

ANNUAL REPORT
2009/2010

Enforcing Human Rights Law by New Means

ECCHR

EUROPEAN CENTER FOR
CONSTITUTIONAL AND
HUMAN RIGHTS

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I.

A Remarkable Four Years

In four short years the EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS (ECCHR) has established itself as an important European wide human rights litigation and advocacy organization that has a global reach. There is no other similar organization in continental Europe. ECCHR is doing remarkable work and there is not a week that goes by without a significant new initiative. The energy and excitement in its Berlin office is palpable. As one of its initiators, I am just amazed at its success in building an organization that is having a genuine impact on the enforcement of human rights around the world.

The work is divided into four program areas that overlap. Business and Human Rights is a fancy name for holding corporations accountable for their abuses. An important part of this program concerns protecting the human rights of people in the global South, whether that South is in Latin America, Africa or Central and South Asia. Often the people of those regions are harmed and exploited by corporations tied to Europe. This gives ECCHR an ability to remedy abuses within the European system while working closely with partners in the global South. It has filed complaints regarding clothes produced under abusive labor conditions in Bangladesh and cotton picked by child labor in Uzbekistan that is sold to corporations in Europe. ECCHR also filed a criminal complaint in Germany against

employees of an engineering company responsible for the building of a dam in Sudan that flooded over 30 villages and displaced 4,700 families. It works as well on legal cases ensuring accountability for past human rights atrocities carried out by corporations in Argentina during the “dirty war”, and South Africa in the era of apartheid.

The work in this area is complemented by a unique regional training program in the global South that focuses on strategic human rights litigation against corporations. Last year the first of three programs was held in Latin America; this year a similar program will take place in Africa and next year in South Asia. These programs not only train activists and lawyers, but identify key corporate cases on which ECCHR and local partners can cooperate.

Under the Universal Justice program, ECCHR has aided efforts to hold accountable human rights violators—corporations, individuals and officials—from Chechnya, Sri Lanka, Argentina and Germany. The work includes complaints, amicus curiae briefs, expert opinions as well as studies on accountability. The work is extensive and innovative. A 100 page report on criminal accountability in the Sri Lankan civil war was especially important in documenting human rights violations in a war that most of the world wants to forget. An important aspect of that report, and one that no organization had previously addressed, was the question of gender crimes during that war. ECCHR is lucky to have funding to pursue a program in Gender and Human Rights. It’s possibly the first such program that asks an organization to look at the gender aspects of all its work as well directly litigate issues of gender and human rights. As part of this work ECCHR filed a brief in four “dirty war” trials in Argentina regarding sexual violence as torture and examined the gender discrimination in textile factories in Bangladesh.

The work in the area of Counterterrorism and Human Rights is impressive. In an area where victories are difficult, ECCHR had its fair share and raised important issues regarding the excesses carried out by officials in the name of counterterrorism. The program looks at issues in Europe such as the EU terrorist list, a list giving little or no due process to those listed. ECCHR has been successful in litigating against various aspects of that list and actually getting someone removed from it. A comprehensive publication entitled, *Blacklisted: Targeted sanctions, preemptive security and fundamental rights*, is the definitive study of such lists and the challenges that can be made. This program has also worked on cases in Poland, Belgium, Spain and Germany, particularly on issues involving the use of torture, kidnapping and rendition in the so-called war on terror. It is actively involved with the Center for Constitutional Rights in the Spanish litigation against US officials by former Guantanamo detainees.

ECCHR is an amazing organization engaged in amazing work—and all in four years. Part of that work is training others in human rights litigation. Since 2009 it has hosted 130 graduates and young professionals from Argentina, Columbia, Armenia, Germany and elsewhere. It works with human rights organizations all over the world and has been a local partner for U.S. organizations such as the American Civil Liberties Union, Human Rights Watch and the Center for Constitutional Rights.

While ECCHR is stable, however, there is a need for it to do more and it can. The needs are much greater than its capacity. Its impact, already large, can and should be multiplied. We hope as you read this report and go to our website, that you are as excited as I am by ECCHR. If there is a time for your support, it is now.

MICHAEL RATNER
Chairman
ECCHR EXECUTIVE COMMITTEE

40,000 Civilians

were killed during the Sri Lankan army's final
offensive against the rebel group Tamil Tigers at the
start of 2009.

II.

On the Strategic Use of Law Against Human Rights Abuse

The point of departure for ECCHR's work is much like that of any global human rights organization: individuals and groups of people around the world are suffering massive violations of their basic rights on a daily basis. ECCHR endeavors to find legal responses to some of these violations. This might take the form of a complaint filed before European courts, or the initiation of criminal proceedings or claims for damages. Equally, it might involve the innovative deployment of emerging legal instruments like OECD-complaints, or consumer protection charges leveled against corporations.

Recently, we have received more and more requests from our partners in developing and emerging countries, who are seeking international legal experts to support their proceedings before domestic courts. The fight against human rights infractions is highly demanding. Regardless of whether one is dealing with 'classic' human rights violations – abuses of political and civil rights – or engaging with newer standards of economic, social and cultural rights, the political and economic contexts from which these violations emerge are often extremely complex. Our work demands that we research and understand very different situations in Asia (Sri Lanka, Bangladesh, Uzbekistan), the Caucasus (Chechnya), Africa (Sudan, South Africa),

Latin America (Columbia, Argentina, Mexico), as well as Europe and the USA (counter-terrorism). Working on the basis of solid fact, often in short supply when we begin our work, before a backdrop of inadequate legal frameworks and yet more inadequate legal practice, we must look for creative solutions.

