

Enforcing Human Rights Law by New Means

ECCHR

EUROPEAN CENTER FOR
CONSTITUTIONAL AND
HUMAN RIGHTS

Enforcing human rights law by new means

ANNUAL REPORT 2012



HOTEL CARRASCO, THE EMBLEMATIC BUILDING OF MONTEVIDEO, URUGUAY, IN A MOMENT OF SPLENDOR, 1920S.

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I. Visible and Invisible Victories: Five Years of ECCHR 2008 – 2013

Over the last five years, ECCHR has undertaken legal work on a wide range of issues in various countries around the world; from the crimes of the military dictatorships in Argentina and Chile in the 1970s to the human rights violations committed as part of the fight against terrorism by the USA and Britain and – to a lesser extent – by Germany since 2001, as well as work on the current conflicts in Chechnya, Sri Lanka, Syria and Colombia. We are currently examining many more cases in order to determine whether we, either alone or together with our partners, could take some form of action from our base in Germany which would contribute to improving the human rights situation in affected areas. We currently have twelve employees at our office in Berlin-Kreuzberg; these are joined by around the same number of volunteer staff from academia and from legal practice as well as interns and legal trainees.

This contribution to our work is not the only reason why our Education Program is central to our work. At ECCHR, young lawyers are offered the chance to learn what tools, perspectives and approaches are required when working to protect human rights. We believe that the majority of participants in the Education Program will gain a unique sensibility for human rights – regardless of in what context they subsequently work. To this end, in autumn 2012 we established an Alumni Network and hosted the first of our alumni events. Thanks to the financial support of our donors we were able to rent extra space adjacent to our office and provide extra personnel for our Education Program.

The substance of our work is based mainly on cases and constellations of cases that highlight structural political, economic and legal problems. This annual report is intended to document this work. While we specialize in legal approaches, it is important to us that we are not limited to legal methods when it comes to combating injustice. The use of legal procedures represents just one of many different tools that can be used to overhaul existing structures and enforce human rights. Ultimately it's about increasing sensitivity to fundamental



**HOTEL CARRASCO, CONSTRUCTION
PROCESS, FROM 1912 UNTIL THE OPENING IN
1921.**





HOTEL CARRASCO.

human rights among political and economic players and, in the long term, establishing new models of thinking and acting to ensure that human rights violations are met with legal sanctions in every case. We strive towards achieving these goals in the knowledge that the path to success will not be easy and, above all, will take time.

Our cooperation with numerous organizations, lawyers and human rights activists around the world helps to pass on our ideas and our experience, but also provides new input and inspiration for our own work. This exchange of ideas is not limited to matters of law. The public intervention staged at ECCHR by Chilean artist Alfredo Jaar on 11 September (*The Kissinger Project*) and the exhibition by Argentinian artists Azul Blaseotto and Eduardo Molinari on Operation Condor (*El Hotel*) are testament to our belief that human rights can be furthered by bringing together artistic and legal discourses. The exhibition photos – which can be seen at ECCHR until summer 2013 – are also displayed throughout this report.

Immediate legal consequences are just one aspect of the impact of our activities. In order to measure the further effects of our work, we take stock of our various projects, the many events that we organize ourselves and those we take part in, the expert legal opinions we submit and the participants in our Education Program, just as we are doing in the present report. We monitor the media reaction to our work, track how often our criminal complaint against Nestlé is requested by companies, lawyers, and by students, and note the subsequent reaction to the complaint. Yet measuring the impact of an idea, i.e. determining whether we have genuinely sparked debate on an issue, is just as difficult as assessing the effect of legal proceedings. As such it is all the more noteworthy that our donors have faith in our long term strategy and continue to be our loyal supporters.

Time after time we are taken aback by the number of people who refuse to resign themselves to unjust realities, who are driven by their values, even where this is cumbersome or inconvenient, and who fight for the enforcement of fundamental rights. Encountering such individuals continues to renew and reinforce the dedication of us all to the work of ECCHR.

BERLIN, FEBRUARY 2013

WOLFGANG KALECK

General Secretary of the European Center for Constitutional and Human Rights

II. Ten Years On: A Decade of the International Criminal Court in The Hague and the German Code of Crimes against International Law (2002–2012): ECCHR and the Fight against Double Standards

Status quo and outlook for the future

Ten years after the establishment of the International Criminal Court (ICC) in The Hague and almost fifteen years since the arrest of Augusto Pinochet in London in October 1998, we can make the following preliminary verdict: in many parts of the world, wide scale impunity for international crimes continues to be the norm. True universal justice has yet to be achieved. Many authors have addressed this problem, writing critiques and academic analyses of the issue (see Wolfgang Kaleck, *Mit zweierlei Maß. Der Westen und das Völkerstrafrecht*, Wagenbach 2012, English translation forthcoming). But the practice of ECCHR goes beyond the theoretical. Taking the above unsatisfactory situation as our starting point, we try to intervene wherever there are double standards in the application of international criminal law. We work on those cases that would otherwise fall victim to the political selectivity that prevails in international law: the international crimes of powerful states, transnational corporations' involvement in grave human rights violations, and the systematic sexual violence that occurs in the course of almost all conflicts.

Through various publications and expert talks marking the 10 year anniversary, we have endeavored not just to assess the status quo but also to develop new strategies for the future. We see it as our main objective to supplement the work of the ICC and national prosecutors by undertaking legal work on the international crimes of countries

such as the USA, the UK, and their allies as well as states such as Russia or Sri Lanka by whatever steps are most appropriate in order to make progress on these cases.

