

ESMOAS Inter-American Court of Human Rights
Moot Court Competition
Instructions for Memorials

Each IACHR team must submit two (2) memorials, one for each side of the case (petitioner and state).

1. **TEAM NAMES:** The TEAM NAME is the last name of the petitioner presenter and the last name of the state presenter, for example “Smith and Jones” when Smith is the petitioner and Jones the state.
2. **HEADERS & FOOTERS:** Memorials should contain the team name in the header of each page, right aligned, formatted as Last Name of Petitioner and Last Name of State, for example "Smith and Jones".
3. **NAMING THE DOCUMENT:** When saving documents, memorials should be given the file name of Team Name, then Memorial, hyphen, and the presented side. These should be doc, docx, or pdf files only. Example:

Smith and Jones Memorial- Petitioner

4. **COMPOSITION:** Memorials consist of six parts:
 1. Title Page
 2. Table of Contents
 3. Index of Authorities
 4. Statement of Facts
 5. Legal Analysis
 6. Request for Relief

Please refer to the Rules of Procedure, beginning in Article 10.3, for information on each of these sections.

5. **MARGINS & LENGTH:** Memorials may not be longer than 40 pages total (though we are encouraging teams this year to keep their total under 20 pages to start with). Font must be Times New Roman, 12 point, double-spaced, with 1" margins on all sides and on standard 8.5"x11" letter paper. Character spacing should be set to "normal".
6. **DUE DATE & TIME:** Memorials are due by 5:00 pm Central time on the announced due date. **Memorials must be submitted along with the Memorial Submission Form, which can be found on your team’s dashboard page.**
7. **SCORING PARAMETERS:** Memorials are scored by a panel of three or more judges. There are set penalties for formatting and submission errors laid out in Article 10.15 of the Rules of Procedure. Memorial scores are included with the first oral

argument round scores to seed teams for tournament play.

8. **CITATION OF SOURCES:** and other pertinent documents used in the memorial must be properly cited. You may use either footnote or parenthetical style, as long as you are consistent with the citation style throughout the document. MLA, Chicago, and APA are all acceptable styles (please refer to the applicable style guide for proper citing of case law and treaties). For information obtained during your Client Interview Session, use one of the following:

Footnotes:

Excerpt from: Client Interview- Baylor University State Session. Interview. February 13, 2025.

Parenthetical in-text:

(Client Interview- Baylor University State Session, 13 February 2025).

9. An example of the proper memorial formatting follows in the next page:

THE 2025 EUGENE SCASSA MOCK OAS PROGRAM
INTER-AMERICAN COURT OF HUMAN RIGHTS MOOT COURT COMPETITION

IN THE INTER-AMERICAN COURT OF HUMAN RIGHTS

March 14, 2025

THE FAMILIES OF JUAN TRETO AND MANUEL FREGA

Petitioners

v.

THE REPUBLIC OF MAYACOBÁ

Respondent

MEMORIAL FOR THE PETITIONER

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Personal Interview with Maria Treto and Fernando Frega, February 13, 2025

STATEMENT OF JURISDICTION

The Republic of Charechia ratified the OAS Charter on April 30, 1948, making it a founding member state of the Organization of American States.¹ The Republic also ratified the American Convention of Human Rights on January 15, 1984,² and has officially recognized the jurisdiction of the Inter-American Court of Human Rights since 2001.³ Furthermore, the Republic of Charechia has also recognized the Geneva Convention (1955) and all three of its subsequent protocols.⁴

Regarding the exhaustion of domestic resources, the families of Guajillo, Ancho, and Poblano filed a lawsuit against the state.⁵ The lawsuit was dismissed, and an appeal was taken with the Supreme Court of the Republic of Charechia.⁶ Finally, once domestic remedies were sought, the families brought their case before the Inter-American Commission of Human Rights.⁷

