**INTER-AMERICAN HUMAN RIGHTS**

**MOOT COURT COMPETITION**

**THE GUAJILLO, ANCHO & POBLANO FAMILIES**

(Victims)

V

**THE REPUBLIC OF CHARECHIA**

(Respondent)

MEMORIAL FOR THE VICTIMS

TABLE OF CONTENTS

STATEMENT OF THE FACTS.....................................................................................................4

Factual Background.............................................................................................................4

LEGAL ANALYSIS

1 - ADMISSABILITY.....................................................................................................................6

1.1 – STATEMENT OF JURISDICTION...........................................................................6

1.2 – Waiver of Right to Object by the Republic of Charechia...........................................7

1.3 – Exhaustion of Domestic Remedies.............................................................................7

2 – VIOLATIONS: THE AMERICAN DECLARATION ON HUMAN RIGHTS

3 – ARGUMENTS ON THE MERITS...........................................................................................8

3.1 – RIGHT TO HUMANE TREATMENT......................................................................8

*The State Exacted Kin Punishment on Massacre Survivors*....................................8

3.2 – RIGHT TO PERSONAL LIBERTY........................................................................11

*Via Environmental Risk, the State Interfered*

*with Families’ Liberty and Security*......................................................................11

3.3 – RIGHT TO A FAIR TRIAL.....................................................................................15

*The State’s Access to Justice Policy Discriminated against the Families*............15

3.4 – RIGHT TO PRIVACY.............................................................................................18

*The State Failed to Notify Families of Surveillance*..............................................18

3.5 –FREEDOM OF THOUGHT AND EXPRESSION...................................................20

*State War Propaganda Targeted Enmeshed Residents*.........................................20

3.6 – FREEDOM OF ASSOCIATION .............................................................................23

*The State Performed Selective Restitution*.............................................................23

3.7 – FREEDOM OF MOVEMENT AND RESIDENCE................................................25

*State Military Operations Limited Residents*.........................................................25

3.8 – RIGHT TO PARTICIPATE IN GOVERNMENT...................................................26

*The State Failed Inter-American Democratic Charter Mandate*...........................26

4 – REQUEST FOR RELIEF........................................................................................................28

INDEX OF AUTHORITIES

**Legal Books and Articles**

Access to Justice as a Guarantee of Economic, Social, and Cultural Rights. A Review of the Standards Adopted by the Inter-American System of Human Rights...........................8, 17, 18, 30

Basic Principles of IHL.................................................................................................................23

Freedom Fighters and Rebels: The Rules of Civil War [2002]....................................................23

Law and Petroleum Industry in Nigeria: Current Challenges: Essays in Honour of Justice Kate Abiri [2009]...................................................................................................................................13

Partly Laws Common to All Mankind: Foreign Law in American Courts [2012].........................7

The Inter-American Legal Analysis: The 13 Principles and the Inter-American System for the Protection of Human Rights.....................................................................................................19, 20

**The Office of the Special Rapporteur Expresses Concern over the Acquisition and Implementation of Surveillance Programs by States of the Hemisphere [2015]** ..........................20

**Other Articles**

Confirming Rights: Inter-American Court Ruling Marks Key Victory for Sarayaku People in Ecuador..........................................................................................................................................14

Seeing through Soil with Sound [2000].........................................................................................20

**Treaties and other International Agreements**

American Convention on Human Rights 1969.......................................................................passim

American Declaration on the Rights and Duties of Man 1948................................................16, 26

American Declaration on the Rights of Indigenous Peoples 2016....................................12, 13, 19

Charter of the Organization of American States 1948...................................................................16

Declaration of the High-Level Meeting on the Rule of Law 2012................................................16

European Convention on Human Rights 1953..............................................................................21

European Court of Human Rights 1959.........................................................................................23

Geneva Convention 1949.............................................................................................11, 15, 23, 26

Inter-American Democratic Charter 2001.........................................................................28, 29, 30

Universal Declaration of Human Rights 1948.........................................................................16, 21

**Inter-American Court of Human Rights Cases**

*Aloeboetoe et al. v. Suriname* [1993] ............................................................................................30

*Afro-Descendant Communities Displaced from the Cacarica River Basin (Operation Genesis) v. Colombia* [2013]............................................................................................................................29

*Bámaca Velásquez v. Guatemala* [2000]........................................................................ 8, 9, 11, 25

*Castillo Petruzzi et al v. Peru* [1999].............................................................................................20

Inter-American Court of Human Rights Provisional Measures Regarding Ecuador [2004]...13, 14

*Kichwa Indigenous People of Sarayaku v. Ecuador* [2012]..............................................14, 19, 26

*Velásquez-Rodriguez v. Honduras* [1989] ......................................................................................8

Clarification Questions...........................................................................................................passim

Hypothetical Case...................................................................................................................passim

STATEMENT OF THE FACTS

***Factual Background***

The Republic of Charechia (“Charechia,” “Republic,” the “State”) of the Americas is roughly divided into thirds, with its poorest province known as Western Charechia.[[1]](#footnote-1) Wealth inequality is extensive among its three internal states.[[2]](#footnote-2)

While this constitutional federative republic echoes features of other 3-branch government nations,[[3]](#footnote-3) there are key differences. Its legislature, for example, poses an at-large seats system, instead of any one seat being attached to a specific province.[[4]](#footnote-4) Recently, a constitutional amendment to alter the Charechian presidential term limit has been proposed, whose current legislation permits only two terms.[[5]](#footnote-5) Other democratic issues for the Republic involve history of oversight by outside agencies, such as the Organization of the American States (“OAS”) and the United Nations (“UN”). This oversight was conducted upon the government of Charechia due to accusations of electoral fraud.[[6]](#footnote-6)

Since the 12th Century the family of the current president has dominated the country, culturally, socially, economically and politically.[[7]](#footnote-7) Suspicions of corruption and lack of transparency have plagued this presidency and the Executive’s family, culminating in a secessionist movement springing up in recent years.[[8]](#footnote-8) That movement is led by the northernmost state’s political dissidents, the Shield of the North (the “Shield”).[[9]](#footnote-9)

Regular skirmishes have broken out between the Shield and the government’s military arm since early summer of 2017,[[10]](#footnote-10) with the primary region taking heat being Western Charechia and its economically-depressed indigenous population.[[11]](#footnote-11) On August 3rd of that same year, the Shield of the North, without authority, captured several indigenous farmers and mistreated them, due to the Shield’s suspicion of the men being government spies.[[12]](#footnote-12) To the victims of the kidnapping, the president himself awarded $100,000 to each survivor’s family and $200,000 to each family whose relative was killed in this secessionist kidnapping.[[13]](#footnote-13)

Approximately two weeks later, in the indigenous village of Paraio[[14]](#footnote-14) a military surveillance and “crackdown” operation came to a head. Based on its presumption that the village was the Shield of the North regional headquarters,[[15]](#footnote-15) Military Police committed an air raid on the Western Charechia village.[[16]](#footnote-16) Despite Shield members’ presence in Paraio village, in the air raid ten individuals from three different families—the Guajillo, Ancho, and Poblano—were killed by the bombs.[[17]](#footnote-17) These deaths were pronounced by the government as “unavoidable collateral casualties,”[[18]](#footnote-18) and when the 3 families sought restitution for this loss of life,[[19]](#footnote-19) the domestic courts further stated that Charechia had performed care and due diligence in identifying military targets.”[[20]](#footnote-20) The three families proceeded to appeal through all domestic courts accessible to them,[[21]](#footnote-21) but only the Guajillo family (who had zero connection to either the secessionist faction or to the government[[22]](#footnote-22)) was granted any compensation for loss of loved ones.[[23]](#footnote-23) The Guajillos received $75,000 in damages.[[24]](#footnote-24)

