

**MATTER IN THE HON'BLE
INTER-AMERICAN COURT OF HUMAN RIGHTS**

A.A. AND NINE OTHER WOMEN (PETITIONER)

VERSUS

REPUBLIC OF ARAVANIA (RESPONDENT)

MEMORIAL FOR THE PETITIONER

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STATEMENT OF RELEVANT FACTS

1. Background

Republic of Aravania is a coastal South American country with underdeveloped social services and gendered socio-economic disparities. It faced catastrophic flooding in 2012, prompting President Carlos Molina's government to implement the "Impulso 4 Veces" Plan. Seeking solutions, Aravania entered into a bilateral cooperation agreement with Lusaria, a neighbouring state known for its climate adaptation strategies, particularly the use of a native plant, Aerisflora, in "sponge cities." Lusaria, under President Elena Solis, nationalized Aerisflora production amid corruption allegations. Publicist Hugo Maldini, closely linked to Solis, became the face of Aerisflora and was later appointed Special Attaché under the cooperation agreement.

2. The Bilateral Agreement

In July 2012, Aravania and Lusaria signed a Cooperation Agreement to transplant Aerisflora in flood-prone areas of Aravania. Lusaria agreed to recruit and relocate workers, mostly women, through its public company EcoUrban Solution. The Agreement also granted diplomatic immunities to two Lusarian officials, including Maldini, for implementing the project.

3. Recruitment of A.A. and the Women

A.A., a single mother from Campo de Santana in Aravania, struggling with poverty and social stigma, was lured by Maldini's targeted ClicTik videos portraying Aerisflora work as empowering. She applied and accepted an offer to work at Finca El Dorado in Lusaria. She was promised decent wages, benefits, and legal documentation for her and her dependents—her mother and infant daughter.

4. Working Conditions at El Dorado

Upon arrival in November 2012, A.A. found herself in exploitative conditions: excessive working hours, kitchen duties, surveillance, poor housing, and lack of agency. Supervised by Joaquín Díaz and Isabel Torres, she was subjected to gendered expectations and threats of retaliation. Identity documents were retained, and complaints were met with coercion. She witnessed or heard of sexual and physical abuse against fellow workers.

5. Transfer to Aravania and Complaint

In January 2014, A.A. and nine other women were sent to Aravania to transplant AERISFLORA. Maldini extended their stay due to project delays and refused to pay wages. When A.A. resisted, he used threats and manipulation, invoking her maternal responsibilities and dependence on Lusarian benefits. A.A. fled the site and filed a police complaint in Velora. Aravanian authorities arrested Maldini but released him after Lusaria refused to waive his diplomatic immunity, asserting that jurisdiction lay with Lusaria. Aravanian courts dismissed the case; subsequent appeals failed.

6. Domestic Legal Proceedings and Investigations

Aravania pursued arbitration against Lusaria, resulting in a US\$250,000 award, including US\$5,000 to A.A. Meanwhile, Lusaria prosecuted Maldini for abuse of authority (but not trafficking), sentencing him to 9 months. Allegations against him related to human trafficking remained unproven. Despite anonymous complaints and prior warnings to Aravanian authorities, no action had been taken earlier.

7. Inter-American Proceedings

On October 1, 2014, the Trafficking Victims Clinic filed a petition before the Inter-American Commission on Human Rights (IACHR), alleging Aravania's failure to prevent human trafficking and ensure humane treatment and remedies under the ACHR and Belém do Pará Convention. Despite objections on admissibility and jurisdiction, the IACHR found Aravania internationally responsible for rights violations (Articles 3, 5, 6, 7, 8, 25, 26 ACHR). Aravania denied responsibility. The matter is now before the Inter-American Court of Human Rights, with hearings scheduled for May 2025.

LEGAL ANALYSIS

I. Jurisdiction and Admissibility

1. The petition filed by the Trafficking Victims Support and Reintegration Clinic on behalf of A.A. and nine other women is admissible before the Inter-American Commission on Human Rights under Articles 46 and 47 of the American Convention on Human Rights.

Before the Inter-American Court of Human Rights can hear a case, the Inter-American Commission on Human Rights must first complete the procedures established in Articles 48 to 50 of the American Convention on Human Rights (ACHR). According to Article 45 of ACHR, any individual, group of individuals or NGO can file a petition or complaint¹. By ratifying the ACHR, States automatically accept the Inter-American Commission's competence to receive petitions from individuals, groups, or recognized NGOs alleging violations.² To allege a violation under Article 44 of the American Convention on Human Rights, it is not necessary to be a victim of the alleged violation or to have a personal interest in the case.³ Accordingly, the petition submitted by the Trafficking Victims Support and Reintegration Clinic, alleging the international responsibility of the Republic of Aravania for violations of the rights enshrined in Articles 3, 5, 6, 7, 8, 25, and 26 of the American Convention, was valid and admissible.⁴ A petition or communication submitted under Article 44 of ACHR may be admitted by the Commission if it satisfies the admissibility requirements outlined in Article 46. These include: (a) exhaustion of domestic remedies, (b) compliance with the time-limit, (c) non-duplication of proceedings, and (d) fulfilment of identification requirements⁵. In the present case, the petition filed the Clinic fulfilled all the requisites under Article 46 of ACHR.

a. Exhaustion of domestic legal remedies

¹ American Convention on Human Rights, art. 45.

²Shelton, Dinah. "The Inter-American Human Rights System." In *Guide to International Human Rights Practice*, edited by Hurst Hannum, 127–41. Ardsley, NY: Transnational, 2004.

³ Pinzdn DR, The 'victim' requirement, the fourth instance formula and the notion of 'person' in the individual complaint procedure of the Inter-American Human Rights System

⁴ Hypothetical, § 56

⁵ American Convention on Human Rights, art. 46.

Under this requirement, the petitioner is required to pursue and exhaust all available domestic legal remedies in accordance with generally recognized principles of international law.⁶ However, as per Article 46(2), the requirements under paragraphs 1(a) and 1(b) do not apply if: a) The state's domestic laws fail to provide due process for the protection of the alleged right(s); b) The petitioner has been denied access to domestic remedies or was prevented from exhausting them; or c) There has been an unwarranted delay in delivering a final judgment through domestic legal remedies.⁷

The petitioner is not required to exhaust all remedies, rather, only those that are deemed adequate and effective.⁸ The IACHR deems a domestic remedy adequate if, when pursued, the remedy is capable of protecting the right allegedly being violated⁹, and deems a domestic remedy effective if it is capable of obtaining the result for which it was designed and can address the alleged rights violation.¹⁰ Ineffective remedies are remedies that do not provide a reasonable prospect of success, are unreasonably prolonged, would create a danger for the person alleging the violation of a right, are not applied impartially, or do not compel authorities to act.¹¹ Remedies that are denied for trivial reasons or without an examination on the merits may fall within this exception. The Commission in *Salas and Others v. United States* found that the petitioners had “no appropriate possibility of redress” because any attempts to secure access to courts in the United States was unlikely to prevail due to sovereign immunity which granted U.S. officials immunity from suit in Panamanian courts.¹²

In the present case as well, the petitioner’s attempts to exhaust domestic remedies were inadequate and ineffective. The diplomatic immunity which was granted to Hugo Maldini shielded him from prosecution in Aravania and therefore rendered the domestic legal remedies futile. Although A.A. filed a detailed complaint and Hugo Maldini was arrested, the Aravanian authorities dismissed the criminal proceedings solely on the basis of diplomatic immunity,

⁶ Inter-American Commission on Human Rights, ‘Rules of Procedure of the Inter-American Commission on Human Rights’ (Approved at the 109th Special Session, 2019) art 31(1)

⁷ American Convention on Human Rights, art. 46(2).

