional applications for access to documents on Frontex’s deployment at the Croatian border

SUBMITTED: 8 MARCH 2021  
EUROPEAN BORDER AND COAST GUARD  
AGENCY (FRONTEX), POLAND

Croatia

Push-backs on the border to Bosnia and Herzegovina

Additional submissions on behalf of three Syrians against their collective and violent expulsion to Bosnia and Herzegovina in October 2018

SUBMITTED: 20 APRIL 2021  
EUROPEAN COURT OF HUMAN RIGHTS, FRANCE

INSTITUTE FOR LEGAL INTERVENTION

Namibia

German genocide in Namibia

Questionnaire to survey and critique the reckoning with colonial injustice in Germany, the question of reparations as an appropriate form of redress for human rights violations, and violations of international humanitarian law in colonial contexts

SUBMISSION AND PARTICIPATION  
IN EXPERT MEETING: 10 MAY 2021  
UN SPECIAL RAPPORTEUR ON THE PROMOTION  
OF TRUTH, JUSTICE, REPARATION AND  
GUARANTEES OF NON-RECURRENCE, SWITZERLAND

and

Alternative report on the mandatory guarantee of participation rights for affected communities under the ICCPR in the negotiations between Germany and Namibia to address the genocide (1904–1908)

SUBMITTED: 13 SEPTEMBER 2021  
UN HUMAN RIGHTS COMMITTEE, SWITZERLAND



# Ongoing cases and projects

## INTERNATIONAL CRIMES AND ACCOUNTABILITY

### Austria

**Systematic torture in Syria and investigation into Assad intelligence chiefs**  
Austrian authorities are investigating systematic torture in Syria and a former intelligence general. Together with Syrian and Austrian partners, ECCHR supports 16 Syrian survivors, including a potential plaintiff. In 2018, they submitted a criminal complaint against 36 high-ranking Assad government officials.



### Belarus

**Anti-government protests in Belarus**  
Since the disputed presidential election in Belarus in August 2020, thousands of citizens have demonstrated across the country. The government responded with substantial violence to quell the protests. Germany is in a position to take action on the basis of the principle of universal jurisdiction, which is why we and our partners submitted a criminal complaint with the German Federal Public Prosecutor's Office in November 2021.



### Chechnya

**Brutal persecution of LGBTQ in Chechnya**  
During the period from 2017 to 2020, Chechen security forces arbitrarily arrested, imprisoned and tortured more than 150 people. Most were homosexual or bisexual men. ECCHR and its partners submitted criminal complaints in Germany in February 2021. Despite extensive evidence, the Federal Public Prosecutor's Office denied a systematic attack on LGBTQ in June 2021. ECCHR filed a counter-statement.



### Colombia

**Crimes against human rights defenders**  
In 2004, the International Criminal Court launched preliminary investigations into potential crimes against humanity and war crimes in Colombia. ECCHR supported subsequent developments. In October 2021, the court decided to close the preliminary investigations.



### France

**Investigations into torture at Guantánamo**  
Since 2002, two former French Guantánamo detainees have been fighting to ensure that senior US officials are held accountable for torture and detention practices at the US military prison in Cuba. ECCHR is assisting the two men and has submitted several dossiers on suspects in the case. French courts announced later that the investigations had been dropped. The two men filed an appeal with the European Court of Human Rights in July 2021.



### Germany

**Crimes in Colonia Dignidad**  
The settlement of the German religious sect Colonia Dignidad in Chile was the site of grave human rights crimes for many years. ECCHR supports those affected in their struggle to hold two former leading members of the sect to account in Germany. In spring 2019, however, public prosecutors in Münster and Krefeld closed their investigations, and an appeal was dismissed. ECCHR has filed a disciplinary complaint.



### Germany

**ECtHR complaint on airstrike in Kunduz, Afghanistan**  
In September 2009, a German army colonel ordered US fighter jets to bomb two tanker trucks and a large group of people in Kunduz. ECCHR supported the case of Abdul Hanan, whose two sons (ages 8 and 12) died in the strike. In February 2020, the Grand Chamber of the European Court of Human Rights heard the case. In February 2021, the court ruled: Germany made mistakes, but ultimately did enough to investigate the case.



### Germany

**Germany must bring Argentine dictatorship criminals to trial**  
The Berlin Public Prosecutor's Office must file charges against Luis K, a former Argentine officer, who allegedly participated in crimes against humanity during the military dictatorship. Because he faced imprisonment in Argentina, he fled to Germany in 2013. ECCHR is supporting the sister of an Argentine who was forcefully disappeared.



### Germany

**State torture under President Bashar al-Assad**  
In April 2020, the first trial on state torture in Syria began in Germany. ECCHR supported Syrian torture survivors, who were witnesses and joint plaintiffs in the proceedings. In February 2021, Eyad A was sentenced to four years and six months in prison for complicity in at least 30 cases of torture. In January 2022, the verdict in the case against ex-colonel Anwar R was reached: life in prison for crimes against humanity, including the torture of at least 4,000 people and the deaths of 30 people.



### Germany

**The role of Ramstein Air Base in US drone strikes**  
In summer 2012, a US drone strike in Yemen killed two members of the bin Ali Jaber family. Because it allowed the US to use Ramstein Air Base for drone strikes, three Yemenis sued the German government with ECCHR's support. In March 2019, the Higher Administrative Court in Münster ruled in favor of the Yemeni claimants on key points. But in November 2020, the Federal Administrative Court overturned the ruling. In March 2021, those affected submitted a constitutional complaint.



Germany**International arrest warrant for former Syrian Intelligence Chief Jamil Hassan**

In June 2018, the German Federal Court of Justice issued an arrest warrant for the former head of the Syrian Air Force Intelligence Service Jamil Hassan. The warrant, which can be enforced worldwide, is in part the result of four criminal complaints that ECCHR submitted with 24 torture survivors against senior Assad government officials.



TORTURE

Germany**Sexual violence committed by the Syrian intelligence services is a crime against humanity**

The German justice system should prosecute sexual and gender-based violence in Syrian detention centers for what it is: a crime against humanity. That is the goal of a criminal complaint, supported by ECCHR and partners, which seven Syrian survivors of Assad's torture system filed with the German Federal Public Prosecutor in June 2020.



SEXUAL VIOLENCE

Germany**War crimes in the Sri Lankan civil war**

There have been no effective legal proceedings to date addressing crimes committed during the Sri Lankan civil war (1983–2009). ECCHR calls for the initiation of adequate criminal investigations—including those conducted on the basis of universal jurisdiction—into high-ranking military officers' criminal responsibility for war crimes, crimes against humanity and sexual violence.



WAR CRIMES

Germany**War crimes in Gaza**

Members of the German-Palestinian Kilani family were killed in an Israeli airstrike on Gaza City in July 2014. In August 2021, the German Federal Public Prosecutor decided not to initiate investigations into the case.