Five months post-village bombing, the President made an official response to the most recent Shield’s denouncement.[[25]](#footnote-25) In this response the Executive promised that military raids—some involving bombs like the ones that rained down on Paraio—would continue “in regions where instability is fomented by [secessionist] groups.”[[26]](#footnote-26) The President’s announcement claimed the same care and due diligence as the nation’s Supreme Court had pronounced when the three families, in a joint lawsuit, received their final domestic answer for restitution on March 1, 2019: a dismissal from the lowest court of appeal.[[27]](#footnote-27) (The hardships and costs incurred in traveling to the courts are unknown. Secondary courts access is available in every state but that of the Families.[[28]](#footnote-28))

Two months and four days after the dismissal, the Guajillo, Ancho, and Poblano families (“the Families,” the “Petitioners”) presented their case to the Inter-American Human Rights Commission (“the Commission”),[[29]](#footnote-29) and one month and five days later the Commission issued Report 174/2019: Admissibility and Merits. Under the American Convention on Human Rights (“ACHR”) the Commission found violations of Articles 5, 7, 8, 11, 13, 16, 22 and 23.[[30]](#footnote-30) As the Republic failed in the timeframe allotted by the Commission to comply with their restitution recommendations, the Case was brought before the Inter-American Court of Human Rights (the “Court”), before which arguments on the merits and reparations shall be heard November 15-16, 2019 during the Court’s Extraordinary Session in San Antonio, Texas, U.S.A.[[31]](#footnote-31)

LEGAL ANALYSIS

1 – ADMISSIBILITY

*1.1 – STATEMENT OF JURISDICTION*

Having ratified in 1984 the American Convention on Human Rights and other instruments[[32]](#footnote-32) befitting an Organization of American States member,the Republic of Charechia also accepted the jurisdiction,[[33]](#footnote-33) as of 2001, of the Inter-American Court of Human Rights, and therefore must comply with the recommendations, rulings and orders of that body.

1.2 – Waiver of Right to Object by the Republic of Charechia

As the State raised no issue to the Inter-American Commission on Human Rights over domestic remedies non-exhaustion,[[34]](#footnote-34) it has waived implicitly the right to raise the issue before the Inter-American Court of Human Rights.

1.3 – Exhaustion of Domestic Remedies

Through appealing individually to the Charechian government’s municipal, secondary, and Supreme Court the three families gained, respectively, no or inequitable compensation.[[35]](#footnote-35) Upon approaching the State again via joinder, Charechia’s secondary court dismissed the Families’ suit on March 1, 2019, under contentious pronouncement that both due diligence had been performed in addressing (via bombing raid) the secessionist actors’ enmeshed presence at Petitioners’ village and that those same government raids resulted in an “unusually high percentage of non-military casualties.”[[36]](#footnote-36)

With the exception of monies awarded to the Guajillo family, the State’s refusal of restitution toward the remaining parties to the instant petition combine with the Republic’s ongoing military threat to Petitioners and others in the region[[37]](#footnote-37) to constitute ineffective remedy.[[38]](#footnote-38) Procedurally and jurisdictionally, Petitioners live in and have suffered violation in Western Charechia in which the State has established no courts of appeal.[[39]](#footnote-39) In light of the Inter-American Commission’s pronouncement on OAS Member States’ structural obligation for equitable tribunal access, the State has denied Petitioners the opportunity to exhaust all domestic remedies.[[40]](#footnote-40)

2 – VIOLATIONS: THE AMERICAN CONVENTION ON HUMAN RIGHTS

Conforming to the Inter-American Commission’s findings for the Republic of Charechia,[[41]](#footnote-41) Petitioners assert violations of American Convention on Human Rights Articles 5, 7, 8, 11, 13, 16, 22, and 23, and consequently request humbly that the Court order the State to perform *restitutio in integrum*, in line with this Convention and other relevant human rights instruments.[[42]](#footnote-42)

3 – ARGUMENTS ON THE MERITS

***3.1 – RIGHT TO HUMANE TREATMENT***

***The State Exacted Kin Punishment on Massacre Survivors***

Article 5 of the American Convention on Human Rights states, “Punishment shall not be extended to any person other than the criminal.”[[43]](#footnote-43)

Regardless of a decedent’s political affiliation or prior convictions, international norms have embraced the identification of victims as including decedent’s next-of-kin, as this Court ruled in *Bámaca Velasquez v. Guatemala* (2000).[[44]](#footnote-44) With regard to the State’s obligation toward injured parties, *Bámaca* granted restitution to next-of-kin, via damages both pecuniary and non-pecuniary.[[45]](#footnote-45) Conviction status of a state-injured relative does not cancel restitution for his/her next-of-kin.

Prior to the State’s bombing of Paraio[[46]](#footnote-46) a Charechian municipal court found Paraio resident and Shield of the North sympathizer Manuel Poblano guilty of “organized sabotage” involving a state munitions plant.[[47]](#footnote-47) Convict Poblano was later killed in the Paraio air raid.[[48]](#footnote-48) In the months following the village massacre, surviving members of his and other families have attempted to procure restitution for the loss of their relatives.[[49]](#footnote-49) In their Supreme Court appeal, they requested, *inter alia,* that the State acknowledge responsibility for its failure to secure the civilian-populated area of Paraio from actions causing avoidable deaths.[[50]](#footnote-50) Claudio Ancho, another Paraio massacre victim, had also been convicted for aiding and abetting presumed terrorists when he permitted cousins with secessionist sympathies to stay at his home temporarily.[[51]](#footnote-51)

Approximately five months after the village bombing, Charechia’s Supreme Court pronounced the death of Manual Poblano and other massacre victims of the Ancho and Guajillo families as “unavoidable,” yet that Court awarded Petitioners in the Guajillo family damages in the amount of $75,000.[[52]](#footnote-52) Unlike the Poblano and Ancho families, no member of the Guajillo family, according to Charechian government investigation, has been found to have connections with secessionist faction Shield of the North.[[53]](#footnote-53)

The Republic of Charechia has a history of awarding next-of-kin compensation for injuries of physical, mental, and moral integrity[[54]](#footnote-54) and for loss of life.[[55]](#footnote-55) Less than two weeks before the three families in the instant case lost loved ones in the Paraio bombing, Charechia’s President compensated victims of kin death committed by secessionists, through $100,000 per survivor’s family and $200,000 per deceased victim’s family.[[56]](#footnote-56) Persons harboring Shield of the North sympathies have been characterized by the President as terrorists.[[57]](#footnote-57)