⁸ IACHR, Admissibility Report No. 134/11, Petition 1190-06, Undocumented Workers (United States), 20 October 2011, para. 27, available at <http://www.oas.org/en/iachr/decisions/2011/USAD1190-06EN.doc> (citing IACHR, Admissibility Report No. 105/09, Petition 592-07, Hul’Qumi’Num Treaty Group (Canada), 30 October 2009, para. 31).

⁹ IACHR, Admissibility Report No. 16/04, Petition 129-02, Tracy Lee Housel (United States), 27 February 2004, para. 31, available at <http://cidh.org/annualrep/2004eng/USA.129.02.htm>.

¹⁰ IACHR, Admissibility Report No. 16/04, Petition 129-02, Tracy Lee Housel (United States), 27 February 2004, para. 31, available at <http://cidh.org/annualrep/2004eng/USA.129.02.htm>.

¹¹ Ibid, para. 66.

¹² *Salas v. United States*, No. 12-1454, 2013 WL 2372801 (10th Cir. May 21, 2013)

without even conducting a thorough investigation into the trafficking allegations. The Second Criminal Court Judge dismissed the case on diplomatic immunity without dealing the same based on merits and Velora Court of Appeals affirmed this decision despite the serious nature of the claims and the corroborating evidence, including social media checks and the observations made by the authorities at Primelia¹³. Moreover, the Office of the Prosecutor General received anonymous complaints and a direct statement from a trafficking victim, yet made no effort to carry out an investigation, stating that the violations had occurred outside its jurisdiction. Furthermore, even though A.A. had provided a detailed account of the incident and identified herself along with nine other women, Aravania later denied international responsibility on the grounds that the other victims were unidentified. By invoking diplomatic immunity on behalf of Hugo Maldini, Aravania failed to provide justice to the victims. It is argued that the State could have pursued alternative mechanisms, such as seeking a waiver of diplomatic immunity under international law or exercising universal jurisdiction.

Instead, it relied entirely on the Lusarian process, which convicted Maldini only of abuse of authority, not trafficking, citing a "lack of evidence". The only compensation A.A. received was a US\$5,000 award through arbitration proceedings initiated by the State against Lusaria. However, this was not a domestic redress mechanism, and the arbitration ruling merely recognized a labour violation, not a human trafficking violation against the victims. Therefore, despite having anti-trafficking laws enshrined in its Constitution, the State failed to apply them effectively. Moreover, no witness protection, reparations, compensation, legal aid, or financial support was provided to A.A. or the other victims. Accordingly, due to the absence of any effective domestic remedy, the victims were compelled to seek recourse before the Commission. It is also submitted that principle of subsidiarity does not apply in this case¹⁴, as the State of Aravania, despite offering reparations, failed to provide an effective and adequate redress mechanism for the human rights violations as argued above. Therefore, the conditions that would originally preclude examination of state responsibility internationally would not apply and this case falls within the jurisdictional competence of the American Court.

¹³ Hypothetical, § 49

¹⁴Contesse J, 'Yale' (*Subsidiarity in inter-American human rights law*)

<https://law.yale.edu/sites/default/files/documents/pdf/SELA15_Contesse_CV_Eng.pdf> accessed 11 April 2025

b. Time Limit:

The petition or communication must be filed within six months from the date the party alleging a violation was notified of the final judgment which was done in the present case;¹⁵

c. Non-Duplication:

The matter must not be pending before another international body for resolution;

d. Identification Requirements:

In cases under Article 44, the petition must include the name, nationality, profession, domicile, and signature of the petitioner(s) or their legal representative.¹⁶ Under Article 44, the IACHR requires petitions to identify concrete, individualized victims or a specific, identifiable group.¹⁷ However, in certain cases and scenarios, the IACHR's rules and jurisprudence recognise circumstances that in every scenario, it may not be possible to identify every victim by name and therefore the commission acknowledges that certain human rights violations, due to their nature or circumstances, may affect identifiable individuals or groups based on specific criteria.¹⁸ In cases where crimes are reportedly linked to attacks on a community based on the victims' association with that community, the IACHR acknowledges that identification criteria should remain flexible.¹⁹

In the present case, A.A provided a detailed account regarding the events that took place on 24th November 2012, when she, along with 60 other women and their Aravanian citizens dependants including M.A. and F.A. travelled to Lusaria. During this time, A.A. and the other women were subjected to severe exploitation, including harsh working conditions and circumstances that led to their trafficking. While A.A. was unable to fully identify all the victims by their full names or surnames, she offered a clear description of their shared experience. She explained that she first met the other victims during the trip from Aravana to Lusaria, and that they all worked together on the same farm in Lusaria. Importantly,

¹⁵ Hypothetical, § 56

¹⁶ American Convention on Human Rights, art. 44.

¹⁷ IACHR, Report No. 57/08, Petition 283-06. Inadmissibility. Mario Roberto Chang Bravo. Guatemala. July 24, 2008, para. 38.

¹⁸ IACHR, Report No. 64/15, Petition 633-04 Admissibility. Mayan peoples and members of the Cristo Rey, Bullet Tree, San Ignacio, Santa Elena, and Santa familia communities. Belize. October 27, 2015, para. 27.

¹⁹ IACHR, Report No. 61/16, *Petition 12.325. Admissibility. Peace Community of San José de Apartadó*, Colombia, December 6, 2016, para. 62.

according to the jurisprudence of the IACHR, the complete identification of victims by name is not an absolute requirement for admissibility. In cases involving multiple victims who share similar circumstances, the Commission has allowed for flexibility in how victims are identified. A.A.'s testimony establishes that the victims were part of a group of trafficked Aravanian women from vulnerable rural backgrounds. The fact that these women shared a common background and experience of exploitation supports their identification as victims of human trafficking, even if their full personal details were not immediately available. The IACHR has held that in such cases, full identification is not necessary at the time of filing; evidence showing their collective suffering and connection to the same exploitative circumstances is sufficient for the Commission to proceed with the case. Moreover full and complete identification of victims will be determined based on the evidence presented by the parties during the merits assessment stage rather than before the domestic courts.²⁰

1.1. The Inter-American Court of Human Rights has contentious jurisdiction under Article 62(3) of the American Convention on Human Rights.

The petition had satisfied the admissibility criteria under Article 46 of ACHR, including exhaustion of domestic remedies through the final decision of Velora Court of Appeals on 17th April 2014. With no recourse, the Clinic on behalf of A.A and other victims filed a petition before the Commission on 1st October 2014. The petition was duly registered by the Executive Secretariat of the Commission and was submitted for preliminary review as required under Article 48(1)(a), and the State was notified on May 20, 2016²¹. The State responded within the prescribed time, raising objections as to the Commission's competence. On July 17, 2018, the Commission issued Admissibility Report No. 103/2018, as per Article 48(1)(c), and proceeded to examine the merits.²² After receiving observations and applying the prioritization criteria under IACHR Resolution No. 4/2023, the Commission adopted Merits Report No. 47/24 on February 12, 2024, concluding that Aravania was internationally responsible for multiple rights violations. This report, prepared in accordance with Article 50(1) of the Convention, was transmitted confidentially to the State on March 11, 2024, under Article 50(2). Upon the State's denial of responsibility and refusal to comply with the Commission's report citing lack of

²⁰ IACHR, Report No. 12/18, *Petition 178-10. Admissibility. 48 Workers Killed in the Explosion at the Pasta de Conchos Mine*, Mexico, February 24, 2018, para. 28.

²¹ Hypothetical, § 57

²² Hypothetical, § 58

victim identification, the Commission referred the case to the Inter-American Court on June 10, 2024, within the three-month window stipulated by Article 51(1) ACHR.²³

The Court, as per its Rules of Procedure, sought confirmation of legal representation and the victims' consent, and formally initiated proceedings on December 10, 2024. Therefore, both the Commission has carried out steps in compliance with Article 44-51 of ACHR and therefore is valid and admissible before the Court. Since the State of Aravania had unconditionally accepted the contentious jurisdiction of the Inter-American Court of Human Rights, the Court has jurisdiction over the present matter under Section 62 of ACHR to hear and decide the case of A.A. and the other victims.

