

CASE OF A.A. AND NINE OTHER WOMEN VS. REPUBLIC OF ARAVANIA

**PRESENTED BEFORE THE HONORABLE INTER-AMERICAN COURT OF HUMAN
RIGHTS**

REPRESENTATIVES OF THE VICTIM

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STATEMENT OF FACTS

A.A. is a citizen of the Republic of Aravania and lives in Campo de Santana, an impoverished rural area within Aravania.¹ Like all Aravanian citizens, she did not have access to a public education or social security system.² A.A. had her first child at 22, F.A., and soon had to take care of her mother, M.A., due to health complications.³ A.A. was drawn to Lusaria due to *ClicTik* videos on an account run by Hugo Maldini.⁴

The *Aerisflora* plant, initially discovered in the Democratic State of Lusaria, was poised to be a solution in creating “sponge cities” due to its capacity to absorb and purify unwanted nutrients in rainwater.⁵ The production of *Aerisflora* was essential to Aravania due to the country’s climate issues of heavy rainfall.⁶ Therefore, in 2012, after experiencing one of the worst floods in its history, Aravania sent a delegation of representatives to both Lusaria and the State of Elandria to investigate the potential of establishing a trade agreement with one of the two states.⁷ Despite unfavorable working conditions in the Lusaria farms, Aravanian president Carlos Molina and the Ministry of Foreign Affairs of the Republic of Aravania agreed to establish a Bilateral Cooperation Agreement for the Transplantation of *Aerisflora* (“Agreement”) with Lusaria.⁸ This Agreement was entered into by both parties on July 2, 2012,⁹ and established several key provisions: both Parties would identify the urban areas to be transformed into sponge cities;¹⁰ Lusaria agreed to send monthly status reports detailing the activities and working

¹ Hypothetical Case ¶¶ 31, 3 [hereinafter “H.C.”].

² *Id.* at ¶ 3.

³ *Id.* at ¶¶ 31-32.

⁴ *Id.* at ¶¶ 33-34.

⁵ *Id.* at ¶ 13.

⁶ *Id.* at ¶¶ 2, 4.

⁷ H.C. ¶¶ 20-22.

⁸ *Id.* at ¶¶ 21, 24.

⁹ *Id.* at ¶ 25.

¹⁰ *Id.* at ¶ 25, art. 3.1(a).

conditions on the *Aerisflora* farms to Aravania;¹¹ Aravania could conduct unannounced on-site activity supervision visits;¹² both Parties would guarantee working conditions compatible with the dignity of the individual and observance of human rights¹³ and specifically to protect women workers;¹⁴ the status of personnel and their status of immunity and special service permits;¹⁵ and an agreement for any dispute between the Parties to be settled by arbitration before the Special Arbitration Panel.¹⁶

It was determined the farms should be staffed mainly with women from Aravania, specifically mothers with newborns living in rural areas.¹⁷ Hugo Maldini was hired on July 12, 2012, by the owners of an *Aerisflora* farm, Finca El Dorado, and EcoUrban Solutions to recruit the labor force for these farms.¹⁸ Shortly after, Maldini was appointed Lusaria's Special Attaché for Public and Commercial Relations and was granted the benefits under Article 50 of the Agreement.¹⁹ Maldini's marketing strategy included a series of *ClicTik* videos, which is how A.A. learned of Finca El Dorado and reached out to Maldini to learn more about the employment opportunities on the farm.²⁰

After being successfully recruited by Maldini, A.A. was contacted by Isabel Torres, who sent over an employment contract detailing the kind of "painstaking, delicate, and patient work" that would be required of her.²¹ It also explained her 48-hour work week, the benefits available to

¹¹ *Id.* at ¶ 25, art. 3.3

¹² *Id.* at ¶ 25, art. 3.3.

¹³ H.C. ¶ 25, art. 23.1.

¹⁴ *Id.* at ¶ 25, art. 23.3.

¹⁵ *Id.* at ¶ 25, art. 50.

¹⁶ *Id.* at ¶ 25, art. 71.

¹⁷ *Id.* at ¶¶ 26-28.

¹⁸ *Id.* at ¶ 26.

¹⁹ H.C. ¶ 30.

²⁰ *Id.* at ¶¶ 33-34.

²¹ *Id.* at ¶ 35.

her under this employment, her special work permit, and, once signed, documentation for her to enter Lusaria.²²

On November 24, 2012, a group of 60 women and their dependents left Aravania and traveled to Lusaria.²³ Once in Lusaria, the women were put on a bus with tinted windows and shuttled to a nearby immigration station where their identity documents were seized from them and never returned.²⁴ Although her original working hours were set to begin at 7:00 a.m. and end at 3:00 p.m., with a 45-minute break at noon, A.A. ended up reporting for work at 6:00 a.m. and working until 11:00 p.m. due to her planting, cooking, and cleaning duties.²⁵ By September 2013, A.A. and the other workers were required to live and sleep at the farm in 35 m² household shared between three families, gated in with a 2.5-meter-high metal mesh fence and a 24-hour surveillance system meant to monitor the entry and exit of all persons.²⁶ On the weekends, the women were required to clean the residences, wash the men's clothes, and cook for the staff.²⁷ A.A. wished to leave but was inhibited by the meager wages she had received and was fearful of reprisal after hearing of violence against the female workers by Joaquín Díaz, one of the supervisors on the farm, one of whose complaints led to her and her daughter disappearing entirely.²⁸

During this time, Aravanian authorities received an anonymous report on its emergency hotline in October 2012 and interviewed a woman from the El Dorado farm in October 2013 who both reported women from Campo de Santana were being trafficked as victims of forced labor

²² *Id.* at ¶ 35.

²³ *Id.* at ¶ 36.

²⁴ *Id.* at ¶¶ 36, 44.

²⁵ H.C. ¶¶ 37, 41-42.

²⁶ *Id.* at ¶¶ 39-40.

²⁷ *Id.* at ¶ 42.

²⁸ *Id.* at 43-44.

into Lusaria to work on the *Aerisflora*.²⁹ Despite the credibility of the two statements, Aravanian authorities did not thoroughly investigate, merely asking for a report from the Lusarian authorities to only find insufficient evidence.³⁰

In January 2014, A.A. learned she was one of ten women – all of whom had dependents who would remain in Lusaria – selected for *Aerisflora* transplantation in Aravania.³¹ Right before she left for Aravania, A.A. had heard of an incident of sexual violence perpetrated by a male guard against one of the women in the fields and advised M.A. and F.A. to flee.³² Transported back to Aravania, A.A., the ten other women arrived in Primelia, where the working, living, and facility conditions were similar to those of El Dorado.³³ After the week of transplantation work, A.A. was never paid, and when she approached Maldini for payment, she was denied her earned wages and ridiculed.³⁴

Nine days after arriving in Primelia, A.A. escaped to file a complaint with the Velora Police in Aravania, where she explained her working conditions, the incidents of violence she knew about, and the fact that her mother and daughter remained in Lusaria.³⁵ The police investigated Maldini and determined there was enough evidence to arrest him, however, the case was dismissed within two days due to Maldini’s immunity status.³⁶ With the assistance of the Trafficking Victims Support and Reintegration Clinic of Aravania (“Clinic”), A.A. appealed the decision on behalf of her and the other ten women, but the decision to dismiss was affirmed,

²⁹ *Id.* at ¶ 54.

³⁰ *Id.*

³¹ H.C. ¶ 45.

³² *Id.*

³³ *Id.* at ¶ 46.

³⁴ *Id.* at ¶ 47.

³⁵ *Id.* at ¶ 48.

³⁶ *Id.* at ¶¶ 49-51.

causing significant media stir in both Aravania and Lusaria.³⁷ Eventually, a case was opened in Lusaria against Maldini but only resulted in a conviction for abuse of authority, despite the human trafficking charges as well.³⁸

In March 2014, Aravania initiated dispute resolution proceedings against Lusaria per Article 71 of the Agreement, alleging the working conditions violated Article 23 of the Agreement.³⁹ The Arbitration Panel agreed with Aravania and ordered Lusaria to pay US \$250,000, only US \$5,000 of which was paid to A.A.