As the three petitioning families’ initial suits show identical state-executed harm of their relatives, yet only one of the three families was granted compensation of any kind, the State—by withholding comparable award to two of the three parties injured—showed bias against the Poblano and Ancho families, whose ranks include anti-government activity convictions. Charechia’s withholding of kin compensation contrasts with international law, which prohibits kin punishment. The Geneva Convention IV Article 33 states, for example, that “No protected person may be punished for an offence he or she has not personally committed. Collective penalties . . . are prohibited.”[[58]](#footnote-58) (This punishment maneuver by the State also violates Petitioners’ right of association,[[59]](#footnote-59) specifically regarding Mr. Claudio Ancho.) Furthermore, the Inter-American Court of Human Rights categorized in *Bámaca-Velásquez v. Guatemala* (2000) “the injured parties pursuant to Article 63(1)[[60]](#footnote-60) of the American Convention on Human Rights” to include next-of-kin of the directly-injured parties. In that case, the Court determined that challenges to the mental and moral integrities[[61]](#footnote-61) of Efraín Bámaca Velásquez, the directly-injured party, and to his entire family categorized the group as victims, and were therefore “entitled to the reparations decided by the Court . . . .”[[62]](#footnote-62) For the instant case, by granting monies to the Guajillo family while withholding damages of equal value to the Ancho and Poblano families, the State violated ACHR Article 5 Right to Humane Treatment, by extending punishment to persons other than its previously-convicted criminals.[[63]](#footnote-63)

***3.2 – RIGHT TO PERSONAL LIBERTY***

***Via Environmental Risk, the State Interfered with Families’ Liberty and Security***

Article 7of the American Convention on Human Rights states, “Every person has the right to personal liberty and security.”[[64]](#footnote-64) When read in conjunction with Article 1.1 of the Convention and with Article 19 of the OAS Declaration on the Rights of Indigenous Peoples,[[65]](#footnote-65) it is clear that, when bombing their home village located approximately 5 miles downriver from a munitions plant,[[66]](#footnote-66) the State risked Petitioners’ personal liberty and security.

The three petitioning families hail from the region of the mestizojos, persons whose legacy enjoys indigenous identity among the tribes of Western Charechia.[[67]](#footnote-67) Indigenous persons, as the Declaration on the Rights of Indigenous Peoples asserts, possess collective rights “indispensable for their existence, wellbeing and integral development as peoples.”[[68]](#footnote-68) Signatories to this instrument must, aligning with this goal of protected persons’ wellbeing, “recognize and respect the right of the indigenous peoples to . . . their lands, territories, and resources.”[[69]](#footnote-69) Consequently, mestizojos’ ancestral home is to be safeguarded by the Republic, as that nation’s June 15, 2016 adoption affirms.[[70]](#footnote-70) This document explains in Section 4 the status of indigenous peoples’ natural resources, for which those persons possess the “right to the conservation and protection of the environment . . . .”[[71]](#footnote-71)

Environmental protection is an international norm, especially when the livelihoods of marginalized peoples rely upon that environment. Furthermore, in line with the Inter-American system’s approach to healthy environment and in conjunction with initiatives like the Stockholm Declaration on the Human Environment,[[72]](#footnote-72) for decades “there ha[ve] been recognition of the fact that environmental harm is a violation of some of the established rights like right to life, liberty, personal security, before the Inter-American Commission on Human Rights and by the United Nations Human Rights Committee.”[[73]](#footnote-73) Toward that environmental preservation goal, Section 2 of the Declaration on the Rights of Indigenous Peoples also includes prohibition on “the introduction of, dispersion . . . indiscriminate use or deposit of any harmful substance that could negatively affect indigenous communities, lands, territories and resources.”[[74]](#footnote-74) The State has agreed both explicitly and under *jus cogens* to guarantee that the environment of such marginalized persons remains free from unnecessary damage.

The Sarayaku of Ecuador, similar to Western Charechians, were in 2004 deemed by the Court to need protection for, *inter alia*, “the special relationship they have to their ancestral land.”[[75]](#footnote-75) Sarayaku indigenous peoples’ environment and rights to personal security were the subject of OAS intervention, after a third party unlawfully risked with explosives the Sarayaku environment. “The Sarayaku lead a self-reliant life. They rely on local subsistence and their main sources of income are fishing, farming, [and] hunting . . . .”[[76]](#footnote-76) Petitioners in that instance[[77]](#footnote-77) explained to the IACHR that a third party’s “explosives being detonated ha[d] destroyed forests, water sources, caves, underground rivers and sacred sites, and ha[d] driven animals away.”[[78]](#footnote-78) In the instant case, the State’s actions in 2017 similarly threatened the security and environment of the petitioning families.

The type of damage explosives risk can have far-reaching consequences for a people living off the land. Because the local residents’ survival in *Kichwa* depended upon and was protected from unmolested environmental resources, in the matter of explosives use in the Sarayaku lands the Court required Ecuador to comply with the environmental protections it had, as a State Party to the OAS, already assumed.[[79]](#footnote-79),[[80]](#footnote-80)

The day Petitioners’ relatives were killed, Paraio village was not only subjected to direct military bombing but was exposed to a potential munitions plant explosion. This home village is located in Charechia’s poorest state, where the people’s livelihood depends primarily on fishing the local river and farming.[[81]](#footnote-81) In 2017, the Families’ village was presumed by the State to be “the regional headquarters” of secessionist group Shield of the North.[[82]](#footnote-82) Regarding its pursuit via “military crackdowns” upon this Shield,[[83]](#footnote-83) the State reported in 2018, post-bombing, that its “average proximity of raid targets to known [Shield] operation sites was less than 10,000 yards [about 5.68 miles].”[[84]](#footnote-84) Approximately five miles upriver from the government’s August 16, 2017 raid target, Paraio village, is a munitions plant.[[85]](#footnote-85)

When pursuing recent military raids upon presumed rebel sites, the State conducted its average raid within less than a 5.68 mile distance from the intended target to the Shield’s operating site. Given the location of this munitions plant, this government report means that in proceeding with the bombing of the Families’ village, the state-run munitions plant[[86]](#footnote-86) and the environment in and surrounding Paraio were likely to be caught in the blast radius of the raid’s bomb(s).

The Geneva Convention’s Additional Protocol I of 1977 prohibits unnecessary environmental damage. Article 35 under its Basic Rules states:

1. In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited.

2. It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.

3. It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.

Despite its obligation through international instruments to do so, there is no indication that the State took care to prevent environmental disaster of both the land and water sources significant to the people of Paraio and Western Charechia. Regarding the Article 7 violation, the State’s own reports on blast radius likelihood did not prevent the government from executing Petitioners’ kin while also risking exploding into the indigenous persons’ local environment the village’s proximal munitions plant.[[87]](#footnote-87) Throughout instruments already acceded to by Charechia, the Families possessed personal security rights in their home region. Therefore, when the State bombed Paraio with munitions capable of consuming the village’s non-combatants, its land, its river and its plant, it violated Article 7 protections of liberty and security, through unnecessary environmental risk.

