

15th World Human Rights Moot

Court Competition

20 May to 21 July 2023

Geneva, Switzerland

IN THE MATTER BETWEEN

CABUDURA AND MR. LETTERS FOCUS

AND

VARANUS ISLANDS

MEMORIAL FOR THE APPLICANT

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Claim A: The expropriation of Focus Farm and Letter Main Temple without compensation and the refusal to compulsorily licence MdarahVac were inconsistent with IHRL **45**

I. The expropriation of Letters' lands violated his right to property, in conjunction with freedom of religion, the prohibition of discrimination and the right to an effective remedy

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TABLE OF ABBREVIATIONS

ACommHPR	African Commission on Human and People's Rights
ACtHPR	African Court on Human and People's Rights
CAT	Committee against Torture
CC	Constitutional Court
CCPR	Human Rights Committee
CESCR	Committee on Economic, Social and Cultural Rights
CJEU	Court of Justice of the European Union
CMW	Committee on the Protection of the Rights of All Migrant Workers
CRC	Committee on the Rights of the Child
ECommHR	European Commission of Human Rights
ECtHR	European Court of Human Rights
EDPB	European Data Protection Board
ESCR	Economic, social and cultural rights
Focus	Mr. Letters Focus
FocusDefence	FocusDefence PLC
Guru	Chief Justice Dare Guru
HC	High Court

HR	Human Rights
HRC	Human Rights Council
IACommHR	Inter-American Commission of Human Rights
IACTHR	Inter-American Court of Human Rights
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the former Yugoslavia
IHL	International Humanitarian Law
IHRL	International Human Rights Law
ILC	International Law Commission
IP	Intellectual property
IT	Information Technology
KHRC	Komodoen Human Rights Court
KU	Komodoen Union
MdarahPharma	Mdarah Pharma
NGO	Non-Governmental Organisation
NZSC	New Zealand Supreme Court
OASSRExpression	Office of the Special Rapporteur on Freedom of Expression of the

	Organisation of American States
OHCHR	Office of the United Nations High Commissioner for Human Rights
R&D	Research and development
REDESCA	Special Rapporteurship on Economic, Social, Cultural and Environmental Rights of the Inter-American Commission on Human Rights
SC	Supreme Court
SRCultural	United Nations Special Rapporteur in the Field of Cultural Rights
SRPeacefulAssembly	United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association
SRPrivacy	United Nations Special Rapporteur on the Right to Privacy
SRReligion	United Nations Special Rapporteur on freedom of religion or belief
SRTorture	United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
SRTransnationalCorporations	Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises
TRIPS	WTO Agreement on Trade-Related Aspects of Intellectual Property Rights
UN	United Nations

UN&16	United Nations, IOM, ITU, OCHA, OHCHR, UNDP, UNEP, UNESCO, UNFPA, UNHCR, UNICEF, UNOPS, UPU, UN Volunteers, UN Women, WFP and WHO
UNCHR	United Nations High Commissioner for Refugees
UNCommHR	United Nations Commission on Human Rights
UNEP	United Nations Environment Programme
UNGA	United Nations General Assembly
UNSG	United Nations Secretary General
UNWGBusinessHR	United Nations Working Group on Business and Human Rights
VI	Varanus Islands
WGAD	Working Group on Arbitrary Detention
WGETI	Arms Trade Treaty's Working Group on Effective Treaty Implementation
WHO	World Health Organisation

TABLE OF AUTHORITIES

I. TREATIES AND DECLARATIONS

ATT	Arms Trade Treaty.
CRSR	Convention Relating to the Status of Refugees.
CWC	Chemical Weapons Convention.
DohaTRIPS	Doha Declaration on The Trips Agreement and Public Health.
ECHR	European Convention on Human Rights, 04/11/1950.
Faith4Rights	Beirut Declaration on “Faith for Rights”.
ICCPR	International Covenant on Civil and Political Rights, 16/12/1966.
ICESCR	International Covenant on Economic, Social and Cultural Rights, 16/12/1966.
P1ECHR	Protocol No. 1 to the European Convention on Human Rights.
PACHPR	Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court of Human and Peoples’ Rights.
PACHR-ESCR	Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights.
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights.
UDHR	Universal Declaration of Human Rights.
UNCharter	United Nations Charter.
UNDRIP	United Nations Declaration on the Rights of Indigenous People.

UNESCO- UniversalDeclaration BioethicsHR	UNESCO, Universal Declaration on Bioethics and Human Rights, SHS/EST/BIO/06/1, SHS.2006/WS/14, 19/10/2005.
UNGA-NYDeclaration	New York Declaration for Refugees and Migrants, A/RES/71/1, 03/10/2016.
UNGA-Religion	Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, General Assembly, Resolution 36/55, 1981.
VCLT	Vienna Convention on the Law of the Treaties, 23/05/1969.

II. UNITED NATIONS

Treaty bodies

Committee Against Torture (CAT)

CAT-Agiza	Ahmed Hussein Mustafa Kamil Agiza v. Sweden, CAT/C/34/D/233/2003, 24/05/2004.
CAT-GC4	General comment No. 4 on the implementation of article 3 of the Convention in the context of article 22, CAT/C/GC/4, 04/09/2018.

Committee on Economic, Social and Cultural Rights (CESCR)

CESCR-GC14	General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), E/C.12/2000/4, 11/08/2000.
CESCR-GC17	General Comment No. 17: The Right of Everyone to Benefit from the

	Protection of the Moral and Material Interests Resulting from any Scientific, Literary or Artistic Production of Which He or She is the Author (Art. 15, Para. 1 (c) of the Covenant), E/C.12/GC/17, 12/01/2006.
CESCR-GC24	General Comment No. 24: State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, E/C.12/GC/24, 10/08/2017.
CESCR-GC25	General comment No. 25: Science and economic, social and cultural rights (article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/25, 30/04/2020.
CESCR-GC26	General Comment No. 26: Land and Economic, Social and Cultural Rights, E/C.12/GC/26, 22/12/2022.
CESCR-Israel	Concluding observations, Consideration of reports submitted by States Parties under Articles 16 and 17 of the Covenant, Israel, E/C.12/1/ADD.90, 5-23/05/2003.
CESCR-UK	Concluding observations on the 6th periodic report of the United Kingdom of Great Britain and Northern Ireland, E/C.12/GBR/CO/6, 14/07/2016.
CESCR- UniversalAffordableV accinationCOVID	Statement on universal affordable vaccination for COVID-19, international cooperation and intellectual property, E/C.12/2021/1, 12/03/2021.