¹ Hypothetical ¶ 34

² Ibid. 1

³ Hypothetical ¶ 16

⁴ Ibid. 3

⁵ Hypothetical ¶ 29

⁶ Clarification Questions 16

⁷ Hypothetical ¶ 30

STATEMENT OF THE FACTS

The Republic of Charechia is an independent federative republic that is divided into three geographic sectors. Western Charechia is the most economically underdeveloped region of the country.⁸ The north, known as Charechia Noresta, has been economically developed for its rich minerals by the prosperous south eastern region, Charechia Maior.⁹ 85% of the country's wealth is held by 1% of the population, all of whom live in the south eastern region of Charechia. In addition to economic monopolization, the country's power is concentrated in the south.¹⁰ The current president, Jamilo Avila-Gutierrez, exemplifies this through his family's background as one of the five founding members of the Republic and through his own two terms as president, the second of which he won with an 82% majority in 2016.¹¹ 2016 was also the year that the UN and the OAS attempted to investigate the president on accusations of voter intimidation, voting booth discrepancies, ballot box stuffing, and foreign interference regarding vote gathering and counting. Neither organization was able to find any concrete evidence due to the military police's interference.¹² Peaceful protests broke out in response to both President Avila-Gutierrez's re-election and his bid to remove the term limit for presidents, which passed in the Lower House and is expected to pass in the Upper House despite strong dissent by minority parties in both houses and express condemnation by the UN and the OAS.¹³

The peaceful protests, many of which called for the succession of the North, became united under former Minister of Defense, General Jesus de Adama. President Avila-Gutierrez

⁸ Hypothetical ¶3

⁹ Hypothetical ¶2

¹⁰ Hypothetical ¶4, 7

¹¹ Hypothetical ¶11

¹² Hypothetical ¶13

¹³ Hypothetical ¶14, 17

fired General de Adama and a number of other high-ranking officials with members of his own family, which resulted in the escalation of aggression. Under General de Adama, the protesters adopted the name “Shield of the North”.¹⁴ August 16th, 2017, the Charechian Military Police carried out an airstrike on the village of Paraio, in the western section of the state. The two targeted bunkers were storage facilities of the Shield of the North, but also ended the lives of ten Charechia citizens from the families of Guajillo, Poblano, and Ancho.¹⁵ One man from the Poblano family had previously been tried as a member of the Shield, while a man from the Ancho family had been found guilty of aiding and abetting for letting some of his cousins stay at his home.¹⁶ Surviving members of the three families sued the state through the municipal, secondary, and Supreme Court. The Supreme Court found that the deaths were unavoidable in a necessary action by the state, but nonetheless paid reparations of \$75,000 to the Guajillo family.¹⁷ Due to some involvement with the Shield, the Supreme Court denied reparations to the other families. Since then, the state has conducted seventeen raids with 81 confirmed casualties; out of those raids¹⁸, only three were aimed at military targets and 31 of the dead were considered civilians. Comparatively, the Shield of the North has claimed fourteen instances of forced detention, only one of which resulted in an accidental death.¹⁹ Following the raids, the families of Guajillo, Poblano, and Ancho filed another claim against the state for violations of human rights, which directly caused the deaths of their family members.²⁰ The claim was denied by secondary courts, who found that the state had performed necessary due diligence despite high

¹⁴ Hypothetical ¶18, 19

¹⁵ Hypothetical ¶22

¹⁶ Hypothetical ¶23

¹⁷ Hypothetical ¶24

¹⁸ *Excerpt from: Client Interview- Baylor University State Session.* Interview. February 13, 2025.