Following this, A.A., with the assistance of the Clinic, filed a petition with the Inter-American Commission on Human Rights (“IACHR”), alleging Aravania violated their international responsibilities under the American Convention on Human Rights, Articles 3, 5, 6, 7, 8, 25, and 26, and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, Article 7 because of their participation in the slavery and trafficking of these women.⁴⁰ The State filed their response in December 2016, and the Commission approved the Merits Report No. 47/24, concluding the State was responsible for violating these rights in March 2024.⁴¹ The IACHR transmitted the case to the Inter-American Court on Human Rights to hear arguments on these issues.⁴²

³⁷ H.C. ¶¶ 51-52.

³⁸ *Id.* at ¶ 53.

³⁹ *Id.* at ¶ 55.

⁴⁰ *Id.* at ¶ 56.

⁴¹ *Id.* at ¶¶ 57-59.

⁴² *Id.* at ¶ 60.

LEGAL ANALYSIS

I. ADMISSIBILITY

The Inter-American Court has the authority to make binding judgments against Aravania on matters relating to the interpretation or application of the Convention.⁴³ The Inter-American Commission on Human Rights submitted the complaint to the Inter-American Court for review pursuant to Article 61 of the American Convention on Human Rights on June 10, 2024.⁴⁴ The Republic State of Aravania recognizes the contentious jurisdiction of the Inter-American Court.⁴⁵

The Commission has already determined the State violated rights established in multiple articles of the American Convention⁴⁶ and the Convention of Belem do Para⁴⁷ to the detriment of A.A. and the nine other women.⁴⁸ The State's arguments fall mainly into jurisdictional issues rather than arguments on the merits. As no jurisdictional problems exist in this case, and A.A. and the nine other women can prove international responsibility on the merits, judgment for the Victims is proper.

A.A. and the nine other women argue that competence *ratione loci*, the principle of subsidiarity, and competence *ratione personae* are satisfied in this case. As this Court has the ability to waive the individual victims being identified due to the nature of the crime against

⁴³ Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123, article 62(1) [hereinafter "Convention"].

⁴⁴ H.C. ¶ 59.

⁴⁵ H.C. ¶ 10.

⁴⁶ The articles of the Convention violated were articles 3, 5, 6, 7, 8, 25, and 26. H.C. ¶ 56.

⁴⁷ The article of the Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belem do Para) that were violated was article 7. H.C. ¶ 56.

⁴⁸ H.C. ¶ 58.

them *ratione personae* are satisfied. The principle of subsidiarity presents no bar as the rulings in the lower courts of the State have not been successful in implementing the protections of required by the Convention. Lastly, competence *ratione loci* is also satisfied as the State exerted jurisdiction over the work camps, allowing liability to be imputed to them as a State. Therefore, the case against the State has no jurisdictional issues and should be allowed to proceed on the merits.

- A. Petitioners can prove that competence *Ratione Personae* is satisfied in this case as human trafficking cases do not require the individual victims to be identified.

There is no problem with competence *ratione personae* in this case, as the Inter-American Court can waive the identification and individualization of victims. This is permissible under Article 35(2) of the Rules of Procedure (“Rules”) for this Court.⁴⁹ It is acknowledged there are some crimes, like human trafficking, by their nature, affect a large swath of victims.

Article 44 of the Convention states “[a]ny person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization, may lodge petitions with the Commission containing denunciations or complaints of violation of this Convention by a State Party.”⁵⁰ Article 46(d) merely requires the petition contain the name, nationality, profession, domicile, and signature of the legal representative of the entity lodging the petition.⁵¹ In this case, the Clinic satisfied the requirements under the Convention.⁵² This

⁴⁹ Rules of Procedure for the Inter-American Court of Human Rights, Art 35(2) [hereinafter “Rules”] (“When it has not been possible to identify one or more of the alleged victims who figure in the facts of the case because it concerns massive or collective violations, the Tribunal shall decide whether to consider those individuals as victims.”).

⁵⁰ Convention, art. 44.

⁵¹ Convention, art. 46(d).

⁵² H.C. ¶ 56.

Court has held there is no requirement of formal representation to access human rights protections, which applies to victims in this case.⁵³

Article 25(2) of the Rules provides when there are multiple victims, there should be appointed a common intervenor for all of the victims.⁵⁴ A.A., and the Clinic, by extension, serves as this common intervenor. Thus, the other victims can be satisfied this organization represents them, as the Clinic has overseen this case for many years in multiple levels of the State's domestic courts.⁵⁵ It is irrelevant the victims were not identified before the domestic courts, as whether victims need to be identified is controlled by the Inter-American Court system.⁵⁶ This Court has allowed the victims to be identified later when deciding the case on the merits in previous cases.⁵⁷ The factors this Court weighs when determining whether to waive identification include (1) the magnitude of the crimes committed, (2) the nature of the facts presented to the court, and (3) the time that has passed since the incident.⁵⁸ The Court still needs to be certain that the victims of a particular incident are indeed real.⁵⁹ These are all satisfied in this case.

The violations committed here are vast enough to warrant the Court not requiring all the victims to be identified and individualized. A group of sixty women and their numerous dependents were trafficked into Lusaria, ten of which were forced to return to the State's borders

⁵³ *Case of the Hacienda Brasil Verde Workers v. Brazil*, Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 337, ¶ 49 (Oct. 20, 2016).

⁵⁴ Rules, art 25(2).

⁵⁵ H.C. ¶ 60.

⁵⁶ *48 Workers Killed in the Explosión at the Pasta de Conchos Mine v. Mexico*, Petition 178-10, Inter Am. Comm'n H.R., Report No. 12/18 ¶ 28 (Feb. 24, 2018); *Mayan Peoples and Members of the Cristo Rey, Bullet Tree, San Ignacio, Santa Elena, and Santa Familia Communities v. Belize*, Petition 633-04, Inter-Am. Comm'n H.R., Report No. 64/15, ¶ 27 (Oct. 27, 2015).

⁵⁷ *Peace Community of San José de Apartadó v. Colombia*, Petition No 12.325, Inter-Am. Comm'n H.R., Report No. 61/16, ¶ 62 (Dec. 6, 2016).

⁵⁸ *Case of the Rio Negro Massacres v. Guatemala*, Preliminary Objection, Merits, Reparations, and Costs, Inter-Am. Ct. H.R. (ser. C) No. 250, ¶ 51 (Sept. 4, 2012).

⁵⁹ *Id.*

while their dependents remained trapped in Lusaria.⁶⁰ These violations to sixty or more women are vast enough to warrant remaining unidentified. Second, the nature of the facts show there's great difficulty in determining the identity of all of the victims. The victims' identification documents were seized when they were trafficked across the border, and those that were left behind have still not returned to the State.⁶¹ The other nine women were forcibly removed and remain unable to be located by the State's police.⁶² It is, therefore, nearly impossible to identify all of the victims of the trafficking in this case. Lastly, the timing remains problematic as it has been over ten years since the trafficking took place. The women were not found by the police at the time and there is no reliable way of locating the women and figuring out where they are now.⁶³ Because of this extensive length of time, it is warranted the other women need not be identified.

The Commission has held that *ratione personae* was lacking were only in cases where the was an extremely large number of abstract victims that were represented in *actio popularis*.⁶⁴ In *Metropolitan Nature Reserve (Panama)*, the Commission deemed the complaint inadmissible because the suit was brought on behalf of all of the people of Panama, and this was considered too abstract and broad to identify the necessary parties.⁶⁵ Here, the case for A.A. and the nine other women does not suffer this same problem as A.A. herself has been identified in this case, and only nine other women were removed from Lusaria to the State. If the Court deems it necessary to separate A.A. from the other victims, there is even less of a problem with A.A. as

⁶⁰ H.C. ¶¶ 36, 45.

⁶¹ H.C. ¶ 36.

⁶² H.C. ¶ 49.

⁶³ H.C. ¶ 49.

⁶⁴ IACHR. Report No. 88/03, Petition 11.533, Inadmissibility, Metropolitan Nature Reserve (Panama), October 22, 2003, para. 34.