Fight against double standards:

landmark cases and ongoing witness support

In the context of our fight against impunity for crimes against humanity and war crimes over the last decade, we have predominantly aimed to initiate national proceedings against various state actors. Particularly ground breaking – even if not resulting in immediate success – were the collective efforts of US and European human rights organizations to bring criminal action in relation to the systematic torture of prisoners of war and terror suspects. As part of these efforts we lodged criminal complaints in Germany (2004 and 2006) and in France (2007) against former US Secretary of Defense Donald Rumsfeld and others on allegations of the widespread use of torture in Abu Ghraib in Iraq and at the Guantánamo Bay detention camp. A criminal complaint prepared against George W. Bush and subsequently published online was enough to cause the former US President to cancel a scheduled private trip to Switzerland in February 2011. Criminal proceedings jointly supported by ECCHR and the New York based Center for Constitutional Rights (CCR) in 2009 are still ongoing before an investigating judge in Madrid. The case concerns the torture in Guantánamo Bay of a Spanish citizen and a Moroccan citizen resident in Spain. Initially it had seemed as though our cooperating lawyer in Spain, Gonzalo Boye, would be able to successfully push for the opening of a further investigation into the circumstances of the case. Later that same year, however, the investigating judge overseeing the case, Baltasar Garzón, was removed from office on the basis of spurious criminal allegations. Despite legal objections from numerous human rights organizations, including ECCHR, Garzón was sentenced to a fine by a Spanish court.

While these cases have not led to immediate legal success we will continue to petition national prosecutors, particularly in Germany and elsewhere in Europe, to open criminal investigations into international crimes. In spring 2012, in light of the ongoing armed conflict in Syria, the German federal prosecuting office in Karlsruhe began to gather evidence of the international crimes being committed in the region, despite the fact that there are currently no criminal proceedings underway in Germany against any specific individual in relation to these crimes. ECCHR welcomes the fact that German law enforcement authorities are actively pursuing criminal proceedings in accordance with the German Code of Crimes against International Law. We supplied the names of numerous Syrian witnesses and victims of crimes of the Assad regime to the prosecuting authorities and provided witness support for these individuals when giving testimony.

2012 saw ECCHR taking action at the International Criminal Court for the first time. Together with the Colombian human rights organization, CAJAR, and Colombia's largest trade union federation, CUT, we submitted a communication to the office of the prosecutor at the ICC in The Hague in October. Its aim was to persuade the prosecutor to take action against the ongoing systematic violence suffered by human rights defenders and in particular by trade union members in Colombia. It is unacceptable that the Colombian government is shielded from investigation thanks to its close connections with the USA and other western states, while many proceedings are actively pursued by the court in relation to conflicts on the African continent.

Focus on economic actors

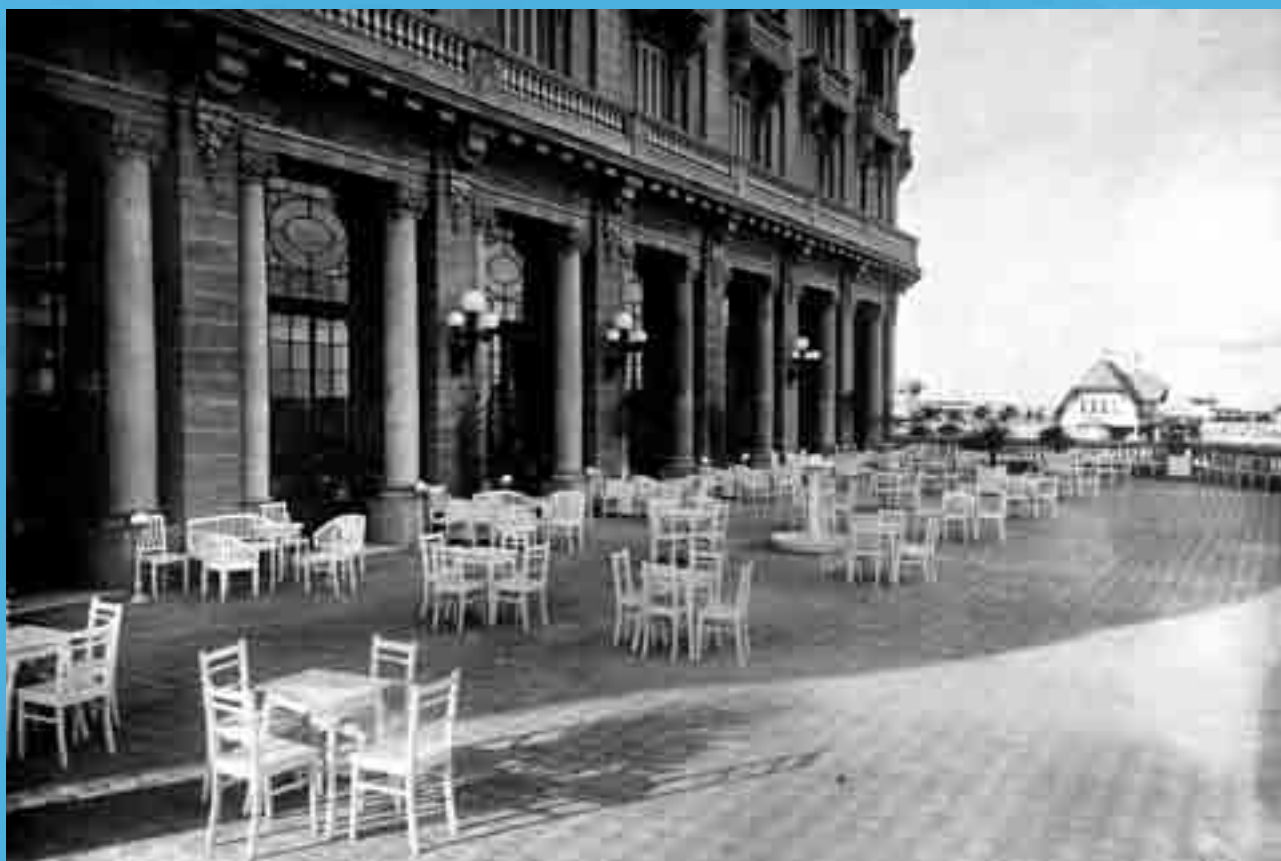
Our work is not limited to the prosecution of political and military perpetrators of international crimes. We also pursue economic actors. Since they form part of the powerful elite, national and transnational corporations are often in the center of conflict situations. Legal measures are very rarely taken against corporate executives who are suspected of making deals with and profiting from repressive dictatorships, or making money through armed conflict, or buying up raw materials attained under inhumane conditions. We aim to change this indefensible state of affairs, for instance through our work in Argentina, Colombia and the Democratic Republic of the Congo. With these cases we are seeking more than the prosecution of individuals involved in the crimes; we also aim to expose and analyze the structures and systemic factors that contribute to international crimes. We hope as well to shed light on the social and economic roots of grave human rights violations and to work towards preventing similar situations from reoccurring in the future.

