



ANNUAL REPORT
2014

Enforcing human rights law by new means

ECCHR

EUROPEAN CENTER FOR
CONSTITUTIONAL AND
HUMAN RIGHTS



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A word of thanks for your support in 2014

Dear friends, supporters and colleagues, we are pleased to present our latest annual report.

Torture is outlawed in almost every part of the world; slavery has, as such, been abolished. Yet despite this, people all over the globe continue to suffer abuse at the hands of state forces and continue to be exploited by powerful corporations. Women, children and men are discriminated against, oppressed and robbed of their fundamental rights. We turn to the law to fight this injustice. Our aim is to use legal instruments to put a stop to grave and systematic human rights violations. Our work focuses on crimes against international law committed by powerful states and on inhumane practices of transnational corporations.

In January 2014, we submitted a criminal complaint against the United Kingdom to the International Criminal Court (ICC) concerning the torture of detainees in Iraq. To date, no politician or military figure from a Western state has ever been tried at the ICC, and so we were very pleased when the ICC Chief Prosecutor announced in May 2014 that the Court would open preliminary investigations against the UK.

Corporations are rarely held to account for human rights violations. In response to the mass violation of the rights of thousands of girls who took part in drug trials in India, we submitted a legal opinion to the Supreme Court of India on the liability of pharmaceutical companies GlaxoSmithKline and Merck. The Court responded by requesting that the drug companies provide the Court with a statement and further information on the trials. In both of these cases, our legal interventions have had a clear impact.

These two key victories for ECCHR would not have been possible without support. We count ourselves extremely fortunate to benefit from the voluntary support of our cooperating lawyers, the assistance of various partners, and the contributions of the many young lawyers and other participants in our Education Program. We are





grateful for the financial support provided by a range of foundations, organizations and individuals. Their support makes it possible for us to continue our work on the cases and projects detailed in this report – many of which are the culmination of years of work.

This annual report features images by Nghia Nuyen, who was just 14 years old when he fled Saigon with his family in 1975. He settled in Germany in 1981, where he has lived ever since. The summer of 2014 saw Nuyen return to Vietnam for the first time. A few months later he unveiled his exhibition »Secret of Return« (Images, P. 79) at ECCHR in Berlin. The works include installations of oversized oil-painted dollar bills. On each one, the central portrait of George Washington has been replaced with a painting of the mutilated face of one of the Vietnamese victims of the US Agent Orange airstrikes. No prosecutions were ever taken against those responsible for these crimes or the blanket bombings that killed and seriously injured tens of thousands of civilians during the Vietnam War. Victims of the poisonous gas attacks continue to suffer from the consequences. Now they have come together to seek compensation from the producers of Agent Orange. Nuyen takes an artistic approach to these events, offering a powerful visual expression of the victims' plight.

WOLFGANG KALECK
General Secretary of the European Center for Constitutional and Human Rights

I. Challenging Impunity for Serious Human Rights Violations

When governments crack down on peaceful dissent, when they suppress basic human rights, and when they jail, torture and even kill those who would dare challenge their abuses of power, they do so because they can. They calculate that their human rights crimes will come at no cost.

When governments, in the name of fighting terrorism, decide to respond to vicious terrorist crimes by flouting their own obligations under international human rights and humanitarian law, they start a dangerous downward spiral of abuses, impunity and double standards that undermine the very rules they claim to protect. They figure that they can get away with it.

When corporations ignore workers' rights or deliberately engage in abuses, they do so because they believe it will do no harm to their public image. Their calculation is that it will not disturb their bottom line of economic profit.

The mission of the European Center for Constitutional and Human Rights (ECCHR) is to alter the balance of these calculations. Governments, non-state actors and corporations should be put on notice that human rights crimes do come at a cost, that the victims are not too weak to respond, and that perpetrators will be held accountable.

Working with victims and global partners, ECCHR is using the law and strategic litigation to challenge war crimes by all parties to conflicts around the world, including in Afghanistan, Iraq, Sri Lanka and Syria. ECCHR is supporting victims of US drone strikes in Yemen. It is seeking redress for clinical trials carried out without consent on more than 20,000 girls in India, and it is working to advance accountability and reparations for a fire that killed nearly 300 workers in a Karachi textile plant that produces clothing for the German market, among others.

ECCHR has filed a case in Germany against a timber production company related to brutal beatings and rapes in the Democratic Republic of Congo, and it has used the Organization for Economic Cooperation and Development (OECD) mechanism as a vehicle for challenging German and British surveillance firms for their potential complicity in serious human rights abuses in Bahrain.

In 2014, ECCHR, together with partners in the United Kingdom (UK), filed a comprehensive complaint with the International Criminal Court (ICC) concerning the torture and abuse of Iraqi detainees by UK military forces during the Iraq War. A few months later, the ICC prosecutor announced that she would open a preliminary examination into these allegations and the prevailing impunity in the UK for the crimes.

Following the release of the damning summary of the US Senate report on CIA torture, ECCHR used Germany's universal jurisdiction legislation to launch a criminal complaint in Germany against key members of the former Bush administration, accusing them of individual criminal responsibility for torture and other war crimes. Germany's federal prosecutor subsequently announced that he was launching an investigation.

ECCHR also has a dedicated educational program that brings together »young lawyers« from around the world. The program aims to broaden this truly international network of lawyers by advancing their legal expertise and equipping them with the tools and contacts that will help them develop progressive legal skills for conducting effective human rights litigation around the world.

Every year, ECCHR organizes a series of public events in various corners of the world, bringing together activists, politicians, lawyers, international jurists, journalists, prosecutors and judges to discuss challenges and developments related to human rights litigation.

ECCHR knows that the pursuit of justice through legal remedies for serious human rights crimes is not a panacea for all disputes or a guarantee for securing peace.

But victims of human rights crimes have a right to be heard, to be taken seriously and to be compensated for the wrongs done to them by those who calculated that they could advance their goals through the commission of murder, torture, rape and abuse without ever being held to account.

Through our work, ECCHR sends a strong message to individual perpetrators, both past and potential, changing their calculations as they contemplate grave decisions.

LOTTE LEICHT
EU Director of Human Rights Watch and Vice-Chairwoman of the Council
of the European Center for Constitutional and Human Rights



II. A Decade of International Action against the »War on Terror« Torture Program

It all started with a criminal complaint lodged in Germany. In November 2004, shortly before I took up my position as UN Special Rapporteur on Torture, Wolfgang Kaleck submitted a criminal complaint concerning violations of the UN Convention against Torture and the German Code of Crimes against International Law, calling on Germany to open investigations into the criminal liability of then-serving US Secretary of Defense Donald H. Rumsfeld and CIA Director George Tenet, among others. Since taking this case on behalf of four Iraqi victims of torture and the Center for Constitutional Rights in New York, Kaleck and ECCHR have worked tirelessly with partners around the world to instigate court proceedings against those responsible for the torture carried out by the CIA, the US military and by members of the British army. ECCHR has compiled legal opinions, dossiers and criminal complaints for cases in Germany, France, Spain, Switzerland and further afield.

2014 was another momentous year for ECCHR's legal interventions against the torture carried out under the auspices of the »War on Terror.« In January, the organization lodged a criminal complaint against the UK with the International Criminal Court in The Hague. In December, another complaint was submitted to the Federal Prosecutor at the German Federal Court of Justice against Tenet, Rumsfeld and other »architects« of the CIA torture program.

In lodging these complaints in The Hague and in Germany, ECCHR is seeking a »legal response to the language of violence«, as General Secretary Kaleck aptly puts it. Under Articles 12 and 13 of the UN Convention against Torture, state parties are obliged to do more than just investigate individual complaints from torture victims. States must also examine every credible case of suspected torture, regardless of whether the reports come from the state's own security forces or whether they are uncovered by the media, investigated by civil society groups, or documented by specialized groups like ECCHR.



Initial investigation into torture allegations does not necessarily need to be undertaken by a court. Any impartial institution will suffice. Since torture accusations are a criminal matter, they are generally investigated by the police, often after referral by state prosecutors or investigative courts. Police investigations will not, however, satisfy the impartiality requirement in cases involving suspected torture by members of the police force. For this reason, all state parties to the UN Convention against Torture are supposed to establish a special force to »police the police«, that is, an independent investigative body which has all the investigative powers of the police, but is fully independent and superior in rank to the police. Where there is reason to believe the allegations are well-founded, states are obliged to commence criminal proceedings against the suspected perpetrators. This also applies in cases in which foreign suspects are present on the territory of a state party. States must also ensure that civil courts provide victims with adequate compensation that goes beyond standard damages payments to also cover long-term costs of medical, psychological and other forms of rehabilitation. ECCHR offers support and expertise

throughout investigations and court proceedings on cases of torture. The UK ratified the UN Convention against Torture in 1988 and the Rome Statute of the ICC in 2001. Britain has failed to act on requests to launch criminal investigations into accusations of systematic torture and abuse of detainees in Iraq between 2003 and 2008. ECCHR and the British Public Interest Lawyers (PIL) group have thus taken the next logical step and proceeded to submit a complaint to the ICC against senior military and political figures, including former British Army head Sir Peter Wall and former Defence Secretary Geoff Hoon.

In compiling the 250-page complaint, ECCHR and PIL investigated 85 representative instances of torture and abuse in various British internment camps. The research confirmed the suspicion that these cases represent war crimes under Article 8 of the Rome Statute. Despite losing cases on this issue at the European Court of Human Rights in Strasbourg, the British judiciary continued to refuse to take any criminal measures against those responsible, meaning that taking a case to the court in The Hague was the only remaining option for torture victims seeking justice.

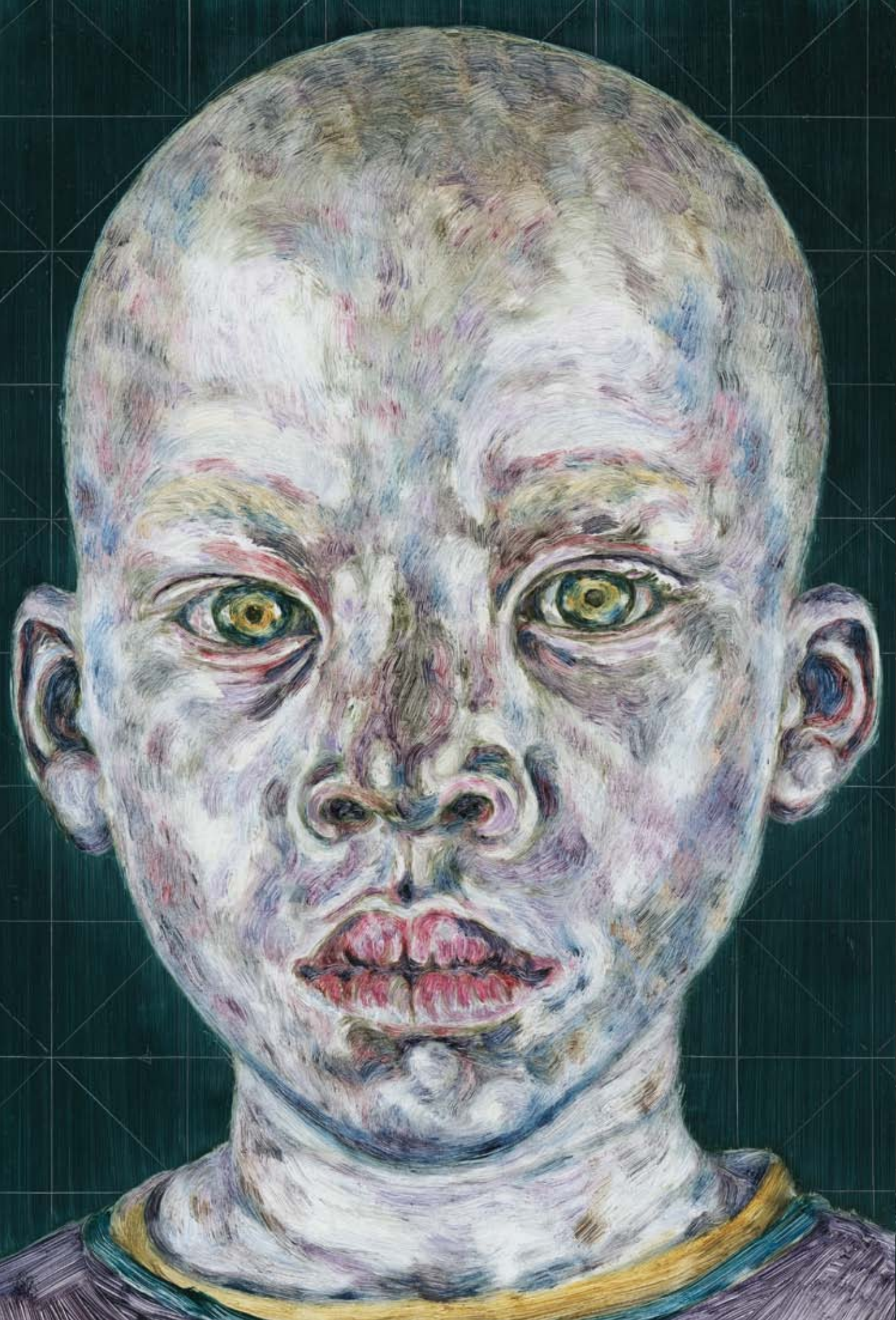
The torture methods used by the CIA in the so-called »War on Terror« have been officially documented, most recently in the report by the US Senate Committee on Intelligence. In December 2014, directly after the publication of the report, ECCHR lodged a criminal complaint with the German Federal Prosecutor against former CIA director Tenet, former US Secretary of Defense Rumsfeld and other senior figures in the Bush administration. They stand accused of the war crime of torture under Section 8 Paragraph 1 No. 3 of the German Code of Crimes against International Law. Even if none of the named accused are currently on German territory, the State is still required to carry out the requisite preliminary investigations. The Federal Prosecutor must begin to investigate and secure evidence to allow for immediate arrest and prosecution – in accordance with the principle of universal jurisdiction – should one of the accused travel to Germany. Extradition to the United States would also be an option, but would offer little hope to the victims of torture: the Obama administration has to date shown no interest in criminal proceedings on the crimes of the Bush era.