⁶⁵ *Id.*

the victim, as she has been sufficiently identified and individualized, therefore, her case should proceed regardless. This Court has ruled differently on different groups within a case, when considering admissibility in the case of Ivete Jordani Demeneck and others, the Court determined Demeneck was an identified victim and others were not.⁶⁶ This case does not paint a group as large as the case there, namely “all elderly and mentally disabled persons whose life and personal integrity are put at risk,”⁶⁷ so the same concerns that prevented the Court from seeing all of those people as victims are not valid. However, because the victims are sufficiently concrete, and the harms are not nearly as broad as in cases where competence *ratione personae* was denied. Because this Court has the discretion to allow the victims to remain anonymous and the Clinic is the valid representative of A.A. and the other nine women, this Court is competent *ratione personae* and there is no problem with representation.

B. Petitioners can show there is no violation of the Principle of Subsidiarity in this case as the domestic remedies are insufficient to right the human rights violations in this case.

1. *Petitioners can show the Principle of Subsidiarity does not bar this Court hearing this case.*

Subsidiarity stands for the proposition that protections under the human rights conventions should be implemented at the lowest level possible; but, if the lower rungs of the system are unable to adequately provide human rights protections, it should be administered by a higher body.⁶⁸ Here, the domestic remedies provided are not enough to fix the wrongs perpetrated against A.A. and the nine other women. This is evidenced by A.A., as the only able

⁶⁶ IACHR, Report No. 79/12, Petition 342-07. Admissibility. Ivete Jordani Demeneck and others. Brazil. November 8, 2012, paras. 19-20.

⁶⁷ *Id.* ¶ 20.

⁶⁸ IACHR, Report No. 82/17, Petition 1067-07. Admissibility. Rosa Ángela Martino and María Cristina González. Argentina. July 7, 2017, ¶ 12.

victim, was unsuccessful in receiving an adequate remedy through the domestic channels. Only A.A. received compensation for the harm that was done to her.⁶⁹ The other nine women named in this case were not considered in that arbitral remedy and have been denied the ability to go to court for the protection of their rights. The award of \$5,000 to A.A. only resulted due to Lusaria's failure to ensure adequate working conditions, breaching the Agreement with no acknowledgment of the State's equal failure.⁷⁰ The Inter-American Court of Human Rights should, therefore, step in to remedy that unjust result.

Additionally, in *Rosa Angela Martino and Maria Cristina Gonzalez v. Argentina*, the Commission determined there was no problem with the exhaustion of domestic remedies because a criminal case had been filed and appealed even though it was archived.⁷¹ The purpose of exhausting domestic remedies is to allow domestic courts to hear the issue, which is in line with the principle of subsidiarity, but it was not required for the victims, in that case, to file a civil suit for damages.⁷² Here, A.A.'s case follows almost the exact same path. A.A. initially filed her case in the State's domestic courts, but it was dismissed immediately because of Maldini's immunity. The case was then appealed, and the decision was ultimately affirmed.⁷³ This Court does not require A.A. to do anything else or file a civil suit before she brings the claim before the Commission and this Court.

Multiple violations of international and domestic law took place under the auspice of the agreement between Lusaria and the State. As domestic courts have had the chance to institute the

⁶⁹ H.C. ¶ 55.

⁷⁰ H.C. ¶ 55.

⁷¹ IACHR, Report No. 82/17, Petition 1067-07. Admissibility. *Rosa Ángela Martino and María Cristina González*. Argentina. July 7, 2017, ¶ 12.

⁷² *Id.*

⁷³ H.C. ¶¶ 49-50.

protections of the Convention but failed to do so, the principle of subsidiarity is not a bar to this Court hearing this case.

2. *Exhaustion of Domestic Remedies*

A.A. has also successfully exhausted the domestic remedies available to her in the courts of Aravania. Article 31(1) of the Rule of Procedure of the Inter-American Commission requires all domestic remedies to be exhausted before bringing a petition before the Commission.⁷⁴ States alleging that domestic remedies have not been exhausted must show what remedies remain and why they would be effective.⁷⁵ Once the petitioner has received a final judgment in a domestic court, they are allowed to bring a claim before the Commission within six months; there is no requirement to continue to use ineffective domestic remedies.⁷⁶

The Rules also require all petitions include information about the domestic remedies that were exhausted.⁷⁷ The Rules also specify the exhaustion requirement will not apply when the party alleging a violation of their rights is denied access to remedies or has been prevented from exhausting them.⁷⁸ The Court has made clear in previous cases that the State has to make clear the remedies that victims failed to exhaust.⁷⁹ Looking at the facts presented to the court, the State has failed to show what remedies A.A. and the nine other victims did not exhaust. Maldini's immunity before it was waived stands as the biggest impediment to justice.⁸⁰ This conscious

⁷⁴ Rules, art. 31(1).

⁷⁵ IACHR, Report No. 39/09, Petition 717-00. Inadmissibility. Tomás Eduardo Jiménez Villada. Argentina. March 27, 2009 ¶ 59.

⁷⁶ Convention Art. 46(1)(b).

⁷⁷ Rules, Art. 28.8.

⁷⁸ Rules, Art. 31.2.

⁷⁹ *Case of the Hacienda Brasil Verde Workers v. Brazil*, Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 337, ¶ 89 (Oct. 20, 2016).

⁸⁰ Maldini's immunity prevented the State's domestic courts from fully prosecuting him for his crimes in Lusaria and within the State. H.C. ¶ 51.

decision to give Maldini his immunity rings with injustice, as evidenced by the large media scandal that ensued, and therefore, this should not have been allowed.⁸¹

The Vienna Convention on Diplomatic Relations (“VCDR”) allows for the prosecution of certain officials when they have taken actions relating to activity outside of their official functions.⁸² Human trafficking would surely fall outside of Maldini's official functions as a representative, and the State should have been allowed to prosecute Maldini for his crimes. The VCDR requires when criminal proceedings are instituted against an official representative, no evidence is needed, but this burden of proof was satisfied nonetheless, as police could confirm A.A.’s story without Maldini’s help.⁸³ Countries simply cannot make agreements to abrogate the protections of human rights conventions.⁸⁴ There would be no reason for them to exist if this was allowed. By giving Maldini complete diplomatic immunity, Aravania was creating an agreement that inherently allowed for violation of both its domestic and international laws.

The case against Maldini that could have adequately remedied the harm suffered was dismissed by the Second Criminal Court, and then the decision was affirmed because of his immunity.⁸⁵ Lusaria did eventually take action against Maldini, and he was sentenced to prison for nine months, but this does not fully remedy the Petitioners’ harm.⁸⁶ There is nothing else that the courts domestically in the State are able or willing to give her as compensation⁸⁷ for the crimes she was the victim of due to Maldini’s diplomatic immunity. This means that the principle

⁸¹ H.C. ¶ 52.

⁸² Vienna Convention Diplomatic Relations, art. 31(1)(c), 18 April 1961, 500 U.N.T.S. 95.

⁸³ H.C. ¶ 49.

⁸⁴ International Covenant on Economic, Social, and Cultural Rights, Article 3 (Dec. 16, 1966).

⁸⁵ H.C. ¶¶ 50-51.

⁸⁶ H.C. ¶ 53.

⁸⁷ See *infra* Part 2(A)(c)(iii)(2).

of subsidiarity requires this Court step in to remedy the situation that Aravania has failed to fix, and domestic remedies have been sufficiently exhausted, allowing the Court to step in.

C. Competence *Ratione Loci* is satisfied in this case.

1. Jurisdiction

This Court has not held it is a requirement that a violation of the Convention occur within the territory of a member state for that member state to be held accountable. It is only required that the state maintain jurisdiction over the area where the crimes took place.⁸⁸ This Court has also recognized that the Inter-American system was set up to have broad jurisdiction to remedy violations of the Convention, and the extraterritoriality of violations should not act as a bar.⁸⁹ The main instances where countries are found to exercise jurisdiction even when violations do not occur on their territory are when a state exercises effective control through military force or an agent of the state exercises control over an area in their official capacity.⁹⁰ Here, Aravania was not exercising control through military force, but Maldini, acting as an agent of the state, was in control of the program.