We do not simply strive to conduct our casework professionally and effectively, a task which is itself challenging enough, we also seek to create outrage, to bring the truth to light, to give those who have been victimized the courage to articulate and enforce their rights. We want to influence judicial discourse and create precedent cases. Because strategic human rights litigation is relatively unknown in Germany and continental Europe, it is often met with misunderstanding and alienation. To tackle this, we have devoted significant time over the past years to analyzing legal practice and we have built up networks by holding events and conferences.

In the face of these demands, our work would be impossible without the diverse range of support we receive. We are highly grateful, therefore, to those international organizations and German foundations that have put their faith in us. Without their financial contributions, we would not have managed to build up a functioning organization, complete with a team of ten employees and ten volunteers in our Berlin office with connections to lawyers, researchers and human rights organizations around the world, within just four years.

Our most labor- and cost-intensive work also depends on those who have voluntarily supported the ECCHR project: the 130 young lawyers from across the world that have worked with us on a temporary basis since our foundation, our international advisory board made up of leading experts who always ready to offer advice and help, our partner universities, from Berlin to Atlanta, our cooperating attorneys in Vienna, Madrid, Basel, Brussels, Amsterdam, London and elsewhere, and finally the many supporters, who have helped us with everything from fundraising to organizational development.

WOLFGANG KALECK
General Secretary
ECCHR

0.10 Euro

is the statutory hourly wage for a seamstress in Bangladesh. They work 12-14 hours a day, 6 days a week.

III.

Human Rights Demand Engagement

Respect for human rights provides an important foundation for any society that wishes to live together peacefully and sustainably. Ensuring access to these rights worldwide represents one of the great challenges of our age. Even now, at the beginning of the 21st century; human rights are being violated – severely and systematically – across the world. Genocide, torture, displacement, repression, discrimination, wrongful imprisonment, ethnic, religious and political persecution are all widespread, while social, economic and cultural rights are commonly disregarded or circumscribed.

For decades, governments and public authorities worldwide have tolerated, and even actively committed, these crimes, denying basic rights to innumerable people. Today, they continue to disregard human rights. In addition, human rights are often violated or ignored through ruthless corporate practices. Those responsible are rarely brought to justice.

All too often, human rights remain little more than a legal abstraction. It is a commonly-held belief that someone is responsible for upholding human rights – a state institution perhaps, a court, or one of the many NGOs. Actual experience paints a different picture: if we want to maintain human rights, we must actively implement them day in, day out, withstanding all possible resistance. It is only by doing this that they will achieve the importance they warrant. It is a goal worth fighting for.

ECCHR is a non-profit organization that uses legal tools to protect and promote human rights. It was founded in 2007 by a group of experienced European human rights lawyers.

Legal Proceedings and Original Human Rights Solutions

Using legal instruments creatively, ECCHR seeks to make its contribution to societal change. It is our belief that legal proceedings have a significance that stretches far beyond the cases themselves. The abuse of human rights is more than just a striking violation of the law; human rights should not be understood simply as political and social goals. The matter at hand is the violation of universally recognized rights which all people can invoke and enforce.

It is internationally accepted that the victims of human rights abuse have the right to demand investigations into the causes of their injury. ECCHR wants to help people to realize this right. By offering people the opportunity to seek redress for the crimes they have suffered, legal proceedings make a direct and real contribution to the fight against impunity. In doing so, they can help those affected to liberate themselves from their role of “victim” and so rebuild their dignity.

Furthermore, such trials perform an important function within society. They spark debate on state and non-state abuse of human rights, allowing reflection of, and response to, mass trauma or collective guilt, while simultaneously energizing social resistance against repeated violations.

Paradigm Cases

ECCHR initiates and supports cases that exemplify particular human rights questions. Moving beyond their individual significance, these cases stand as representative paradigms for numerous other similar violations.

A Broad Conception of Human Rights

ECCHR campaigns for all forms of human rights be they political and civil, or economic, social, and cultural. Our Universal Justice program concentrates on human rights abuses in armed conflict or cases of systematic torture, while our business- and gender-focused programs deal primarily with economic, social and gender-specific rights violations. As such, ECCHR turns its attention to both state and private actors, focusing particularly on transnational corporations.

The Creative Use of Legal Instruments

Our work does not simply rely on traditional legal tools such as criminal charges according to international criminal law or civil claims for damages. Instead, we use solutions that do not belong to the classic repertoire of human rights attorneys: innovative novel

legal methods such as consumer complaints according to competition law, expert legal opinions that seek to further human rights discourse in UN institutions and quasi-judicial complaints mechanisms.

Our creative use of multiple legal procedures has two main goals. On the one hand, we hope to help expand the human rights provision offered in national and international legal frameworks. On the other, we seek to highlight the limitations of existing law. By participating in UN complaints proceedings, ECCHR seeks to show that human rights abuses cannot be dealt with through arbitrary political action.

30,000 People

were disappeared during the 1976-1983 military dictatorship in Argentina. Hundreds of thousands were tortured.

IV.

Universal Justice

What we understand by the term ‘human rights’ has changed dramatically since the middle of the last century. Human rights are no longer seen as a duty of the state, but rather the direct rights of the individual. The trials for war crimes at Nuremberg marked the first time that individuals were held criminally responsible for severe human rights violations, the so-called serious international crimes. Taking its lead from these developments, victims of human rights abuses are now entitled to investigations into the violations committed against them, and can demand reparation for damages incurred.