It is widely known that Bush and his government devised a comprehensive counterterrorism program in reaction to the attacks of 11 September 2001. Measures taken as part of the program included secret prisons in various countries, including Poland, Romania and Lithuania, as well as the abduction of terror suspects through »extraordinary rendition« flights and the use of »enhanced

interrogation techniques« that undoubtedly qualify as torture. As UN Special Rapporteur on Torture, I presented a report on the US detention center at Guantánamo Bay to the United Nations Human Rights Council in February 2006 in cooperation with other UN experts. The report classified the interrogation methods expressly authorized by Rumsfeld as torture and called for the center to be closed immediately. The Bush administration rejected our findings at the time as being inaccurate. In February 2010, we presented the Human Rights Council with a global study on secret detention that documented in detail the torture of terror suspects in various secret CIA prisons. Now, of course, we finally have the first official and comprehensive investigation carried out by the USA. The Senate report confirms the substance of our findings. While only part of the more than 6,000-page long report has been published to date, enough evidence exists to facilitate criminal proceedings in the US, Poland, Romania and Lithuania, and to take cases under the principle of universal jurisdiction in Germany, France, Belgium and Spain. The report also offers some hope to victims of the covert abductions and torture practices – including German citizen Khaled El Masri, who was abducted by the CIA in Macedonia and tortured in the secret CIA prison known as the »Salt Pit« in Afghanistan – that they might finally receive compensation from civil courts in the United States.

There is still a long way to go in the quest for real justice for victims of CIA torture such as El Masri. ECCHR is a competent, dedicated and reliable partner in this endeavor.

UNIV. PROF. DR. MANFRED NOWAK LL.M.
Professor for International Law at the University of Vienna, former UN Special Rapporteur on Torture and member of the Advisory Board of the European Center for Constitutional and Human Rights.



III. Long Road to Justice: The Fight against Impunity

While the law offers a great deal of potential for making the world a better place, taking the legal approach can be a challenging task. Crimes against international law such as torture and war crimes must be investigated and prosecuted. Ensuring that this occurs is our stated goal and is at the heart of our day-to-day work. It is not enough to prosecute only those who carry out these acts; it is crucial that the senior figures planning and instigating such crimes are also brought to justice. When, for example, women are subjected to rape during a civil war, it is often a question of power that determines whether it is the Minister of Defense or one of the soldiers under his control that ultimately ends up on the defendant's bench.

ECCHR uses a variety of legal actions and measures to enforce the rights of the weak. These range from criminal complaints to expert legal opinions, legal analyses and statements on legal policy. The scope of our work spans criminal law to civil and administrative law, as well as other complaint mechanisms. It involves seeking recourse in the states where crimes have been committed and the home states of the perpetrators, as well as applying the principle of universal jurisdiction and turning to international institutions.

We aim to choose cases that are exemplary of a wider problem. Abuse, targeted killings and renditions all tend to be consequences of human rights violations; often they are born of the excesses of political and military conflict. Taking legal proceedings helps to expose these violations and reveal their root causes. A further welcome outcome of such legal interventions is their tendency to spark debates on legal policy at a national and international level.

A MILESTONE FOR INTERNATIONAL CRIMINAL JUSTICE: ICC LAUNCHES PRELIMINARY INVESTIGATIONS AGAINST THE UK

The criminal complaint against the United Kingdom concerning torture at the International Criminal Court in January 2014 and the criminal complaint against the »architects of torture« lodged with German authorities in December 2014 represent two parts of the same project. In both cases, ECCHR is keen to ensure that investigations

EXPERT LEGAL OPINIONS AS A TOOL: THE AMICUS BRIEF

An amicus curiae is literally a »friend of the court«. An amicus brief is an expert opinion submitted to a court as part of court proceedings by a person or organization who is not a party to the proceedings. The aim of the brief is to present the court with an unbiased opinion

drawing attention to issues that may be of particular interest to the court in its deliberations. The court will generally undertake an initial examination of the admissibility and the particular expertise of the amicus in question.

THE AMICUS BRIEF IN ACTION: LAWSUIT AGAINST THE UN FILED BY VICTIMS OF CHOLERA

In October 2014, ECCHR was offered the rare opportunity to present an amicus brief on the limits of the immunity of the United Nations (UN) during oral hearings at the Southern District Court in New York. The court was examining a class action suit from survivors of the cholera epidemic in Haiti in 2010, during which over 8,500 people died and more than 700,000 were infected. The applicants claimed that the cholera outbreak was caused by Nepalese soldiers serving as UN peacekeepers and called for compensation from the UN. Following the UN's rejection of the claims, the Haitians filed a suit in autumn 2013 with a court in New York, where the UN headquarter is based.

In its amicus brief from May 2014, ECCHR, together with other European legal experts, argued that international organizations do not enjoy unlimited immunity before national courts in Europe in situations where the organizations themselves do not offer the possibility of providing compensation. Applying this approach to the UN, it is clear that its immunity may be limited, facilitating the submission of lawsuits such as the one brought by the cholera victims to national courts. At the heart of the case is a simple idea: the right to compensation must not be withheld from anyone.

are not limited merely to low-ranking soldiers; their superiors in the military and political ranks are those with the greatest responsibility for the systematic torture and must be held accountable. By submitting the complaint against the UK, we once again raised the issue of double standards in international criminal justice. The complaint soon brought about results: in May 2014, the ICC announced its decision to open preliminary investigations into the UK, while a month later, court analysts arrived in England to determine whether the British Ministry of Defence had carried out an adequately comprehensive investigation into the torture accusations levelled against British soldiers in Iraq. This represents a milestone for the victims of torture and abuse, as well as for the field of international criminal justice. While the preliminary proceedings against the UK do not necessarily mark the beginning of a whole new focus in international criminal justice, the Court's decision to launch investigations does send a strong message.

The range of different strategies and legal methods used by ECCHR is clear from the organization's work on the torture of oppositionists in Bahrain, on Germany's role in US drone strikes, and on war crimes in Sri Lanka. The cases also demonstrate the variety of results that can be achieved through legal human rights work.

IMMUNITY LIFTED: BAHRAIN PRINCE MAY FACE PROSECUTION IN THE UK

Repression and violence are the words that best describe Bahrain's response to the Arab Spring. Following demonstrations in other Arab countries, thousands of peaceful demonstrators took to the streets of Bahrain in March 2011 to call for reforms. The regime responded by brutally repressing protests with the help of Saudi Arabian troops. Bahraini demonstrators, human rights activists, journalists and oppositionists are still facing systematic surveillance, persecution, arrests and torture carried out with the involvement of senior state officials. Witness testimony states that Prince Nasser bin Hamad al Khalifa was one of those involved in threatening and beating political prisoners. Prince Nasser, the son of King Hamad bin Isa al Khalifa, has been a regular visitor to Europe and in particular to the UK. Now he may be facing legal proceedings.

In October 2014, the High Court in London lifted the immunity of Prince Nasser, leaving the way clear for criminal investigations to be launched against him in the UK. ECCHR was involved as an intervening party in the proceedings on immunity. In July 2012, ECCHR submitted two dossiers to the British Prime Minister, Foreign Office and state prosecutor concerning the abuse of imprisoned oppositionists in Bahrain. On submission of these dossiers, we called on the authorities to refuse entry to Prince Nasser on his planned trip to the Olympic

Games in London. UK police initiated investigations in response, but later discontinued the case on account of the Prince's immunity.

A further complaint was also lodged against the Prince in France. In August 2014, the French Ministry of Foreign Affairs and state prosecutor rejected the possibility of prosecution on the basis that the Prince is afforded immunity in order to attend political meetings. We will continue to work to bring about prosecutions in the countries visited by Prince Nasser and other perpetrators from Bahrain. The UK decision could serve as a powerful signal for future prosecutions based on the principle of universal jurisdiction.

LAW AND SUBVERSION

WHY WE NEED THE PRINCIPLE OF UNIVERSAL JURISDICTION

Madrid, where for the last two days I've been at the Teatro Goya discussing the principle of universal jurisdiction. I've been invited to this conference by the ever controversial Baltasar Garzón, the former judge now acting as a lawyer with a client list that includes Julian Assange. Madrid, where almost twenty years ago the principle of universal jurisdiction was enjoying its heyday in a series of criminal proceedings taken against dictators from around the world, long before the International Criminal Court had begun its work.

The first cases focused on the former Spanish colonies in Latin America, reaching a spectacular climax on 16 October 1998 when Garzón, acting as investigative judge, ordered the arrest of Chilean dictator Augusto Pinochet in London. While Pinochet was never ultimately put on trial, he did spend a year in custody and under arrest. He returned to Chile a defeated man where he, his family and his henchmen became the subject of further investigations. Similar proceedings followed in neighboring Argentina directed against the military forces that held power during the 1970s. Lawyers described these developments as the »Pinochet effect«: while the cases taken in Europe did not lead to many convictions in European courts, combined with the constant pressure exerted by human rights movements in Latin America they did prompt authorities in the affected countries to finally begin pursuing perpetrators at home in an overdue dismantling of the culture of impunity.

It was a promising beginning for the concept of universal jurisdiction. But while this approach had some further success in El Salvador and Guatemala, cases on Gaza, Guantánamo and Tibet soon became mired in complications. States are becoming ever more vocal in their criticism of the Spanish judiciary's investigations into human rights violations committed by their citizens. Against this background, we need to support the courageous judges, prosecutors and lawyers in Spain who, despite the many changes in the law that have made their jobs more difficult, continue to work to bring about investigations on Tibet and Guantánamo.