Under Article 3.3 of the Agreement, the State could inspect the camps used for growing *Aerisflora* at any point without forewarning Lusaria.⁹¹ The State was also charged with obtaining special permits to allow the workers from the camps to travel back from Lusaria to plant the *Aerisflora*.⁹² Article 23 of the Agreement also protected the labor rights of those working on the

⁸⁸ Report No. 112/10 Inter-State Petition IP-02 Admissibility Franklin Guillermo Aisalla Molina (Ecuador-Colombia) ¶ 90.

⁸⁹ *Id.*

⁹⁰ *Id.* ¶ 91.

⁹¹ H.C. ¶ 25, art. 3.3.

⁹² *Id.* at ¶ 25, art. 50.2.

farms by requiring Lusaria to provide the State with monthly reports on the status of the farms.⁹³ Although this was designed to protect women like the A.A. and the nine other women, the State failed to keep its end of the bargain. The State's ability to exert this high level of control shows that the State exercised jurisdiction over the program that Maldini then abused to traffic A.A. and the nine other women from Lusaria to the State's territory.

Even if the camps were not found to be under the control of the State, Maldini facilitated the trafficking A.A. and the nine other women into the State's territory, meaning the trafficking was essentially sanctioned by the agreement between Lusaria and the State, as the State agreed to give people permits to move between the jurisdictions under the Agreement.⁹⁴ Therefore, this Court should find that the State exercised effective control over the work camps and the camp in Aravania itself, therefore, competence *ratione loci* is satisfied in this case.

2. *Control by an Agent*

The State should also be held responsible because the camps were under the effective control of Maldini, who was acting as an agent of the State when he took the women from Lusaria to the State. When determining when someone is an agent for purposes of figuring out jurisdiction, the Court has made clear that while normally being on the territory of a state is necessary for jurisdiction, it would create a terrible loophole if states were allowed to violate the human rights of their citizens on foreign soil and face no consequences.⁹⁵ The Commission has also stated they are competent to hear about violations of people's rights that take place in any

⁹³ *Id.* at ¶ 25, art. 23.

⁹⁴ *Id.* at ¶ 25, art. 50.1.

⁹⁵ Report No. 112/10 Inter-State Petition IP-02 Admissibility Franklin Guillermo Aisalla Molina (Ecuador-Colombia) ¶ 98.

Organization of American States (“OAS”) member state.⁹⁶ Aravania is a member of the OAS.⁹⁷

Aravania should not be allowed off the hook just because the violations took place in the territory of Lusaria.

When looking at key provisions of the Agreement between the State and Lusaria, the assertion Maldini was acting as an agent of the State can be supported. While Maldini was chosen by Lusaria, his actions show he still acted as an agent of the State. The State exercised control over where Maldini took the women when he moved them to transplant the *Aerisflora* under the direction and decision-making control of the State.⁹⁸ The State also granted Maldini complete immunity under the VCDR which then allowed him to perpetrate these crimes without fear of recourse.

Other international human rights systems throughout the world, specifically the European system, also take this broad view toward jurisdiction. In the case between Turkey and Cyprus, Turkey claimed they were only liable for violations that took place on their territory, but the European Court of Human Rights disagreed, stating that anywhere authority is exercised, violations can be prosecuted.⁹⁹ This Court should adopt a similar holding in this case.

This Court, in previous cases, has held when an area is under the control of agents of a state, that state must respect human rights within that area.¹⁰⁰ Here, Maldini was acting as the State’s agent who controlled the work camps that A.A. and the other women were brought from

⁹⁶ IACHR. Report No. 86/99, Case 11.589, *Armando Alejandro Jr., Carlos Costa, Mario de La Peña and Pablo Morales* (Republic of Cuba), September 29, 1999, ¶ 23.

⁹⁷ H.C. ¶ 10.

⁹⁸ H.C. ¶ 25, art. 3.1(a).

⁹⁹ European Court Human Rights, *Lozidou v. Turkey* A 310 ¶¶ 56-64 (1995). European Commission of Human Rights *X v. UK* No. 7547/76, 12 DR 73 (1977); *Bertrand Russell Peace Foundation Ltd. v. UK*, No. 7597/76, 14 DR 117, ¶ 124 (1978); *Mrs. W v. UK* No. 9348/81, 32 DR 190 (1983).

¹⁰⁰ *Id.* ¶ 91.

to Aravania. Therefore, the Court is competent *ratione loci* in this case. Jurisdiction in human rights cases needs to be sufficiently broad to prevent states from using loopholes to avoid providing protections. If the Court finds it is not competent *ratione loci* in this case because of the alleged blueprint for skirting their obligations.

Because the Petitioner can show that this Court is competent *ratione personae*, *ratione loci* and that there would be a violation of the principle of subsidiarity to rule on this case without basis, the Court should proceed to rule on the merits as it is competent to hear this case.

MERITS

II. Violations of the Conventions

The Inter-American Commission on Human Rights has already determined that Aravania violated both the American Convention on Human Rights (“Convention”), specifically with respect to Article 1.1, and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (“Convention of Belem do Para”), Article 7.¹⁰¹ These violations require compensation from the State to A.A. and the nine other women, of which none has been received. Only A.A. has received any form of compensation, none of which was for violations of the Convention against her.¹⁰²

A. The State bears international responsibility for violating Petitioners’ rights as enshrined in the Convention Belem do Para.

Article 7 of the Convention Belem do Para states that parties will condemn all forms of violence against women, make sure their authorities act in recognition of this principle, apply

¹⁰¹ H.C. ¶ 56.

¹⁰² H.C. ¶ 55.

due diligence to preventing harm, adopt domestic legislation that prevents harm, repeal laws that discriminate against women, establish fair legal procedures for women who have been harmed and put systems into place to allow for reparation.¹⁰³ In the *Corfu Channel* case, the ICJ held it violated due diligence obligations for a state to allow for their country to be used as a staging ground for violations of international law.¹⁰⁴ Further, in the case of *Maria da Penha Fernandes*, the Commission found that when a State is complicit in the actions of violence against women, it serves as a communication to broader society as an effective sanction of this violence.¹⁰⁵ Even after being alerted through the anonymous tip and the reported incident by a woman who had been victimized in the camps, the State continued to allow their country to be used as a staging ground for poor working conditions.¹⁰⁶ Therefore, the State bears international responsibility for any violence against women resulting from its complicity under the Convention Belem do Para.

B. The State bears international responsibility for violating Petitioners' rights as enshrined in the American Convention on Human Rights.

Article 1.1 of the Convention states that Parties undertake to respect the rights and freedoms recognized in the Convention and ensure people subject to their jurisdiction get to exercise these rights free from discrimination.¹⁰⁷ The State accepted this responsibility when it signed onto the treaty.¹⁰⁸ The State had multiple reasons to know there were poor working

¹⁰³ Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (Convention of Belem do Para), art 7(a)-(h) [hereinafter "Convention of Belem do Para"]. The State has signed on to this Convention. H.C. ¶10.

¹⁰⁴ *Corfu Channel Case* (United Kingdom v. Albania), Judgment Merits, ICJ Rep 4, at 22 (Apr. 9, 1949).

¹⁰⁵ IACHR, Merits, Report N° 54/01, *Maria Da Penha Fernandes* (Brazil), April 16, 2001, ¶ 56.

¹⁰⁶ H.C. ¶ 54.

¹⁰⁷ Convention, art. 1.1.

¹⁰⁸ H.C. ¶ 10.

conditions for their female citizens traveling from the State's borders to Lusaria and did nothing to prevent them.

The State has breached multiple of the provisions of the Convention, including the rights to juridical personality,¹⁰⁹ to humane treatment,¹¹⁰ freedom from slavery,¹¹¹ right to personal liberty,¹¹² right to a fair trial,¹¹³ right to judicial protection,¹¹⁴ and the right to progressive development.¹¹⁵ Each of these violations will be explored below, but it is worth noting the State has failed to provide A.A. and the nine other women any of these protections. The State breaches Article 1.1 of the Convention by violating all of these rights.

1. Petitioners' rights against slavery,¹¹⁶ to humane treatment,¹¹⁷ and to personal liberty¹¹⁸ were violated by the State entering into a bilateral Cooperation Agreement.

