



CEJIL
Activities
Report



Executive Editors
Viviana Krsticevic
Ariela Peralta

Managing Editor
Milli Legrain

Contributors
Liliana Tojo
Alejandra Nuño
Francisco Quintana
Marcia Aguiluz

Research
Iris Figueroa

Corrections
Kerri Sjoblom
Oscar Medelius

Translation in to English
Aimée Sullivan

General Production
and Design
Folio Uno S.A.

CEJIL

Center for Justice and International Law, CEJIL
Activities Report 1991-2011
CEJIL / Buenos Aires, Argentina: CEJIL, 2011
121 pages; 20 cm x 28 cm
Printed in Argentina

Reproduction of the contents of this publication is authorized
as long as the source is cited.



Center for Justice and International Law (CEJIL)

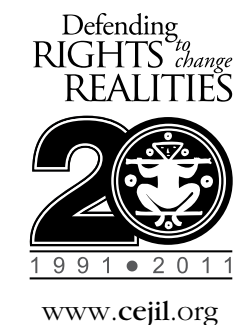
ACTIVITIES REPORT 1991 – 2011

Washington, D.C., United States
1630 Connecticut Ave., NW, Suite 401
Washington, D.C. United States 20009-1053
Tel. (1 202) 319-3000
Fax (1 202) 319-3019
washington@cejil.org

Buenos Aires, Argentina
Av. Pueyrredón 510, piso 6, dpto. A
Ciudad Autónoma de Buenos Aires, Argentina C1032 ABS
Telefax (54 11) 5031-2331
sur@cejil.org

Río de Janeiro, Brazil
Av. Franklin Roosevelt 194, Sala 906
Centro, Río de Janeiro, RJ, Brazil 20021-120
Tel. (55 21) 2533-1660
Fax (55 21) 2517-3280
brasil@cejil.org

San José, Costa Rica
225 metros Sur y 75 metros Este del
Centro Cultural Mexicano, Los Yoses, San José, Costa Rica 441-2010
Tel. (506) 2280-7473 / 7608
Fax (506) 2280-5280
mesoamerica@cejil.org



*The content of this document is the responsibility of CEJIL
and does not necessarily represent the opinion of its donors.*



Letter from the Executive Director 6

Dedication 7

Donors 8

About CEJIL 9

In the words of the Board of Directors 12

Litigating to change realities 22

Advocating to change realities 34

Human rights defenders to change realities 52

A life without violence 66

More justice and equality in the Americas 90

The right to democracy 108

Table of contents

Defending
RIGHTS *to*
REALITIES *change*



Letter from the Executive Director

In a region marked by dictatorships, armed conflict, violence and inequality, a group of human rights defenders set out 20 years ago to establish an organization that would make it possible to have an impact on the protection of fundamental rights in the Americas by using international law to obtain justice; thus, the Center for Justice and International Law was created. The endeavor called for using the Inter-American System and international human rights law to accomplish these changes. At the time, there was no other organization with those attributes.

In the two decades since this innovative proposal, CEJIL has contributed significantly to the enjoyment of rights in the region. It has been the driving force behind case law that has changed the course of history in some countries, such as the case that declared Peru's amnesty laws invalid, or the case that prompted the enactment of the law on violence against women in Brazil (known as the "Maria da Penha law"); it has enabled justice to be done for thousands of victims of human rights violations; it has contributed to the strengthening of the Inter-American Protection System and its coordination with national protection systems, giving rise to more effective coverage; it has generated knowledge and shared it, thus strengthening the protection of rights, and it has committed significant efforts to empowering the human rights movement in the region.

The following report outlines some of CEJIL's milestones, achievements, and challenges over these two decades. Undoubtedly, it does not do justice to everything the institution has done during this period, but it attempts to illustrate some notable actions in order to document the efforts of the working team, with the inevitable guidance of the Board of Directors and—at this point—in conjunction with thousands of human rights defenders, victims, academics, and civil servants committed to a more just, democratic, and egalitarian hemisphere.

Sincerely,

Viviana Krsticevic
Executive Director



This report is dedicated to the thousands of victims, survivors and human rights defenders with whom we have shared these first 20 years.

To all of you who have been our inspiration to change realities, thank you!

CEJIL would like to thank Patricia Aballay, Argentine artist from Buenos Aires, for allowing us to reproduce her work in this report.
www.patriciaaballay.com.ar

Donors in 2011

- Dan Church Aid
- EED
- Embassy of Canada in Argentina
- Embassy of Germany in Mexico
- The Ford Foundation
- Foundation to Promote Open Society (FOSI)
- HIVOS
- International Planned Parenthood Federation
- The John D. and Catherine MacArthur Foundation
- MISEREOR
- National Endowment for Democracy
- Norwegian Ministry of Foreign Affairs
- The Oak Foundation
- Royal Embassy of Norway in Argentina
- The Sigrid Rausing Trust
- Swedish NGO Foundation for Human Rights / Swedish International Development Cooperation Agency
- Office of the United Nations High Commissioner for Refugees (UNHCR)
- UN Slavery Fund
- United Nations Voluntary Fund for Victims of Torture (UNVFVT)
- Anonymous Donor

About CEJIL

BOARD OF DIRECTORS

José Miguel Vivanco,
Chairman,
United States

Alejandro Garro,
Vice Chairman,
United States

Helen Mack,
Secretary,
Guatemala

Mariclaire Acosta
Urquidi,
México

Gastón Chillier,
Argentina

Benjamín Cuéllar,
El Salvador

Gustavo Gallón,
Colombia

Sofía Macher,
Perú

Julieta Montaña,
Bolivia

STAFF AS OF SEPTEMBER 2011

Executive Director
Viviana Krsticevic

*Deputy Executive Director
and Program Director for the
Andean, North America and
Caribbean Region*
Ariela Peralta

*Deputy Program Director for
the Andean, North America
and Caribbean Region*
Francisco Quintana

*Program Director
for Brazil*
Beatriz Affonso

*Program Director for Central
America and Mexico*
Alejandra Nuño

*Program Director for Bolivia
and the Southern Cone*
Liliana Tojo

*Institutional Development
Director*
Alejandro Bautista

*Institutional Development
Coordinator (Program
for Central America and
Mexico)*
Susana García

*Communications
Coordinator*
Milli Legrain

*Communications Officer
(Program for Central
America and Mexico)*
Darío Chinchilla

Senior Legal Counsel
Gisela De León

Staff Attorneys
Marcia Aguiluz, Alejandra
Arancedo, Celina Giraudy,
Agustín Martín, Annette
Martínez, Marcela Martino,
Helena Rocha,
Alejandra Vicente

Assistant Staff Attorneys
Luiza Athayde,
Luis Carlos Buob Concha,
Natalie Frickmann

Institutional Development
Sandra Chaves, Clare Gibson
Débora Gouvea, Virginia
Rubacha

*Information Management
Assistant*
Pilar Elizalde

Assistants
Grace Helena Endo,
Megan Horton, Marcela Pérez,
Federico Taboada

Legal Fellows
Veronica Aragón, Paola Limón

*CEJIL would like to thank all
those who have been essential
to fulfilling the objectives of the
institution over the past 20 years,
whether as part of the team,
Board members, consultants, or
regional counterparts.*

Frequently asked questions about CEJIL

When and why was CEJIL founded?

CEJIL was founded in 1991 by a group of prominent human rights defenders from all over the Americas in order to create a regional organization that would seek justice, liberty and a dignified existence for the inhabitants of the hemisphere by focusing its efforts on the use of international human rights law and the bodies of the Inter-American Human Rights Promotion and Protection System.

In how many countries does CEJIL work?

CEJIL works across the Americas. It has offices in Washington D.C. (USA), San José (Costa Rica), Buenos Aires (Argentina), and Rio de Janeiro (Brazil).

How many victims does CEJIL represent?

Across the entire hemisphere, CEJIL currently represents over 13,000 victims and beneficiaries of protection measures in more than 220 cases and precautionary and provisional measure proceedings before the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (I/A Court H.R.), in partnership with some 380 sister organizations

How does CEJIL choose the cases it litigates?

In order to have the greatest possible impact, CEJIL litigates cases that are emblematic of gross human rights violations in the Americas. These cases help to contribute to social justice, strengthen democracy and compel States to take steps to ensure greater respect for human rights. However, due to limited resources and the nature of its mission, CEJIL cannot take all of the cases submitted.

Do these cases make a difference?

The cases litigated by the organization not only protect victims' rights and provide them with fair reparation, but also set new human rights protection standards and ensure non-repetition of violations. Often, cases may culminate in admission by the States of responsibility and public apology to the victims, friendly settlement agreements, IACHR or I/A Court H.R. pronouncements on violations committed by States, Court-ordered reparations to victims and changes in a country's laws and policies. With regard to monetary compensation, as a result of Court judgments issued over the last five years, victims represented by CEJIL were able to collect payments totaling approximately US\$40 million.

Does CEJIL charge for its legal representation?

No, CEJIL does not charge any fees to the victims it represents.

How is CEJIL funded?

CEJIL is funded by donations from foundations, European Governments and individuals (see page 8).

How can I help?

CEJIL needs volunteers (attorneys, law school students, communications professionals and translators) who are willing to help implement its mission. CEJIL also accepts donations from individuals and institutions via our website at <http://cejil.org/en/support-us>. If you wish to contribute in some way, contact any of the CEJIL offices.

Mission

The institutional mission of CEJIL is to contribute to the full enjoyment of human rights in the Member States of the Organization of American States (OAS) through effective use of the tools of the Inter-American System and those of other protection mechanisms in the realm of International Human Rights Law.

Vision

We strive to attain a fully democratic hemisphere, where the rights of all are respected, a hemisphere where people live freely, without fear and want, as established in the Universal Declaration of Human Rights and the preamble to the American Convention on Human Rights; a region with strong institutions grounded in the rule of law in order to ensure, through an adequate legal framework, that public practices and policies are in line with international human rights law, a hemisphere where State protection is also reinforced by a system of subsidiary regional oversight which is prompt and effective in protecting the fundamental rights of individuals and peoples.

CEJIL is a non-profit, non-governmental organization with advisory status to the Organization of American States, and observer status to the African Commission of Human Rights and Peoples.

Objectives

- To respond to gross human rights violations committed or tolerated by State agents and combat impunity for these crimes.
- To contribute to narrowing the gap of inequality and exclusion in the region, which can be viewed in legal terms as the struggle to ensure the right to equality and respect for human dignity.
- To contribute to strengthening democracy, the rule of law and oversight institutions, as well as supporting full enjoyment of rights which have a direct bearing on proper operation of a democratic system, with particular focus on the administration of justice, human rights defenders and key social actors.
- To make the Inter-American Human Rights Promotion and Protection System more effective and, particularly, expand access of individuals to its protection mechanisms.

Programs

CEJIL works towards its mission and objectives through four distinct but interrelated programs:

- 1) Legal defense
- 2) Empowering human rights defenders and other key actors
- 3) Strengthening the Inter-American System
- 4) Information Management and Communications



In the words of the Board of Directors...

Throughout 2010 and 2011, CEJIL conducted personal interviews with the members of the Board of Directors.

Here are some of the most notable quotes:

A DEFINITION OF CEJIL IN A FEW WORDS

CEJIL has a life of its own because it responds to a true need. **José Miguel Vivanco**

Commitment, professionalism, and the awareness that it is an organization that complements the victims and local organizations. **Gustavo Gallón**

Observer of the Inter-American System. **Alejandro Garro**

Useful: it's a great support for human rights bodies of the region. With a wide scope: it has many more ways of continuing support. **Sofía Macher**

Very committed, with a powerful reputation, and very professional. **Helen Mack**



Members of CEJIL's Board of Directors in 1994- Mike McCormack, Emilio Mignone, Ligia Bolívar, José Miguel Vivanco, Mariclaire Acosta, Gustavo Gallón, Benjamín Cuéllar

THE FOUNDING OF CEJIL



José Miguel Vivanco, current Executive Director of the Americas Division of Human Rights Watch, envisioned and implemented the concept of CEJIL 20 years ago:

CEJIL was conceived of at the end of the '80s, when we realized that there was an enormous gap between the Court and the Commission, on one hand, and the victims in Latin America, on the other. Even the organizations that were defending human rights lacked the tools, the training, and the expert advice required to litigate a case before the Court. Our concern

was over the inequality of arms: the governments would hire top attorneys while the victims would be left to their fate, without adequate representation. In the early '90s, I approached Human Rights Watch (HRW) and proposed the creation of an organization that would fill that void. Juan Méndez, who was the director of the Americas Division at HRW at that time, supported the idea immediately, and we put the project together. We approached the directors of leading organizations in Latin America and invited them to be on CEJIL's Board of Directors, and thus, within a few months we were able to gain the credibility that normally takes quite a while to establish.

Juan Méndez, former member of the Board of Directors and current United Nations Special Rapporteur on Torture, provided the framework for CEJIL:

I was with Human Rights Watch; I was the Director of the Washington office and of the Americas Program—which at the time was called Americas Watch—and we had taken part in the case of *Velásquez Rodríguez v. Honduras*, which caused a sensation throughout Latin America because it opened up the possibility of bringing cases before the Court. To see public hearings, with a lot of press coverage, opened up a lot of possibilities for promoting and defending human rights more effectively.

Within a very short time we had 50 cases... Obviously Americas Watch had its limits. It was an organization that was working for everyone; its resources had to be allocated, and it also had to maintain a certain independence. So, we set up an organization, a body, with José Miguel, and we obtained funds immediately—first from the Swedish cooperation agency, and then from the Canadian cooperation agency. Later he was able to be the full-time Director. But initially Americas Watch provided José Miguel and CEJIL with the use of its offices in Washington, and that enabled it to make progress quickly.

The first cases were litigated jointly by CEJIL and Americas Watch, plus a Latin American NGO that advocated for the case from its country. But with time CEJIL's work obviously was much more diversified. It became much more complex, and eventually CEJIL had a bigger staff as well, so it needed to have its own offices. From that point forward, I stayed on at Americas Watch but I worked with them when it was necessary—not on an institutional level, but on a personal one.



Helen Mack, Mariclaire Acosta and Benjamín Cuéllar at CEJIL's 20th anniversary celebration in San Salvador, June 2011.

THE ROLES OF SOME KEY ACTORS...

After that initial approach with Human Rights Watch and the Colombian Commission of Jurists, it became evident that it was important to also link a significant group of organizations and individuals from the hemisphere, such as Emilio Mignone of the Center for Legal and Social Studies (CELS) (Argentina), Paulo Sérgio Pinheiro of the Center for the Study of Violence at the University of São Paulo (Brazil), Ligia Bolívar of Provea (Venezuela), Michael McCormack of Caribbean Rights (a network of organizations from various Caribbean countries, headquartered in Barbados), Helen Mack of the Myrna Mack Foundation (Guatemala), Benjamín Cuéllar of the Human Rights Center at the University of Central America (El Salvador), and Mariclaire Acosta of the Mexican Human Rights Commission (Mexico). Alejandro Garro, a law professor at Columbia University in New York, was connected in a personal capacity, and Monsignor Juan Gerardi, director of the Human Rights Office of the Archdiocese of Guatemala agreed to be affiliated as an observer. Initially, Diego Gar-

cía-Sayán of the Andean Commission of Jurists (Lima) also participated in the meeting at which CEJIL was founded, which was held in Caracas in 1991.

Gustavo Gallón

Emilio Mignone, President of the Center for Legal and Social Studies (CELS), was involved in the establishment of CEJIL 20 years ago. The importance of the Inter-American System and the IACHR in the region, and the need that regional organizations had for an organization to support and assist



them, and to facilitate the use of the system for them, was clear to Emilio.

Gastón Chillier

Monsignor Gerardi took part in a meeting in New York as an observer. He was invited so he could decide later whether to join the institution's efforts. We were the two Central Americans. I think that I was the only one he knew personally—I don't know whether he knew José Miguel—so he was a little closer to me. At the end of the meeting, the two of us stayed and talked about CEJIL's possibilities. He asked me what I thought, what experiences I had had. I think it was during that conversation that he started to decide to join. But then when he was murdered, the possibility of having a Bishop from the Catholic Church join CEJIL's Board of Directors was cut short.

Benjamín Cuéllar

CEJIL'S ACHIEVEMENTS

The Inter-American System in the 1980s was a relatively closed mechanism, a very exclusive club for those who knew how to make it work. The Court was just beginning to make itself known, thanks to the disappearance cases against Honduras, and its magnificent judgments garnered a lot of regional prestige. CEJIL, throughout these two decades, has contributed to the democratization of access to the system, opening doors for the victims. By litigating cases, CEJIL has managed to influence the practices, policies, and laws of many countries, requiring them to comply with their international legal commitments on the subject of human rights.

José Miguel Vivanco

For us as a family, and for me personally, I think that the most meaningful thing, the thing that can most be likened to a reparation, was the Court's judgment and everything it reflected in the Inter-American System. And the truth is that, after pushing and pushing the government of Guatemala for 14 years, the strategy worked.

Helen Mack

In Colombia, as in each one of the other countries, CEJIL's impact has been in its contribution to the qualification of the work of local organizations. By supporting the representation of adversarial cases brought by Colombian human rights organizations, CEJIL has helped obtain judgments from the Commission and the Court that have been decisive for the Colombian authorities and the people of our country to understand that human rights are a reality and not a mere desire, that respect for them is a legal obligation and not an opinion or a controversial aspiration, and that there are internationally established institutions to ensure their validity.

Gustavo Gallón

The development of jurisprudence in the system, which has a direct impact on the legal cer-

tainty of the people of the Americas, especially the most vulnerable. **Sofía Macher**



First of all, the reliability, the quality, the professional competence, and the deep compassion of the staff members who litigate each case. To them, a case is not just a legal, technical case; rather, it is a story of pain, a story of anguish

that must be adequately addressed through legal expertise. **Julieta Montaña**

The role that CEJIL has played in the development of human rights standards in Latin America is reflected in those recommendations of the Commission and judgments of the Court that have elevated and refined those human rights protection standards thanks to CEJIL's effective and persistent advocacy. Notable among those topics are those concerning the fight against the exclusion of and discrimination against women's rights, and the right to consultation with regard to indigenous people's property rights.

Alejandro Garro

CEJIL and the Association for the Prevention of Torture (APT) have made an enormous contribution to the understanding of the normative aspect of the phenomenon of torture. *Torture in International Law: A guide to jurisprudence* is an exhaustive and thorough compendium on how the obligations of the States are interpreted under the Convention against Torture and other instruments. It is an indispensable tool for the struggle we must undertake to newly

propose the goal of abolishing torture in our time. **Juan Méndez**



During these twenty years, CEJIL's educational work has focused on training human rights defenders on the use of the Inter-American Human Rights Protection System. It has been precisely during these past twenty years that both the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (I/A Court H.R.) have developed a valuable body of international jurisprudence. Many of the critical reports submitted by CEJIL to the IACHR have resulted in reforms that were adopted by the Commission in its bylaws or regulations. Many of the cases that CEJIL has brought before the Court have resulted in a flexible and innovative interpretation of the American Convention on Human Rights. Since the majority of countries in the region have made their legal systems "permeable" to international standards, this training work carried out by CEJIL enables human rights defenders to seek new angles on the interpretation of domestic law, requiring conduct from the State that is more respectful of human rights or broadening the range of "remedies" or sanctions available to the judges to prevent human rights violations.

