

Enforcing human rights law by new means

ECCHR

EUROPEAN CENTER FOR
CONSTITUTIONAL AND
HUMAN RIGHTS

Enforcing human rights law by new means

ANNUAL REPORT 2013



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I. ECCHR: A Remarkable Human Rights Organization for Difficult Times

ECCHR is an incredibly dynamic, vibrant and cutting edge human rights organization – and it has achieved that in less than six years. Walk into its large, light filled loft in Berlin and prepare to be immersed in the key human rights struggles of our world today. Working with their global partners, ECCHR is taking on issues from challenging clinical trials performed without consent on 20,000 girls in India to securing an investigation into the accountability for the fire in a Karachi textile plant that killed 259 workers who were producing clothing for the German market among others. It filed a case in Germany against a Swiss timber production company for brutal beatings and rapes in the Congo and is using the OECD mechanism



to challenge German and UK surveillance firms for their potential complicity in serious human rights abuses in Bahrain. ECCHR has always been concerned with accountability for those, including Western governments, who commit gross violations of human rights. Recently, it and a partner organization filed a complaint with the International Criminal Court concerning the torture and abuse of Iraqi detainees by UK military forces. This just gives you a flavor, but there is a lot, lot more.

The office is a beehive of activity and there are young lawyers and law students from around the world including China, India, Columbia, Malaysia, and Europe. The Bertha Foundation has been instrumental in ensuring that generations of future lawyers will be trained in the kind of legal advocacy that can make a difference. When I walked in one day, twenty-five or so of these lawyers were engaged in a moot court against a company manufacturing harmful pesticides that injure workers. On another occasion, alumni day, perhaps a hundred young lawyers (and some getting older) had set up a series of workshops on current issues including migration, human rights defenders, whistleblowing, environmental justice and access to legal support.





Building on some of its work of the last few years, ECCHR has established an important regional focus in Asia and has partners on the ground in India, the Philippines and elsewhere. It has held workshops in both countries and recently completed a field trip to Pakistan to work with the victims of the Karachi fire. Its work includes challenging pesticide use in Malaysia, war crimes and sexualized violence in Sri Lanka, sexual slavery during World War II and drone strikes in Pakistan.

An important part of ECCHR is the understanding that making change, helping grass roots groups and holding governments and corporations accountable is not achieved by law and litigation alone. It publishes extensively on issues ranging from the responsibility of European corporations for human rights violations in the supply chain to making sure that European corporate subsidiaries protect human rights such as the right to unionize. Seminars, talks and events on these and other topics are held not only in Europe but with partners, particularly in Asia and the Global South. ECCHR has an integrated, global program that is really making a difference.

Finally, during the last year, ECCHR, led by Wolfgang Kaleck, engaged in a look into the future, also known by many as strategic planning. What should its plan be for the next five years? What are the keys issues and what can and should ECCHR address? It was decided that ECCHR should explore issues such as migration in the Mediterranean region – where hundreds of migrants die – as well as the global arms trade and protecting human rights defenders. The strong educational program should be expanded and communications strengthened. Without going into more detail, I can only say that ECCHR is more than ready and able to take on the challenges that the future holds. I expect our coming years to be as exciting, important and as meaningful as our past six. All of us owe a great deal of respect to those who work at ECCHR and particularly those who trust that we can make this world a better place.

MICHAEL RATNER

Chairman

Council of the European Center for Constitutional and Human Rights

II. ECCHR and the Pinochet-Videla Effect

In our work we often deal with historical cases, hoping to learn from what has happened in the past. Our work often concerns grave crimes, such as torture and enforced disappearances, that occurred many years ago. Again and again we are asked: Why do we do this? Well, because for the people affected by these crimes, the inherent injustices still live on. Because trauma of this kind, including collective trauma, lingers long after the crime has been committed, particularly when the underlying causes are not addressed. Because seeking justice can form part of the individual and collective healing process. And because it's impossible to build a just society on foundations of impunity and forgetting. But we also hope to learn from past mistakes and not to become frustrated or cynical in the



face of the failures of social utopias. We must pay heed, for instance, to the legal setbacks in cases taken under the banner of universal justice in Europe and by the civil suits taken in the US. Taking a strategic approach requires us to respond to these obstacles and constantly adjust and refine the legal instruments we work with. But we are prepared to face the reality of current conditions. We recognize that some of our projects and plans are so ambitious that they would be doomed to failure were we to focus on short-term success alone. Instead we must learn to see current efforts within their historical context.

For us, as for all those fighting against impunity for grave human rights violations, the 11 September 1973 is a date of great significance. This was the day that the democratically elected socialist President of Chile Salvador Allende was ousted in a military coup led by the man who would become leader of the junta, Augusto Pinochet. This marked the beginning of the bloodiest military dictatorship – alongside the military dictatorship in Argentina (1976-1983) – in Latin American history, during the course of which thousands of people were murdered, tortured and kidnapped. Pinochet enjoyed – in Chile at least – impunity for his crimes. Nobody could have foreseen his arrest, on 16 October 1998, by police in the UK in connection with an arrest warrant issued by the Spanish authorities seeking to bring charges of genocide. These events continue to have significant consequences today, not just within Chile, but all around the world. To mark the 40th anniversary of the military coup and the 15th anniversary of Pinochet's arrest, we came together with Chilean and Argentine artists, authors and lawyers to host a series of events looking at the impact of these historic events.

Pinochet's arrest acted as a trigger for the global human rights movement. Relatives of the victims, local and international human rights organizations and lawyers were prompted to form active networks. Very soon human rights activists had lodged criminal complaints with European courts concerning the crimes of the dictatorships in Chile, Argentina and elsewhere. The interplay between the investigations and court decisions in Europe and the social and legal developments in the affected countries became known as the Pinochet or Videla effect: Where obstacles exist within a country making it impossible to seek justice for torture and crimes against humanity, an alternative approach is taken. Recourse to transnational and international forums is necessary in order to build political and legal pressure and ultimately overcome the obstacles in place. In this context, we look to the inspiring example set by the patience and perseverance of Latin American human rights organizations such as the Mothers of the Plaza de Mayo. The Pinochet-Videla Effect is a source of great inspiration for ECCHR. We strive to apply this model, which has been so



successful, to other situations – including cases involving human rights violations in Western countries. One of the unique features of ECCHR’s work is our ongoing exchange on human rights related issues with a network of lawyers, academics and human rights activists from the Global North and South. Indeed, our success to date owes great deal to this international cooperation. This exchange facilitates the inter-disciplinary, dialogue-based development of instruments for ECCHR’s own work and helps to guarantee the quality of our legal work. It also serves to help us identify suitable coalition partners for our case work and helps to promote cooperation with regional partners and social movements around the world. The fact that we are based in Europe means it is all the more important for us to have reliable links with those further afield who are affected by the crimes we work on. We have built up a strong network of partner organizations with whom we consult to develop strategies and who themselves determine how to best incorporate our transnational work into their own domestic work. As part of this process, I was honored to be included last year on the advisory boards of ProDesc and CAJAR, ECCHR partner organizations in Mexico and Colombia.

The method employed by ECCHR can be best described as an ongoing process of strategic reflection on and development of our work and the work of others. We aim to take a comprehensive approach when it comes to analyzing and working on the human rights situation in a particular country, as we have done for instance in the case of Colombia, over the past two years. As part of our work on Colombia we lodged a criminal complaint against the multinational Nestlé in Switzerland and shortly afterwards submitted a Communication to the International Criminal Court concerning the involvement of state actors in systematic violence against human rights defenders. One important focus of our work is the sexualized violence that occurs during armed conflicts and in this context we worked to draw attention the case of General Freddy Padilla de León, who is suspected of being responsible for extrajudicial killings and enforced disappearances of civilians. Padilla de León was forced to leave his position as ambassador in Vienna after our dossier was made available to the Foreign Ministry. Our approach in these cases combines a range of different aspects of human rights violations by state and non-state actors with a particular focus on the gender aspect of these crimes.

Part of the core work of ECCHR is to confront those responsible for human rights violations with their crimes and hold them accountable for their actions. Only in this way can we bring about a real change in the behavior of industry heads and politicians, strengthen local movements and see real improvements in the state of human rights around the world. We would be delighted if you would lend your

support and contribute to these efforts. We would like to extend special thanks to all those who support us in various ways, our trainee lawyers, our partner universities, our cooperating attorneys and our financiers – the Sigrid Rausing Trust, the Dreilinden Foundation and the Oak Foundation to name just three – from whose active support we have benefited greatly over the years.