Under the Convention, the right not to be subject to slavery, servitude, forced labor, or the slave trade and traffic in women has achieved a "non-derogable" status.¹¹⁹ The 1926 Slavery Convention provided the basic definition for slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised."¹²⁰ The 1956 Supplementary Convention on the Abolition of Slavery held that slavery and institutions and

¹⁰⁹ Convention, art. 3.

¹¹⁰ Convention, art. 5.

¹¹¹ Convention, art 6.

¹¹² Convention, art. 7.

¹¹³ Convention, art. 8.

¹¹⁴ Convention, art. 25.

¹¹⁵ Convention, art. 26.

¹¹⁶ Convention, art. 6 Freedom from Slavery Aravania has ratified the American Convention on Human Rights.

¹¹⁷ *Id.* at art. 5 Right to Humane Treatment.

¹¹⁸ *Id.* at art. 7 Right to Personal Liberty.

¹¹⁹ *Workers of the Hacienda Brasil Verde v. Brazil*, at ¶ 243 (Oct. 20, 2016). Aravania recognizes the contentious jurisdiction of the Inter-American Court of Human Rights in 1986.

¹²⁰ Convention to Suppress the Slave Trade and Slavery, Sept. 25, 1926, 60 L.N.T.S. 253, art. 1(1), entered into force Mar. 9, 1927.

practices similar to slavery all violated the prohibition of trafficking and any international obligations.¹²¹ Slavery, involuntary servitude, and forced or compulsory labor all constitute slavery under the Convention.¹²² Aravanja engaged in actions that effectively created a system of slavery, at worst, and forced labor, at best. A.A. and the Nine other Women named in this case fell victim to Aravanja's complicit engagement. The State's duty to protect against slavery is an obligation *erga omnes* derived from international law.¹²³ States have a positive duty under the Convention not only to refrain from violating these rights against slavery, to humane treatment, and to personal liberty but also to adopt "positive measures" to protect their citizens.¹²⁴

i. The transportation and working conditions in Lusaria and Aravanja constitute trafficking and forced labor, violating Articles 6, 5, and 7 of the Convention.

Human traffickers prey on those in vulnerable populations, especially women living in rural or impoverished areas,¹²⁵ and this is precisely what was done to A.A. and the nine other women in this case. The method by which A.A. and the other victims were trafficked between borders to engage in forced labor constitutes a violation of the American Convention, which prohibits the act of human trafficking. Article 4 of the Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children,¹²⁶ provides that trafficking in persons can include the "recruitment, transportation, transfer, harbouring or receipt of persons" through

¹²¹ Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Sept. 7, 1956, 266 U.N.T.S. 3.

¹²² Convention, art. 6(1)-(2).

¹²³ *Workers of the Hacienda Brasil Verde*, at ¶ 206.

¹²⁴ *Workers of the Hacienda Brasil Verde*, at ¶ 316.

¹²⁵ Of the 70% of adult victims who were trafficked in data sets between 2010-2012, 50% were women. United Nations Office on Drugs and Crime (UNODC), *Global Report on Trafficking in Persons 2014*. United Nations publication, Sales No. E.14.V.10, p. 71.

¹²⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Article 4. Available at: <https://www.osce.org/odihr/19223?download=true>.

the use of coercion or deception for the purpose of exploitation, including but not limited for forced labor.¹²⁷ Here, A.A. and the nine other victims can show they were the targets of an extensive human trafficking scheme to lure Aravanian women through false messaging,¹²⁸ transport them across the border using coercive methods,¹²⁹ seize their identity documents from them,¹³⁰ entrap the women in terrible housing and working conditions with no ability for leave voluntarily,¹³¹ and withholding pay.¹³² This all constitutes trafficking under the American Convention and UN Convention.

Slavery and all other forms of similar reductions to servitude are prohibited under the Convention,¹³³ and it is this right that Aravania violated by entering into a Bilateral Cooperation Agreement with Lusaria, knowing their working conditions were less than ideal, a cooperation that led to the violation and deprivation of A.A. and Nine other Women's rights through trafficking these victims across the border and unjust working conditions that amount to slavery. In *Prosecutor v. Kunarac*, the International Court of Justice ("ICJ") established the factors¹³⁴ international courts should examine when determining whether the conditions rose to the level of enslavement or reduction to servitude.¹³⁵ Further indications of enslavement include physical hardship and human trafficking in order to obtain the individual's labor.¹³⁶ Although the

¹²⁷ *Id.*

¹²⁸ H.C., ¶ 29.

¹²⁹ *Id.* at ¶ 36.

¹³⁰ *Id.* at ¶ 35.

¹³¹ *Id.* at ¶¶ 38-39.

¹³² *Id.* at ¶ 47.

¹³³ Convention, art. 5.

¹³⁴ 2001 ICJ IT-96-23-T & IT-96-23/1-T ¶ 542 (holding the factors meant there were "elements of control and ownership; the restriction or control of an individual's autonomy, freedom of choice or freedom of movement; and, often, the accruing of some gain to the perpetrator. The consent or free will of the victim is absent. It is often rendered impossible or irrelevant by, for example, the threat or use of force or other forms of coercion; the fear of violence, deception or false promises; the abuse of power; the victim's position of vulnerability; detention or captivity, psychological oppression or socio-economic conditions.").

¹³⁵ *Id.*

¹³⁶ *Id.*

Convention does not explicitly define “slavery,” “involuntary servitude,” or “forced or compulsory labor,” the Inter-American Court on Human Rights (“IACtHR”) held in *Hacienda Brazil Verde* that the *Kunarac* factors were persuasive for defining slavery in the Inter-American system.¹³⁷ This Court also found the standard for determining if forced labor was present is an objective test of whether a reasonable person would believe they had “no choice as to whether they would work.”¹³⁸

In both the Lusaria and Aravana camps, the *Kunarac* factors were met, which satisfied the elements of enslavement under international law. Being forced to leave Lusaria, abandoning their children and dependents in Lusaria, A.A. and the nine other women would have perceived their choice of movement to be restricted.¹³⁹ As the conditions in the Primelia farm were sufficiently similar to the Finca El Dorado, we can presume the extensive working hours of 6:00 a.m. to 11 p.m. continued, all the while only receiving one measly break from intense, “painstakingly, delicate, and patient work.”¹⁴⁰ The women were also forced to live and work on the Primelia farm, with any entry or exit of the premises monitored by the Lusarian staff restricting their movement.¹⁴¹ None of the women had their personal identification documents returned to them, documents that had been forcibly seized from them upon their first entry into Lusaria.¹⁴² Further, the entire time in Aravana, A.A. and the nine other women never received their week’s pay and were told they would not receive that earned pay until they returned to Lusaria, where their family remained captive.¹⁴³ All of these factors contribute to the finding that

¹³⁷ *Workers of the Hacienda Brasil Verde*, at ¶ 259.

¹³⁸ *Id.* at ¶ 261 (quoting SCSL, Case of Prosecutor v. Charles Taylor, No. TESS-03-01-T, Trial Court, Judgment of May 18, 2012, para. 448.).

¹³⁹ H.C. ¶ 45; *Kunarac*, at ¶ 542.

¹⁴⁰ H.C. ¶¶ 35, 37, 41-42.

¹⁴¹ *Id.* at ¶ 46.

¹⁴² *Id.* at ¶¶ 36, 44

¹⁴³ *Id.* at ¶ 47.

A.A. and the Nine other Women were the victims of forced labor at the hands of the State, violating Article 6 under the Convention.