Alejandro Garro

It was a sensible and pertinent decision to open an office for Central America [...] In the case of Central America, the office was set up right after the armed conflict in El Salvador had come to an end. [...] So, CEJIL's contribution to obtaining justice and redress for the victims of the human rights violations of the past, and subsequent to the conflicts, is a demonstration of the creativity, the imagination to reinvent mechanisms that—coming from society, from the organizations,

from the victims, and as you can see with CEJIL—make the system work to some degree.

Benjamín Cuéllar

I think that CEJIL has made progress, because initially CEJIL was not very clear on the issue of gender perspective—the specific human rights of women and others. But little by little, and coordinating with other networks, with other institutions, other people, professionals, I think that it has managed to find its way, and now it makes a very important contribution.

Julieta Montaña

I think that CEJIL has greatly contributed to professionalizing the work before the Commission and the Court, as well as the work of the Commission and the Court. Up until CEJIL was created and started to be one of the most frequent users of the system, the procedures, especially of the Commission, were very informal, very ad hoc, very discretionary, and they depended a lot on the pressure one exerted, the contacts one had, the interest that certain Commissioners or the Executive Secretary may have had. So, I think that the pressure of CEJIL aided greatly in the Commission's becoming increasingly rigorous in its procedures.

Juan Méndez

The wisdom of the initiative to create CEJIL became evident very quickly. Various cases from different parts of the hemisphere began to be litigated jointly between different local organizations and the new entity; this in turn qualified CEJIL as an expert organization, specialized in handling cases and also in acting before the OAS bodies in matters of political decision-making relating to human rights. The 1994 Belém do Pará Convention on violence against women, the 1994 Inter-American Convention on the Forced Disappearance of Persons, the Resolutions on the right to defend human rights passed each year by the OAS General Assembly, and the influence on amendments to the regulations of the



Commission and the Court, are among the examples of CEJIL's rapid development in building the capacity to naturally meet the objectives for which it was created.

Gustavo Gallón

The fact that it has grown institutionally, from its inception up until now, in carrying out its duty; that it has built an agenda of issues and cases relevant to human rights in the hemisphere, then brought them to the attention of the Commission and the Court; that it has maintained a high-performing and highly professional Executive Director and staff, and built up CEJIL's managerial capacity in spite of inevitable personnel cuts due to a lack of funding or the financial crisis that has affected the stream of funding from some donors; CEJIL's active participation in the creation of a Legal Aid Fund in the Inter-American System, in the selection processes for the Commissioners, the follow-up to discussions regarding the possible reforms to internal case management by the Commission, and the enforcement of the Court's judgments. **Alejandro Garro**

CEJIL FROM ANOTHER PERSPECTIVE...

As a victim... Sitting on the Board of Directors as a victim, one can ask that we not depart from those roots, from CEJIL's reason for being.

Helen Mack

As an IACHR Commissioner... The impression that I had of CEJIL was one of great professionalism and great dedication to the issue of human rights, with all of the passion for justice and for human rights, but also with respect for the proceedings and for the rules of the system, in order for the system not only to produce results but also for it to be credible and legitimate.

Juan Méndez

CEJIL AS A TRAINING GROUND...

The people that come out of CEJIL leave with tremendous competence and a very, very rich experience that is useful beyond CEJIL, beyond the institutions they serve. I think that it serves in general for the advancement of human rights, and also, in the specific case of women, for the understanding of the difficulties we face in litigating when we decide to go before international bodies. **Julieta Montaña**

FUTURE CHALLENGES FOR CEJIL...

We must not allow the technical aspects to diminish our sensitivity and prevent us from seeing that behind every case there are many, many direct and indirect victims and that there are entire countries awaiting the outcome of that case.

Julieta Montaña

One of the main challenges—not only for CEJIL but for all of the organizations that bring cases before the Inter-American System—has been the attempts to restrict the system's jurisdiction. At times this has been as a result of initiatives submitted by specific countries to the Permanent Council or to the Assembly, such as during the Fujimori administration; on other occasions it has been by initiatives of the General Secretariat, such as the attacks on the Executive Secretariat or against the precautionary measures ordered by the Commission at the current time.

Gustavo Gallón

To support the building of the new human rights agenda in the region (prioritizing issues), and to support the strengthening of the Inter-American Human Rights System. **Sofía Macher**

To link the Inter-American System with other human rights protection systems like the universal system. **Mariclaire Acosta Urquidi**

To continue deepening the issue of gender-based rights, the specific rights of indigenous peoples, and sexual diversity ...

Julieta Montaña

To have an impact... Because CEJIL must, and in fact does, make numerous efforts to strengthen the system, not only through litigation but also through its influence; I think that is an extremely important function that we have to strengthen.

Mariclaire Acosta Urquidi

I see it with the potential to continue to promote the coalition of human rights bodies of the region.

Sofía Macher



I think that CEJIL should continue to reinvent itself in new scenarios, but without neglecting to do what is in the best interest of the victims in terms of their dignity, and that demands imagination, passion, action, and conviction.

Benjamín Cuéllar

To recognize your wonderful, extraordinary work. I hope that you continue on this path, and that you try to make sure that there are many CEJILs in every country.

Mariclaire Acosta Urquidi

To help construct a new human rights agenda for the region (prioritizing issues) and help strengthen the Inter-American Human Rights System.

Sofía Macher

I hope that CEJIL celebrates many more anniversaries.

Julieta Montaña

One that especially stands out in my memory goes back to the days when **Emilio Mignone** ("Don Emilio") presided over CEJIL's Board of Directors.

We all attended a meeting before the Inter-American Commission on Human Rights, and were greeted by all of the Commissioners in a friendly yet formal and slightly stiff manner. I do not recall the date or even the year, but the photograph attached to this document was taken on that occasion (See photograph of the Board of Directors at the beginning of this section).

The Executive Director and the members of CEJIL's Board of Directors were all supposed to speak during the meeting, and each one of us was in charge of addressing a particular issue. What I remember as particularly anecdotal was that the one who "opened fire" before the Commissioners was Don Emilio himself, who proceeded to mount a respectful, yet firm and convincing critique regarding the need to amend the IACHR's Regulations.

I remember this as an important anecdote from those first 20 years of CEJIL because the sincere and determined way in which Don Emilio addressed the Commissioners had a very positive impact on me. He was like a father who loves and appreciates the Inter-American System but does not hesitate to criticize it as every good father should do with a child he genuinely loves.

Beyond the effect that Don Emilio's cordial but firm lecture had on me, I recall that the impact of that meeting was confirmed months or years later when the text of the IACHR's new Regulations was amended to reflect many of the observations that CEJIL had made at that meeting.

Alejandro Garro





Representative cases contributing to the elimination of systematic human rights violations

CEJIL's working model during its first 20 years has consisted of advocating for the rights of victims of human rights violations, and seeking to change the circumstances that made such violations possible. CEJIL focused its litigation on exemplary cases—cases with the necessary potential to create changes that prevent or eradicate patterns of systematic human rights abuses. Accordingly, it has strategically utilized the tools that international human rights law has to offer, with an emphasis on those provided by the Inter-American System for the promotion and protection of human rights (IS).

Working in partnership with victims and local allies, CEJIL has obtained precedent-setting judgments establishing broader standards for the protection of rights, and has continuously promoted the full implementation of the decisions issued by the bodies of the Inter-American System.

Gathering of the families of the victims -Fazenda Ubá y Princesa cases (Brazil).

Credit: CEJIL photo library



Litigating to change realities



CEJIL is a non-governmental organization that has played a very important role in the development of the human rights protection system in the hemisphere. This is key; it is a relatively new phenomenon in international law, in which only States were actors, and only they had rights and duties in the international system. The fact that there are non-governmental bodies that represent the victim, that mobilize public opinion is a relatively new phenomenon that emerged after the Second World War. Without a doubt, CEJIL represents the best in this endeavor, and it does so because it has given voice to the voiceless—and what a voice it has given them!

-
*Claudio Grossman,
 Dean of American
 University's
 Washington College
 of Law and former
 President of the IACHR*

Among other things, CEJIL's success in the litigation of cases has translated into, among other things, the payment of monetary reparations; the reopening of investigations and cases that had been met with impunity; the identification of mortal remains; public apologies by high-ranking government officials and ceremonies acknowledging responsibility; the building of monuments, streets, and schools, and the production of documentaries in memory of the victims, in addition to changes in the laws and practices of States, and the formulation of public policies consistent with their international commitments.

Some of CEJIL's achievements are focused on the areas of institutionalized violence and structural impunity, as well as the promotion of equality, and the strengthening of effective judicial protection, as discussed in the following sections that address the organization's most significant achievements in greater detail.

The numbers speak for themselves

In its first two decades CEJIL participated in over 300 cases and proceedings for protective measures before the Inter-American Commission and the Court, on behalf of more than 13,000 victims and beneficiaries of protective measures.

Together with other human rights defenders and organizations, CEJIL represented victims in conjunction with local technical teams and international experts in half of the cases decided by the Inter-American Court, or 65 cases by January 2011. CEJIL submitted *amicus curiae* briefs in five cases and seven Advisory Opinions before the Inter-American Court, and more than a dozen in local cases in countries including Colombia, Guatemala, Mexico, Argentina, Brazil, and Bolivia. CEJIL also presented an *amicus curiae* brief before the European Tribunal in the case of *Timurtas v. Turquía*, regarding the developed standards in the Inter-American System about forced disappearance.

Moreover, the Inter-American Court ordered the payment of more than US \$66 million to almost 2,500 victims in cases before the Court during that period.



The case of the girls Yean and Bosico v. Dominican Republic is very interesting because it is a case that involves something as basic as access to ID documents, something so basic that we all normally take it for granted. But its function is to guarantee an individual's access to all rights, and it shows just how denying the two girls' access to ID documents blocked their access to education, healthcare, and a series of fundamental rights. To me this is a very important case because it illustrates the issue of discrimination and exclusion. If not for CEJIL, such an important issue of exclusion, of the denial of rights and citizenship—essential to democracies and the exercise of human rights—would not have been brought to light.

-
*Mariclaire Acosta,
 CEJIL Board Member and former Undersecretary of Human Rights and
 Democracy at the Mexican Foreign Ministry*

(from left to right) Kerry Howard from Amnesty International, Victoria Fallón from the Interdisciplinary Group for Human Rights, Viviana Krsticevic from CEJIL, Rafael Barrios from CCAJAR and Liliana Tojo from CEJIL during the human rights defenders hearing on Colombia in 2001.
 Credit: CEJIL photo library



CEJIL developed a cooperative, victim-centered litigation model

Our experience in the international field is complemented by our working closely and on equal terms with human rights defenders and civil society organizations at the national level. CEJIL is thus able to ensure technical quality, experience, and knowledge of the use of international law, which enhances the proficiency of our allies at the local level. In addition, the joint litigation model ensures an acute perception of the local and international legal and political systems, as well as direct exposure to the circumstances and needs of those whose rights we defend. This model makes it possible for the voices of defenders and victims to be heard beyond national borders. Moreover, as part of this strategy, CEJIL has acknowledged the central role of the victims and has actively worked with them to define the objectives in their cases, identify the reparations they consider appropriate, and facilitate their participation at hearings and negotiations, so that the litigation affords satisfaction of the reparations to those we represent.

Juan and Macarena Gelman
Credit: CEJIL photo library



Peru demonstrated the local effectiveness of an international judgment

One of the most emblematic cases of synergy between the international and local protection of human rights was the litigation of a series of gross human rights violations in Peru, particularly the cases of *Barrios Altos* and *La Cantuta*, both co-litigated before the Inter-American Court by CEJIL, Asociación Pro Derechos Humanos (APRODEH), the National Coordinator of Human Rights (CNDDHH), and other national organizations. In the case of *La Cantuta*, these organizations were joined by the Center for Peace Studies and Action (CEAPAZ) in an expression of political support and unity from the human rights community in the struggle against impunity.

In the words of Francisco Soberón, Director of the Association for Human Rights in Peru and the former Executive Secretary of the CNDDHH: “CEJIL’s contribution was also in having obtained the judgments against the State before the Inter-American Court of Human Rights in the cases of *Barrios Altos* and *La Cantuta*, which paved the way to the struggle for justice in hundreds of cases and to the extradition of Alberto Fujimori.”

Barrios Altos reversed the amnesty laws and enabled the criminal prosecution of Fujimori and hundreds of others involved in gross human rights violations. *La Cantuta* gave impetus to the extradition and criminal prosecution of the former president. On April 7, 2009, the Special Criminal Chamber of the Supreme Court of Peru found former President Alberto Fujimori (1990-2000) guilty in four cases of human rights violations, including the forced disappearances and extrajudicial executions in the cases of *Barrios Altos* and *La Cantuta*. The trial was a milestone in the fight against impunity in Peru and around the world, as it was the first time that a national court had declared that an elected Latin American Head of State could be tried for committing crimes against humanity.



First of all, I never thought I would go all the way to the Court. Some of my attorneys were saying that we had to go there, because the government has not done anything here. Of course, they would always consult me beforehand. In May, I think, I went to Costa Rica, nervous to go into that office with all those flags... And I gave my testimony there; the judges listened. It's kind of difficult to explain. I felt that I was being heard. That's it. They didn't ask questions about whether or not they were members of the military, or "How did you know they were members of the military?" They never asked me that question there, when I poured everything out in front of the Mexican government ...

Valentina Rosendo Cantú, Victim and Defender of Human Rights

(From left to right) José Pablo Baraybar (forensic anthropologist), Ariela Peralta and Alejandra Vicente (CEJIL) and family members of Kenneth Ney Anzualdo after the Inter-American Court hearing in November 2009. Credit: CEJIL photo library



The Court's decision in the fight against impunity was very significant, and I never tire of referring to it when writing about transitional justice, justice for massive and systematic human rights violations. First of all, because it was not the first time the Court had said that massive and systematic violations gave rise to the State's obligation to investigate, prosecute, and punish the perpetrators. But it was the first time that it said so in the context of having to rule on amnesty laws; the Commission and the Court said that amnesty laws could not be an impediment to the performance of this obligation.

It went further in the Case of Barrios Altos. The Court said not only that both of the amnesty laws that Fujimori had passed—precisely to block the investigation of the Barrios Altos case as well as that of La Cantuta—were contrary to the American Convention but also that Peru was required to remove their legal effect from its domestic law, which is also a qualitative leap. The most interesting thing is that, armed with that judgment from the Inter-American Court, Paniagua's government returned to Peru and communicated that judgment to the Supreme Court of Peru, which said it was required to comply; it reopened the Barrios Altos case, rearrested some of the defendants, and it was precisely because the Barrios Altos case was kept open that Fujimori was eventually convicted following his extradition. As such, I think the significance of this case is enormous.

There was an explanatory judgment in that case, because the parties asked the Court to state whether its judgment applied solely to the Barrios Altos case, or to all of the cases in which those amnesty laws might be applicable. The Court clarified that it referred to every case in which the amnesty laws might be applicable, which—in addition to being the right decision—simplifies things greatly because there is no need to go to the Commission, and four years later to the Court, every time a government wants to apply an amnesty law.

*Finally—and frankly, very significantly because it was not an isolated case—the Court has continued reiterating this doctrine and making it more and more precise in subsequent cases, especially in the most recent ones such as *Almonacid Arellano v. Chile* or *Guerrilha do Araguaia v. Brazil*.*

Juan Méndez, Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and Commissioner before the Inter-American Court in the Barrios Altos Case

Committing to victims through psychosocial work

CEJIL's work with psychology professionals is one of the ways in which the institution demonstrates its commitment to the victims during the litigation process.

Many of them have undergone extreme trauma or have witnessed unspeakable events. The multidisciplinary work with psychologists and psychiatrists who offer a psychological approach has enabled the institution to take account of some essential guidelines in understanding the situation of many of the people we serve. Likewise, they have lent greater depth and weight to some of the evidence submitted in individual cases, such as in the reparations claims asserted before the Inter-American Commission and the Court. This work not only marked CEJIL as an institution but also had repercussions on the case law of the Inter-American System, the training of teams, and the available conceptual tools.

The work with psychology professionals, which began with the first cases litigated by CEJIL, was enhanced significantly between 2002 and 2006 when the Department of Civil Society Entities of the Inter-American Institute of Human Rights (IIHR), under the direction of Gilda Pacheco, and CEJIL implemented the “Comprehensive Psychological Support for Victims of Torture in the Inter-American Human Rights System” project. The project consisted mainly of providing psychological support to torture victims whose cases were before the Inter-American Human Rights Commission or the Court. A Network-Team of specialists was assembled and consolidated at the Latin American level, in an interdisciplinary exercise with the legal teams.

In numerous cases during this period, oral and written expert opinions were presented concerning acts of torture or extreme suffering, the harm caused at the individual, family, community, and societal levels, and the appropriate reparations. Thanks to the resources available, it was also possible for many of the victims and relative to receive psychological support at important times during the adversarial proceedings; the legal teams were also able to have unrestricted access to the advice and support of the psychology professionals.

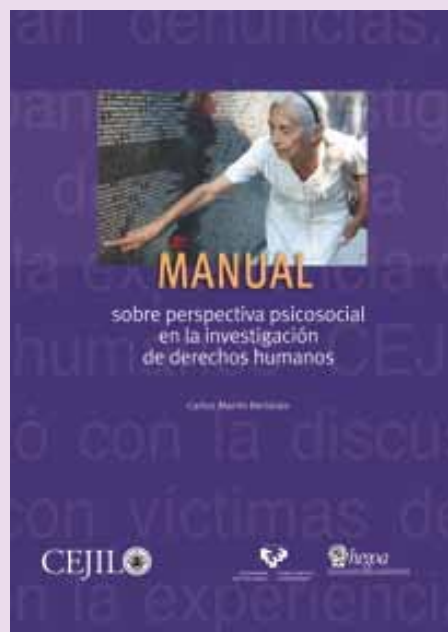


CEJIL has been involved with a good deal of friendly settlements that have been extremely creative. This is one of the elements within the Inter-American System that contrasts with other systems. And I think their contribution has been key in this area.

Robert Goldman, Professor of Law at American University Washington College of Law and former President of the IACHR

The results of this innovative project most notably include the improved specialized professional capacity to provide comprehensive psychological services to torture victims in the Inter-American System, and the production of key materials to replicate the lessons learned. In addition, there are now important references to psychological reparations in the Commission's decisions and in the case law of the Inter-American Court. The experience of this project was put together in a book in the series *Comprehensive Support for Torture Victims during the Litigation Process*, published in 2009, which compiles the procedures followed in each one of the cases. It demonstrates the enormous potential and scope of the strategy used, as a way to bring new perspectives to the litigation of torture cases by including the psychological aspects before, during, and after litigation.

Along the same lines, in 2010, CEJIL and the Universidad del País Vasco y Hegoa published a *Manual on Psychosocial Perspectives in Human Rights Research*, edited by psychiatrist Carlos Beristain—an authority in the field—that is an essential tool for the human rights work of any person or institution that interacts with victims of violence. The publication reaffirms CEJIL's institutional recognition of the need to include psychology and other social science disciplines in supporting human rights litigation, and the value of sharing that knowledge with the community of persons involved in the defense of rights.