Widespread Impunity for Violators of International Law

Despite this development, standards of universal human rights and the resulting individual rights are regularly disregarded by governments and authorities. Investigations into human rights abuses frequently fail to take place, or are conducted inadequately without the due prosecution of perpetrators and necessary courtroom hearings. Similarly, victims’ compensation demands are regularly dismissed by the courts without being considered. Yet any country that wishes to establish a free and just society must first address the human rights abuses that have been committed on its territory by regimes or warring civil factions. Legal proceedings, working in conjunction with other civil society methods, provide a purpose-made forum not only for the determination of individual guilt, but also for the consideration of collective responsibility and contributing dynamics in society.

We support those affected by gross human rights violations such as murder, torture or so-called disappearance, and help them in their fight for acknowledgement and justice. ECCHR uses all possible avenues to achieve the prosecution of perpetrators and compensation for victims. One of these methods is to file criminal complaints in those European countries that have extra-territorial competencies in criminal cases according to the principle of universal jurisdiction. Others include supporting the work of trials held in the state where the acts were carried out, or submitting complaints to various UN committees, international courts and other relevant institutions.

Torture, War Crimes and Crimes Against Humanity

In 2009 and 2010 ECCHR supported victims of torture, war crimes and crimes against humanity. We have, for example, actively accompanied criminal proceedings in Argentina addressing the human rights violations committed during the military dictatorship. The current trials of those responsible for abuses prove the thesis that transnational legal methods can provide a vital impetus to the reassessment of systematic human rights violations within the territorial state itself.

It is for this reason that we consider the task of supporting UN efforts to clarify war crimes committed during the later stages of the Sri Lankan civil war to be so important; the numerous reports detailing the extent of violent attacks on the civilian population in 2009 underline the necessity of independent, international investigations into the events. In September 2010 we presented a study at the 15th session of the UN Human Rights Council which outlined the criminal responsibility of high-ranking officials from both sides of the conflict. Working just from the information available in the public domain, we concluded that both sides of the conflict were guilty of massive violations of international law. At the end of 2010 we were able to present a further expert analysis of the criminal responsibility of individual persons in Sri Lanka, in which we outlined the possible means of war crime investigation open to the United Nations. By carrying out such work at the UN, ECCHR hopes to stimulate a juristic evaluation of the crimes committed.

The Fight Against Impunity:

The Example of Argentina

From 1976 until 1983 Argentina was governed by a brutal military dictatorship. During this time around 30,000 people disappeared and hundreds of thousands were tortured. At least one hundred of these victims were of German origin or held a German passport.

Following the end of the military dictatorship, Argentina initially began the process of legally redressing the crimes of the past ten years, yet in the face of pressure from the highly influential military an amnesty was soon declared for all defendants. 1986 was the first of many long years of impunity – a phenomenon that is found all too frequently in Latin America's response to dictatorship and violence. It was not until 2005, when Nestor Kirchner became President, that the high court lifted the laws of amnesty. Charges were subsequently filed against a number of officials from the former regime, and the first trials took place in 2009 and 2010. In one of the proceedings the former State President and Junta official Reynaldo Bigone was sentenced to 25 years' imprisonment.

Public Pressure Against Impunity

The public pressure to end impunity in Argentina clearly increased during these years. The mothers of the disappeared demonstrated continually in Buenos Aires and demanded information on the whereabouts of their relatives. Initiated by a well-connected network of Argentinean human rights activists, all judicial and non-judicial means in Argentina, Latin America and Europe were employed to break the state of impunity. Trials were also held successfully in Italy, France, Sweden, Spain and Germany.

Coalition Against Impunity

The Coalition Against Impunity, a German cooperation of human rights, church and legal organizations successfully persuaded the German judiciary to lead comprehensive investigations into the cases of German victims of the Argentinean dictatorship. In 2003, in a move that was unprecedented in Germany, the district court in Nuremberg released international arrest warrants for then-living military dictators, among them the ex-President Jorge Rafael Videla. The suspects were subsequently listed as wanted. This episode played an important role in the decision to repeal the amnesty laws and resume proceedings in Argentina. It was also an important success for ECCHR General Secretary Wolfgang Kaleck, who as attorney and spokesperson for the Coalition Against Impunity had been working since 1998 to help the victims find justice. In total, forty of the victims' cases resulted in criminal charges filed at the Nuremberg District Court.

The Käsemann Case

Exemplary among these is the Elisabeth Käsemann case. The daughter of a theology professor from Tübingen, Käsemann lived in Argentina, where she was first engaged with social issues before later participating actively in the resistance to the military dictatorship. In March 1977 she was imprisoned and shortly after shot in the neck at close range. Her corpse was found together with those of other murdered persons. The Argentinean Junta presented the incident as a shoot-out between “subversive criminals” and the army, ignoring the fact that Elisabeth Käsemann had been seen in a torture center only days before. Three years after the murder the State Prosecutor in Tübingen ceased investigations. The judiciary claimed that it was satisfied with the justification presented by the Junta, despite witness statements to the contrary and the results of an autopsy carried out by German coroners, which had correctly recorded the cause of death. The case was not re-opened until criminal charges were filed at Nuremberg years later. The Käsemann case has also found resonance in Argentina. Elisabeth Käsemann’s murder has been selected as a key reference case in many of the current proceedings, including the ESMA-trial, which deals with the torture and murder of 5000 regime opponents in the ESMA marine school, one of the dictatorship’s largest secret detention centers.