II. Arguments on Merits

2. Aravania Violated the Right to a Fair Trial and Judicial Protection of A.A. and Others under Articles 8 and 25 of the American Convention on Human Rights

Article 25(1) of the ACHR establishes the substantive right to judicial protection, guaranteeing everyone access to simple, prompt, and effective recourse before a competent authority for violations of fundamental rights recognized by either the Convention or domestic law.²⁴ It extends this protection even against acts committed by public officials in their official capacity. By incorporating mechanisms such as *amparo*, Article 25(1) transforms judicial protection into a fundamental right in itself, not merely a procedural guarantee.²⁵ For a remedy to satisfy the requirements of Article 25, it must effectively determine if a human rights violation occurred and provide adequate reparation. Remedies that are ineffective due to issues like lack of judicial independence, delays, poor enforcement, or restricted access fail to meet this standard. In such cases, the ineffectiveness of the remedy itself constitutes a breach of the Convention, even without a direct violation of a substantive right.²⁶

²³ American Convention on Human Rights, art. 51(1).

²⁴ American Convention on Human Rights, art. 25(1).

²⁵ Ludovic Hennebel and Hélène Tigroudja, *The American Convention on Human Rights: A Commentary* (Oxford University Press 2022)

²⁶ *Abrill Alosilla et al v. Peru*, IACtHR, 4 March 2011, §75

As confirmed by the Court in cases like *Velásquez Rodríguez*, *Solís Corrales*, and *Godínez Cruz*, the obligation under Article 25 must align with Article 8(1), which guarantees the right to a fair trial before a competent, independent, and impartial tribunal, and Article 1(1), which obligates States to respect and ensure Convention rights. A violation of this triad occurs not only when a right is infringed, but also when the State fails to provide a real and effective means of redress.²⁷

In the present case, the State of Aravania failed to uphold its obligations under Articles 8(1) and 25(1) of the American Convention on Human Rights, in conjunction with Article 1(1), by denying A.A. and the nine other victims access to effective judicial protection and a fair trial. Despite the truth of A.A.'s allegations about exploitative working conditions and Hugo Maldini's involvement, the Second Criminal Court Judge of Velora dismissed the case solely on the basis of diplomatic immunity under a cooperation agreement. No substantive investigation was conducted into the serious claims of human trafficking and forced labor. The court neglected critical steps such as obtaining testimony from A.A., other victims, or witnesses and did not explore alternative legal avenues, such as negotiating a waiver of immunity with the concerned authorities. This dismissal on purely procedural grounds, without an examination of the merits, amounted to a denial of A.A.'s right to a fair hearing and an effective remedy. The judiciary's failure to properly assess the allegations, coupled with the broader State inaction, left A.A. without any meaningful form of justice or redress. As established in *Velásquez Rodríguez*, a State must take reasonable measures to prevent human rights abuses and ensure adequate redress, including compensation, even when violations are committed by private individuals.

2.1.Aravania's invocation of diplomatic immunity violates the petitioner's right to access justice and protection under 8 and 25 of American Convention on Human Rights

Aravania cannot lawfully prevent the Petitioners from accessing domestic judicial remedies by invoking diplomatic immunity. The Inter-American Court has consistently held that States have a binding obligation to combat impunity, defined as "the absence of any investigation, pursuit, capture, prosecution and conviction of those responsible for violations of rights protected by the American Convention."²⁸ In doing so, the Court has cautioned that impunity

²⁷ Shelton, Dinah (1989). Private violence, public wrongs, and the responsibility of states, in: Fordham International Law Journal, Vol. 13(1)

²⁸ Case of Maritza Urrutia, *supra* note 3, para. 126; Case of Bulacio, *supra* note 3, para. 120; and

contributes to the chronic repetition of human rights violations and leaves the victims and their families totally defenceless.

The State's refusal to investigate serious allegations of involuntary servitude, forced labor, and human trafficking made by A.A. and nine other women is a clear violation of its obligations. These abuses violate the prohibition of slavery, a fundamental right under Article I of the American Declaration. Crucially, the prohibition of slavery has acquired the status of a *jus cogens* norm meaning a peremptory norm of international law from which no derogation is permitted.²⁹ Thus, as a *jus cogens* norm, the prohibition of slavery imposes *erga omnes* obligations on all States which requires them to prevent, investigate and punish such violations and to ensure redressal has been provided to the victims, regardless where or by whom the acts have been committed. Slavery does not require state involvement to attach.³⁰ In contrast, diplomatic immunity is not a *jus cogens* norm.³¹ International law does not allow diplomatic immunity to shield individuals from accountability for acts of slavery, especially within the forum State's jurisdiction. By prioritizing diplomatic immunity over the Petitioners' non-derogable right to protection from slavery, Aravania violated its obligations under Article 8 and 25 of ACHR as well as Article I of the American Declaration.

3. Aravania failure to protect AA and Others' Right to Freedom from Slavery, Servitude and Trafficking under Article 6 of ACHR

3.1. Recognition and protection of Labour rights of A.A and other victims

As defined in Advisory Opinion No. 18 of the Inter-American Court of Human Rights, any person who is to be engaged, is engaged, or has been engaged in a remunerated activity qualifies as a worker and is entitled to labour rights regardless of nationality, migratory status, or the existence of a formal contract. These protections apply equally to documented and undocumented migrant workers, underscoring the principle of non-discrimination. The State's obligation to protect labour rights extends across both public and private sectors under the

Case of Juan Humberto Sánchez, *supra* note 147, para. 143.

²⁹ Cf. Case of Trujillo Oroza. Reparations (Art. 63(1) American Convention on Human Rights). Judgment of February 27, 2002. Series C No. 92, para. 109; Case of Bámaca Velásquez. Reparations (Art. 63(1) American Convention on Human Rights). Judgment of February 22, 2002. Series C No. 91, para. 75; and Case of Caballero Delgado and Santana, *supra* note 148, para. 58.

³⁰ Commentary to Article 26' (2001) II (Part Two) *Yearbook of the International Law Commission* 85, para 5

³¹ Maja, 'Diplomatic Immunity Law and Jus Cogens: Can the Relationship Result in Invalidating the VCDR or the VCCR?' (Diplo, 2024) <https://www.diplomacy.edu/blog/diplomatic-immunity-law-and-jus-cogens/> accessed 12 April 2025

doctrine of *Drittwirkung* (horizontal effect of human rights), requiring regulation of private actors to prevent abuses and uphold human dignity.

In the case of A.A. and other victims, who migrated to Lusaria and had their documentation confiscated under the pretext of processing, they retained their status as workers and were entitled to the full range of labour protections. Both Lusaria and Aravania, as State Parties to the American Convention, bore the obligation to ensure that these individuals were not subjected to harsh or exploitative conditions. Their failure to prevent, address, or remedy the abusive practices particularly by private employers, constitutes a breach of their international obligations.

The Inter-American framework imposes both negative and positive duties on States under the principle of non-discrimination, requiring them to eliminate discriminatory laws and actively ensure equality in law and in practice. Recognized as a *jus cogens* norm in Advisory Opinion No. 18, non-discrimination forms the cornerstone of international public order. Accordingly, the failure of Lusaria and Aravania to protect A.A. and other victims from exploitative labour conditions triggers their international responsibility under the American Convention and related instruments.