Sexualized violence must not be ignored

A further important part of our work is centered around sexualized violence in armed conflicts. While the legal situation has improved significantly over the last decades, sexual crimes committed in the context of crimes against humanity and war crimes go unpunished in the vast majority of cases. In many cases investigations aren't even opened into these crimes. Those affected by sexual violence are often left, without any medical and psychological help, and are denied access to justice. There are no specialized prosecuting authorities – these crimes are still assessed in a very patriarchal manner, with the result that the fight against impunity for sexual crimes remains in the very early stages.

Addressing these double standards requires the effort and arguments of many social movements, including those within the affected countries. But it also requires support from legal experts. Combining legal

and political efforts in this way on a national and international level will help in the long run to improve the deplorable situations currently facing individuals in many parts of the world.



HOTEL CARRASCO, VIEWS OF THE DINING ROOM AND MAIN TERRACE, 1921.

III. 2012 Focal Point: Impunity in Colombia: Persecution of Trade Unionists and the Responsibility of Transnational Corporations

For many years we have been working in cooperation with the Colombian trade union confederation, CUT, the individual trade union, Sinaltrainal, and the human rights organization, CAJAR, on the issue of impunity for the persecution of trade unionists in Colombia. In 2012 all our program areas worked with a special emphasis on the human rights situation in Colombia. Together with our Colombian partners we are aiming to contribute to the wide-ranging legal steps currently being undertaken in an effort to deal with human rights abuses in the country. To this end we are working on the legal liability of high-ranking state actors, the role of transnational corporations, and the use of sexualized violence.

The Colombian conflict and the persecution of trade unionists

For decades, Colombia has been plagued by an armed conflict which has seen grave human rights violations committed by the parties to the conflict – paramilitaries, guerrilla groups and the Colombian state. The conflict is inherently connected with economic interests. Over the last few years the close links between multinational corporations and the parties to the war have become increasingly evident. Corporations such as the US company Chiquita Bananas, for instance, have been financing paramilitary groups for years.

One grave problem of the Colombian conflict is that it is predominantly civilians who are killed, when they get caught between the civil war fronts. A further problem, however, is presented by the fact that the state uses the conflict as pretext in order to go after those civil society activists who stand up for human rights.

Trade unionists are among those worst affected by this persecution. In the last 30 years, almost 3,000 trade union members have been murdered. While these numbers might currently be declining, even now, after peace negotiations had been instigated and the supposed

demobilization of the paramilitaries, persecution remains a reality for those working to bring about a democratic and social society. Around 1,000 trade union members were murdered between 2002 and 2012 alone. This leaves Colombia at the top of the list of the most dangerous countries in the world for trade unionists. In the long term, these crimes and the ongoing impunity leads to a repressive atmosphere in Colombian society, which has a severely limiting effect on trade union freedom and the defense of workers' rights.

The persecution generally follows a similar pattern; state actors or managers of local companies spread the rumor that a particular ›inconvenient‹ human rights defender is collaborating with the guerrilla. Former president Alvaro Uribe has himself publicly accused all those working for democracy and human rights of being against Colombia's state interests and of working for the guerrilla. This kind of defamation campaign is followed by threats, kidnapping, torture and, in the worst cases, murder – generally carried out by paramilitaries or state actors. Sexual violence is often deployed as a means of torture and humiliation.

Colombian authorities' failure to adequately address the murders of trade unionists

The Colombian state is unwilling and unable to provide effective protection to trade unionists. Even in cases in which the Inter-American Commission on Human Rights has directed the Colombian government to take action, no such action is taken. The murders of trade unionists and other human rights defenders are dealt with very slowly, if at all. Where these cases are taken up, legal action is only ever taken against those who physically committed the crimes; the individuals behind the scenes who ordered the acts are not pursued.

Liability of transnational corporations: criminal complaint against Nestlé in Switzerland

In spring 2012, in cooperation with the trade union Sinaltrainal, ECCHR submitted a criminal complaint in Switzerland against a number of top managers of the Nestlé corporation in an effort to highlight the issue of corporate responsibility for the human rights violations suffered by trade unionists.

In the complaint we called on the prosecution to investigate the role of Nestlé management in Switzerland in the murder of the Colombian trade unionist Luciano Romero by paramilitaries in 2005. Before his death Romero had worked for many years for Cicolac, a Colombian subsidiary of Nestlé. The Nestlé managers are accused of negligently contributing to Romero's death since, as the principals and guarantors of the company, they had an obligation to prevent the crime.

SECRETO

Año de la Orientalidad
República Oriental del Uruguay

XI CONFERENCIA DE EJERCITOS AMERICANOS



INFORME FINAL

Versión Completa

Montevideo, octubre de 1975

Ejemplar Nº 27

SECRETO



»THOSE WHO MUST DIE, WILL DIE«: EXCERPT FROM A STATEMENT OF GENERAL VIDELA ON THE COVER OF THE NEWSPAPER EL PAÍS, MONTEVIDEO, OCTOBER 25, 1975.