***3.3 – RIGHT TO A FAIR TRIAL***

***The State’s Access to Justice Policy Discriminated against the Families***

Fundamental to the ethos of international law is the embodiment for all persons protected of the effective enjoyment and exercise, without discrimination, of equal protection of the law.[[88]](#footnote-88),[[89]](#footnote-89) Similar instruments buoy this inhered right.[[90]](#footnote-90) This non-derogable right encompasses, in conjunction with Article 1.1, protections articulated in the ACHR’s Article 8 Right to a Fair Trial. This Article enshrines rights to “a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.”[[91]](#footnote-91) Article 8 also includes “the right to appeal the judgement to a higher court.”[[92]](#footnote-92)

In creating a representation-deficient structure, OAS Member State Charechia discriminated against the poorer areas of its country. Similar to its legislature’s at-large seats system,[[93]](#footnote-93) the government has effected discrimination by limiting access to its federal judiciary to the Republic’s two richest provinces: The State has established secondary courts in only Charechia Noresta and Charechia Maior.[[94]](#footnote-94) With this structure, despite citizenry needs to appeal decisions by courts of first instance, the State appears to have forgotten Western Charechia, the home of the Petitioners.[[95]](#footnote-95)

Sergio García-Ramirez, serving as IACHR judge since 1997, explained in an Advisory Opinion to the United Mexican States that OAS Members States’ “obligation . . . to benefit the persons under their respective jurisdictions . . . include[es] the right to judicial guarantees. The right of access to justice for all persons is to be preserved, understood as their right to effective jurisdictional protection.”[[96]](#footnote-96) The Court’s pronouncement on the importance of “equal and rapid access to justice” was, in the instance of Mexico, demonstrated through rights for visiting laborers, and in the instant case—as Charechia is a Convention signatory—such access to justice protections apply to residents of the indigenous region of Western Charechia. As with all other international rights acceded to, concerning equal access to justice the Court can abide no discrimination—regional, economic, or otherwise.[[97]](#footnote-97)

On the removal of obstacles to justice and the location of tribunals, the Commission has summarized the Inter-American System’s standards by which Member States must comply.[[98]](#footnote-98) Paragraph 1 adjures, “States not only have a negative obligation not to obstruct access to . . . remedies but, in particular, a positive duty to organize their institutional apparatus so that all individuals can access those remedies.”[[99]](#footnote-99) Paragraphs 66 through 80 of the same document explain that location of tribunals limit a petitioner’s access to justice, when structural issues of a State effect “the absence of institutions necessary for the administration of justice in rural, poor and marginalized areas.”[[100]](#footnote-100) Of the three internal states of the Republic of Charechia, the petitioning families’ home state is the poorest, with average monthly income less than $500.[[101]](#footnote-101) Western Charechia is home to indigenous persons who live simply and upon the land,[[102]](#footnote-102) yet this state’s 3,000,000 residents are without a single court of appeal.[[103]](#footnote-103)

By selectively locating its courts of appeal in relatively affluent states, the Republic failed in its “positive duty to organize their institutional apparatus” to guarantee justice for Western Charechians.[[104]](#footnote-104) This absence of provincial tribunal shows the Families’ access to justice inequitable.[[105]](#footnote-105) When appealing the January 2018[[106]](#footnote-106) and March 2019[[107]](#footnote-107) municipal courts’ respective decisions[[108]](#footnote-108) the victims of the Paraio massacre were, under international law, denied equal access to justice, because the location of the tribunals was an obstacle to that justice.[[109]](#footnote-109) Therefore, in conjunction with Articles 1.1, 24, and 25 of the American Convention on Human Rights, the State violated the Families’ right to a fair trial.

***3.4 – RIGHT TO PRIVACY***

***The State Failed to Notify Families of Surveillance***

Article 11of the American Convention on Human Rights states, “No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.[[110]](#footnote-110) Everyone has the right to the protection of the law against such interference or attacks.”[[111]](#footnote-111) By surveilling their home village indiscriminately, clandestinely, and without prior notice,[[112]](#footnote-112) the State made Petitioners’ home the object of abusive interference.

Petitioners are persons whose ancestry includes indigenous tribes of Western Charechia.[[113]](#footnote-113) As previous arguments show, indigenous persons possess the right to their ancestral home[[114]](#footnote-114),[[115]](#footnote-115) and homes here possess guarantees of privacy, which international laws affirm.[[116]](#footnote-116) The Western Charechian village of Paraio constitutes local indigenous persons’ home, of which Petitioners were residents at the time of the August 16, 2017 massacre.[[117]](#footnote-117)

In the wake of the increasing number and use of surveillance technologies in recent years, the OAS Office of Special Rapporteur has warned Member States of their obligations toward, *inter alia*, specificity of target, user notification, and legality of information collection.[[118]](#footnote-118) Similarly, proportionality of surveillance, as illuminated in the 2015 Special Rapporteur’s report on implementation of surveillance programs by Member States, explains that government surveillance “should be . . . genuinely exceptional and selective, and must be strictly limited to the needs to meet compelling objectives, such as the investigation of serious crime . . . . Such restrictions must be strictly proportionate and consistent with . . . international standards . . . .”[[119]](#footnote-119)

In the matter of Charechia’s recent dissent oppression, the State reported its reconnaissance budget for anti-government disruption operations as “significant,”[[120]](#footnote-120) yet the State chose to utilize upon Paraio village surveillance imprecise enough to map each person in the vicinity[[121]](#footnote-121) whose height constitutes a minimum of 12 inches.[[122]](#footnote-122) Due to this feature of ground-penetrating radar, the surveillance sweep is likely to have mapped all residents and visitors in Paraio at or around the time of its bombing. In addition to radar, the state used drone surveillance in Paraio, also with no evidence of prior resident notification.[[123]](#footnote-123) In the matter of the Families versus Charechia, neither evidence of warrants for tapping nor for search has been provided.

The Inter-American Court has defined abusive interference by the state to include actions where achieving security objectives is the government’s goal. Similar to Western Charechian residents, in *Castillo Petruzzi et al v. Peru* (1999) a Chilean businessman and others associated with the Tupác Amaru Revolutionary Movement were surveilled by the state without legal notice and in blanket fashion,[[124]](#footnote-124) the scale of surveillance here being characterized by Inter-American policy as state “unbridled power.”[[125]](#footnote-125) In like fashion to Peru’s invasion of Castillo Petruzzi’s privacy, in “ferreting out dens of resistance”[[126]](#footnote-126) with these surveillance methods, the State violated the Families’ right to privacy by subjecting their home village to indiscriminate forms of privacy invasion: ground-penetrating radar and drone surveillance.[[127]](#footnote-127)

Despite its reconnaissance proving great rebel enmeshment with Paraio’s non-combatant civilian population, the State—in surveilling globally and without notice the mestizojos village—disregarded Petitioners’ right to a home free from abusive interference.[[128]](#footnote-128) According to international norms the Families had a reasonable expectation of privacy,[[129]](#footnote-129) therefore, the State’s indiscriminate and undisclosed surveillance of Petitioners’ home constitutes violation of the ACHR’s Article 11 Right to Privacy.

***3.5 – FREEDOM OF THOUGHT AND EXPRESSION***

***State War Propaganda Targeted Enmeshed Residents***

Article 13 of the American Convention on Human Rights states, “Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.”[[130]](#footnote-130) With Charechia’s Executive inciting to violence the military that is officially employed to protect its citizens in every region, the State violated Petitioners’ Article 13 rights.[[131]](#footnote-131)

Paraio residents were unfortunate enough to be the victims of enmeshment with secessionists, who used the village as a storage and meeting location.[[132]](#footnote-132) In the months leading to the August massacre,[[133]](#footnote-133) the State and the Shield had been making noise of proxy war,[[134]](#footnote-134) with the poorest province of Western Charechia for their battleground.[[135]](#footnote-135) Five months after the government committed the Paraio massacre, Charechia’s Executive on January 19, 2018 officially promised that further “military raids, both ground and air, will continue in regions where instability is fomented by [The Shield].”[[136]](#footnote-136) This official response shows the State disregarding the great enmeshment secessionists have effected upon Petitioners. The statement also advocates for continued violence[[137]](#footnote-137) against a group, on the grounds of residence.