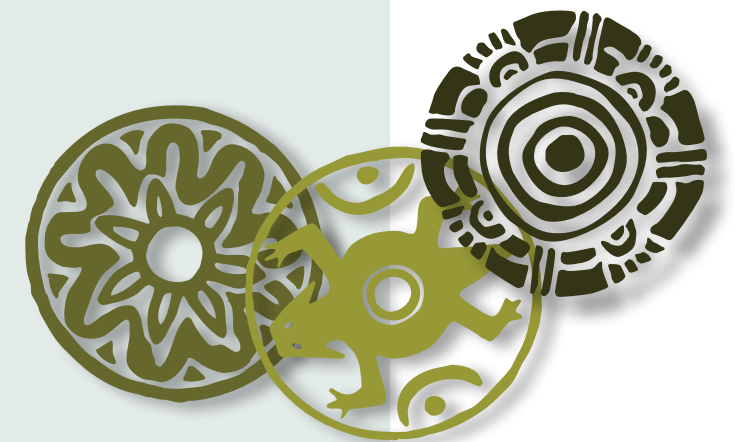


For more information about these publications: <http://cejil.org/en/publicaciones/catalogo>



When you are at CEJIL, the contact with the victims—mainly in the litigation of the cases before the Court—is direct. There is an identification between the victim's feelings and the feelings of the people at CEJIL. You have to make considerable efforts not to allow that feeling or that pain that the victim carries in litigating before the Inter-American System to affect you emotionally and spiritually; but it is very difficult to maintain that separation. There are many situations in which you become familiar with—perhaps almost as the only person who can get to know—the victim's inner world in his or her personal life, love life, financial life, family life. Then when you try to separate yourself, keep your distance, you wonder, "Would I be as brave if I were a victim in this situation?" In other words, for me there was always this question, "Would I be capable as a victim to get to the level this person has reached?"

-
Soraya Long,
former Director of CEJIL's Program for Central America and Mexico







Advocating to change realities

Actions to strengthen the protection of human rights

Over the past two decades CEJIL has taken a number of actions to contribute to the development of mechanisms, policies, and practices that have strengthened human rights protection at the Inter-American level; to foster better coordination between local and international protection; to promote the incorporation of procedures for the execution of judgments as well as for the harmonization of human rights standards at the domestic level; to promote the participation of civil society in the discussion of procedural reforms concerning the Inter-American Commission and the Court, in order to make the voice of the users and victims heard; and finally, to ensure that discussions regarding human rights and democracy at the Organization of American States are transparent and participatory.

One of the fundamental paths for improving the systems for the protection of human rights has consisted of advocating for both human rights organizations and victims to be able to express their opinions and complaints before the political bodies of the OAS, in the thought processes for regulatory and institutional reforms within the IS, as well as in the preparatory works and treaty drafting processes, at the Presidential Summits, at the OAS General Assemblies, and in other relevant forums.

(From left to right)
Commissioners Felipe
González, María Silva Guillén,
Dinah Shelton, and José
de Jesús Orozco during a
meeting with the Coalition of
Human Rights Defenders at
CEJIL's Washington, DC office,
March 2011
Credit: Milli Legrain/CEJIL





Up until CEJIL was created and started to be one of the most frequent users of the system, the procedures, especially of the Commission, were very informal, very ad hoc, very discretionary, and they depended a lot on the pressure you exerted, the contacts you had, the interest that certain Commissioners or the Executive Secretary may have had. So, I think that the pressure of CEJIL aided greatly in the Commission's becoming increasingly rigorous in its procedures.

*Juan Méndez,
Special Rapporteur
on Torture and other
Cruel, Inhuman or
Degrading Treatment
or Punishment
and former IACHR
Commissioner*

In the mid-'90s, together with Global Rights and Human Rights Watch, CEJIL championed the establishment of standards for the participation of civil society in the OAS. This process resulted in the adoption of guidelines that increased access for thousands of organizations before the Organization of American States.

In 1997, CEJIL and other organizations in the hemisphere established an International Coalition of Organizations for Human Rights in the Americas in the face of an aggressive campaign against the Inter-American System, led by the government of then-President Fujimori. The Coalition made it possible to empower the voice of human rights defenders, and since then it has become a crucial space in which to share information, discuss criteria, and coordinate joint actions on fundamental issues.

Ricardo Lagunes (left), from the Fray Bartolomé de las Casas Human Rights Center, and Arnoldo Borja, from the Legal Aid Justice Center.
Credit: Milli Legrain/CEJIL



June 28, 2009 Statement of the Coalition regarding the coup in Honduras:

“We the undersigned civil society and human rights organizations condemn the coup d'état in Honduras. We demand respect for democratic institutions and full guarantees for the return of the president to his legitimate and constitutional duties. Moreover, we urgently call for a guarantee that the human rights of all Hondurans will be respected. Finally, we urge the Permanent Council and the Secretary General of the Organization of American States to invoke the Inter-American Democratic Charter and to use all mechanisms at their disposal for the reestablishment of institutional democracy in Honduras.”



CEJIL had been working in the System and participating in the General Assemblies for quite a long time, The organizations present at the General Assembly in Lima took the initiative of creating a more permanent coordination arrangement with all of the region's human rights bodies. CEJIL already had the relationships, and it was a new step that gave them a different dynamic. We began to act in a coordinated manner. As such, the first resounding victory was the resolution on the participation of civil society at the Assemblies. Later, civil society coordination offices were set up during the Assemblies, and for the first time we were able to ensure that the Ambassadors and the Secretary General heard from us at the beginning of each meeting. We would present our issues and points of view regarding different items on the agenda. CEJIL's role in all of this has been central—from proposing the agenda to the bodies, maintaining our presence throughout the process of preparing for the General Assemblies, and so on. CEJIL has also used this forum to educate and integrate national NGOs into the Inter-American System; for many of them this was a singular opportunity, as they never would have had the chance to be included in the Assemblies through their governments. We learned to work in solidarity, not only on the cases from our own countries. We had the opportunity to participate in other processes as well; I think this made us much stronger, and I can say with full knowledge that we Peruvians benefitted from this solidarity. It was extremely important; it enabled us to recover our democracy.

*Sofía Macher,
President of the Reparations Council of Peru and former Executive Secretary of the National Coordinator of Human Rights (CNDDHH)*

Demonstration against the Honduran coup d'état of 2009 during the General Assembly of the Organization of American States (OAS) held in San Salvador, June 2011
Credit: Gabriela Hernández

In this respect, in its first 20 years CEJIL has promoted the joint action of many human rights organizations, activists, and experts. For example, in 2001 as well as in 2011, CEJIL participated in regional thematic hearings on the status of human rights defenders in the Americas, highlighting some of the obstacles to their work, and suggesting measures to be taken by the different branches of the state, as well as by the Inter-American System itself. In this same spirit, CEJIL took part in hearings that examined the difficulties faced by human rights defenders working in Colombia, Guatemala, Honduras, Nicaragua, Mexico and Venezuela, and elsewhere. Among the results of these efforts, and subsequent to a regional thematic hearing, the IACHR created a Rapporteurship on Human Rights Defenders in 2011, thus underscoring the importance of the issue.



CEJIL has also taken advantage of the tools for the promotion of rights made available by the Inter-American Commission on Human Rights and the United Nations, such as thematic or country reports, the Universal Periodic Review in several countries in the Americas, press releases, and public events to bring awareness to the seriousness of events and to demand the protection of rights in the hemisphere. One of the actions taken in this respect was the organization of a seminar on the independence of judges and attorneys in Honduras, held under the auspices of CEJIL and AJD with the aim of calling national and international attention to the failures of the justice system in that country and to identify the challenges to the Judiciary's ability to carry out its duties impartially and independently (in particular, with regard to the events of June 2009). The event addressed the cases that had been opened against three judges and an appellate judge in the wake of the 2009 coup. Gabriela Knaul, the United Nations Special Rapporteur on the Independence of Judges and Lawyers, was invited to the seminar and able to listen to the different issues challenging the Honduran Judiciary. The international expert's involvement with that country led to subsequent public statements in support of the work of the judges who were dismissed for having opposed the coup, whose dismissal was rendered final by the Supreme Court just a few weeks after the international seminar.

Human Rights Defenders at the defenders hearing before the IACHR, March 2011
Credit: Milli Legrain/CEJIL



I had the good fortune to participate in the observation of the situation, undertaken by CEJIL, following the coup d'état in Honduras, and I took part almost immediately in the first mission. That subsequently became an observatory. I think it is fair to highlight CEJIL's importance in this scenario, its contribution in the context put forward by the region. In particular, there were people who said it could not possibly be a coup, that those days were over. I also think it is important to emphasize the role of CEJIL's Central American office.

*Benjamín Cuéllar,
Director of the Human Rights Institute of the Central American University "José Simeón Cañas" (IDHUCA) in San Salvador*



Anyone who is familiar with the Inter-American System knows that we had a breakthrough last year when the General Assembly passed a resolution to establish a Legal Aid Fund. It was an acknowledgement that most of the people who need their human rights to be protected and recognized in the Inter-American System have no way of gaining access to it. What not everybody knows is that CEJIL was the organization that encouraged this dialogue.

*-
David Baluarte,
Practitioner-
in-Residence,
International Human
Rights Law Clinic at
American University
Washington College of
Law and former CEJIL
attorney*

CEJIL has continuously monitored the operation of the Inter-American System, contributing to it through the drafting and dissemination of specific proposals for its improvement at both the national and international levels. In fact, CEJIL has made written and oral contributions in discussions with States, and with regard to civil society organizations, protection mechanisms of the Court and Commission, and in the academic realm.

Among other things, CEJIL drafted numerous documents providing input for the regulatory reform processes of the IACHR and the Court—processes that led to the regulatory reforms of 1997, 2000 and 2009. In general, the regulatory changes have helped to establish and clarify the procedures, and to promote the submission of a majority of the cases to the jurisdiction of the Court by the Inter-American Commission. At the Inter-American Court, the changes to the rules, among other things, gave greater importance to the position of the victims in the process. First, in 1997, they were given the ability to present their own arguments autonomously at the reparations phase. In 2000, the victims acquired the full capacity to present their arguments, requests, and evidence before the Court from the beginning of the case.

CEJIL lobbied the political bodies of the OAS continuously for the establishment of a Legal Aid Fund to ensure that low-income individuals would have access to international protection and be able to be heard by the bodies of the System. To that end, it wrote a Position Paper in 2007 advocating the creation of the Fund and contributing ideas for the discussion of the model. That proposal was again taken up by the states of the region. The Inter-American Court was the first of those bodies to start using that tool, beginning in 2010. The IACHR is slated to draft its rules and bring this mechanism into operation at the end of 2011.

Beginning in 1997, CEJIL initiated dialogue between civil society organizations and state representatives within the framework of the annual General Assemblies, organizing roundtables on key issues that were not necessarily on the organization's agenda. In 1998, for example, in Venezuela, the importance of the participation of civil society in the OAS and the relevance of the work of human rights defenders were discussed. That year we honored the memory of Eduardo Umaña and Monsignor Gerardi who had been recently assassinated. In 2002, CEJIL succeeded in having a formal event held to facilitate dialogue among civil society, the foreign ministers, and then-Secretary General César Gaviria, under the auspices of the OAS Summits Secretariat, CEJIL, the Carter Center, and the

United Nations Development Program (UNDP). It was attended by numerous civil society organizations and a significant number of foreign ministers, ambassadors, and civil servants. Beginning in 2003, that forum was institutionalized by the OAS, which now has a regular, formal dialogue event between civil society and government representatives.



An individual's access to justice is a fundamental right and an indispensable means for the effective exercise of all rights. There must be a legal aid mechanism to promote such access. We appreciate the initiative taken by the Committee on Juridical and Political Affairs in March of this year to create a fund to provide legal assistance to individuals who wish to submit their claims before the system. Legal aid to the alleged victims is an essential element for the implementation of the amended Regulations in terms of the role that the Inter-American Commission must assume before the Court. Its absence would prevent the new procedure from being applied properly.

*-
Cecilia Medina Quiroga,
Former President of the Inter-American Court, before the OAS General Assembly in
Medellín (2008)*

Gabriela Knaul, United Nations' Special Rapporteur on the Independence of Judges and Lawyers, during a seminar in Honduras sponsored by the Association of Judges for Democracy in Honduras (AJD) and CEJIL. Credit: CEJIL photo library





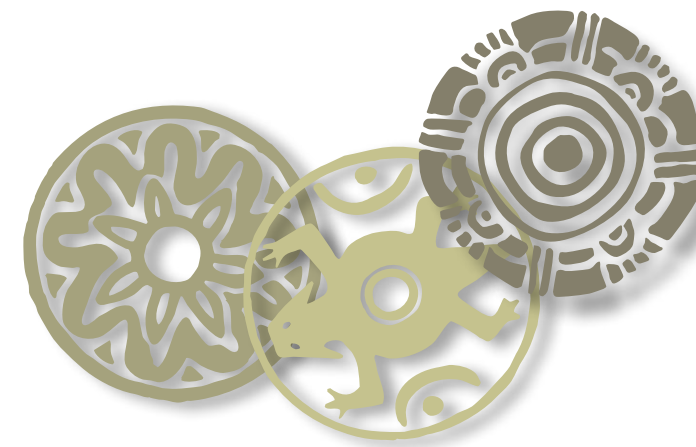
Every time there are elections in the General Assembly, the Commission, or the Court, CEJIL tries to organize participatory discussions. In recent years, for example, we have seen progress in the number of women being involved as commissioners or judges. That means that there is a more inclusive perspective on gender. I believe that CEJIL has tried to facilitate this perspective, and has been successful.

David Baluarte,
Practitioner-
in-Residence,
International Human
Rights Law Clinic at
American University
Washington College of
Law and former CEJIL
attorney

In its ambition to strengthen the international protection system, CEJIL has called for participatory and transparent processes for the selection and election of the members of the Inter-American Commission and the Court, both at the national nomination stage and at the international election level. In response to demands from civil society, the OAS General Assembly adopted a practice in this respect in 2005. It asked the General Secretariat to publish, when there is a vacancy on the Inter-American Commission or Court, the respective curricula vitae of the candidates on the organization's website so that member States and civil society in general are adequately informed of his or her profile. Moreover, the General Secretariat must issue a press release giving notice of the publication of that information. The General Assembly also invited member States to consider learning about the views of civil society organizations in order to help present the best candidates for those positions.

CEJIL also contributed to the elimination of the concept of the *ad hoc* judge in proceedings before the Court. In several contentious cases, CEJIL called into question *ad hoc* judges and the Court's interpretation of their competence. From the time it was established, the Court would send the defendant States a communication informing them of their opportunity to designate an *ad hoc* judge. This practice was based on an erroneous reading of the Convention that put inter-State litigation on the same level as the adversarial cases brought by the victims and the IACHR.

Finally, in August 2008, the Argentine government requested an Advisory Opinion from the Inter-American Court on the subject of *ad hoc* judges in regional litigation. CEJIL filed an *amicus curiae* brief arguing that the designation of *ad hoc* judges adversely affected the impartiality and independence of the Court, the "equality of arms" in litigation, and the legitimacy of the Court's decisions. In the Advisory Opinion, the Inter-American Court abolished the institution of *ad hoc* judges and the practice that followed from it.



OAS General Assembly
on "Citizen Security in the
Americas," June 2011
Credit: Gabriela Hernández



Decisions that change realities: Implementation of judgments

Since the mid-'90s, CEJIL has focused a large part of its efforts on the implementation of the decisions issued by the IS, with the conviction that there is no effective protection of human rights without adequate implementation. In 1998, Viviana Krsticevic wrote:

“The implementation of the decisions of the Commission and the Court is one of the crucial issues in achieving the effective protection of the rights of individuals in the region. International protection is incomplete if it does not in fact meet its objective of protecting individuals because the decisions of the international supervisory bodies are not enforced at the local level. In this same regard, Judge Antônio Augusto Cançado Trindade of the Inter-American Court maintains that the future of international protection depends in large part upon the adoption and improvement of national implementation measures.”

As such, CEJIL sought to have the IACHR and the Court develop procedures to follow up on their decisions, which was accomplished through changes to the regulations and practices of both bodies. In addition, CEJIL lobbied the political bodies of the OAS, appealing to their responsibility as collective guarantors in the implementation of decisions.

In addition, CEJIL took several steps to make certain that the response of the institutions in charge of implementing the decisions at the local level would enable the

timely and appropriate execution of the decisions of the IS. These steps included fostering discussions and studies to evaluate difficulties and explore solutions, promoting procedures and mechanisms for the implementation of decisions in the executive and legislative spheres, systematizing experiences and processes aimed at improving the implementation of decisions in the judicial sphere, raising awareness among key actors regarding the value of the judgments, and harmonizing standards. CEJIL has thus contributed to the effective implementation of the cases it litigates, as well as to the improvement of some institutional responses in several countries in the region.

One of the most significant discussions on the issue took place in 2003 in Cost Rica when CEJIL brought together members of the IS, supreme court judges, representatives of States, academics, and human rights defenders from the Americas in order to explore the possibilities and difficulties surrounding the execution of judgments.

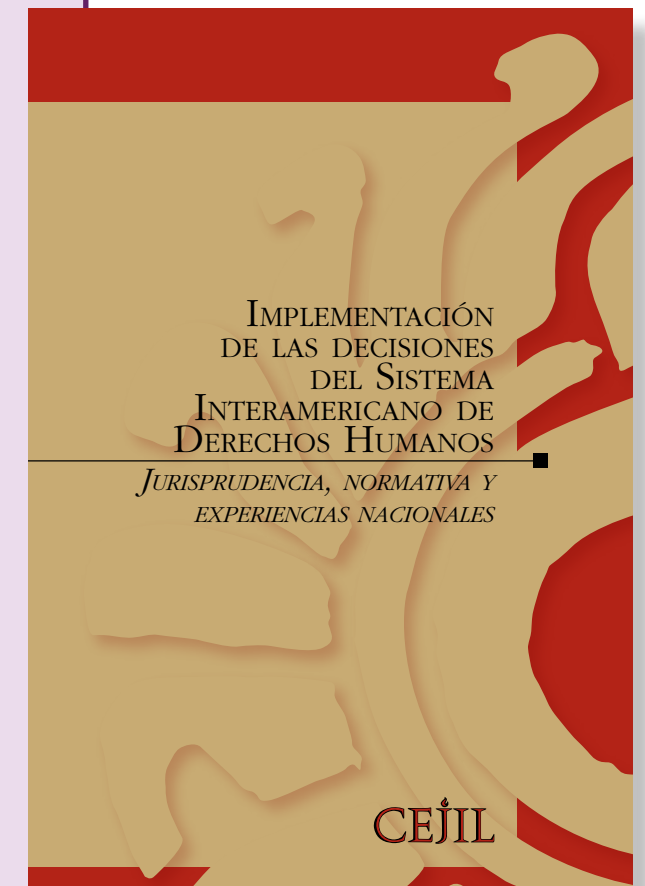
Moreover, CEJIL has organized multiple seminars with local actors in various States in the region, including Colombia, Argentina, Chile, Mexico, and Brazil. It has taken part in several State discussions on the issue, one of the most notable of which took place in July 2008 in Santiago, Chile, on the initiative of the Chilean Foreign Ministry, where State experts, members of the military, members of the Treasury, academics, and attorneys came together to examine various problems in the implementation of IS decisions.