BERLIN, FEBRUARY 2014

WOLFGANG KALECK

General Secretary of the European Center for Constitutional and Human Rights



IRA
ICTADUDIA
TADENIOS









III. The Fight against Corporate Human Rights Violations

Since the outbreak of mass protests in the Gulf state of Bahrain, data obtained from intercepted telephone and internet connections has been used to arrest dissidents and extort confessions under abusive conditions. There are indications that the surveillance software used was provided by Munich-based company Trovicor and the British-German Gamma Group.

In the early hours of 2 May 2011, a task force made up of local security forces attacked the village of Bongulu in the Democratic Republic of Congo. The forces abused and raped more than 20 of the village's residents. In carrying out the attack, the security forces used vehicles belonging to timber firm Siforco – a subsidiary of the German-Swiss Danzer Group.



On 10 September 2005, members of a Colombian paramilitary group kidnapped, tortured and murdered a trade union leader and human rights activist named Luciano Romero. The murder was carried out as part of a prolonged labor conflict between trade union Sinaltrainal and Nestlé factory Cicolac.

These three cases from our Business and Human Rights Program are representative of the kind of issues we work on. All have links to European companies that operate on a global level and that exert through their activities great influence over the human rights situations of many. International corporations are often involved in collaboration with authoritarian regimes, paramilitaries and private security forces, and the provision of weapons and modern technologies used by regimes to repress their populations. Basic legal protection and political structures are often absent in conflict regions. Corporations often exploit these conditions for financial gain and many become involved in human rights violations, either directly or through their subsidiaries.

CORPORATE DUE DILIGENCE OBLIGATIONS

Companies and their top managers often escape punishment in the countries where corporate crimes are committed, either because of a lack of political or judicial will, or because a culture of rights has not yet been established. There are international standards regulating how corporations are supposed to act in such situations. These include the UN Guiding Principles on Business and Human Rights and the Guidelines for Multinational Enterprises set down by the Organisation for Economic Co-operation and Development (OECD). These do not, however, represent binding law and cannot be relied on in courts at an international level, in part because there is as yet no international court with jurisdiction over such crimes. For these reasons, ECCHR has, in its casework, focused on holding European corporations and their managers liable in European countries and on applying the above international standards by way of national laws. All of these cases hinge on the due diligence obligations of these companies in respect of their activities in conflict regions, as well as the actions of their subsidiaries and suppliers.

UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

The UN Guiding Principles on Business and Human Rights (UN doc A/HRC/17/31) represent some of the most important internationally recognized standards on corporate responsibility for human rights violations. While they still do not go far enough, the unanimous endorsement of the principles by the UN Human Rights Council represents an important step towards greater corporate liability for human rights. ECCHR is monitoring this process and is currently working on the application of the UN Guiding Principles, to determine how they can be effectively enforced and further developed for the benefit of those affected by corporate injustice.

The UN Guiding Principles determine that the primary obligation for the active protection of human rights lies with the state. Corporations, in turn, are obliged to respect human rights. The Guiding Principles set out in detail corporations' obligations to carry out regular human rights risk analyses in relation to all of their business activities. Where these analyses reveal potential or actual human rights violations within the scope of their business activities, the company in question is obliged to take remedial action to prevent the risked violations or to bring the existing violations to an end. States are under a special obligation to establish suitable legal or extrajudicial mechanisms for processing complaints and compensation.

This due diligence obligation places an onus on management to regularly carry out human rights risk analyses, to clearly identify potential risks and to take effective measures to fight them. Applying this, for instance, to the Democratic Republic of Congo case, this means that management should have ensured that their Congolese subsidiary did not contribute to human rights violations. In a region where police and military forces are known to be prone to frequent violence, including sexualized violence, measures should have been taken to ensure that the subsidiary company did not contribute to such crimes. In spite of these obligations, Danzer's subsidiary company aided the security forces by providing remuneration, vehicles and petrol.

GLOBAL RULES FOR GLOBAL CORPORATIONS

The criminal complaint against managers at the Danzer Group was submitted to the public prosecutor's office in Tübingen on 25 April 2013 in cooperation with the UK human rights organization Global Witness. The scope of the complaint goes above and beyond the question of the company management's liability for human rights violations in Congo. A key issue here is the fact that there is a need for clear European standards on the extent of corporate due diligence obligations within a global corporate group. Rules are also needed to determine the extent to which corporations may delegate their obligations pertaining to the monitoring of human rights risks. Overall there is a clear need for regulation in this area. Governments in Europe must set down clearly defined due diligence obligations in national and European law to afford legal recourse to those affected by human rights violations. Submitting criminal complaints in the Danzer and Nestlé cases highlights the inadequacy and the limits of existing regulations, in particular their failure to offer appropriate redress and to allow victims of corporate human rights violations to bring their cases to court.

ENFORCING INTERNATIONAL HUMAN RIGHTS STANDARDS

Along with our work within national legal frameworks ECCHR also looks to international mechanisms where appropriate. Under the OECD Guidelines for Multinational Enterprises, corporations from the signatory states must respect international human rights standards in the course of their foreign operations. This means that corporations must not violate human rights through their business activities and must ensure they do not indirectly facilitate or encourage such violations. Together with other non-governmental organizations, ECCHR lodged a complaint with the OECD against Munich-based firm Trovicor and the British-German Gamma Group in February 2013. The complaint is designed to highlight how the sale of certain technologies can facilitate human rights violations in authoritarian regimes. Much like weapons, surveillance technology can be utilized to commit grave human rights abuses and should therefore be subject to stricter export controls.



CURRENT CASES IN THE BUSINESS AND HUMAN RIGHTS PROGRAM (2013)

NESTLÉ

Legal approach:

Criminal complaint to the prosecution authorities in the Swiss Canton of Zug against the company and five of its managers

Submitted:

5 March 2012

Summary:

Nestlé and its managers are accused of negligently contributing to the murder by paramilitaries of Luciano Romero on 10 September 2005 in Valleparadise, Colombia. Despite being informed about the threats made against Romero, they failed to use the resources available to them to prevent the murder. Romero had worked for Cicolac, a Colombian Nestlé subsidiary company, for several years and was a trade union leader with Colombian food industry trade union Sinaltrainal, who worked together with ECCHR on the submission of the complaint.

Status of proceedings:

On 1 May 2013, the office of public prosecution in the Swiss Canton of Waadt decided not to open an investigation into Nestlé and its managers. The decision was appealed by the victim's widow. This appeal was dismissed in December 2013. In December 2013, we lodged a new appeal against this dismissal. The case is now pending before the Swiss Federal Supreme Court.

LAHMEYER

Legal approach:

Criminal complaint submitted to prosecution authorities in Frankfurt am Main against two top employees at engineering firm Lahmeyer International

Submitted:

3 May 2010

Summary:

Lahmeyer was heavily involved in the construction of the Merowe dam in northern Sudan. In the criminal complaint, two of the firm's employees are accused of being liable for the flooding of over 30 villages, the displacement of over 4,700 families and the destruction of these families' livelihoods. The German firm was responsible for the planning and supervision of the construction, and the commissioning of the dam and the hydropower plant. Lahmeyer began construction despite the fact that the resettlement plans had not been fully negotiated with the affected population, as required by international World Bank standards.

Status of proceedings:

Prosecution authorities commenced official investigations in April 2011 and have since heard evidence from witness, experts and others.

FORCED CHILD LABOR IN UZBEKISTAN

Legal approach:

OECD complaint against seven European cotton-trading companies in four European countries

Submitted:

Between October 2010 and January 2011

Summary:

Each autumn for decades, the Uzbek State has forced between 1.5 and 2 million children as well as teachers, civil servants and private sector employees to work on the cotton harvest for weeks on end in precarious conditions. In total, ECCHR submitted seven complaints to the Organisation for Economic Co-operation and Development (OECD) in Germany, Switzerland, France and the UK against European cotton traders that directly or indirectly purchase cotton from Uzbekistan. The complaints were lodged in cooperation with the Uzbek-German Forum for Human Rights (UGF), SHERPA (France) and the attorney Guido Ehrler (Switzerland).