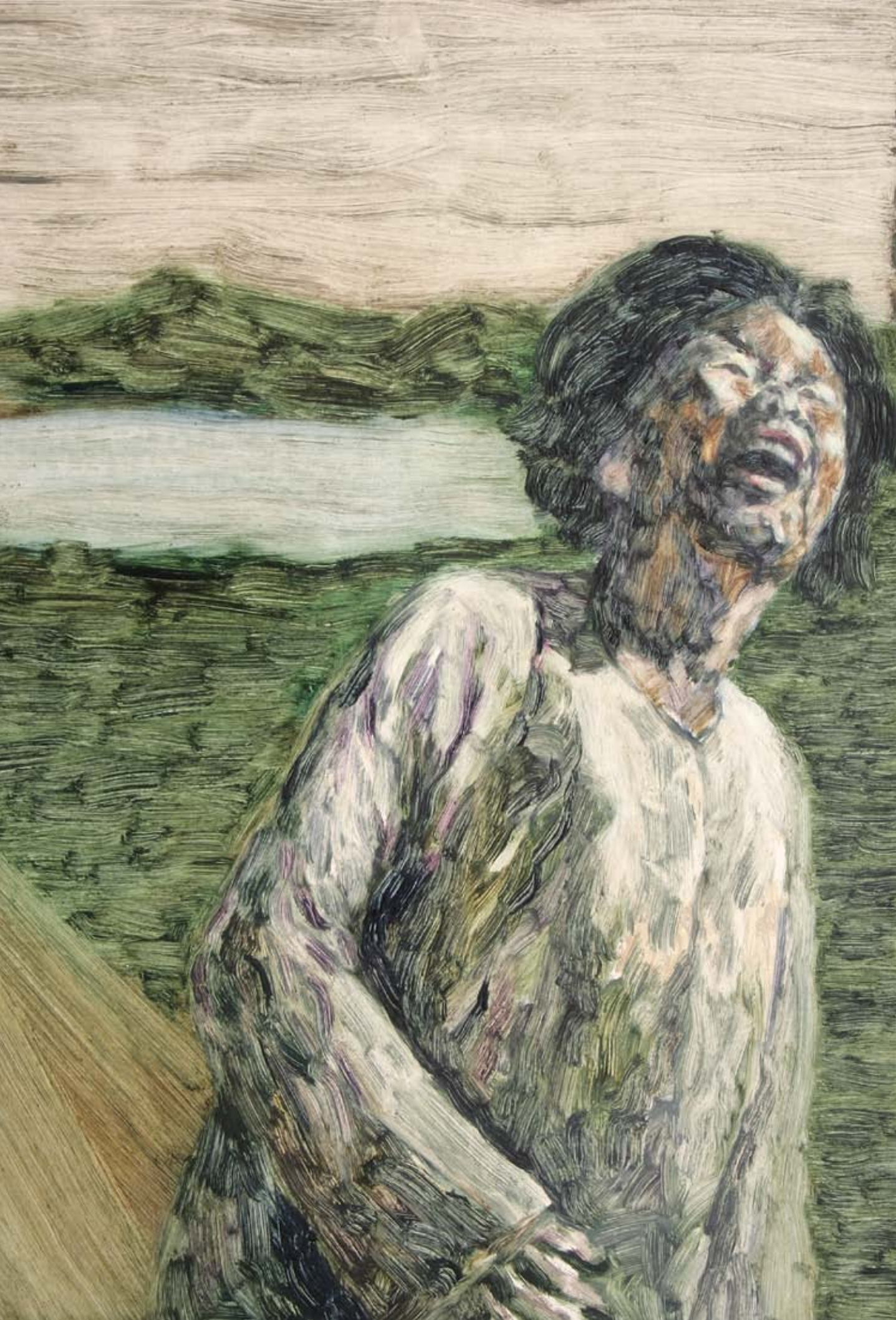
The project could truly be seen as a success if it manages to create a global practice of universal jurisdiction. Spain should not be left on its own to withstand the political pressure from China and the USA arising from these cases.

An unabridged version of this text first appeared in May 2014 on »Law and Subversion«, the weekly blog by ECCHR General Secretary Wolfgang Kaleck on ECCHR's website.

US DRONE WAR: SURVIVORS OF YEMEN DRONE STRIKE IN LEGAL ACTION AGAINST GERMANY

Again and again, the US uses drone strikes to kill individuals they suspect to be terrorists. Again and again, innocent people are killed in the attacks – in Afghanistan, Pakistan, Somalia and Yemen. International humanitarian law permits the killing of combatants in countries where armed conflict is ongoing, such as Afghanistan and Pakistan. US drone warfare, however, often violates international humanitarian and human rights law by ignoring the separation between military, intelligence services and police, and by suspending democratic checks and rule of law mechanisms. This results in the deprivation of individuals' rights. To date, no legal efforts have managed to stop the US from engaging in these strikes. Instead, the US receives support from a number of European governments, including Germany, through sharing intelligence and allowing the US to operate military bases on European soil.

»Without Germany, my brother-in-law and nephew would still be alive today. Without Germany, the US would not be able to carry out drone strikes in Yemen«, says Faisal bin Ali Jaber, who survived a US drone strike in eastern Yemen in the summer of 2012. The US military base in Ramstein, Germany was involved in the strike. The US uses Ramstein to relay information to the drones; members of its mission teams evaluate real time images and assist the pilots in carrying out



the targeted killings. The German government has, to date, refused to acknowledge any responsibility for the death of civilians as part of US drone warfare.

Together with international human rights organization Reprieve, ECCHR is assisting the extended Bin Ali Jaber family in their legal action in the wake of the 2012 attack. In October 2014, three members of the family filed a suit against the German government, specifically the German Ministry of Defence, with the administrative court in Cologne. The three Yemeni claimants are calling on Germany to accept legal and political responsibility for US drone strikes in Yemen and to prohibit the US military's use of Ramstein, particularly the use of its satellite relay station. The Bin Ali Jaber family's legal action could represent the first instance in which victims of drone strikes have their case heard by a German court. A court case would also bring about some long overdue political discussion on Germany's role in US drone warfare in general, as well as on the question of the two states' agreement on the stationing of US troops.

CIVIL WAR CRIMES: FIRST STEPS TOWARDS CRIMINAL PROSECUTIONS IN SRI LANKA

The civil war in Sri Lanka lasted almost 30 years. The United Nations estimates that up to 100,000 people died in the conflict, many of these during attacks by government troops on protected civilian zones and hospitals. Women and girls were repeatedly subjected to sexualized violence in the course and aftermath of the war. Yet the Sri Lankan government has, to date, made almost no efforts to investigate these crimes or to facilitate an independent investigation by an international body. Since 2009, ECCHR has been investigating and documenting war crimes, crimes against humanity and cases of sexualized violence against women in northern and eastern parts of the country.

In 2014, ECCHR passed on its analyses on the accountability of individual government figures and suspects from the Sri Lankan military forces to the international investigations originally opened by the Office of the UN High Commissioner for Human Rights (OHCHR) under the auspices of the OHCHR Investigation on Sri Lanka (OISL). We also provided UN investigators with a collection of witness testimony. ECCHR had already presented dossiers and expert opinions on the crimes to various UN committees and Special Rapporteurs. We continue to work on securing evidence for future proceedings and on initiating criminal investigations around the world. We take our lead from the experiences in Chile and Argentina, where the »Pinochet Effect« has shown the importance of the interplay between national and international proceedings in the pursuit of justice for crimes against international law.

LAW AND SUBVERSION

OBSTACLES AT EVERY TURN: SEEKING JUSTICE FOR VICTIMS OF SEXUALIZED VIOLENCE

As though the many cases of mass murder and abuse around the world weren't bad enough, such crimes against humanity are often accompanied by widespread sexualized violence. And while it can be very difficult, even in this age of international human rights treaties and the International Criminal Court, to bring to justice those responsible for large scale murder and abuse, taking legal action against perpetrators of sexualized violence can present even greater challenges.

We can all be guilty sometimes of failing to properly acknowledge the problem. Friends of mine – dedicated human rights activists – describe how, given the scale of the violence they deal with in the course of their work, sometimes the easiest or indeed the only option is to begin by counting the dead and identifying corpses, just so they can make a start somewhere. In these cases they don't get around to talking to victims of sexualized violence, who are often left traumatized long after the actual physical and psychological abuse occurred, to record these experiences or to work with the victims to bring the perpetrators to justice.

Violence in conflict regions such as Sri Lanka is a cause of great concern. During the final stages of the fight against the Tamil guerillas in 2009, hundreds of women were raped. Gruesome pictures emerged in Channel 4's documentary No Fire Zone of female journalist Isaipiriya, who was brutally murdered during the conflict. Even after the civil war had been won by government forces, bands of soldiers continued to commit violent crimes against women in Sri Lanka. Women were kidnapped from refugee camps at night and stopped at army checkpoints where they were abused.

Such crimes are also a common occurrence in Colombia, where thousands of women have been subjected to sexualized violence in the past years. ECCHR is currently working with regional partner organizations to take action on cases in Sri Lanka and Colombia. But our progress is slow. The danger facing affected women and their

representatives is simply too great. Again and again, we hear reports of women's rights activists, particularly in rural areas, being subjected to persecution and rape on account of their work.

The global summit taking place in London is long overdue. Under the leadership of the otherwise oft and justifiably maligned British Foreign Office, delegates will work on a protocol for the documentation and investigation of sexualized violence in conflict regions. Steps in the right direction. Encouraging signs are to be found also in the most recent report by Fatou Bensouda, the Chief Prosecutor at the International Criminal Court, who will hopefully soon press charges in connection with sexualized violence for the first time in the court's history.

An unabridged version of this text first appeared in June 2014 on »Law and Subversion«, the weekly blog by ECCHR General Secretary Wolfgang Kaleck on ECCHR's website.

Planned and authorized at the highest level: Torture carried out by the CIA and US military

Waterboarding, sleep deprivation, electric shocks. Guantánamo, Abu Ghraib, Bagram and secret prisons in Eastern Europe. The CIA and the US military systematically carried out torture, authorized at the highest level, as part of the »War on Terror«. This is described in detail in the 6,000-page report of the US Senate Committee on Intelligence from December 2014. Despite this evidence, US authorities have failed to undertake any legal proceedings in connection with the torture methods that were ordered and/or administered by intelligence agencies, the government or the army.

The US Senate report includes the case of German citizen Khaled El Masri, who was abducted by CIA agents in 2004 in a case of mistaken identity and subsequently tortured in a secret detention center in Afghanistan. Despite very clear responsibility, CIA leaders have explicitly ruled out any legal action against the intelligence agents in charge of the abduction.

LEGAL APPROACH

Criminal complaint lodged with the Federal Prosecutor at the German Federal Court of Justice in Karlsruhe against former CIA head George Tenet, former US Secretary for Defense Donald Rumsfeld and others. Submitted in December 2014.

ECCHR accuses Tenet, Rumsfeld and a number of others of committing the war

crime of torture as set out in Section 8 Paragraph 1 No. 3 of the German Code of Crimes against International Law (Völkerstrafgesetzbuch – VStGB). »By opening investigations against members of the Bush administration, Germany can help to ensure that those responsible for abductions, abuse and illegal detentions are not permitted to go unpunished«, the complaint states. In addition to the criminal complaint, we have also written to Federal Minister of Justice Heiko Maas (SPD) to work to secure an apology and compensation from the US in the El Masri case. The letter also said that Germany must request the extradition from the US of the thirteen CIA agents involved in El Masri's abduction and for whom arrest warrants have been issued.

PROJECT STATUS

The Federal Prosecutor is currently examining the criminal complaint as well as the report of the US Senate Committee on Intelligence.

Still no criminal proceedings: Torture of detainees in Iraq by British troops

Between 2003 and 2008, British soldiers were involved in the systematic abuse and torture of detainees in Iraq. This has been confirmed by testimony from 109 former detainees that has been collated into a dossier by ECCHR and the British law group Public Interest Lawyers (PIL). The Iraqi victims report simulated executions, extensive sleep deprivation, enforced stress positions, sexual abuse and religious degradation.

The accusations have long been known to British authorities and have been the subject of various state investigations. Yet no adequate criminal law measures have been taken to date in the UK – in particular on the responsibility of senior military figures and political decision makers.

LEGAL APPROACH

Criminal complaint (»communication«) at the International Criminal Court in The Hague. Submitted in January 2014.

In the communication to the Court, ECCHR and PIL call for investigations against senior figures in the British military as well as former ministers, secretaries of state and former Prime Minister Tony Blair. Systematic torture, grave abuses and cruel and degrading treatment are all classified as war crimes and forbidden under Article 8 of the ICC Statute. The UK ratified the ICC Statute in 2001.

PROJECT STATUS

In May 2014, the ICC announced its decision to initiate preliminary investigative proceedings. In June 2014, analysts from the Office of the Prosecutor travelled to England to determine whether the British Ministry of Defence had carried out an adequately comprehensive investigation into the torture accusations levelled against British soldiers in Iraq. The preliminary investigations are ongoing.

Guantánamo on trial: Investigations in Spain and France into the US torture program

The French judiciary began investigations in 2002 in proceedings concerning three French former Guantánamo detainees. The US has, to date, failed to respond

to France's request for legal assistance. ECCHR is assisting the claimants' lawyer by providing legal expertise. The National Court in Spain has been investigating the systematic torture of detainees in Guantánamo since 2009. We are pursuing these proceedings along with its partners from Madrid and New York and is representing Murat Kurnaz from Bremen, Germany, who was detained and subjected to torture in Guantánamo between January 2002 and August 2006.

LEGAL APPROACH

Expert opinion and representing former Guantánamo detainee Kurnaz in Spain. Since January 2011.

