

The violation of the right to life and personal integrity in the context of state abuse of power

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Abstract

Ecuador case is to assess the human rights violations suffered by the victims, specifically regarding acts of torture, cruel and inhuman treatment, as well as the lack of investigation and due diligence within the Ecuadorian judicial system. The research problem arises from the declining actions of the Ecuadorian government and its judicial system, as well as the weak enforcement of existing laws and the guarantees established by the Inter-American Court of Human Rights. The objective is to determine whether there was a lack of investigation and judicial diligence, as well as compliance with the reparations and non-repetition measures established by the Inter-American Court of Human Rights. This analysis employs qualitative methods, including documentary review of expert evidence, witness statements, and medical reports presented during the judicial process. The main results of the analysis indicate documented violations of the victims' personal integrity, who were subjected to torture and degrading treatment. It is also concluded that the Court ordered restitution, reparations, and human rights training for state officials.

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La violación del derecho a la vida y a la integridad personal en contexto de abuso de poder estatal

Resumen

El propósito del análisis del caso Herrera Espinoza vs. Ecuador es evaluar las violaciones a los derechos humanos sufridas por las víctimas, específicamente en relación con actos de tortura, tratos crueles e inhumanos, así como la falta de investigación y debida diligencia en el sistema judicial ecuatoriano. El problema de investigación surge en el decadente actuar del gobierno ecuatoriano y su sistema judicial así mismo en el débil cumplimiento de la norma existente y las garantías propuestas por la Corte Interamericana de Derechos Humanos. El objetivo es evidenciar si existió una falta de investigación y diligencia judicial, así como el cumplimiento de las medidas de reparación y garantías de no repetición establecidas por la Corte Interamericana de Derechos Humanos. Para este análisis se emplearán métodos cualitativos como la revisión documental de pruebas periciales, testimoniales y médicas presentadas durante el proceso judicial. Los principales resultados del análisis indican que se documentaron violaciones a la integridad personal de las víctimas, las cuales fueron sometidas a torturas y tratos degradantes. Así mismo, se concluye que la Corte ordenó medidas de restitución, reparación y capacitación en derechos humanos para funcionarios estatales.

Palabras clave: Abuso; Poder; Estado; CIDH; Leyes.

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INTRODUCTION

The case of *Herrera Espinoza et al. v. Ecuador* addresses key issues regarding the protection of human rights in contexts of detention and judicial processes in Latin America. In the social sphere, it highlights the challenges of anti-drug policies, the abuse of pretrial detention and the practice of torture in judicial systems. From a legal perspective, it highlights the importance of guaranteeing the rights established in the American Convention on Human Rights and other international instruments, as well as the obligation of States to investigate and punish serious violations such as torture and arbitrary detention.

This case reveals multiple failures to comply with international standards, such as the systematic use of torture and cruel treatment during detentions, the lack of effective investigations into allegations of torture and procedural violations, and the ineffectiveness of judicial protection mechanisms, such as habeas corpus. In addition, there were unjustified delays in the processing of the case, which compromised access to justice for both the victims and the State.

It is essential to analyze the implications of these state practices, especially in cases of detentions for drug-related crimes, as well as to evaluate the effectiveness of domestic and international legal measures to guarantee reparations for the victims. It is also necessary to propose legal reforms and public policies that prevent the repetition of similar violations, strengthening the protection of fundamental rights.

The repercussions of the case of *Herrera Espinoza et al. v. Ecuador* are significant in both the national and international legal framework, especially in relation to the State's obligations to protect the rights to life and personal integrity. The analysis will focus on the measures adopted by Ecuador to prevent impunity in

cases of extrajudicial executions and forced disappearances, and on the implications of the IACHR ruling for future legal and judicial reforms in the area of human rights.

The lack of effective investigations into acts of torture and procedural violations perpetuates impunity. In addition, judicial protection mechanisms, such as habeas corpus, do not adequately fulfill their function of guaranteeing the rights of detainees. These problems are reflected in unjustified delays in the processing of cases, directly affecting access to justice.