WAR CRIMES

Italy**Role of Naval Air Station Sigonella in the US drone program**

US combat drones are stationed at Sigonella Naval Air Station in Sicily that are deployed in military operations. The agreement between the US and Italy concerning the presence of the drones and the rules for their deployment has not yet been made public. ECCHR filed a freedom of information request 2016 to reveal this information, but since then, the Italian government has repeatedly refused access. In October 2021, the Rome Administrative Court ruled that the government would have to justify its position.



DRONE STRIKES

Libya**Migrants and refugees in****Libya face crimes against humanity**

Thousands of refugees and migrants who travel through Libya to seek refuge in Europe are subject to systematic abuse and extensive violence. To end impunity for these crimes, ECCHR and its partners filed a submission with 14 survivors to the International Criminal Court in November 2021.



REPRESSION

Norway**Syrian torture survivors demand justice**

With the support of ECCHR and its partners, five Syrian torture survivors submitted a criminal complaint in Norway. It focuses on 17 high-ranking intelligence and military officers who were directly involved in or ordered torture, rape and murder.



TORTURE

Philippines**Sexual violence in World War II**

During World War II, women in the Philippines were sexually enslaved on the orders of the Japanese military. ECCHR and Filipino partners submitted a complaint to the the UN Committee on the Elimination of Discrimination against Women in 2019 demanding that the Philippines finally support members of the Malaya Lolos survivors' organization in their fight for compensation from Japan.



SEXUAL VIOLENCE

Sweden**Europe's role in fighting impunity for torture in Syria**

Following criminal complaints in Germany and Austria, nine witnesses, together with ECCHR and Syrian and Swedish partners, filed a similar complaint against senior Syrian government officials in Sweden in February 2019. They are accused of committing and ordering torture, war crimes and crimes against humanity. The investigation is ongoing.



TORTURE

United Kingdom**Torture by British military in Iraq**

British military and government decision-makers must finally be held accountable for torture in British detention facilities in Iraq. ECCHR's communication to the International Criminal Court documented numerous allegations of abuse of former Iraqi detainees. Nevertheless, the ICC Office of the Prosecutor closed preliminary investigations in December 2020. In July 2021, ECCHR requested a review of this decision.



TORTURE

USA**Criminal complaint against CIA Director Gina Haspel**

ECCHR is calling on the German Federal Public Prosecutor to investigate former CIA Director Gina Haspel. The prosecutor should examine Haspel's role in the torture, including waterboarding, of detainees in a secret CIA prison in Thailand.



TORTURE



## BUSINESS AND HUMAN RIGHTS

### China

#### Uyghur minority subjected to alleged forced labor

Tens of thousands of Uyghurs in Xinjiang (China) are allegedly forced to work in the textile industry, cotton harvesting, or garment manufacture. European fashion brands and supermarkets also sourced, or continue to source products from the region, according to their supplier lists. Therefore, in 2021, ECCHR submitted criminal complaints in Germany and the Netherlands, supported a complaint in France, and requested that the authorities investigate the companies' alleged complicity.

**GP** GLOBAL PRODUCTION CHAINS

### Europe

**ICC communication concerning corporate complicity in the Yemen war**  
ECCHR and international partner organizations submitted a communication to the International Criminal Court in December 2019 to determine corporate and state actors' responsibility in alleged war crimes in Yemen. It focused on weapons manufacturers from France, Germany, Italy, Spain and the UK, including Airbus, Leonardo and Rheinmetall.

**AS** ARMS + SURVEILLANCE TECHNOLOGY

### France

#### French arms sales to Saudi Arabia and the United Arab Emirates

In September 2021, ECCHR, French organizations, and investigative journalists called on the Paris Administrative Court to require French customs authorities to disclose information regarding the export of military equipment, training, and maintenance services to Saudi Arabia and the United Arab Emirates that could be used to commit war crimes in Yemen.

**AS** ARMS + SURVEILLANCE TECHNOLOGY

### France

#### Lafarge on trial for doing business with armed groups in Syria

The French cement conglomerate Lafarge is said to have colluded with the IS to maintain its production facilities in Syria, thereby contributing to war crimes. Since 2016, the French courts have been investigating the company and its executives for financing terrorism and endangering the lives of its workers. Former Syrian employees filed criminal charges with ECCHR's support in 2016. In September 2021, the French Supreme Court ruled that Lafarge can be charged with complicity in crimes against humanity.

**CR** CORPORATIONS + REPRESSIVE REGIMES

### Germany

#### Corporate responsibility in Germany and the EU

In June 2021, the German parliament passed a supply chain due diligence act. This new law introduces the legal obligation that every company must ensure that human rights and the environment are protected across the full extent of their value chains. While the law fails to establish the independent civil liability of companies for environmental and human rights harms caused within their supply chains, it grants affected persons the right to demand a government agency to investigate possible allegations, to order the company responsible for rights violations to remediate the harm, and to sanction the company. In addition to being one of the 18 sponsoring organizations of the Initiative Lieferkettengesetz, which promotes a strong supply chain act in Germany, ECCHR is also supporting a similar project at the EU level.

**GP** GLOBAL PRODUCTION CHAINS

### Germany

#### TÜV SÜD's role in the Brumadinho dam failure

The January 2019 dam breach near Brumadinho, Brazil, killed 272 people. Only four months earlier, the Brazilian subsidiary of German certifier TÜV SÜD declared the dam to be stable. In order to determine TÜV SÜD's shared responsibility, five Brazilians and ECCHR filed a complaint against TÜV SÜD and one employee with the Munich Public Prosecutor's Office in October 2019, which initiated investigations. ECCHR partner lawyers are representing family members in criminal proceedings.

**RE** RESOURCE EXPLOITATION

### Germany

#### Heckler & Koch arms exports to Mexico

In 2008–2009, the German company Heckler & Koch supplied assault rifles to police in the conflict region of Guerrero in Mexico. The weapons were allegedly used to shoot 43 college students in 2014. In February 2019, the Stuttgart Regional Court sentenced two former Heckler & Koch employees for fraudulently obtaining export licenses. In March 2021, the German Federal Court of Justice largely upheld the Stuttgart ruling.

**AS** ARMS + SURVEILLANCE TECHNOLOGY

### Romania

#### Mining company disregards human rights and environmental protection

Residents of Roșia Montană, Romania, have been fighting to stop a gold mine's construction. Canadian-British mining firm Gabriel Resources sued Romania before an international arbitration tribunal. In 2018, ECCHR submitted an amicus curiae brief in support of the residents. The arbitration in Washington, DC, is ongoing.