PROJECT STATUS

ECCHR and the Center for Constitutional Rights in New York submitted an expert legal opinion to assist the proceedings in France. The opinion concerned the liability of former Guantánamo commander Geoffrey Miller.

Spain has drastically restricted the scope of the principle of universal jurisdiction over the past months. In November 2014, the Criminal Chamber of the Spanish National Court nevertheless decided that the investigations into torture in Guantánamo could be continued.

Four successful cases: Legal intervention against »terrorism lists«

In the wake of 11 September 2001 the UN and the EU placed huge numbers of individuals on so-called »terrorism lists« and issued economic and legal sanctions against those named. Four Tunisian men,

resident in Italy, were added to the lists in 2003/2004. Despite the fact that Italian courts cleared the men of all allegations of terrorism, they continued to be treated as »former members« of an Italian terrorist organization. As a consequence, the authorities froze all assets of the men and their families. Over a period of years, the men were forbidden from travelling, working or receiving financial support. ECCHR and its Amsterdam-based cooperating attorney Gavin Sullivan have been working since 2011 on behalf of the four Tunisian victims.

LEGAL APPROACH

Four applications for the removal of individual names from the »terrorism lists« submitted to the UN Security Council Sanctions Committee ombudsperson and to the European Commission. First submitted in 2011.

PROJECT STATUS

The UN Security Council Sanctions Committee removed the fourth name from the list in April 2014. This decision marks the successful resolution of all four cases.

No Immunity in the UK: Abuse and torture of oppositionists in Bahrain

Hundreds of human rights activists, opposition leaders and other critics of the regime have been imprisoned since the outbreak of the protests seeking reforms in Bahrain in spring 2011. Many of those imprisoned were and continue to be abused and, in some cases, tortured.

ECCHR has witness testimony and other evidence suggesting that Prince Nasser bin Hamad al Khalifa, son of King Hamad bin

Isa al Khalifa, personally threatened and beat detainees. As the Prince regularly travels to Europe, particularly to the UK, we called on British authorities to deny him entry into the country and begin investigations.

LEGAL APPROACH

Dossiers on the abuse of detained oppositionists in Bahrain presented to the British Prime Minister, Foreign Office and prosecution authorities.

Submitted in June 2012.

Participation in proceedings as an intervening party.

PROJECT STATUS

British police launched investigations in 2012, but these were discontinued by the Crown Prosecution Office on account of Prince Nasser's immunity. A Bahraini citizen living in the UK appealed the prosecution's decision. In October 2014, the High Court in London revoked the Prince's immunity. This leaves the way clear for criminal proceedings to be undertaken in the UK. ECCHR took part in the proceedings as an intervening party and continues to work to ensure that the UK investigations are reopened.

Case against German government: Germany's role in US drone strikes in Yemen

Since 2002, the US has been increasingly using armed drones as part of its so-called »War on Terror« in order to carry out targeted killings of »terrorism suspects« in Yemen and elsewhere. A drone strike in summer 2012 killed three members of the Bin Ali Jaber family, while many of the survivors continue to suffer from trauma

caused by the attack. The family has never been accused of supporting terrorism and has, in fact, been actively engaged against al-Qaida in the region.

US drone warfare receives important assistance from the US military base at Ramstein in western Germany, where data on drone strikes is collected, processed and passed on. Germany has, to date, denied any responsibility for the death of civilians as part of US drone warfare. In lodging their complaint the Bin Ali Jaber family want to ensure that the German government puts a stop to the use of Ramstein for drone strikes.

ECCHR is assisting the Bin Ali Jaber family in legal action concerning the attack.

LEGAL APPROACH

Administrative law complaint by three members of the Bin Ali Jaber family against the German government, represented by the German Ministry of Defence, filed with the administrative court in Cologne. Submitted in October 2014.

PROJECT STATUS

The administrative court in Cologne has referred the complaint to the Ministry of Defence for official comment.

Fallout from Kunduz: Legal action on bombing

On 4 September 2009, two US fighter jets, acting on the orders of German Army Colonel Georg Klein, dropped bombs on two tankers that had been hijacked by the Taliban and a group of people gathered nearby. The bombing occurred at the Kunduz River in Afghanistan. More than 140 adults and children were killed or injured in the blast. The German Federal Prosecution discontinued its investigations against Colonel

Klein in April 2010 and the State Prosecutor in Dresden and the Higher Regional Court of Düsseldorf have refused to carry out further investigations. In ECCHR's view, the response of the German government, army and prosecution authorities was inadequate and failed to meet international human rights standards. We are assisting an Afghani man who lost his sons, aged eight and twelve, in the attack.

LEGAL APPROACH

Assistance in criminal proceedings in Germany Since April 2010.

Constitutional complaint submitted in March 2011.

PROJECT STATUS

The constitutional complaint was split into two separate proceedings. The case on the claim that the investigations were inadequate is still ongoing.

Tens of thousands of civilians in the firing line: War crimes in Sri Lanka

The civil war in Sri Lanka ended in May 2009 after almost 30 years. According to UN estimates, over 70,000 civilians died only during the six-month period of the Sri Lankan army's final offensive against the Tamil Tigers rebel group (LTTE). The Sri Lankan government's bombing targets included protected civilian zones as well as hospitals. No one has yet been held accountable in Sri Lanka for these and other war crimes committed during the civil war. In March 2014, the UN Human Rights Council adopted a resolution calling for an investigation into the war crimes to be carried out by an independent UN commission.

Since 2009, ECCHR has been researching and documenting witness testimony and other evidence of war crimes and crimes against humanity in Sri Lanka, and has compiled this information into legal reports and dossiers.

LEGAL APPROACH

Dossiers on individual suspects from the Sri Lankan military forces, including diplomats posted in Europe.

Submitted to the foreign affairs ministries of Germany, Switzerland and the UK in January 2011 and January 2012.

PROJECT STATUS

Throughout the course of 2014, ECCHR interviewed more witnesses of war crimes and recorded testimony from more than 20 individuals.

In October 2014, we presented our analyses on the liability of the government and the military to the UN Investigation on Sri Lanka (OISL).

No end in sight: Sexualized violence in Sri Lanka

Women and girls in northern and eastern Sri Lanka continue to be subjected to rape and other forms of sexualized violence in the aftermath of the country's civil war. This violence – in particular the abuse of Tamil women – is a consequence of the intense militarization of the region after the war. The Prevention of Terrorism Act (PTA) makes it easier for members of the police and military forces to carry out bodily inspections and searches without giving any reason. These often go hand in hand with sexual harassment and gender-specific violence.

ECCHR is working to ensure that the UN carries out investigations into the situation

of the women and children in Sri Lanka. Furthermore, the UN must demand that Sri Lanka meets its international obligations and brings its police legislation into line with the UN Convention on the Elimination of Discrimination against Women.

LEGAL APPROACH

A number of expert legal opinions, including one for the Office of the UN High Commissioner for Human Rights.

Latest opinion submitted in August 2013.

PROJECT STATUS

Ongoing research and collection of testimony and evidence to present to UN institutions. In March 2014, ECCHR presented its research at a hearing as part of a session of the UN Human Rights Council in Geneva.

A case for the ICC: Violence against human rights defenders and trade unionists in Colombia

Since the mid-1980s, almost 3,000 trade unionists have been murdered in Colombia. Again and again, activists and trade union members are falsely accused of being members of the guerrilla fighters, an allegation that makes them into military targets for the Colombian army and paramilitary groups.

The extent of the violence against trade unionists in Colombia reaches the threshold of crimes against humanity and therefore falls under the jurisdiction of the International Criminal Court (ICC) in The Hague. Since the Colombian judicial authorities are not doing enough to pursue investigations and prosecution in relation to these crimes, the prosecution authorities at the ICC are

obliged to initiate investigations against the senior government and military figures behind these crimes.

LEGAL APPROACH

Criminal complaint (»communication«) at the ICC in The Hague.

Submitted in October 2012.

The communication, submitted by ECCHR, Colombian human rights organization CAJAR and the Colombian trade union confederation CUT, is designed to convince the prosecution to open investigations into cases of systematic violence against human rights defenders and trade unionists in Colombia.

PROJECT STATUS

ICC prosecution authorities have not yet decided whether or not to open formal investigative proceedings. In an interim report from November 2012, the court prosecutors decided to continue the preliminary investigations. In July 2013, ECCHR issued its response to the interim report and presented the ICC with further information on the continued lack of legal action on these cases in Colombia.

In the shadows of the Chilean dictatorship: Sexual abuse and enforced disappearances at Colonia Dignidad

Grave human rights violations were committed over a period of decades at »Colonia Dignidad«, a predominantly German settlement in Chile founded in 1961 by Paul Schäfer. Opponents of the Pinochet regime (1973-1990) were disappeared, tortured and murdered at the settlement. For decades, German and

Chilean children were subjected to systematic sexual abuse at the site. In January 2011, Hartmut Hopp, community doctor and »right-hand« to sect leader Schäfer, was convicted in Chile of aiding the sexual abuse of minors and was sentenced to five years and one day in prison. Hopp fled to Germany, where he is protected from extradition because of his German citizenship. German authorities could, however, ensure that Hopp serves his sentence in Germany.

LEGAL APPROACH

Criminal complaint against Hartmut Hopp lodged with the state prosecution in Krefeld. Submitted in August 2011.

ECCHR has been working on cases relating to the human rights violations in Colonia Dignidad since 2011. The primary aim is to use legal action in Germany to support Chilean efforts to address the legacy of the Pinochet dictatorship. Investigatory proceedings were launched against Hopp by the prosecution authorities in Krefeld in August 2011 and he was called to give evidence in February 2012. The proceedings are ongoing.

PROJECT STATUS

In July 2014, the Supreme Court of Chile decided to call on Germany to enforce a five-year prison sentence against Hopp for aiding the sexual abuse of minors, allowing Hopp to serve out his Chilean sentence in Germany. To assist with the petition for the enforcement of a sentence, ECCHR submitted a legal opinion to the prosecution authorities in Krefeld on compliance with the laws of criminal procedure in Chile.

Our cooperating attorneys also travelled to Chile in November 2014 to carry out further research and meet with affected persons and judicial officials.

We also met with Chilean Foreign Minister Herald Muñoz during the Chilean President Michelle Bachelet's visit to Germany in October 2014.

A first for Germany: Trial of Rwandan militia members under principle of universal jurisdiction

Two Rwandan militia leaders, Dr. Ignace Murwanashyaka and Straton Musoni, have been on trial before the Higher Regional Court in Stuttgart since May 2011. Murwanashyaka, President of the Forces Démocratiques de Libération du Rwanda (FDLR), and Musoni, his deputy, stand accused of committing grave human rights violations in eastern Democratic Republic of Congo (DRC) in 2008/2009. The trial is the first to be held in Germany under the Code of Crimes against International Law (VStGB), which entered into force in 2002 and incorporated into German law the criminal provisions set out in the statute of the International Criminal Court.

ECCHR is monitoring the trial in collaboration with other organizations and issues regular statements on the application of the Code as well as on the treatment by German courts of the issue of sexual crimes committed during armed conflict.

LEGAL APPROACH

Trial monitoring.
Since May 2011.

PROJECT STATUS

In February 2014, ECCHR issued an interim report detailing the key developments of the trial during 2013.

Preparing for future legal action: Documentation of crimes against international law in Syria

The Syrian government has committed numerous crimes against humanity and war crimes in the period since March 2011. ECCHR is assisting with legal work on the crimes in Syria to facilitate future investigations and prosecutions. Together with other human rights organizations, we are compiling testimony from witnesses and passing this evidence on to the Federal Prosecutor in Karlsruhe.

LEGAL APPROACH

Providing ongoing assistance to witnesses and to the Federal Prosecutor in Germany. Since 2011.

PROJECT STATUS

In 2014, ECCHR lawyers accompanied witnesses who were recording their testimony at the German Federal Criminal Police Office.



IV. Corporate Accountability: Why Voluntary Codes Fall Short

Corporate Social Responsibility is a voluntary model of self-regulation adopted by many transnational corporations. It is difficult, however, to square such voluntary claims of corporate responsibility with the reality of the globalized economy of the 21st century. Corporations, along with their subsidiaries and suppliers, are all too often involved in human rights violations abroad, whether through deliberate cooperation with violent regimes, through business policies focused only on profit, or through a sheer lack of due diligence on the part of management. Victims of these violations rarely have access to the means necessary to take a lawsuit in the countries where the companies are based. Even if they were to get this far, enforcing any such judgments would be almost impossible. ECCHR works to ensure that legal action is taken on human rights violations caused by corporate activity. Part of the objective of such action is to trigger political debate. What role do transnational corporations play in our globalized world? What laws do we need in order to hold companies accountable for human rights violations? In any proceedings we undertake, we look to the broader economic, social and political dimensions and attempt to subvert existing power relations through the use of innovative legal approaches.