Status of proceedings:

The proceedings were provisionally halted based on a joint declaration made by the parties. The companies, of whom all but one admit to directly or indirectly purchasing cotton from Uzbekistan, agreed to take certain measures that had been negotiated with ECCHR in order to ensure that future Uzbek cotton harvests did not use child labor. ECCHR reserved the right to lodge new complaints should the measures prove to be ineffective. ECCHR discontinued cooperation with the cotton-trading companies in December 2012 after the companies proved unwilling to engage in a serious and constructive dialogue or to accept and implement suggested changes. Since then, ECCHR has continued to monitor the situation.

DANZER

Legal approach:

Criminal complaint to the prosecution authorities in Tübingen against top managers at Danzer Group, a German-Swiss timber company

Submitted:

25 April 2013

Summary:

On 2 May 2011, a task force made up of local security forces attacked the village of Bongulu in the Democratic Republic of Congo. Police and military forces subjected the inhabitants of the village to abuse and rape and arrested 16 people. In carrying out the attack, the security forces used vehicles belonging to timber company Siforco S.A.R.L. – a subsidiary of the Danzer Group – and received payment for the operation. The attack followed a conflict between Siforco and the residents of the village. In the criminal complaint, submitted in cooperation with UK human rights organization Global Witness, the Danzer manager stands accused of aiding and abetting, through omission, crimes of rape, grievous bodily harm, false imprisonment and arson.

Status of proceedings:

The investigatory proceedings by the prosecution authorities in Tübingen are ongoing.



CORPORATIONS AND DICTATORSHIPS (MERCEDES BENZ ARGENTINA, LEDESMA UND MINERA AGUILAR)

Legal approach:

Submission of expert legal opinions to Federal Court in Jujuy, Argentina and the US Supreme Court.

Submitted:

2011-2013

Summary:

As part of its work on Argentina, ECCHR aims to ensure that the economic actors that facilitated and profited from the crimes of the dictatorship between 1976 and 1983 are held legally accountable. To this end, ECCHR provided legal briefs in support of proceedings in three cases that are representative of the role played by corporations throughout the dictatorship.

In the Mercedes Benz case ECCHR is lending its support to relatives of disappeared trade unionists from a Mercedes Benz factory near Buenos Aires. A leading manager is accused of being involved in the disappearance and murder of trade unionists by Argentine security forces. On 26 August 2013, ECCHR and the German Institute for Human Rights submitted a brief to the US Supreme Court. In April 2011 ECCHR submitted an amicus curiae brief in the criminal investigation in Jujuy, Argentina, examining sugar company Ledesma's liability for human rights violations during the dictatorship. The case involving mining company Minera Aguilar concerns the unlawful detention and torture of 27 company employees. The submission also points out that the Argentine judiciary has a responsibility to investigate and prosecute for human rights violations committed by corporate actors. ECCHR is also working with Argentine prosecution authorities to produce an overview of international jurisprudence on corporate complicity since 1945.

Status of proceedings:

In the Mercedes Benz case, criminal proceedings are currently ongoing in Argentina. In 2012, as part of proceedings in the Ledesma case, company managers were questioned and business premises searched. This case and the Minera Aguilar case are still ongoing and continue to be monitored by ECCHR.



WORKING CONDITIONS IN PAKISTANI TEXTILE INDUSTRY

Legal approach:

Submission of expert legal briefs in Pakistan

Submitted:

Petition to join proceedings lodged in November 2013

Summary:

In September 2012, more than 280 workers lost their lives at a textile factory in Karachi, Pakistan. Hundreds more were injured. The fire was fatal as emergency exits were obstructed and only one exit was free. According to information provided by the company, German discount retailer KIK purchased at least 70% of all the textiles produced by the factory in 2011. KIK say that workplace safety and other working conditions were regularly monitored by auditing companies. Just weeks prior to the fire, Italian firm RINA awarded the factory with a SA 8000 certificate, which is supposed to act as a guarantee of safety standards as well as socially and ecologically sustainable production.

Status of proceedings:

ECCHR is currently lending its support to proceedings underway in Pakistan and has requested permission to join the proceedings as an expert body. If this request is accepted, ECCHR will lodge a brief setting out the Pakistani state's obligations under international law. Beyond investigating the liability of local actors, the aim in the medium term is to have European courts establish the roles played by KIK and the certification firm RINA.

SURVEILLANCE TECHNOLOGY AND DISSIDENT REPRESSION – THE GAMMA AND TROVICOR CASES

Legal approach:

OECD complaint in Germany and UK against Munich firm Trovicor and British-German Gamma International Group

Submitted:

6 February 2013

Summary:

There is information to suggest that data obtained from intercepted telephone and internet connections was used to arrest dissidents and extort confessions under abusive conditions, and that the technology used was provided by the above companies. ECCHR, together with Privacy International, Reporters Without Borders, the Bahrain Center for Human Rights (BCHR) and Bahrain Watch (BW), has thus lodged OECD complaints against both companies.

Status of proceedings:

The UK OECD National Contact Point accepted the complaint made against the Gamma Group on 24 June 2013. On 20 December 2013, the German National Contact Point rejected the complaint made against Trovicor.

LIABILITY FOR CLINICAL TRIALS IN INDIA

Legal approach:

Submission of brief to Indian Supreme Court

Submitted:

11 February 2014

Summary:

In the Indian states of Gujarat and Andhra Pradesh, 24,000 girls were immunized against the human papilloma virus (HPV), which can cause cervical cancer. After news reports began to emerge about irregularities in the immunization program, a parliamentary inquiry committee concluded that the trial was conducted without proper, informed consent or monitoring. Women's health activists are now seeking to hold those responsible to account and have brought a case before the courts. The legal brief is supported by the Business and Human Rights Project at the University of Essex. The claimants are represented by the Human Rights Law Network (HRLN) in New Delhi.

Status of proceedings:

Proceedings are still ongoing.

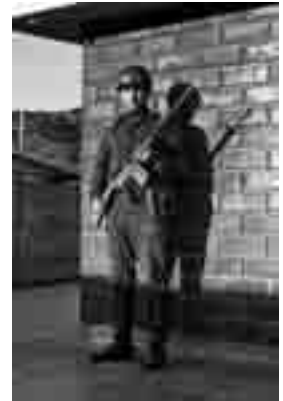






IV. Legal Intervention against Impunity for International Crimes

In many parts of the world, conflicts give rise to grave human rights violations and war crimes. A culture of impunity persists; those responsible often escape punishment. ECCHR uses a variety of legal tools to intervene in such cases. The aim is to shed light on the legal role of the perpetrators and – where possible – to hold them legally accountable. This is done in various ways, such as by requesting prosecution authorities to initiate investigations or by raising awareness of less passive the human rights situation in the country in question. ECCHR is always concerned with the wider ramifications beyond an individual case. It's important that chosen cases are capable of highlighting structural problems relating to national and transnational jurisdiction. ECCHR continues to work on cases in Sri Lanka and Colombia, two conflict regions that are often overlooked. Both of these countries have been plagued by grave human rights violations for decades, crimes which have never been addressed in legal or political fora, allowing those responsible to enjoy impunity for their acts.



NO LEGAL ACTION ON SRI LANKAN WAR CRIMES

Since 2009 – the final phase of the Sri Lankan civil war – criminal liability for war crimes, crimes against humanity and the ongoing sexualized violence against women in Sri Lanka has been a key area of ECCHR's work. According to United Nations reports, more than 70,000 civilians lost their lives during the Sri Lankan army's final offensive in the closing stages of the war against the rebel Tamil Tigers (LTTE) from late 2008 to May 2009. This offensive brought about the end of the armed conflict that had raged in Sri Lanka for more than 30 years. No legal action has been taken in Sri Lanka to seek redress for the war crimes committed during the conflict, which include the bombardment of protected civilian zones and hospitals, and numerous instances of sexualized violence.



ONGOING VIOLENCE AGAINST OPPOSITION IN COLOMBIA

Armed conflict has been ongoing in Colombia for decades, with the civilian population particularly affected. Human rights defenders and trade unionists are branded as guerrilla fighters, a label which makes them ostensibly legitimate targets for military and paramilitary groups. Sexualized violence against women is a common feature of this conflict on the part of all parties to the conflict. Impunity is rife, particularly when it comes to high-ranking perpetrators.

RANGE OF LEGAL APPROACHES

ECCHR employs a range of legal approaches in these cases. On Sri Lanka, ECCHR has gathered and carried out a legal analysis of the publicly available information on the international crimes committed. The result was a report entitled »Study on Criminal Accountability in Sri Lanka as of January 2009« which was published in 2010 and has been submitted to the United Nations Human Rights Council and other bodies. Since 2011, a number of expert opinions on sexualized violence in Sri Lanka have been submitted to various UN organs, most recently in August 2013 to the UN High Commissioner for Human Rights Navanethem Pillay.