OPENING OF THE XI. CONFERENCE OF AMERICAN ARMIES IN A RENOVATED ROOM OF HOTEL CARRASCO, OCTOBER 21, 1975.

The murder took place in the context of an armed conflict in which trade unionists and other social groups are subjected to systematic persecution, predominantly by paramilitaries and state authorities. In the years prior to his death Romero had been repeatedly falsely branded a guerrilla fighter by local Nestlé managers. In Colombia this type of defamation can effectively amount to a death sentence. On top of this, the local Nestlé representatives were involved with paramilitary circles on many levels. The Swiss management had knowledge of the actions of their employees in Colombia and also knew that these actions put the lives of the affected trade unionists at risk. The Swiss management, however, failed to act; the issue was delegated instead to its Colombian subsidiary company.

In submitting the complaint we wanted to bring about more than a criminal investigation. We also aimed to contribute to the debate on the UN Guiding Principles of human rights due diligence for corporations. One of the most urgent tasks in the area of business and human rights is to legally establish that management of a parent company, at its headquarters, must concern itself not only with the economic interests of its subsidiary companies around the world but must also analyze the specific risks posed in the various locations of these subsidiaries. Through the cases we take, we aim to help elicit an exact definition of the legal obligations of parent companies.

**Communication to the International Criminal Court in
The Hague against high-ranking members of the Colombian military and government.**

In a communication lodged with the International Criminal Court (ICC) we address the systematic persecution and the liability of high-ranking members of the government and the military. The communication sets out the context of the persecution as well as five emblematic cases of extrajudicial executions of trade unionists. It describes patterns of collaborative action between the state and paramilitaries and the direct commission of crimes by Colombian security forces. In all of the cases described in the communication, the state prosecutor failed to pursue and punish those persons who planned and directed the crimes.

As documented in the complaint, the scale of the repression means the acts can be seen as crimes against humanity, and as such fall under the jurisdiction of the court. Because the crimes were not adequately investigated and prosecuted by the Colombian authorities, the ICC prosecutor is under an obligation to initiate an investigation into those most responsible within the government and military leadership. Since 2003, the prosecutor has been conducting preliminary investigations into whether high-ranking members of the government and the military have been involved in crimes against humanity. To date,

however, no concrete results have been produced. In submitting the communication we wish to highlight that there is sufficient evidence to open a formal investigation. The aim is to inject new impetus into the pending preliminary proceedings at the ICC. We hope to counter the selective practice of the ICC that focuses mainly on politically or economically weak states and turns a blind eye to western states and their allies.

Complaint to the UN relating to impunity for sexual violence

We have additionally worked on the issue of the ongoing impunity for sexual violence in Colombia. Together with five other civil society organizations we submitted a report to the UN High Commissioner for Human Rights which highlights how sexualized violence is systematically utilized in Colombia and that it follows a general pattern. Particularly in the course of the armed conflict, there were numerous cases of abuse of women by military, paramilitary and guerilla fighters. Despite new laws and measures taken by the state to combat sexual violence, victims of such abuse are often denied access to courts in Colombia. This ongoing impunity prevents many women and girls from exercising their civil and political rights as well as their economic, cultural and social rights.

The report describes the sexual violence faced by internally displaced women as well as the violent recruitment of women into sexual slavery by the guerrilla organization FARC (Fuerzas Armadas Revolucionarias de Colombia) and by members of demobilized paramilitary organizations. It reveals that state institutions have failed to both effectively prosecute the crimes and bring the perpetrators to justice.

We called on the UN Human Rights Council to encourage the Colombian government to enforce existing legal measures on sexual crimes against women and that it must fulfill its human rights and international law obligations.

Perspectives without legal victory

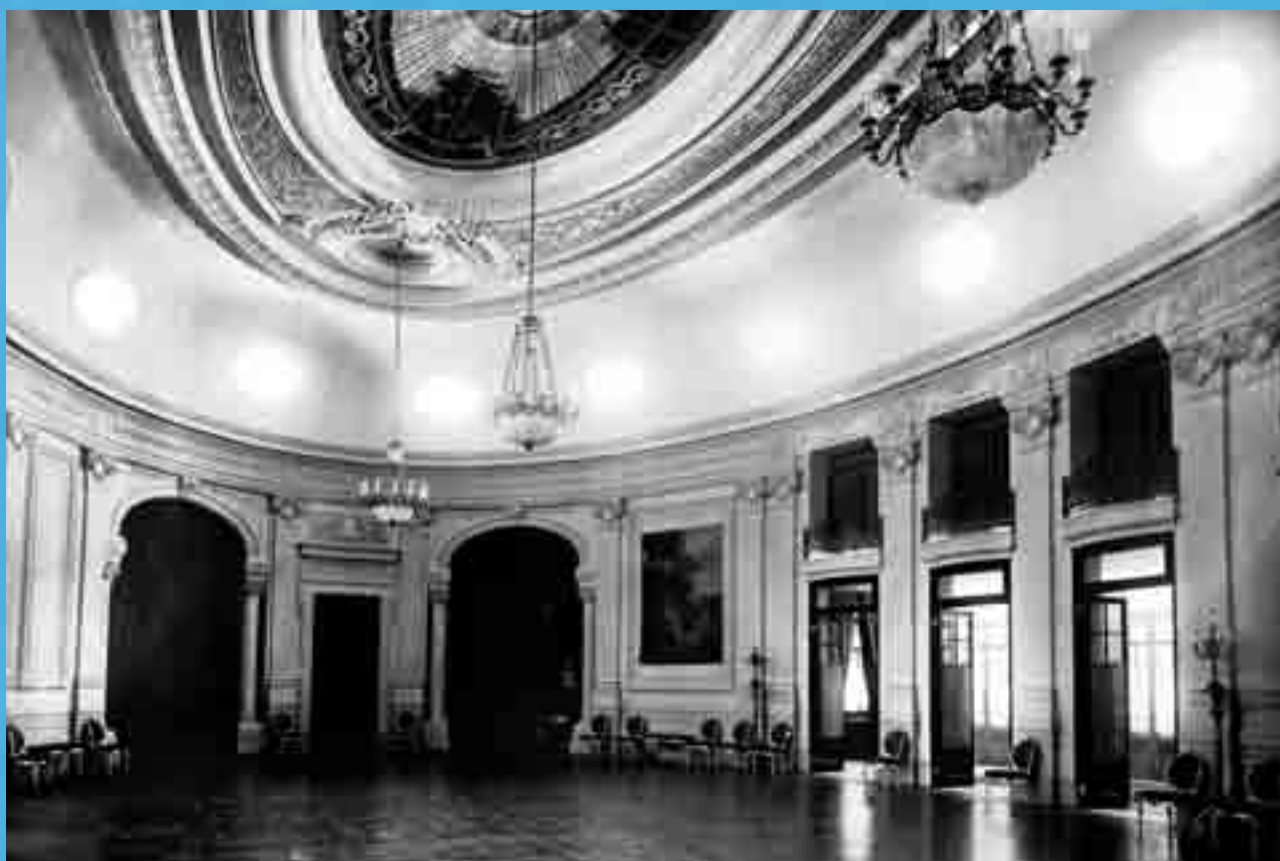
It remains to be seen whether charges will be brought in these cases or indeed if investigations will even be opened by the prosecutor. But irrespective of any legal victories, our actions against high-ranking representatives of the Colombian state and the management of a (jointly) liable corporation have demonstrably positive effects for the victims of human rights violations. The process of establishing the facts, investigating the exact circumstances of the crimes, writing up the facts of the case and assessing the responsibility of the suspected perpetrators in terms of legal categories all have an enormous significance for post-conflict societies. We wish to give a voice to those affected. This can help those individuals to take control over their own history, overcome