3.2. Violation of A.A and other victim's right to Freedom from Slavery, Servitude and Trafficking under Article 6 of ACHR by a private actors

Under the Inter-American Human Rights System, State responsibility extends beyond direct actions of State agents to include violations by private actors when the State fails to act with due diligence³². As affirmed in *19 Tradesmen v. Colombia*, the State need not identify individual perpetrators³³; responsibility arises from tolerating, supporting, or failing to prevent foreseeable violations³⁴. Article 1(1) of the American Convention imposes a dual duty: to respect rights directly and to guarantee them through prevention, investigation, punishment,

³² IACtHR, *Case of Velasquez-Rodríguez v. Honduras*, Merits, Judgment of 29 July 1988, Series C No. 4, paras 166, 174-175. IACtHR, *Case of Anzualdo-Castro v. Peru*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 22 September 2009, Series C No. 202, ² para. 62; IACtHR, *Case of Kwas-Fernández v. Honduras*, Merits, Reparations and Costs, Judgment of 3 April 2009, Series C No. 196, para. 76; IACtHR, *Case of Perozzo et al. v. Venezuela*, Preliminary Objections, Merits, Reparations and Costs, Judgement of 28 January 2009, Series C No. 195, para. 298.

³³ INTER-AMERICAN COURT OF HUMAN RIGHTS *Case of the 19 Tradesmen*. Judgment of July 5, 2004. Series C No. 109, paragraph 141.

³⁴ IACtHR, *Case of Velasquez-Rodríguez v. Honduras*, see note 92, para. 166.

and reparation. In the case of A.A. and others, Aravania failed to meet these obligations by neglecting to prevent or address trafficking and sexual exploitation by private actors.

Article 6 of ACHR guarantees the freedom from slavery and involuntary servitude, prohibiting these practices in all their forms, including the slave trade and the trafficking of women.³⁵ Furthermore, Article 6(2) states that no individual shall be required to perform forced or compulsory labor, and such labor must not degrade the dignity or impair the physical or intellectual capacity of a prisoner³⁶. The Court in the case of *Hacienda Brasil Verde* reinforced the fundamental nature of the prohibitions against slavery, servitude, and trafficking in women under Article 6(1) of the Convention, as well as the prohibition on forced labor under Article 6(2) of the Convention³⁷. These prohibitions are considered essential rights and form part of the list of non-derogable rights under Article 27(2) of the American Convention, meaning they cannot be suspended or limited under any circumstances³⁸. The Court in *Hacienda Brasil Verde* also distinguished between slavery, servitude, and forced labor, examining the specific characteristics of each practice and clarifying the extent to which they contribute to human trafficking³⁹. The court held that to establish slavery, one does not require establishing any “legal property” over a person.⁴⁰ This exercise should be understood as the control exercised over a person that significantly restricts or deprives that person of his or her individual freedom, with the intent of exploitation through the use, management, benefit, transfer or divestment of a person, and which is generally obtained through violence, deception and/or coercion.⁴¹ With respect to servitude, the Court referred to Supplementary Convention on Slavery, concluding that under Article 6(1) of the ACHR, servitude must be interpreted as the “the obligation to perform work for others, imposed by coercion, and the obligation to live on another person's property, without the possibility of changing that condition” In relation to forced labour, the court, reiterating the interpretation made in the *Ituango Massacres* case⁴² as well as by the ILO, held that forced labour including two elements: that the work is performed “under the menace

³⁵ American Convention on Human Rights, art. 6.

³⁶ American Convention on Human Rights, art. 6(2).

³⁷ *Hacienda Brasil Verde Workers v Brazil* Inter-American Court of Human Rights Series C No 318 (20 October 2016), IHRIL 4409 (IACtHR 2016)

³⁸ *Ibid.*, para. 243

³⁹ Valentina Milano, ‘Human Trafficking by Regional Human Rights Courts: An Analysis in Light of *Hacienda Brasil Verde*, the First Inter-American Court’s Ruling in This Area’ (2018) 36 *Revista Electrónica de Estudios Internacionales* 1

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ituango Massacres v Colombia* (Judgment of 1 July 2006, IACHR Series C, No 148 (*Ituango Massacres*))

of a penalty” and that it is not offered voluntarily⁴³. Furthermore, according to Article 2 of the Forced Labour Convention, the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

In the present case, AA, along with 60 other women, was coerced into working on the farms under the constant threat of punishment. The workers were subjected to intense scrutiny for failing to meet strict work expectations. Pressure to assist in the kitchen further compounded their workload, and those who refused faced scolding from their peers. Consequently, AA, acting out of fear, complied with this work from the beginning⁴⁴. AA moved to the farm on September 21, 2013, and her day began at 6:00 a.m., starting with land preparation for Aërisflora extraction. This involved enduring extreme weather conditions and exposure to chemicals used to preserve the plants for shipping to Aravania. Her only break was at noon when she, along with other women, collected food delivered by Isabel Torres, prepared meals for all the workers, and cleaned the dining area. With workers staying at the farm, AA and the other women had to dedicate additional time to food preparation to ensure they could both have lunch and meet work targets. Consequently, AA resumed work at 1:00 p.m. under the supervision of Joaquín Díaz, who demanded meticulous accuracy from the women while showing leniency towards the men. Although the official schedule stipulated that the women finish work with the Aërisflora by 3:00 p.m., those with less experience frequently had to work extended hours to ensure plants were prepared for transplanting on the same day. In the evenings, the women organized dinner for all the workers and cleaned the facilities. AA often returned home at 11:00 p.m., only to continue attending to her daughter and mother⁴⁵. On weekends, the women were responsible for cleaning residences including their supervisor’s Joaquín Díaz’s home and washing the men’s clothes while the men left the farm. The petitioner contends that these prolonged working hours, starting at 6:00 a.m. and extending until 11:00 p.m., including weekends, combined with the physically demanding nature of the work and extensive surveillance during the transplantation season, clearly indicate that AA and the other women’s labour was not offered voluntarily. While some workers may have remained in their positions due to financial necessity, the harsh conditions, lack of freedom, and manipulative

⁴³ Valentina Milano, ‘Human Trafficking by Regional Human Rights Courts: An Analysis in Light of *Hacienda Brasil Verde*, the First Inter-American Court’s Ruling in This Area’ (2018) 36 *Revista Electrónica de Estudios Internacionales* 1

⁴⁴ Hypothetical, § 37

⁴⁵ Hypothetical, § 43

tactics (such as false promises of wages and better living conditions) effectively forced AA and her peers into compliance with the exploitative system.

The circumstances of the present case marked by deceit, coercion, restricted movement, and degrading conditions clearly indicate that the workers were subjected not only to bonded and forced labour, but also to slavery, as the control over them resembled the exercise of property rights. The workers, including A.A., were confined to the farm under constant surveillance. The high metal fence, 24-hour video surveillance, and restricted entry/exit from the property represent a significant deprivation of personal freedom. The workers were not free to leave the premises without permission, indicating a form of control that goes beyond normal employer-employee relationships.

Initially, A.A. might have been led to believe that her work at the farm would provide reasonable conditions and compensation. However, over time, she was manipulated into accepting degrading living and working conditions under threat of punishment, including long hours, exposure to harmful weather, inadequate housing, and forced participation in activities like cooking and cleaning⁴⁶.

This use of deception by initially providing false promises of better conditions meant that A.A. and the other workers were trapped in a situation where they could not easily leave or negotiate better terms. She stayed trapped in the system because she needed money for her daughter's schooling and her mother's medical treatment. The fact that A.A. had to remain at the farm, alongside her family, highlights the exploitation of workers' personal lives for the benefit of the farm's operations.

Moreover, the workers were housed in inadequate and cramped quarters in small sheet metal houses with no privacy, shared bathrooms, and overcrowded living conditions⁴⁷. A.A. and others were effectively forced to live on the employer's property under conditions that ensured they remained physically close to the work site and under constant supervision with their most basic needs for housing, food, and rest being dictated by the employer. This treatment was not just a violation of labor laws it amounted to slavery and servitude, where the employer had control over A.A. similar to owning her, seriously affecting her freedom and dignity.