**RE** RESOURCE EXPLOITATION

Italy**The role of European arms manufacturers in war crimes in Yemen**

In August 2016, a pregnant woman and her four children were killed in Yemen in an air-strike by the military coalition led by Saudi Arabia and the United Arab Emirates. ECCHR and partners from Yemen and Italy filed a criminal complaint in Rome in 2018 to establish the shared liability of RWM Italia (a subsidiary of German arms manufacturer Rheinmetall) and Italian arms export authorities for the incident. In October 2019, the Public Prosecutor's Office requested that the case be dismissed. But the court granted ECCHR's appeal, and the investigation is now continuing.

**AS** ARMS + SURVEILLANCE TECHNOLOGY

**HUMAN RIGHTS AND CLIMATE JUSTICE**France**Energy giant neglects indigenous rights in Mexico**

The French company Electricité de France (EDF) has been working on a wind park project in Oaxaca, Mexico, since 2015. Turbines are to be built on Unión Hidalgo territory, but the indigenous community has not been sufficiently consulted. Their representatives, ProDESC and ECCHR, filed a civil lawsuit under the French Duty of Vigilance Law in October 2020. EDF should halt the project until human rights standards are being upheld. In November 2021, the Paris court rejected part of the case on formal grounds. This has been appealed.

**GE** GREEN ECONOMY

Netherlands**RWE sues Netherlands over coal phase-out**

In December 2019, the Dutch parliament voted to phase out coal. The country thus intends to ban the burning of coal for power generation beginning in 2030, in part to comply with the Paris Climate Agreement. This decision also obligates energy company RWE to stop burning coal at its Eemshaven power plant. As a result, RWE sued the Netherlands for damages. ECCHR submitted a brief in the proceedings in July 2021.

**GW** GLOBAL WARMING

Paraguay**KfW disregards human rights in Paraguay**

Germany's largest development bank, Kreditanstalt für Wiederaufbau (KfW), spends billions on "aid projects" abroad. The KfW subsidiary DEG invests especially in companies operating in countries in the Global South. However, human rights and environmental protection are often neglected in the projects. After both KfW and DEG refused to release the human rights and environmental impact assessments, ECCHR supported two freedom of information suits in 2021.

**ES** PROTECTION OF ECOSYSTEMS

Portugal/Switzerland**Climate change before the European Court of Human Rights**

The European Court of Human Rights is tasked with holding European states accountable when they do too little to combat climate change. More and more people—especially the most vulnerable, including the young and elderly—are utilizing this legal avenue. In May and September 2021, ECCHR and several partners filed two joint amicus curiae interventions with the court in cases on Portugal and Switzerland.

**GW** GLOBAL WARMING

Switzerland**Indian farmers take action against chemical company Syngenta**

The intensive use of pesticides contributes significantly to biodiversity loss, the degradation of ecosystems, as well as climate change. In Yavatmal, India, hundreds of farm-workers were poisoned in 2017, in some cases severely. Government documents show that the Swiss chemical company Syngenta's pesticide Polo played an important role in this. As a result, three families filed a civil lawsuit with the support of ECCHR and its partners against Syngenta for damages in September 2020. An additional 51 families filed an OECD complaint against Syngenta in Switzerland.

**ES** PROTECTION OF ECOSYSTEMS

**MIGRATION**Bulgaria**ECtHR condemns Bulgaria's push-back practice**

The systematic push-backs of refugees and migrants to Turkey by Bulgarian border police—and the lack of any risk assessment regarding potential human rights abuse faced by those forced to return—violate the European Convention on Human Rights. The European Court of Human Rights came to this decision in July 2021 in the case of a Turkish journalist who was supported by ECCHR.

**PB** PUSH-BACKS

Croatia**ECtHR demands answers from Croatian government**

For the first time, Croatia must answer for its push-back practices at its border with Bosnia and Herzegovina in a court of law. In May 2020, the European Court of Human Rights issued a list of questions to the Croatian government following individual complaints from three Syrian refugees whom ECCHR supports. In April 2021, the plaintiffs filed another submission including detailed evidence of the systematic push-backs at Croatia's borders.

**PB** PUSH-BACKS

Croatia**Push-backs before the UN Human Rights Committee**

A Syrian refugee was repeatedly and violently pushed back at the Croatian border with Bosnia and Herzegovina. With ECCHR and PRO ASYL's support, he filed an individual complaint with the UN Human Rights Committee, which was conveyed to Croatia in December 2020.

**PB** PUSH-BACKS

Greece**Brutal push-backs at the Greek-Turkish border**

An Iranian refugee exposes Greece's covert and systematic push-back practice with her detailed accounts and diverse evidence. Parvin A was pushed back six times at the Greek-Turkish border and subsequently submitted a complaint against Greece to the UN Human Rights Committee in February 2022 with the support of ECCHR and its partners.

**PB** PUSH-BACKS



North Macedonia**Violent returns at the Greek border**

With ECCHR's support, eight refugees from Iraq, Afghanistan and Syria lodged individual complaints in September 2016 against North Macedonia with the European Court of Human Rights. The refugees accuse North Macedonia of immediately returning them back to Greece in March 2016, in violation of the European Convention on Human Rights.

**PB** PUSH-BACKS

Spain**Disregard for the rights of refugee minors**

Handcuffs, deportation: what unaccompanied minor DD experienced at the Spanish-Moroccan border in 2014 is not an isolated incident. In February 2019, the UN Committee on the Rights of the Child strongly condemned these actions and demanded that Spain change its laws and push-back practices. DD, with the support of ECCHR, had filed a complaint against Spain in 2015. As Spain did not act, the UN Human Rights Council stopped pursuing the case in 2021 and informed the UN General Assembly.

**PB** PUSH-BACKS

Spain**Fatal push-backs at the Moroccan border (Ceuta)**

At least 15 people died in a Guardia Civil push-back at the Spanish enclave's Moroccan border in February 2014. ECCHR is supporting two survivors of the deadly police action in criminal proceedings against the Guardia Civil officers. The investigation has been closed three times, most recently in October 2019. Two successful appeals were lodged against the closures. A third appeal is pending.

**PB** PUSH-BACKS

**INSTITUTE FOR LEGAL INTERVENTION**Belgium**The Lumumba case: Crimes during the wars of independence**

Patrice Lumumba, former prime minister of the Democratic Republic of the Congo, had only been in office for a few months before he was assassinated in 1961. The former colonial power Belgium was one of the parties involved. Fifty years after Lumumba's assassination, his son filed a criminal complaint; the case is currently pending. ECCHR has supported his case with several amicus curiae briefs, most recently in July 2020.

**CC** COLONIAL CRIMES

Germany**(Post)colonial injustice in Namibia**

Germany has yet to accept real responsibility for colonial injustice. To this day, Germany has refused to legally acknowledge its guilt for the genocide of the Ovaherero and Nama people in Namibia (1904–08) or apologize for it. ECCHR supports Ovaherero and Nama descendants in raising awareness about this injustice in Germany, and in asserting their demands.