One of the most important actors—and in some countries one of the most resistant to execution—is the Judiciary. Accordingly, CEJIL allocated resources to facilitate interaction between the local and international justice systems through its publications, compilations, and seminars. Thus, for example, on June 26, 2007, CEJIL conducted a training session for staff attorneys from the Mexican Supreme Court on the execution of judgments, local-level implementation, and other issues.

Similarly, CEJIL took part in several international conferences (in England, Colombia and the United States) held to discuss the issue in greater depth and to identify, from a broad range of thematic areas, useful lessons for Africa as well as for Europe and the Americas.

In 2008, in order to give the discussions greater depth and scope, CEJIL prepared (in Spanish and in Portuguese) the first publication that addressed the depth of experiences and challenges in the implementation of decisions; this was followed in 2009 by a study aimed at advocating legislative debate to facilitate the execution of the decisions of the IS, and in 2010 by a database to quantify the degree to which judgments are enforced.

CEJIL publication



Knowledge management

Twenty years of uninterrupted work in the field of international human rights protection has equipped CEJIL with experience and unique practices and knowledge capital. True to its mission, CEJIL aims to manage the knowledge it has acquired so as to transform it into an institutional asset and share it throughout the world with human rights defenders, other close organizations, and anyone interested in accessing the Inter-American System or learning about international human rights standards.

Publications

CEJIL's various publications, which are in line with its working strategies, make up an ample and varied library that is one of the main channels for increasing the dissemination of knowledge. It should be noted that the material published by CEJIL is not sold; rather, it is distributed free of charge to human rights defenders and other key actors, and is currently available for download on the organization's web page: <http://cejil.org/en/publicaciones>.

From the beginning, CEJIL has published a compendium of the provisions that provide the legal basis for the protection of human rights in the region in its book, *Human Rights in the Inter-American System: Compilation of Instruments*. The most recent edition was published in Spanish and English. It provides a timely update of the regulations defining the procedures to access the system, the ratification status of the different instruments, and the incorporation of new instruments.

During CEJIL's first decade, the gazettes were the best way to systematize the human rights protection standards produced by the bodies of the Inter-American System in an accessible and simplified manner. With an average of two issues per year, the CEJIL gazettes have covered various topics such as: freedom of expression and democracy, persons deprived of liberty, forced disappearance, the rights of the child, human rights defenders, indigenous peoples' rights, the protection of refugees and internally displaced persons in the Americas, and many others. All of the gazettes are available in Spanish, and some of them have been translated into English, Portuguese, Quechua, and Aymara.

In the past five years, given the ongoing and wide-ranging development of standards by the Inter-American Human Rights Commission and the Court, CEJIL undertook to organize the most relevant decisions into thematic Summaries of Jurisprudence. To date, they have focused on the rights of children and adolescents, equality and non-discrimination, and gender-based violence. Because the latter publication incorporates decisions from other international courts and bodies, and because it has also been published in English, it is recognized by the international community of human rights defenders as a very useful, innovative tool in the struggle to eradicate violence against women—one of the most tolerated and silenced human rights violations.

In the same respect, CEJIL makes available to the interested public a variety of manuals and guides that emphasize the practical aspects of human rights defense and protection work in the hemisphere. Notable among them are the following: the *Guide for Collecting Data to Support a Petition before the Inter-American System* (2006); the *Guide for Defenders of Human Rights: the Protection of Human Rights in the Inter-American System* (2007); and the *Manual of Due Diligence in the Investigation of Gross Human Rights Violations* (2010).

CEJIL also publishes books and reports that focus on the development of substantive aspects by addressing specific litigation and/or training experiences, as well as the regional outline of certain relevant subject matters. In its concern for the implementation of the decisions of the Inter-American Human Rights System, CEJIL has issued *Jurisprudence, Regulations, and National Experiences* (2007) and *Contributions to Legislative Processes* (2009), two publications addressing the matter.

CEJIL's position papers are meant to stimulate and promote the discussion of issues with broad political relevance in order to strengthen the effective enjoyment of the rights and guarantees protected by the Inter-American System. These publications have examined issues such as: *Inputs to the Selection Process of Committee Members of the Inter-American Commission and Court on Human Rights* (2005) and *Contributions to the Debate on Possible Reforms to the Function of the Commission and Inter-American Court on Human Rights* (2008).

Daira Quiñones, from the AMDAE Network (Asociación Mutual para el Desarrollo Integral de la Afrocolombianidad y el Empresarismo), did a television interview at CEJIL's headquarters after a talk on Colombia's Victims' Law, July 2011

Credit: Jorge Huntley

The various annual editions of the CEJIL Journal are an important forum for the debate, consideration, and analysis of different human rights issues with a high-level academic and practical focus.

Finally, through the publication of biennial activities reports, CEJIL shows the results of the work undertaken during a specific period of time and its regional impact. These reports demonstrate the growth of the organization over the years.



Dissemination activities

Over the years, the dissemination of information has become an increasingly important part of CEJIL's work. Today it is one of the cornerstones of the organization's influence. Its purpose is to denounce human rights violations or the failure of Inter-American System member States to comply with judgments, to communicate the different phases of the legal proceedings before the Inter-American Commission and the Court, and to keep the public informed of the organization's position on human rights issues relating to the Inter-American System.

Accordingly, CEJIL has continuously strengthened its relationship with the media. Its press releases, public statements, and editorial articles have raised the interest of the press, resulting in invitations to take part in televised debates and multiple mentions in digital and print newspapers and magazines in Latin America and the Caribbean, as well as in the United States and Europe. The organization's voice has thus gained strength as a point of reference within the Inter-American System.

In the past two years, the media coverage of CEJIL's work has made both a qualitative and a quantitative leap. On average, CEJIL has issued more than 100 press releases per year, generating over 300 annual mentions in prestigious international media outlets such as *The New York Times*, *Time Magazine*, *The Guardian*, *El País*, *La Prensa*, *Noti7*, *Radio Progreso*, *Semana*, *El Espectador*, *Página 12*, *El Universal*, *La Jornada*, *Folha de São Paulo* as well as the *BBC*, *CNN*, *Canal Antigua*, *Canal 12*, and others.

In addition, the website www.cejil.org was launched in 2010. It is a bilingual (Spanish/English) site containing relevant news and special tools for litigating before the Inter-American System, such as a compilation of all the Inter-American human rights law instruments, including declarations, conventions and protocols, as well as a database of case law containing all of the decisions of the Inter-American Court and the Commission. The site also has a catalog of CEJIL's publications as previously mentioned.






Human rights defenders to change realities

Agents of change in action

The strategy that CEJIL has developed to empower human rights defenders recognizes the key role that these individuals play in the defense and advocacy of human rights. They play an essential role in the protection of rights and in the proper functioning of democracy in our region and around the world. The cooperative interaction generated by their work at the national, regional, and international levels is a significant factor in gaining respect for the fundamental rights of individuals. This was one of the convictions that led a group of human rights defenders to establish CEJIL 20 years ago, and it remains alive in the institution's work.

The importance of protecting rights defenders

Human rights defenders play a fundamental role in the Americas, a region plagued with impunity, systematic abuses of segments of the population, and serious shortcomings in the handling of matters of public interest. Human rights defenders have been the ones, on many occasions, to shed light on acts of corruption, the participation of State agents in gross human rights violations, complacency or complicity with injustice, and the lack of transparency in government. In this way, they have helped push for investigations, exposed



The trial was in 1998 and I had known CEJIL for quite a while by then. The relationship is very special and I think it is true of all of us, survivors and human rights defenders who come to CEJIL. I have been hugely impressed over the years at the amazing caliber of the people that Viviana and the other directors in the past have been able to put together. We are looking not only at fantastic lawyers from the human rights legal angle, but we are also looking at people who are so committed and so empathetic and so compassionate and who are willing to work 24 hours a day. It is a really unique combination and I find almost every single person in CEJIL has that very special combination. So over the years it has been very nice for me, because all those people have become kind of like an extended family for me and they have taught me a great deal about how the international legal system works and they have kept me alive, and they have kept my family members alive in Guatemala. It is just a very unique role that they play and it is far more than just simple lawyering.

*Jennifer Harbury,
Victim and Human Rights Defender*

critical issues, and protected the rights of individuals in vulnerable situations, among other things. In sum, they have been agents of change in our democracies, many times under conditions of tremendous risk and adversity.

Thus, we have provided rapid responses in critical situations that our colleagues have faced in various States of the region. These efforts have included lobbying actions, letters, precautionary measures, and the litigation of an individual case following threats and harassment of the José Alvear Restrepo Lawyers' Collective by paramilitary groups and State security agents in Colombia. We have also followed up on denunciations and complaints pertinent to this issue in Brazil, Mexico, Venezuela, Guatemala, Ecuador, Peru, Nicaragua, Bolivia, and Honduras.

In response to these realities, CEJIL has advocated addressing the issue of human rights defenders at the regional and sub-regional levels, in particular with regard to the ability of human rights defenders to work without risking their lives, their safety, their right to not be displaced, or their liberties.



The main challenge for human rights defenders is to persist and to protect themselves. To persist because it is not easy to maintain the continuity of human rights work in the midst of such adversity. In spite of these circumstances, and the fact that various colleagues have been murdered, and in spite of the cases of disappearance, persecution, torture, stigmatization, and accusation, there is still an important core of human rights defenders doing their job. I think it is an example of what it means to be a defender and to work under circumstances as difficult as the ones Colombia has experienced. That is persistence, and then the organizations believe in the work that is being done. Sometimes we talked to some of the traditional defenders who would wonder what the results of our work were if human rights continue to be violated. But now that truths are known, now that what we denounced years ago has become judicial truth—in spite of the pain that it involves in terms of lives and persecution and death—I think we have the satisfaction of having acted within society, in order to be aware of what was happening and to have acted with the victims to support them at a time when no one was acknowledging their situation.

Jorge Rojas,

President of the Consultancy on Human Rights and Displacement (CODHES)

One of CEJIL's most important achievements, together with other fellow civil society organizations, has been to position the issue within the IS.

These efforts have translated into multiple joint hearings on the issue of human rights defenders since 1998 to address the situation of those in the region as a whole, as well as to monitor specific sub-regional dynamics, such as Central America, or countries with particular issues such as Venezuela, Mexico or Colombia. The last one was held in March 2011, bringing together 30 organizations in total. A crucial milestone in this respect was the 2001 establishment of the Human Rights Defenders Unit of the IACHR, and the establishment of the Special Rapporteurship on Human Rights Defenders in 2011, mentioned in the second chapter of this report.

In addition, CEJIL has litigated cases, applied for protective measures, submitted urgent actions, letters, and press releases in response to acts of harassment, providing political support to at-risk human rights defenders and organizations. One of the cases that marked significant progress in the Inter-American System was the one involving the murder of environmentalist Blanca Jeannette Kawas Fernández in Honduras, which evidenced the risks often faced by defenders of the environment and natural resources, at the hands of state agents as well as private actors (as has occurred in cases litigated by CEJIL in Mexico, Honduras, and Ecuador). In this case, the Inter-American Court's 2009 judgment held that "there is an undeniable link between the protection of the environment and the enjoy-



(from left to right)
Adriana Carmona, Luisa Cabal, Digna Ochoa and Pilar Mejía. Digna Ochoa was a prominent Mexican activist and ecologist, murdered in 2001. Here she appears at one of the buildings of the Organization of American States (OAS)

Credit: CEJIL's photo library

ment of other human rights” and that “the recognition of the work in defense of the environment and its link to human rights is becoming more prominent across the countries of the region, in which an increasing number of incidents have been reported involving threats and acts of violence against and murders of environmentalists owing to their work.” Accordingly, among other reparations measures, the Court ordered the State to investigate the facts and “to carry out a national campaign to create awareness and sensitivity regarding the importance of environmentalists’ work in Honduras and their contribution to the protection of human rights, targeting security officials, agents of the justice system and the general population.

CEJIL’s various offices have also received people whose lives have been at risk. CEJIL has likewise offered a significant number of internships to human rights defenders in order for them to become familiar with the Inter-American System. This exposure to new situations, and the practical experience of the cases that CEJIL litigates, enables them to gain knowledge that they can then take back to their own organizations.

One of the human rights defenders who supported us in this program was Digna Ochoa, a Mexican attorney who was murdered upon her return to Mexico in October 2001. Digna represented victims of human rights violations, including torture victims, particularly in cases involving members of the Mexican army.

CEJIL has worked together with thousands of fellow human rights defenders in these two decades. In addition to defending rights through litigation and lobbying, the organization has made significant efforts to use and to share as effectively as possible the knowl-

edge acquired throughout its development, so as to transform this singular universe of expertise into an institutional asset. This has enabled the institution to share those lessons with human rights defenders all over the world, as well as with anyone interested in learning about the Inter-American System and international human rights standards, whether in trainings or discussions, or through publications, documents and audiovisual resources.



Rafael Barrios, President of the José Alvear Restrepo Lawyers' Collective (CCAJAR) during a visit to CEJIL's offices in Washington, D.C.
Credit: CEJIL photo library



Extract from the IACHR Press Release – 28/II concluding the 141st Session, April 1, 2011

“During this period of sessions, the IACHR decided to establish an Office of the Rapporteur on the Situation of Human Rights Defenders, in view of the petitions it has received and in the interest of giving greater visibility to the role that human rights defenders and justice operators have in building a democratic society in which the rule of law is in full effect. The Rapporteur is Commissioner José de Jesús Orozco Henríquez.”

I had to leave the country for work-related reasons in 1999. I spent two years in Washington working with CEJIL in a support program for individuals whose safety was threatened. I returned to Colombia at the end of 2005. I got to know CEJIL on the inside; its professional work carries significant responsibility and is highly valuable to us, the NGOs that are part of the Inter-American System. The role that CEJIL plays in the Inter-American System in the region is very, very important. Without that support, without that commitment, the CCAJAR would not be where it is today in the Inter-American System, with the IACHR and the Court having full confidence in the work we do in Colombia—so much so that five of the nine judgments involving Colombia are CCAJAR cases, and most of those cases were litigated together with CEJIL.

Rafael Barrios, President of the José Alvear Restrepo Lawyers' Collective (CCAJAR)

Knowledge exchange, training, and dialogue

In 20 years, the CEJIL team has been among the presenters at over a thousand seminars, conferences, and workshops in most of the countries of Latin America and the Caribbean. The organization has also held trainings and discussion groups around the hemisphere, with various objectives and in various formats, for civil society actors as well as for a broad and diverse number of audiences, including members of the judiciary and government agents. They have served to deepen understanding of the IS or international standards; introduce different groups to the tools provided by international human rights law; create spaces for reflection and shared solutions to the difficulties of harmonizing international human rights obligations and national laws; seek concerted action among key actors; raise their awareness of the solutions offered by

Naomi Roth, Viviana Krsticevic, Leigh Payne and Beatriz Affonso at a conference on amnesty in Brazil, held at Oxford University- UK, in 2010. Credit: CEJIL photo library



international human rights law, and so on. As such, the workshops and seminars have covered a wide range of issues and have been held in capital cities as well as in the most remote areas of the Americas.

Among these experiences, some of our training efforts were instrumental in building the necessary bridges to involve important groups in the region directly with the Inter-American System, so as to use this platform to strengthen the guarantee of fundamental rights in the domestic sphere. In 1999, CEJIL conducted an intensive training together with the Inter-American Institute of Human Rights (IIDH), in order to bolster the capacity of the women and human rights movement for the protection of the rights of women. The course lasted for three years, and involved 31 participants from 19 countries in the region. It was directed by Cecilia Medina Quiroga, who was later elected to serve as a judge on the Inter-American Court, and by Venezuelan expert Héctor Faúndez. This

Seminar on the contemporary forms of exploitation in Açailandia, state of Maranhão, Brazil. Credit: CEJIL photo library



training process and its results were compiled in a publication entitled *Strengthening the International Promotion and Protection of the Human Rights of Women*, published by the IIDH and CEJIL in 2004.

Sonia Pierre, Dominican human rights activist, during a meeting alongside David Baluarte, CEJIL attorney at the time, Pol Emil (Dominican-Haitian Cultural Center), and Inoelia Remy (Association for the Development of Women and the Environment, APRODEMA).

Credit: CEJIL photo library



CEJIL filed amicus in a variety of European cases, and the European human rights system is increasingly looking like the Inter-American system was years ago. This is quite interesting because we tended to borrow heavily on the jurisprudence of the European commission on developing standard on due process and fair trial... But as they expanded the Council of Europe, they let in many countries that had many of the same kinds of systemic problems: absence of rule of law, militaries and security forces running a mock, disappearance, torture ... Whether it is in Chechnya, Serbia previously, in Turkey, with the PKK in connection with the armed conflict, and then the other former communist countries that have not had the rule of law. You can see that the European court wasn't used to dealing with these things. They were not used to dealing with governments that disputed the facts that destroyed evidence. These were just nice little legal questions that they had to decide, so I know that some of the amicus have been influential. I could see that as another kind of element that helped educate the Europeans based on the somewhat tragic but learning experience that we had in the Americas. It is a unique expertise that CEJIL has been able to put together over this period of time.

Robert Goldman,

Professor of Law at American University and former President of the Inter-American Commission

For a more just world: Sharing experiences with Africa, Europe and Asia

Since the 1990s, CEJIL has conducted and participated in seminars and workshops in order to share experiences with members of the African Commission, the European system, and human rights defenders and organizations involved in advocating the use of international human rights protection mechanisms in Africa, Europe, and Asia. These experiences have resulted in greater exchanges of information and knowledge about experiences and dilemmas in the institutional design of the protection systems, comparative studies on standards, and strategies to guarantee the effective protection of human rights defenders.

In 1999, aware of the difficulties that the European system was facing at the time in contending with cases of forced disappearances involving the participation or complicity of State agents, CEJIL filed an *amicus curiae* brief on the issue with the European Court in the case of *Timurtas v. Turkey* at the request of the applicant's attorney, the renowned European expert Françoise Hampson. At that time, the exchange between the Inter-American and the European systems regarding this issue was critical in adapting the standards of proof and substantive case law of the European Court to the phenomenon of forced disappearance.

By way of example, between 1995 and 2000, the North-South Centre of the Council of Europe and CEJIL hosted several conferences aimed at fostering dialogue and improving the regional human rights protection systems. Prominent judges including Judge Louis-Edmond Petitti of the European Court, members of the African Commission—including successive presidents Isaac Ngema and Victor Dankwa—members of the IACHR such as President Michael Reisman, Inter-American Court Judge Antônio Cançado, then-Professor Dinah Shelton, and then-Executive Secretary Jorge Taiana were among the participants in these conferences.

On several occasions over the following years, CEJIL organized or participated in these kinds of events. In 2010, for example, CEJIL took part in a working session of experts held by the IACHR in the context of a visit by members of the African Commission to Washington, D.C. In 2008 and 2011, CEJIL attorneys traveled to Africa to take part in training seminars and share experiences. Throughout the years, CEJIL has maintained a close relationship with organizations with ongoing work in Europe, Africa, and Asia, sharing lessons learned and challenges in different contexts, including with the Swedish NGO Foundation for Human Rights, the Open Society Justice Initiative, Interights, and the Institute for Human Rights and Development in Africa.