As part of its work in Colombia, ECCHR submitted a Communication to the International Criminal Court in The Hague concerning the systematic persecution of trade unionists. A criminal complaint lodged against Nestlé in Switzerland focuses on issues of corporate liability for crimes committed throughout the conflict. Investigations into war crimes often involve high-ranking military or government members. For many years ECCHR has prepared dossiers on high-ranking individuals suspected of having committed war crimes. Because the crimes in question constitute crimes under international law, it is often possible to prosecute the suspects in foreign countries or international courts. If a suspect subsequently enters a European country, for instance, charges may be brought against him or her on the basis of the dossier.

WITHDRAWAL OF SUSPECTED WAR CRIMINALS FROM DIPLOMATIC SERVICE

In some situations the submission of a criminal complaint may be impossible or ill-advised. For instance, individuals employed in the diplomatic service who are suspected of having committed war crimes are protected by diplomatic immunity, which for the moment at least prevents criminal prosecution. Where this is the case, the dossiers prepared by ECCHR, contain a description of the alleged crimes as well as legal evaluation similar to a criminal complaint and can have a powerful effect. In early October 2013, Freddy José

Padilla de León, the Colombian ambassador in Vienna, handed in his resignation after ECCHR presented a dossier to the Austrian Foreign Ministry setting out Padilla's alleged responsibility for extrajudicial killings in his former role as General Commander of the Colombian Military Forces.

This was not the first time that an ECCHR dossier brought about the withdrawal of a high-ranking diplomat from an embassy in Europe. Former military members Jagath Dias and Prasanna De Silva left their embassy posts in London and Berlin in 2011 and 2012 after ECCHR presented dossiers to the relevant Foreign Ministries. These interventions have attracted global attention and have had consequences on an international level. After former Sri Lankan General Jagath Dias was removed from his diplomatic post in Germany, the USA and Australia revoked his invitation to attend a multilateral meeting, citing »accountability issues«.

RESPONSIBILITY OF FOREIGN MINISTRIES

The foreign ministries responded in different ways to the information we presented to them. Some passed on the dossier directly to the prosecution authorities for further investigation. In other countries, ECCHR itself passed on the dossier to the prosecution authorities, who showed great interest in the cases but decided not to pursue prosecutions at the present time due to the issue of diplomatic immunity. The dossiers succeeded in directing attention to the conflict situations in question. This prompted authorities to begin hearing witness testimonies in order to secure evidence for the future, which would allow them to take swift action in the future should the accused enter into the country. Within the foreign ministries, the problem is that proposed diplomatic candidates, who have often held previous positions of political or military responsibility, are given approval without sufficient examination of their involvement in grave crimes, including and crimes under international law. This practice must be remedied.



THE PADILLA FILE

Details:

Name: Freddy José Padilla de León

Country: Colombia

Military rank: General

Position held at time of commission of crimes:

General Commander of the Armed Forces,
August 2006 to August 2010

Joint Chief of Staff of the Armed Forces,
November 2003 to August 2006

Commander, 7th Brigade, 1998

Positions held at time of submission of dossier in August 2013:

Ambassador to Austria; non-resident Ambassador to Croatia, Serbia, Slovakia, Slovenia, Czech Republic and Hungary, as well as Permanent Representative to the United Nations in Vienna, October 2010 – October 2013

Alleged Crimes against International Law:

Direct criminal liability on the basis of the principle of command responsibility for crimes against humanity and war crimes committed against the civilian population by the Colombian military under his command, in particular: Extra-judicial killing and enforced disappearance of civilians; persecution and murder of trade unionists and human rights activists by the Colombian military; negligent manslaughter through omission during the massacre of Caño Jabón in 1998, during which paramilitary groups killed at least 20 people, by failing to bring about an intervention by his troops from the 7th brigade, who were stationed nearby.



THE SRI LANKA DOSSIERS

Details:

Name: Jagath Dias

Country: Sri Lanka

Military rank: Major General

Position held at time of commission of crimes from April 2008 to May 2009:

Commander, 57th Division of the Sri Lankan Army

Position held at time of allegations in January 2011:

Deputy Ambassador for Germany, Switzerland and the Vatican,
September 2009 – October 2011

Name: Prasanna De Silva

Country: Sri Lanka

Military rank: Major General

Position held at time of commission of crimes from April 2008 to May 2009:

Commander, 55th and 59th Divisions of the Sri Lankan Army

Position held at time of allegations in January 2012:

Defence Attache at Sri Lankan Embassy in London,
September 2010 – April 2012

Alleged Crimes against International Law:

Direct criminal liability as commanding officers of the Sri Lankan Army for war crimes committed as part of the bombardment of designated civilian safety zones. These crimes include:

Murder and mutilation;

intentional attacks on the civilian population; on buildings, materials and personnel displaying the Geneva Convention protected symbols or who were taking part in a humanitarian mission in accordance with the UN Charter; on buildings used for religious service, on hospitals, and other non-military targets.





CURRENT CASES IN THE INTERNATIONAL CRIMES AND ACCOUNTABILITY PROGRAM (2013)

VIOLENCE AGAINST HUMAN RIGHTS DEFENDERS AND TRADE UNIONISTS IN COLOMBIA

Legal approach:

Submission of Communication to International Criminal Court (ICC) in The Hague

Submitted:

9 October 2012

Summary:

The criminal complaint was submitted in cooperation with Colombian human rights organization CAJAR and Colombian trade union confederation CUT. Its aim was to prompt the prosecutors in The Hague to take action on the systematic violence against human rights defenders and in particular against trade unionists in Colombia. The extent of the violence raises the crimes to the level of crimes against humanity, giving the ICC jurisdiction in the case. Since the crimes are not being adequately addressed by the Colombian justice system, the prosecution authorities at the ICC are obliged to initiate investigations surrounding the actions of those responsible within the government and military structures.

Status of proceedings:

The prosecution authorities are currently of the opinion that preliminary investigations should continue and that formal investigations should not yet be opened. In a follow-up Communication in July 2013, ECCHR commented on this approach and provided the Court with further information.

VIOLENCE AGAINST OPPOSITION MEMBERS IN BAHRAIN

Legal approach:

Submission of dossier to Prime Minister and Foreign Office of United Kingdom

Submitted:

June 2012

Summary:

There witness testimony to suggest that a member of the Bahraini royal family threatened and beat members of the opposition in prison. ECCHR called on the UK authorities to refuse to allow the suspect to attend the Olympic Games in London in 2012. UK police initiated investigations; these have since been discontinued.

Status of proceedings:

Investigations were launched but subsequently discontinued. A court hearing is currently due to be held before a London court to determine whether the suspect could be immune from prosecution.



PADILLA AND CRIMES AGAINST HUMANITY (COLOMBIA)

Legal approach:

Submission of a dossier to Foreign Ministries in Austria, Croatia, Serbia, Slovakia, Slovenia, the Czech Republic and Hungary as well as the United Nations in Vienna

Submitted:

August 2013

Summary:

General Freddy Padilla de León was General Commander of the Colombian Armed Forces during the period in which the rate of extrajudicial killings and enforced disappearances of civilians was at an all-time high. He is alleged to be responsible for crimes under international law committed by military personnel under his command, which he failed to prevent and failed to punish.

Status of proceedings:

Following the publication of the dossier, the State Chancellery of Colombia stated that Padilla submitted his resignation request a number of weeks after the dossier was submitted. He stepped down from his post in November 2013.

COLONIA DIGNIDAD (CHILE)

Legal approach:

Submission of Criminal Complaint to Prosecution Authorities in Krefeld against Hartmut Hopp

Submitted:

24 August 2011

Summary:

Until recently, Colonia Dignidad, founded by the German Paul Schäfer in 1961 and now known as Villa Baviera, was a fortress-like German settlement in Chile. Over the course of a number of decades, grave human rights violations were committed at Colonia Dignidad. Opponents of the Pinochet Regime (1973-1990) were disappeared, tortured, and murdered there, and German and Chilean children at the settlement suffered decades of systematic sexual abuse. Hartmut Hopp belonged to Paul Schäfer's leadership circle, and represented Colonia Dignidad in its external affairs. On 11 January 2011, a Chilean court sentenced Hartmut Hopp to prison for five years and a day for his role in the sexual abuse of minors during the years 1993 to 1997. He fled to Germany before the beginning of the sentence.