⁴⁶ Hypothetical, § 41

⁴⁷ Hypothetical, § 40

In the Hacienda Brasil Verde case, the IACHR defined human trafficking in line with the Palermo Protocol. Article 3(a) of the Protocol describes trafficking as the recruitment, transportation, or receipt of persons through coercion, fraud, abuse of power, or exploitation, including the use of payments to gain consent from someone in control of another person.⁴⁸

The Protocol specifies that exploitation includes forced labor, slavery, servitude, and forced prostitution. In this case, victims were recruited from impoverished regions of Brazil through fraud, deception, and false promises, fitting the typical patterns of human trafficking.⁴⁹ All the workers had been recruited in these poor areas under the false promise of decent work. Once they were transferred to a ranch, however, they were forced to work under threats of violence and were prevented from leaving.

Article 1 of Forced Labour Convention No. 29 obligates ILO members to eliminate all forms of forced or compulsory labour as quickly as possible⁵⁰. Article 25 mandates penalties for the illegal imposition of such labour, requiring strict enforcement of adequate penalties⁵¹. Similarly, Article 1(b) of the Abolition of Forced Labour Convention, 1957 (No. 105) mandates members to eliminate forced labour as a method for economic development⁵², while Article 2 requires effective measures for its immediate and complete abolition.⁵³

The facts of the *Hacienda Brasil Verde* case closely parallel the circumstances of the present case, wherein AA and the other women were similarly deceived, coerced, and subjected to exploitative working conditions. In the present case, the recruitment methods employed by Hugo Maldini resemble the deceptive and manipulative tactics common in trafficking operations. He presented a misleading narrative to the potential victims. When Maldini went to recruit women from Aravania, he portrayed an idealized life working with Aerisflora. Through his ClicTik account, he shared videos featuring smiling women in lush fields, claiming

⁴⁸ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, art 3(a)

⁴⁹ *Hacienda Brasil Verde Workers v Brazil* Inter-American Court of Human Rights Series C No 318 (20 October 2016), IHRL 4409 (IACtHR 2016)

⁵⁰ International Labour Organization, *Forced Labour Convention, 1930 (No 29)* (adopted 28 June 1930, entered into force 1 May 1932) 39 UNTS 55, art 1

⁵¹ International Labour Organization, *Forced Labour Convention, 1930 (No 29)* (adopted 28 June 1930, entered into force 1 May 1932) 39 UNTS 55, art 25.

⁵² International Labour Organization, *Abolition of Forced Labour Convention, 1957 (No 105)* (adopted 25 June 1957, entered into force 17 January 1959) 320 UNTS 291, art 1(b)

⁵³ International Labour Organization, *Abolition of Forced Labour Convention, 1957 (No 105)* (adopted 25 June 1957, entered into force 17 January 1959) 320 UNTS 291, art 2.

that the work contributed positively to the environment and brought benefits like childcare, healthcare, and education for the workers' families. The videos used hashtags such as #DedicatedMothers, #WorkInTheField, and #SuccessfulWomen, promoting a sense of empowerment, self-improvement, and solidarity.⁵⁴ His social media posts showcased success and fulfillment, featuring testimonials from women who claimed the opportunity had improved their lives.

When AA contacted Maldini for more information, his responses were friendly, polite, and persuasive. He explained that no prior experience was needed, only enthusiasm for the work, and reassured her that the job could be tough at times but was worthwhile for the future of her daughter. He also made the opportunity sound urgent, claiming many people were interested and urging her to make a decision quickly.

Under these false pretenses, AA and 60 other women made the journey to Lusaria, believing they were embarking on a better future. However, upon arrival, the reality was far from what had been promised. In Lusaria, the working conditions were harsh, and AA became fearful for her safety. She learned that one woman had been subjected to violence and that another worker had been "severely repressed" by Joaquín Díaz after expressing dissatisfaction with the conditions. Even when workers raised concerns, such as requesting more help to meet targets or asking for their documents back, they were met with silence, threats, or further coercion.

One of the women who asked for her identity documents was told they had been submitted to labor authorities for processing, but later disappeared from the residence. Her daughter, who attended the daycare with AA's daughter, was no longer seen, raising further suspicions⁵⁵. AA also learned of an alarming incident of sexual violence committed by a male guard against one of the workers. This incident heightened her anxiety, particularly since she would soon be leaving her daughter and another child, M.A., alone while she worked in Aravania.

In the course of the Velora Police investigation following AA's complaints, the authorities were unable to locate any of the nine women that AA had mentioned. They visited the residence described by AA, finding it abandoned in a hasty manner, with unmade beds and personal belongings left behind, suggesting that the women had been removed abruptly. Even after the perpetrator behind these violations was arrested, he was absolved of the same due to diplomatic

⁵⁴ Hypothetical, § 33

⁵⁵ Hypothetical, § 44

immunity without dealing the case on merits. Therefore, the petitioners had been coerced into labour under the threat of violence, with any signs of discontent or resistance swiftly quelled, often through intimidation or forced disappearance⁵⁶.

In the Hacienda Brasil Verde case, the court held that States must not only refrain from violating rights but also take proactive measures to end practices like slavery, servitude, trafficking, and forced labor. Article 6, in conjunction with Article 1.1, requires States to prevent such violations and ensure the full and free exercise of rights for all individuals under their jurisdiction.⁵⁷ Article 1 of the ACHR mandates States Parties to not only "respect" but also "ensure" the rights recognized in the Convention. This obligation requires States to prevent, investigate, and punish human rights violations, creating conditions to avoid such violations, including preventing and investigation violations by both State agents and third parties.⁵⁸ When applying these principles to the case, it can be established that Aravania violated its positive obligation to prevent and prosecute the trafficking of those 9 women workers into conditions amount to slavery.

Furthermore, the Court emphasizes the proactive duty of States to prevent slavery, servitude, trafficking, and forced labor. This includes the obligation to identify and protect victims as soon as there is a possibility that individuals may be in such situations.⁵⁹ Prohibition of slavery and other practices in Article 6 also entails the State's positive obligation to initiate ex officio an investigation in order to establish the corresponding individual responsibilities when States are aware of an act. Despite being aware of practices resembling slavery in Aravania, the State failed to implement sufficient or effective preventive measures to stop these practices. Upon receiving the complaint from AA and verifying the truth of her story, Aravania's authorities should have immediately taken proactive steps to investigate the whereabouts of the missing victims and punish the perpetrators.

Aravania failed to address the systemic causes of exploitation, including the historical discrimination faced by workers due to their extreme poverty and illiteracy. The State neglected to consider the vulnerability of these workers to exploitation and slavery, constituting a violation of Article 6(1) of the American Convention, read in conjunction with Article 1(1) on

⁵⁶ Hypothetical, § 44

⁵⁷ *Hacienda Brasil Verde Workers v Brazil* Inter-American Court of Human Rights Series C No 318 (20 October 2016), IHRL 4409 (IACtHR 2016) para. 317

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*, paras. 322-324

non-discrimination⁶⁰. Furthermore, Aravania did not provide reparative mechanisms for the victims or exercise due diligence in preventing, punishing, or providing remedies for the unlawful actions of private actors, especially those granted diplomatic immunity. Even after 10 years, the State had not prosecuted or punished the perpetrators,

3.3.Aravania has violated Article II of the Inter-American Convention on Forced Disappearance of Persons by subjecting A.A. and others to forced disappearance

Article II of the American Convention defines forced disappearance as depriving a person of their freedom, perpetrated by state agents or those acting with state authorization, support, or acquiescence, followed by an absence of information on their whereabouts, obstructing legal remedies. States have four main responsibilities under the Convention: a) To prevent, prohibit, and not tolerate forced disappearances, even in states of emergency. b) To punish those responsible for forced disappearances and their accomplices. c) To cooperate with other states to prevent, punish, and eliminate forced disappearances. d) To implement necessary legal, administrative, and judicial measures to fulfill these obligations. The state must take administrative and legal measures to establish jurisdiction when the forced disappearance has occurred within the state's jurisdiction or when the accused/victim is a national of the state or when the accused is in the state's jurisdiction and extradition is not pursued.