**CC** COLONIAL CRIMES

## World map

All completed and ongoing ECCHR cases and projects can be found on the world map insert accompanying this annual report and on our website at [ecchr.eu/en](https://ecchr.eu/en).

## ECCHR PUBLICATIONS

### ECCHR/REDRESS/FIDH/ CJA/Civitas Maxima

Universal Jurisdiction Annual Review (2021)

→ [READ ONLINE](#)

### ECCHR/Brot für die Welt/MISEREOR

Human rights fitness of the auditing and certification industry? A cross-sectoral analysis of current challenges and possible responses (2021)

→ [READ ONLINE](#)

### ECCHR/Amnesty International/ Brot für die Welt/GFF

Menschenrechte als Kompass in und aus der Covid-19-Krise (2021)

→ [READ ONLINE](#)

### ECCHR/ProDESC/Terre Solidaire

Vigilance switched off—Human rights violations in Mexico: What are the responsibilities of EDF and the APE? (2021)

→ [READ ONLINE](#)

### ECCHR/Anti-Slavery International

Position on import controls to address forced labour in supply chains (2021)

→ [READ ONLINE](#)

### ECCHR/FIDH/

### Friends of the Earth Europe/ECCJ/CIDSE

Global solutions to global problems: Why EU legislation and a UN instrument on corporate accountability must be complementary (2021)

→ [READ ONLINE](#)

### ECCHR/FIDH/LFJL

No way out: Migrants and refugees trapped in Libya face crimes against humanity (2021)

→ [READ ONLINE](#)

### ECCHR

Organic and “more sustainable”? Textile certifications and suspected forced labor in Xinjiang (2021)

→ [READ ONLINE](#)

## ECCHR PODCAST

### On artistic and human rights interventions #1<sup>1</sup>

Fred Ritchin/Wolfgang Kaleck

→ [LISTEN ONLINE](#)

### On artistic and human rights interventions #2<sup>1</sup>

Rabih Mroué/Wolfgang Kaleck

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### On artistic and human rights interventions #3<sup>1</sup>

Christina Varvia/Wolfgang Kaleck

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### The blood of the dawn<sup>1</sup>

Claudia Salazar Jiménez/Karina Theurer

→ [LISTEN ONLINE](#)

### Visuals of violence<sup>1</sup>

Mark Sealy/Wolfgang Kaleck

→ [LISTEN ONLINE](#)

### Decolonizing the camera in practice<sup>1</sup>

Ixmucané Aguilar/Wolfgang Kaleck

→ [LISTEN ONLINE](#)

### Restitutionen und eine neue Ethik der Beziehungen<sup>1</sup>

Bénédicte Savoy/Wolfgang Kaleck

→ [LISTEN ONLINE](#)

### Forensis: Forging a political practice<sup>1</sup>

Eyal Weizman/Wolfgang Kaleck

→ [LISTEN ONLINE](#)

### Locked in and out: Decolonizing knowledge<sup>1</sup>

Priya Basil/Wolfgang Kaleck

→ [LISTEN ONLINE](#)

## BOOKS

### Wolfgang Kaleck

Die konkrete Utopie der Menschenrechte: Ein Blick zurück in die Zukunft (S. Fischer, 2021)

→ [SEE ONLINE](#)

### Michael Bader/Miriam Saage-Maaß/ Palvasha Shahab/Peer Zumbansen (eds.)<sup>1</sup>

Transnational legal activism in global value chains: The Ali Enterprises factory fire and the struggle for justice (Springer, 2021)

→ [READ ONLINE](#)

## BOOK CHAPTERS

### Wolfgang Kaleck

“Too little, too late: Coming to terms with the genocide in Namibia”, in Marcelo Brodsky (ed.), *Traces of violence* (ARTCO, 2021)

### Wolfgang Kaleck/Judith Hackmack

“Warum restituieren? Eine rechtliche Begründung, Geschichtskultur durch Restitution?“, in Thomas Sandkühler/Angelika Epple/Jürgen Zimmerer (eds.), *Ein Kunst-Historikerstreit* (Böhlau Verlag Köln, 2021)

### Miriam Saage-Maaß

“Human rights litigation against multinational companies in Germany”, in Richard Meeran/Jahan Meeran (eds.), *Human rights litigation against multinationals in practice* (Oxford University Press, 2021)

## STUDIES

### Michael Bader/Miriam Saage-Maaß

Transnational legal tactics for labour: How to make use of corporate accountability mechanisms, Friedrich-Ebert-Stiftung, November 2021

### Sarah Imani/Wolfgang Kaleck/ Karina Theurer

Das „Versöhnungsabkommen“— Eine vertane Chance, ECCHR, June 2021

## ACADEMIC ARTICLES

### Wolfgang Kaleck

“Offensiver Kampf für wirtschaftliche und soziale Rechte”, (2021) 5 *Amnesty Journal*

### Wolfgang Kaleck

“Erbe oder Hehlerware”, (2021) 4 *Mitteilungen des Vereins für die Geschichte Berlins*

### Wolfgang Kaleck

“Ferdinand von Schirach: Jeder Mensch”, (2021) 11 *Berliner Anwaltsblatt*

### Wolfgang Kaleck

“Reparationen für koloniale Völkermorde?” (2021) 1 *Rhinozeros*

### Laura Duarte Reyes/ Christian Schliemann-Radbruch

“Transgenes Saatgut und Glyphosat in Lateinamerika: Wie weit reicht Bayers Verantwortung?”, (2021) 15 *Zeitschrift für Menschenrechte*

### Delphine Rodrik

“Solidarity at the border: How the EU and US criminalize aid to migrants”, (2021) 39 *Berkeley Journal of International Law*

### Silvia Rojas-Castro/Thomas Richter/ Jessica Johansson

“Zwischen Regulierung und Repression: Ein Beitrag zur Einordnung gesetzlicher Maßnahmen in Bezug auf die Auslandsfinanzierung von zivilgesellschaftlichen Organisationen”, (2021) 31 *Zeitschrift für Politikwissenschaft*

### Miriam Saage-Maaß

“Against all odds—Options for workers’ transnational litigation against rights violations in global value chains”, (2021) 1/2 *Global Labour Rights Reporter*

### Miriam Saage-Maaß

“Vor der Bewährungsprobe: Das neue Lieferkettengesetz”, (2021) 10 *Blätter für deutsche und internationale Politik*

<sup>1</sup> PODCAST EPISODES AND PUBLICATIONS THAT WERE DEVELOPED WITHIN ECCHR’S ARCHIVE PROJECT



**Christian Schliemann-Radbruch/  
Anina Dalbert/Silvio Riesen**  
“Das schweizerische Produktheftpflichtrecht  
im internationalen Kontext”, (2021)  
*2 Haftung und Versicherung*

**Andreas Schüller**  
“Zivilgesellschaft im Völkerrecht:  
Wenn die Anklage von ‚unten‘ kommt”,  
(2021) *2 Wissenschaft & Frieden*