We have been inspired by the conviction that the regional and international protection systems are strengthened by the knowledge and discussion of experiences and criteria from other regions; they enrich the alternatives for action to attain mechanisms, standards, and practices that foster the greater and better protection of rights.



The value of CEJIL's leadership role in the Inter-American human rights system is indisputable and has steadily grown since I first came across the organization in Latin America the early part of its life. But its voice is heard far beyond the Americas. By sharing lessons learned from the Inter-American system, and ensuring that positive developments there have impact trans-regionally, it makes a critical contribution to more effective human rights protection internationally. CEJIL is a valued and respected partner to INTERIGHTS and many other human rights defenders around the world.

-

*Helen Duffy,
Special Council for
INTERIGHTS*

In 2001, CEJIL held a similar event with the Raoul Wallenberg Institute on the protection of social rights, focusing on the development of the rights to education and health. The experts participating in this joint project included the then-United Nations Special Rapporteur on the Right to Education, Katerina Tomasevski, and Carlos Vicente de Roux, who at the time was a Judge on the Inter-American Court. The event also brought together a number of attorneys specializing in the field.

In 2002, CEJIL held a regional seminar on refugee protection with the United Nations Refugee Agency (UNHCR) in Lima, Peru, with an emphasis on the Andean region. It was enriched by the participation of numerous human rights defenders who were working on refugee issues in the countries most affected by the Colombian conflict.

In 2009, CEJIL organized and participated in two events on the rights of the child, which were held with the support of Save the Children and the W.K. Kellogg Foundation. In October, CEJIL conducted a seminar entitled: "Rights of the child: how to apply a rights-based approach." The main objective of the seminar, which took place in San José, Costa Rica, was to study the Convention on the Rights of the Child in greater depth. The participants included Child advocacy organizations from Costa Rica, Panama, Honduras, El Salvador, Guatemala, Nicaragua, Mexico, Argentina, Brazil, Paraguay, and Uruguay. Similarly, in November of the same year, CEJIL conducted a seminar to build capacity for political influence before the OAS on behalf of children's rights. This seminar was held in Washington, D.C., and was attended by child advocacy organizations from the aforementioned countries, which had the opportunity to attend talks and meetings with various OAS bodies. This seminar was held with the support of the Secretariat for External Relations.

One of the most interesting activities undertaken by CEJIL for the development of standards was the 2007 to 2009 process of putting together a *Manual for Due Diligence in the Investigation of Gross Human Rights Violations*. This process was the result of numerous discussion meetings, including a regional event held in San José, Costa Rica in November 2007 with the participation of members of national human rights institutions (INDH), and contributions from the Argentine Forensic Anthropology Team (EAAF) and the Mexico City Human Rights Commission (CDHDF).

CEJIL has provided useful tools to thousands of human rights defenders and attorneys in the hemisphere, enabling them to undertake the day-to-day work of litigating in the regional system; like-

wise, through workshops, internships, publications, and mentoring, CEJIL has supported the development of instruments and networks of protection, replicating and sharing its institutional experience.

The dialogue is not limited to the use of mechanisms and standards of protection. From its inception, CEJIL has arranged dozens of meetings with NGOs and human rights defenders in order to facilitate their informed participation in the policy debates periodically fostered by the OAS. In this spirit, over the past 12 years, CEJIL has secured meetings in Washington as well as in the countries where the annual OAS General Assembly meetings are held, in order to ensure a broad range of NGO access to relevant information. In many situations, it has also facilitated a constructive debate forum in which to coordinate joint strategies.

Sheila Keetharuth, Gaye Sowe, Edmund Fole, and Musa Secka, from the Institute for Human Rights and Development in Africa alongside Annette Martinez from CEJIL in Banjul, Gambia in 2011.

Photo: CEJIL's photo library



There is a great potential for mutual growth in South-South collaboration. One example of this is that CEJIL will soon be embarking on a project inspired by the visit of one of its lawyers to Banjul earlier this year. We are very excited that the project will include unprecedented information on implementation of decisions, which is an area of growing concern for the two regional systems. All this, thanks to cross-pollination with the Institute for Human Rights and Development in Africa (IHRDA), CEJIL's sister organization with the African human rights system. By facilitating the inter-connectivity of the two systems, we feel that IHRDA-CEJIL are opening up a new and promising area of human rights South-South collaboration, a befitting step to celebrate the 20th Anniversary of CEJIL.

*Sheila Keetharuth,
Executive Director of the
Institute for Human Rights
and Development in Africa*





A life without violence

One of the main focal points of CEJIL's work during its first two decades was to contribute to the pursuit of truth, justice, and reparations with respect to gross human rights violations. In particular, achieving progress in State responses to crimes against humanity in the context of dictatorial governments or internal armed conflicts gained special relevance in its work. Nevertheless, our work in this area was not restricted to so-called "historical issues"; rather, we took on the enormous challenge of responding, with the tools provided by the Inter-American System and international human rights law, to other current manifestations of violence that have direct repercussions on the weakening of the rule of law, on the existence of authoritarian enclaves in the region's societies, and on the building of democracy in the countries of the hemisphere.



Aura Elena Farfán, leading human rights activist in Guatemala and president of FAMDEGUA.
Credit: CEJIL photo library

Never again: the right to truth, justice, and reparation

At the beginning of the 1990s in Latin America there was widespread impunity with regard to the massive violations committed in the previous decades, for reasons including the application of amnesty laws, privileges or exemptions from jurisdiction, procedural obstacles, pacts of silence, and a lack of political will or ability. After the restoration of democracy, the transition of dictatorial or authoritarian regimes to elected governments, and the signing of peace agreements to end the civil wars, the issue was pushed to the back burner of the new democratic leaders' agendas. In many of the region's countries it was postponed by the political establishment, the judiciary, and public opinion. This was because in several countries agreements were made to some extent with the armed forces involved in the violations of the past, based on the false choice between either securing the democracy gained, or placing the democratic system at risk by bringing the perpetrators to justice.

Nevertheless, the cases litigated by CEJIL before the IACHR and the Inter-American Court furthered substantial developments in the jurisprudence and contributed to significant advances in the enjoyment of rights by the victims, relatives, and societies of the region.



The fact that the right to the truth has been characterized as a right is very important, and the good thing is that it starts with Velásquez, because [...] the Court states very clearly that the State has the obligation to investigate and disclose the truth about how the events took place, both to the families and to society as a whole. In addition, it says that this obligation remains during the entire time there is any ongoing uncertainty about the fate and whereabouts of the disappeared person. And this has been reaffirmed everywhere since 1988. It has been exemplary for many countries where the issue of the right to the truth has been extremely important, including in countries where it was not possible—at least for a time—for justice to be served because of the effects of impunity laws.

Juan Méndez,

UN Special Rapporteur on Torture and Cruel, Inhuman and Degrading Treatment or Punishment and Commissioner before the Inter-American Court in the Barrios Altos case.

Indeed, the demand to know the truth, as a right in and of itself, was central to the efforts made by the relatives of victims of State terrorism, especially for those whose loved ones had disappeared. It was not only a matter of obtaining a general, historical truth; it was also about knowing specifically what happened to the victim, the circumstances of his or her disappearance, and his or her location, with the backing of the judicial truth. This demand became law in the doctrine of the Commission, and later, in the case law of the Court.



Emilio Mignone, leading human rights activist in Argentina, founder of CELS, and former member of CEJIL's Executive Board, alongside his wife Chela. Photo provided by Isabel Mignone



The search for his daughter Mónica (detained-disappeared in May, 1976) was at the center of Emilio Mignone's life, the same center around which the lives of first hundreds, then thousands of Argentine families revolved. People came and went at all hours to and from his apartment on Avenida Santa Fé in the city of Buenos Aires. They talked, compared notes, and analyzed the latest events. They prepared writs of habeas corpus and requested meetings with influential people. Emilio and Chela Mignone entered the world of the relatives of disappeared persons at the very beginning, when they first started coming together and when there was hope—which would take a long time to dissipate—that the kidnap victims were still alive in some clandestine concentration camp. That was how they forged friendships with men and women, parents, siblings, and children, with believers, with skeptics, atheists, Christian democrats, Peronists, conservatives, and apolitical people, all affected and absorbed by the same drama. As such, the Argentine human rights movement did not have a specific partisan, religious, or ideological origin. It was envisaged as an aim in itself.

Isabel Mignone del Carril,

daughter of Emilio Mignone, who was a member of CEJIL's Board of Directors.



I do not think there is any civil society or organization in the hemisphere that has performed the services that CEJIL has. CEJIL has played a very particular role, not only in terms of the type and diversity of cases but also in helping to shape the case law. I would always welcome those cases when I was a Commissioner. I would see the legal arguments they presented, and in many cases we would accept their arguments and submit them before the Inter-American Court, and at times they were received by the Court—an example of this is the concept of the right to the truth.

Robert Goldman, Professor of Law at American University and former President of the IACHR.

Doctrine and case law on the right to the truth

The first case in which the IACHR established the right to the truth as such was co-litigated by CEJIL and other organizations. Although the right of next of kin to know the location of the remains of their loved ones was already recognized in the doctrine of the Commission in the 1970s (*Alfonso René Chanfeau Orayce et al. v. Chile*), the right to the truth was subsequently developed to a greater extent by the IACHR in cases such as the one known as *Jesuits v. El Salvador* and the case of *Monsignor Romero v. El Salvador*. Another notable case was *Carmen Lapacó v. Argentina*, litigated by CEJIL and CELS, in which a friendly settlement was reached whereby the Argentine government agreed to legally recognize the right to the truth at the local level, thus reinforcing the strategy of gradual development and synergy with the international sphere that CEJIL would pursue together with local rights defenders.



The right to the truth: action before federal courts

One of CEJIL's innovative initiatives was to file a joint *amicus curiae* brief with Human Rights Watch and Alejandro Garro before the Federal Chamber of Appeals for Criminal and Correctional Matters of the Federal Capital (Buenos Aires) in 1995, developing the then-nascent right to the truth. The brief provided support for the so-called “truth trials” initiative that kept investigations into gross human rights violations open in the criminal courts, thus enabling the victims and society to have access to the judicial truth at a time during which the amnesty laws, such as the Due Obedience and Full Stop laws, were still in force.



CEJIL's attorneys Marcela Martino (left) and Gisela de León facing Isabel Madariaga and Santiago Cantón, attorney and Executive Secretary of the IACHR, respectively, at the hearing on the *Monseñor Romero v. El Salvador* case in November 2009.

Credit: CEJIL photo library

In November 2009, El Salvador acknowledged before the IACHR its international responsibility for the death of Monsignor Oscar Arnulfo Romero, after decades of denying that State agents had anything to do with the crime. Monsignor Romero, a leading defender of the human rights of the Salvadoran people and a critic of the abuses of the military and the Government, was murdered on March 24, 1980 by a sniper from a death squad that included members of the Army. On March 24, 2010, President Mauricio Funes issued an apology on behalf of the State to Romero's family and to Salvadoran society for the assassination of the Central American martyr.

President Mauricio Funes of El Salvador stated, “The members of the violent group that carried out the assassination of Monsignor Oscar Arnulfo Romero have already been identified by international investigation authorities, from both the United Nations system and the Inter-American Human Rights System. Our government has accepted the legal validity of those reports before the [IACHR], and therefore our official acknowledgement of the truth in the case of the political assassination of Monsignor Romero is unobjectionable. Under these circumstances, and in my capacity as President of the Republic, I apologize on behalf of the Salvadoran State for this assassination perpetrated thirty (30) years ago. On behalf of the Salvadoran State, I apologize first of all to the family of Monsignor Romero, to whom I extend my most sincere condolences and my unconditional support in their quest to establish the truth. I apologize to the people of El Salvador, who were, are, and will always be, the great family of Monsignor [Romero], his heirs. [...] I apologize to the thousands of families who were the victims of this type of illegal and unacceptable violence, and especially to the members of the religious communities who are represented in the spirit of Monsignor Romero [.]”

The case of *Monsignor Romero* was litigated by CEJIL, the Legal Aid Office of the Archdiocese of San Salvador, and one of the victim's brothers.

At the same time, the Inter-American Court took a different tack toward the recognition of the right to the truth as an autonomous right. At the end of the 1990s, it recognized the right to the truth as a nascent principle of international law that was later included within the recognition of the truth in the judicial sphere. In the case of *Gomes Lund et al. v. Brazil*, known as *Guerrilla de Araguaia*, which was litigated by CEJIL, *Tortura Nunca Mais* of Rio de Janeiro, and the *Comissão dos Familiares de Mortos e Desaparecidos*, the Inter-American Court took an important step in that it “determined that all persons, including the next of kin of the victims of gross human rights violations, have the right to know the truth.” The Court thus brought its case law into line with the international human rights law developments of the last decade, which had recognized the right to the truth as an autonomous right.



Relatives of victims of the repressive regime established by Fujimori in Peru.
Credit: CEJIL photo library



It was very important to us. We needed an organization that worked in the Inter-American System so that the Araguaia situation could move forward; it had been at a standstill for a long time. Our organization, and I in particular, are very grateful to all of the people at CEJIL.

Victoria Grabois,
Vice President of
Tortura Nunca Mais

Event on justice and truth celebrated in Rio de Janeiro, Brazil, in November 2008.
Credit: CEJIL photo library



Barrios Altos v. Peru, mentioned earlier in the chapter entitled *Litigating to change reality*, was the fundamental precedent of the Inter-American Court on the issue of amnesties. In that case, CEJIL represented the relatives jointly with the National Coordinator of Human Rights of Peru (CNDDHH), the Association for Human Rights in Peru (APRODEH), the Legal Defense Institute (IDL) and the Ecumenical Foundation for Development and Peace (FEDEPAZ). The case dealt with State responsibility for a massacre committed by the Colina Group, a death squad that operated under the government of former President Alberto Fujimori. The Fujimori administration reacted by enacting two laws to ensure the absolute impunity of the persons involved, including civilians and members of the military responsible for gross human rights violations.



The Commission has played an important role at the international level in cases involving amnesty. I argued the cases against Uruguay, and together with the Argentine cases, they were the first ones of their kind. They were somewhat embryonic in terms of their reasoning, but CEJIL helped to advance and broaden the notions that were involved in amnesty. So by the time the Barrios Altos case was sent to the Inter-American Court, it was truly a huge success for them. And I think that was, in large part, thanks to CEJIL.

Robert Goldman,
Professor of Law at American University and former President of the IACHR.

At the request of the victims, the Inter-American Court issued a decision in which it not only called for the punishment of the perpetrators but also ruled that Peru's amnesty laws lacked legal effect because, in the Court's opinion, they violated the guarantee of justice and the victims' due process rights. Accordingly, it held that: "This type of law precludes the identification of the individuals who are responsible for human rights violations, because it obstructs the investigation and access to justice and prevents the victims and their next of kin from knowing the truth and receiving the corresponding reparation." Based on the *Barrios Altos v. Peru* decision, the Peruvian amnesty laws were repealed, and it became possible to prosecute hundreds of individuals tied to the State terror apparatus of the Fujimori administration.

Efraín Bámaca Velásquez, victim of torture and forced disappearance during the armed conflict in Guatemala. Photo provided by Jennifer Harbury

Similarly, in other cases litigated by the institution such as *La Cantuta v. Peru*, *Carpio v. Guatemala*, *Cepeda v. Colombia*, *Bámaca v. Guatemala*, and *Fernández v. Mexico*, the Court developed key legal aspects such as the imperative that trials involving gross human rights violations be held in civilian courts and not under the military justice system, as well as the non-enforceability of statutes of limitation or the principles of *res judicata* or *non bis in idem* with regard to the obligation to investigate and punish the perpetrators. Cases advocating justice in Colombia, Guatemala, Argentina, and elsewhere made it possible for some criminal cases to move forward, giving effect to the obligation to punish those responsible for violations verified by the Inter-American System.

Memorial for the victims of Guatemala's armed conflict. Credit: CEJIL photo library



CEJIL played a central role in the pursuit of justice and truth with regard to this issue in Brazil through the litigation of the *Araguaia* case, and in Uruguay with the *Gelman* case. In Brazil, CEJIL filed an *amicus curiae* brief with the Supreme Court on the issue of criminal investigations into the crimes against humanity committed during the dictatorship. In spite of the fact that the local court's decision rejected the theory of the Inter-American Court, CEJIL supported the struggle of the next of kin in the *Araguaia* case for more than a decade before the Inter-American System. In December 2010, after prolonged and arduous litigation, the Court ruled that those provisions of the Brazilian amnesty law that were inconsistent with the obligation to investigate and punish the perpetrators of gross human rights violations should be considered to have no legal effect. The Brazilian government in turn affirmed its willingness to comply with the decision of the Inter-American Court of Human Rights.

The judgment handed down by the Court in the *Gelman* case—the first one against Uruguay—establishes the necessary steps that the Uruguayan State must take in order to obtain truth and justice. The national impact of the judgment revived the public debate surrounding the validity of the law that exempts perpetrators from responsibility for gross human rights violations committed during the military dictatorship as part of Plan Condor, and of the limitations on access to information still in the hands of active security agencies.



Demonstration by victims of Guatemala's armed conflict in February 2010. Credit: CEJIL photo library



Politically it was very significant. It was the only ceremony at which the three branches of the Guatemalan government, the Inter-American Commission, many officers from every rank of the army, and a large number of persons displaced by the conflict—and for whom Myrna had died in some indirect way—were represented. There was a wide variety of people at that ceremony, which carried a very important message. From that point forward there have been a number of other public acknowledgements. So, Myrna's case was a breakthrough on the issue of human rights.

Helen Mack, President and Founder of the Myrna Mack Foundation

In addition, at the end of 2010, CEJIL filed an *amicus curiae* brief with the Constitutional Court of Guatemala seeking enforcement of the judgments of the Criminal Chamber and the Inter-American Court ordering the investigation of the facts in the case of the forced disappearance and torture of *Efrain Bámaca Velásquez*.

In her testimony before the Inter-American Court, Macarena Gelman said she hoped the Court's decision would help her learn her mother's fate, which is her greatest sorrow, since "the possible perpetrators, individuals known to have taken part in the events, are alive today and have that information... I know... it is very unlikely that they will provide it themselves, but I think there are enough staff members who also worked there... I don't think they are the only ones... someone had to have performed the more operational tasks... the first thing would be the political will to do something beyond just words... even though it's possible that this won't happen, we will never know unless we really try."



One of the key aims of the request for reparations in the litigation on behalf of victims and relatives was to have a greater public impact and to demand a change in direction with respect to society's interpretation of violence and impunity. As such, CEJIL requested the dissemination of the Court's judgments, ceremonies acknowledging responsibility, public apologies, commemorative monuments, and so on. In the case of *Myrna Mack Chang v. Guatemala*, for example, a ceremony was held with the attendance and participation of the then-President, relatives of the victim, members of the military, affected communities, civil society, and the general public.

The impact of the work went beyond these specific cases, as the case law established by the Court in *Barrios Altos* served a guide for

numerous legislative, judicial, and executive branches in the region where the issue of individual and State responsibility was discussed after that judgment. In Colombia, the Inter-American case law was taken into account in the debate surrounding the reintegration of paramilitaries into society, thus limiting the amnesty bill initially proposed by the State; in Argentina, the issue was again taken up by the justice system in the *Simón* case, in which the Argentine Supreme Court used the *Barrios Altos* precedent in its judgment reversing the amnesties that had blocked the investigation of most of the crimes committed during the dictatorship.