While working in Lusaria, the workers' rights including freedom of movement was restricted. Whenever these workers sought to assert their rights, they were met with coercion and psychological intimidation. Critically, when some women previously working at the Lusarian farm attempted to retrieve their identification documents or raised concerns, they vanished without a trace, one such woman was never seen again, and her child stopped attending day care, signaling an abrupt and unacknowledged disappearance.

When A.A. reported the situation, the Aravanian police confirmed several details of her account, including the presence of women's belongings, unmade beds, and a hastily abandoned residence. Yet, the nine other women were never located. Despite this, Aravanian authorities ultimately refused to investigate or prosecute Hugo Maldini due to his diplomatic immunity, effectively shielding him from accountability despite the fact that Hugo Maldini was acting as a Lusarian official with his role tied to Aerisflora transplantation project. Given that all the

⁶⁰ Ibid., paras 339-341.

victims were nationals of Aravania, the State was under a clear obligation to protect their rights, ensure their safety, and guarantee them access to justice. By failing to waive immunity or initiate an independent, thorough investigation, Aravania not only failed to act with due diligence but also became complicit in the forced disappearances of the victims.

4. Aravania failure to protect AA and Others' Right to Humane Treatment under Article 5 and Right to Life under Article 7 of ACHR

The Inter-American Commission and Court have interpreted Article I expansively to protect both physical and psychological integrity.⁶¹ The Commission views the right to life, liberty, and security as including uninterrupted enjoyment of life, health, body, and reputation.⁶² In *Castillo Paez*, the Court emphasized that these protections go beyond physical mistreatment to include any act violating human dignity.⁶³ Article I of the American Declaration, read broadly, guarantees freedom from slavery, involuntary servitude, forced labor, child labor, trafficking, restrictions on movement, invasions of privacy, and cruel, inhuman, or degrading treatment.⁶⁴ Coercive employment conditions violate both Article I of the Declaration and Article 5 of the American Convention.⁶⁵

Under the Inter-American human rights framework, particularly Articles 5 and 7 of the American Convention on Human Rights (ACHR), the State has both negative and positive obligations to respect and ensure the right to humane treatment and personal liberty. The (IACtHR) has interpreted cruel, inhuman, or degrading treatment or punishment broadly to include any act that causes physical or psychological suffering or undermines human dignity even if it does not reach the threshold of torture.

⁶¹ See, e.g., *Graham (Shaka Sankofa) v. United States*, Case 11.193, Inter-Am. C.H.R., Report No. 97/03, OEA/Ser.L/V/II.114 doc. 70 rev. 1 ¶ 26 (2003).

⁶² *Haitian Ctr. for Human Rights v. United States*, Case 10.675, Inter-Am. C.H.R., Report No. 51/96, OEA/Ser.L/V/II.95 doc. 7 rev. ¶ 170 (1997).

⁶³ *Castillo Páez Case*, 1997 Inter-Am. Ct. H.R. (ser. C) No. 35, ¶¶ 63, 66 (Nov. 3, 1997).

⁶⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, G.A. Res. 55/25, annex II, U.N. GAOR, 55th Sess., Supp. No. 49, at 60, U.N. Doc. A/45/49 (Vol. I) (Nov. 15, 2000), (entered into force Dec. 25, 2003);

⁶⁵ Human Rights Comm., General Comment No. 27, Freedom of Movement (Art. 12), U.N. Doc. CCPR/C/21/Rev.1/Add.9 (Feb. 11, 1999).

In *Valle Jaramillo et al. v. Colombia*⁶⁶, the Court recognized that even the threat of a violation of the right to life or personal integrity could amount to inhuman treatment if it is real and imminent. In *Yvon Neptune v. Haiti*,⁶⁷ the Court held that inhumane conditions of detention—including lack of medical care, food, and hygiene—constituted a violation of Article 5(2) for falling below minimum standards of dignity. Similarly, in *Castillo Páez v. Peru*⁶⁸, the Court affirmed that the State’s obligation to respect human dignity extends beyond mere physical mistreatment to include all acts that degrade or humiliate.

Torture, as distinguished from CIDTP, has been defined in *Bueno Alves v. Argentina* as comprising (1) an intentional act, (2) that causes severe physical or mental suffering, and (3) is committed with a specific purpose⁶⁹. These instruments introduce the requirement of involvement or acquiescence of a public official, while expanding liability to include private individuals acting on behalf of the State⁷⁰. The IACtHR in *Caesar v. Trinidad and Tobago* confirmed that the prohibition of torture and CIDTP forms part of jus cogens, or peremptory norms of international law, binding on all States irrespective of treaty ratification.⁷¹

The State’s obligations in this regard are not limited to refraining from direct participation in acts of torture or inhumane treatment. As reaffirmed in *Ticona Estrada v. Bolivia* and *Bayarri v. Argentina*⁷², the Court has recognized that States have a positive duty to prevent, investigate, punish, and provide reparations for such acts—even in the absence of a formal complaint. The combination of Articles 1(1), 8(1), and 25(1) of the ACHR has been interpreted to impose a duty of due diligence, requiring the State to act ex officio where there is a reasonable basis to believe such violations have occurred. The Court has repeatedly emphasized that impunity for

⁶⁶ Valle Jaramillo and others v Colombia (Interpretation of the Judgment on Merits, Reparations and Costs), IACHR Series C No 201, IHRL 4142 (IACHR, 7 July 2009)

⁶⁷ Yvon Neptune v Haiti (Merits, Reparations and Costs), IACHR Series C No 180, IHRL 3054 (IACHR, 6 May 2008)

⁶⁸ IACtHR, *Case of Anzualdo-Castro v. Peru*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 22 September 2009, Series C No. 202, para. 62;

⁶⁹ IACHR, May 11, 2007, Merits, Reparations and Costs, *Bueno Alves v Argentina*, Series C No. 164, para. 76; IACHR, October 30, 2008, Preliminary Objections, Merits, Reparations and Costs,

⁷⁰ Ludovic Hennebel and Hélène Tigroudja, *The American Convention on Human Rights: A Commentary* (Oxford University Press 2022)

⁷¹ IACHR, July 21, 2002, Merits, *Hilaire, Constantine et al. v Trinidad and Tobago*, Series C No. 94; IACHR, November 20, 2007, Preliminary Objections, Merits, Reparations and Costs

⁷² IACHR, November 27, 2008, *Ticona Estrada et al. v Bolivia*, Series C No. 191, para. 58.

torture undermines the integrity of the justice system and the rule of law, and that the State's failure to provide effective remedies constitutes a separate violation.⁷³

In *Serrano Cruz Sisters v. El Salvador*, the Inter-American Court declined to find a violation of Article 4 due to lack of conclusive evidence about the girls' fate but held that the State's failure to investigate their disappearance caused severe anguish to their family, constituting a violation of Article 5(1) read with Article 1(1).⁷⁴

In the present case, A.A. and the other women were subjected to exploitative and degrading working conditions that amounted to inhumane treatment, violating their right to life, dignity, and freedom from torture under the American Convention. Despite Aravania's constitutional guarantees such as the right to life, honor, liberty, and security under Article 9; the right to fair wages and decent working conditions under Article 51; and the obligation of state authorities to respect and ensure all human rights, including economic and social rights, under Article 102 the State failed to take any reasonable measures to protect these women.⁷⁵ The women, including A.A., were deceptively taken to Primelia, in Velora, to transplant Aërisflora, where they were subjected to severe restrictions. The premises were controlled exclusively by Lusarian staff, with all movements monitored. The living conditions were inadequate—10 women were crammed into a 50m² residence with only two bedrooms, a kitchen, and a shared bathroom. Their working conditions mirrored those of the exploitative El Dorado farm, with no significant oversight or enforcement of labor rights. When the women completed their assigned work within the agreed time, they were coerced into staying an extra week to fulfill targets under the cooperation agreement. A.A.'s request for fair payment was met with indifference and psychological intimidation by Hugo Maldini, who dismissed her claims and subjected her to degrading remarks.