trauma, and free themselves from the passive role of the victim. The cases we take also contribute to the debate on legal liability for human rights violations and, as such, further the development of the law. While we always aim for legal victory in the narrow sense, quite apart from any such legal success these cases have their own significance for the rehabilitation of those affected and the improvement of the legal situation they find themselves in.

IV. Business and Human Rights: Human Rights Due Diligence for Corporations

While the UN Guiding Principles on Business and Human Rights are still a long way from encompassing all of the responsibilities of corporations for human rights violations, in adopting the principles in 2011 the UN Human Rights Council did at least establish an internationally recognized minimum standard for corporate human rights obligations. ECCHR is committed to ensuring that these essential standards are enforced by national laws. Within the German and European networks of the European Coalition for Corporate Justice (ECCJ) we were able to offer our expertise on the issue, for instance, of how states can legally regulate the human rights due diligence obligation of corporations. Our case work was centered on the human rights obligations of corporations in conflict regions, and the significance of the corporate due diligence obligation to prevent human rights violations.

European companies often maintain subsidiary companies in regions of armed conflict or where the security situation of the civilian population is so instable that the regions may be considered to be weak governance zones. It is not uncommon to find that the local management of one of these companies is cooperating with the state organs of repression or with paramilitary units that are committing grave human rights violations. Therefore there is a risk that local management is directly or indirectly involved in human rights violations, or is facilitating or profiting from such crimes, such as in cases where ›inconvenient‹ trade unionists are intimidated or killed. While it is generally relatively straightforward to determine the role of local management in these crimes and assess their role in terms of categories of legal liability, the issue tends to get more complicated with regard to the management of the parent company. Of particular importance is the question of how the management of a parent company can prevent their subsidiaries from becoming involved in human rights violations. This is precisely the issue raised in our criminal complaint lodged against a number of managers of the Nestlé corporation.



BALLROOM, HOTEL CARRASCO.



MEETING OF MILITARY COMMANDERS OF THE STATES THAT PARTICIPATED IN OPERATION CONDOR, SALÓN SESQUICENTENARIO, HOTEL CARRASCO, 1975.



NATIONAL COAT OF ARMS OF URUGUAY, 1975.



HOTEL CARRASCO, AERIAL VIEW OF THE BUILDING AND ITS SURROUNDINGS, DESIGNED BY THE FRENCH ARCHITECT CARLOS THAYS.



HOTEL CARRASCO, 1950S.



MONUMENT TO THE LAST CHARRÚAS, PARQUE PRADO, MONTEVIDEO, INAUGURATED IN 1938. IT WAS DESIGNED BY THE URUGUAYAN SCULPTORS EDMUNDO PRATI, GERVASIO FUREST MUÑOZ AND ENRIQUE LUSSICH.



URUGUAYAN HIGH SOCIETY SCENE.

V. Gender and Human Rights: Sexualized Violence in Conflict Situations

In our gender program we seek to improve the visibility of gender specific human rights violations. We want to raise awareness of the fact that these human rights violations are often associated with discrimination based on gender identity or sexual orientation. It is our task to fight this discrimination using legal means and to find ways of using legal proceedings to highlight the discriminating concepts of gender identities inherent in the law.

Sexualized violence is often played down or never even spoken about. In 2012 we continued to focus our work on fighting these phenomena. Sexual violence occurs alongside crimes against humanity and war crimes in almost all of the cases of wide scale human rights violations that we work on, yet even today this particular form of violence is generally ignored when it comes to prosecution. While the legislative situation has improved in this regard over the last few years, societal obstacles often remain. In a hostile social environment, which tends to negate the existence of sexualized violence and to stigmatize those affected, it can be extremely difficult for people who have experienced this kind of violence to speak about it. Long-term close cooperation with affected individuals on site and their organizations is necessary in order to establish a trusting relationship, which is in turn a precondition for any further action on an international level. With this in mind we continue to work on the issue of sexualized violence in Sri Lanka in addition to our work on the Colombian cases. In various proceedings we called on the UN to initiate investigations into acts of gender specific violence against women and girls, committed by Sri Lankan state actors. We urged the UN to hold Sri Lanka to its obligations arising from the Convention on the Elimination of Discrimination against Women.