Helen Mack at the public ceremony held by the Guatemalan government, recognizing the State's responsibility for the assassination of her sister, Myrna. Presidential Palace, April 2004
Credit: Fundación Myrna Mack



Changing the historical narrative

In Guatemala on April 22, 2004, President Berger apologized to the family and to society for the September 11, 1990 murder of anthropologist Myrna Mack Chang in a moving ceremony in the "Patio de la Paz" courtyard of the Presidential Palace, in the presence of members of the family and survivors of the community in which she had lived, including members of the country's religious community. Members of the Armed Forces and government ministers were also present. The law firm Hogan and Hartson, the Guatemalan Human Rights Commission, the Mack Foundation, the Lawyers Committee for Human Rights, Georgetown University, and CEJIL all participated in the litigation of the case.

The legacy of authoritarianism and current manifestations of institutionalized violence

CEJIL addressed several key issues regarding the struggle against violence and impunity where there are shortcomings in the rule of law institutions. One of the greatest injustices in the region is the imprisonment without conviction—and to a large extent, in inhumane conditions—of thousands of people, including children and adolescents. CEJIL has brought the condition of detention centers, particularly those holding children (for example, the *Case of the “Juvenile Reeducation Institute” v. Paraguay*) and persons with mental illnesses, to the agenda of the Inter-American System. Through cases, precautionary measures, and hearings, we were able to call attention to the issue and to the reparation of individual victims, as well as to the compelling need to order the closure of some detention centers (for example, the FEBEM/Tatuapé center in Brazil), the reversal of policies of incarcerating minors together with adults, and the allocation of greater resources to create more decent conditions of detention. Nevertheless, no truly significant policies or measures to change the cycles of arbitrary imprisonment or impunity in the face of abuses have been put into practice yet.



In Brazil, CEJIL is part of the National Committee against Torture that was created by the Office of the President of Brazil during Lula's administration. The mandate of this national committee—which is plural, and enjoys a high degree of participation from civil society and State sectors committed to human rights— included the drafting of a bill for a national prevention mechanism. There were many meetings at which we worked shoulder to shoulder with those sectors, with the participation of CEJIL in Brazil, and finally there was a very good bill that is in the Executive Branch, to be sent to Congress. We hope—and the authorities have told us—that this national mechanism will be approved and begin to be implemented prior to the September visit.

*Mario Coriolano,
Vice President of the UN Subcommittee on the Prevention of Torture.*

CEJIL also litigated numerous cases exposing the persistence of torture under democracies, including the *Tibi* (Ecuador) and *Gutiérrez Soler* (Colombia) cases, and the *Case of Cabrera García and Montiel Flores* (Mexico). In addition, an important group of emblematic cases evidenced the use of force and repressive practices in countries such as Venezuela (*Case of the Caracazo v. Venezuela* or the *Case of Montero-Aranguren et al. (Detention Center of Catia)*), Paraguay (*Case of Aguayo v. Paraguay*), Honduras (*Case of López Álvarez*), and Colombia (*Palace of Justice case*), among others. Those cases made it possible to expose the abuses committed by State security forces, as well as the ongoing impunity of those acts. In some cases this was because of the exercise of military jurisdiction in their investigation and prosecution.

In addition, CEJIL has worked on cases of massacres in various democratic countries, including *El Amparo* in Venezuela, *Carandirú* in Brazil, and *Mapiripán*, *Pueblo Bello* and *La Rochela* in Colombia. These cases have brought to light the impunity of crimes committed both by State agents and by private individuals with the tolerance of the State. Furthermore, they evidenced the failure of government authorities to comply with their duty to investigate, prosecute, and punish human rights violators.

Monument honoring those killed in the rural massacre of Eldorado dos Carajás, Brazil.
Credit: CEJIL photo library





Relatives of victims of the Dos Erres massacre in Guatemala.

Credit: CEJIL photo library

I especially remember the case of the Las Dos Erres Massacre, a massacre carried out by the Guatemalan army in which more than 300 people died. The perpetrators in the case remain unpunished, but I remember it especially because in this case, with the mediation of the Inter-American Commission on Human Rights, a truly successful friendly settlement agreement was reached. Nevertheless, in spite of the fact that many of the terms of the friendly settlement had been satisfied by the Guatemalan State, we later had to reopen the case before the Commission so we could withdraw from that settlement because there were key structural issues or points that had not been redressed. This led to the case later being submitted to the Inter-American Court.

Soraya Long,

former Director of CEJIL's Central America and Mexico Program

One noteworthy issue that we have worked on historically, but which has been even more evident in recent years, is that of the complicity or complacency of State agents with abuses committed by private individuals, not only out of political interest (for example, as in the case of para-police groups) but also for financial objectives, to control unlawful activities, and to facilitate the exploitation of natural resources. Precautionary measures for the control of land in *Cerrito Lindo* in Honduras, the cases of slave labor in Brazil, and the case of *Baruch Ivcher* in Peru concerning the control and ownership of a television channel all exemplify this issue.



Doña Helena, relative of one of the victims of the rural massacre that took place in Eldorado dos Carajás, Brazil in 1996.

Credit: CEJIL photo library

Illegal telephone tapping

Several cases litigated by CEJIL demonstrated the unlawful use of telephone wiretaps by State agents for purposes of obtaining information or conducting criminal investigations against public figures, members of the judiciary, human rights defenders, journalists, and others. In some cases, the wiretaps were followed by acts of harassment or intimidation. The most notable cases in the Inter-American System include that of *Anel Townsend et al.* in Peru during the Fujimori administration, *Santander Tristán v. Panama*, and the *José Alvear Restrepo Lawyers' Collective (CCAJAR) v. Colombia*. They reveal the persistent use of phone tapping under an authoritarian government, in criminal investigations in a democracy, and as a tool for the persecution of persons considered opponents of the government.

At a public hearing held before the Inter-American Commission in 2009 at which the CCAJAR and CEJIL presented information on illegal phone tapping activities and surveillance of the members of the CCAJAR in Colombia, Commissioner Paulo Sergio Pinheiro stated that: "It is outrageous for this to happen under a constitutional government. It is very important that the Commission take steps to prevent this wave from spreading throughout the entire region."

CEJIL and the CCAJAR represented the families of the victims of the massacres of *Mapiripán* (2005) and *La Rochela* (2007) in the proceedings before the Inter-American System. In enforcing the respective judgments of the Inter-American Court, in the former case, in November 2009, the Superior Court of Bogotá found General Jaime Humberto Uscátegui guilty of collaborating with paramilitary groups in the massacre of 49 people in 1997 in the community of Mapiripán. Although the unlawful collaboration of the Colombian Armed Forces with paramilitaries has been widely documented, this was the first time a high-ranking officer was convicted for such collaboration. In the second case, *La Rochela*, three senior military officers and a former congressman have been under investigation since 2009 for their collaboration to facilitate the crime.

Support in accessing the Inter-American Human rights System, commitment and follow-up to precautionary measures, but above all, constant solidarity in the face of threats and persecution. That is what CEJIL means to CODHES and to those in Colombia who persist in the defense of human rights.

-
Jorge Rojas,
President of the Consultancy on Human Rights and Displacement
(CODHES)



Hearing of the *La Rochela* Massacre case at the Inter-American Court in February 2007. CEJIL and CCAJAR attorneys alongside Rodolfo Arango (expert witness), Olegario Gutiérrez, Virgilio Hernández, Alejandra Beltrán (family members of victims) and Arturo Salgado (surviving victim.)

Credit: CEJIL photo library

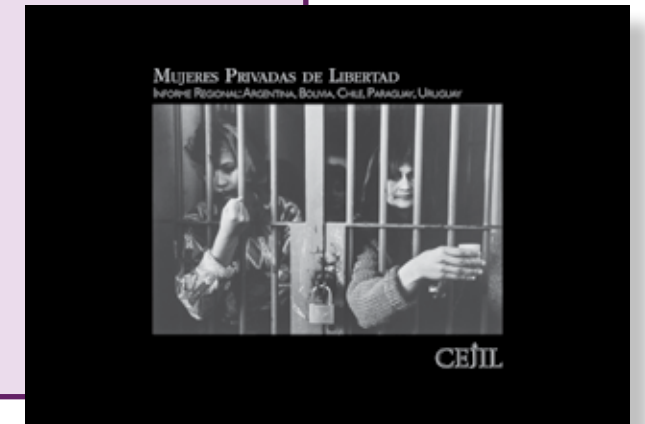


Guantánamo

As a consequence of the September 11, 2001 attacks, the United States redefined its concept of security and its foreign policy priorities, which had a major impact in the region and in the world. Accordingly, during the past decade, under the so-called “war on terror,” we witnessed a significant regression in respect for human rights on the part of the U.S. The Guantánamo prison became a symbol of the repressive anti-terrorist policies. It demonstrated the dangers of advocating detention policies that do not provide judicial safeguards for the oversight of the legality of the detentions or for the prevention and punishment of potential abuses. The legal architecture that was put in place after September 11 not only had consequences for those detained by the U.S., but it also highlighted the perception that some forms of abuse and torture, as well as restrictions on legal protections, were justified when national security was at stake. However, as the years have passed, the IACHR and various United Nations bodies and rapporteurships have maintained public positions highly critical of the policies and practices of the U.S. and other nations in the region and around the world with respect to this issue.

The sad recent history of repression in the name of national security in Latin America had given many organizations and activists the experience and determination to call into question the curtailment of rights and the diminished checks on the actions of the Executive Branch under such circumstances. In view of the arrest of hundreds of people in response to the September 11 attacks, CEJIL, together with the Center for Constitutional Rights (CCR), the Human Rights Clinic at Columbia Law School, the law offices of Judith Brown Chomsky, the International Human Rights Law Clinic at Yale Law School, the Center for Justice and Accountability, the International Federation for Human Rights, and other organizations, academic institutions, and people in their individual capacities, asked the Inter-American Commission on Human Rights to grant precautionary measures to protect the Guantánamo detainees. Since 2008, the CCR and CEJIL have also represented an Algerian detainee and member of the Berber ethnic minority at risk of being repatriated to Algeria, where he could be subject to persecution. In his case before the IACHR we are seeking a fair trial and his resettlement in a safe country.

In 2007, CEJIL published a study entitled *Women in Prison - Regional Report: Argentina, Bolivia, Chile, Paraguay, Uruguay*, which brought to light the common features in the treatment of women inside the jails of these Southern Cone countries. One such feature it addressed was the failure of social and prison policies to meet the international standards for the protection of the human rights of persons deprived of their liberty, as well as the absence of gender-based perspectives in both the formulation and implementation of such policies.



In January 2011, CEJIL participated in a demonstration at the White House to support the closing of Guantánamo.
Credit: Zeke Johnson/Amnesty International USA



The end of recruiting child soldiers in Paraguay

The combined efforts of CEJIL and the Peace and Justice Service of Paraguay (SERPAJ-PY) in litigating before the Inter-American System the cases of four children—two dead and two disappeared—who had been unlawfully recruited by the Paraguayan Army contributed decisively to the condemnation and eradication of a practice that had been tolerated by the State up to that point.

One hundred ten conscripts had died in Paraguay since 1989. In the military, punishments and violence against child recruits were accepted and justified; impunity was the rule when they died. Nevertheless, over the last seven years, Paraguay took significant steps to abolish the recruitment of minors by its Armed Forces, making a number of changes to practices and legal provisions in order to prohibit the recruitment of children under the age of 18 and to redress the harm caused. The most notable achievements include the State's public repudiation of the practice of forcibly recruiting minors, an apology to the relatives of the victims, attended by the Foreign Minister, top government officials, and high-ranking members of the military, and the legal reforms made in 2007 and 2008 to ban the enlistment of minors under the age of 18 in the Army.

Public act held by the Paraguayan State for its responsibility in the death of child soldier Víctor Hugo Maciel.
Credit: CEJIL photo library



In this same spirit, the State withdrew its reservation to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. In addition, a commission was formed to investigate the disappearance of two of the boys (*Marcelino Gómez Paredes and Cristian Ariel Núñez*) and to establish the facts, and it was agreed that a bill would be introduced to amend the Criminal Code in relation to the offense of forced disappearance.



Street sign in Paraguay honoring disappeared child soldier, Cristian Nuñez.
Credit: CEJIL photo library





More justice and equality in the Americas

One of the most distinguishing features of the American continent is inequality, which is evidenced by serious limitations on the effective enjoyment of civil and political rights as well as on access to and enjoyment of economic, social, and cultural rights, equality, and a life free from violence.

Over these past two decades CEJIL has had an ongoing commitment to defending the rights of women to live a life free from discrimination and violence in the domestic sphere, in public life, at work, at school, and in the health systems.

Indeed, the organization has played a leading role in the litigation of cases that have established the fundamental bases of the Inter-American System's jurisprudence on discrimination and gender-based violence, and in contributing to legal or policy reforms that have impacted the lives of thousands of women. Moreover, it has made significant efforts to build bridges between the women's movement and activists from the human rights movement in order to bring feminist activists and the women's movement into the Inter-American System, as well as to raise awareness among the members of IACHR regarding the situation and the obstacles that still hinder the full enjoyment of women's rights in the Americas.

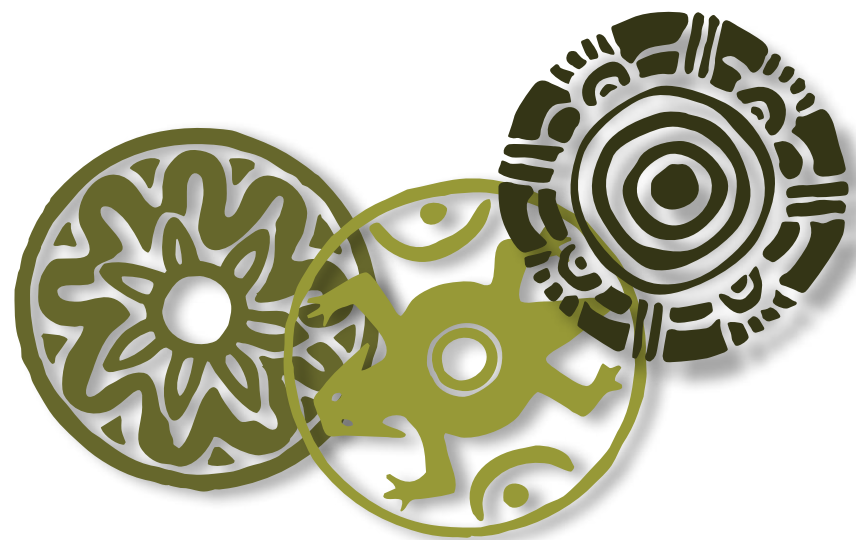
Public hearing on
"Discrimination against the
transexual, transgender and
transvestite population in
Brazil" held before the IACHR
on October 2010.
Credit: Milli Legrain/CEJIL



One of the means used in this regard has been to undertake major efforts in terms of training, and the systematization and translation of information. Thus, CEJIL has published two compilations of jurisprudence: one on equality and nondiscrimination, and the other on gender-based violence.

The institution was also involved in lobbying efforts at both the Inter-American and worldwide levels for the protection of women's rights. One important action was to call attention to the absence of the issue of gender-based discrimination in the discussion of a draft OAS treaty on racism and other forms of discrimination beginning in 2005. At the universal level, CEJIL also provided technical support for the establishment of the rules of procedure of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1999. In 2008, CEJIL participated in the creation of the *International Initiative on Maternal Mortality and Human Rights*, a worldwide network seeking to raise the issue of maternal mortality as a human rights issue, which placed this issue on the agenda of the United Nations. This initiative was possible thanks to the joint efforts of various organizations working in the fields of health, women's rights, and academics.

One of the landmark cases of the 1990s, the case of *María Eugenia Morales de Sierra*, was litigated by CEJIL. This case broadened the opportunities for women to challenge discriminatory laws before the Inter-American System, thus developing to a greater extent the notion of "victim with a right of complaint." Guatemalan law, among



other things, allowed a husband to prohibit his wife from working. It also granted the man the right to manage marital property and to legally represent the married couple. The doctrine set forth in the case of *Morales de Sierra* was crucial in determining the standards of protection of women's rights in view of the domestic and workplace discrimination enshrined in an anachronistic civil code. The litigation of the case resulted in substantial amendments to the Guatemalan Civil Code. Another advance was made in 2002, through a friendly settlement in the case of *Carabantes v. Chile*, whereby a law was amended to allow adolescent girls to remain in school while pregnant and not be expelled for that reason. There are two cases currently pending that raise issues of discrimination; one deals with the marital property system in Chile and the other concerns Costa Rican employment laws that are prejudicial to women.

The State of Brazil signed a friendly agreement with Maria da Penha. Front row: Maria da Penha and Cid Gomes, Governor of the State of Ceará. Second row: Beatriz Affonso from CEJIL alongside two representatives from the Federal Government and the Attorney General from the state of Ceará at the time. Credit: CEJIL photo library





It was very exciting to receive the news that Brazil had been held internationally responsible [in my case]. Since then, my struggle has become focused (...) on changing Brazilian laws and ensuring respect for the human rights of women, as well as on expediting justice. My attacker's punishment came before the expiration of the statute of limitations in the case—that is, 19 years and 6 months after he nearly killed me—also as a result of international pressure. You at CEJIL, and CLADEM, my companion in this victory, have my gratitude.

-
*María da Penha,
Victim and Human
Rights Defender*

The case of *Simone Diniz v. Brazil* addressed the denial of a job to a woman based on the fact that she was of African descent. In 2006, *Simone Diniz* was the first racial discrimination case in Latin America decided by the IACHR. It paved the way for progress on the doctrine on discrimination, and called attention to the structural patterns of discrimination that permeate the justice system in Brazil, a country marked by social and racial inequality.

The Commission emphasizes to the Brazilian government that “the failure of the public authorities to go forward diligently and adequately with the criminal prosecution of the perpetrators of racial discrimination and racism creates the risk of producing not only institutional racism, in which the judiciary is seen by the Afrodescendant community as a racist branch of government, but is also grave because of the impact on society, insofar as impunity encourages racist practices.”

At the beginning of the 1990s, together with Raul Zaffaroni and Alicia Pierini, CEJIL litigated the case of *X and Y v. Argentina*, which sought to curtail undue vaginal inspections performed on visitors to prison centers. Years later, the decision in the case of *Maria da Penha v. Brazil*, submitted jointly by CEJIL and the Latin American and Caribbean Committee for the Defense of Women’s Rights (CLADEM), gave the IACHR the opportunity to apply the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Pará) for the first time. This contributed to the enactment of the so-called “Maria da Penha Law”, the first law on violence against women in Brazil, which provided for several public policy measures protecting women’s right to live free from violence. The European Court of Human Rights would later use this same case as a reference in the *Opuz v. Turkey* judgment.

In 2001, the IACHR decision in the case of the Tzeltal sisters, called the *González Pérez* sisters to protect their identity, developed the concept of rape as torture and the incompatibility of the exercise of military jurisdiction over such serious crimes. Nevertheless, the Mexican State’s failure to make progress on this issue led it to incur responsibility before the Inter-American Court again in 2010, in view of the rape of Mé’phaa indigenous women *Inés Fernández and Valentina Rosendo Cantú* by members of the Army, and the denial of justice when the case was submitted to the jurisdiction of a military court.