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) and Committee on the Rights of the Child (CRC)

CMW&CRC-GC4	Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, CMW/C/GC/4, 16/11/2017.
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Human Rights Committee (CCPR)

CCPR-DerogationsCOVID	Statement on derogations from the Covenant in connection with the COVID-19 pandemic, CCPR/C/128/2, 30/04/2020.
CCPR-GC16	General Comment No. 16, Article 17 (Right to Privacy). The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation, HRI/GEN/1/Rev.9, 08/04/1988.
CCPR-GC22	General Comment 22, Article 18 (Freedom of Thought, Conscience or Religion), CCPR/C/21/Rev.1/Add.4, 30/07/1993.
CCPR-GC31	General Comment No. 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, 26/05/2004.
CCPR-GC36	General Comment No. 36, Article 6 (right to life), CCPR/C/GC/36, 03/09/2019.
CCPR-LopezBurgos	Delia Saldias de Lopez v. Uruguay, Communication No. 52/1979,

	CCPR/C/OP/1 at 88 (1984), 29/07/1981.
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United Nations organs and specialised agencies

Human Rights Council (HRC)

HRC-ArmsTransfers	Impact of arms transfers on human rights, A/HRC/RES/32/12, 15/07/2016.
HRC-ClimateChange	Human rights and climate change, A/HRC/RES/50/9, 14/07/2022.
HRC-Privacy	The right to privacy in the digital age, A/HRC/RES/34/7, 07/04/2017.

International Court of Justice (ICJ)

ICJ-Genocide	Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), 26/02/2007.
ICJ-Nuclear	Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, 08/07/1996.
ICJ-Wall	Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 9/7/2004.

International Law Committee (ILC)

ARSIWA	Draft articles on Responsibility of States for Internationally Wrongful Acts, A/56/10, 2001.
ARSIWACommentary	Draft articles on Responsibility of States for Internationally Wrongful Acts with commentaries, 2001.
ILC-	Draft principles on protection of the environment in relation to armed

Environment&Armed Conflicts	conflicts, 2022.
ILC-Transboundary	Draft articles on Prevention of Transboundary Harm from Hazardous Activities with commentaries, 2001.

Office of the High Commissioner on Human Rights (OHCHR)

OHCHR- A/HRC/27/37	The right to privacy in the digital age, A/HRC/27/37, 30/06/2014.
OHCHR- A/HRC/39/29	The right to privacy in the digital age, A/HRC/39/29, 03/08/2018.
OHCHR- A/HRC/48/31	The right to privacy in the digital age, A/HRC/48/31, 13/09/2021.
OHCHR- ArmsTransfers	Impact of arms transfers on the enjoyment of human rights, A/HRC/35/8, 03/05/2017.
OHCHR- GuidanceCOVIDEme rgencyMeasures	Emergency measures and COVID-19: Guidance, 27/04/2020.
OHCHR- HRAccessCovidVacci nes	Guidance on Human Rights and Access to Covid-19 Vaccines, 17/12/2020.
OHCHR- HRAccessVaccines	Human Rights and Access to Covid-19 Vaccines, 17/12/2020.

United Nations Environmental Programme (UNEP)

UNEP- Environment&Armed Conflict	Protecting the Environment During Armed Conflict: An Inventory and Analysis of International Law, 2009.
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United Nations General Assembly (UNGA)

UNGA-Privacy	The right to privacy in the digital age, A/RES/71/199, 25/01/2017.
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United Nations High Commissioner for Refugees (UNHCR)

UNHCR- Conflict&Famine	Legal considerations on refugee protection for people fleeing conflict and famine-affected countries, 05/04/2017.
UNHCR-Detention	Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers, UNHCR/IOM/22/99/Rev.1, 26/02/1999.
UNHCR- ExtraterritorialApplica tionNR	Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 26/01/2007.
UNHCR- InternationalProtectio n	Guidelines on International Protection No. 12: Claims for refugee status related to situations of armed conflict and violence under Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees and the regional refugee definitions, HCR/GIP/16/12, 02/12/2016.

United Nations Security Council (UNSC)

UNSC-Israel	Report of the Security Council Commission established under
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	resolution 446 (1979) (S/13450), para. 241. Official Records of the General Assembly, Second Session, Supplement No. 11 (A/364), Recommendation V. Holy places and religious interests.
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United Nations Secretary General (UNSG)

UNSG-Chemical	Chemical and bacteriological (biological) weapons and the effects of their possible use, A/7575/Rev.I, 1969.
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World Health Organisation (WHO)

WHO-GuidanceAI	Guidance on Ethics and governance of artificial intelligence for health, 2021.
WHO-HealthData	Health Data as a global public good – a call for Health Data Governance, 29/09/2021.

Special Procedures of the Human Rights Council

Special Rapporteur in the field of cultural rights

SRCultural-A/70/279	Report on patent policy and the right to science and culture, A/70/279, 04/08/2015.
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SRReligion-E/CN.4/2005/61	Report of Asma Jahangir, Special Rapporteur on freedom of religion or belief, E/CN.4/2005/61, 20/12/2004.
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SRPrivacy-A/74/277	Report of the Special Rapporteur on the right to privacy, A/74/277, 05/08/2019.
SRPrivacy-A/77/196	Principles underpinning privacy and the protection of personal data, A/77/196, 20/07/2022.
SRPrivacy-A/HRC/49/55	Report of the Special Rapporteur on the right to privacy, A/HRC/49/55, 13/01/2022.

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SRTorture-A/HRC/37/50	Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/37/50, 23/11/2018.
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Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises

UNGP	Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework; A/HRC/17/31, 21/03/2011.
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United Nations Working Group on Arbitrary Detention

WGAD-Migrants	Revised Deliberation No. 5 on deprivation of liberty of migrants, A/HRC/39/45, 07/02/2018.
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United Nations Working Group on Business and Human Rights

UNWGBusinessHR- ArmsBusiness	Responsible business conduct in the arms sector: Ensuring business practice in line with the UN Guiding Principles on Business and Human Rights, Information Note, 30/08/2022.
UNWGBusinessHR- Conflict	Report on business, human right and conflict-affected regions: towards heightened action, A/75/212, 21/07/2020.

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African Commission on Human and Peoples' Rights (ACommHPR)

Decisions

ACommHPR- ArmedActivitiesCong o	Democratic Republic of the Congo v. Burundi, Rwanda and Uganda, Communication No. 227/99, Decision, 29/05/2003.
ACommHPR- Article19	Article 19 v. State of Eritrea, Communication No. 275/2003, Decision, 30/05/2007.
ACommHPR- Association	Association of Victims of Post Electoral Violence & Interights v. Cameroon, Communication No. 272/2003, Decision, 11-25/11/2009.
ACommHPR- EIPR&Interights	Egyptian Initiative for Personal Rights (EIPR) & Interights v, Egypt, Communication No. 323/2006, Decision, 16/12/2011.
ACommHPR-Jawara	Jawara v. Gambia, Communication Nos. 147/95 and 149/96, Decision, 11/05/2000.

ACommHPR-Lsz	Law Society of Zimbabwe et al v. Zimbabwe, Communication No. 321/2006, Decision, 1/02/2016.
ACommHPR-Malawi	Malawi African Association and others v. Mauritania, Communication No. 54/91, Decision, 11/05/2000.
ACommHPR-Purohit	Purohit and Anor v. Gambia, Communication No. 241/2001, 29/05/2003.
ACommHPR-SalehAl-Asad	Mohamed Abdullah Saleh Al-Asad v the Republic of Djibuti, Communication No. 383/10, Decision on Admissibility, 14/10/2014.
ACommHPR-SERAC	Social and Economic Rights Action Center & the Center for Economic and Social Rights v. Nigeria, Communication No. 155/96, 27/05/2002.
ACommHPR-Shumba	Gabriel Shumba v Zimbabwe, Communication No. 288/04, Decision on Merits, 02/05/2012.
ACommHPR-Anuak	Anuak Justice Council v. Ethiopia, Communication No. 299/05, Decision, 25/05/2006.