Our cases are designed to provide legal recourse to victims of rights violations while also expanding and developing the scope of legal instruments. Both criminal and civil law provide for rules on the liability of managers for crimes and violations of due diligence obligations within corporations. These forms of liability can also be applied in cases of human rights violations committed by transnational corporations abroad.

We are working on a number of important cases that are representative of broader structural problems: the fire disaster in a textile factory in Pakistan that predominantly supplied German discount retailer KiK, controversial vaccination trials carried out on schoolgirls in India, and the export of surveillance software to Bahrain.

TEXTILE INDUSTRY: VICTIMS OF PAKISTAN FACTORY PREPARE LAWSUIT AGAINST KIK IN GERMANY

260 people died and 32 were injured in a fire at the Ali Enterprises textile factory in Karachi, Pakistan, in September 2012. The disaster,

THE INDIVIDUAL PETITION AS A LEGAL INSTRUMENT: TAKING A COMPLAINT BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS

Any natural or legal person may submit an individual petition to the European Court of Human Rights (ECtHR) in Strasbourg under Art. 34 of the European Convention on Human Rights (ECHR). A claim will be admissible in cases in which all national legal remedies have been exhausted and the claim involves a potential breach of a Convention right by a State Party. The Court must then issue a judgment determining whether the state has breached the Convention.





once again, brought into sharp relief that textiles produced for Western consumption come at a price – a price many workers in southern Asia are paying with their health and sometimes their lives. Textile workers at Ali Enterprises were burned and suffocated because highly flammable textiles were stored in the factory, where the windows were barred and the emergency exits sealed. The fire was triggered by a short circuiting of the factory’s badly maintained electrics. The factory’s biggest customer was German clothing discounter KiK, who according to their own records, purchased at least 70% of the goods produced there. KiK made immediate aid payments after the catastrophe. However, subsequent negotiations with the German firm on long-term compensation to cover the loss in earnings of family bread-winners killed in the fire and improvements in factory working conditions, have been mired in delays.

ECCHR is assisting survivors and families of victims with legal action and the preparation of a civil lawsuit in Germany. This case is about much more than securing compensation. Those affected by the fire, who ECCHR staff met in Pakistan in September 2014, are calling for justice. They want KiK to finally take responsibility for its foreign suppliers and be held accountable before a German court.

In May 2014, we submitted an expert legal opinion in criminal proceedings against the owners of Ali Enterprises currently underway at the High Court of Sindh in Karachi. The opinion addresses the potential for widening the scope of the Pakistani investigation. There is evidence indicating that KiK and the Italian certification company RINA knew or must have known about the risks on account of their business relations with the factory. Furthermore, both of these European companies exerted enough influence on factory owners in Pakistan to demand the establishment of appropriate fire protection measures, yet both failed to do so.

DRUG TRIALS: INDIAN SUPREME COURT PUTS PHARMACEUTICAL FIRMS UNDER SCRUTINY

In 2009, 24,000 schoolgirls in the Indian states of Gujarat and Andhra Pradesh were vaccinated against the human papillomavirus (HPV), a virus which can lead to cervical cancer. Many of these girls were not given adequate information, while others were vaccinated without their consent. The vaccination project was developed and led by US organization PATH (Program for Appropriate Technology in Health) and financed by the Bill & Melinda Gates Foundation, while the vaccinations being trialed were supplied by pharmaceutical companies GlaxoSmithKline (UK) and Merck (USA).

STRASBOURG PETITION: THE NESTLÉ/ROMERO CASE:

In December 2014, ECCHR, together with cooperating partners from Colombia and Switzerland, submitted an individual complaint to the ECtHR against Switzerland on behalf of the widow of Luciano Romero, a murdered Colombian trade unionist and former Nestlé-Cicolac employee. The application is based on the right to life (Article 2), the right to form and join trade unions (Article 11) and the right to an effective remedy (Article 13).

The road to Strasbourg was the only remaining option after the Swiss judiciary dismissed all claims brought by Romero’s widow in a Supreme Court decision in July 2014. The ECtHR must now decide whether the Swiss authorities adequately investigated Nestlé’s liability for Romero’s murder.

As part of public interest litigation proceedings in August 2014, the Supreme Court in New Delhi requested that GlaxoSmithKline and Merck submit a statement and further information on the drug trials. This decision reflected the calls made by ECCHR in an amicus brief submitted to the Court in February 2014. The brief highlighted the applicable standards set out in international agreements and gave an overview of laws and court decisions from the USA and the UK, which establish the legal liability of the drug manufacturers and the sponsors of the study. The proceedings in India could serve as a model for similar claims in other cases concerning pharmaceutical firms that carry out drug trials abroad in order to sidestep strict controls in the countries where they are based.

SURVEILLANCE TECHNOLOGY: GERMANY IGNORES WARNINGS ON ILLEGAL SPYING

»You can't torture people with software.« These are the kinds of arguments used by producers of surveillance and spy software like German-British firm Gamma International to justify their trade links with dictators and authoritarian regimes in Ethiopia, Turkmenistan, Bahrain and elsewhere. Their arguments have the desired effect: there are currently very few export restrictions on surveillance technology. The reality of surveillance in Bahrain, however, shows how surveillance software like FinFisher from Gamma help authorities to gain control of computers belonging to human rights activists, journalists and oppositionists in just a few clicks. This systematic digital monitoring is often followed up with physical violence, including persecution, arrest and torture.

Leaked data provides further evidence that Gamma is not only supplying Bahrain with software, but shows that it has also provided technical user support over the phone from Germany. The leaked information also suggests that as well as spying domestically, the Bahraini intelligence services have also engaged in surveillance of computers of Bahraini oppositionists in the UK, Belgium and Germany. In doing so, Gamma staff are guilty of aiding unlawful spying and must be held accountable. Following criminal complaints in the UK and Belgium, ECCHR and British group Privacy International lodged a criminal complaint with the state prosecution authorities in Munich in October 2014 calling for investigations into the actions of Gamma employees. The prosecution discontinued their investigation, claiming that no misuse of the software occurs in cases where data is collected by states. We issued a response to this decision calling for investigations to be reopened.

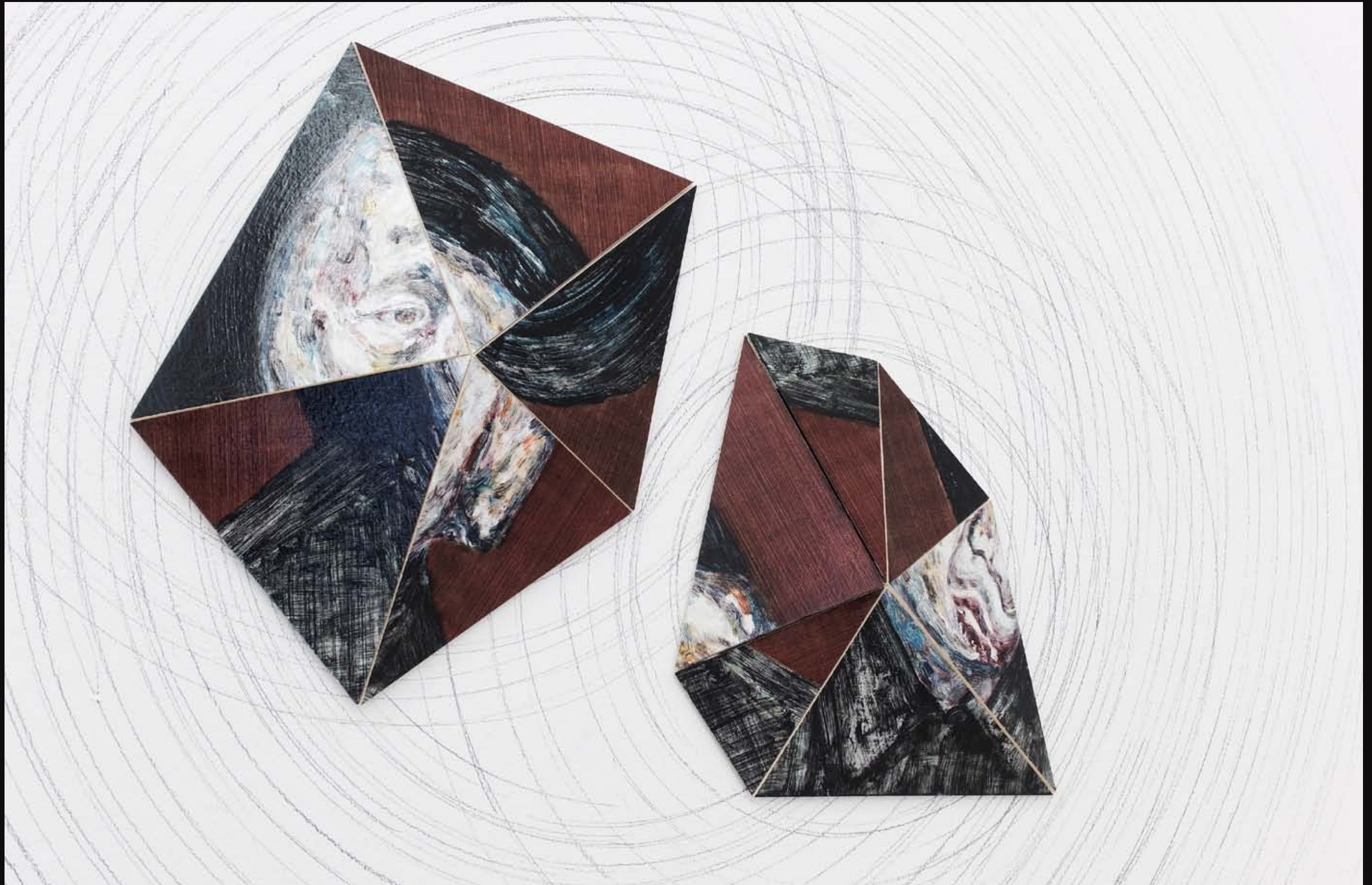
GUIDELINES ON INVESTIGATING CORPO- RATE INVOLVEMENT IN CRIMES OF DICTATOR- SHIP IN ARGENTINA

Collaboration between corporations and dictatorships is well demonstrated by the cases of car manufacturers Mercedes Benz and Ford, sugar producer Ledesma, and mining firm Minera in Argentina. The companies encouraged and profited from the crimes of the Argentine military dictatorship between 1976 and 1983. Since 2009, ECCHR has been working to ensure that these corporations are brought to justice. The cases concern the enforced disappearance, unlawful arrest and torture of trade unionists. We have also submitted amicus briefs on questions

of international law in a number of different criminal proceedings in the USA and Argentina.

We are working with the Argentine federal prosecution authorities to secure investigations into the involvement of corporate entities in the crimes of the military dictatorship and to bring criminal proceedings against the companies involved and/or their staff. We have assisted the authorities in compiling a guide (»guía«) to dealing with cases like those involving Mercedes Benz, Ledesma and Minera Aguilar. While there are many indications of corporate complicity, securing the requisite evidence can often present difficulties.

The guide sets out the applicable international and national jurisprudence on corporate liability for international crimes, including the relevant jurisprudence from the Nuremberg trials. It also includes an analysis of the cooperation between corporations and military dictatorships in Argentina and an overview of the investigations currently underway. The document lists a number of evidentiary aspects that prosecution authorities should pay particular attention to in future proceedings.



LAW AND SUBVERSION

GLOBALIZATION FROM BELOW

Over the past decades, international solidarity has been an important issue for parts of the leftist movement in Germany and beyond: solidarity with the colonial and post-colonial liberation struggles in Algeria and Vietnam, and against the military dictatorships in Latin America and the Apartheid system in South Africa. Since the 1990s, globalization critics around the world have been fighting an unjust global economic system and its destructive effects. The movement was galvanized by the publication of Naomi Klein's book *No Logo*, the Seattle and subsequent WTO conferences, and through the World Social Forum and regional forums in a form of globalization from below.