As shown in Section 3.4,[[138]](#footnote-138) in preparation for the military maneuver on Paraio, State actors performed reconnaissance and gathered intelligence enough to deduce a sizable Shield presence interwoven with the people of Paraio.[[139]](#footnote-139) The Charechian Military Police reported, two months before Petitioners’ joint lawsuit was dismissed, that similar military raids[[140]](#footnote-140) generated the level of collateral damage they did due to “great amounts of integration and entanglement between the villagers and the operatives of the Shield of the North.”[[141]](#footnote-141) The illegally-obtained intelligence described under this document’s Article 11 violation suggests saturation of Shield of the North presence in Paraio was de facto human shielding.[[142]](#footnote-142)

Given that the government’s own report on conditions of average raid demonstrates great frequency of non-combatant civilian and Shield enmeshment,[[143]](#footnote-143) under the principle of distinction that only fighters may be targeted,[[144]](#footnote-144) the State’s bombing of civilians (here: Paraio residents) and civilian objects (here: Paraio property) was a clear violation of International Humanitarian Law.[[145]](#footnote-145) The Geneva Convention makes plain the State’s obligation to distinguish:

“[T]hose who plan or decide upon an attack shall: (i) do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives … and that it is not prohibited by the provisions of this Protocol to attack them. Each party to the conflict must do everything feasible to verify that targets are military objectives.”[[146]](#footnote-146) In addition to the Geneva Convention’s pronouncement on the subject, European Court of Human Rights regional scholars find human shielding an illegitimate reason for lawful combatants to act with wanton disregard for human life.[[147]](#footnote-147) Given that, at the time of the raid upon Petitioners’ home, de facto human shielding was in operation, the State, in bombing Paraio, has evidenced a shirking of responsibility to make a distinction between military-targeted persons and civilians. Its propaganda made on regional grounds encourages continued violence upon enmeshed residents of secessionist-occupied regions. Protected persons cannot be, according to international law, targeted on any grounds, including regional ones.[[148]](#footnote-148)

Under Article 13 of the ACHR, States Parties committing offenses of targeting groups in propaganda for war will be considered punishable by law. The January 19, 2018 actions of the State show that, despite its responsibility to protect citizens from unfair targeting of military action, the State, via threatening propaganda, violated Petitioners’ Article 13 rights.

***3.6 – FREEDOM OF ASSOCIATION***

***Despite de Facto Admission of Fault, the State Performed Selective Restitution***

Article 16 of the ACHR states, “Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes. The exercise of this right shall be subject only to such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others.”[[149]](#footnote-149),[[150]](#footnote-150) Petitioners are guaranteed the freedom of association, and they exercised that freedom by associating for reasons familial.

The Republic of Charechia violated Petitioners’ freedom of association, because despite previous convictions under Charechian law,[[151]](#footnote-151) the Petitioners still retained their right to associate freely with convict relatives (for instance with Mr. Claudio Ancho). While the provisions of the article permit for restrictions “in the interest of national security, public safety or public order,”[[152]](#footnote-152) the certain guilt of Mr. Ancho is unclear. Before his death at Paraio, the decedent testified of having no knowledge of his temporary house guests’ criminal and/or anti-government activity. The house guests were his cousins,[[153]](#footnote-153) therefore Ancho’s motive for sheltering them may have been familial.

The case surrounding Manuel Poblano is less certain. While admitting to having “close personal ties” to Shield operatives and, politically, aligning with a portion of the group’s beliefs,[[154]](#footnote-154) Mr. Poblano was, at the time of his death, engaged in appealing[[155]](#footnote-155) his organized sabotage conviction.[[156]](#footnote-156) Because the nature of his conviction involves endangering munitions and his court testimony admitted his Shield sympathies, with regard to Mr. Poblano Petitioners are less willing to allege Association violation under the framework of this Article’s Section 2.

On the subject of restitution, however, the Court has made plain that identification of victims includes, as with instances of Article 5.1 violations of integrity, the directly-injured party’s next-of-kin.[[157]](#footnote-157) Of the three families, the Guajillos (who lost four relatives in the Paraio bombing) were without Shield of the North ties; at their appeal in which the State pronounced Paraio deaths “collateral casualties,”[[158]](#footnote-158) Charechia’s Supreme Court awarded them $75,000 in damages. This award of $75,000 combined with the President’s $200,000 award (granted the same month as the massacre) to Shield-kidnapped indigenous farmers[[159]](#footnote-159) is evidence the State believes compensation is due to families of the directly-injured. The two other petitioning families also suffered, each, the deaths of multiple relatives, but despite experiencing tragedy identical in nature to the Guajillos, by the Supreme Court’s ruling the Poblano and Ancho families “received no compensation”[[160]](#footnote-160) for loss of their loved ones.

When the State denied equitable compensation to all three petitioning families on the basis of bombing victims’ political associations, it prized higher than human rights the decedents’ anti-government connections, whether those connections were proven or presumed.[[161]](#footnote-161) Therefore, the State, in denying Petitioners restitution via their domestic courts, prevented the Families from exhausting domestic remedies and punished them for associating with their relatives. This violated their Article 16 rights.

***3.7 – FREEDOM OF MOVEMENT AND RESIDENCE***

***The State’s Military Operations Limited Residents***

Article 22 of the American Convention on Human Rights states, “Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law. (Sections 3 and 4 of this Article 22 follow its opening assertion with identical concerns previously-addressed through Article 16, namely on the subjects of public safety, prevention of crime, and national security.)

Previous arguments under Article 7 speak to the special relationship an indigenous people has with their land; their ancestral land is often considered, in its entirety, their home.[[162]](#footnote-162) As in *Kichwa*, where indigenous groups in Ecuador were barred by outside parties from full use of their home, the Court has specified through the people’s plight the continued access similarly situated persons are granted. Section 1 of Article 22 of the Convention insures those movement and residence rights. In addition to the Court’s history with these rights, international instruments join the Convention in protecting them, to include the American Declaration on the Rights and Duties of Man.[[163]](#footnote-163)

The Republic of Charechia arrested the Families’ full enjoyment of their land by committing, without proper delineation between fighters and non-combatants,[[164]](#footnote-164) its military raid upon the village. The damage resulting from a military air raid upon a modest settlement can be precious, with homes subjected to bombings simply collapsing.[[165]](#footnote-165) Furthermore, where the majority of those working gather income from farming and fishing, the movement the military bombs have either suspended or halted altogether is likely extreme, and the rebuilding requirements may be extensive in a relatively poor area like Paraio.[[166]](#footnote-166) Thus the arrested movement of the indigenous residents as well as the disruptions and costs to their lives are, with a bombing like Paraio’s, likely to be exorbitant.[[167]](#footnote-167)

With the government’s “significant” military budget and Maior-province backing,[[168]](#footnote-168) the residents of Paraio were likely barred or retarded from regular or preferred movement, given “the large presence of military personnel [installed] in the area”[[169]](#footnote-169) for the duration of the State’s crackdowns on the “cowardly . . . terrorists and rabble-rousers.”[[170]](#footnote-170) Therefore, through damage to housing and a military occupation of the area, the State has commandeered Paraio village for its proxy war,[[171]](#footnote-171) thus limiting Petitioners’ freedom of movement and residence.

***3.8 – RIGHT TO PARTICIPATE IN GOVERNMENT***

***The State is Failing Inter-American Democratic Charter Mandate***

Article 23 of the American Convention on Human Rights states,

1.    Every citizen shall enjoy the following rights and opportunities:

a.    to take part in the conduct of public affairs, directly or through freely chosen representatives;

b.    to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and

c.    to have access, under general conditions of equality, to the public service of his country.