3 Shots

were fired at Umar Israilov on a public street in Vienna on 13 January 2009. He was killed in the attack. Israilov had charged Chechen President Ramsan Kadyrov with concrete allegations of torture.

The Chechen Conflict and President Kadyrov

Bloody conflict has dominated the Russian Republic of Chechnya for many years. Since the one-sided declaration of independence in 1991, groups striving to achieve an independent state have been brutally repressed by the Russian Government. In 1994 Russian forces intervened in Chechnya, a mountainous region which is predominantly Muslim. Tens of thousands of soldiers, rebels and civilians were killed in the two subsequent Chechen wars—the first between 1994 and 1996 and the second between 1999 and 2009 – and tens of thousands more fled the country.

Severe Human Rights Abuses

Numerous reports detailing massive human rights abuses have emerged from the region, not only in the course of the two wars, but also after the official declaration of peace. Cases of rape, abduction, torture and murder have occurred frequently in Chechnya, both during and after the conflict. According to reports by human rights organizations like Human Rights Watch and Amnesty International, the gravest violations frequently correspond to a similar model: young Chechen men are targeted by Russian army units and arrested by the Ministry of the Interior or intelligence services. They disappear without trace, or are later found dead, showing signs of torture. According to eyewitness reports, members of the security forces are normally masked, and their vehicle identity plates are unreadable. Crimes of this nature are not, however, limited to the Russian armed forces. Following the withdrawal of Russian troops, similar acts have been committed both by Chechen paramilitary loyal to the Moscow-led Chechen Government, and by Chechen-Islamist groups. To date no-one has been prosecuted and punished for these crimes, and a culture of impunity prevails.

Criminal Complaint Against Ramsan Kadyrov

Among those chiefly responsible for these acts is Ramsan Kadyrov, Chechen President since 2007. The son of former-President Achmat Kadyrov, killed in 2004, Ramsan Kadyrov was previously commander of a paramilitary security detail that is alleged to have committed severe human rights violations. Extensive research by recognized human rights organizations suggests that Ramsan Kadyrov was responsible for the systematic use of torture, abduction and illegal executions. ECCHR filed charges against Kadyrov together with a cooperating attorney in Vienna in 2008, at a time when the President was visiting Austria for a European football tournament. Despite this, the relevant authorities failed to act.

Prosecution Witness Murdered on Public Street

Umar Israilov, the chief witness for the prosecution in the case against Kadyrov, was murdered in Vienna seven months later. He was shot and killed outside in a public street. The alleged perpetrator fled to Chechnya. Israilov, a former rebel, was first tortured by Kadyrov himself, and then recruited to his bodyguards. After he fled to Austria with his family, where he was recognized as a political refugee, he offered to act as a witness. He had asked for protection from the Austrian police several times before his death.

Prior to the Israilov's murder human rights organizations had repeatedly warned of the violent threats and intimidation faced by those who criticized or defected from the Chechen Government, including those abroad. Evidently, Kadyrov's influence extends to exile communities. It is alleged that Israilov was included on a death list.

Criminal Proceedings Against Alleged Accomplices

In November 2010 criminal proceedings began in Vienna against three Chechen exiles accused of participating in the murder of Umar Israilov. In the proceedings, which also dealt with the alleged connection between the perpetrators and the Kadyrov regime, the victims' family was represented by ECCHR and its partner attorney. ECCHR was able to present the views of various internationally recognized experts who acted as witnesses to the current political situation in Chechnya, to Kadyrov's program of torture, and to the persecution of Chechen exiles in Europe.

Since the proceedings, which garnered significant international attention, other Chechen exiles living in Europe have reported similar threats against them. It is hoped that this case will contribute to protecting Chechens who break their silence about their persecution in Europe. It is also hoped that the Austrian proceedings will take us one step closer to securing the criminal prosecution of the Chechen President for his part in grave human rights abuses such as torture and illegal executions.

40 Seconds

is the length of time that a victim of waterboarding
is forcibly prevented from breathing.

Waterboarding, a torture method that simulates
drowning, was permitted and practiced under the
Bush administration.

V.

Counterterrorism and Human Rights

The absolute and comprehensive prohibition of all forms of torture is one of the most central universally applicable norms of international law. European and US American governments in particular are prone to invoking these principles when it serves to advance their interests. It is all the more grave then, that since 2001 these same states have repeatedly overridden fundamental principles of rule of law under the auspices of so-called counterterrorism, even using torture to obtain information. When such Western governments abuse human rights they do not only damage their own credibility; they undermine the very validity of the principles upon which human rights are based.

Our Commitment to the Validity of Law

The serious human rights violations and curtailed freedoms enacted in the name of counter terrorism are wide-ranging. One could speak, for example, of secret detention centers in EU States, of cases of abduction and torture, or of the circumscribed rights of those who find themselves in criminal proceedings. Similarly, one might note the increase in surveillance mechanisms that has occurred simultaneously with the erosion of data protection. By committing ourselves to analyzing these practices, we mark our commitment to the validity of law for everyone, regardless of the situation. Together with its partner organizations, ECCHR has exposed the human rights abuses that have been perpetrated in the name of counterterrorism. Voicing our concerns at a national and European level, we have questioned the lawfulness of state anti-terrorism measures, called for state actors and institutions to be held responsible for abuses, and lobbied for adequate reparation for victims.