¹⁹ Hypothetical ¶27

²⁰ Hypothetical ¶28

civilian casualties and was appealed to the Supreme Court before being brought before the Inter-American Commission of Human Rights on May 5th, 2019.²¹ The Commission found that the Republic of Charechia was in violation of articles 5, 7, 8, 11, 13, 16, 22, and 23 of the American Convention of Human Rights, but also that the Shield of the North was in violation of articles 5, 7, and 8. However, the Shield is a non-state actor and does not fall under the jurisdiction of the Commission or Court.²²

²¹ Hypothetical ¶29, 30

²² Hypothetical ¶31

PLEADINGS

I. THE STATE'S ACTIONS AGAINST THE SHIELD OF THE NORTH VIOLATED INTERNATIONAL HUMAN RIGHTS LAW.

A. **Article 5: Right to Humane Treatment, Article 7: Right to Personal Liberty, Article 8: Right to a Fair Trial**

The deceased's right to humane treatment, personal liberty, and the right to a fair trial were all violated when the Republic of Charechia ordered an excessive attack on a civilian village without due diligence. Under article 5, all people have the right to have their physical, mental, and moral integrity respected.²³ According to article 7 and 8, every person has the right to their physical liberty against unlawful detainment and the right to a fair, public, and expedient trial.²⁴ In the cases of *Las Dos Erres Massacre v. Guatemala*, *La Cantuta et al. v. Peru*, and *Bámaca Velásquez v. Guatemala* the IACHR decided that article 5 included both protections from inhumane punishment and the emotional integrity of the next-of-kin. Judge García Ramírez in *Bámaca Velásquez v. Guatemala* states that, "...there are two types of victims: direct victims and indirect victims... the law protects both types of victims equally."²⁵ Remedies concerning article 5 include, as the precedent of *La Cantuta et al. v. Peru* claims, an official and expedient legal remedy for the families of the deceased. Consequently, the families of Guajillo, Ancho, and Poblano had their right to humane treatment violated because the state did not take action to minimize civilian cost before ordering it, which resulted in the deaths of ten individuals, and because there was no investigation or adequate legal remedy for the families. Regarding article 7 and 8, every person killed in the conflict was an innocent bystander. There was no court order for

²³ American Convention on Human Rights, article 5

²⁴ American Convention on Human Rights, article 7 & 8

²⁵ *Bámaca Velásquez v. Guatemala*

their detainment and no hearing to pass a death sentence on any of them, even those who had previously been tried as members of the Shield of the North. The case *Ituango Massacres v. Colombia* establishes precedent on both articles. The state’s failure to act against detainment and execution was found to constitute a violation of article 7, and the state’s failure to “meet its obligations to investigate, pursue, capture, prosecute, and convict the perpetrators” was in violation of article 8.²⁶ Similarly, the government of Charechia did not establish necessary legal proceeding before or after the strike on Paraio. For the extrajudicial killings of ten Paraio citizens, failure to establish an investigation, and failure to provide each family with legal remedy, the Republic of Charechia violated articles 5, 7, and 8.

**B. Article 11: Right to Privacy, Article 13: Freedom of Thought and Expression,
Article 16: Freedom of Association**

Two of the deceased, one from the Ancho family and one from the Poblano family, had their right to privacy, freedom of thought and expression, and freedom of association violated when the state murdered them and again when the state used their connection to the Shield of the North to deny their families compensation. The case *Uzcátegui et al. v. Venezuela* establishes precedent for both article 11 and 13. The violations occurred correspondingly, as state police had unlawfully entered a man’s home with the intent of prosecuting him for previously made anti-government statements.²⁷ Mr. Claudio Ancho had been found guilty of aiding and abetting the Shield of the North, because he allowed his cousins to stay at his home.²⁸ Mr. Ancho’s right to privacy was violated when he was found guilty of aiding and abetting based on who he allowed into his home. Similarly, Mr. Manuel Ancho’s freedom of thought and expression was violated

²⁶ *Ituango Massacres v. Colombia*

²⁷ *Uzcátegui et al. v. Venezuela*

²⁸ Hypothetical ¶ 23

when, after his trial and punishment, his family was denied compensation based on his political beliefs. As for article 16, *Cantoral Huamaní and García Santa Cruz v. Peru* found that targeting people based on their organizational affiliations was necessarily a violation, especially when the punishment lead to fear of a similar fate.²⁹ Mr. Poblano and Mr. Ancho had both been found guilty of their respective crime, the root of which is participation in a political organization. Both men had been extrajudicially killed by state actors for their participation. At least in the case of Mr. Ancho, this association was not explicitly tied to a political organization but to members of his own family, which necessarily causes a non-rational fear of affiliation that is only expanded upon by the decision of the court to hold reparations from their respective families. Thus, the state violated articles 11, 13, and 16 through their extreme handling of known affiliates of the Shield of the North and the unfair treatment of their family members based on such association.