Status of proceedings:

Prosecution authorities in Krefeld opened formal investigative proceedings against Hartmut Hopp on 31 August 2011. Hartmut Hopp took the stand as a defendant in front of the prosecution authorities of Krefeld for the first time on 14 February 2012. The investigation is ongoing.

WAR CRIMES IN SRI LANKA

Legal approach:

Preparation of dossiers on individual suspects within Sri Lankan military forces

Submitted:

January 2011 and January 2012

Summary:

According to United Nations reports, more than 70,000 civilians lost their lives during the Sri Lankan army's final offensive against the rebel Tamil Tigers (LTTE) from late 2008 until May 2009. No legal action has been taken in Sri Lanka to seek redress for the war crimes committed during the conflict, which include the bombardment of protected civilian zones and hospitals, and numerous instances of sexualized violence.

Status:

Ongoing research and collection of witness testimony to pass on to investigation authorities and exploration of potential for bringing criminal complaints in Europe.

SEXUALIZED VIOLENCE IN SRI LANKA

Legal approach:

Submission of expert legal opinion, including to the UN High Commissioner for Human Rights

Submitted:

Most recently in August 2013

Summary:

We are calling on the UN to carry out further investigations into the situation of women and children in northern and eastern Sri Lanka. Sri Lanka must be held to its international obligations, in particular in order to bring the Prevention of Terrorism Act (PTA) in line with the UN CEDAW Convention.

Status of proceedings:

Research and gathering of testimony to pass on to UN bodies.

TORTURE OF DETAINEES IN IRAQ BY BRITISH TROOPS

Legal approach:

Submission of Communication to International Criminal Court in The Hague

Submitted:

10 January 2014

Summary:

In the Communication, ECCHR, together with UK-based Public Interest Lawyers (PIL), calls for investigations into high-ranking members of the British military, as well as former Ministers and Secretaries of State, in connection with systematic torture and abuse of detainees in Iraq between 2003 and 2008. More than 400 former Iraqi detainees have come forward to PIL in the last years, describing instances of grave abuse and degrading treatment by British soldiers. While these accusations have been widely known for some time and have been the subject of a number of national commissions of inquiry, UK authorities have to date failed to carry out prosecutions, particularly involving high-ranking military and political actors.

Status of proceedings:

Criminal complaint currently being examined by prosecution authorities at the International Criminal Court.

SPANISH NATIONAL COURT'S INVESTIGATION OF THE US TORTURE PROGRAM / »BUSH SIX«

Legal approach:

Providing legal briefs to assist with criminal complaint before the Spanish National Court

Submitted:

January 2011 and September 2012

Summary:

In March 2009, a criminal complaint was lodged against six former US government officials in an attempt to hold these individuals accountable for crimes against international law including war crimes and torture. The alleged acts took place in US detention centers, including Guantánamo.

Status of proceedings:

The investigating judge at the National Court discontinued the Bush Six case and passed it over to be taken up by the US. An appeal was lodged against this decision on 19 April 2011, but was dismissed. A subsequent appeal came before the Spanish Supreme Court. This appeal was also rejected and the case is now pending before the Constitutional Court. ECCHR and the Center for Constitutional Rights (CCR), supported by numerous former UN Special Rapporteurs, members of the US military, law professors and human rights organizations, filed a brief in September 2012 stressing once again that no criminal investigations have been carried out in the US.

INVESTIGATION INTO US TORTURE PROGRAM

Legal approach:

Assisting with a criminal complaint before the Spanish National Court by providing expert briefs and representing former Guantánamo detainee Murat Kurnaz, as well as providing briefs to assist with criminal complaints in France and Belgium

Involved:

Since January 2011

Summary:

In April 2009, Judge Baltasar Garzón opened a preliminary investigation into what he termed »an authorized and systematic plan of torture and ill-treatment on persons deprived of their freedom without any charge and without access to the basic rights of detainees, set out and required by applicable international conventions«. The case concerns alleged instances of torture and abuse of four former Guantánamo detainees. The preliminary investigation did not name any potential defendants.

Status of proceedings:

In May 2010, Judge Garzón was suspended from the case and replaced by Judge Ruz. In January 2011, ECCHR and the Center for Constitutional Rights (CCR) submitted a dossier on the former Guantánamo commander Geoffrey Miller detailing his suspected responsibility for torture. On 10 January 2013, ECCHR and CCR were formally admitted to the case as representatives of two former detainees, one of whom is Murat Kurnaz. ECCHR is also providing legal briefs to assist with legal proceedings in France and Belgium.

KUNDUZ (AFGHANISTAN)

Legal approach:

Assisting with criminal proceedings in Germany

Active:

Since April 2010

Summary:

On 4 September 2009, two US fighter jets, acting on the orders of German army Colonel Georg Klein, bombed a large group of people and two tanker trucks on a sandbar in the Kunduz River in Afghanistan. More than 100 people were killed or injured. The subsequent reaction of the German government, army and prosecution authorities was inadequate and failed to conform to international human rights standards. The German Federal Prosecution discontinued its investigations in April 2010 and the State Prosecutor in Dresden and the Higher Regional Court of Düsseldorf have refused to carry out further investigations. The victims have lodged an appeal against these decisions with the Federal Constitutional Court.

Status of proceedings:

A constitutional complaint against the discontinuation of the criminal investigation is currently pending.

CRIMINAL PROCEEDINGS AGAINST RWANDAN REBEL LEADERS (DR CONGO)

Legal approach:

Monitoring of German trial

Active:

Since May 2011

Summary:

The main court proceedings began on 4 May 2011 against two Rwandan former militia leaders of the »Forces Démocratiques de Libération du Rwanda« (FDLR) before the Higher Regional Court in Stuttgart. The President of the FDLR, Dr. Ignace Murwanashyaka, and his deputy, Straton Musoni, stand accused of committing grave violations of international law in 2008 and 2009 in eastern Democratic Republic of Congo (DRC).

Status of proceedings:

ECCHR continues to monitor this trial and regularly issues statements on the application of the German Code of Crimes against International Law and on the treatment by German courts of sexual crimes committed during armed conflicts.





SEXUAL SLAVERY DURING THE SECOND WORLD WAR (PHILIPPINES)

Legal approach:

Petition to the Supreme Court of the Philippines

Submitted:

23 August 2013

Summary:

Together with the Philippine Center for International Law (CenterLaw), ECCHR submitted a petition calling for individual compensation to be provided to Philippine survivors of sexual violence (so-called »comfort women«) during the Second World War. On 23 November 1944, Japanese troops attacked inhabitants of the village of Barangay Mapanizque, Candaba in the Philippines. The men were castrated, beaten and killed. The women were detained at Japanese military headquarters »Bahay na Pula«, where they were beaten, raped and abused by the Japanese soldiers. The survivors of this sexual slavery are calling on the Philippine government to support them in their compensation claim against Japan.

Status of proceedings:

The request for intervention was rejected by the court. An appeal against this decision has been lodged.

TARGETED KILLINGS USING DRONES (PAKISTAN)

Legal approach:

Provision of expert legal opinions, including on a decision of the German Prosecutor General; gathering of evidence and testimony

Active:

Since 2012

Summary:

In the last years, there has been a steady rise in the number of targeted killings of terrorism suspects. The US has to date used armed drones in Afghanistan, Pakistan, Yemen and Somalia. These attacks often violate public international law and human rights standards. Individuals suspected of being terrorists are killed without being given an opportunity to defend themselves against allegations, and in numerous cases the victims are civilians. European governments assist the USA in these attacks through the provision of information.

Status of project:

ECCHR published an expert opinion on the German Federal Prosecution's decision to discontinue investigations into the death of German citizen Bünyamin E. The expert opinion points to a number of deficiencies within the investigation and should assist relatives of the victim to exercise their rights. ECCHR is in contact with witnesses to the attacks and is working with the UN Special Rapporteur on human rights and counter-terrorism to prepare a report on legal standards for the use of drones.

PROSECUTION FOR CRIMES AGAINST INTERNATIONAL LAW IN SYRIA

Legal approach:

Providing assistance to witnesses and the German Federal Public Prosecutor

Active:

Since 2011

Summary:

The project aims to provide assistance to legal actions being taken on human rights violations in Syria. The crimes in question were committed by the Syrian government in the period beginning in March 2011 and reach the threshold of crimes against humanity and war crimes. ECCHR is working with other human rights organization and is involved in the gathering of witness testimonies and the presentation of this evidence to the German prosecution authorities in order to establish the facts of these cases and help secure future prosecutions.