Prosecuting the Crime of Torture

In recent years ECCHR's work has concentrated on the participation of European actors in cases of abduction and torture and the use of so-called terrorism lists, as well as on the legal response to crimes committed in US-American detention centers (Guantánamo, the Iraqi prison Abu Ghraib). Working in collaboration with various human rights organizations, ECCHR General Secretary Wolfgang Kaleck filed a criminal complaint against the then-US Defense Secretary Donald Rumsfeld and other US-Government representatives in 2006. The complaint addressed the systematic use of torture in Guantánamo und Abu Ghraib. Our work in this area is ongoing. Together with the New York-based Center for Constitutional Rights (CCR) and our cooperating attorney Gonzalo Boye, we are engaged in Spanish criminal proceedings that seek to clarify the roles of six former US Government officials. These persons, among them the ex-government attorneys John Yoo and Jay Bybee, are accused of facilitating the systematic use of torture by constructing legal justifications in favor of the practice. It is our view that those in the West who are responsible for human rights abuses should be brought to justice, and that the supposed threat of terrorism does not justify the use of prohibited practices such as torture.

The situation in Europe is not much better. The absolute prohibition on torture has been much softened in the wake of anti-terrorist measures, and statements extracted outside of Europe through the use of torture are sometimes used as the basis for European court judgments. Working against these trends, we have initiated legal action against these measures and the related legitimization of torture. Together with the British human rights organization Redress, we have presented an expert legal opinion before the European Court of Human Rights. We concluded that statements should not be used before the court if there was perceived to be a real risk that they were obtained through the use of torture. Due to the inherent secrecy of the intelligence and police services, it is only possible to prove the use of torture conclusively in a fraction of cases.

Terrorism Lists

Our work tackling the system of terrorism lists, a further form of counter-terrorist activity, has already yielded results. Together with our cooperating attorney in Belgium we have appealed a European Council decision to place Filipino-exile Prof. Jose Maria Sison on the list before the European Court of Justice (ECJ). In September 2009 the Court upheld the decision to place Sison, a politician and journalist currently living in Holland, on the terrorism list and freeze his bank account. The judgment, which creates a precedent case defining the extent to which individuals and groups can be placed on the lists, has far-reaching significance. However, a further ECJ

leading decision in June 2010 declared the EU terrorism lists compiled between 2002 and June 2007 to be invalid. ECCHR contributed comprehensive expert opinions to these proceedings.

The ECCHR publication **BLACKLISTED** examines the many ways in which the system of terrorism listing contravenes legal principles, and summarizes the most important examples of European jurisdiction over the last decades.

30 Villages

were flooded in Sudan through the construction of
a dam planned by the German engineering firm
Lahmeyer International. 4700 families were left
homeless.

VI.

Business and Human Rights

Human rights are an increasingly valid international system of norms that can be applied not only to the action of states, but also to the second-most important non-state actor: the private sector. No-one would now seriously argue with the contention that national and transnational corporations are obliged to maintain and guarantee basic human, labor and environmental rights.

The first international guidelines for transnationally active corporations began in the mid-1970s through the work of the UN, the International Labor Organization and the Organization for Economic Co-operation and Development (OECD). A number of behavioral codes were also developed through private or national initiatives. Despite this, human rights abuses committed by or with the assistance of private corporations were not prevented. Companies continued to resist the drive to incorporate the protection of human rights into their business practice models and corporate trading structures.

Whilst in Europe and North America there are basic state and societal frameworks put in place to limit corporate activities in the interest of third parties, the same cannot be said for states in the global south. Those working there are largely unprotected, able only rarely to make demands for pay negotiation or the protection of individual workers' rights, and prohibited from forming trade unions or interest groups. There are frequently no legal avenues available to groups and individuals who have been harmed by large industrial and infrastructure projects and who wish to defend and assert their interests. It is, moreover, not uncommon for corporations to profit from armed conflicts and the crimes of authoritarian regimes.

Bringing Corporations to Justice for Human Rights Violations

Our work aims to bring corporate actors to justice for the human rights violations they inflict. Because the current framework of international law does not oblige corporations to bear genuine responsibility for their human rights abuses, it is not possible to proceed using only the classic legal instruments used by human rights lawyers. For each given case, we have to search for the suitable conventional instruments in national legal codes or find alternative semi-legal complaints procedures such as those provided by the OECD.

Human and Labor Rights in Supplier Chains

As part of general globalization, many firms have outsourced their production to countries in which the legal regulation of human and labor rights are either weakly enforced or entirely disregarded. In 2009/2010 we called for European corporations to take responsibility for glaring human rights violations committed during the production of textiles for the European market. ECCHR initiated, among other things, a consumer complaint against the discount retailer Lidl and orchestrated a campaign of OECD complaints against European cotton traders who deal in Uzbek cotton.

Gross Human Rights Abuses Committed by Corporations

Alongside this, we have offered support to Argentineans and South Africans who suffered torture and other violations and who are now proceeding against the German corporations that were involved in these abuses. We have also filed criminal charges against leading employees of a German engineering firm which is managing the construction of a Sudanese dam. The dam, which has displaced many thousands of people through the deliberate and unannounced inundation of land, exemplifies the way in which corporate activity can directly violate social and economic rights such as the right to adequate housing, the right to food provision, and the right to water.

1,000,000 Children

at least are forced to work every year during the Uzbek cotton harvest. Other estimates suggest the real figure could be two or three times this amount.