BLOG POSTS

**Wolfgang Kaleck**  
“Komplexitäten und Parforce-Ritte”,  
*Völkerrechtsblog*, Symposium: The concrete  
utopia of human rights, 6 September 2021

**Corina Ajder/Soraia Da Costa Batista**  
“Companies have a responsibility to build a  
better world post-COVID”, *Business and Human  
Rights Resource Centre*, 15 January 2021

**Hanaa Hakiki/Delphine Rodrik**  
“M.H. v. Croatia: Shedding light on the pushback  
blind spot”, *Verfassungsblog*, 29 November 2021

**Sarah Imani/Karina Theurer**  
“Das deutsch-namibische ‚Versöhnungsabkommen‘”,  
*Goethe Institut: ZEITGEISTER—Internationale  
Perspektiven aus Kultur und Gesellschaft*, August 2021

**Chantal Meloni**  
“Never two without three: On the—to be  
reopened—ICC preliminary examination  
in Iraq”, *OpinioJuris*, 9 July 2021

**Chantal Meloni**  
“Kunduz airstrike before European Court of  
Human Rights: Future of jurisdiction and duty to  
investigate”, *Just Security*, 26 February 2021

**Chantal Meloni/Laura Duarte-Reyes**  
“Un passo storico:  
Accertare le responsabilità italiane per le bombe  
in Yemen”, *Domani*, 25 January 2021

**Chantal Meloni/Xuchen Zhang**  
“Complementarity is no excuse: Why the ICC  
investigation in Libya must include crimes against  
migrants and refugees”, *OpinioJuris*, 1 December 2021

**Claudia Müller-Hoff/Hannah Shaikh**  
“Is the auditing and certification industry fit  
for human rights due diligence?”, *Business and  
Human Rights Resource Centre*, 25 August 2021

**Miriam Saage-Maaß/Franziska Korn**  
“Vom ACCORD lernen? Erfahrungen aus  
Bangladesch für die deutsche Debatte”,  
*Friedrich-Ebert-Stiftung*, January 2021

**Miriam Saage-Maaß**  
“What’s missing in climate lawsuits of the future?  
A human rights-based approach should always ask  
who is affected and how by certain climate mitigation  
measures”, *OpenGlobalRights*, 5 November 2021

**Andreas Schüller**  
“Universal jurisdiction—The most difficult  
path to achieve justice for Sri Lanka”,  
*Just Security*, 24 February 2021

**Zwei Jahre nach dem tödlichen  
Dammbruch von Brumadinho—Welche  
Verantwortung tragen Zertifizierer  
wie der TÜV?**  
Susanne Friess, Armin Paasch (MISEREOR),  
Marcela Nayara Rodrigues (activist),  
Andressa Lanchotti (State Department Minas  
Gerais), Marina Oliveira (archdiocese Belo  
Horizonte), Claudia Müller-Hoff (ECCHR)  
**22 JANUARY 2021**

**The bumpy road to the implementation  
of the French duty of vigilance law: A focus  
on the risks for human rights defenders**  
Mary Lawlor (UN Special Rapporteur), Raphaël  
Glucksmann (European Parliament), Verónica  
Vidal (ProDESC), Juliette Renaud (Friends  
of the Earth France), Maxwell Atuhura  
(NAVODA), Maddalena Neglia (FIDH)  
**27 JANUARY 2021**

**The struggle for labor and human  
rights in global value chains:  
The status quo and future strategies**  
Franziska Korn (Friedrich-Ebert-Stiftung),  
Michael Bader, Miriam Saage-Maaß (ECCHR)  
**25 FEBRUARY 2021**

**Was bringt das Lieferkettengesetz?  
Perspektiven des Verbraucherschutzes  
und der Kommunalpolitik**  
Anna Cavazzini (MEP—Green Party), Dirk Behrendt  
(Senator of Justice and Consumer Protection  
Berlin), Clara Herrmann (city councilwoman), Axel  
Schröder (sustainability manager Tchibo GmbH),  
Christian Schliemann-Radbruch (ECCHR)  
**17 MARCH 2021**

**ECCHR Lunch Talk:  
Framing human rights**  
Barbara Unmüßig (Heinrich-Böll-  
Stiftung), Joshua Castellino (Minority Rights  
Group International), Priya Basil (author and  
activist), Wolfgang Kaleck (ECCHR)  
**16 APRIL 2021**

**The violent persecution of LGBTQ  
in Chechnya: Germany should act**  
Caroline Ausserer (journalist), Veronika  
Lapina (Sphere Foundation/Russian LGBT  
Network), Patrick Dörr (LSVD federal executive  
board), Wolfgang Kaleck (ECCHR)  
**21 APRIL 2021**

**#1 Opening event: The concrete  
utopia of human rights—Human rights  
in times of crises: Resistance  
and concrete utopias**  
Alejandra Ancheita (ProDESC), Joshua  
Castellino (Minority Rights Group  
International), Wolfgang Kaleck (ECCHR)  
**26 MAY 2021**

**#2 Corporate power, the role of  
law and human rights—Human rights in times  
of crises: Resistance and concrete utopias**  
Katharina Pistor (Columbia Law School),  
Johan Horst (Humboldt-Universität zu  
Berlin), Miriam Saage-Maaß (ECCHR)  
**2 JUNE 2021**

**Exhibition: Investigative Commons**  
**9 JUNE—8 AUGUST 2021**

**The Airspace Tribunal—Towards a  
new human right to protect the freedom  
to live without physical or  
psychological threat from above**  
Chris Woods (Airwars), Lisa Ling (whistleblower),  
Omar Mohammed (Mosul Eye), Pratap Chatterjee  
(CorpWatch), Jutta Weber (Universität Paderborn),  
Alirio Uribe Muñoz, Sebastián Escobar Uribe  
(CCAJAR), Shona Illingworth, Nick Grief  
(University of Kent), Andreas Schüller (ECCHR)  
**9 JUNE 2021**

**Launch of interactive  
mapping platform on Yemen**  
Omar Ferwarti, Nicolas Zembashi (Forensic  
Architecture), Nick Waters (Bellingcat), Ali  
Jameel (Mwatana for Human Rights), Salma  
Amer (Yemeni Archive), Marina Aksenova (IE  
University Madrid), Cannelle Lavite (ECCHR)  
**22 JUNE 2021**

**#3 Climate change and environmental degradation—Human rights in times of crises: Resistance and concrete utopias**

César Rodríguez Garavito (NYU School of Law), Arpitha Kodiveri (European University Institute), Luisa Neubauer (Fridays for Future), Miriam Saage-Maaß (ECCHR)

**22 JUNE 2021**

**#4 The global right to health and the reality of the COVID-19 vaccine distribution—Human rights in times of crises: Resistance and concrete utopias**