2.    The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.

One of the Organization of American States’ most cherished values, foundational to all human rights, is democracy, and the Inter-American system promotes through its every statute, policy, approved instrument and procedure the expansion of human rights upon that foundation. Article 2 of the Inter-American Democratic Charter speaks of the “effective exercise of representative democracy” as the “basis for the rule of law,” and this system of representation is to be among the Member States “strengthened and deepened,” at all times by “ethical and responsible participation of the citizenry within a legal framework conforming to the respective constitutional order.”[[172]](#footnote-172)

Charechia’s presidential term limits amendment, whose passing would be considered by both the OAS and the UN as akin to a “constitutional coup d’état,”[[173]](#footnote-173) hangs over the Republic’s membership like a pall. Its passing, at present for the citizens of voting-age population, would likely further denigrate (as the OAS Secretary General warned Charechia’s president)[[174]](#footnote-174) “the quality of democracy in the region through undemocratic methods.”[[175]](#footnote-175) At-large legislative seats[[176]](#footnote-176) already compromise the potential equality of the Republic’s three internal states.

Article 4 of the Charter requires of Member States “transparency in government activities” as “essential components of the exercise of democracy.” This aligns with the Charter’s eternal aim. However, through nepotism in government appointments,[[177]](#footnote-177) suspicions of corruption,[[178]](#footnote-178) and (according to politically-active groups) lack of transparency,[[179]](#footnote-179) the Republic of Charechia’s present fulfillment of its democracy obligations seems unlikely. When read in conjunction with the Inter-American Democratic Charter’s Articles 2 and 4, the State therefore has violated the American Convention on Human Rights’ Article 23, the Right to Participate in Government.

# 4 – REQUEST FOR RELIEF

Based on the foregoing submissions, the Petitioner respectfully requests the Court:

(a) Declare the responsibility of the Republic of Charechia for the violation of the rights enshrined in Articles 5, 7, 8, 11, 13, 16, 22 and 23 of the American Convention on Human Rights, all read in conjunction with Articles 1(1) and 2, with respect to petitioning families Guajillo, Ancho, and Poblano and all affected residents of Paraio.

(b) Order that the Republic of Charechia strike down constitutionally unsound legislation, in alignment with the pro-democratic post-2016 election recommendations of the Organization of American States and the United Nations.[[180]](#footnote-180)

(c) Order that the Republic of Charechia compensate directly all massacres’ surviving next-of-kin,[[181]](#footnote-181) according to the Court’s definition of victims[[182]](#footnote-182) and in the denomination identical to the Republic of Charechia’s Executive August 2017 award,[[183]](#footnote-183) for the total non-pecuniary damages amount of $200,000 per family of each massacre victim.

(d) Order that the Republic of Charechia compensate these beneficiaries of the reparations with pecuniary damages, each family’s total sum to be multiplied against the number of relatives executed per family, and based upon:

* + - the 2018 Charechian average monthly income
    - the average lifespan—and thus, potential working years remaining—of each adult decedent
    - the undue burden of loss of potential earnings[[184]](#footnote-184)

(e) In accordance with the Commission’s June 10, 2019 findings, toward prevention of recurrence of human rights violations, Petitioners request the Court Order the Republic of Charechia:

* immediately cease all military raids on villages for any purpose.[[185]](#footnote-185)
* submit its OAS membership to General Assembly special session for the determination of suspension, in compliance with Inter-American Democratic Charter Article 21, until democracy in the Republic of Charechia has been determined by the OAS to have been restored.
* develop structure establishing municipal and secondary courts throughout the province of Western Charechia and Charechia Noresta, the number of which to be based upon average judicial needs per state population, and to be equitable in quality and nature[[186]](#footnote-186) with their sister state of Charechia Maior.[[187]](#footnote-187)

1. Hypothetical Paragraph 1 [↑](#footnote-ref-1)
2. Hypothetical Paragraph 7 [↑](#footnote-ref-2)
3. Hypothetical Paragraph 8 [↑](#footnote-ref-3)
4. Hypothetical Paragraph 9 [↑](#footnote-ref-4)
5. Hypothetical Paragraph 8 [↑](#footnote-ref-5)
6. Hypothetical Paragraph 13 [↑](#footnote-ref-6)
7. Hypothetical Paragraphs 4, 11 [↑](#footnote-ref-7)
8. Hypothetical Paragraph 17 [↑](#footnote-ref-8)
9. Hypothetical Paragraph 19 [↑](#footnote-ref-9)
10. Hypothetical Paragraph 20 [↑](#footnote-ref-10)
11. Hypothetical Paragraph 3 [↑](#footnote-ref-11)
12. Hypothetical Paragraph 21 [↑](#footnote-ref-12)
13. Ibid. [↑](#footnote-ref-13)
14. Hypothetical Paragraph 22 [↑](#footnote-ref-14)
15. Ibid. [↑](#footnote-ref-15)
16. Ibid. [↑](#footnote-ref-16)
17. Ibid. [↑](#footnote-ref-17)
18. Hypothetical Paragraph 24 [↑](#footnote-ref-18)
19. American Convention on Human Rights 1969 Article 4 [↑](#footnote-ref-19)
20. Hypothetical Paragraph 29 [↑](#footnote-ref-20)
21. Hypothetical Paragraph 24 [↑](#footnote-ref-21)
22. Hypothetical Paragraph 23 [↑](#footnote-ref-22)
23. Hypothetical Paragraph 24 [↑](#footnote-ref-23)
24. Ibid. [↑](#footnote-ref-24)
25. Hypothetical Paragraph 25 [↑](#footnote-ref-25)
26. Hypothetical Paragraph 26 [↑](#footnote-ref-26)
27. Hypothetical Paragraph 29 [↑](#footnote-ref-27)
28. Hypothetical Paragraph 10 [↑](#footnote-ref-28)
29. May 5, 2019 [↑](#footnote-ref-29)
30. Hypothetical Paragraph 31 [↑](#footnote-ref-30)
31. Hypothetical Paragraph 33 [↑](#footnote-ref-31)
32. Hypothetical Paragraph 16, 34 [↑](#footnote-ref-32)
33. Waldron, Jeremy. Partly Laws Common to All Mankind, Yale University Press, 2012 [↑](#footnote-ref-33)
34. Hypothetical Paragraphs 30-32 [↑](#footnote-ref-34)
35. Hypothetical Paragraph 24 [↑](#footnote-ref-35)
36. Hypothetical Paragraph 29 [↑](#footnote-ref-36)
37. Hypothetical Paragraph 26 [↑](#footnote-ref-37)
38. *Case of Velásquez-Rodriguez v. Honduras* [1989] 4 C, para 177 (I/A Court H.R.) [↑](#footnote-ref-38)
39. Hypothetical Paragraph 10 [↑](#footnote-ref-39)
40. Inter-American Commission Executive Summary, “Access to Justice as a Guarantee of Economic, Social, and Cultural Rights. A Review of the Standards Adopted by the Inter-American System of Human Rights” Paragraph 80(a), n.d. [↑](#footnote-ref-40)
41. Hypothetical Paragraph 31 [↑](#footnote-ref-41)
42. Please see Section 4, “Request for Relief,” for itemized comprehensive request. [↑](#footnote-ref-42)
43. American Convention on Human Rights 1969 Article 5.3 [↑](#footnote-ref-43)
44. *Case of Bámaca Velásquez v. Guatemala* [2000] [↑](#footnote-ref-44)
45. Ibid. [↑](#footnote-ref-45)
46. 2017 August 16 [↑](#footnote-ref-46)
47. Hypothetical Case Para. 23; Clarification Questions 3, 8 [↑](#footnote-ref-47)
48. Hypothetical Paragraph 23 [↑](#footnote-ref-48)
49. Hypothetical Paragraph 24 [↑](#footnote-ref-49)
50. Ibid. [↑](#footnote-ref-50)
51. Hypothetical Paragraph 23 [↑](#footnote-ref-51)
52. Hypothetical Paragraph. 24 [↑](#footnote-ref-52)
53. Hypothetical Paragraph 23 [↑](#footnote-ref-53)
54. American Convention on Human Rights 1969 Article 5.1 [↑](#footnote-ref-54)
55. American Convention on Human Rights 1969 Article 4 [↑](#footnote-ref-55)
56. Hypothetical Paragraph 21 [↑](#footnote-ref-56)
57. Hypothetical Paragraphs 21, 26 [↑](#footnote-ref-57)
58. [Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?action=openDocument&documentId=AE2D398352C5B028C12563CD002D6B5C) [↑](#footnote-ref-58)
59. American Convention on Human Rights 1969 Article 16.1 [↑](#footnote-ref-59)
60. Article entitles identified victim(s) to, *inter alia*, fair compensation. [↑](#footnote-ref-60)
61. American Convention on Human Rights 1969 Article 5.1 [↑](#footnote-ref-61)
62. *Case of Bámaca-Velásquez v. Guatemala* [I/A Court H.R.] 2000, Series C. NO. 91, Reparations and Costs [↑](#footnote-ref-62)
63. American Convention on Human Rights 1969 Article 5 [↑](#footnote-ref-63)
64. American Convention on Human Rights 1969 Article 7.1 [↑](#footnote-ref-64)
65. June 15, 2016 [↑](#footnote-ref-65)
66. CQ 14 [↑](#footnote-ref-66)
67. Hypothetical Paragraph 3 [↑](#footnote-ref-67)
68. Organization of American States American Declaration on Rights of Indigenous Peoples 2016 Article 6 [↑](#footnote-ref-68)
69. Ibid. [↑](#footnote-ref-69)
70. Hypothetical Paragraph 34 [↑](#footnote-ref-70)
71. Organization of American States American Declaration on Rights of Indigenous Peoples 2016 Article 19 [↑](#footnote-ref-71)
72. 1972 [↑](#footnote-ref-72)
73. # Amaduobogha, Simon Warikiyei, Environmental Regulation of Foreign Direct Investment (FDI) in the Oil and Gas Sector, *Law and Petroleum Industry in Nigeria: Current Challenges: Essays in Honour of Justice Kate Abiri* (Malthouse Press Limited, Lagos, 2009) Pages 127-131