In the case of *María Elena Loayza Tamayo v. Peru* (1997), this Court held “threats of further violence, a restrictive visiting schedule, solitary confinement in a tiny cell, were all forms of cruel, inhuman, or degrading treatment” that implicate Article 5’s Right to Humane Treatment.¹⁴⁴ In *Primelia*, the ten adult women were forced into a single 50m² residence with only two bedrooms, a kitchen, and a single bathroom.¹⁴⁵ Maldini’s words to A.A., denying her the pay she was owed while threatening her of the allegedly worse conditions she would face outside of the farms, were all coercive forms of intimidation meant to bully A.A. into submission.¹⁴⁶ Further, the rumors of threats of violence, both physical and sexual, against similarly positioned women to A.A.¹⁴⁷ also compromised A.A.’s and the Nine Other Women’s right to humane treatment. In *Servellón García et al. v. Honduras* (2006), this Court held a state agent’s, or the state’s tolerance of, temporary and/or informal actions to restrict movement violated Article 7 Right to Personal Liberty.¹⁴⁸ Further, this Court has also held victims of forced labor can be deprived of their liberty under Article 7, even if the victim is not formally detained.¹⁴⁹ In this case, Maldini and Aravanja utilized coercive psychological and physical control over A.A. and the nine other women to detain them and restrict their movements.¹⁵⁰

¹⁴⁴ *María Elena Loayza Tamayo v. Peru*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 33, ¶ 56, (Sep. 17 1997).

¹⁴⁵ H.C. ¶ 46.

¹⁴⁶ H.C. ¶ 47.

¹⁴⁷ H.C. ¶¶ 43-45.

¹⁴⁸ *Servellón García et al. v. Honduras*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 22, ¶ 87, (Sept. 21, 2006).

¹⁴⁹ *Workers of the Hacienda Brasil Verde*, at ¶¶ 319-22.

¹⁵⁰ H.C. ¶¶ 45-47.

The trafficking and the forced labor the Victims were subject to constitute violations under Articles 6, 5, and 7 of the American Convention. Because these actions and the lack of protections can be adequately attributed to the State, international responsibility for these violations should be imposed upon Aravania.

ii. The labor A.A. and the Nine other Women were forced to perform does not fall under either exception in Article 6(3)(c) & (d).

Under the Convention, exceptions under Article 6(3)(c) & (d) include (c) service exacted in a time of danger or calamity that would threaten the existence or well-being of the community and (d) work or service that would form part of normal civic obligations.¹⁵¹

Although the threat of climate change in Aravania due to heavy rains and floods is a serious one,¹⁵² the State cannot resort to slavery in order to combat this danger. There is nothing to suggest that the heavy rains impacting Aravania, although disruptive, “threaten the existence or well-being of the community,” as specified in Article 6.¹⁵³ Further, although *Aerisflora* in the 1990s became one of the leading plants for its use in “sponge cities,”¹⁵⁴ experience and time have shown the delicate nature of *Aerisflora* does not lead to long-lasting change in the fight against flooding.¹⁵⁵

Secondly, the labor A.A. and the other women could not be considered part of “normal civic obligations.”¹⁵⁶ The planting, maintaining, and harvesting of *Aerisflora* was subject to an

¹⁵¹ Convention, art. 6(3)(c)-(d).

¹⁵² H.C. ¶¶ 4, 20.

¹⁵³ Convention, art. 6(3)(c).

¹⁵⁴ H.C. ¶ 13.

¹⁵⁵ H.C. ¶ 55.

¹⁵⁶ Convention, art. 6(3)(d).

employment contract undersigned by A.A. and EcoUrban Solutions.¹⁵⁷ “[C]ivic obligations” were meant to refer to normal duties in the line of being a citizen, including serving on juries, obeying the law, voting, and paying taxes, none of which is implicated here.¹⁵⁸ The extra division of labor, preparing food for lunch and dinner, cleaning the kitchen after mealtimes, cleaning the residences, and washing the men’s clothes¹⁵⁹ are excessive examples of unequal gendered divisions of labor. Therefore, the State may not allege the Petitioners’ actions constituted an exception under Article 6.

iii. Petitioners’ rights to protection against slavery were violated by the State not employing the relevant clauses in the Bilateral Cooperation Agreement with the required due diligence under international law.

Aravania should have adopted positive measures and maintained due diligence through the exercise of the bilateral agreement provisions, specifically the monthly reports on working conditions, Aravania’s unannounced visits to the Aerisflora farms, and protection against gender-based violence. In *Hacienda*, this Court held that “special diligence” is required where “the integrity of an individual is at stake.”¹⁶⁰ There, the Commission argued that Brazil failed to take measures to prevent and protect the victims of trafficking through: “(i) the infrequency of the inspections despite the serious deficiencies found previously, (ii) the inadequacy of the verification, collection and recording of evidence during the inspections, and (iii) the absence of short- and medium-term consequences following the inspections.”¹⁶¹ Therefore, this Court held that it is not sufficient that States refrain from violating their citizens’ rights, but instead, it is also

¹⁵⁷ H.C. ¶ 35.

¹⁵⁸ Convention, art. 6(3)(d).

¹⁵⁹ H.C. ¶¶ 41-42.

¹⁶⁰ *Workers of the Hacienda Brasil Verde* at ¶¶ 316-17.

¹⁶¹ *Id.* at ¶ 215.

“essential” they adopt positive measures to guarantee that violations of these “inalienable right[s] do not occur and, in particular, the duty to prevent its agents as well as private individuals from violating it.”¹⁶² This obligation is not satisfied by the mere implementation of measures but, instead, by continued investigation to ensure no violation of rights occurs.¹⁶³ The onus is on the State to ensure the trafficking and deprivation of liberty of persons does not occur.¹⁶⁴

Here, Aravania had adopted positive measures to ensure any laborers would be protected under the Bilateral Agreement.¹⁶⁵ However, without action from Aravania to investigate further as to whether violations have occurred under these agreement terms, they may as well not exist. According to the Democratic State of Lusaria, they sent periodic reports to the State of Aravania on the working conditions in compliance with the agreement,¹⁶⁶ this is not sufficient to satisfy this “special diligence” required by this Court when the deprivation of rights is concerned.¹⁶⁷ However, Aravania cannot simply defer to the information in these reports, as here, like in *Hacienda*, the State has a duty to verify this information, especially when coupled with the “serious deficiencies” that had been found previously.¹⁶⁸ Upon only receiving periodic reports instead of the previously agreed upon monthly reports coupled with its knowledge of Lusaria’s lacking quality of working conditions, Aravania should have exercised its right under the

¹⁶² *Id.* at ¶¶ 316-17.

¹⁶³ *Id.* at ¶ 364.

¹⁶⁴ *Id.* (“The court has also established that the requirement to investigate trafficking in persons ‘does not depend on a complaint; rather, once the matter has come to the attention of the authorities they must act of their own motion.’”).

¹⁶⁵ H.C. ¶ 25 (“Article 3.3. The Democratic State of Lusaria agrees to send monthly status reports to the Republic of Aravania on the activities of this Agreement and the working conditions under which they are carried out. The Republic of Aravania may conduct unannounced on-site activity supervision visits.”) and (“Article 23.3 The Parties recognize the objective of . . . promot[ing] women’s equality in the workplace.”).

¹⁶⁶ H.C. ¶ 50.

¹⁶⁷ *Workers of the Hacienda Brasil Verde* at ¶¶ 316-17.

¹⁶⁸ *Id.* at ¶ 215.

Agreement to make unannounced supervisory visits to the *Aerisflora* farms.¹⁶⁹ The State cannot claim it only received the knowledge of the condition of these farms upon A.A.’s report on January 14th, 2014, as several reports had been made to the Prosecutor’s office of the “extreme conditions” at Finca El Dorado.¹⁷⁰ However, even if these had not been uncovered, this is no excuse for Aravanja’s lack of diligence in previously investigating these farms for labor and human rights violations, as held by this Court in *Hacienda*.¹⁷¹

Therefore, this failure to exercise the adequate positive protections under the Cooperation Agreement violated the Victims’ rights under Articles 6, 5, and 7.

2. Petitioners’ rights to Progressive Development¹⁷² under Article 26 of the Convention were violated when the State deprived the women of Campo de Santana of a healthy environment.

As held by this Court in *Lagos del Campo v. Peru*, the Right to Progressive Development is considered to be “derived from the economic, social, educational, scientific, and cultural standards set forth in the [Organization of American States] Charter.”¹⁷³ This progressive development of the Article supports the conclusion Petitioners’ rights were violated by the economic, social, cultural, and environmental rights (“ESCER”) in Campo de Santana, which allowed parties to deceptively coerce the Petitioners’ eventual human trafficking.

i. The State’s lack of action to promote equality among women and men in Campo de Santana was a violation of human rights under the Convention.