Others

ACommHPR-FreedomofExpression	Declaration of Principles of Freedom of Expression and Access to Information in Africa, 10/11/2019.
ACommHPR-GC3	General Comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4), 18/11/2015.
ACommHPR-PrinciplesESCR	Guidelines and Principles on Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (Nairobi

	Guidelines), 2010.
ACommHPR-TunisReportingGuidelines	State Party Reporting Guidelines for Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (Tunis Reporting Guidelines).

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ACtHPR-Ajavon2019	Sébastien Germain Ajavon v. Republic of Benin, Application No. 013/2017, Judgment on merits, 29/03/2019.
ACtHPR-Ajavon2020	Sébastien Germain Marie Aïkoué Ajavon v. Republic of Benin, Application No. 062/2019, Judgment on merits and reparations, 4/12/2020.
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ACtHPR-Elisamehe	Kalebi Elisamehe v. United Republic of Tanzania, Application No. 028/2015, Judgment on merits and reparations, 26/06/2020.
ACtHPR-Gihana	Gihana and others v. Rwanda, Application No. 017/2015, Judgment on merits and reparations, 28/11/2019.
ACtHPR-Konaté	Lohé Issa Konaté v. Burkina Faso, Application No. 004/2013, Judgment on merits and reparations, 5/12/2014.
ACtHPR-Mtikila	Reverend Christopher Mtikila v. United Republic of Tanzania,

	Application No. 011/2011, Judgment on reparations, 13/06/2014.
ACtHPR-Mugesera	Leon Mugesera v. Republic of Rwanda , Application No. 012/2017, Judgment on merits and reparations, 27/11/2020.
ACtHPR- Noudehouenou	Houngue Eric Noudehouenou v. Republic of Benin, Application No. 003/2020, Judgment on merits and reparations, 4/12/2020.
ACtHPR-Ogiek	African Commission on Human and Peoples' Rights v. Republic of Kenya, Application No. 006/2012, Judgment on merits and reparations, 26/05/2017.
ACtHPR- OnyangoNganyi	Wilfred Onyango Nganyi & 9 others v. United Republic of Tanzania, Application No. 006/2013, Judgment, 18/03/2016.
ACtHPR-TLS	Tanganyika Law Society and the Legal and Human Rights Centre v. The United Republic of Tanzania, Application No. 009/2011, Judgment on preliminary objections, admissibility, merits, reparations and costs, 14/06/2013.
ACtHPR-XYZ	XYZ v. Republic of Benin, Application 059/2019, Judgment on preliminary objections, admissibility, merits, reparations and costs, 27/11/2020.

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Contentious cases

ECtHR-AA	A.A. v. Greece, Application No. 12186/08, Judgment on Merits and Just Satisfaction, 22/07/2010.
ECtHR-Abdolkhani	Abdolkhani and Karimnia v. Turkey, Application No. 30471/08, Judgment on Merits and Just Satisfaction, 22/09/2009.
ECtHR-AGOSI	AGOSI v. the United Kingdom, Application No. 9118/80, Judgment on Merits and Just Satisfaction, 24/10/1986.
ECtHR-AirCanada	Air Canada v. the United Kingdom, Application No. 18465/91, Judgment on Merits and Just Satisfaction, 05/05/1995.
ECtHR-AlfaGlass	Alfa Glass Anonymi Emboriki Etairia Yalopinakon v. Greece, Application No. 74515/13, Judgment on Merits and Just Satisfaction, 28/01/2021.
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ECtHR-AISkeini	Al-Skeini and Others v. the United Kingdom, Application No. 55721/07, Judgment on Merits and Just Satisfaction, 07/07/2011.
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ECtHR-Arcuri	Arcuri and Others v. Italy, Application No. 52024/99, Decision, 05/07/2001.
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ECtHR-Chiragov	Chiragov and others v. Armenia, Application No. 13216/05, Judgment on Just Satisfaction, 12/12/2017.
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ECtHR-Denisov	Denisov v. Ukraine, Application No. 76639/11, Judgment on Merits and Just Satisfaction, 25/09/2018.
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ECtHR-Georgiall	Georgia v. Russia (II), Application No. 38263/08, Judgment on Merits, 21/01/2021.
ECtHR-GIEM	G.I.E.M. S.R.L. and Others v. Italy, Applications No. 1828/06 34163/07 19029/11, Judgment on Merits, Grand Chamber, 28/06/2018.
ECtHR-Grieves	Grieves v. the United Kingdom, Application No. 57067/00, Judgment on Merits and Just Satisfaction, Grand Chamber, 16/12/2003.
ECtHR-Hentrich	Hentrich v. France, Application No. 13616/88, Judgment on Merits, 22/09/1994.
ECtHR-HolyMonasteries	The Holy Monasteries v. Greece, Applications No. 13092/87 and 13984/88, Judgment on Merits and Just Satisfaction, 09/12/1994.
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SUMMARY OF FACTS

Varanus Islands (VI) is an independent nation in the Komodoen Continent (KC), member of the UN and the Komodoen Union (KU). It has ratified all international human rights treaties and their protocols, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, all UN disarmament and arms control treaties, and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Varanidae and Mero are also independent KC nations. Along the border between VI and Varanidae there is a disputed land known as the Drago-Zone. Although both nations claim ownership over it, VI military exercises law and order in the territory.

In Varanidae there has been an ongoing deadly civil war. Mero has been accused by international organisations of illicitly supplying weapons to the rebel groups in Varanidae. For decades, VI provided weapons to both States, through its Government and through the private company FocusDefence PLC.

An extensive report by CABUDURA in 2017 showed that VI's arms trade has immensely contributed to the prolonged war and consequent refugee crisis in Varanidae. The report revealed that VI has not only provided conventional weapons but also chemical weapons. The use of these weapons has had a devastating impact on the natural environment, causing deforestation, climate change, water contamination, grave damage to agriculture and severe famine in Varanidae.

War, famine and environmental degradation in Varanidae led to a massive and ongoing refugee crisis, with thousands of people having to flee their country in search of protection. CABUDURA, an NGO registered in VI, has lodged more than a hundred complaints against governmental policies on arms trade and its treatment of Varanidaens who managed to reach VI. However, out of 119 cases, CABUDURA only won 13.

By 2019, around 39,000 refugees, most of them women and children, remained stranded in the Drago-Zone since VI has consistently refused to allow anyone enter

innerland VI. VI did not only deny that they were refugees but also rejected any responsibility for them. Also, the VI military regularly arrests and forcibly returns refugees fleeing Varanidae, fighting away groups who attempt to cross through the Drago-Zone.

The UNHCR has issued several reports detailing the appalling conditions in which civilians in the Drago-Zone are forced to live. Around 70% of refugees in the Drago-Zone live in overcrowded, military-manned closed camps with severe restrictions on their freedom of movement. Additionally, about 4,500 children do not have access to education. VI has not even allowed refugees access to hospitals and health facilities. Lack of vaccines, medical equipment and masks in the Drago-Zone led to the death of over 10,000 persons of Covid-19, cholera and dysentery, as shown by UN and NGO reports.