    [↑](#footnote-ref-73)
74. Organization of American States American Declaration on Rights of Indigenous Peoples 2016 Article 19 [↑](#footnote-ref-74)
75. Inter-American Court of Human Rights Provisional Measures Regarding Ecuador, Order of Provisional Measures Section 1, July 6, 2004 [↑](#footnote-ref-75)
76. ### Confirming Rights: Inter-American Court Ruling Marks Key Victory for Sarayaku People in Ecuador, September 2012 [Cultural Survival Quarterly Magazine](https://www.culturalsurvival.org/publications/cultural-survival-quarterly/40-4-water-life)

    [↑](#footnote-ref-76)
77. *Case of Kichwa Indigenous People of Sarayaku v. Ecuador* [I/A Ct. H.R.] 2012 [↑](#footnote-ref-77)
78. Inter-American Court of Human Rights Provisional Measures Regarding Ecuador, Section 2(u) [↑](#footnote-ref-78)
79. Ecuador’s entry into the Inter-American system is marked by the OAS Web site as 1889. [↑](#footnote-ref-79)
80. The Court required Ecuador’s proof of compliance with its order by May 1, 2010. [↑](#footnote-ref-80)
81. Hypothetical Paragraph 3 [↑](#footnote-ref-81)
82. Hypothetical Paragraph 22 [↑](#footnote-ref-82)
83. Hypothetical Paragraph 26 [↑](#footnote-ref-83)
84. CQ 4 [↑](#footnote-ref-84)
85. CQ 14 [↑](#footnote-ref-85)
86. Hypothetical Paragraph 23 [↑](#footnote-ref-86)
87. CQ 14 [↑](#footnote-ref-87)
88. Charter of the Organization of American States, Preamble, 1948 [↑](#footnote-ref-88)
89. American Convention on Human Rights, Article 24 1969 [↑](#footnote-ref-89)
90. American Declaration of the Rights and Duties of Man, Article II 1948; Declaration of the High-Level Meeting on the Rule of Law, para. 2, 2012; Universal Declaration of Human Rights, Article 7, 1948 [↑](#footnote-ref-90)
91. American Convention on Human Rights, Article 8.1 1969 [↑](#footnote-ref-91)
92. American Convention on Human Rights, Article 8.2(h) 1969 [↑](#footnote-ref-92)
93. Hypothetical Paragraph 9 [↑](#footnote-ref-93)
94. Hypothetical Paragraph 10 [↑](#footnote-ref-94)
95. Hypothetical Paragraph 22 [↑](#footnote-ref-95)
96. Juridical Condition and Rights of Undocumented Migrants, Advisory Opinion, OC-18/2003, p. 8 (I/A Court H.R.) [↑](#footnote-ref-96)
97. Ibid. p. 9 [↑](#footnote-ref-97)
98. Inter-American Commission Executive Summary, “Access to Justice as a Guarantee of Economic, Social, and Cultural Rights. A Review of the Standards Adopted by the Inter-American System of Human Rights” n.d. [↑](#footnote-ref-98)
99. Ibid. Para. 1 [↑](#footnote-ref-99)
100. Inter-American Commission Executive Summary, “Access to Justice as a Guarantee of Economic, Social, and Cultural Rights. A Review of the Standards Adopted by the Inter-American System of Human Rights” Paragraph 80(a), n.d. [↑](#footnote-ref-100)
101. Hypothetical Paragraph 6 [↑](#footnote-ref-101)
102. Hypothetical Paragraph 3 [↑](#footnote-ref-102)
103. Hypothetical Paragraph 10 [↑](#footnote-ref-103)
104. Inter-American Commission Executive Summary, “Access to Justice as a Guarantee of Economic, Social, and Cultural Rights. A Review of the Standards Adopted by the Inter-American System of Human Rights” Para. 1 n.d. [↑](#footnote-ref-104)
105. Hypothetical Paragraph 10 [↑](#footnote-ref-105)
106. Hypothetical Paragraph 24 [↑](#footnote-ref-106)
107. Hypothetical Paragraph 29 [↑](#footnote-ref-107)
108. Hypothetical Paragraphs 24, 29 [↑](#footnote-ref-108)
109. Inter-American Commission Executive Summary, “Access to Justice as a Guarantee of Economic, Social, and Cultural Rights. A Review of the Standards Adopted by the Inter-American System of Human Rights” Paragraph 80(a), n.d. [↑](#footnote-ref-109)
110. American Convention on Human Rights 1969 Article 11.2 [↑](#footnote-ref-110)
111. Ibid. Article 11.3 [↑](#footnote-ref-111)
112. CQ 5 [↑](#footnote-ref-112)
113. Hypothetical Case Para. 3 [↑](#footnote-ref-113)
114. Organization of American States American Declaration on Rights of Indigenous Peoples 2016 Article 6 [↑](#footnote-ref-114)
115. *Case of Kichwa Indigenous People of Sarayaku v. Ecuador* [2012](I/A Court H.R.) [↑](#footnote-ref-115)
116. American Declaration on the Rights of Indigenous Peoples, Article V, XXV [↑](#footnote-ref-116)
117. Hypothetical Paragraph 22 [↑](#footnote-ref-117)
118. Rodriguez, Katitza, Hernández, Valentina, Lara, J. Carlos: The Inter-American Legal Analysis: The 13 Principles and the Inter-American System for the Protection of Human Rights [↑](#footnote-ref-118)
119. **The Office of the Special Rapporteur Expresses Concern Over the Acquisition and Implementation of Surveillance Programs by States of the Hemisphere July 21, 2015, Press Release R80/15** [↑](#footnote-ref-119)
120. CQ 13 [↑](#footnote-ref-120)
121. Hypothetical Paragraph 22, 27 [↑](#footnote-ref-121)