MZ v. Bolivia was an emblematic case involving rape committed by a civilian who went unpunished as a result of the discriminatory use of gender stereotypes by legal practitioners. The case resulted in a friendly settlement agreement that included several public policy measures that the Bolivian State has yet to implement.



The signing of the friendly settlement agreement that we—CEJIL, the Legal Office and CLADEM—reached in the Case of MZ is very significant for Bolivia because it established the notion that when judges violate human rights, those acts will not be completely forgotten and met with absolute impunity, that there are instances in which the State as such has to be accountable for the actions of its agents. And the judges as agents—I think that yes, at least now they are realizing that they are not so likely to go unpunished.

-
*Julieta Montaña,
Director of the Legal Office for Women in Cochabamba, Bolivia, and
institutional representative of the Advisory Board of the Latin American
and Caribbean Committee for the Defense of Women’s Rights
(CLADEM)*



I think that God put me in this place to know how to defend my rights and the rights of other women. And for me, I feel enormous satisfaction in coming to the Court, seeing the judges and the flags of the different countries. I know that a woman like me—well, no one in my situation has gone all the way to the Court.

Valentina Rosendo Cantú, Victim and Human Rights Defender

Another important friendly settlement was reached in the case of *Mamerita Mestanza v. Peru*, which dealt with the forced sterilization policy carried out against indigenous women during the Fujimori administration. In the settlement agreement, the Peruvian State pledged: “to change laws and public policies on reproductive health and family planning, eliminating any discriminatory approach and respecting women’s autonomy.”

One of issues that CEJIL has brought consistently before the IACHR and the Court has been the effect of stereotypes and myths on the insufficient response of the executive and judicial branches to isolated or endemic situations of discrimination and violence against women. The most relevant case in this respect is *González et al. (“Cotton Field”) v. Mexico*, which was litigated by the National Association of Democratic Lawyers (ANAD), the Latin American and Caribbean Committee for the Defense of Women’s Rights (CLADEM), the Citizens Network for Non-Violence and Human Dignity, and the Center for the Comprehensive Development of Women. In 2008, CEJIL and the International Reproductive and Sexual Health Law Programme of the University of Toronto, headed by international expert Rebecca Cook, filed an *amicus curiae* brief with the Inter-American Court to provide input that served the Court in its establishment of important case law on the subject:

“In this respect, the Inter-American Court of Human Rights has held that the culture of discrimination against women contributes to the fact that certain violations are not perceived at the outset as a significant problem requiring immediate and forceful action on the part of the relevant authorities.” Furthermore, the Court has recognized that the subjection of women to practices based on socially dominant and socially persistent gender stereotypes is exacerbated “when the stereotypes are reflected, implicitly or explicitly, in policies and practices and, particularly, in the reasoning and language of the judicial police authorities [...] The creation and use of stereotypes becomes one of the causes and consequences of gender-based violence against women.”

This theme is present in the pending cases that CEJIL is currently litigating with regard to femicide in Guatemala (*María Isabel Veliz Franco*) and Mexico (*Paloma Angélica Escobar and Silvia Arce*), as well as in the case of *Alba Lucía R.C.* in Colombia. In that case, the victim was given a lengthy prison sentence after being convicted under discriminatory standards of the murder of her stillborn infant. The case of *Elena Tellez Blanco v. Costa Rica* addresses the discrimination of women under the law and in practice in relation

to childcare services. In that case, the “substitute mothers” or “aunts” complained that they were required to work excessive shifts of up to 24 hours, from Monday to Sunday, with no set limit to their working hours or established time off, due to the fact that they are women.

In many Latin American countries, maternal mortality is a preventable social problem that costs thousands of women their lives every year. The mortality is caused by inequality and the disregard for the lives and rights of the poorest women in many healthcare systems. In 2008, as part of a thematic hearing, CEJIL submitted to the IACHR an analysis of maternal mortality as it relates to the international human rights obligations of the State. It is our conviction that the prevention of these deaths requires a human rights approach in which the Inter-American System could play a relevant role.

In 2010, the IACHR issued a report on maternal mortality entitled *Access to Maternal Health Services from a Human Rights Perspective*, which took CEJIL’s contributions into account.

Valentina Rosendo Cantú during an event held at the offices of WOLA in Washington D.C. in February 2011 where she spoke about her struggle for justice. Credit: Milli Legrain/CEJIL





On Thursday, August 25, 2005 my mother and I attended the ceremony at which the Official Coed Rural School of the “Mártires del Pueblo” community was named after my brother Marco Antonio Molina Theissen. [...] This would not have been possible if not for the actions of the bodies of the Inter-American System—the Inter-American Commission and the Court of Human Rights. The Inter-American System filled a vacuum in terms of justice for Marco Antonio and our family, and we were able to access the system thanks to the existence of CEJIL, its dedication, and commitment to those of us who have suffered persecution and a lack of protection by the State.

-
Lucrecia Molina, Sister of Marco Antonio Molina Theissen and Human Rights Defender

Two decades of commitment to the rights of children and adolescents

In these first two decades CEJIL has made significant contributions to respect for the enjoyment of children’s rights, carrying out a broad working agenda that has included bringing rules and standards into line with the then-new United Nations Convention on the Rights of the Child. This Convention brought about a paradigm shift in views on childhood and adolescence, recognizing the rights of children in the region and moving from a protective model to a model that guarantees rights. This change in the way childhood was viewed permeated CEJIL’s work with human rights defenders at the national level, as well as its publications, litigation strategy, and institutional agenda before the IACHR.

CEJIL made significant training efforts to encourage organizations involved in children’s rights to make use of the tools offered by international human rights protection. Thus, for example, dozens of seminars were held during the 1990s with organizations working on the issue throughout the Americas, with a view to publicizing the opportunities and tools the Inter-American System provided for the protection of this sector. From that time forward, CEJIL has made efforts to call attention to the vulnerability of children and adolescents in the Americas and the human rights violations they suffer. Accordingly, together with different local and specialized organizations, CEJIL identified representative cases that could be submitted to the Inter-American Commission. Thus, cases were submitted involving street children in Guatemala and Honduras; the housing of child detainees together with adults in Honduras; slave labor in Brazil; and sexual violence against indigenous women and girls in Mexico.

The submission of initial petitions to the IACHR began to bear fruit during the following decade, as the Commission began to decide cases and bring them before the Inter-American Court of Human Rights. This enabled the Court not only to develop comprehensive case law on the obligations of the States with regard to children and adolescents, but also to order reparations measures aimed at compensating the victims and their relatives and guaranteeing that similar acts not be repeated. In the space of a few short years, CEJIL and different organizations co-litigated cases involving xenophobia and discrimination in access to education and nationality in the Dominican Republic (case of *Yean and Bosico*); the deplorable conditions under which juvenile offenders were detained in Paraguay (case of

the *“Juvenile Reeducation Institute”*); the forced disappearance of children during the internal armed conflicts in Guatemala and El Salvador (case of *Molina Theissen* and the case of the *Serrano-Cruz Sisters*, respectively), and the forced recruitment of children by the Paraguayan military (case of *Vargas Areco*). CEJIL was also an active participant in the proceedings of Advisory Opinion 17, filing an *amicus curiae* brief, publicizing the issue with organizations from different countries, and taking part in the public hearing held by the Inter-American Court in 2002.

CEJIL’s extensive and longstanding joint working relationship with the organization Casa Alianza since 1994, particularly with its offices in Guatemala, Honduras and Nicaragua, deserves special attention. The connection between Casa Alianza and CEJIL has been very successful in combining the former’s vast knowledge about the status of children living in poverty and CEJIL’s expertise in international human rights law and experience litigating before the International System. One result of this alliance was the case against Guatemala known as the *Case of the “Street Children” (Villagrán-Morales et al.)*, which was the first case heard by the Inter-American Court that expressly involved the rights of children, and in which the Court held the State responsible for failing to meet its obligation to provide children with the protection they require under the international standards on the protection of children. The litigation of the case and the judgment issued by the Court opened up new perspectives on

Claudio Grossman, Dean of American University Washington College of Law and former president of the IACHR.
Credit: Milli Legrain/CEJIL



I had the experience of living with families of immigrants who had endured the deportation policies of the United States, and out of that came the case of Wayne Smith and Hugo Armendariz v. United States. In the Dominican Republic I worked with organizations such as MUDHA, and activists like Sonia Pierre. I lived side by side with the people, and I brought the messages of the Inter-American System to the Dominican State and to the United States. You feel like you are giving voice to the voiceless. You feel like you are taking those cases to the IACHR or to the Inter-American Court because the courts, the legislatures, have not provided adequate results for those victims. I think that being able to carry that voice, from those people, to be heard by the international community, is extremely important.

-
David Baluarte,
Practitioner-in-Residence at the International Human Rights Law Clinic at American University and former CEJIL Attorney

the protection of children, and exposed and publicized the patterns of “social cleansing” against children living in conditions of poverty and social exclusion. Additionally, in 2006 the Inter-American Court found the State of Honduras responsible for the murder of four young people living on the street, in a similar practice of “social cleansing” carried out by police and private security officers.

The case of *Servellón García et al.*, also known as “*Four Cardinal Points*”, (because of the locations at which the bodies of four young men detained and subsequently murdered by Honduran police were found) was also co-litigated by CEJIL and Casa Alianza-Honduras. This case brought to light the dramatic situation of the murders of poor youths (more than 5,000 in 12 years). In its judgment, the Inter-American Court stressed that, “...bearing in mind the principle of equality before the law and non-discrimination, the State cannot allow its agents to propagate, or promote societal practices that propagate the stigma that poor children and youths are prone to criminal behavior, or necessarily related to the increase in public insecurity.

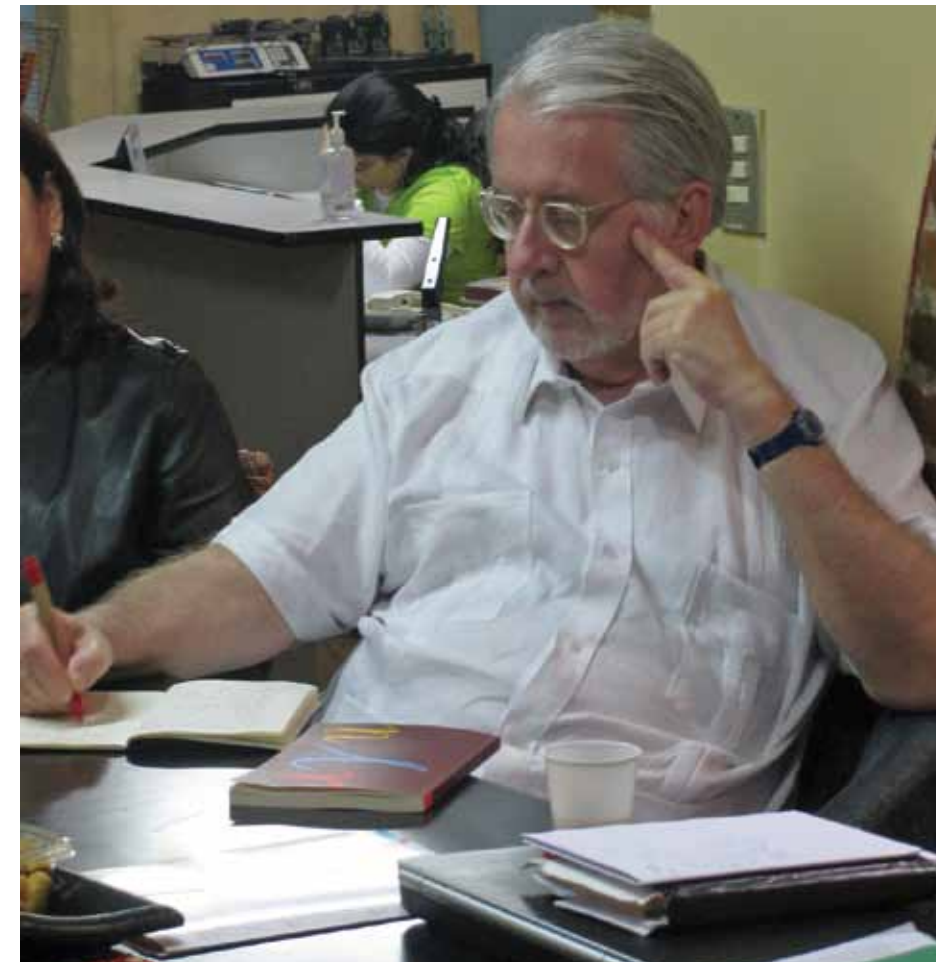


The case of Villagrán Morales v. Guatemala was not a case involving political violence. Rather, the issue was the murder of street children. Local merchants were paying the police to exterminate children. Exterminating children demonstrates all the horror of human rights violations. This case exposed the situation and, very importantly, told the story with authority.

*Claudio Grossman,
Dean of American University's Washington College of Law and former
President of the IACHR*

This stigmatization creates a climate in which at-risk children are more likely to face a latent threat that their lives or freedom might be unlawfully restricted.”

Casa Alianza and CEJIL's action was also fundamental in promoting the creation of a Rapporteurship on the Rights of the Child within the Inter-American Commission on Human Rights. During 2003 and 2004, a joint strategy was adopted in Central America together with human rights and children's rights organizations, with the aim of influencing the hard-line policies being advocated in the countries of the Northern Triangle (Guatemala, Honduras and El Salvador) against juvenile gang members. Beginning with several thematic hearings, the issue was brought to the attention of the IACHR Rapporteurship on the Rights of the Child, which conducted several visits to those countries in order to raise the awareness of the authorities and to document such policies. The information gathered served as important material for the subsequent *United Nations Study on Violence against Children* by independent expert Paulo Sérgio Pinheiro.



Commissioner Paulo Sérgio Pinheiro, Rapporteur of the IACHR on the Rights of the Child, during a meeting with children's organizations on November 2010.
Credit: CEJIL photo library

As a complement to those efforts, CEJIL formed a strategic alliance with Save the Children Sweden. Among other initiatives, under the auspices of that organization, in 2002 CEJIL published a guide for organizations specializing in children's rights entitled *Building Children's Rights in the Americas*. This publication—which was updated in 2007—was designed to offer an introduction to the tools of the Inter-American System and the mechanisms of the OAS for the promotion and protection of children's rights. Moreover, it included different practical examples and jurisprudence on the subject from both the IACHR and the Inter-American Court. This undertaking sought to encourage children's rights organizations to begin making greater use of the Inter-American System, which was in fact achieved in various countries in the region.

The thematic agenda developed in the interest of children included the right to live free from violence, the protection of the right to life and humane treatment, the right to education, the right to health, respect for due process guarantees in the criminal justice system, the right to an identity, and the right to family life. The agenda was a response to the growing violence in the region that affected adolescents disproportionately, as evidenced by patterns involving the execution of youths, torture and inhumane treatment at detention centers, and a lack of protection in the system responsible for the guardianship of "minors". Added to this are the effects of the repression on children during dictatorships and armed conflicts, in which victims have been disappeared, executed, and kidnapped. At the same time, CEJIL allocated part of its institutional resources to curtailing illegal adoptions, and promoting children's rights to education and an identity.

The social exclusion of indigenous and Garífuna peoples

CEJIL has worked with various indigenous and Garífuna communities in the Americas, supporting their demands of respect for the lives and humane treatment of their members, their land claims and land conservation, their social and political rights, their right to non-discrimination, and their right to culture. At the beginning of the 1990s, some indigenous and Garífuna communities started to become involved in the Inter-American System through the case system. During the subsequent decades, greater awareness was raised and standards were developed for the protection of the individual and collective rights of indigenous and Garífuna people and the communities to which they belong.

Members of the Sarayaku people alongside Luz Patricia Mejía and Karla Quintana, Commissioner and attorney for the IACHR, respectively; attorney Mario Melo and Viviana Krsticevic (CEJIL) following the hearing before the Inter-American Court of Human Rights in July 2011. Credit: Andrew Miller/Amazon Watch





The Case of Yatama v. Nicaragua was a case involving the denial of electoral rights to native peoples, indigenous people, basically because they were not conforming to the rules established by the government. Rather, they wanted to participate with their own customary rights, and that opened important doors in the Inter-American System for the recognition of indigenous people's rights.

*Soraya Long,
former Director
of CEJIL's Central
America and Mexico
Program*

CEJIL shifted from a perspective focused mainly on individual rights to one that addresses claims both individual and collective in nature. Some cases that illustrate this issue include the executions of indigenous people in Guatemala; the rape of *Inés and Valentina*, perpetrated by members of the Mexican military; the case of the Mapuche Werken (community spokesperson) Ancalaf, convicted of crimes considered terrorist offenses; the land claim in which CEJIL has provided support to the *Enxet Lamexay, Yakye Axa* and *Sarayaku* communities; the precautionary measures for the preservation of the sacred site *Tulam Tzu* in Guatemala; and the case of *López Alvarez v. Honduras*, which challenged the prohibition of the Garífuna language in detention centers.

As a result of the aforementioned cases, the framework of doctrine and case law on indigenous peoples in the Inter-American System has developed significantly, strengthening in turn the claims of indigenous peoples and the Garífuna communities. Along one of the most important lines of development, the Court defined its position in greater depth with regard to indigenous peoples' right to land and its connection to the preservation of the life, welfare, and culture of indigenous peoples in the case of *Yakye Axa v. Paraguay*, litigated by CEJIL and Tierra Viva. In addition, in the case of *Yatama v. Nicaragua*, the Court developed specific case law on the opportunity for indigenous peoples to preserve their identity and culture through effective participation in the electoral process.

Miskito lobster diver, La Mosquitia, Honduras.
Credit: Ojalá Comunicaciones



In the La Mosquitia region of Honduras, one of the main subsistence activities of the men who belong to the Miskito ethnic group is diving for lobster and shrimp. They perform this work with obsolete, poorly maintained equipment, without adequate training, and under unsafe conditions. This has resulted in the death of more than 400 divers and at least 4200 divers have been disabled. This situation is exacerbated by the fact that the Miskito divers whose rights to health and life are adversely affected by their diving activities have no social security or access to medical treatment, and lack effective administrative and/or judicial remedies that would enable them to assert their rights. CEJIL currently represents 43 Miskito divers whose human rights have been violated in this context.

Sarayaku

Indigenous communities have not only been threatened physically; their world view and culture have also been seriously affected. CEJIL and Tierra Viva co-litigated the case of the *Yakye Axa Indigenous Community v. Paraguay* (2005 IACHR judgment) on behalf of the Indigenous Peoples of the Chaco. In addition, the case of the *Kichwa People of Sarayaku v. Ecuador*, in which a judgment is expected by the end of 2011, was litigated by CEJIL, attorney Mario Melo, and the community itself. The Paraguayan case is related to the indigenous community's right to ancestral land. Its members had been kept in a state of deprivation with regard to their nutritional, medical, and health needs, as they were forced to live in a small area on the side of the road next to the ancestral land of which they had been dispossessed. The Ecuadoran case concerns the government's concession —without consultation or the consent of the community— of crude oil exploration and extraction rights on a piece of land in the Amazonian province of Pastaza, where the ancestral land of the Sarayaku people is located. This case represents an opportunity for the Inter-American System to set a precedent establishing the importance of prior consultation as a basic element for the protection and survival of indigenous peoples, and as such, for the protection of the rest of their rights. These litigation experiences demonstrate the relationship between the protection of the ancestral land of indigenous peoples, existing natural resources, and the guarantee of the various collective rights that are protected by international human rights law.