CABUDURA approached the Constitutional Court complaining against arms trade policies and demanding compensation for Varanideans who had been forcibly displaced. The Court dismissed the case alleging that it had no jurisdiction over the Drago-Zone.

In response to the refugee crisis, VI signed a migration partnership with Mero, forcibly relocating 940 refugees without sufficient consultation. A poll conducted by CABUDURA showed that some refugees pertaining to a minority ethnic group feared being sent back to their country of origin, where they would likely face persecution. CABUDURA successfully obtained a High Court order interdicting further relocations.

On the other hand, to save those in the Drago-Zone, Focus Pharmaceuticals –owned by Letters– attempted to obtain intellectual property (IP) rights on MdarahVac to mass-produce COVID-19 vaccines. However, MdarahVac refused a waiver on IP rights and the High Court rejected Letters' request to compulsorily licence it.

In June 2021, the military dictatorship led by Commander Kōzō passed a Constitutional Amendment to carry out a land reform that established the compulsory expropriation without compensation of lands allocated centuries ago. The measure was celebrated not only by politicians, but also by several judges who were seen partying

alongside them. In fact, Justice Dare Guru, Chief Justice of VI Constitutional Court, tweeted in favour of the land reform, threatening that those who had done wrong in the past would receive a punishment. Later on, when asked about it he defended his statement based on his freedom of expression.

These events provoked a big scandal: constitutional lawyers warned that the involvement of judges in those celebrations could be seen as compromising their impartiality and independence. In response to Dare Guru's threatening tweet, Mr. Letters Focus tweeted and published an op-ed about the human rights crisis in VI.

That same day, the Government notified Letters of the compulsory acquisition of Focus Farm, a land that had belonged to his ancestors which he managed to buy back from its previous owner through fundraising. Letters was dispossessed of his territory without compensation and with no possibility of legally challenging the expropriation before local courts. Focus Farm was given to a President's relative, who destroyed Letter Main Temple, a sacred site for Letter Main Christian Faith believers. Letters had already been stripped of his property when he lost FocusDefence PLC, a family company, to top VI politicians as a consequence of the 1984 Indigenous and Economic Recovery Act.

In October 2021, MdarahVision –a private company registered in SK– won a tender to provide information technology (IT) infrastructure to VI. The following year, several agreements between the VI Government and MdarahVision came to light. In these contracts, the Government granted the company wide powers to use personal data for the benefit of their own business projects. Further, contracts dating from 2020 –preceding official calls for tenders– surfaced, where the Government had granted MdarahVision access to personal data of Varanusians for COVID-19 related research. The news of massive data appropriation practices caused a scandal among VI society, motivating several victims to present a petition before this court.

SUMMARY OF ARGUMENTS

CLAIM A

Focus Farm expropriation was an arbitrary restriction that violated Letters' right to property, in conjunction with freedom of religion, the prohibition of discrimination and the right to an effective remedy. The restriction lacked a legitimate aim since lands were given to a President's relative. Moreover, the expropriation was disproportionate as Letters was not compensated, he had been already deprived of his property on another occasion, it destroyed a protected religious site, and there were no remedies available.

The refusal to compulsorily licence MdarahVac violated the rights to health, enjoyment of the benefits of scientific progress, life, and integrity. VI had the possibility of compulsorily licensing COVID-19 vaccines to comply with its obligation to control epidemic diseases and provide immunisation and chose not to, which resulted in hundreds of contagions and deaths in the Drago-Zone.

CLAIM B

VI is responsible for providing assistance to commit IHRL and IHL violations in Varanidae. Indeed, by supplying arms to Varanidae –accused of not respecting IHL– and to Mero –who illicitly supplied arms to rebel groups in Varanidae– VI fuelled the Varanidean civil war. Additionally, traditional and chemical weapons provided by VI have caused serious environmental damage, leading to famine and a massive refugee crisis.

VI also fought away and forcibly returned refugees, contravening the non-refoulement principle. In the Drago-Zone, VI kept refugees in overcrowded, military-manned closed camps, and without sufficient medical services, imposing unnecessary restrictions on their freedom of movement that amounted to degrading treatment. Additionally, VI failed to provide them adequate healthcare, leading to illness and thousands of deaths, as well as education services, violating the refugees' rights to education, health and life.

CLAIM C

Granting MdarahVision wide access and powers into Varanusians' personal data without any known legal basis arbitrarily interfered with the right to privacy. Data collection and use was disproportionate and unnecessary since it was massive, unconsented, without individual analysis and lacked transparency. In this way, VI failed to prevent and facilitated data colonialism, expropriation and exploitation by MdarahVision.

PLEADINGS

JURISDICTION

The KHRC has jurisdiction¹ over the case since: (a)VI is party to the Komodoen Charter and accepted KHRC's jurisdiction; (b)VI violated the Komodoen Charter and other IHRL instruments; and (c)violations occurred after their entry into force.²

Although jurisdiction *ratione loci* is mainly territorial, extraterritorial jurisdiction arises when: (i)States exercise effective control over foreign areas,³ determined by the strength of the State's military presence;⁴ or (ii)States agents exercise control and authority over an individual,⁵ including in custody⁶ or under lesser restrictions to freedom of movement.⁷

VI's military maintained law and order over the Drago-Zone, exercised passage control and regulated its inhabitants' movements.⁸ Consequently, since VI exercised effective control over the Drago-Zone and controlled Varanidean refugees, the Court has jurisdiction *ratione loci*.

LEGAL STANDING

Victims have legal standing before this Court.⁹ Concerning claims A and C, Letters was directly affected by the expropriation of his land, the denial to compulsorily licence MdarahVac, and privacy interferences.¹⁰ As to Claim B, CABUDURA is an NGO created to fight against arms trade and defend the rights of refugees in the Drago-Zone. In fact, it represents them before domestic courts.¹¹

¹ PACHPR[3-5]

² Facts[7-8]

³ ICJ-Wall[109]; CCPR-GC31[10]; CESCRI-Israel[31]; ACommHPR-ArmedActivitiesCongo[91]; ACommHPR-SalehAl-Asad[134]; ECtHR-LoizidouPreliminaryObjections[62]; IACommHR-BastidasMeneses[21]

⁴ ECtHR-LoizidouMerits[16-56]; ECtHR-Ilaşcu[387]

⁵ CCPR-LopezBurgos[12.3]; ECtHR-AISkeini[136-149]; ECtHR-GeorgialI[117-24]

⁶ ECtHR-Öcalan[91]; ECtHR-Ukraine&Netherlands[569]

⁷ ECtHR-Medvedyev[67]; ECtHR-Ukraine&Netherlands[569]

⁸ Facts[26]

⁹ Facts[7]

¹⁰ Facts[35;39;40]

¹¹ Facts[23-28]

In any case, it has been recognised that individuals or NGO's without personal interests¹² or a relationship with a victim¹³ may file communications.¹⁴

ADMISSIBILITY

Applicants must exhaust only existing, available, sufficient and effective judicial remedies.¹⁵ Effectiveness relies on the general situation in the country and the applicants' personal circumstances.¹⁶

Furthermore, the lack of judicial impartiality renders remedies ineffective.¹⁷ Impartiality implies the absence of prejudice or bias¹⁸ and the exclusion of any doubt or legitimate misgivings upon it.¹⁹ Judges should disqualify themselves if they made related public statements.²⁰