Such treatment not only constituted psychological abuse and humiliation but also met the threshold for cruel, inhuman, and degrading treatment under international human rights standards.

⁷³ Ludovic Hennebel and Hélène Tigroudja, *The American Convention on Human Rights: A Commentary* (Oxford University Press 2022)

⁷⁴ IACHR, March 1, 2005, Merits, Reparations and Costs, *Serrano Cruz Sisters v El Salvador*, Series C No. 120.

⁷⁵ Hypothetical, § 8

Judge Cecilia Medina Quiroga has emphasized that the defining factor of torture is the severity of suffering, regardless of the official capacity of the perpetrator⁷⁶. Here, the severity, intent, and purpose behind the coercive conditions satisfy the elements of torture as recognized in *Bueno Alves v. Argentina*. From the facts of the case, severity threshold for torture can be established. The Court, for example, speaks of "such cruelty that it had to have caused her severe physical and mental suffering."⁷⁷

In the present case, the petitioners were effectively deprived of their liberty to leave their employment at will, as their identity documents were confiscated under the pretense of being submitted to labor authorities for permit processing. They lived in constant fear of violence any attempt to voice discontent or report abusive conditions was met with severe repercussions. Workers who raised concerns to Joaquín Díaz faced harsh retaliation, and in some cases, disappeared altogether. Supervisors exercised absolute control over the petitioners, forcing them to work excessively long hours without rest, subjecting them to threats, verbal abuse, humiliation, and degrading treatment.

These actions amounted to cruel, inhuman, and degrading treatment, in violation of the petitioners' rights to life, liberty, and personal security under Article I of the American Declaration, and their right to protection of honor, personal reputation, and private and family life under Article V. Aravania's failure to regulate or remedy these conditions reinforces its international responsibility for the systemic denial of these rights.

5. Aravania violated AA and Others' violated Right to Equal Protection and Non-Discrimination under Article 1.1 and 24 of ACHR.

Under Article 1.1 of ACHR⁷⁸, States are obliged to respect and ensure the rights of all individuals without discrimination, and Article 24⁷⁹ guarantees equal protection before the law. While the Convention does not explicitly define "discrimination," the Court has interpreted it

⁷⁶ Paras. 14–15 of the Separate Opinion of Judge Cecilia Medina, IACHR, November 16, 2009, Merits, *González et al. ('Cotton field') v Mexico*, Series C No. 205).

⁷⁷ Para. 219, *Case of González et al. ("Cotton Field") v. Mexico*, see note 2.

⁷⁸ American Convention on Human Rights, art. 1(1).

⁷⁹ American Convention on Human Rights, art. 24.

in line with CEDAW and other international standards as any distinction or exclusion based on sex that impairs the equal enjoyment of rights⁸⁰.

The Convention of Belém do Pará, in Article 1⁸¹, defines violence against women as any gender-based act that causes physical, sexual, or psychological harm, and explicitly links it to discriminatory power dynamics and patriarchal norms. In the landmark case of *González et al. ("Cotton Field") v. Mexico* (2009)⁸², the Court held that the gender-based murders of young women in Ciudad Juárez occurred within a context of systemic discrimination, where the State's failure to prevent, investigate, and punish the crimes constituted a violation of its due diligence obligations under both the American Convention and the Convention of Belém do Pará. The Court emphasized that impunity in cases of violence against women not only reflects institutional indifference but perpetuates a climate of normalized gender-based harm.⁸³ Similarly, in *Velásquez Paiz et al. v. Guatemala* (2015), the Court reaffirmed that State inaction in the face of femicide and violence rooted in discrimination breaches the State's duty to protect, especially when victims belong to vulnerable or marginalized communities. States are therefore under a dual obligation: a negative duty to abstain from violating rights through direct action or acquiescence⁸⁴ and a positive duty to adopt legal, administrative, and cultural measures to prevent violence, investigate violations, and punish perpetrators⁸⁵.

The Court has clarified that this obligation is one of means, not results, requiring States to act with reasonable diligence tailored to the risk profile of the victim⁸⁶. State must go beyond formal equality and proactively dismantle discriminatory social norms that enable gender-based violence.

⁸⁰ Tiroch K, 'Violence against Women By Private Actors: The Inter-American Court's Judgement in the Case of Gonzalez et. al. ("Cotton Field") v. Mexico' (2010) 14 Max Planck Yearbook of United Nations Law 371

⁸¹ Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (adopted 9 June 1994, entered into force 5 March 1995) (Convention of Belém do Pará) art 1

⁸² IACtHR, *Case of González et al. ("Cotton Field") v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 16 November 2009, Series C No. 205.¹

⁸³ Tiroch K, 'Violence against Women By Private Actors: The Inter-American Court's Judgement in the Case of Gonzalez et. al. ("Cotton Field") v. Mexico' (2010) 14 Max Planck Yearbook of United Nations Law 371

⁸⁴ Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (adopted 9 June 1994, entered into force 5 March 1995) (Convention of Belém do Pará) art 7(a).

⁸⁵ Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (adopted 9 June 1994, entered into force 5 March 1995) (Convention of Belém do Pará) art 8.

⁸⁶ *Case of Velásquez Rodríguez v Honduras. Preliminary Objections*. Judgment of June 26, 1987. Series C No. 1, para. 30.

International responsibility arises not just from State agents' direct actions, but also from omissions and tolerance of private acts of violence.

In Aravania, women were clearly subjected to stereotyping, marginalization, and gender-based violence—practices the State failed to prevent or address. They were exploited in degrading conditions, subjected to humiliation and control, and denied fair pay, by both State and private actors, without redress. The Convention of Belém do Pará places clear obligations on States through Article 7, requiring them to prevent, punish, and eradicate violence against women. This includes enacting legislation, ensuring effective access to justice, penalizing perpetrators, and protecting victims. The court in *Maria da Penha v. Brazil* case⁸⁷ held that systemic tolerance and ineffective legal mechanisms made Brazil internationally responsible for its failure to prevent and punish domestic violence.⁸⁸

In the present case, Aravania's omission, tolerance, and failure to redress the violations endured by the petitioners make it internationally responsible under the Convention. Additionally, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, supplementing the UN Convention against Transnational Organized Crime, obliges States to eliminate gender discrimination, enact anti-trafficking legislation, and ensure equal employment conditions for women. Articles 5⁸⁹, 6⁹⁰, and 11⁹¹ underscore the duty to revise discriminatory laws, modify cultural norms, and promote equal workplace protections. Affirmative steps to dismantle existing inequalities, especially where historical or structural discrimination is evident—as was the case for the petitioners.

In the present case, Aravania's landscape reflects systemic discrimination and structural inequality that disproportionately affect women, particularly those in rural and economically marginalized areas. The State's failure to provide essential public services such as access to public education and social security has contributed significantly to the perpetuation of gender-

⁸⁷ *IACtHR, María Da Penha Maia Fernandes v. Brasil, Case 12.051, Report No. 54/01*, Annual Report of the Inter-American Commission on Human Rights 2002, OEA/Ser.L/V/II.117, Doc. 20 rev. of 16 April 2003; *IACtHR, Raquel Martín de Mejía v. Perú, Case 10.970, Report No. 5/96*, Annual Report of the Inter-American Commission on Human Rights 1995, OEA/Ser.L/V/II.91 Doc. 7 rev. of 28 February 1996.

⁸⁸ *IACtHR, María Da Penha Maia Fernandes v. Brasil, Case 12.051, Report No. 54/01*,

⁸⁹ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, arts 5.

⁹⁰ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, arts 6.