HOTEL CARRASCO, VIEW FROM THE BEACH, 1960S.



SANDCASTLE CONTEST, CARRASCO BEACH, MONTEVIDEO.



VIDEO STILL FROM A COMMERCIAL FOR THE LUXURY HOTEL CHAIN SOFITEL, 2011.

VI. Education Program: Professionalization and New Perspectives

Since the foundation of ECCHR, young lawyers have been actively contributing to our projects and working on our cases in many different ways. Without the involvement of the roughly 200 interns, trainees and volunteers from more than 35 countries that have worked with us to date, we would not have been able to grow into the organization we now are. Our legal trainees work on all of our cases and thus gain a direct insight into the process of strategic litigation and legal human rights work. From the very beginning, however, we have also aimed to supplement this practical training with additional theoretical education. We hold weekly discussion groups as well as evening events with international guests in cooperation with various universities. Here, the legal trainees have the opportunity to report on their experiences with their case work and to get in contact with experienced human rights lawyers and academics. We try to offer the most comprehensive analysis possible of theoretical and practical issues relating to strategic human rights litigation. We cooperate with the Humboldt Law Clinic for Fundamental and Human Rights at Humboldt University Berlin, the Grotius Centre for International Legal Studies at the University of Leiden, Emory Law School in Atlanta as well as the universities of Bremen, Hamburg, Regensburg, Brussels and Essex.

We currently have plans to broaden and professionalize our Education Program. In order to focus the program on the needs of young lawyers we are currently building an alumni network, which will offer a platform for exchange and encourage further legal human rights work. In this context we organized an alumni meeting in November 2012 involving around 50 former and current legal trainees. The

emphasis here was on issues and challenges of legal human rights work. A number of former legal trainees presented projects they are now working on and discussed what it takes to establish your own human rights organization. The final event was an international conference, at which the legal trainees had the chance to discuss perspectives on strategic litigation with our cooperating attorneys, partner organizations and experts from around the world. The debate focused on the development of new strategies to bring about justice for those affected by international crimes, sexualized violence in conflicts, and corporate human rights violations.

The newly established sponsorship of our Education Program by the Bertha Foundation enabled us to rent additional office space in autumn 2012 and thus to offer a professional working environment to those participating in the program. In addition we were in a position to offer two former trainees multi-year fellowship positions as ›Bertha Legal Fellows‹. In this context we hope in future to cooperate even more closely within our global network of partner organizations such as CCR (USA), CAJAR (Colombia) and the Human Rights Law Network (India).

VII. Appendix

EXPERT LEGAL OPINIONS AND CRIMINAL COMPLAINTS

DOSSIER

on alleged war crimes of the 55th and 59th division under the command of Major General De Silva in northern Sri Lanka between February and May 2009,

submitted to the British Foreign and Commonwealth Office and the British Prime Minister in cooperation with the Society for Threatened Peoples, Switzerland, and TRIAL in January 2012.

FORMAL COMMUNICATION

on the interference with the independence and impartiality of the Spanish judiciary by the USA,

lodged with the Special Rapporteur on the independence of judges and lawyers together with the Center for Constitutional Rights in January 2012.

CRIMINAL COMPLAINT

relating to negligent killing by omission against the Nestlé corporation and its top managers in the case of the murder of Colombian trade unionist Luciano Romero,

lodged with the Swiss prosecuting authorities in Zug in collaboration with Colombian trade union Sinaltrainal in March 2012.

FORMAL COMMUNICATION

on the state responsibility to investigate the situation of women and girls in northern and eastern Sri Lanka,

submitted to the High Commissioner for Human Rights for the second round of the UN Human Rights Council's Universal Periodic Review in April 2012 and to three Special Rapporteurs as well as the Working Group of the United Nations on the issue of discrimination against women in law and in practice in June 2012.

PETITION

to be admitted as amicus curiae in investment disputes in the cases of »Border Timbers Limited and others v. Republic of Zimbabwe« and »Bernhard von Pezold and others v. Republic of Zimbabwe« at the International Centre for Settlement of Investment Disputes (ICSID) of the World Bank,

in cooperation with four indigenous communities from Chimanimani, Zimbabwe, in May 2012.

DOSSIER

on accusations of direct and personal involvement of a Bahraini official in human rights violations,

sent to the British Foreign and Commonwealth Office and the British Prime Minister in cooperation with the Bahrain Center for Human Rights in June 2012.

EXPERT OPINION

on the failure of US authorities to prosecute six lawyers of the Bush administration responsible for the use of torture,
submitted to the Spanish Supreme Court together with the Center for Constitutional Rights and with the support of numerous international human rights organizations and experts in September 2012.

POSITION STATEMENT

on the need to implement the crime of enforced disappearance in the German Criminal Code,
submitted to the German Ministry of Justice together with Amnesty International Germany in September 2012.

COMMUNICATION

on violence against trade unionists in Colombia as a crime against humanity,
submitted to the Office of the Prosecutor of the International Criminal Court in The Hague in cooperation with the Colombian human rights organization CAJAR and the Colombian trade union federation CUT in October 2012.

FORMAL COMMUNICATION

on the denial of access to the courts for victims of sexualized violence in Colombia,
submitted to the UN High Commissioner of Human Rights together with international organizations MADRE, Women's Link Worldwide, the International Women's Human Rights Law Clinic and Colombian women's rights organizations HUMANAS and Taller de Vida in October 2012.