122. Wong, Kate. Seeing Through Soil with Sound, October 3, 2000, the Scientific American [↑](#footnote-ref-122)
123. CQ 13 [↑](#footnote-ref-123)
124. *Case of Castillo Petruzzi et al. v. Peru* [1999] (I/A/ Court H.R.) [↑](#footnote-ref-124)
125. Rodriguez, Katitza, Hernández, Valentina, Lara, J. Carlos: The Inter-American Legal Analysis: The 13 Principles and the Inter-American System for the Protection of Human Rights [↑](#footnote-ref-125)
126. Hypothetical Paragraph 20 [↑](#footnote-ref-126)
127. CQ 13, 15 [↑](#footnote-ref-127)
128. CQ 5 [↑](#footnote-ref-128)
129. European Convention on Human Rights 1953 Article 8; Universal Declaration of Human Rights 1948 Article 12 [↑](#footnote-ref-129)
130. American Convention on Human Rights 1969 Article 13.5 [↑](#footnote-ref-130)
131. Ibid. [↑](#footnote-ref-131)
132. Hypothetical Paragraph 22 [↑](#footnote-ref-132)
133. Ibid. [↑](#footnote-ref-133)
134. Hypothetical Paragraph 31 [↑](#footnote-ref-134)
135. Hypothetical Paragraph 20 [↑](#footnote-ref-135)
136. Hypothetical Paragraph 26 [↑](#footnote-ref-136)
137. Ibid. [↑](#footnote-ref-137)
138. Article 11 Right to Privacy [↑](#footnote-ref-138)
139. CQ 13, 15 [↑](#footnote-ref-139)
140. January 25, 2018 – January 10, 2019 [↑](#footnote-ref-140)
141. Hypothetical Paragraph 27, 29; CQ 5 [↑](#footnote-ref-141)
142. CQ 5 [↑](#footnote-ref-142)
143. Ibid. [↑](#footnote-ref-143)
144. Basic Principles of IHL, The Global International Humanitarian Law Centre, n.d. [↑](#footnote-ref-144)
145. Geneva Convention, Additional Protocol I 1977 Article 57(2)(a)(i) [↑](#footnote-ref-145)
146. Ibid. [↑](#footnote-ref-146)
147. Rowe, Peter, Journal of the Royal Society of Medicine, January, Volume 195, ‘Freedom Fighters and Rebels: The Rules of Civil War,’ [2002] [↑](#footnote-ref-147)
148. American Convention on Human Rights 1969 Article 13.5 [↑](#footnote-ref-148)
149. American Convention on Human Rights 1969 Article 16.1 [↑](#footnote-ref-149)
150. Charechia’s infringement on Petitioners’ freedom of association has been addressed, in part, under Article 5. See Section 3.3. [↑](#footnote-ref-150)
151. Hypothetical Paragraph 23; Clarification Questions 3, 5, 8, 15 [↑](#footnote-ref-151)
152. American Convention on Human Rights 1969 Article 16.2 [↑](#footnote-ref-152)
153. Hypothetical Paragraph 23 [↑](#footnote-ref-153)
154. CQ 8 [↑](#footnote-ref-154)
155. CQ 3 [↑](#footnote-ref-155)
156. Hypothetical Paragraph 23 [↑](#footnote-ref-156)
157. *Case of Bámaca-Velásquez v. Guatemala* [I/A Court H.R.] 2000, Series C. NO. 91, Reparations and Costs [↑](#footnote-ref-157)
158. Hypothetical Case Para. 24 [↑](#footnote-ref-158)
159. Hypothetical Paragraph 21 [↑](#footnote-ref-159)
160. Hypothetical Case Para. 24 [↑](#footnote-ref-160)
161. Hypothetical Case Para. 23; Clarification Questions 3, 5, 8 [↑](#footnote-ref-161)
162. *Case of Kichwa Indigenous People of Sarayaku v. Ecuador* [I/A Ct. H.R.] 2012 [↑](#footnote-ref-162)
163. Article 8 Right to Residence and Movement [↑](#footnote-ref-163)
164. Geneva Convention, Additional Protocol I 1977 Article 57(2)(a)(i) [↑](#footnote-ref-164)
165. CQ 6 [↑](#footnote-ref-165)
166. Hypothetical Paragraphs 3, 6, 7 [↑](#footnote-ref-166)
167. Hypothetical Paragraph 6 [↑](#footnote-ref-167)
168. Hypothetical Paragraph 4, See economic superiority of Charechia Maior. [↑](#footnote-ref-168)
169. CQ 13 [↑](#footnote-ref-169)
170. Hypothetical Paragraph 26 [↑](#footnote-ref-170)
171. Hypothetical Paragraph 31 [↑](#footnote-ref-171)
172. Inter-American Democratic Charter 2001 [↑](#footnote-ref-172)
173. Hypothetical Paragraph 15 [↑](#footnote-ref-173)
174. Hypothetical Paragraph 14 [↑](#footnote-ref-174)
175. Ibid. [↑](#footnote-ref-175)
176. Hypothetical Paragraph 9 [↑](#footnote-ref-176)
177. Hypothetical Paragraph 12 [↑](#footnote-ref-177)
178. Ibid. [↑](#footnote-ref-178)
179. Hypothetical Paragraph 25 [↑](#footnote-ref-179)
180. Hypothetical Paragraphs 8, 9, 13-16 [↑](#footnote-ref-180)
181. Hypothetical Paragraph 27 See similar massacre at Western Charechian village of Guaido. [↑](#footnote-ref-181)
182. *Case of* *Afro-Descendant Communities Displaced from the Cacarica River Basin (Operation Genesis) v. Colombia* [2013] Series C No. 270 (I/A Court H.R) [↑](#footnote-ref-182)
183. Hypothetical Paragraph 21 [↑](#footnote-ref-183)
184. *Case of Aloeboetoe et al. v. Suriname* [1993] series C No. 15—Reparations and Costs, cl. 88-89, *lucrum cessans* [↑](#footnote-ref-184)
185. Hypothetical Paragraph 31 [↑](#footnote-ref-185)
186. Inter-American Commission Executive Summary, “Access to Justice as a Guarantee of Economic, Social, and Cultural Rights. A Review of the Standards Adopted by the Inter-American System of Human Rights” [↑](#footnote-ref-186)
187. Hypothetical Paragraphs 4, 10 [↑](#footnote-ref-187)