⁹¹ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, arts 11.

based discrimination. From 2011 to 2014, 17% of Aravania's population lived in poverty, with women bearing a disproportionate share of the burden due to entrenched societal roles and economic disparities⁹². Women in rural regions continue to face heightened barriers to accessing higher education and professional opportunities. Even when employed, they are routinely paid less than men for equivalent work, in violation of the principle of equal pay for equal work enshrined in international human rights instruments.

Data from Campo de Santana show these inequities. Women, particularly those heading households, carry a significantly higher unpaid care burden than men, facing mounting challenges in covering caregiving costs⁹³. These socioeconomic pressures compel many women to seek employment abroad, often in exploitative or abusive working conditions. The absence of inclusive workplace policies, combined with a lack of legal safeguards and adequate social protection mechanisms, reflects a pattern of systemic neglect and implicit acceptance of gender-based discrimination by the State,

Moreover, there is a serious lacuna in Aravania's domestic legal framework. The country lacks comprehensive legislation to address gender-based and systematic violence against women. There are no clear legal mechanisms to ensure the prevention of violence, protection of victims, or punishment of perpetrators. The absence of such a framework demonstrates the State's failure to fulfill its positive obligations under the Belém do Pará Convention, particularly Articles 7 and 8, which mandate not only punitive and protective measures but also broader cultural and institutional reforms to combat the root causes of violence and discrimination.

These victims were subjected to differentiated and aggravated conditions of work that amounted to both direct and indirect discrimination on the basis of sex and gender. From the outset, there existed a deeply entrenched gender division of labor at El Dorado. Women, such as A.A., were primarily assigned physically demanding agricultural tasks such as soil preparation, planting, irrigation, pruning, and pesticide application exposing them to extreme weather conditions and chemical hazards. These duties alone involved strenuous physical labor. However, in addition to this, the same women were expected to prepare meals and clean the premises, without any additional compensation or staffing support. These extra, unpaid tasks were normalized and socially enforced among the workers if one refused to help, they

⁹² Hypothetical, § 3

⁹³ Hypothetical, § 3

were reprimanded by peers. This "double burden" is exacerbated by the fact that women like A.A. were also primary caregivers at home. After a 17-hour workday (from 6:00 a.m. to 11:00 p.m.), A.A. would return to further household responsibilities, caring for her daughter and her ailing mother. On weekends, they were further exploited forced to clean male residences, including that of their supervisor Joaquín Díaz, and even tasked with washing men's clothes while the men were allowed time off. This clear imbalance in workload and expectations constitutes both indirect discrimination and a failure to respect labor rights and human dignity, in violation of Article 11 of the American Convention on Human Rights (ACHR) and Article 7 of the Protocol of San Salvador (right to just, equitable, and satisfactory working conditions).

The women's working conditions worsened during the Aerisflora transplanting phase. As the project intensified, the women were forced to live on-site in makeshift accommodations under close surveillance. The workday extended beyond formal hours, with women staying late to meet production targets again, without adequate support or staffing. The decision to compel all workers to reside on the farm, and the imposition of extended hours under threat of job loss or reprisals, borders on coercive labor practices.

Moreover, when three women raised concerns and requested either additional support or the return of their identity documents, they were met with intimidation. One woman disappeared altogether, and her daughter was abruptly withdrawn from daycare, suggesting possible forced labor, trafficking, or illegal retention of identity documents. Isabel Torres's explanation that the documents were with the authorities for permits is likely a pretext to justify the restriction of movement and autonomy.

In addition to these abuses, there were incidents of sexual violence. A.A. learned of an assault by a male guard on a woman in the field shortly before traveling to Aravania. The failure of the authorities or supervisors to act on this information further illustrates a culture of impunity and systemic tolerance of violence against women. This is particularly serious under the standards developed in *González et al. ("Cotton Field") v. Mexico*, where the Inter-American Court held that failure to prevent, investigate, and sanction acts of gender-based violence may constitute a violation of the rights to life, personal integrity, and equality before the law under Articles 4, 5, and 24 of the ACHR.

Upon arriving in Aravania, the women's conditions remained exploitative. Ten women were crammed into a small residence (50m²) and monitored by Lusarian staff who controlled all

entry and exit, further restricting their autonomy. When the transplanting failed due to unsuitable soil conditions, the women were forced to stay longer without being paid—again under duress. A.A.’s attempt to claim her wages was met not just with dismissal but with psychological intimidation. Hugo Maldini’s comments (“you’ll go back to being the same desperate, single woman”) also reflect a deep feeling of discrimination against women.

Despite all these violations, there was an unjustified delay of more than ten years in prosecuting and punishing the perpetrator of severe human rights violations, citing diplomatic immunity as a reason for inaction. This not only denied justice to the victims but also sent a broader message of impunity and tolerance for gender-based violence. Such delay is incompatible with the principle of timely and effective access to justice guaranteed under Article 8 of the ACHR and further elaborated in cases like *Maria da Penha v. Brazil*, where systemic tolerance and legal inefficiencies were deemed to make the State internationally responsible.

PRAYER/RELIEF SOUGHT

The Representatives for the Victims respectfully request this Honorable Inter-American Court of Human Rights to:

1. **Affirm the admissibility of the present case**, and declare that the Republic of Aravania is internationally responsible for violations of the rights of A.A. and nine other women under:
 - **Articles 4 (Right to Life), 5 (Right to Humane Treatment), 6 (Freedom from Slavery), 8 (Right to a Fair Trial), 24 (Right to Equal Protection), and 25 (Right to Judicial Protection)** of the American Convention on Human Rights, in conjunction with **Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects)**;
 - **Article II of the Inter-American Convention on Forced Disappearance of Persons**; and
 - **Article 7 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará)**;
2. **Affirm and uphold the conclusions and recommendations contained in Merits Report No. 47/24**, issued by the Inter-American Commission on Human Rights, dated February 12, 2024;
3. **Declare the international responsibility of the Republic of Aravania** for violations of the rights of A.A. and the nine other victims, under Articles 3 (Right to Juridical Personality), 5 (Right to Humane Treatment), 6 (Freedom from Slavery), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 25 (Right to Judicial Protection), and 26 (Progressive Development) of the American Convention on Human Rights, in conjunction with Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, and Article 7 of the Convention of Belém do Pará;
4. **Recognize that the Republic of Aravania failed to act with due diligence** in preventing, investigating, punishing, and providing adequate reparations for acts of human trafficking and related gender-based violence committed under its jurisdiction or with its effective control, including those arising from the activities conducted pursuant to the cooperation agreement;

5. **Declare that the State violated the rights of the victims' next of kin**, in particular their right to humane treatment under Article 5 of the American Convention, due to the emotional and psychological harm suffered as a result of the State's inaction and denial of responsibility;
6. **Reject in their entirety the preliminary objections raised by the State**, including those alleging lack of competence *ratione personae* and *ratione loci*, as well as the alleged violation of the principle of subsidiarity, in light of the findings already established by the Commission in its admissibility and merits determinations;
7. **Order the Republic of Aravania to implement full reparations** for the victims, including but not limited to:
 - Payment of fair compensation for material and moral damages;
 - Provision of medical, psychological, and social rehabilitation services to the victims and their families;
 - Adoption of non-repetition measures, including legislative and institutional reforms to strengthen anti-trafficking mechanisms, victim protection protocols, and gender-sensitive justice delivery;
 - Public acknowledgment of international responsibility, including an official apology and dissemination of the Court's judgment through appropriate media;
 - Establishment of training and awareness programs for public officials, law enforcement personnel, and service providers on trafficking and gender-based violence;
8. **Order the State to pay the costs and legal expenses** incurred by the victims and their legal representatives throughout the proceedings before the Commission and this Court.

Respectfully submitted,

Trafficking Victims Support and Reintegration Clinic

(On behalf of A.A. and Nine Other Victims)