Claims A and C

Regarding Focus Farm expropriation, the Constitution expressly states that no local remedies exist.²¹

Besides, the CC, with exclusive jurisdiction over HR matters,²² was not impartial. Its President, Guru, publicly expressed his position on the compulsory licensing of MdarahVac²³ and the compulsory acquisition of Letters' lands.²⁴ Also, many judges, alongside prominent politicians, celebrated the land reform that directly affected Letters.²⁵ Indeed, many

¹² ACtHPR-Noudehouenou[38];ACtHPR-XYZ[48]

¹³ ACommHPR-Article19[65]

¹⁴ ACommHPR-Lsz[58-59]

¹⁵ACtHPR-Ajavon2019[98];ACtHPR-Konaté[77];IACtHR-BrewerCarias[37];IACCommHR-Petroperú[48];ECtHR-Vučković[71]

¹⁶ACtHPR-Ajavon2020[100]; ACommHPR-Anuak[49];ECtHR-Selmouni[77]

¹⁷IACtHR-OC-9/87[24]

¹⁸ACtHPR-XYZ[81];ECtHR-Piersack[30];ECtHR-Denisov[61];IACtHR-OC-20/09[77]

¹⁹ACtHPR-XYZ[82];IACtHR-ApitzBarbera[56];IACtHR-RíosAvalos[118];ECtHR-Pullar[30];ECtHR-Grievés[69]

²⁰ ECtHR-Rustavi2Broadcasting[342]

²¹ Facts[32]

²² Facts[6]

²³ Facts[41]

²⁴ Facts[34]

²⁵ Facts[33]

constitutional lawyers warned that judges' involvement in future litigations could be compromised.²⁶ Additionally, Guru publicly provoked Letters and people affected by the land reform in Twitter²⁷ and Letters was notified of the compulsory acquisition of his land on the same day he criticised Guru.²⁸ These facts show that the Chief Justice of the only Court available had a bias and a preconceived position against Letters.

Consequently, Letters is exempted from exhausting domestic remedies for Claims A and C.

Claim B

CABUDURA exhausted domestic remedies before the CC concerning VI's arms trade and displaced people. The case was dismissed based on the alleged absence of jurisdiction over the Drago-Zone.²⁹

Since refugees' HR violations also occurred in the Drago-Zone,³⁰ petitions would be dismissed on the same basis. As local remedies should offer reasonable prospects of success to be considered available,³¹ CABUDURA is exempted from exhausting them.

Therefore, the case is admissible.

²⁶ Facts[33]

²⁷ Facts[34]

²⁸ Facts[34-35]

²⁹ Facts[42]

³⁰ Facts[17]

³¹ ACtHPR-Ajavon[105]; ECtHR-Selmouni[76]; ECtHR-SelahattinDemirtaş[205]; IACommHR-JuvenileOffenders[47]

MERITS

CLAIM A: THE EXPROPRIATION OF FOCUS FARM AND LETTER MAIN TEMPLE WITHOUT COMPENSATION AND THE REFUSAL TO COMPULSORILY LICENCE MDARAHVAC WERE INCONSISTENT WITH IHRL

- I. ***The expropriation of Letters' lands violated his right to property, in conjunction with freedom of religion, the prohibition of discrimination and the right to an effective remedy***

The right to property implies that no one shall be deprived of their possessions.³² Any restriction should be lawful, pursue a legitimate aim, be necessary and proportional.³³

In this case, the dispossession constituted an arbitrary restriction to Letters' right to property.

- a. *Lack of legitimate aim*

VI may argue the restriction's aim was restitution of indigenous lands. However, indigenous communities have a collective understanding of property centred on the community, not individuals.³⁴

The expropriated lands were given to a President's relative, not collectively to indigenous people.³⁵ It should be considered that corruption is particularly pervasive when defining "public purposes" to justify land expropriations.³⁶

Therefore, the restriction lacked a legitimate aim.

³²P1ECHR[1]; UDHR[17]

³³ECtHR-Beyeler[108-114]; ECtHR-BélanéNagy[112-115]; IACtHR-IvcherBronstein[128]; ACtHPR-Konaté[145]

³⁴ACtHPR-Ogiek[123]; IACtHR-Sawhoyamaxa[120]; IACtHR-Mayagna(Sumo)Awas[149]

³⁵Facts[35-37]

³⁶CESCR-GC26[52]

b. Lack of proportionality

Interferences must be proportionate to the aim sought, without producing individual and excessive burden.³⁷ This analysis includes compensation,³⁸ the applicant's personal circumstances,³⁹ procedural factors,⁴⁰ other substantive issues and choice of measures.⁴¹

b.i. Lack of compensation

Lawful expropriations require reasonable compensation,⁴² even in indigenous lands restitution cases.⁴³ Lack of compensation constitutes a disproportionate interference⁴⁴ that was only justified in utmost exceptional cases, such as Germany's reunification⁴⁵ or the transition from dictatorships to democracies.⁴⁶

Letters was not compensated for his loss,⁴⁷ and nothing suggests the existence of exceptional circumstances.

b.ii. Issues concerning the applicant

Measures should not be excessively burdensome on the person affected,⁴⁸ considering their personal and social situation, and acquisition in good faith.⁴⁹

Letters bought Focus Farm in good faith after raising funds,⁵⁰ and he had already been dispossessed of FocusDefence.⁵¹ Thus, the expropriation was excessively burdensome.

³⁷ ECtHR-Maggio[63]; ECtHR-SporrongLönnroth[73]; IACtHR-Chiriboga[75]; ACtHPR-TLS[107.1]

³⁸ ECtHR-HolyMonasteries[71]

³⁹ ECtHR-Pyramténé[51]

⁴⁰ ECtHR-GIEM[302]

⁴¹ ECHR-Vaskrsić[83]

⁴² ECtHR-Pincová[53]; ECtHR-JamesUK[54]; IACtHR-Chirigoba[96]; ACommHPR-Malawi[128]; ACommHPR-PrinciplesESCR[19]; ACommHPR-TunisReportingGuidelines[7a(iii)]; PJIC-Chorzow13[45-48]

⁴³ IAtCHR-YakyeAxa[148]

⁴⁴ ECtHR-Katona[63]

⁴⁵ ECtHR-Jahn[113]

⁴⁶ ECtHR-Broniowski[182]

⁴⁷ Facts[32]

⁴⁸ ECtHR-SporrongLönnroth[69-74]

⁴⁹ ECtHR-Pincová[58]

⁵⁰ Facts[19]

⁵¹ Facts[22]

b.iii. Freedom of religion and non-discrimination

The expropriation brought religious implications, violating the applicant's freedom of religion⁵² and the prohibition of discrimination,⁵³ in conjunction with the right to property.