COUNTERTERRORISM AND HUMAN RIGHTS / »TERRORISM LISTS«

Legal approach:

Requests to the UN Security Council 1267 Committee ombudsperson and the EU Commission to remove names from terrorism lists

Submitted:

Four requests since 2011

Summary:

ECCHR is currently assisting four individuals who are resident in Italy and who have been on UN and EU terror lists since 2003/2004. All four individuals have been acquitted of all accusations of terrorism. Despite their acquittals they remained on the UN lists as »former members« of an Italian terrorist group. As a result of the listing, all assets of the accused as well as those of their families were frozen and subject to strict monitoring by the Italian authorities.

Status of project:

To date, three requests to the UN Security Council 1267 Committee ombudsperson and the EU Commission to have names removed from the lists have been successful. A decision in the fourth case is pending.

V. Education Program: Global Networking and Training

The education of young lawyers has always been a key part of ECCHR's work. Since 2012, financial support for the program has allowed us to professionalize this aspect of our work. We have also been able to set up a global exchange program and intensify our cooperation with partner organizations around the world.

The aim of the program is to expand the international network of human rights lawyers and to share our knowledge and experience with partner organizations and institutions. Along with passing on legal expertise, our approach also involves fostering a progressive understanding of the law and its political contexts. The focus of the



education program is on intervention in situations of human rights abuses using a variety of legal approaches. The Education Program combines training and development with a program of global exchange and the creation of a network consisting of a new generation of human rights defenders.

LEGAL TRAINING PROGRAM

The Training Program is open to budding human rights activists from all over the world, mainly from the field of law but also from other relevant disciplines. Our legal trainees benefit from tailored, interactive training in strategic litigation within the scope of ECCHR's various substantive programs and are integrated into the daily work of the organization.

The program involves weekly meetings at which trainees present a legal case and discuss it with their supervisors. The curriculum also includes presentations by attorneys working in the field of human rights as well as cultural and educational events on current issues. As part of the program's main practical element, trainees get to work on ECCHR's cases, giving them an insight into what it's like to identify cases, and to pursue legal proceedings of this kind. Trainees get the chance to contribute to ground-breaking legal projects, such as the submission of a Communication to the International Criminal Court (ICC).

BERTHA FELLOWS

With the help of the Bertha Foundation, ECCHR is able to offer follow-up contracts to some of our most talented alumni who return to work with us as Bertha Fellows. These candidates are distinguished not only by their professional competence but also by their political insight. The fellows are part of a growing network of Bertha Fellows. In 2013, two Bertha Fellows worked at ECCHR.

During the year, ECCHR worked on a number of innovative cases led by our Bertha Fellows, including the Communication to the ICC on the persecution of trade unionists in Colombia and on corporate responsibility for clinical trials as part of our Business and Human Rights Program.

BERTHA GLOBAL EXCHANGE PROGRAM

Since early 2013, ECCHR has been able to invite colleagues from international partner organizations to come to Berlin for a period of two to three months as part of an intensive exchange program. The Global Exchange Program aims to facilitate mutual learning, the sharing of experience and the development of new avenues for transnational legal work. Bertha Global Exchange Fellows are actively

involved in ECCHR's day-to-day work and contribute to issues and cases on which their own organizations are also working. Following their stay in Berlin, the Bertha Global Fellows generally become our contact point for collaborative casework between the two organizations. The first five participants of this program came from India, Malaysia, China and Colombia. Our partner organizations for 2013 were: Pesticide Action Network Asia-Pacific (PAN AP), Forum for International Criminal and Humanitarian Law (FICHL), Human Rights Law Network (HRLN), Colectivo de Abogados José Alvear Restrepo (CAJAR) and Natural Justice.

This new component of the Education Program has significantly enriched the work of ECCHR in 2013. Regional background information, legal expertise and the more general cultural exchange has greatly enhanced our work on Business and Human Rights issues in Asia, including on the issues of pesticide use and on clinical trials. The program also enabled ECCHR to expand the scope of its work on Colombia. The Global Exchange Fellows, for their part, return to their organizations with insights gained from being exposed to and critically engaging with the philosophy of ECCHR, in particular in relation to its strategic litigation approach to human rights issues.

FURTHER EDUCATION AND SUPPORT THE ALUMNI-NETWORK

ECCHR has set up a platform for its alumni group, which comprises more than 250 people from 40 countries. The aim is to extend and enhance the Education Program in the long term and to maintain contact with and between alumni. We provide various opportunities for networking and further education, including events for trainees and alumni such as workshops and lunch talks, as well as an annual conference.

Alumni seminars and Events 2013 (Selection):

- **Lunch Talk** on the judgment against former Guatemalan dictator Rios Montt with Carlos Castresana, a Spanish prosecutor and former head of the International Commission against Organized Crime in Guatemala
- **Workshop on »Communication and Moving Images«** with Prof. John Kantara, documentary film maker and Professor of Journalism.
- **Lunch Talk** on human rights litigation in US Courts with Peter Weiss, US civil and human rights lawyer and member of ECCHR's advisory board.
- **Workshop on »Corporate Research«** with Robert Goldspink from the International Senior Lawyers Project, former UK corporate lawyer and expert in company law.

Annual Alumni Meeting 2013

The second annual ECCHR alumni meeting took place on 15th and 16th November 2013 and was attended by 100 former and current trainees, staff members and international guests from Europe, Asia, Australia, North and South America and Africa. Participants formed working groups to discuss current human rights problems such as migration, the environment, human rights defenders, whistleblowing and sexualized violence. On the second day, participants took part in a self-organized workshop on the ethical and personal aspects of politically-motivated human rights work.

HOW THE PARTICIPANTS FELT ABOUT THE ALUMNI MEETING:

»A wonderful experience that provided me with lots of food for thought«

»I think (or would like to think) that it will continue after today. I hope that the idea of a global exchange network is carried out«

WORKING WITH UNIVERSITIES

ECCHR has worked in close cooperation with universities for many years. This exchange takes place through a number of different avenues, such as collaborative seminars on human rights issues and ECCHR staff contributions to study programs. We also have a number of cooperative projects in which students prepare dossiers for ECCHR or complete the practical element of their Law Clinic studies at ECCHR offices. We often recruit our legal trainees through these avenues.

Cooperation with academic institutes is one of the strategic tasks of the Education Program. Our academic partner institutions include: Essex University, Freie Universität Berlin, Université libre de Bruxelles and the Universities of Bremen, Hamburg and Regensburg. We also work with renowned Law Clinics including:

Emory University School of Law, International Humanitarian Law Clinic, Atlanta; CUNY Women's Human Rights Law Clinic, New York; Humboldt Universität Berlin, Humboldt Law Clinic on Fundamental and Human Rights, Berlin; and Leiden University, Grotius Centre for International Legal Studies, Kalshoven-Gieskes Forum on International Humanitarian Law, Law Clinic, The Hague.

THE EDUCATION PROGRAM AND NETWORK BUILDING IN ASIA

In 2013, ECCHR laid the foundations for collaborative strategic case work with various partner organizations in South and East Asia. In India, Pakistan and Malaysia we are focusing on the question of the legal liability of European companies in the areas of textiles, pharmaceuticals and chemicals for human rights violations in the supply chain. In the Philippines, we are working on the issue of sexual slavery. We are working with a Pakistani human rights organization on the issue of drone strikes in Pakistan.

This increased level of direct cooperation with local partners in Asia represents an important step for ECCHR and was greatly aided by the Education Program and the opportunities it offers for collaboration. Four out of five of the 2013 Global Exchange Fellows came from countries in Asia and one of our staff members focuses on Asia in her work. The possibility to work with partner organizations in Asia was also assisted by two workshops organized by ECCHR in India and the Philippines in early 2013, which were supported by MISEREOR and Bread for the World. More than 100 lawyers and activists from seven Asian countries as well as from Europe, Australia and North and South America participated in discussions on strategic cases concerning the liability of transnational corporations for human rights. The network of Bertha Foundation partners allowed us to strengthen existing contacts, leading to collaborative projects in Pakistan, India and the Philippines in 2013. ECCHR was also active in the Be Just Initiative, a global network of partner organizations of the Bertha Foundation.





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VI. Appendix

EXPERT LEGAL OPINIONS AND CRIMINAL COMPLAINTS

Corporate Human Rights Violations: Surveillance Software

OECD complaints against Munich-based firm Trovicor and the British-German Gamma Group, which produce surveillance software that can be used by authoritarian states to commit human rights violations.