FORMAL COMMUNICATION

on state responsibility for combating violence against women in the context of human rights violations in Chechnya,
submitted to the Special Rapporteur on violence against women, its causes and consequences in cooperation with Human Rights Watch in October 2012.

AMICUS CURIAE BRIEF

on the responsibility of the Argentinian state to investigate and prosecute the human rights violations committed by the company Minera Aguilar during the military dictatorship,
submitted in the case of »Bazán, Avelino and others« at the Federal Court No. 2 in Jujuy, northern Argentina, in December 2012.

PUBLIC EVENTS (A SELECTION)

HIGH LEVEL HEARING:

From the Uzbek Cotton Fields to the Termez Military Base

Partners: German-Uzbek Forum for Human Rights, Anti-Slavery International, Human Rights Watch, Uzbekistan Press Freedom Group, Terres des Hommes, Eurasian Transition Group, the INKOTA-Network and the Clean Clothes Campaign

1 March 2012, Berlin

PANEL DISCUSSION:

The case of Luciano Romero. Murder of trade unionists in Colombia – is Nestlé legally responsible?

Partners: SINALTRAINAL, Multiwatch, Juristes Democrates de Suisse, UNIA, Juridikum, the Center for Research and Documentation Chile-Latin America, Misereor

6–9 March 2012, Zurich, Bern, Vienna and Berlin

PANEL DISCUSSION:

Turning a blind eye? Ten years of the International Criminal Court

Partners: Heinrich Böll Foundation and Klaus Wagenbach Publishers

16 April 2012, Berlin

INTERNATIONAL SYMPOSIUM:

Ten years of the German Code of Crimes against International Law – opportunities and shortcomings

Partners: Amnesty International Germany, Human Rights Watch

15 May 2012, Berlin

EXPERT PANEL:

How can corporations be held accountable for grave human rights violations? The case of Kiobel v. Shell before the Supreme Court

Partners: Amnesty International Germany and Germanwatch

15 May 2012, Berlin

PANEL DISCUSSION:

International criminal law in Germany: promise and reality

With Prof. Herta Däubler-Gmelin, former German Minister of Justice

2 July 2012, Berlin

PUBLIC INTERVENTION AND PANEL DISCUSSION:

The Kissinger Project, by and with Alfredo Jaar

14 September 2012, Berlin

PANEL DISCUSSION:

Violence against trade unionists in Colombia – a case for the International Criminal Court?

Partners: Colectivo de Abogados José Alvear Restrepo (CAJAR), FIDH, Grotius Centre for International Legal Studies, Kalshoven-Gieskes Forum on International Humanitarian Law, Kolko, Oficina Internacional de los Derechos Humanos Acción Colombia (OIDHACO)

10 and 11 October 2012, Brussels and Berlin, 20 and 22 November 2012, The Hague and Berlin

ECCHR ALUMNI MEETING AND WORKSHOP:

7 and 8 November 2012, Berlin

INTERNATIONAL SYMPOSIUM:

Strategic human rights litigation

9 November 2012, Berlin

EXHIBITION OPENING AT ECCHR:

El Hotel, with Eduardo Molinari and Azul Blaseotto

10 November 2012, Berlin

PUBLICATIONS

ECCHR Publications

ECCHR (ED.):
First Status Report on the War Crimes Trial of Rwandan FDLR Leaders,
February 2012

REDRESS/ECCHR (EDS.):
Torture in Europe: The Law and Practice,
September 2012

AZUL BLASEOTTO/EDUARDO MOLINARI/ECCHR/UN
PROBLEMA +/LA DÁRSENA EDICIONES (EDS.):
El Hotel,
November 2012

ECCHR (ED.):
Making corporations respond to the damage they cause. Strategic approaches to compensation and corporate accountability,
November 2012

ECCHR (ED.):
Second Status Report on the War Crimes Trial of Rwandan FDLR Leaders,
November 2012

Specialist Publications by ECCHR staff

Independent Publications

WOLFGANG KALECK:
Mit zweierlei Maß. Der Westen und das Völkerstrafrecht,
Klaus Wagenbach Publishers, March 2012, 144 pages

Specialist Articles

ANNA VON GALL:
Strategische Klagen zu sexualisierter Kriegsgewalt – der richtige Weg?,
in: *Hamburger Rechtsnotizen*, H 1/2012, pp. 15–20

ANNA VON GALL:
Kambodschas Mangel-Tribunal: Das Verfahren gegen Angehörige der Roten Khmer ist schlecht ausgestattet,
in: *Südwind*, H 12/2012, pp. 40–41

WOLFGANG KALECK:
Eine Ästhetik des Widerstands. Alfredo Jaar-Ausstellung in Berlin,
in: *ila 357 (Informationsstelle Lateinamerika)*, July/August 2012, pp. 56–57

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de: la Armada Uru-

CLOSE-UP: ANNOUNCEMENT OF THE OPENING OF THE XI. CONFERENCE OF AMERICAN ARMIES, EL PAÍS, MONTEVIDEO, OCTOBER 7, 1975.

WOLFGANG KALECK:

Vom progressiven Gebrauch des Rechts. Strategische Klagen bei Menschenrechtsverletzungen,

in: *Juridikum*, H 3/2012, pp. 372–381

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Eine Erfolgsgeschichte mit Schlagseite. Der Internationale Strafgerichtshof feiert sein zehnjähriges Bestehen,

in: *Südwind*, H 12/2012, pp. 35–37

ANNELEN MICUS AND ANDREAS SCHÜLLER:

Das Zusammenspiel von Menschenrechtsbewegungen und transnationaler Gerichtsbarkeit zur Überwindung von Straflosigkeit,

in: Berthold Lange (Ed.): *Die normative Seite der Globalisierung*, Würzburg 2012, pp. 123–136

CLAUDIA MÜLLER-HOFF:

Menschenrechtsverantwortung von Unternehmen. Herausforderung für den Gesetzgeber oder für Anwälte/innen und Justiz?,

in: *Anwalt Aktuell*, 03/2012, pp. 22–23

CLAUDIA MÜLLER-HOFF / THOMAS M. SCHMIDT:

Strafanzeige gegen Nestlé. Ein Präzedenzfall für menschenrechtliche Haftung von Unternehmen?,

in: *Juridikum*, H 3/2012, pp. 261–269

MIRIAM SAAGE-MAASS:

Die schwierige Suche nach Recht. Warum es so wichtig ist, dass Betroffene von Menschenrechtsverletzungen auch gegen Unternehmen klagen können,

in: *Südlink 161: Dossier: Unternehmensverantwortung*, September 2012, pp. 24–25

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Nuremberg

FINANCES

INCOME

2012

Institutional sponsorship	480.302 €
Project sponsorship	694.198 €
Donations	58.534 €
Other income	6.850 €
Income from interest	3.034 €
Total	1.242.918 €
Assets on 01/01/2012	103.938 €
(including funds earmarked for 2012)	

TOTAL

1.346.856 €

OUTGOINGS

2012

Personnel costs	396.015 €
External services	5.360 €
Occupancy costs (without Education Program)	42.186 €
Office, communication, accountancy	36.495 €
Publication, publicity and travel costs	24.315 €
Programs, projects, events	184.713 €
Investment costs	9.205 €
Other expenses	2.822 €

TOTAL

701.111 €

CORRECTION RENT DEPOSIT -6.274 €

ASSETS ON 31/12/2012 639.471 €

EARMARKED FOR 2013 -524.522 €

RESERVE FUNDS 114.949 €

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We would like to express our particular thanks to the following organizations, which have offered ECCHR significant assistance:

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MILITARY DELEGATES, XI. CONFERENCE OF AMERICAN ARMIES, »EXPLANADA DE LAS AMÉRICAS«, HOTEL CARRASCO, MONTEVIDEO, OCTOBER 1975.



VIII. *EL HOTEL*

Exhibition at ECCHR

WOLFGANG KALECK

In November 2012, ECCHR offices in Berlin-Kreuzberg hosted the photography installation *El Hotel* by Buenos Aires artists Azul Blaseotto and Eduardo Molinari. These photos have been incorporated into this annual report. The images relate to Operation Condor, a cooperative action aimed at repressing opposition coordinated by Latin American secret services in which the USA, as the leading western power, also played a role. We are aware that legal methods can contribute only partially to the process of coming to terms with crimes against humanity and to the prevention of systematic human rights violations. As such we try to act in an interdisciplinary way and to collaborate as closely as possibly with social and political movements, as well as with artists, in order to intervene in a wide variety of ways in what are often intolerable situations. Over the last number of years we have hosted work from Senegalese-French photographer Hady Sy (*Not for Sale*, 2009 – a passionate plea against the spread of guns), from Bosnian photographer Nino Nihad Pusija (*Zigeuner Art*, 2010 – photos of Roma people who were deported from Germany) and from Argentinian-Armenian artist Silvina Der-Meguerditchian (*Even Trees Can Fly*, 2011 – works exploring the Armenian genocide and Turkish-Armenian rapprochement). The following text from Azul Blaseotto and Eduardo Molinari is translated from the exhibition brochure.

AZUL BLASEOTTO AND EDUARDO MOLINARI

The plans and ideas that determine the social, political, economic and cultural course of a people: where do they reside? Could there perhaps be a place that houses them all? The Hotel Carrasco, built in the early 20th century, is a symbol not just for Montevideo, but for the whole of Uruguay. Now, at the beginning of the 21st century, the hotel is about to be reopened. But the restoration is not quite finished yet. If you walk around the building and peer through the fencing covering up the work on ›enhancing‹ the building, you can just about make out the nearly invisible layers of the original construction. The history of the land reverberates through the corridors of this building. The movement of a curtain reveals the secret plan, Operation Condor, that was hatched behind these walls. The foundations are set within a force field of tensions between the public interest and private enterprise. The winds that swirl around this hotel at the sea front are the same winds blowing through all of Latin America.

One tries to appreciate the cement construction and to see it independent of its symbolic correlations, the concept and the ideas to which the building owes its existence. There is, however, an intimate and inevitable communication between the architectural and urban design and the design of a social model. The Hotel Carrasco project began in 1907 as a

private initiative of the wealthy elite. In the official reading of history these agents are referred to as ›visionaries‹. They are generally white males, raised in European bourgeois tradition, men ›of impeccable taste‹. Their vision, however, generally consists of setting up a profitable business, limited to a nice nearby space and excluding the majority of the people. If their financial projections are not met, these visionaries then turn to the state and look for state assistance in order to protect their interests from any harm. This, then, is how the majority are ultimately included in the vision: they get to pay for these expenses.

The construction of a new American vision is not possible without memory, truth and justice. In this context we wish to shed light on the facts of our regional history, to get to the root of every exclusionary model. In October 1975, the Hotel Carrasco hosted the XI. Conference of American Armies. With a context that remained vague, the event took place in a luxurious atmosphere and saw strategic military and political agreements being made on an international level. This included the foundations for the implementation of Operation Condor, which provided for the persecution, kidnapping, torture and murder of thousands of people by the existing and future dictatorships of our societies. This state terrorism paved the way for the spinning of the neoliberal web which still plagues us to this day.

Current urban planning, based on redesigning existing plans and the tourism-driven repurposing of capital cities – including the ›enhancement‹ of previously abandoned or plundered public property – embodies the aims and interests of the current dominant political subjects, a new transnational elite. Like archive photos, the images of Hotel Carrasco reveal a story: they expose the workings of the political, economic and social hegemonial machinery stretching from 1907 to 2012.

But perhaps we can find room in this place for a new vision?

MONTEVIDEO, SEPTEMBER 2011

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