At first this took the form of demonstrations and protests, discussions and exchanges, but over time, thematic and regional networks formed to take collaborative action. New transnational coalitions are now emerging. Even just a few years ago it would have been unforeseeable that the presidents of three German trade unions – DGB, ver.di and IG Metall – would come together with the development organization medico international as they have in order to support the victims of the fire disaster in the Ali Enterprises textile factory in Pakistan.

The catastrophe took place in September 2012, killing 254 people and injuring 55 more. The compensation claims of the families of the victims in Pakistan are being levelled against German textile discounter KiK, as the German firm was the main buyer of the clothing produced in Karachi. Initially, it seemed as though the chain would provide swift support without undue red tape; US\$ 1 million was paid in immediate relief following the fire. But very little progress has been made since then. Instead, negotiations on compensation have been dragging out for months.

Those affected have had enough. With the support of Pakistani trade unions, they have established a self-help organization. Last week in Karachi, my colleagues Miriam Saage-Maaß and Carolijn Terwindt spoke with 50 survivors and relatives. A mother who has not cooked

at home since the disaster, as doing so reminds her of her dead son. A young dancer who had planned to use the money earned at the factory to forge a career as an artist. Proudly, he shows his videos – all dating from before the fire, as he has not been able to dance since that day. He saved the lives of many of his colleagues, but stayed in the burning building for too long, suffering smoke poisoning and developing long-term lung damage.

Dealt a severe blow by the incident and yet far from helpless, the people of Karachi clearly articulate their concerns and their aims. For them, it's not just about the money, but also a question of justice, of securing better and safer working conditions, and ensuring that foreign corporations are held legally accountable. It's a matter of no longer relying merely on the moral argument, but making use instead of their right to have and wield rights. One after another, they tell my colleagues their stories and sign the power of attorney for their legal representation.

It's unfamiliar territory for all of us. But as lawyers, we are also part of the globalization from below: the trade unions at home and on the ground, medico international, the Clean Clothes Campaign and the attorneys – the Pakistani upper middle class lawyer, the Italian compensation specialists and us, the lawyers from the European Center for Constitutional and Human Rights (ECCHR). All of us are working together on the criminal proceedings in Pakistan, the compensation case taken in Italy against the auditing firm that certified the factory shortly before the disaster, and on a lawsuit in Germany seeking compensation from KiK. Pakistani workers preparing to sue a German firm in a court in Dortmund? Some German lawyers may find this idea unusual. But it's something they are going to have to get used to.

An unabridged version of this text first appeared in September 2014 on »Law and Subversion«, the weekly blog by ECCHR General Secretary Wolfgang Kaleck on ECCHR's website.



In plain sight of the parent company: The murder of Nestlé worker Luciano Romero in Colombia

Trade unions in Colombia face enormous pressure from state and paramilitary entities. Threats to and murders of trade unionists are common occurrences. In September 2005, members of a paramilitary group in Valledupar kidnapped, tortured and murdered Luciano Romero, a trade union leader, human rights activist and former employee of Colombian Nestlé subsidiary Cicolac. The murder came after a number of death threats issued as part of a long-standing labor dispute between Cicolac and food producers' trade union Sinaltrainal. Sinaltrainal informed both the Nestlé subsidiary in Colombia and the parent company in Switzerland about the threats. Instead of taking appropriate protection measures, local Nestlé managers defamed Romero and his colleagues, alleging that they were members of the guerrillas, claims which subjected them to further threats. Nestlé management in Switzerland did nothing to prevent the threats and defamation. Criminal proceedings were launched in Colombia resulting in the conviction of the

direct perpetrators of the murder of Luciano Romero. In his verdict, the Colombian judge stated that Nestlé's role in the crime was of particular relevance and ordered an investigation to look into the matter in more detail. However, the Colombian prosecution authorities have, to date, failed to take up the issue. In their criminal complaint from March 2012, ECCHR, Sinaltrainal and Romero's widow accuse Nestlé and its managers of negligently contributing to Romero's death in breach of their due diligence duties by failing to take the necessary steps to prevent the murder. The Swiss judiciary has refused to investigate Nestlé's role in Romero's murder, claiming that the statute of limitations has elapsed. In July 2014, the Swiss Federal Supreme Court dismissed an appeal taken by Romero's widow against the decision to discontinue investigations.

LEGAL APPROACH

Criminal complaint against Nestlé and five Nestlé managers.

Submitted in March 2012 to the state prosecution authorities in Zug, Switzerland.

Appeal against decision of prosecution authorities to close proceedings.

Submitted in May 2013 to Cantonal Court in Vaud.

Appeal against the decision of the Cantonal Court in Vaud to close proceedings.

Submitted in December 2013 to the Swiss Federal Supreme Court.

Complaint against Switzerland.

Submitted on 18 December 2014 to the European Court of Human Rights (ECtHR) in Strasbourg.

PROJECT STATUS

The ECtHR must now determine whether the Swiss judiciary adequately investigated Nestlé's responsibility for Romero's murder.

Aiding violent crimes: Timber firm Danzer and the attack on a Congolese Village

In May 2011, a task force of local security forces carried out a raid on the village of Bongulu in the Équateur province in northern DR Congo. Eyewitnesses reported that soldiers and police launched a brutal attack on the village, beating and abusing a number of village inhabitants, raping women and girls, and making over fifteen arbitrary arrests. The security forces used vehicles belonging to timber company Siforco S.A.R.L. which was at the time a subsidiary company of the Swiss Danzer Group. The firm's involvement was not limited to the provision of vehicles and drivers. Following the attack, Danzer subsidiary managers also paid the soldiers and police officers. The attack was carried out in the context of a dispute with the village concerning investment in social and infrastructure projects that Siforco had contractually agreed to provide. Siforco engaged local security forces while still in negotiations with village inhabitants. The Danzer case is representative of a common occurrence in Africa, Asia and Latin America: deals or projects carried out by transnational corporations trigger social conflict which leads to violent incursions by local security forces. The management of European companies are, however, under an obligation to monitor their subsidiaries and

prevent any involvement in human rights violations.

LEGAL APPROACH

Criminal complaint against a senior employee of German-Swiss timber company Danzer Group.

Submitted in April 2013 to the state prosecution authorities in Tübingen.

ECCHR accuses the Danzer manager of aiding – through omission – the crimes of rape, grave bodily harm, false imprisonment and arson.

PROJECT STATUS

Examination of the complaint by prosecution authorities is ongoing.

ECCHR staff and cooperating attorneys are continuing legal and evidentiary research for the preparation of an expert legal brief.

Reckless construction: Forced displacement to make way for Lahmeyer dam in Sudan

German engineering firm Lahmeyer International planned and directed the construction of the Merowe reservoir dam in northern Sudan. The company was also in charge of launching the operation of the dam and the attached hydro plant. Lahmeyer began construction before the resettlement plans had been fully negotiated with the affected population, as required under international World Bank standards. The Sudanese government had not reached an agreement with the local population by the time the hydro plant was due to begin operations. Managers proceeded with the project regardless, leading to flooding that forced residents to

flee their homes. Rising water levels drove 4,700 families from more than 30 areas in the region. Lahmeyer contributed to the violation of the human rights to adequate accommodation and food.

LEGAL APPROACH

Criminal complaint against two senior employees of engineering firm Lahmeyer International.

Submitted in May 2010 to the state prosecution authorities in Frankfurt am Main.

ECCHR argues that German prosecution authorities must conduct appropriate investigations into the events in Sudan since German citizens were involved in the enforced displacement.

PROJECT STATUS

Prosecution authorities opened official investigations in April 2011 against three suspects within the firm and have heard testimony from numerous witnesses.

Charity without accountability: KiK's response to textile factory disasters in southern Asia

The collapse of the Rana Plaza factory building in April 2013 in Dhaka, Bangladesh and the fire at Ali Enterprises in Karachi, Pakistan in September 2012 are two particularly drastic examples of the inhumane working conditions endured in southern Asia by those producing goods for the European market. Payment below the living wage, excessive overtime hours on six to seven days per week, workplace abuse and discrimination, repression of trade unions and frequent workplace accidents and fire disasters: this is the sad reality faced by

millions of workers in South and East Asia. European companies aggravate the already poor conditions by demanding low prices and tough deadlines. This pressure is passed along to the workers by the factory owners. European companies do require their suppliers to comply with codes of practice and hire certification firms to monitor working conditions. What the Ali Enterprises case shows, however, is that this kind of auditing and certification is wholly unsuitable for effecting meaningful improvement in the lives of local workers. This situation makes it all the more important to establish what liability is borne by certification firms and by companies like German clothing dis-counter KiK.

LEGAL APPROACH

Amicus brief in criminal proceedings against the owners of Ali Enterprises. Submitted in May 2014 at the High Court of Sindh in Karachi. Legal action against KiK on behalf of five victims.

PROJECT STATUS

ECCHR staff carried out a research trip to Dhaka, Bangladesh in May 2014 to explore possible legal interventions in the Rana Plaza case. Since September 2014, we have provided ongoing assistance on a German lawsuit and other legal action to the Baldia Factory Fire Affectees Association (organization of survivors and family members of victims of the Ali Enterprises fire).

The technology of repression: Surveillance software from Gamma and Trovicor

Producers of surveillance technology such as Munich firm Trovicor and the British-German

Gamma Group are engaged in the export of spy software to states with repressive regimes, including Ethiopia, Turkmenistan, Malaysia and Bahrain, where it is used to repress critics or opponents of the government. In Bahrain, data from tapped telephone and internet connections has been used to arrest dissidents and extract confessions through torture. ECCHR, along with Privacy International, Reporters without Borders, the Bahrain Center for Human Rights (BCHR) and Bahrain Watch (BW) have evidence that the authorities in Bahrain elicited the communications information of the detainees using software from Trovicor and Gamma. Further data indicates that Bahraini authorities also used the FinFisher software suite to spy on computers outside Bahrain, including in Germany. The information suggests that Gamma not only supplied the software, but also provided the requisite technical support from Germany. While Trovicor and Gamma reject any responsibility for the possibility of their products facilitating human rights violations, the OECD Guidelines for Multinational Enterprises oblige companies from the signatory states to respect international human rights standards in the course of their foreign operations and to avoid or minimize any related negative effects of their business activities.

LEGAL APPROACH

OECD complaint against Munich-based Trovicor and the British-German Gamma International Group.

Submitted in Germany and the UK in February 2013.

Criminal complaint against FinFisher/ Gamma.

Submitted to state prosecution authorities in Munich in October 2014.

PROJECT STATUS

In December 2013, the German OECD National Contact Point dismissed the

complaint against Trovicor relating to business activities in Bahrain.

The British National Contact Point is currently still investigating the complaint against the Gamma Group.

In December 2014, the state prosecution authorities in Munich decided not to pursue criminal proceedings against FinFisher/ Gamma. ECCHR has lodged an objection to the decision.

A question of consent: Controversial drug trials in India

In 2009, 24,000 schoolgirls in the Indian states of Gujarat and Andhra Pradesh were vaccinated against the human papillomavirus cancer. American organization PATH (Program for Appropriate Technology in Health), the Bill & Melinda Gates Foundation and the pharmaceutical companies GlaxoSmithKline (UK) and Merck (USA) were all involved in the trials. In the wake of media reports of irregularities in the program, an Indian government investigatory committee confirmed that there were serious flaws in the drug trial process. With the help of our partner organization the Human Rights Law Network (HRLN), women's health activists launched legal action to bring those responsible to justice.

LEGAL APPROACH

Amicus brief submitted as part of public interest proceedings.

Submitted in February 2014 to the Supreme Court in New Delhi.

The brief concluded that any thorough investigation would have to include not only the organizations carrying out the tests, but also the pharmaceutical companies profiting from the results.





PROJECT STATUS

The Supreme Court accepted ECCHR's amicus brief in August 2014.

The Court then called on the pharmaceutical companies to furnish the court with a statement and further information on the trials.

Profit over sustainability: Resource mining and pesticide use in Latin America and South Asia

Land grabs and enforced displacement caused by exploitation of natural resources, health and environmental harm from pesticides: When transnational corporations exploit new regions in Africa, Asia and Latin America for the mining of precious metals or spread highly toxic pesticides, the rights of local populations are often ignored, and in some cases subject to grave violations. This is demonstrated in a series of cases analyzed by ECCHR and its partner organizations from 2009 onwards. In some regions of Latin America, land grabs and enforced displacement are pushed through using violence and without any legal basis. In some cases, land grabs are legally formalized when the state expropriates local populations in order to sell or lease the land. In these cases, any legal action must be directed against the state that authorized the expropriation; it is rarely possible to take action against the company profiting from the deal. Companies' use of the land is generally formalized through contracts with the state, making it extremely difficult for the original inhabitants to assert their traditional land rights.