Some of CEJIL's core activities during its first 20 years sought to guarantee recognition of the right to democracy and the strengthening of democracy in the Americas. Our region, with the exception of Cuba, has maintained a commitment over the past 20 years to free, pluralistic, and periodic elections, and democracy as a political system benefitting the hemisphere's inhabitants has come to prevail. CEJIL's commitment to this area of work is inspired by a definition of democracy that includes the establishment of the rule of law and the attainment of States committed to the equality and dignity of their inhabitants.

Accordingly, the institutional commitment has sought not only to promote systems of inclusive political participation but also the building of States that ensure clear and predictable rules that provide certainty and guarantees to its citizens, and that make it possible to overcome the authoritarianism, exclusion, and inequality that has characterized the Americas.

A historical view of the development of democracy in our hemisphere reveals that States have traditionally rendered invisible large majorities with little or no access to political power.

The right to democracy



Iván Cepeda, human rights defender and son of Senator Manuel Cepeda Vargas, murdered in Colombia in 1994.
Credit: CEJIL photo library



Brooklyn Rivera, leader of Yatama, group of indigenous and ethnic communities of the Atlantic Coast of Nicaragua.
Credit: CEJIL photo library

CEJIL has contributed to the construction of more solid democratic institutions in the hemisphere through the litigation of cases. The case of *Carpio Nicolle v. Guatemala* (2004) exposed a political-military conspiracy that resulted in the assassination of a presidential candidate. One of the objectives of that case was for the Court to have a historic opportunity to send a clear and decisive message to the entire region about the importance of strengthening democracy and freedom of expression as central elements in the promotion and protection of human rights. Six years later, by litigating the case of the murder of Colombian Senator Manuel Cepeda Vargas (2010), we were successful in getting the Court to take account of the “necessary interrelation” of some human rights, particularly in the sphere of free speech and the exercise of democracy. Both cases demonstrate that threats and the deliberate lack of protection, motivated by participation in democratic forums, result in improper or unlawful restrictions or pressures on political rights, freedom of expression, and freedom of association, as well as in a violation of the rules of the democratic game.

The case of *Yatama v. Nicaragua* (2005) set a precedent with regard to the validity of political rights for indigenous people and communities. CEJIL and the Nicaraguan Human Rights Center (CENIDH) represented indigenous political party Yabti Tasba Masraka Nanih Asla Takanka (YATAMA) before the Inter-American Court after the Supreme Electoral Council of Nicaragua had arbitrarily denied him a spot on the ballot in the municipal elections of November 2000. In this case, the Court ordered Nicaragua to amend its Constitution and its election laws in order to guarantee the equitable political participation of indigenous persons, in a manner that takes account of their own traditions and customs. Among other things, the Court ordered the State to establish a judicial review process to supervise Supreme Electoral Council decisions with human rights implications, such as those involving issues of political participation. The *Yatama* decision has repercussions for the electoral systems of numerous countries in the hemisphere that need to adapt their laws to facilitate equal access for indigenous peoples or to guarantee access to justice in election disputes.

Democracy as a right: CEJIL’s participation in the establishment of the Democratic Charter

The recent history of dictatorships and civil wars in the Americas demonstrated the importance of recognizing democracy as a right and as a necessary condition for ensuring respect for human rights. Accordingly, CEJIL, together with a significant part of the human rights movement, has undertaken numerous actions to strengthen the notion of democracy as an internationally protected right, through human rights mechanisms and collective political responses in the States of the region.

During the 1990s, in light of the deterioration of democracy in Peru during the administration of President Fujimori, the need became evident for a tool with which to respond not only to coups d’état (like OAS General Assembly Resolution 1080 of 1991 on Representative Democracy) but also to other circumstances involving the serious erosion of democracy, such as the breakdown of the rule of law or mass human rights violations.

Once Peru began its transition to democracy, the new government promoted the establishment of a Democratic Charter, which was set forth in an essential document (though one not lacking in certain limitations) adopted by an Extraordinary Assembly of the OAS in Lima on September 11, 2001. CEJIL and other civil society organizations took part in preparatory discussions as well as in the dialogue event between foreign ministers and civil society, held in Lima just prior to the adoption of the Charter. The final document recognizes the right to democracy and adopts a substantive definition of democracy, defining it in terms beyond just a system of free, transparent, periodic, and pluralistic elections. It is an important political and legal step forward for the region. Nevertheless, the Democratic Charter establishes limited mechanisms for the OAS Member States to respond adequately to a coup d’état or an institutional crisis that seriously affects democratic order.

In 1998, CEJIL had already suggested that the Inter-American Commission itself should have a role in the collective debate regarding any serious institutional crisis or situation involving the significant deterioration of human rights that merits a collective political response in order to prevent or respond to the undermining of democracy. This proposal was taken up again by the Peruvian government in the drafting of the Democratic Charter; however, it was put aside in the end. Nevertheless, it is certainly still desirable today to move toward establishing a practice or a formal mechanism that would allow the IACHR to be involved in the political process of any collective response proposed within the OAS to the most serious breakdowns of the rule of law, coups d’état, or other circumstances that jeopardize democracy, in order to catalyze or contribute to the debate on the status of democracy.

Hearing before the IACHR following the coup in Honduras.

From left to right: Berta Oliva, Director of COFADEH; Marcia Aguiluz, CEJIL attorney; and Viviana Krsticevic, Executive Director of CEJIL.

Credit: CEJIL photo library

Building democracy also depends in good measure on political and social participation. Accordingly, CEJIL has pledged through its litigation work and influence in the Inter-American System to create guarantees for a broad, inclusive public debate and the effective political participation of minority positions. In this line of work, we note especially the numerous hearings before the IACHR on key issues involving freedom of expression in Venezuela, Brazil, Panama, and elsewhere.

Without a doubt, one of the guarantees of democracy is the categorical repudiation of coups d'état, and the taking of actions to encourage legal and political responses that reject the significant deterioration of democracy. Perhaps one of CEJIL's most important activities in this area has been its initiative to engage the decisive participation of the OAS and the States of the region in the defense of democracy.



Press release from CEJIL condemning the attempted coup against Hugo Chávez

The Center for Justice and International Law (CEJIL) issued a press release repudiating the April 11, 2002 coup d'état in Venezuela, the repression, and the attempted dismantling of institutions that followed.

CEJIL expressed “its concern over Mr. Pedro Carmona’s assumption of power and the detention of President Hugo Chávez” as well as over “the information received about the multiple searches and arrests that have occurred over the course of the past two days.” Accordingly, the statement affirms that “CEJIL agrees with the declaration of the Heads of State and Government of the Rio Group assembled Costa Rica, which condemns the interruption of the constitutional order in Venezuela and requests the intervention of the Organization of American States.

Specifically, the Rio Group asked the Secretary General of the OAS to convene an extraordinary session of the OAS Permanent Council in order to perform a collective assessment of the situation and to make the decisions it deems appropriate. The foregoing applies, for the first time, the Inter-American Democratic Charter adopted by the OAS General Assembly in its Twenty-eighth Period of Sessions on September 11, 2001 in Lima, Peru, which recognizes that representative democracy is indispensable for the stability and peace of the region.” Signed by Executive Director Viviana Krsticevic on April 13, 2002.



Coup in Honduras



Because of its historical importance and its implications for democracy and human rights, the June 28, 2009 coup d'état in Honduras deserves special attention in looking back on CEJIL's work. This event signified a setback of decades in the consolidation of the rule of law, democratic institutions, and respect for human rights in the Americas. The *de facto* government's first decision was to order the suspension of constitutional guarantees, which was accompanied by the censorship of critical media outlets, the repression of peaceful opposition protests, and the excessive and disproportionate use of force.

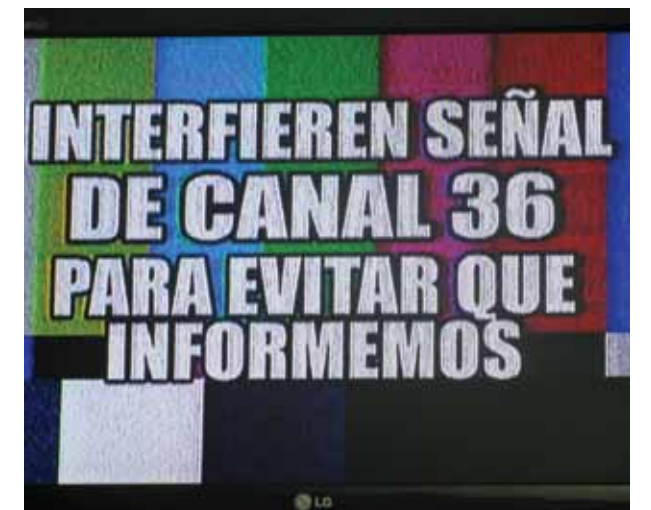
When called upon to exercise checks and balances, the institutions responsible for guaranteeing human rights caved to those in favor of the coup. Those who should have been protecting human rights ignored the complaints that were filed. The Supreme Court of Honduras, the Public Prosecutor's Office, the Legislative Branch, and even the National Human Rights Commissioner were tolerant of the acts of the *de facto* government and its security forces, and were shamefully ineffective in guaranteeing the protection of human rights and preventing the repetition of abuses and impunity.

Beginning on Sunday, June 28, 2009, CEJIL undertook a variety of actions to document human rights violations, support and work jointly with local organizations to protect the rights of at-risk individuals, learn on the ground about the positions of different actors in the conflict, request precautionary measures from the IACHR, issue alerts, hold training workshops for human rights

defenders, organize debate forums, report, denounce, and exert influence on the Inter-American System and the international community, all for purposes of advocating the restoration of the constitutional order.

On the day of the coup, CEJIL sponsored and released a joint statement together with 70 other civil society organizations from 17 countries condemning the break in the constitutional order, and requested that the IACHR grant precautionary measures to protect the physical safety of those being persecuted by the *de facto* government. From July 17 - 26, CEJIL was part of a mission of the International Observatory on the Human Rights Situation in Honduras (OISDHHN), made up of 17 organizations from the Americas and Europe. The mission verified serious human rights violations on the ground, including the deaths of demonstrators opposing the coup, the excessive and unjustified use of force against peaceful protests, arbitrary detentions, and numerous acts of harassment against the opponents of the *de facto* government. As a result of that visit, on August 7, the OISDHHN presented its report in a special hearing before the IACHR in Washington D.C. In addition to CEJIL, the Center for Research and Promotion of Human Rights (CIPRODEH) and the Center for Women's Rights (CDM) also participated in representation of Honduran organizations. That hearing provided important input for the visit that the IACHR made to Honduras several weeks later. CEJIL subsequently provided support to the local human rights organizations so they could take full advantage of the Commission's visit and of the forums available at the United Nations.

Channel 36 studios were occupied by the military and its signal was taken off the air to prevent it from broadcasting information about the coup in Honduras. Credit: CEJIL photo library



Harassment and censorship of the media

Freedom of expression was one of the rights most affected by the breakdown of constitutional order. Media outlets that publicized information critical of the coup, such as *Radio Progreso*, *Canal 36*, *Radio La Catracha*, *Radio Globo* and *Cbolusat Sur*, *Radio Uno*, among others, were harassed, threatened, and censored, and some even had their recording and broadcasting equipment seized. CEJIL requested precautionary measures to protect the freedom of expression of numerous members of the media, as well as their physical safety, and was able to secure protection for various journalists. CEJIL's efforts also resulted in the IACHR's ordering the State of Honduras to return the equipment seized from several media outlets, with which the *de facto* government complied.

In addition, one of the innovative strategies that CEJIL employed to provide greater support to human rights defenders and journalists in Honduras was to start a blog, since there was a media blockade in Honduras that prevented the reporting of events. CEJIL's blog was active for several months, and is still available on our website.

Effective protection from the threats of the coup

Given the vulnerable situation that many people faced during the coup in Honduras, CEJIL worked arduously in coordination with several local human rights organizations to identify at-risk individuals and secure their protection by requesting numerous precautionary measures. In total, CEJIL managed to have such measures granted for approximately 60 individuals, including former government employees who served under President Zelaya Rosales, human rights defenders, educators, environmentalists, journalists, judiciary employees, peasants, and community leaders.

Additionally, CEJIL formed various strategic alliances with organizations that could provide recommendations and share their knowledge and experience with human rights defenders in Honduras. Thus, in October 2009, a workshop on personal safety training for human rights defenders was held in conjunction with the National Coordinator of Human Rights of Peru and the Guatemalan Human Rights Defenders Protection Unit (UDEFEQUA). Later, during 2010 and 2011, several thematic hearings were requested in order to address the situation of human rights defenders and journalists, as well as the failure to adequately implement the dozens of precautionary measures granted by the IACHR in the wake of the coup. It was precisely the absence of adequate protection for human rights defenders and journalists that caused the Inter-American Court to adopt provisional measures in the second half of 2010 with respect to human rights defender Gladys Lanza, journalist Luis Galdámez, and their relatives.

The defense of democracy beyond the Americas and raising awareness in the international community

At the end of 2009 it became clear that the Honduran institutions had failed to protect the people within their jurisdiction. Therefore, CEJIL took a number of steps to not only provide information to the IACHR about what was happening in the country but also to use the mechanisms of the universal system to call attention to the issue and, as such, to have a greater impact on the protection of Hondurans.

Together with the Association of Judges for Democracy (AJD), CEJIL met with different United Nations rapporteurs at the end of 2009. Moreover, it forwarded information to the rapporteur on torture; the rapporteur on freedom of expression; the rapporteur on the situation of human rights defenders; the rapporteur on the independence of judges and lawyers, and to the group on arbitrary detention. During 2010, it undertook several actions pertaining to the Universal Periodic Review (UPR) of Honduras, including sponsoring informational workshops for local organizations, submitting input to the UN Human Rights Council, participating in the "UPR Strategic Group," and lobbying European embassies in Honduras and various missions in Belgium. Consequently, several of the issues advocated by CEJIL were again taken up in the UPR's recommendations to the Honduran State.



Our visit [to Honduras] was made subsequent to the coup d'état, although it had been planned earlier [...] CEJIL has provided us with very important assistance in preparing for the visits, in carrying them out, and in conducting follow-up afterwards.

*Mario Coriolano,
Vice President of the UN Subcommittee on the
Prevention of Torture.*

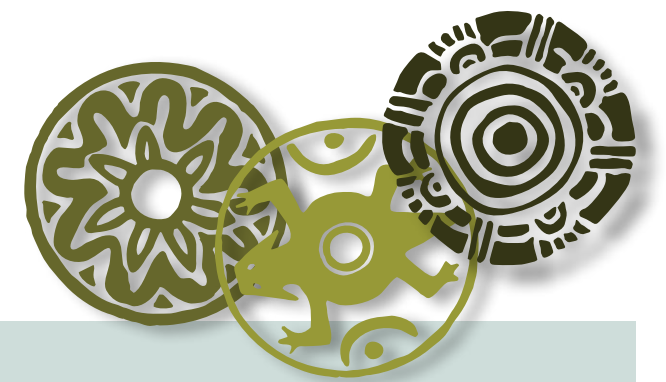
Executive Director Viviana Krsticevic (left) and CEJIL attorney, Marcia Aguiluz (right), alongside Honduran judge Tirza Flores (middle), prepare a meeting with the Director of the U.S Law Library of Congress on the coup d'état in Honduras
Credit: CEJIL photo library

In addition, CEJIL put together several studies that contained objective assessments of policies, agreements, and documents produced in relation to the coup d'état. Particularly notable are a critical document on the conclusions issued by the United States Library of Congress; the proposal of a series of conditions for the potential readmission of Honduras to the OAS; the evaluation of the Guaymuras Accord (set forth at a public hearing before the IACHR); a detailed evaluation of the executive order establishing the Truth Commission, and the document read during the June, 2010 appearance before the Sub-Committee on Hemispheric Affairs of the United States Congress.



Finally, CEJIL addressed several letters—individually and together with other organizations—to different political actors, including the Secretary General of the OAS, representatives of trade blocs in the Americas (CARICOM, UNASUR and SICA), as well as President Felipe Calderón, Secretary of State Hillary Clinton, and Canadian Prime Minister Stephen Harper. A letter was also sent to the United Nations High Commissioner for Human Rights to advocate the opening of a country office in Honduras with a mandate similar to those of the other offices established in other countries in the hemisphere.

From the time of the coup in June 2009 to the readmission of Honduras to the OAS on June 1, 2011, CEJIL issued a total of 76 press releases and statements with allied organizations speaking out about the complex set of problems in that country. Those messages amounted to more than a third of the public communiqués issued by CEJIL for the Americas during this period, and they were picked up by the main news agencies (EFE, AFP, AP, DPA, IPS, Reuters, Notimex, Telam) and reproduced in dozens of media outlets in the Americas and Europe. In total, there were 211 recorded news items that incorporated messages from CEJIL in 2009, 126 in 2010, and 52 in 2011, up until the readmission of Honduras to the OAS. CEJIL also sponsored press conferences and participated as a critical voice in various interviews in the print media and on radio and television, both in Honduras and in media outlets with coverage throughout the hemisphere.



Strengthening democratic institutions

The quality of democracy also depends upon strengthening a democratic institutional culture that fosters the development of individuals and groups in pluralistic States. Along those lines, CEJIL has taken steps to point out serious institutional shortcomings in various countries of the region. It has also taken initiatives intended to strengthen the action of the Judiciary in guaranteeing civil, political, economic, cultural, and social rights.

Through some of its actions, CEJIL has obtained changes in domestic legal systems as well as in the way in which those changes are understood and implemented when it comes time to serve justice and/or design and implement policies, thus helping to shape a different understanding of democracy. These achievements most notably include contributions to the reform of military justice and the abolition of the legal concept of criminal defamation (*desacato*) in Argentina, the repeal of part of the laws that restricted freedom of expression in Panama, and the amendment of the Chilean constitution.

Benjamín Cuéllar at a demonstration during the OAS General Assembly in San Salvador in June 2011. Credit: Gabriela Hernández



Strengthening the capacity of justice systems to respond to gross human rights violations

During these first two decades of work, CEJIL has conducted numerous activities—discussion groups, trainings, workshops, adversarial cases, hearings before the Inter-American Commission, publications—designed to strengthen the capacity of justice systems to respond adequately to the most persistent human rights violations in the region. Two lines of work stand out particularly among these initiatives: one designed to foster diligent investigations and appropriate punishments for serious human rights violations in the criminal context; and another that intends to overcome the discriminatory response and the impunity that has characterized the response of justice systems to violence against women.

Examples of those initiatives include the publication, among other specialized publications, of a manual of *Due Diligence in the Investigation of Gross Human Rights Violations* in 2010; the dissemination of the international standards on amnesties in the newsletter of the Association of Judges for Democracy in Brazil; the translation into Portuguese of international judgments on children's rights, which were previously unpublished in that language; dozens of training and discussion activities, including a joint seminar with Yale University on the principle of *non bis in idem* with key actors in the Colombian judiciary; the workshops conducted in Argentina on gender-based violence in 2009, and training sessions for public defenders in Mexico.