Freedom of religion includes the right to maintain places of worship,⁵⁴ and attacking them violates the rights of individuals and religious groups.⁵⁵ Access to sacred places should be preserved even when they involve interests of different religions.⁵⁶ Distinctions based on religion that restrict the enjoyment of HR may amount to discrimination,⁵⁷ prohibited under IHRL.⁵⁸

The new owner destroyed Letter Main Temple and devoted it to his religion,⁵⁹ violating Letters' freedom of religion, and discriminating against Letter Main Temple faith followers. This also turned the burden on the applicant excessive.

b.iv. Procedural factors

For expropriations to be proportionate,⁶⁰ the right to an effective remedy⁶¹ must be ensured⁶² through an overall assessment of their consequences⁶³ and a reasonable opportunity to challenge them before responsible authorities.⁶⁴

VI's Constitutional Amendment expressly states that "no court shall entertain" expropriation cases for "land reform".⁶⁵ Consequently, the expropriation was disproportionate and violated Letters' right to an effective remedy.

⁵² ECHR[9];ICCPR[18]

⁵³ ECHR[14];ICCPR[2(1)]

⁵⁴ CCPR-GC22[4];UNGA-Religion[6a];HRC-Resolution 6/37[9g]

⁵⁵ SRReligion-E/CN.4/2005/61[50-51]

⁵⁶ UNSC-Israel[241]

⁵⁷ UNGA-Religion[2.2]

⁵⁸ Faith4Rights[18]

⁵⁹ Facts[38]

⁶⁰ ECtHR-Hentrich[49]

⁶¹ ICCPR[2(3)a]

⁶² ECtHR-Öneryildiz[156]

⁶³ ECtHR-AlfaGlass[36];ECtHR-Pálka[50;62]

⁶⁴ ECtHR-GIEM[302]

⁶⁵ Facts[32].

b.v. Choice of measures

Additionally, proportionality implies that no other less intrusive measure exists to achieve the same aim.⁶⁶

In this case, less intrusive measures existed, such as surrendering alternative lands of equal extension and quality, like the IACtHR accepted.⁶⁷

The sum of the aforementioned reasons turns the restriction disproportionate and violates the right to property in conjunction with freedom of religion, prohibition of discrimination and right to an effective remedy.

II. *The refusal to compulsorily license MdarahVac violated the rights to health, life and integrity and to enjoy the benefits of scientific progress and its applications*

The right to health⁶⁸ implies that States must take measures to prevent and control epidemic diseases, including by providing immunisation and health goods,⁶⁹ such as COVID-19 vaccines.⁷⁰ Lack of medical attention may imply the violation of the rights to life and integrity.⁷¹

Moreover, access to vaccines is also protected by the right to enjoy the benefits of scientific progress and its applications.⁷² Sharing scientific medical knowledge during pandemics is crucial to mitigate their impact.⁷³

These standards of protection are higher in cases of deprivation of liberty.⁷⁴

⁶⁶ ECtHR-Vaskrsić[83]

⁶⁷ IACtHR-YakyeAxa[149-150]

⁶⁸ ICESCR[12]; ECtHR-LopesdeSousaFernandes[27;29]

⁶⁹ CESCRC-14[12;43;44]

⁷⁰ CESCRC-UniversalAffordableVaccinationCOVID[3]; OHCHR-HRAccessCovidVaccines[1]

⁷¹ ECtHR-LopesdeSousaFernandes[29]; IACtHR-Manuela[183]; IACtHR-OC-29/22[84;86]; ACommHPR-GC3[3]; ActHPR-Mugesera[103-104]

⁷² ICESCR[15(1)b]; CESCRC-25[52;67]; UNESCO-UniversalDeclarationBioethicsHR[15]

⁷³ CESCRC-25[82]

⁷⁴ ECtHR-LopesdeSousaFernandes[30&54]; UNESCO-UniversalDeclarationBioethicsHR[8]; CESCRC-25[47]

Without access to vaccines, 9,000 Drago-Zone refugees died of COVID-19.⁷⁵ VI had to take positive actions to get vaccines, such as compulsorily licensing MdarahVac for Focus Pharmaceuticals,⁷⁶ to fulfil the right to health.

States have the faculty of compulsorily licensing during national emergencies,⁷⁷ and determining the grounds to do so.⁷⁸ This faculty should have been used to ensure availability and access to vaccines against COVID-19,⁷⁹ since the pandemic was an exceptional circumstance⁸⁰ that allowed States not to require authorisation from vaccines' right holders⁸¹ and to restrict other HR.⁸²

Besides, compulsory licensing for public health has been described as a good practice.⁸³ For instance, countries like Canada,⁸⁴ Germany,⁸⁵ Israel,⁸⁶ or Bolivia⁸⁷ compulsorily licensed vaccines to ensure access to COVID-19 treatments.

Even if the respondent justifies its decision on IP rights, the CESCR has stated that "intellectual property rights are not a human right".⁸⁸ Hence, the protection of IP must not impede compliance with core health obligations.⁸⁹

In this case, VI had enough reasons to use TRIPS flexibilities based on COVID-19.⁹⁰ By refusing to do so, and not taking alternative measures, it denied the refugees in the Drago-Zone access to vaccines that would have prevented thousands of contagions and

⁷⁵ Facts[27]

⁷⁶ Facts[40]

⁷⁷ TRIPS[31(b)]

⁷⁸ DohaTRIPS[5(3)]

⁷⁹ CESCR-UniversalAffordableVaccinationCOVID[10]

⁸⁰ ECtHR-Terheş[39]; IACtHR-COVID19&HR[1]; OHCHR-EmergencyMeasuresCOVID-19[1]

⁸¹ MinisterialDecisionTRIPS[3(a)];

⁸² CCPR-DerogationsCOVID[2]; ACtHPR-AO-GovCOVID[73-75]; IACtHR-COVID19&HR[1]

⁸³ SRCulturalRights-A/70/279[77-80]

⁸⁴ CanadaPatentAct[12]

⁸⁵ GermanPatentAct[13]

⁸⁶ IsraelHealth

⁸⁷ BoliviaWTO

⁸⁸ CESCR-UniversalAffordableVaccination[7]; CESCR-GC17[1;2;35]

⁸⁹ CESCR-GC17[35]

⁹⁰ Facts[27]

deaths.⁹¹ Accordingly, VI violated the rights to health, life and integrity and to enjoy the benefits of scientific progress and its applications.

CLAIM B: VI'S ARMS TRADE AND ITS TREATMENT OF REFUGEES IN THE DRAGO-ZONE WERE INCONSISTENT WITH IHRL

I. VI's arms trade was inconsistent with its international obligations

a. VI failed to prevent IHRL and IHL violations in Varanidae

States must take all reasonable measures to prevent IHRL violations⁹² by public or private actors within their territory, even when such actions have effects abroad.⁹³

Particularly, States are responsible for knowingly assisting other States or third parties to breach international obligations,⁹⁴ including through the provision of military assistance.⁹⁵ Thus, States shall not transfer arms knowing they might aid another State to commit serious IHRL or IHL violations.⁹⁶

Arms transfers may prolong or escalate conflicts, which imply a risk for HR such as the rights to liberty and security⁹⁷ and States must prevent arbitrary deprivation of life.⁹⁸

Moreover, States should require business entities to exercise HR due diligence,⁹⁹ especially in conflict-affected contexts.¹⁰⁰ In particular, businesses should carry out HR risk assessments before exporting arms.¹⁰¹

VI's arms trade –through Government business and FocusDefence– immensely contributed to prolonging the Varanidean civil war and the resulting refugee crisis.¹⁰² VI

⁹¹ Facts[40]

⁹² IACtHR-VelásquezRodriguez[174];ACommHPR-Association[89];IACtHR-Pueblo[123]