Meena Jagannath (Movement Law Lab), Achal Prabhala (AccessIBSA), Andreas Wulf (medico international), Miriam Saage-Maaß (ECCHR)

**8 SEPTEMBER 2021**

**Conference: Socializing evidence**

Hadi al-Khatib (Mnemonic), Lina Attalah (journalist), Nitasha Dhillon, Amin Husain (Decolonize This Place), Başak Ertür (Birkbeck School of Law), Anselm Franke (Haus der Kulturen der Welt), Gabriela Ivens (Human Rights Watch), Henrike Naumann (arist), Stefanos Levidis, Christina Varvia, Eyal Weizman (Forensic Architecture), Hanaa Hakiki, Wolfgang Kaleck (ECCHR)

**9 SEPTEMBER 2021**

**Book launch: Transnational legal activism in global value chains**

Saeeda Khatoon (Ali Enterprises Factory Fire Affectees Association), Nasir Mansoor (National Trade Union Federation), Faisal Sidiqi (Pakistan Institute of Labour Education and Research), Peer Zumbansen (McGill University), Miriam Saage-Maaß (ECCHR)

**10 SEPTEMBER 2021**

**Guantánamo voices: True accounts from the world’s most infamous prison—Book talk at the Internationales Literaturfestival Berlin**

Lilian Pithan (freelance editor), Sarah Mirk (author), Andreas Schüller (ECCHR)

**11 SEPTEMBER 2021**

**In Search of Monsters: Open air film screening and talk at the Human Rights Film Festival Berlin**

Mohamedou Ould Slahi (writer and former Guantánamo detainee), Andreas Schüller (ECCHR)

**11 SEPTEMBER 2021**

**Business and human rights summer school**

Markus Krajewski (Friedrich-Alexander-Universität Erlangen-Nürnberg), Richard Meeran (Leigh Day), Miriam Saage-Maaß, Christian Schliemann-Radbruch (ECCHR)

**13–17 SEPTEMBER 2021**

**The war on terror in court—Rupture and reckoning: 20 years of Guantánamo**

Baraa Shiban (Reprieve), Andreas Schüller (ECCHR)

**21 SEPTEMBER 2021**

**#5 Rethinking (shrinking) spaces—Human rights in times of crises: Resistance and concrete utopias**

Ben Hayes (author), Isha Khandelwal (human rights lawyer), Wolfgang Kaleck (ECCHR)

**22 SEPTEMBER 2021**

**#6 Feminist movements challenging political transformation—Human rights in times of crises: Resistance and concrete utopias**

Marta Dillon (#NiUnaMenos, HIJOS), Magdalena Baran-Szołtys (RECET), Wolfgang Kaleck (ECCHR)

**4 NOVEMBER 2021**

**#7 (Post)colonial injustice: Genocide in Namibia and Black Lives Matter—Human rights in times of crises: Resistance and concrete utopias**

Sima Luipert (Nama Traditional Leaders Association), Vince Warren (Center for Constitutional Rights), Meena Jagannath (Movement Law Lab), Wolfgang Kaleck (ECCHR)

**17 NOVEMBER 2021**

**Illegale Waffenexporte nach Mexiko und der Schutz der Menschenrechte—Lessons to learn für die neue Bundesregierung?**

Charlotte Kehne (Ohne Rüstung Leben), Sofia de Robina (Centro ProDH), Lars Castellucci (SPD), Katja Keul (Bündnis 90/Die Grünen), Françoise Greve (Menschenrechtskoordination Mexiko), Carola Hausotter (Evangelische Akademie Bad Boll), Christian Schliemann-Radbruch (ECCHR)

**17 NOVEMBER 2021**

**Genocide in Namibia: Panel im Rahmen der Ausstellung Spuren der Gewalt: Das deutsche Kaiserreich im südlichen Afrika**

Sima Luipert (Nama Genocide Technical Committee), Ngondi Kamatuka, Barnabas Katuuo, Vepuka Kauari (Ovaherero Genocide Foundation), Rolando Vazquez (Universiteit Utrecht), Wolfgang Kaleck (ECCHR)

**19 NOVEMBER 2021**

**Moving the Bar: A book talk about Michael Ratner’s radical lawyering**

Reed Brody (lawyer), Wolfgang Kaleck, Claire Tixeire (ECCHR)

**24 NOVEMBER 2021**

**Side event during the Assembly of States Parties to the Rome Statute**

Katherine Iliopoulos (UN Fact-Finding Mission on Libya), Marwa Mohammed (LFJL), Dorine Llanta (FIDH), Chantal Meloni (ECCHR)

**10 DECEMBER 2021**



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International Crimes and Accountability

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**Antonia Hohenstein**  
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**Hend Hussein**  
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CRITICAL LEGAL TRAINING PARTICIPANTS

The participants in Critical Legal Training in 2021 came from 16 different countries: Bangladesh, Belgium, Brazil, Canada, Chile, France, Germany, India, Italy, Portugal, Rwanda, Singapore, Syria, USA, Zambia, Zimbabwe

**Critical Legal Training**  
Karen Aboud, Shabnam Ahmadzai, Samar al-Bradán, Nerges Azizi, Annika Bergelt, Elena Blessing, Michael Butera, Martina Calcaterra, Sarah Daroui, Shuvra Dey, Caroline Dietrich, Georg Fritz, Laura Fuentes Pavez, Larissa Furtwengler, Adrian Gebauer, Luca Hauffe, Olivia Herman, Katharina Högy, Isabel Kienzle, Lisa-Marie Koop, Lea Leutiger, Noémie Louvet, Natalia Loyola Daiqui, Samira Mathias, Leokadia Melchior, Theresa Mockel, Chilombo Mukena, Faith Munombe, Fiona Noudjenoume, Lavinia Parsi, Thalia Peter, Nicolas Raitzsch, Victoria Freitas de Linhares e Riello, Silvia Rizzuto, Jack Sapoch, Hannah Shaikh, Anush Shetty, Eva Souchet, Jing Min Tan, Julia Wenzel, Garrett Zehr, Christopher Zenzius, Paula Zimmermann

**Media and Communications**  
Emma Eder, David Kerkhoff, Louisa Sodji

**Bertha Justice Fellows**  
Michael Bader, Arne Bardelle, Laura Duarte Reyes, Antonia Klein, Delphine Rodrik, Matija Vlatković

**Bertha Global Exchange Fellows**  
Iza Thaler (The Peace Institute—Institute for Contemporary Social and Political Studies, Slovenia)  
Alejandra Ancheita (ProDESC, Mexico)

Internships, exchange programs and research visits were sponsored through funding from: Chancellor’s Scholarship/Alexander von Humboldt Foundation, Bertha Foundation, Bonavero Institute for Human Rights/University of Oxford, Bureau International Jeunesse, Center for Human Rights and Global Justice/New York University, Harvard Law School Postgraduate Public Service Fellowships, UCLA School of Law Public Service Fellowship, Università degli Studi di Milano Statale/Erasmus+