Companies like Syngenta and Bayer continue to use pesticides in Malaysia, India and the Philippines that have been banned in

Europe and North America for their serious health risks. The damage to health caused by these products has been scientifically proven, yet the liability of the producers for this damage has rarely been legally recognized. Part of the problem is that in civil cases, it is difficult to prove that the pesticide manufacturers are directly accountable for the particular harm suffered by a claimant. It is particularly hard to demonstrate the causal relationship between the production of the pesticides and the chronic damage to health.

LEGAL APPROACH

No legal action to date.

PROJECT STATUS

ECCHR is currently researching possible legal interventions in relation to individual cases.

In cooperation with Brot für die Welt and misereor, we conducted workshops in Lima, Peru in December 2014 with participants from NGOs in Argentina, Peru, Colombia, Mexico, Bolivia and Switzerland.

V. The Future of Human Rights Work: Training the Lawyers of Tomorrow

In addition to its strategic legal interventions, ECCHR places a strong emphasis on learning and debate. Our vision of lawyering goes beyond what we learn in law school; we want to change our societies and consider law to be just one of the tools that can be useful in this struggle. Aware, too, of the limits of the law, we position ourselves at the intersection of law and activism. To this end, we pursue a critical, multidisciplinary and creative approach to law that takes into account the existing political and economic contexts of human rights violations. Communicating and developing this unique approach is at the heart of ECCHR's Education Program.

The Education Program organizes training opportunities and networking events with partners from around the world in order to foster and support a new generation of human rights defenders with a progressive understanding of law and a critical political outlook.

Thanks to the financial support of the Bertha Foundation, we have been able to significantly professionalize its Education Program over the last number of years. 2014 in particular saw some major advancements in the scope and quality of the program.

AT THE CORE: THE LEGAL TRAINEE PROGRAM

Through the Legal Training Program we provide a unique, professional and interactive learning platform – both theoretical and practical – to all our trainees, fellows, volunteers and other partners. Our goal is to encourage an informed and critical analysis of the pressing legal and socio-political issues of our times.

The Education Program aims to ensure that every participant benefits from the kind of learning that cannot be gleaned from books. At the core is the message that every lawyer can advance human rights by finding creative ways to push the boundaries of law towards social justice.

A SELECTION OF 2014 EDUCATION PROGRAM ACTIVITIES

Moot Courts
On the Tampakan killings in the Philippines,
by Lorita Facchini
Responsibility of Mina Aguilar S.A. for 1976 Crimes in Argentina,
by Lisa Bausch

Tailored Workshops
Human Rights Lawyering and its Ethical Dilemmas,
by Claudia Müller-Hoff
Pesticides and Agrochemicals: Building a Case on Supply Chains, Bottom up,
by Robert Goldspink,
International Senior Lawyers Project
Beyond reasonable doubt: Creative collection and presentation of ECCHR's evidence for influence,
by Gabi Sobliye and Andrea Figari of Tactical Technology Collective
Critical Human Rights Theory and its Implication for Practice,
by Simon Rau

Storytelling
Shahzad Akbar, founder of Foundation for Fundamental Rights, Pakistan
Michael Ratner, President Emeritus, Center for Constitutional Rights, USA
Alejandra Ancheita, founder of ProDESC, Mexico
Shawan Jabarin, Director of Al-Haq,
Manal Hazzan Abu Sinni, lawyer, East Jerusalem, and
Hamdi Shaqqura, Deputy Director of Palestinian Center for Human Rights, Palestine

Dora Lucy Arias Giraldo, CAJAR, Colombia
Shreen Saroor, Mannar Women's Development Federation, Sri Lanka

Legal Training Meetings
From the Karachi Fire in Pakistan to the Rana Plaza Collapse in Bangladesh: the Labyrinths of Seeking Accountability,
by Philip Wesche
European Border Policy and Frontex,
by Matthias Lehnert
School to Prison Pipeline: Mass Incarceration in the USA,
by Eric Eingold
Pesticide Litigation Roulette,
by Geeta Koska

Human Rights Cinema
William Kunstler: Disturbing the Universe
(by Sarah and Emily Kunstler)
Call Me Kuchu
(by Zouhali-Worrall and Katherine Fairfax Wright)
Audre Lorde: The Berlin Years 1984 to 1992
(by Dagmar Schultz)
Baseball in the Time of Cholera
(by Bryn Mooser and David Darg)

A UNIQUE ASSET: BERTHA FELLOWS AND THE BERTHA NETWORK

Since 2012, the Bertha Foundation has enabled ECCHR to offer two-year Bertha Fellowships to some of our most talented alumni. The fellows are part of the wider Bertha Justice Initiative network, which encompasses over 120 fellows in more than 15 countries. All work in organizations that practice public interest law and promote movement lawyering.

Two new fellows, Christian Schliemann-Radbruch and Nicolas Bueno, work with the staff on a number of projects, including the use and misuse of pesticide in the Punjab region of India and the filing of a petition to the European Court of Human Rights against Switzerland in the Nestlé case.

In March 2014, ECCHR fellows accompanied staff and the General Secretary to Cape Town, South Africa to attend the inaugural »Global Convening« of the Bertha Justice Initiative's network members. ECCHR joined with the directors and fellows of all the Bertha partner organizations for a week spent reflecting on the challenges and needs of public interest lawyering today. ECCHR hosted a follow-up to this meeting in Berlin in November 2014.

Throughout the year, ECCHR worked on projects and casework as part of this network, including with the Haitian-based Bureau des Avocats Internationaux, the New York Center for Constitutional Rights, the Human Rights Law Network in India, and the Foundation for Fundamental Rights in Pakistan.

FOR OUR COOPERATION PARTNERS: BERTHA GLOBAL EXCHANGE

The Bertha Global Exchange Program aims to facilitate mutual learning and the development of new avenues for transnational legal work and represents an integral part of ECCHR's Education Program. Global Exchange Fellows stay in our Berlin office for two to three months and are closely involved in our daily work. Fellows also work on specialist issues and help develop potential cases for joint casework in the future. Following their stay in Berlin, they generally become our contact points for collaboration in their home organizations.

In previous years, we hosted partners from Malaysia, India, China and Colombia. In 2014, we worked with Fellows Viviana Rodríguez Peña from Sisma Mujer, Colombia; Rocío Moreno Sanchez from Observatorio DESC, Spain; Melanie Aebli from the Association of Swiss Democratic Lawyers; Mohamed Alalami from the Gaza-based

»BEING A RADICAL FEMALE LAWYER«: ECCHR HOSTS BERTHA INTERNATIONAL EDUCATION EXCHANGE

We seek to empower female human rights lawyers to realize their professional ambitions. Mutual learning on issues such as tackling the challenges of working in a male-dominated legal profession and living in patriarchal, capitalist-driven and racist societies helps ECCHR staff and partners to reflect on and advance cutting-edge gender issues in the course of our work.

In October of this year, we were able to put these objectives into practice by hosting a group of 15 outstanding female human rights lawyers from the Bertha network, hailing from nine countries on five different continents. The gathering was made possible by a grant from the Bertha Foundation.

The meeting, held over the course of four days in Berlin, led to the creation of a Women's Working Group with ambitious objectives. The program encompassed a mixture of professional training, theoretical debates, a public discussion panel and safe-space talks as well as a Radical Women's Tour of Berlin.

A 10-minute documentary film »Women. Radical. Lawyers.« was produced by Chris Patz, an ECCHR alumnus, to explore these women's views on pursuing their work in a gender normative and patriarchal society. The film is available on the ECCHR website.

Palestinian Center for Human Rights; and Tahseen Elayyan from al-Haq, Palestine.

ALUMNI NETWORK FOR THE NEXT GENERATION

Anyone who undertakes a traineeship or global exchange or who works or volunteers for ECCHR is seen as a partner for mutual learning in the future. Together they constitute our alumni group, and their numbers are now into the hundreds. The Education Program has organized an annual Alumni Conference every year since 2012.

This year saw the largest gathering to date over a busy week of events in November. These Legal Intervention Days included several closed conferences, workshops and professional training sessions, a screening of the movie *Citizenfour* followed by a discussion with the filmmaker, Laura Poitras, and the opening of an art exhibition by Nghia Nuyen. It also included a live online intervention and Q&A with Edward Snowden for all of our alumni and guests. Former and current trainees took a particularly active role in organizing and directing many of the workshops. Some of the world's leading human rights lawyers and interdisciplinary experts from a range of fields were present to debate the challenges of radical lawyering and the latest legal, social, and political developments in strategic human rights litigation. The events of the week were on an invitation-only basis, offering a unique and privileged platform for networking.

CONTRIBUTING TO ACADEMIC DISCOURSE: OUR WORK WITH UNIVERSITIES

Since the foundation of the organization, we have consistently expanded our collaboration with universities in the spheres of education and project development. Our knowledge-sharing efforts are centered on joint lectures and seminars like the one held in September 2014 at Humboldt University in Berlin on the rights of oppressed members of society. We also co-organize a number of collaborative projects in which law students prepare dossiers for ECCHR or complete the practical element of their Law Clinic studies with us. The following is a selection of projects undertaken in 2014:

Legal debate: In October 2014, ECCHR, the Freie Universität Berlin and the University of Hamburg hosted a symposium on corporate criminal law at the Freie Universität. Experts from academia and legal practice took part in small discussion groups to explore how national and international criminal law could be used as an instrument of human rights protection in international economic life.

Interdisciplinary collaboration: This year saw collaboration between an ECCHR staff member and experts from Forensic Architecture, a research project at the Faculty of Architecture at Goldsmith University London. The project involved the use of computer animation to create a reconstruction of a drone strike in Pakistan. ECCHR is currently representing the widow of a man killed in the attack. The project sought to explore the potential that forensics might offer to independent organizations when it comes to investigating and presenting injustices and their political contexts.

LAW AND SUBVERSION

THE TOM CRUISE MOMENT

I first saw the movie *A Few Good Men* when I was a young lawyer. I loved the film and its message that no one is above the law. Many years later, I once again saw the film and it struck me how powerful it is in promoting social justice lawyering. In the final stages of the film, the camera focuses in on Tom Cruise, the quintessential rookie lawyer, bursting with talent and passion. Committed to justice against all odds, he dons his Navy Whites, enters the courtroom for the first time and stares down the personification of Evil that is Jack Nicolson and gets his confession: »You're goddamn right I ordered the Code Red.« In the final scene, Tom Cruise looks around the now empty, sun-kissed mahogany courtroom. The music rises and Tom exits the court: Good versus Evil, the triumph of Law over Injustice.

Any young person watching that movie must, at that moment, inevitably know that they will become a lawyer. It is impossible not to be moved to the ambition of being that lawyer. But not just any lawyer, the Social Justice Lawyer, the lawyer who in his first few months after graduation wins the unwinnable victory (and looks really good doing it), the lawyer who will have the tangible moment of knowing that they single-handedly changed the world.

Every young social justice lawyer wants their Tom Cruise moment.

But is this Tom Cruise effect real? Social justice work is rarely, if ever, about the moment of 'the win'. It is about the gruelling, constant, detailed, unfulfilling and banal collection of evidence, production of paperwork, and navigating the possibility of winning the case but losing the battle. It is some of the most difficult work, where we hardly ever see the fruits of our labor and, when we do, it may well be a win in court that results in very little changes for the individual client.

So how do we measure our success?

People have worked and died over centuries for the smallest change in law. Slavery, apartheid, equal pay, children's rights, environmental

rights – the entire spectrum of rights and rights violations – have been pushed forward, inch by inch, the ever increasing burdensome boulder, by hundreds of social justice lawyers across generations.

The ambition, for all of us working in this field, should be an angry, impatient and absolute demand that our work realizes change. We should not be complacent or satisfied with slow justice. But we should also remember that our role is never an isolated one; we work within a network of hundreds of lawyers, across dozens of generations, who have inched forward some form of social justice, somewhere, at some time.

We do social justice work because we want to know we've changed something for someone, because we battle against hardship and injustice. But if we demand this change as our measure of success, I fear we would all give up the fight.

Every lawyer wants their Tom Cruise Moment. Aspire to this, by all means, but not as the measurement of success as a social justice lawyer. Social justice work should never be about the person doing the work, but about the person for whom one is doing the work.