⁹³ ECtHR-Soering[91];ECtHR-Sanchez[84-85]

⁹⁴ ARSIWA[16];ECtHR-AINashiri[442-443]

⁹⁵ ICJ-Genocide[420];ECtHR-Ilaşcu[382];ICRC-GenevaCommentary[193]

⁹⁶ ATT[6(2);7(1)(b);7(3)];HRC-ArmsTransfers[3];CESCR-UK[12(c)];ICRC-ArmsTransfer[1]

⁹⁷ OHCHR-ArmsTransfers[9-10]

⁹⁸ CCPR-GC36[22];IACtHR-DignaOchoa[141];ACommHPR-Shumba[130];ECtHR-Osman[115]

⁹⁹ UNGP[3];CESCR-GC24[16];IACtHR-OliveraFuentes[100];REDESCA-Business[432]

¹⁰⁰ UNWGBusinessHR-Conflict[22]

¹⁰¹ UNWGBusinessHR-ArmsBusiness[5(2)]

¹⁰² Facts[24]

provided arms to Varanidae and Mero, aware of serious allegations of IHRL and IHL violations.¹⁰³ Therefore, VI failed to prevent such violations.

b. VI failed to prevent environmental damage

Environmental degradation and climate change hinder the enjoyment of HR, such as personal integrity, health, food and water.¹⁰⁴ Consequently, States must prevent and mitigate environmental harm,¹⁰⁵ both within and outside national territory.¹⁰⁶

Even during armed conflicts, States should protect the environment against widespread, long-term and severe damage.¹⁰⁷ Chemical weapons cause serious and lasting environmental damage¹⁰⁸ and their production, use and transfer are strictly prohibited.¹⁰⁹

Bombs and chemical weapons from VI accounted for serious deforestation, climate change and contamination in Varanidae.¹¹⁰ Particularly, water sources contamination and the damage to crops, soil, livestock and wild animals led to massive displacement to the Drago-Zone.¹¹¹ Hence, VI is responsible for failing to prevent environmental damage in Varanidae.

II. *VI's treatment of refugees in the Drago-Zone violated IHRL*

Refugee status protects those who face threats to life, freedom or physical integrity based on race, religion, nationality, membership to a particular social group or political opinion and cannot avail protection from their own States.¹¹² Armed conflicts, violence,¹¹³ food insecurity, climate change, and environmental degradation¹¹⁴ imply risks of serious HR

¹⁰³ Facts[25]

¹⁰⁴ IACTHR-OC-23/17[66];HRC-ClimateChange[5]

¹⁰⁵ IACTHR-OC-23/17[128;172];ACommHPR-SERAC[52]

¹⁰⁶ ICJ-Nuclear[29]

¹⁰⁷ ILC-Environment&ArmedConflicts[13(2)(a)];ICRC-CustomaryIHL[44];ICRC-GuidelinesEnvironment[2];

¹⁰⁸ UNEP-Environment&ArmedConflict[Introduction];UNSG-Chemical[311]

¹⁰⁹ CWC[1];ICTY-Tadic[124]

¹¹⁰ Facts[24]

¹¹¹ Facts[24]

¹¹² CRSR[1;33]

¹¹³ UNHCR-InternationalProtection[13]

¹¹⁴ UNGA-NYDeclaration[1];NZSC-loaneTeitiota[13]

violations that may ground refugee claims when their consequences are examined interrelatedly.¹¹⁵

Varanideans in the Drago-Zone escaped civil war, famine and environmental degradation¹¹⁶ which threatened their lives and integrity and made them eligible for refugee protection. Thus, they must be protected by VI.

a. VI violated the non-refoulement principle

The non-refoulement principle bans the removal of persons to a territory where they may suffer serious HR violations,¹¹⁷ notably arbitrary deprivation of life¹¹⁸ and torture.¹¹⁹ Exposing an individual to a situation of general and intense violence may be sufficient to conclude that they will face ill-treatment in the destination country.¹²⁰

Non-refoulement obligations apply to all persons within the effective control and authority of a State¹²¹ and may not be dismissed under concerns for national security or combat against terrorism.¹²² Pushbacks, border closures¹²³ and collective expulsion without individual assessment are contrary to non-refoulement¹²⁴ and violate refugees' right to liberty and security.¹²⁵

The situation in Varanidae¹²⁶ threatens the refugees' lives and integrity and, thus, prohibits forced removals from VI. Yet, VI's military has fought away, detained and forcibly returned persons crossing from Varanidae on national security grounds.¹²⁷

¹¹⁵ UNHCR-Conflict&Famine[2];UNHCRWeerasinghe-NexusDynamics[112];UNHCRWeerasinghe-ClimateChange&Conflict[99]

¹¹⁶ Facts[24]

¹¹⁷ CRSR[33]

¹¹⁸ CCPR-GC36[31]

¹¹⁹ CAT-GC4[9];ECtHR-Chahal[80]

¹²⁰ ECtHR-Sufi[217-218]

¹²¹ UNHCR-ExtraterritorialApplicationNR[24;43]

¹²² ECtHR-Sanchez[86]

¹²³ SRTorture-A/HRC/37/50[51];IACommHR-HaitianInterdiction[157]

¹²⁴ IACtHR-NadegeDorzema[175]

¹²⁵ IACommHR-HaitianInterdiction[169;171]

¹²⁶ Facts[24]

¹²⁷ Facts[26]

VI has also relocated hundreds of Varanidean refugees to Mero with insufficient consultation and despite the fear of some minority groups of facing persecution there.¹²⁸

Therefore, VI's forced removals and pushbacks violated the principle of non-refoulement.

b. Life conditions in the Drago-Zone violated refugees' HR

b.i. Detention in closed camps violated freedom of movement and the prohibition of degrading treatment

Refugees' confinement within closed camps must be a last resort exceptional measure,¹²⁹ for the shortest period and justified by legitimate purposes.¹³⁰ Otherwise, it constitutes arbitrary detention.¹³¹

Detention conditions should be compatible with human dignity, without excessive distress or hardship for refugees.¹³² Overcrowding, appalling hygiene conditions and lack of adequate medical services amount to degrading treatment.¹³³

Around 70% of the refugees have been confined in overcrowded, military-manned closed camps with freedom of movement restrictions and inadequate medical services to face epidemics.¹³⁴ Maintaining refugees under such conditions for a prolonged time constitutes arbitrary detention. Consequently, VI violated the refugees' freedom of movement and the prohibition of degrading treatment.

¹²⁸ Facts[28]

¹²⁹ CRSR[31]; UNHCR-Detention[3]

¹³⁰ WGAD-Migrants[12]

¹³¹ ECtHR-Abdolkhani[135]

¹³² ECtHR-MSS[221]

¹³³ [ACommHR-Cuban&Haitian[68]; ECtHR-AA[58-61]

¹³⁴ Facts[27]

b.ii. Lack of adequate services violated the rights to education, health and life

States must ensure ESCR without discrimination,¹³⁵ irrespective of nationality or migratory status.¹³⁶ They should grant equal access to inclusive and quality education for all migrant children,¹³⁷ and to health goods and services,¹³⁸ especially for vulnerable groups.¹³⁹ Lack of adequate medical care may violate the right to life when the outcome is the patient's death.¹⁴⁰

In the Drago-Zone, at least 39,000 Varanidean refugees were forced to live in appalling conditions, with limited access to health and education services.¹⁴¹ Indeed, more than 25% of Drago-Zone's population died of COVID-19, cholera and dysentery, and about 4,500 children currently lack access to education.¹⁴² Consequently, VI violated the refugees' right to health, education and life.