COOPERATION WITH UNIVERSITIES

In 2021, we continued to work with these institutions: Bonavero Institute for Human Rights, University of Oxford (United Kingdom), Center for Human Rights and Global Justice, New York University (USA), Centre for Human Rights Erlangen-Nürnberg, Friedrich-Alexander-Universität Erlangen-Nürnberg (Germany), EUCLID, Clinique du Droit de l’Université de Paris Nanterre (France), Human Rights Law Center, University of Nottingham (United Kingdom), HUWISU, Winter- und Sommeruniversität, Humboldt-Universität zu Berlin (Germany), IHL Law Clinic, Grotius Centre for International Legal Studies, Leiden University (Netherlands), Instituto de Derechos Humanos Pedro Arrupe, Universidad de Deusto (Spain), International Law Clinic, Université Paris II (France), Law Clinic Grund- und Menschenrechte, Humboldt-Universität zu Berlin (Germany), Law Clinic Praxis der Strafverteidigung, Freie Universität Berlin (Germany), Law Faculty, Università degli Studi di Milano Statale (Italy)



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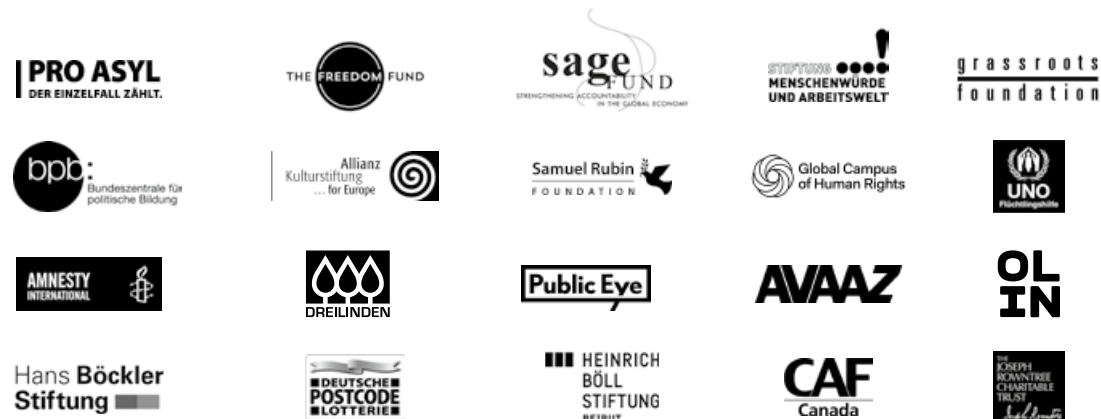
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# Finances

## 2021 REVENUE

Core funding	€ 653,368
Project funding	€ 1,272,577
Private donations	€ 101,477
Grants (earmarked for 2021)	€ 1,508,860
Other operational revenue	€ 107,695
Interest and other revenue	€ 11,728
<b>TOTAL</b>	<b>€ 3,655,704</b>

## 2021 EXPENSES

Personnel (core staff)	€ 1,791,235
Personnel (CLT scholarships, project-based contracts)	€ 232,820
Rent, office expenses, public outreach	€ 1,081,029
Projects, events, travel expenses	€ 459,587
Depreciation	€ 91,033
<b>TOTAL</b>	<b>€ 3,655,704</b>
<b>NET LOSS</b>	<b>€ 0</b>



# Aida Silvestri

## Contagion—Colour on the Front Line

WOLFGANG KALECK

In 1988, socially engaged artists, activists and curators from culturally diverse backgrounds founded Autograph. Today located in Shoreditch in the heart of London's East End, the gallery seeks to encourage its audience to engage with identity, representation, human rights and social justice through photography and film.

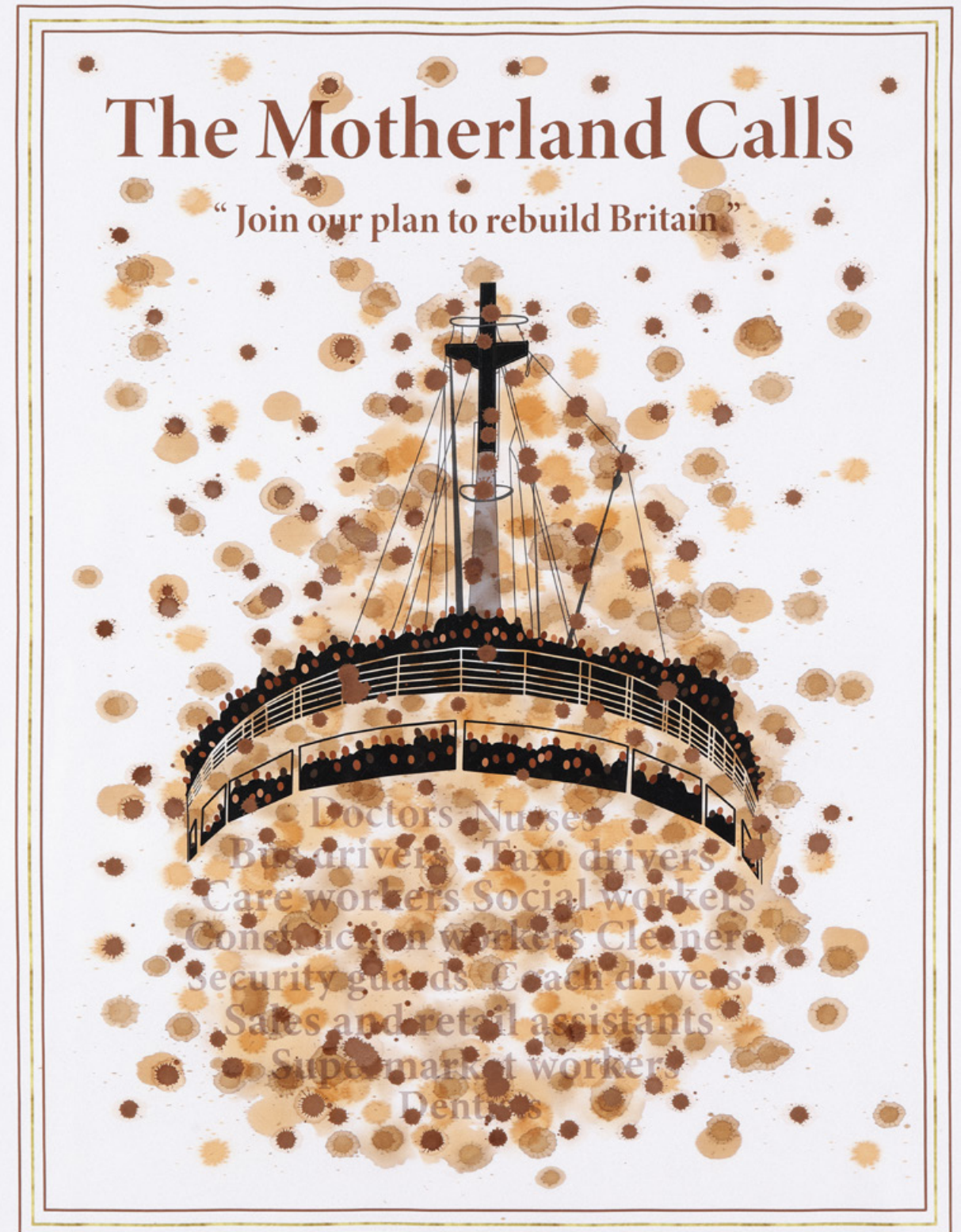
In the spring of 2020, as the pandemic struck London fiercely, Autograph commissioned ten artists, whose work was first exhibited online in 2021 and later at the gallery as part of a collective exhibition: *Care / Contagion / Community—Self & Other*. The artworks deal with personal meditations on changed existential conditions, visual diaries, therapeutic self-portraits, in which family members, the deceased, as well as the creators themselves play a role. Senior Curator Renée Mussai, co-editor of the exhibition catalog, acknowledges a myriad of emotional, physical, economic and psychosocial consequences of the pandemic and sees the exhibition as an opportunity to confront the multiple crises which accompany it.