Inhumane Working Conditions in the Textile and Cotton Industry

The outsourcing of production to developing and emerging countries minimizes cost and production risks for European corporations. The working conditions in the production centers, however, whether in South East Asia, Africa or Latin American, are not improved in the process. Indeed, the result is quite the opposite: constant short-term delivery deadlines prevent long-term structural planning of tasks and personnel; strict price guidelines equate to narrow profit margins for suppliers and subcontractors, and minimal wage for employees; all too frequently, corporations reap additional benefit from state repression of trade unions and paramilitary persecution of trade unionists.

Perhaps more than any other sector, the textile and clothing industry is guilty of disregarding basic human-, social- and labor rights. The bitter reality for those working on shop floors in Bangladesh, China, Indonesia or Egypt includes precarious terms of employment, excessive working hours and forced overtime, and fierce reprisal following any attempted protest. Not only are millions of textile workers forced to endure these exploitative and inhumane working conditions, they are also made to survive on highly inadequate pay.

The production of cotton – one of the most important raw materials used in textile manufacture – involves glaring human rights abuses. In Uzbekistan, for example, cotton is harvested through a state-organized system of child labor. From the age of ten, children nationwide are forced by the Government to work out in the cotton fields. At times, children much younger than this are sent to work with them. Over three months the children have to undertake strenuous physical labor. They work in catastrophic conditions, and receive neither sufficient food nor adequate pay.

While they might be geographically distanced from these human rights abuses, cotton consumers are part of this same context. According to UN statistics, around 80 percent of cotton harvested in Uzbekistan is sold to China and Bangladesh via European traders. Once transported, the cotton is turned into thread and material before being used to manufacture clothes for European and German firms. These clothes then make their way into the European market, where they are sold by employees who themselves often endure precarious working conditions and labor rights abuse.

Lidl case

In response to these issues, ECCHR used German competition law to issue a consumer complaint against the discount retailer Lidl. Despite selling textiles that have been produced in demonstrably inhumane conditions in Bangladesh, Lidl claimed in its code of conduct that all textiles were produced according to basic standards. Shortly after the complaint was submitted, Lidl ceased to make these claims. The proceedings had two important implications. Firstly, they clarified the structural problems of outsourcing in the textile industry. Secondly, they created a precedent case showing how measures which are apparently non-binding become mandatory when and if the corporation deploys them as marketing gimmicks to attract consumers.

OECD Complaints Against European Cotton Traders

A further aspect of the textile supplier chain was highlighted through a campaign of European OECD-complaints against numerous European cotton traders. Complaints were submitted simultaneously against seven cotton traders from Germany, France, the UK and Switzerland who work with Uzbek cotton. In the complaint ECCHR argues that the purchase of Uzbek cotton by these corporations ensures that the system of child labor remains lucrative.

297 Women

were killed in 2010 as a consequence of their sex
(femicide) in the Mexican city of Ciudad Juárez.
Generally the murders have gone unpunished.

VII.

Gender and Human Rights

For decades, human rights discourse had a male face. Men defined the work done in international human rights committees, and human rights problems were presented by and large from a male perspective. The experiences of torture and other forms of conflict-based violence were traditionally reported by men, who gave principle weight to male experiences. The specific problem of sexual and gender-based violence was frequently neglected.

The Importance of Gender in Access to Human Rights

There is, therefore, an important gender dimension to the issue of access to rights, whether political, civil, economic, social and cultural. Violence against women, repression of sexual self-determination and the circumscription of political participation are merely some of the human rights violations in which gendered aspects are particularly pronounced. In its work, ECCHR seeks to interrogate the gender-specific characteristics of human rights violations. Our publications, for example, discuss the particular effects counter-terrorism measures have on women, or the gender-discriminatory dimension of sweat-shops in South East Asia.

The Ultimate Example of Gender-Specific Discrimination: Sexual Violence

Having begun its work in the field of gender at the beginning of 2010, ECCHR directed its efforts initially to extensive discussion and research, inviting the relevant international actors to participate in bilateral talks, discussion events and workshops. Following this process, we identified the question of sexual and gender-specific violence as one of our key focus areas.

Gender-specific violence is an abuse of human rights and one of the starkest forms of gender-related discrimination. Experience shows that sexual and gender-specific violence occur most frequently in places where human rights are generally disregarded. The most extreme manifestations of gender-related violence are femicide – the phenomenon of killing women on the grounds of their gender that is particularly prevalent in Mexico – and sexual violence during armed conflict as a tool of military command.

Impunity as a Part of Gender-Specific Violence

Gender-specific violence is a patriarchal abuse of power. By turning women into victims, it hinders their development, blocks their access to rights, and diminishes their status as entitled citizens. While sexual violence is recognized as a special form of human rights abuse and torture on the international level, those who carry it out still enjoy extensive impunity. ECCHR calls for the investigation and reassessment of such crimes on a national and international level. By failing to prosecute these crimes, we argue, authorities are guilty of perpetrating a further act of violence against the victims.

We support, therefore, the criminal prosecution of those responsible for the crimes of the Argentinean military dictatorship. To assist in this process, we submitted an expert legal opinion in collaboration with Prof. Theo van Boven, former UN special rapporteur on torture and member of the ECCHR advisory board. The courts must investigate the targeted use of sexual violence as a torture method, we argued, and the issue should be taken into consideration at the point of sentencing.