CLAIM C: VI'S AGREEMENTS WITH MDARAHVISION AND THE CONSEQUENT DATA COLONIALISM, EXPROPRIATION AND EXPLOITATION WERE INCONSISTENT WITH IHRL

I. VI's agreements with MdarahVision violated the right to privacy

Personal data¹⁴³ is protected from arbitrary interference under the right to privacy.¹⁴⁴ Its collection and storage constitutes an interference in private life, regardless of its subsequent use.¹⁴⁵ Sensitive data, such as health information, warrants reinforced protection and requires confidentiality.¹⁴⁶

¹³⁵ ICESCR[2.2]; ACommHPR-Purohit[80]

¹³⁶ IACtHR-Yean&Bosico[155]

¹³⁷ CMW&CRC-GC4[59]

¹³⁸ CDESCR-GC14[12.b]

¹³⁹ ACommHPR-PrinciplesESCR[67]

¹⁴⁰ IACtHR-Manuela[183]

¹⁴¹ Facts[27]

¹⁴² Facts[27]

¹⁴³ SRPrivacy-A/74/277[3]; ECtHR-Amann[65]; REDESCA-Internet [204]

¹⁴⁴ ECtHR-S&Marper[103]; SRPrivacy-A/HRC/49/55[8]; ACommHPR-FreedomofExpression[40]; IACommHR-Fontevicchia[93]

¹⁴⁵ ECtHR-YG[40]; ECtHR-Rattvisa[244]; CJEU-MinisterioFiscal[51]

¹⁴⁶ WHO-HealthData[1.4]; IACtHR-Manuela[205]; ECtHR-Z[95]; ECtHR-LH[56]

Privacy restrictions are consistent with IHRL when provided for by law and necessary and proportionate to reach a legitimate aim.¹⁴⁷

a. Lack of legal basis

Privacy interferences without legal basis violate HR.¹⁴⁸ Domestic law should prevent personal data circulation or sales without the individual's consent.¹⁴⁹

Authorisations granting MdarahVision access and wide powers into Varanusians' personal data were not based on any known regulations.¹⁵⁰ Consequently, these agreements were not provided for by law.

b. Lack of necessity and proportionality

Even when pursuing legitimate grounds, States must strike a fair balance between the interests of individuals and the entire community to assess the scope of data protection¹⁵¹ and analyse whether less invasive approaches are available.¹⁵²

To be necessary and proportionate, interferences in personal data must answer a pressing social need,¹⁵³ minimise the amount of data collected and processed,¹⁵⁴ ensure transparency in data collection and processing¹⁵⁵ and be authorised on a case-by-case basis.¹⁵⁶ Mass data interception and collection may be inherently disproportionate.¹⁵⁷

Data collection and use in VI were massive, without individual analyses.¹⁵⁸ These operations responded to MdarahVision's economic interests regarding their own education

¹⁴⁷ IACtHR-Escher[116]; ECtHR-Roman[227]

¹⁴⁸ ECtHR-Taylor[19]; IACtHR-Tristán[77]

¹⁴⁹ UNGA- Privacy[5(k)]

¹⁵⁰ Facts[45]

¹⁵¹ ECtHR-Barbulescu[112]

¹⁵² CCPR-GC16[8]; OHCHR-A/HRC/48/31[39]

¹⁵³ ECtHR-PN[69]

¹⁵⁴ ECtHR-Aycaguer[38]; ECtHR-Rattvisa[312]

¹⁵⁵ SRPrivacy-A/77/196[45]; REDESCA-Internet[208]

¹⁵⁶ CCPR-GC16[8]

¹⁵⁷ SRPeacefulAssembly-A/HRC/41/41[56]

¹⁵⁸ Facts[44]

and health projects.¹⁵⁹ Additionally, VI was not transparent in its data sales since information on these practices arose after Letters acquired the company.¹⁶⁰

Hence, data processing was unnecessary and disproportionate, and the agreements violated the victims' right to privacy.

II. VI failed to prevent MdarahVision's data colonialism, expropriation and exploitation

States have a duty to protect against privacy abuses by companies,¹⁶¹ including by taking effective measures against data appropriation.¹⁶²

Additionally, they should demand businesses HR due diligence.¹⁶³ In particular, IT companies should ensure transparency towards subjects regarding the collection, use and sharing of their personal data.¹⁶⁴

Unconsented data collection and processing is a form of data colonialism¹⁶⁵ which undermines individuals' privacy, autonomy and dignity, especially when undertaken on a mass scale.¹⁶⁶

VI failed to prevent and facilitated personal data appropriation through its contracts with MdarahVision, who collected and processed mass quantities of personal data between 2020 and 2022.¹⁶⁷ VI is therefore responsible for MadarahVision's data colonialism, expropriation and exploitation, violating the victims' right to privacy.

¹⁵⁹ Facts[44]

¹⁶⁰ Facts[45]

¹⁶¹ OHCHR-A/HRC/39/29[25]

¹⁶² CCPR-GC16[10]

¹⁶³ UNGP[4]; REDESCA-Business[50]; IACtHR-OliveraFuentes[100]

¹⁶⁴ OHCHR-A/HRC/27/37[46]

¹⁶⁵ WHO-GuidanceAI[39]; Turing-DataJustice[60]

¹⁶⁶ HRC-Privacy[preamble]

¹⁶⁷ Facts[44]

REPARATIONS

States must cease HR violations,¹⁶⁸ repair them adequately through restitution, pecuniary compensations or satisfaction,¹⁶⁹ and provide guarantees of non-repetition,¹⁷⁰ including adapting domestic legislation to international standards.¹⁷¹

Regarding **Claim A**, VI must restitute Focus Farm to Letters, and issue a pecuniary compensation for him and those who suffered COVID-19 due to lack of vaccines.

Concerning **Claim B**, VI must cease HR violations in the Drago-Zone, compensate those displaced by Varanidaen civil war and recognise their refugee status.

Pertaining **Claim C**, data appropriation must cease and legislation must be adopted to provide safeguards for privacy interferences.

PRAYER FOR RELIEF

Applicants pray this Court to adjudge that:

1. The Court has jurisdiction and applicant's claims are admissible.
2. VI violated Letters' right to property, freedom of religion, prohibition of discrimination and right to an effective remedy, and Drago-Zone refugees' right to health, life, integrity and to enjoy the benefits of scientific progress.
3. VI violated, *inter alia*, refugees' rights to life, integrity, freedom of movement, health and education.
4. VI violated victims' right to privacy.
5. Consequently, reparations must be granted.

¹⁶⁸ ARSIWA[30]

¹⁶⁹ ARSIWA[31-34]

¹⁷⁰ ARSIWA[30]

¹⁷¹ IACtHR-Cabrera[234]; IACtHR-Olmedo[98]

Word count

Summary of arguments: 334

Pleadings: 3000