¹⁶⁹ H.C. ¶¶ 21-22, 25, 50.

¹⁷⁰ *Id.* at ¶ 54.

¹⁷¹ *Id.* at ¶ 48; *Workers of the Hacienda Brasil Verde*, at ¶ 364.

¹⁷² Convention, art. 26 Right to Progressive Development.

¹⁷³ *Case of Lagos del Campo v Peru*, IACtHR Series C No 340 (31 August 2017) ¶ 143.

The Convention’s guarantee to life is more than just that, it is also a guarantee to a “decent life.”¹⁷⁴ Through the application of Article 26, this Court may address societal problems through legal interpretation.¹⁷⁵ It is not enough to recognize these rights, instead States are called to create an environment where the enjoyment and exercise of these rights to a healthy ESCER can be realized.¹⁷⁶ In *Cuscul Piraval*, this Court held there must be an “effective improvement . . . so that social inequalities are corrected and the inclusion of vulnerable groups is facilitated.”¹⁷⁷

Here, the State has not implemented a public education or social security system.¹⁷⁸ Generally, the State’s poverty rate showcases a vulnerable position 17% of Aravania’s population faces.¹⁷⁹ This makes it even more difficult for women in A.A.’s position to obtain comprehensive medical treatment for her family members or adequate childcare for her daughter.¹⁸⁰ Further, women in Campo de Santana, in addition to facing greater barriers to accessing higher education due to their rural location, have higher unpaid care burdens than men.¹⁸¹ This, coupled with the lack of adequate work in the area to provide for their households and a lack of action by the State to implement and enforce workplace inclusion policies, led to many women in Campo de Santana, especially A.A., being tempted by job offers abroad, ultimately leading to their trafficking.¹⁸² As held in *Cuscul Piraval*, due to women’s unique status due to gender

¹⁷⁴ Lisa Markian, *The Right to a Health Environment Before the Inter-American Court of Human Rights*, 72 BRIT. INST. INT’L AND COMPAR. L. 945, 948 (Oct. 2023); see *Case of Lagos del Campo*, at ¶ 153 (holding that the Peruvian State failed to protect Mr. Lagos del Campo’s job security); see also *Case of Cuscul Piraval et al v. Guatemala*, IACtHR Series C No 359 (23 August 2018) ¶ 146 (acknowledging this is a “progressive dimension” by this Court).

¹⁷⁵ Markian, *supra* note 175 at 950.

¹⁷⁶ *Cuscul Piraval*, at ¶ 146.

¹⁷⁷ *Id.*

¹⁷⁸ H.C. ¶ 3.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.* at ¶ 32.

¹⁸¹ *Id.* at ¶ 3.

¹⁸² *Id.*

discrimination, the State had a positive duty to ensure its female citizens had adequate access to job security, social welfare programs, and a healthy environment, which was violated by the State's inactions.¹⁸³

ii. This de facto discrimination facilitated the human trafficking of Petitioners.

As a result of Aravania's failure to adequately protect the rights of its citizens, this left the women of Campo de Santana particularly susceptible to Hugo Maldini's specific efforts to target them for victimization in his human trafficking regime.¹⁸⁴ Maldini, aided by Aravania's lack of social welfare and cultural protections,¹⁸⁵ was able to target the women in Campo de Santana, like A.A., who were in a vulnerable position. Therefore, this lack of progressive development was a key contributor to the facilitation of the Petitioners' eventual human trafficking and constitutes a violation under Article 26.

3. Petitioners' rights to a fair trial,¹⁸⁶ to juridical personality,¹⁸⁷ and to judicial protection¹⁸⁸ were violated by the State's failure to adequately provide judicial protections against Maldini's actions.

i. Petitioners' rights to a fair trial under Article 8 were violated by the State when Aravania displayed an absence of willingness to exercise its special obligation to investigate with due diligence within a "reasonable time."

¹⁸³ *Cuscul Piraval*, at ¶ 146.

¹⁸⁴ H.C. ¶¶ 26-28.

¹⁸⁵ *Id.* at ¶ 3.

¹⁸⁶ Convention, art. 8 Right to a Fair Trial ("Every person has the right to . . . *the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.*") (emphasis added).

¹⁸⁷ *Id.* at art. 3 Right to Juridical Personality.

¹⁸⁸ *Id.* at art. 25 Right to Judicial Protection.

This Court has held that in relation to its special obligation to investigate with due diligence, this requires the investigation be conducted within a “reasonable time” within the meaning of Article 8(1).¹⁸⁹ This “reasonable time” requirement is in relation to the entire duration of the proceedings from the incident until a final judgment is handed down.¹⁹⁰ When assessing whether an entity has failed to comply with this judicial guarantee, the Court will examine four criteria,¹⁹¹ of which, the State cannot show justification for this delay.

The first of the four criteria requires this Court to consider the complexity of the matter.¹⁹² Here, the evidence shows only the State’s inaction is to blame for the time that has passed since the violation, and the characteristics of the remedy are sorely lacking.¹⁹³ This case involves only ten women who had been victimized at an *Aerisflora* farm the State had supervisory control over, if it had so chosen to exert it in any meaningful way.¹⁹⁴ The second criteria involves the procedural activity of the interested party,¹⁹⁵ of which A.A. and the other victims can show they engaged in participation and action in an attempt to accelerate the proceedings, not slow them down.¹⁹⁶ The conduct of the judicial authorities, the third criterion, also leans in favor of the Victims. Despite becoming aware of the human rights violations in 2012, the State did not open any kind of criminal investigation into Maldini’s actions until

¹⁸⁹ *Workers of the Hacienda Brasil Verde* at ¶ 369.

¹⁹⁰ *Id.*

¹⁹¹ *Id.* at ¶ 370.

¹⁹² *Id.* at ¶ 372.

¹⁹³ H.C. ¶¶ 54-57. Aravania first became aware of the potential violations occurring in the *Aerisflora* farms in 2012, however, no real investigation was undertaken until two years later in 2014. Secondly, although counsel for the Victims submitted their Brief on October 1, 2014, it took the State two years to respond on December 15, 2016.

¹⁹⁴ *Id.* at ¶ 30.

¹⁹⁵ *Workers of the Hacienda Brasil Verde* at ¶ 374 (evidence that would indicate to the court that “there had been any type of conduct or action by the interested parties that would have retarded the proceedings.”).

¹⁹⁶ H.C. ¶¶ 48-51. There is no evidence to suggest A.A. did not make herself completely available for questioning, and when it seemed the State’s inaction would fail her, she approached the Trafficking Victims Support and Reintegration Clinic of Aravania.

January 15, 2014, which only resulted in a dismissal a mere sixteen days later on immunity grounds.¹⁹⁷ It took another two months for the State to begin dispute resolution proceedings against Lusaria, of which they received US\$250,000 and A.A. only received 0.02 percent (US\$5,000).¹⁹⁸ Since then, neither A.A. nor any other victims have received legal recognition from the State regarding the victimization the State's actions put them through. More than ten years have passed since the initial reporting by A.A. to Aravanian authorities, yet no justice has been served. This certainly speaks to the fourth criterion: effects on the legal situation of the person involved in the proceedings, as held by this Court.¹⁹⁹ Therefore, the State's failure has violated the Victims' rights under Article 8 of the Convention.

ii. Petitioners' rights to juridical personality under Article 3 by the State by having her identity documents taken from her.

The State deprived Petitioners of their rights to juridical personality under Article 3 of the Convention by seizing and unlawfully retaining their identity documents and by engaging in forced labor and human trafficking. In *Case of the Girls Yean and Bosico vs. Dominican Republic*, this Court held that denying nationality through identity documents violated the victims' rights under Article 3.²⁰⁰ Without identifying documents, this left the girls in a situation of "legal invisibility where they could not exercise their basic rights."²⁰¹ This lack of status could and did expose the victims to the risk of trafficking and forced labor, as held by this Court.²⁰² Secondly, in *Hacienda Brasil Verde*, this Court held that forced labor and human trafficking in

¹⁹⁷ H.C. ¶¶ 54, 50-51.

¹⁹⁸ *Id.* at ¶ 55.