We have also submitted an expert opinion to CEDAW (the UN Committee for the Elimination of Discrimination Against Women) in response to numerous reports detailing sexual violence during the Sri Lanka armed conflict. We called for new legal means of bringing criminals to justice and petitioned the UN to consider the issue of sexual violence during armed conflict as part of its mission to uphold human rights and women's rights. We argued that such violence is not only a widespread, but also a foreseeable consequence of such conflicts.

VIII.

Young Lawyers Program

ECCHR is committed to offering the next generation of lawyers comprehensive and targeted training in human rights litigation. As such, our Young Lawyers program allows students and trainee lawyers close involvement with our work. We consider our young lawyers to be an integral part of the ECCHR international team. They are involved at all stages, from the initial factual research to the development of legal argument, to the drafting of pleadings and briefs. That is not to say, however, that only law students are invited to participate. Our work, which frequently requires detailed research into the political, social and geographical background of cases, not to mention translations, benefits from the involvement of students and graduates from varied disciplines. Since 2007, 130 students, trainees and volunteers from 19 countries have completed placements of several months.

Alongside involvement in case and project work, we also organize internal events for those participating in the Young Lawyers program – such as meetings featuring experts from different specialist backgrounds – and public events addressing current themes in human rights work. The issues dealt with at these events are wide-ranging. Alongside discussions of current debates in international criminal law, events have focused on, for example, the potential and limitations of human rights implementation mechanisms, the conflict between human rights law and investment law, the significance of strategic complaints by South African apartheid victims against European corporations, the handling of sexual violence before international tribunals and the dangers posed to human rights by large hydropower projects.

In addition, we act in cooperation with universities to organize joint events, seminars, or projects. Current partner universities include the Centre of European Law and Politics (ZERP) at the University of Bremen and the Hertie School of Governance in Berlin.

IX.

Annex

Expert Legal Opinions

AMICUS CURIAE

on the use of information obtained through the use of torture in the El Haski case at a Belgian court.

Brief submitted in collaboration with the British organization Redress, submitted to the European Court of Human Rights in June 2009.

AMICUS CURIAE

on the significance of the legal assessment of human rights abuses in the case of victims of South African apartheid regimes proceeding against eight German, European and US corporations and banks.

Brief submitted in collaboration with, among others, the Center for Constitutional Rights. Submitted to an American court in November 2009.

AMICUS CURIAE

on the duty to investigate the responsibility of private actors for the human rights violations committed during the Argentinean military dictatorship in the case of a criminal complaint against a manager of Mercedes Benz S.A.,

submitted before an Argentinean court in November 2009.

EXPERT OPINION

on concurrent jurisdiction in international law in the case of targeted bombardments by the Israeli Air Force of a densely populated and built-up area in Gaza in 2002.

The opinion was prepared together with Prof. Florian Jeßberger, and submitted before a Spanish court in February 2010.

AMICUS CURIAE

supporting the claim for damages by the New York Center for Constitutional Rights (CCR) in the case of Maher Arar, who was abducted by the CIA and taken to Syria, where he was tortured for several months,

submitted to the US Supreme Court in March 2010.

EXPERT OPINION

on the procedure of listing suspected terrorists and freezing their accounts and the admission to the EU terrorism list of the Turkish revolutionary people's party DHKP-C.

The opinion was prepared together with Prof. Theodor Schilling and submitted to the European Court of Justice in April 2010.

EXPERT OPINION

on the justification of torture, submitted against six high ranking US officials, among them the former justice minister Alberto Gonzales and the legal adviser John Yoo und Jay Bybee ("Bush Six").

Opinion submitted in collaboration with the Center for Constitutional Rights.

Submitted to a Spanish court in April 2010.

FORMAL COMPLAINT

regarding the proceedings of the Spanish judiciary against Judge Baltasar Garzón. Complaint submitted in collaboration with numerous other organizations,

Submitted to various UN bodies in May 2010.

EXPERT OPINION

on the agreement between the EU and the USA on the registration of flight passenger names (Passenger Name Record/ PNR),

submitted before the Belgian Constitutional Court in May 2010.

AMICUS CURIAE

on the use of sexualised violence as a means of torture specific to women in the Argentinean detention centers Atlético, Banco, and ESMA.

The brief was prepared in collaboration with Prof. Theo van Boven, and submitted to Argentinean federal courts in October 2010.

AMICUS CURIAE

on the required special legal approach to classify the systematic character of crimes during the Argentinean military dictatorship as crimes against humanity.

The brief was prepared in collaboration with Prof. Theo van Boven and submitted to Argentinean federal courts in October 2010.

ALTERNATIVE REPORT

on the implementation of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)–Sri Lanka "Women and Armed Conflict",

submitted to the CEDAW committee in December 2010.