Aida Silvestri, an interdisciplinary artist and educator of Eritrean origin, also exhibited some of her work there. The title of her project, from which she and Autograph have allowed us to reproduce pieces here, is *Contagion—Colour on the Front Line*. Silvestri condemns the fact that People of Color were especially impacted by what the politicians euphemistically called the “invisible enemy.” Using British propaganda posters from the First World War, Silvestri exposes this “We’re all in the same boat” rhetoric for what it is: a rhetoric of war that masks true social conditions.

In reality, according to Silvestri, the pandemic expressed in the starkest of terms society's ongoing cycle of socio-economic, racial, cultural and political inequality. She recounts her time working alone in the studio during national lockdowns—conscious of her privilege in being able to work from home—listening to the music of Nina Simone, Fela Kuti, Emmanuel Jal, and Alpha Blondy. For her, the most visible enemy was her own government. The virus itself may have been invisible—but it was not the virus that discriminated; it was the British system. Not only had social and racial inequality been exposed, but the government's perpetual failure to protect low-wage and frontline workers had become plainly visible.

The pandemic expressed in the starkest of terms society's ongoing cycle of socio-economic, racial and cultural inequality

Using cocoa, tea, tobacco, sugar and coffee, she draws a connection between colonial exploitation and those who were carelessly exposed to danger during the pandemic that provided largely low-paid services with almost no protection. This approach broadens our idea of using the historical crimes of colonialism as a kaleidoscope to view the current situation and highlight the continuities of inequality.





# IMPRINT

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Aida Silvestri  
From the series *Contagion: Colour on the Front Line* (2020)  
© The artist/Courtesy of Autograph, London  
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Community—Self & Other (2020)

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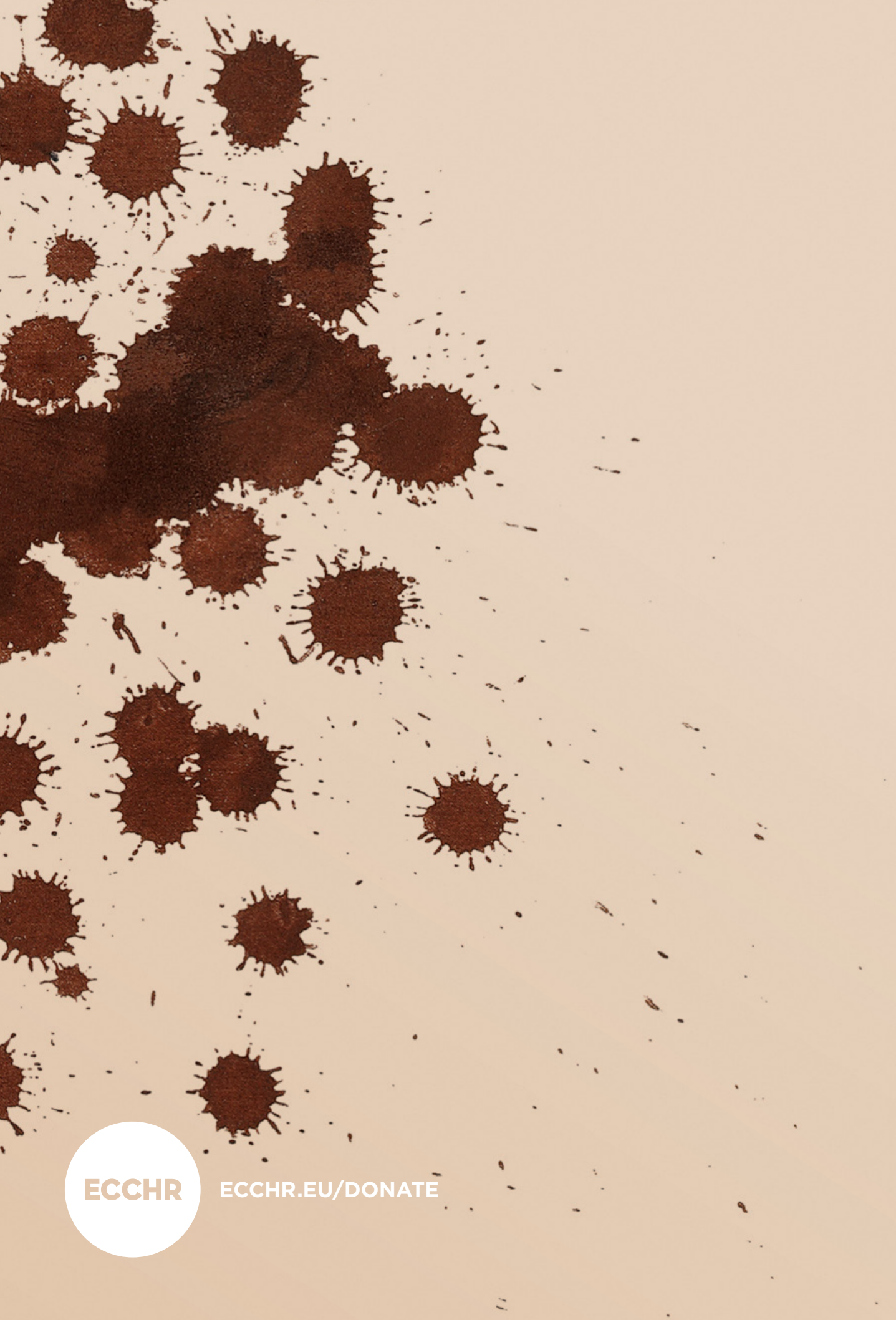
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