C. Article 22: Freedom of Movement and Residence, Article 23: Right to Participate in Government

The Republic of Charechia violated article 22 via their unprovoked attack on the village of Paraio and article 23 through a number of backhand political strategies. Regarding article 22, the case *Barrios Family v. Venezuela* established that the restriction of movement and residence does not have to be formal but can be achieved through threats or through violence that results in insecurity or displacement.³⁰ *Valle Jaramillo et al. v. Colombia* also found that failure by a state to adequately protect citizens would also constitute a violation.³¹ By dropping bombs on a village filled with civilians, the state created a hostile environment that resulted in forced displacement and an uncertainty of safety. The state did not act in a way that placated the families affected, but

²⁹ *Cantoral Huamaní and García Santa Cruz v. Peru*

³⁰ *Barrios Family v. Venezuela*

³¹ *Valle Jaramillo et al. v. Colombia*

instead refused a formal investigation, referring to the deaths as collateral damage, and refused two of the three family's compensation. By refusing two of the families based on two of the deceased affiliations, the state perpetuated a tumultuous environment where any of the Poblano or Ancho members could be targeted.

The root of the state's conflict with the Shield of the North stems from the state's violations of article 23, the right to participate in government. Article 23 protects the right to take part in elections. While citizens are technically able to participate in government, they are not free to do so without intimidation.³² Specifically, the citizens of the North and West have faced violations to their right to vote. Accusations against the state include: voter intimidation, voting booth discrepancies, ballot box stuffing, and foreign interference in the vote counting and gathering processes.³³ Both the UN and OAS found irregularities and discrepancies with voting counts despite efforts to withhold access.³⁴ Based on the accusations listed above, the denial of an investigation into the accusations, and the proofs found by two international organizations, article 23 was violated by the state.

II. THE SHIELD OF THE NORTH IS A NON-STATE ACTOR AND CANNOT BE CHARGED WITH VIOLATIONS PERTAINING TO THIS CASE

A. The Shield of the North is a non-state actor

The Shield of the North is a political organization formed to support the rights of the citizens of the Republic of Charechia. The organization was born over protests against the sitting president and his misuse of funds.³⁵ They gained traction the more outlandish the president grew

³² Hypothetical ¶ 13

³³ Ibid.

³⁴ Ibid.

³⁵ Hypothetical ¶ 17

with his power and remained peaceful until he began replacing government officials with members of his own family.³⁶ The organization is anti-President Avila-Gutierrez based on his anti-democratic and corrupt ways. Despite increased aggression within the state, the Shield of the North is not a state-actor but a political organization—though they may exert some influence regarding political opinions, they have no jurisdiction over the state itself. As such, the Court is unable to charge them with violations of human rights.

B. The families cannot be barred for seeking reparations based on the actions of the Shield

The Shield of the North is a separate entity from the families seeking restitutions. Though two of the ten deceased were declared sympathetic to or affiliated with the Shield of the North, their next-of-kin do not necessarily have the same political ties. Thus, the families cannot be barred by the unclean hands doctrine as they themselves and the totality of their murdered family members were not affiliated with the Shield.

³⁶ Hypothetical ¶ 18, 19

REQUEST FOR RELIEF

For the above stated reasons, the petitioner respectfully ask that the Court:

1. Find the Republic of Charechia in violation of articles 5, 7, 8, 11, 13, 16, 22, and 23 of the American Convention on Human Rights.
2. Require that the state pay reparations to each family that are proportionate to their losses in the bombing of their home village of Paraio.
3. Understand that the three families represented today do not make up the Shield of the North and cannot take accountability for the actions of that organization, despite any past affiliation that has been tried and attested for.