Events (Selection)

Public Events 2009

INTERNATIONAL CONFERENCE:

60/60: the Role of NATO Post-9/11

Partner: Center for Constitutional Rights, Fédération Internationale de ligues des Droits de l'Homme,
April 4, 2009, Strasbourg

INTERNATIONAL HEARING:

Multi-Stakeholder-Consultation on the Right to Food

Partner: Olivier De Schutter, UN Special Rapporteur on the Right to Food, Hertie School of Governance, June 19-20, 2009, Berlin

INTERNATIONAL JURISTS

WORKSHOP:

Terrorism Lists, Executive Powers and Human Rights

Partner: Université Libre de Bruxelles,
October 19, 2009, Brussels

INTERNATIONAL CONFERENCE:

Terrorism Lists, Executive Powers and Human Rights

Partner: Université Libre de Bruxelles,
October 20, 2009, Brussels

INTERNATIONAL WORKSHOP:

Universal Jurisdiction

Partner: Fédération Internationale de ligues des Droits de l'Homme,
November 8, 2009, Brussels

INTERNATIONAL CONFERENCE

(ECCHR as Cooperating Partner):

No More Killing of Women – No More Impunity,

Organizer: Heinrich-Böll-Stiftung European Union, European Parliament,
November 19, 2009, Brussels

Public Events 2010

EXPERT DISCUSSION:

Business as usual? Über die Entschädigungsklagen der Opfer des südafrikanischen Apartheidregimes

Partner: Kirchliche Arbeitsstelle Südliches Afrika, Koordination Südliches Afrika und Medico International, German Parliament,
January 29, 2010, Berlin

INTERNATIONAL CONFERENCE AND WORKSHOP:

CIA- "Extraordinary Rendition"

Program: "What's Next for Lithuania?"

Partner: Human Rights Monitoring Institute, Law School of Vilnius University,
March 22, 2010, Vilnius

INTERNATIONAL WORKSHOP:

Strategic Litigation against Transnational Corporations

Partner: Misereor, Brot für die Welt, Center for Constitutional Rights, Leigh Day & Co
September 15-18, 2010, Bogotá

SIDE EVENT TO THE 15TH SESSION OF THE UN HUMAN RIGHTS COUNCIL:

Human Rights in Sri Lanka

Partner: Medico international, Amnesty International, International Commission of Jurists, United Nations (Palais des Nations),
September 22, 2010, Geneva

PUBLIC HEARING:

Fight Against Impunity:

The Case of Argentina

Partner: Heinrich-Böll-Stiftung European Union, European Parliament,
September 30, 2010, Brussels

EXPERT DISCUSSION:

Usbekische Baumwolle aus Kinderhand in den deutschen Markt?

German Parliament,
November 11, 2009, Berlin

Publications

ECCHR-Publications

ECCHR (ed.):

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Torture and Accountability - a European Approach,

second, revised and expanded edition, with a foreword by Prof. Dr. Manfred Nowak, UN Special Rapporteur on Torture and director of the Viennese Ludwig Boltzmann Institute for Human Rights, January 2009, 154 pages.

ECCHR (ed.):

Criminal Accountability in Sri Lanka,

June 2010, 96 pages.

ECCHR (ed.):

Child Labour in Uzbek Cotton Production and the Responsibility of

European Corporations,

October 2010, 32 pages

ECCHR (ed.):

Blacklisted: Targeted Sanctions,

Preemptive Security and Fundamental Rights,

with a foreword by Prof. Martin Scheinin, UN Special Rapporteur on the protection of human rights while countering terrorism,

December 2010, 128 pages

Publications

Academic Publications by ECCHR Staff

Independent Book Publication

WOLFGANG KALECK:

Kampf gegen die Straflosigkeit. Argentinien's Militärs vor Gericht,
Berlin 2010, 128 pages.

Academic Articles

WOLFGANG KALECK:

From Pinochet to Rumsfeld: Universal Jurisdiction in Europe
1998-2008,

in: *Michigan Journal of International Law*,
Volume 30, No.3, Spring 2009, pp. 927-980.

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Spring 2010, Vol. 16/1, pp. 34-35.

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Vienna – Graz 2010, pp. 13-30.

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Weg der Aufarbeitung,

in: Analia Argento: *Paula, du bist Laura!*
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Berlin 2010, pp. 7-16.

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Corporate Accountability for Human Rights Violations Amounting
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in: *Journal of International Criminal Justice* 2010,
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in: Hans Jörg Sandkühler (ed.): Menschenrechte
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2009, pp. 159-180.

DR. MIRIAM SAAGE-MAASS:

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der Förderung staatlicher Menschenrechtsverletzungen,
in: Kritische Justiz, H1/2010, pp. 54-61.

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Transnationality in Court: In Re South African Apartheid Litigation,
in: European Journal of Transnational Studies,
Volume 2, Issue 2, Autumn 2010, pp. 5-25.

ANDREAS SCHÜLLER:

Fundamental standards of humanity – still a useful attempt
or an expired concept?,
in: The International Journal of Human Rights,
14:5 (2010), pp. 744-770.

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Finances

Income	2009	2010
DONATIONS	109.921 €	49.422 €
THIRD PARTIES	66.741 €	343.697 €
OTHER EARNINGS	7.162 €	14.588 €
INCOME ON INTEREST	7.035 €	1.866 €
Total	190.859 €	409.573 €
ASSETS ON 01/01 (incl. Funds tied up for 2009 / 2010)	431.886 €	214.785 €
<hr/>		
TOTAL	622.745 €	624.358 €
Expenditure		
PERSONNEL	217.895 €	273.906 €
THIRD PARTY SERVICES	38.233 €	46.973 €
ROOM COSTS	30.540 €	35.039 €
PUBLICITY	12.342 €	6.019 €
TRAVEL COSTS, ENTERTAINMENT COSTS, EVENTS, PROJECTS	66.532 €	73.096 €
INVESTMENT COSTS	11.146 €	6.244 €
OTHER	23.965 €	24.704 €
<hr/>		
TOTAL	400.653 €	465.981 €
(Correction rent deposit)	-7.307 €	
Assets on 31/12	214.785 €	158.377 €

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