¹⁹⁹ *Workers of the Hacienda Brasil Verde*, at ¶ 380.

²⁰⁰ *Case of the Girls Yean and Bosico v Dominican Republic*, Preliminary objections, merits, reparations and costs, IACHR Series C No 130, ¶ 179 (IACHR 2005).

²⁰¹ *Id.*

²⁰² *Id.* at ¶ 180.

and of itself inherently denies victims their juridical personality and constitutes a violation of Article 3.²⁰³

Like in *Yean and Bosico*, A.A. and the Nine other Women were forcibly stripped of their national identity upon entering Lusaria, and this right was continuously violated upon their return to Aravania.²⁰⁴ Aravanian actors intentionally withheld access to documentation crucial to A.A. and the Nine Other Women’s protection against “legal invisibility.”²⁰⁵ This, combined with the State’s participation in human trafficking and forced labor of the Petitioners, constitute inherent Article 3 violations.

iii. Petitioners’ rights to judicial protections under Article 25 were violated by the State’s failure to present effective remedies to investigate and punish human rights violations of human trafficking.

a. The State extinguished the possibility of punishment for the conduct of slavery under the Cooperation Agreement, contrary to the State’s obligations under international law.

The State’s entry into the Bilateral Cooperation Agreement by specifically agreeing to Article 50 and 71 violated *jus cogens*²⁰⁶ principles under international law.²⁰⁷ In international law, *jus cogens* norms may not be exempted, stipulated around, or contradicted in treaties

²⁰³ *Workers of the Hacienda Brasil Verde* at ¶¶ 318-22.

²⁰⁴ H.C. ¶¶ 36, 44.

²⁰⁵ *Case of the Girls Yean and Bosico v Dominican Republic* at ¶ 179.

²⁰⁶ *Jus Cogens*, OXF. REF. (last visited Feb. 28, 2025)

<https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100027487> (“A rule or principle in international law that is so fundamental that it binds all states and does not allow any exceptions.”).

²⁰⁷ Problem ¶ 25. Article 50. Status of personnel stated that the “Republic of Aravania will provide two individuals . . . with the privileges, exemptions, and immunities[.]” Article 71. Dispute resolution stated that “[a]ny dispute arising from the implementation and interpretation of this Agreement will be settled by arbitration before the Special Arbitration Panel[.]”

between parties or else the entire treaty itself is voided²⁰⁸ and no longer has legal force under international law.²⁰⁹ It is well-established that slavery and human trafficking constitute a *jus cogens* norm in international law and under the holdings of this Court.²¹⁰ In *Workers of the Hacienda Brazil Verde*, this Court held Brazil’s domestic laws of applying a statute of limitations to the crime of slavery were contrary to its “obligation to adapt its domestic law to international standards.”²¹¹

Here, although the State does not have a stated statute of limitations,²¹² the Cooperation Agreement restricted the Petitioners’ ability to receive justice by providing privileges and immunity to those who would conduct slavery or practices similar to slavery.²¹³ Further, not only did the Agreement provide privileges and immunity, but it also prevented those harmed from pursuing adequate domestic remedies by restricting them to an Arbitration Panel for dispute resolution.²¹⁴ Articles 50 and 71 of the Cooperation Agreement were invoked by Maldini and the Republic of Lusaria to prevent adequate punishment for the violation the women received at the hands of both Lusaria and the State.²¹⁵ The State was an active participant in the Articles that prevented adequate judicial protections and, therefore, can be held internationally responsible for enacting a treaty that violated *jus cogens* norms.²¹⁶

²⁰⁸ Vienna Convention on the Law of Treaties art. 53, 64, *opened for signature* May 23, 1969, 1155 U.N.T.S. 331.

²⁰⁹ Rep. of the Int’ L. Comm’n, at 144, U.N. Doc. A/74/10 (2019).

²¹⁰ *Id.* at 146; *Workers of the Hacienda Brasil Verde* at ¶ 413.

²¹¹ *Workers of the Hacienda Brasil Verde* at ¶ 413.

²¹² H.C. ¶ 9. Aravania’s domestic law provides criminal statutes that punish those who subject another to human trafficking and forced labor in Articles 145 and 237 of the 1943 Criminal Code.

²¹³ *Id.* at ¶ 25.

²¹⁴ *Id.*

²¹⁵ *Id.* at ¶¶ 49-51, 55.

²¹⁶ *Id.* at ¶ 26.

- b. *The State failed to present effective remedies to investigate and punish those responsible for the acts that violated the Petitioners' fundamental rights.*

As this Court upheld in *Hacienda*, “[t]he formal existence of the remedies is not sufficient, rather they must be effective.”²¹⁷ This Court held that because the victims “did not have effective judicial mechanisms to protect their rights, punish those responsible, and obtain reparation[,]” Brazil violated the workers’ rights under Article 25 of the Convention.²¹⁸ The State may not delegate these duties to the courts in hopes they preserve the judicial remedies but it must also guarantee “the due implementation of this remedy by its judicial authorities.”²¹⁹

Here, the only form of reparation to A.A. and the Nine Other Women received was a mere US\$5,000 for the deprivation of her human rights.²²⁰ However, there has been no acknowledgment from Aravania in its participation in curating the situation, which led to A.A.’s deprivation of rights. Further, the immunity provision actively deprived A.A. of the opportunity to pursue her captor in open court.²²¹ Therefore, the State failed to provide effective judicial remedies to A.A. and the Nine Other Women, depriving them of their Article 25 rights.

- c. *The State’s de facto discrimination and its disproportionate impact on a certain part of the population deprived the Petitioners of access to judicial protections.*

This Court has held that when the State fails to comply with its general obligation to “respect and to ensure human rights,” discriminatory treatment of vulnerable populations can

²¹⁷ *Workers of the Hacienda Brasil Verde* at ¶ 392.

²¹⁸ *Id.* at ¶ 347.

²¹⁹ *Id.* at ¶ 394.

²²⁰ H.C. ¶ 55.

²²¹ *Id.* at ¶ 51.

lead to a violation of their Article 25 rights under the Convention.²²² In *Hacienda*, this Court held that because there was a disproportionate impact on populations that shared characteristics regarding “their condition of exclusion, poverty and lack of schooling[,]” Brazil failed to ensure human rights and the principle of equity among its citizens.²²³

Here, the argument that the State’s failure to comply with its obligations under international law and this Convention is even stronger. Here, only a certain gender (women), living in particular areas (rural – specifically Campo de Santana), and of a certain class (mothers) were targeted by Maldini’s ads.²²⁴ The State’s failure to provide educational, professional, and social opportunities led to these women seeking elsewhere for employment abroad.²²⁵ Further, Aravania’s cultural atmosphere stigmatizing single mothers made A.A. and the Nine Other Women ripe for victimization.²²⁶ Therefore, this *de facto* discrimination against female, single mothers from rural areas constitutes an Article 25 violation under the Convention.

REQUEST FOR RELIEF

Based on the factual and legal arguments presented, A.A. and the Nine other Women respectfully requests that this esteemed Inter-American Court of Human Rights administer international justice and declare the Republic of Aravania responsible for the violations of the rights to juridical personality (Article 3); humane treatment (Article 5); freedom from slavery (Article 6); right to personal freedom (Article 7); right to judicial guarantees (Article 8); judicial protection (Article 25); and progressive development (Article 26) in relation to Article 1.1 of the American

²²² *Workers of the Hacienda Brasil Verde* at ¶¶ 415-17.

²²³ *Id.* at ¶ 417.

²²⁴ H.C. ¶ 28.

²²⁵ *Id.* at ¶ 3.

²²⁶ *Id.* at ¶ 33.

Convention on Human Rights (Convention) and Article 7 under the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, concerning A.A. and the Nine other Women.

This argument is made on the grounds that the Republic of Aravania maintained jurisdiction over the offending violations and the facts and evidence presented that show that A.A. and the Nine other Women in this case were the victims of human trafficking and forced labor, in violation of the Convention.

Finally, because this Court maintains the competence to hear this case, A.A. and the Nine other Women humbly request this Court uphold the Merits Holding by the Inter-American Commission on Human Rights.