This text by Bonita Meyersfeld, Professor at the University of Witwatersrand in Johannesburg, was first published in July 2014 on »Law and Subversion«, the weekly blog by ECCHR General Secretary Wolfgang Kaleck on ECCHR's website. W



VI. Appendix

CRIMINAL COMPLAINTS, HUMAN RIGHTS COMPLAINTS AND EXPERT OPINIONS

BUSINESS AND HUMAN RIGHTS

India: Drug trials on young girls

Amicus brief in public interest litigation examining the liability of pharmaceutical companies GlaxoSmithKline (UK) and Merck (USA),
submitted on 11 February 2014 to the Supreme Court in New Delhi.

Pakistan: Textile factory fire disaster

Amicus brief in criminal proceedings against owners of Ali Enterprises, the textile factory destroyed by fire, concerning the expansion of the investigation to include German textile outlet KiK and Italian certification firm RINA,
submitted on 9 May 2014 at the High Court of Sindh in Karachi.

Bahrain: Unlawful use of surveillance software

Criminal complaint against staff at German-British firm Gamma International for aiding spying on computers in Germany by Bahraini authorities,
submitted on 16 October 2014 to the state prosecution authorities in Munich.

Switzerland: Nestlé and the murder of Luciano Romero in Colombia

European Court of Human Rights (ECtHR) complaint against Switzerland following the state's failure to investigate Nestlé's liability for the murder of Colombian trade unionist Luciano Romero, asserting breaches of the right to life (Article 2) and the right to an effective remedy (Article 13) as set out in the European Convention on Human Rights,
submitted on 18 December 2014 to the European Court of Human Rights (ECtHR) in Strasbourg.

INTERNATIONAL CRIMES AND ACCOUNTABILITY

United Kingdom: Torture in Iraq

Criminal complaint (»communication«) against the UK on torture of detainees in Iraq by members of the British Army,
submitted on 10 January 2014 to the International Criminal Court in The Hague.

France: Torture in Guantánamo

Expert legal opinion on the liability of former Guantánamo commander Geoffrey Miller,
submitted in collaboration with the Center for Constitutional Rights on 26 February 2014 to the High Court in Paris.

UN: Liability for cholera outbreak in Haiti

Amicus brief as part of class action proceedings taken against the United Nations by survivors of the cholera epidemic in 2010,
submitted on 15 May 2014 at the Southern District Court in New York.

Germany: Involvement in US drone warfare

Administrative law action against the German government, represented by the Federal Ministry of Defence, on behalf of three Yemeni citizens,
submitted on 15 October 2014 to the administrative court in Cologne.

USA: CIA torture

Criminal complaint against former CIA head George Tenet, former US Secretary of Defense Donald Rumsfeld and others,
submitted on 17 December 2014 to the Federal Prosecutor at the Federal Court of Justice in Karlsruhe.

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ECCHR (Dr. Miriam Saage-Maaß),
Brot für die Welt, Misereor (eds.):
Holding Companies Accountable - Lessons from transnational human rights litigation, Berlin, November 2014

ECCHR (Nicolas Bueno), Netzwerk
Soziale Verantwortung (ed.):
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Nicolas Bueno:
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Menschenrechtsklagen am Beispiel der Strafverfolgung sexualisierter Gewalt, in: Ulrike Lembke (ed.), »Menschenrechte und Geschlecht«, Berlin 2014.

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Annelen Micus:
Swiss judiciary declines justice – on the murder of Colombian Nestlé worker and Sinaltrainal trade unionist Luciano Romero, in: Socialist Lawyer, Number 68, October 2014.

Wolfgang Kaleck:
Feindbild Geheimdienste – wohl etwas zu simpel, in: telegraph, #129/130_2014.

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Piecing together the puzzle: making US torturers in Europe accountable, in: Statewatch, September 2014.

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Dr. Carolijn Terwindt:
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Protesters as Terrorists? An ethnographic analysis of the political process behind the broadened scope of anti-terrorism legislation, in: Crime, Law and Social Change, Volume 62 No 3 2014, (peer reviewed).

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The Responsibility of UK Officials for War Crimes: Systematic Detainee Abuse in Iraq from 2003 to 2008

Podium discussion with: Prof. William Schabas (Middlesex University), Phil Shiner (Public Interest Lawyers, Great Britain), Wolfgang Kaleck (ECCHR)
in cooperation with: Public Interest Lawyers
14 January 2014, London and 15 January 2014, Berlin

Personal and Legal Perspectives on Targeted Killings by Drones in Pakistan

Podium discussion with: Noor Khan (FATA, Pakistan), Noor Behram (journalist, Pakistan), Shahzad Akbar (Foundation for Fundamental Rights, Pakistan), Jennifer Gibson (Reprieve, Great Britain), Andreas Schüller (ECCHR)
in cooperation with: Reprieve
17 February 2014, Berlin

Peace without Justice and Democracy? Colombia Trade Union Sinaltrainal on the Colombian Peace Process

Podium discussion with: Edgar Paez (Sinaltrainal, Colombia)
in cooperation with: Arbeitskreis Internationalismus, Kolumbienkampagne, Forschungs- und Dokumentationszentrum Lateinamerika
13 March 2014, Berlin

»Forensis« Event Series

Forensics and Human Rights Violations

Expert talk with: Anselm Franke (Haus der Kulturen der Welt), Wolfgang Kaleck (ECCHR)
16 March 2014, Berlin

Expert talk with: Shahzad Akbar (Foundation for Fundamental Rights, Pakistan), Andreas Schüller (ECCHR)
30 March 2014, Berlin

Expert talk with: Markus A. Rothschild (Institute for Forensic Medicine, University of Cologne), Wolfgang Kaleck (ECCHR)
6 April 2014, Berlin

Impressions of a Dictatorship & Chile Ayer-Hoy

Finissage with: José Giribas (photographer), Federico Zukerfeld and Loreto Garín Guzmán (artists)
10 April 2014, Berlin

From Berlin to Buenos Aires: Ellen Mark. German-jewish emigrant and mother of Plaza de Mayo

Address and discussion with: Jeanette Erazo Heufelder (filmmaker and author), Wolfgang Kaleck (ECCHR)
28 April 2014, Berlin

The Danzer Case: Current Developments in Jurisprudence on Liability of Senior Managers for Human Rights Violations

Expert discussion with: Prof. Dr. Jörg Eisele (University of Tübingen), Dieter Magsam (attorney, Hamburg), Dr. Miriam Saage-Maaß (ECCHR)
24 June 2014, Tübingen

The Right of the Weak: Argentina, Guatemala, Sri Lanka and Iraq – Strategies in the Fight against Impunity

Seminar with: Anne Britt Arps (Blätter für deutsche und internationale Politik), Dr. Julia Geneuss (University of Hamburg), Monika Hufnagel (medico international), Michael Mörth (Bufete Jurídico de Derechos Humanos en Guatemala), Juana Remus (Humboldt Law Clinic Grund- und Menschenrechte), Dr. Thomas Seibert (medico international), Dr. Annelen Micus (ECCHR), Wolfgang Kaleck (ECCHR)
in cooperation with: medico international, Humboldt Law Clinic Grund- und Menschenrechte
23 September 2014, Humboldt University Berlin

Radical Female Lawyers: Challenges and Vision

Podium discussion with: Alejandra Ancheita (ProDesc, Mexico), Lisa Chamberlain (CALS, South Africa), Nomzamo Zondo (SERI, South Africa), Isha Khandelval (Jagdalpur Legal Aid Group, India), Julia Duchrow (Brot für die Welt)
in cooperation with: Bertha Foundation
13. Oktober 2014, ECCHR Büro, Berlin

Many Hurdles, Little Liability. How can victims of human rights violations enforce their rights against corporations in Germany?

Expert conference with: Dr. Julia Duchrow (Brot für die Welt), Prof. Dr. Olivier de Schutter (UN Special Rapporteur on the Right to Food), Lucy Graham (Amnesty International), Dr. Remo Klinger (attorney), Prof. Dr. Bachmann (Freie Universität Berlin), Robert Grabosch (attorney), Michael Windfuhr (Deutsches Institut für Menschenrechte), Prof. Dr. Eva Kocher (European University Viadrina), Niema Movassat (Member of German Parliament, Die Linke), Dr. Miriam Saage-Maaß (ECCHR),
in cooperation with: ECCJ and CorA with support from the EU Civil Justice Program, Brot für die Welt, MISEREOR, Amnesty International, Oxfam Deutschland, Germanwatch
4 November 2014, Humboldt University, Berlin

Legacy of the Vietnam War: Crimes, Fleeing, Confronting the Past

Exhibition and discussion with: Nghia Nuyen (artist), Prof. Dr. Bernd Greiner (Hamburg Institute for Social Research)
27 November 2014, Berlin

PRESS REVIEW (SELECTION)

BBC News (UK)

William Hague rejects Iraq »abuse« complaint to ICC, 12 January 2014

The Independent (UK)

Pressure grows for inquiry into UK role in Iraq »war crimes« crimes, 12 January 2014

Time (UK)

Top U.K. Defense Officials Accused of War Crimes, 13 January 2014

ABC News Australia

UK forces accused of war crimes in Iraq, dossier submitted to ICC, 13 January 2014

Al-Jazeera

Groups submit communication to the ICC. The investigation request accuses British soldiers of war crimes, 10 January 2014

Sky News (UK)

British Troops Face Iraq Abuse Claims Probe, 13 May 2014

Wall Street Journal (USA)

International Criminal Court Reopens Probe of Alleged U.K. Soldiers' Abuse of Detainees in Iraq, 13 May 2014

New York Times (USA)

The Hague: Court to Review British War Crime Inquiry, 13 May 2014

Daily Times (Pakistan)

Baldia Town factory fire victims still without compensation, 2 September 2014

The Express Tribune with the International

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Baldia factory fire: Two years on, victims' families struggle to come to terms with their loss, 11 September 2014

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Bahrain King's Son Prince Nasser »Not Immune« From UK Prosecution Threat for Alleged Torture, 7 October 2014

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Bahraini royal stripped of UK diplomatic immunity, 7 October 2014

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Tödlicher Luftangriff im Jemen: Drohnenopfer verklagen Deutschland, TV report, 15 October 2014

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Yemeni Man Sues German Gov't Over US Drone Strikes, 15 October 2014

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Yemeni man sues German government over base used for US drone strikes that killed 2 relatives, 15 October 2014

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FinFisher-Attacke auf Ziele in Deutschland – Strafanzeige gegen Verantwortliche des Herstellers, 16 October 2014

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How investigating Britain for crimes in Iraq can save the International Criminal Court, 27 October 2014

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Lawyers Believe Torture Report Will Help Prosecution of CIA Agents in Europe, 9 December 2014

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The World Reacts To CIA Torture Report, 11 December 2014

The Times (UK)

Fresh bid to bring agents to court in Europe, 12 December 2014

The Guardian (UK)

German lawyer calls on Europeans to prosecute US torture architects, 13 December 2014

Der Spiegel (Germany)

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Neue Zürcher Zeitung (Switzerland)

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Democracy Now (USA)

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Education program participants in 2014 came from:

Australia, Chile, Colombia, France, Germany, Italy, Norway, Palestine, Russia, Spain, Switzerland, UK and USA.



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(NTUF) Karachi
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(PCHR) Gaza-City
Pesticide Action Network Asia-Pacific
(PAN-AP) Penang
Sri Lanka Advocacy Group



FINANCES

Income 2014

Institutional sponsorship	332.195 €
Project sponsorship	740.397 €
Donations	82.005 €
Other income	34.164 €
Income from interest	2.329 €
Total	1.191.090 €
Assets as of 01/01/2014 (incl. funds earmarked for 2014)	889.618 €
TOTAL	2.080.708 €

Outgoings 2014

Personnel costs (staff)	516.766 €
Personnel costs – Education Program	122.430 €
External services	114.241 €
Rent, offices, communication, travel	153.591 €
Programs, projects, events	245.452 €
Investment costs	28.903 €
Other outgoings	30.658 €
TOTAL	1.212.041 €
Assets as of 31/12/2014	868.667 €
Of this, funds earmarked for 2015	- 603.043 €
Reserve	265.624 €

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Koalition gegen Straflosigkeit. Wahrheit und Gerechtigkeit für die deutschen Verschwundenen in Argentinien, Nuremberg; CorA - Netzwerk für Unternehmensverantwortung, Berlin; European Coalition for Corporate Justice (ECCJ), Brussels; Forum Menschenrechte, Berlin, OECD Watch, Amsterdam

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New York



»Secret of Return« by Nghia Nuyen

Images

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