Complaints submitted in February 2013 to German and UK OECD National Contact Points respectively in cooperation with Privacy International, Reporters without Borders, the Bahrain Center for Human Rights and Bahrain Watch.

The Danzer Case

Criminal complaint against a German manager at the German-Swiss timber company Danzer Group concerning allegations of aiding and abetting, through omission, crimes of rape, grievous bodily harm, false imprisonment and arson committed by Congolese security forces in the Democratic Republic in Congo on 2 May 2011.

Complaint submitted to the State Prosecution in Tübingen, Germany in April 2013 in cooperation with UK human rights organization Global Witness.

The Nestlé Case

Appeal lodged with the Cantonal Court of Vaud on 16 May 2013 against the decision of the prosecution authorities in Vaud from 1 May 2013 and

an appeal lodged with the Swiss Federal Supreme Court in December 2013 against the decision of the Cantonal Court of Vaud to reject the appeal.

The Mercedes Benz Argentina Case

Submission of expert legal opinion to US Supreme Court in support of relatives in proceedings on disappeared trade unionists at a Mercedes Benz plant near Buenos Aires during the Argentine military dictatorship.

Submitted with the German Institute for Human Rights in cooperation with international law expert Prof. Dr. Alexander Graser on 26 August 2013.

GENDER UND HUMAN RIGHTS

Sri Lanka

Position paper on Sri Lankan Anti-Terrorism law and on the situation of women in northern and eastern Sri Lanka,

submitted to the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment in March 2013 (document not publicly available).

Sri Lanka

Submission on situation of women in Sri Lanka – sexual abuse and »survival sex« – during and after the conflict,

submitted to High Commissioner for Human Rights Navanethem Pillay in August 2013 (document not publicly available).

Philippines

Petition for individual compensation for »comfort women«, Philippine survivors of sexual violence during the Second World War,
submitted to the Philippine Supreme Court with the Philippine Center for International Law on 23rd August 2013.

ENFORCED DISAPPEARANCE AS A CRIME

Position paper on the "Report of the Federal Republic of Germany under Article 29 of the International Convention for the Protection of All Persons from Enforced Disappearance" and on the need to introduce a stand-alone offence of enforced disappearance into the German Criminal Code,
published together with Amnesty International, in June 2013.

Statement on gaps in existing legislation and the consequently inadequate implementation of the Convention against Enforced Disappearance by Germany,
submitted together with Amnesty International to the UN Committee on Enforced Disappearances in September 2013.

CRIMES AGAINST INTERNATIONAL LAW IN COLOMBIA

Persecution of trade unionists

Statement on Interim Report by prosecution authorities at the International Criminal Court in The Hague on the situation in Colombia and follow-up to ECCHR's Communication from October 2012 on violence against trade union members in Colombia as a crime against humanity,
submitted to the prosecution authority at the International Criminal Court in The Hague, in collaboration with the Colombian human rights organization CAJAR and the Colombian trade union confederation CUT in July 2013.

Responsibility of top military members for crimes against international law

Dossier on the Colombian ambassador to Austria, General Freddy Padilla and his alleged involvement in crimes against international law in Colombia,
submitted in August 2013 to the Foreign Ministries of Austria, Croatia, Serbia, Slovakia, Slovenia, Czech Republic and Hungary and United Nations offices in Vienna.

DRONE KILLINGS

Expert opinion on the decision (File no. 3 BJ's 7/12-4) of the Federal Prosecutor General at the Federal Court of Justice to discontinue investigatory proceedings into the killing of German national Bünyamin E. on 4 October 2010 in Mir Ali / Pakistan,
published in October 2013.

PUBLIC EVENTS 2013 (SELECTION)

Podium Discussion

Responsible Sourcing – Cotton without forced/child labor

Partners: Inkota Network, Uzbek-German Forum for Human Rights

16th January 2013, Berlin

Podium Discussion

Liability for Human Rights Violations? German Companies and their Foreign Activities: the Danzer Group in the Democratic Republic of Congo

Partners: Informationsstelle Militarisierung, Global Witness, Greenpeace Switzerland

25th April 2013, Tübingen

ECCHR Human Rights Lecture

A Conflict without End: Legal Human Rights Work via Mobile Task Forces in Chechnya

With Oleg Khabibrakhmanov

Partner: Bildungswerk Berlin, Heinrich Böll Foundation

16th May 2013, Berlin

Book Launch and Exhibition Opening

Resistance in Chile / Impressions of a Dictatorship

With Karl-Heinz Dellwo and photos from José Giribás

11th September 2013, Berlin

Podium Discussion

Germany and the Chilean Military Dictatorship – the Colonia Dignidad

With Claudia Cárdenas (Santiago de Chile), Jan Stehle (Berlin), Petra Schlagenhauf (Berlin)

Partners: The Center for Research and Documentation Chile-Latin America (FDCL) and

Lateinamerika-Nachrichten

18th September 2013, Berlin

Film Screening and Discussion

»Fight Nestlé to the death«

With Alirio Uribe (Bogotá) from the Colombian human rights organization CAJAR

27th September 2013, Berlin

Podium Discussion

The Pinochet Effect – Impact of Transnational Court Cases

With Baltasar Garzón (Madrid), David Sugarman (Lancaster), Juan Garcés (Madrid), Beatriz Brinkmann (Santiago de Chile)

30th September 2013, Berlin

Podium Discussion

Crimes against Humanity in Colombia: The »Falsos Positivos« Cases and the Responsibility of Top Military Figures

Partners: CAJAR (Colectivo de Abogados José Alvear Restrepo) and Informationsgruppe

Lateinamerika

2nd October, Vienna

Book Launch and Discussion

Dirty Wars

With Jeremy Scahill

Partner: Publisher Antje Kunstmann

17th October 2013, Berlin

Exhibition Opening at ECCHR: »Chile Yesterday Today«

By Federico Zuckerfeld and Loreto Garín Guzmán

16th November 2013, Berlin

Film Screening and Discussion

»El Juicio« (The Trial)

With Patricia Isasa

Partner: Embassy of the Republic of Argentina

27. November 2013, Berlin

Podium Discussion

Human Rights Claims against Corporations: Possibilities and Limits

Partners: Bread for the World, German Institute for Human Rights, medico international and SÜDWIND Institut für Ökonomie und Ökumene

28th November 2013, Berlin

Podium Discussion

Holding Corporations to Account for their Failure to Exercise Human Rights Due Diligence:

Experiences in Transnational Litigation

Partners: Bread for the World, Misereor, Business & Human Rights Resource Centre

3rd December 2013, UN Forum on Business and Human Rights, Geneva

Podium Discussion

The Nestlé Court Case

Partner: MultiWatch

3rd December 2013, University of Bern

Podium Discussion

Human Rights Violations Abroad by Swiss Companies: Gaps in the Law and Obstacles for Legal Proceedings in Switzerland

Partners: Corporate Justice, Swiss Section of the International Commission of Jurists,

Demokratische JuristInnen Schweiz, foraus - Forum Außenpolitik

5th December 2013, Zurich

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UNIVERSIDAD DE CHILE
PROYECTO DE OBRAS PAVAS - INTERCOMUNICACION

IDIEM

OBRA: EDIFICIO CONGRESO NACIONAL
CONTROL DE CALIDAD EN

- DISEÑO DE OBRAS
- SUPERVISIÓN Y CONTROL DE OBRAS
- ADMINISTRACIÓN DE OBRAS
- RECONSTRUCCIÓN DE OBRAS

PLAZA BRUNO N. 100 - PUNTO VENTURA - SANTIAGO





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Anna von Gall:

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Wolfgang Kaleck / Carolijn Terwindt:

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Andreas Schüller:

»Rechtsschutzmöglichkeiten bei gezielten Tötungen durch Drohnen«, IALANA/ZERP congress, »Quo vadis NATO – eine Herausforderung für Demokratie und Recht«, working group VI Bremen, 27th April 2013

Andreas Schüller:

Case note: »Reales Risiko« der Folter oder unmenschlichen Behandlung reicht für ein Beweisverwertungsverbot, in: Zeitschrift für Internationale Strafrechtsdogmatik, 5/2013, p. 245-248

Andreas Schüller:

Die Haftung des Staates im bewaffneten Konflikt, in: Dieter Weingärtner und Heike Krieger (eds.): Streitkräfte und nicht-staatliche Akteure, Baden-Baden 2013, p. 149-159

Andreas Schüller:

Vor der Sommerpause: Zweimal kein Rechtsschutz gegen Vereinte Nationen, in: Junge Wissenschaft im Öffentlichen Recht (JuWissBlog), 5th July 2013

Andreas Schüller:

The role of national investigations in the system of international criminal justice – Developments in Germany, in: Sicherheit und Frieden, Issue 4, 2013, p.226-231

Carolijn Terwindt:

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»Er war ein schlechter Mensch«, Ein Nachruf auf den ehemaligen argentinischen Militärdiktator Jorge Rafael Videla (1925-2013), der in Haft verstarb, in: Lateinamerika Nachrichten, 468, June 2013, S. 39-41

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Assets as of 01/01/2013 (incl. funds earmarked for 2013)	639,471 €
TOTAL	1,745,855 €

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External services	42,292 €
Occupancy costs	59,106 €
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Programs, projectes, events	225,738 €
Investment costs	3,190 €
Other expenses	5,977 €
TOTAL	856,238 €
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VII. Photographer José Giribás

José Giribás was born in Santiago de Chile in 1948. In 1973, he was forced to leave his home country and some months later arrived in Berlin, where he has since lived and worked. The photographs in this booklet were taken largely during the 1980's and have been on display at ECCHR offices since September 2013. The exhibition opening was held on 11 September 2013, the 40th anniversary of the military coup in Chile and marked the first in a series of events on this topic. The events also marked the 15th anniversary of the arrest of Pinochet in London and dealt with the »Pinochet Effect« and accountability for corporations that collaborate with dictatorships. The pictures by Giribás show impressions of a dictatorship, but also focus on the resistance against the regime, another theme running through our series of events.

Giribás has worked for nineteen years for the station Freies Berlin and as a freelance photographer for Der Spiegel, Manager Magazine and Handelsblatt. Between 2000 and 2008 he worked as a photographer for Bloomberg News. Since then he is working as a freelance photographer and for the Süddeutsche Zeitung Archiv. Along with being a talented photographer, José Giribás is also a wonderful story teller who can recount the story behind each of his pictures. At the heart of both his photography and his storytelling are the people involved. We are honored to have been able to display his photographs in our offices and to include them in this booklet.

WOLFGANG KALECK
Berlin, February 2014



Impressions of a Dictatorship by José Giribás

Photo Captions

P. 2 José Ramón Pinochet Ugarte, General and Dictator, at the Diego Portales building in Santiago on 12.09.1988.

P. 4/5 Rally in front of La Moneda presidential palace following the unsuccessful putsch in Santiago on 29.06.1973.

P. 6 (from top to bottom) Arrest during a demonstration in Santiago on 16.02.1986. / The widows of José Manuel Parada Maluenda, Santiago Nattino Allende and Manuel Leonidas Guerrero Ceballos hold a demonstration for justice across from La Moneda presidential palace in Santiago on 16.02.1986. Roberto Parada's son, José Manuel Parada Maluenda, was kidnapped and murdered by police on 30 March 1985. / Solidarity rally in Berlin on 11.06.1987.

P. 8 A child pictured during a demonstration against the dictatorship in Santiago on 16.02.1986.

P. 10 A young military patrol soldier in José Giribás' apartment in Santiago on 22.09.1973. A few days after the military putsch, a military patrol turned up at his home. He thought the soldiers had come to take him away but in fact they just wanted to have their photographs taken. **P. 12/13** Members of the cultural brigade "Ramona Parra" paint a mural during a rally for a "No" vote in Pinochet's plebiscite in Santiago on 01.10.1988. **P. 14** (from top to bottom) Demonstration for human rights in Santiago on 08.09.1988. / The military junta in the Diego Portales building in Santiago on 12.09.1988. From l to r: Humberto Gordon Rubio, Chilean Army General, member of the military junta from 1986 to November 1988 and head of the CNI secret services from July 1980 to October 1986; Fernando Jorge Matthei Aubel, Air Force Commander in Chief, member of the military junta from 1978 to November 1990; José Toribio Merino, Admiral, member of the military junta from 1973 to 1990 and Rodolfo Stange Oelckers, Police Director General, member of the military junta from 1985 to 1990. **P. 15** (from top to bottom) Demonstration for human rights in Santiago on 08.09.1988. / Rally for a "No" vote in Pinochet's plebiscite in Santiago on 01.10.1988. / Arrest of a woman in Santiago on 02.10.1988. **P. 16** (from top to bottom) The Sebastian Acevedo Movement stage a protest in front of the cathedral in Santiago on 04.10.1988. / Arrest of a woman in Santiago on 16.09.1988.

P. 17 A young military patrol soldier in José Giribás' apartment in Santiago on 22.09.1973. A few days after the military putsch a military patrol turned up at his home. He thought the soldiers had come to take him away but in fact they just wanted to have their photographs taken. **P. 20** Demonstration for human rights in Santiago on 08.09.1988 with Carmen Gloria Quintana (right). On 02.07.1986 Carmen Gloria Quintana and photographer Rodrigo Rojas Denegri were arrested and set alight by a military patrol. Rodrigo Rojas died from the injuries he sustained in the attack. **P. 23** Searching for those who were disappeared by the military dictatorship in Santiago, 03.10.1988.

P. 25 (from top to bottom) Arrest of a woman in Santiago on 16.09.1988. / A child works as a street musician (chinchinero) in the Paseo Ahumada on 06.09.1988 in Santiago, Chile. **P. 28/29** Rally calling for a "No" vote in Pinochet's plebiscite in Santiago on 01.10.1988. **P. 30** (from top to bottom) Rally calling for a "No" vote in Pinochet's plebiscite in Santiago on 01.10.1988. A man carries a replica of the painting "The Fourth Estate" (Il Quarto Stato) by Piedmont artist Giuseppe Pellizza da Volpedo which was completed in 1901. The painting is carried as a symbol of the 1907 massacre in the Santa Maria de Iquique school, in which the military slaughtered hundreds of striking mine workers and their families. / Rally calling for a "No" vote in Pinochet's plebiscite in Santiago on 01.10.1988.

P. 31 A young military patrol soldier in José Giribás' apartment in Santiago on 22.09.1973. A few days after the military putsch a military patrol turned up at his home. He thought the soldiers had come to take him away but in fact they just wanted to have their photographs taken. **P. 32** Rally calling for a "No" vote in Pinochet's plebiscite in Santiago on 01.10.1988. **P. 33** Arrest of a woman in Santiago on 02.10.1988. **P. 36** (from top to bottom) Rally calling for a "No" vote in Pinochet's plebiscite in Santiago on 01.10.1988. / Arrest of a woman in Santiago on 16.09.1988.

P. 38 Funeral of a young victim of police repression in the Central Cemetery in Santiago on 18.09.1988. **P. 44/45** Water cannons in use in Santiago city center on 12.12.1989. **P. 48** Police officers at work in Santiago city center on 12.12.1989. **P. 53** Tear gas cannons (zorrillo) in use during a demonstration in Santiago on 02.10.1988. **P. 54/55** The words "Welcome Democracy" on a placard at a demonstration against Pinochet's dictatorship in Santiago on 15.12.1989. **P. 60/61** Patricio Aylwin assumes office as President of the Republic of Chile on 12.03.1990. **P. 63** General Augusto Pinochet (center), President of the Republic of Chile, at an event in Santiago on 12.09.1988.

P. 68/69 Clotario Blest Riffó (left), founder of the trade union confederation Central Única de Trabajadores (CUT) and co-founder of the Revolutionary Left Movement (MIR), and Edward Kennedy on 15.01.1986 in Santiago.

P. 72 (from top to bottom) Leonor Oyarzún Ivanovic (left), wife of elected President Patricio Aylwin Azocar, and Mercedes Hortensia Bussi Soto de Allende, wife of president Salvador Allende on 08.03.1990 at an event in Santiago. **P. 73** (from top to bottom) Catalan singer-songwriter Joan Manuel Serrat sings for prisoners of the dictatorship in a prison on 28.04.1990. During the Pinochet dictatorship he was not permitted to perform in Chile. / Raul Silva Henriquez (center), Archbishop of Santiago de Chile, after President Patricio Aylwin took office in Valparaíso on 11.03.1990. **P. 74** Members of "Patria y Libertad" and supporters of General Augusto Pinochet attempt to provoke German journalist Gero Gemballa (at wheel of car) close to the Diego Portales building in Santiago on 12.09.1988.

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