To prevent future violations, measures must be adopted that include reforms to the judicial system, the creation of accountability mechanisms and the strengthening of institutions charged with protecting human rights.

This case highlights the main problems of the Ecuadorian judicial system and highlights the human rights violations committed in this context. Its repercussions, both nationally and internationally, highlight the need for reforms in public policy, justice and the promotion of fundamental rights. The effective protection of human rights must be a priority objective to prevent future violations and guarantee reparations to victims.

METHODOLOGY

The research was developed using qualitative methods and rigorous documentary analysis, fundamental tools for examining the human rights violations committed in the case of *Herrera Espinoza et al. v. Ecuador*. The documentary analysis included an exhaustive review of official sources, such as documents issued by the Inter-American Court of Human Rights, the Inter-American Commission on Human Rights and Ecuadorian state entities. Among the documents analyzed were medical reports that

evidenced physical signs of torture in the victims, judicial records that confirmed the arbitrary deprivation of liberty, and official documents that detailed the State's inaction in the investigation of the complaints filed.

In addition, the analysis of testimonies of victims, witnesses and experts in human rights and criminal law was used. These testimonies were essential to understand the circumstances in which the events occurred, to identify the responsibilities of the State and to evaluate the psychological and physical impact of the acts of torture and cruel treatment. The incorporation of these testimonies enriched the qualitative analysis by providing direct evidence of human rights violations.

The study also adopted a critical-propositive approach, which was not only limited to identifying the violations committed, but also advanced in the formulation of concrete proposals for the comprehensive reparation of victims and the prevention of future violations. Among the proposals were the need to reform the Ecuadorian justice system to guarantee its independence and impartiality, strengthen the training of judges and prosecutors in international human rights standards, and ensure that victims have effective access to judicial remedies to protect their rights.

The use of these methods and approaches was supported by a solid normative framework based on international human rights instruments, principally the American Convention on Human Rights and the Inter-American Convention to Prevent and Punish Torture. These treaties not only served as a reference to identify the international obligations breached by the Ecuadorian State, but also provided clear criteria for assessing the gravity of the violations committed.

Finally, the consultation of specialized bibliography on human rights and international criminal law strengthened the legal

argumentation, making it possible to link the facts analyzed with recognized international standards. This robust theoretical framework contributed to legitimize the research findings and to formulate well-founded recommendations aimed at guaranteeing the non-repetition of these practices and promoting the effective protection of human rights in the national and international context.

RESULTS

According to national regulations and international treaties signed by Ecuador, human rights constitute a set of fundamental guarantees aimed at protecting the dignity, freedom and well-being of all persons, without discrimination of any kind (American Convention on Human Rights, 1969; Constitution of the Republic of Ecuador, 2008).

We can conceptualize personal freedom as:

A human and fundamental right, and is recognized at the highest normative level, and must be protected against arbitrary arrests, convictions or detentions, so that personal freedom is basically without any doubt a right that safeguards and protects the human being, which must be protected against all those acts that without legal basis and capriciously transgress it. For this reason, the authorities must be aware of the obligations that have with respect to this right, as well as the guidelines to which they must adhere in the eventualities that may arise (SIJUFOR, 2021).

In the case of *Herrera Espinoza et al. v. Ecuador*, the Court found serious violations of the right to personal liberty, enshrined in Articles 7(1), 7(2), 7(3), 7(4), 7(5) and 7(6) of the American Convention on Human Rights. The case involves the victims

Herrera, Jaramillo, Domingo and Cano, who were detained in the framework of "Operation Linda", a police operation against drug trafficking. These arrests were marked by irregularities that compromised their right to personal liberty.

The arrests of the victims were carried out outside of established legal procedures. The operation lacked clear grounds and was based on confidential information, which allowed the authorities to act arbitrarily. Pre-trial detention was unjustifiably prolonged, being used as an anticipated sanction instead of a precautionary measure, in contravention of international standards. This situation evidenced an improper use of the penal system to punish people without a definitive sentence.

Furthermore, in some cases the victims were not informed in a timely manner of the reasons for their detention, violating their right to know the charges against them. This situation particularly affected Mr. Revelles, who had difficulty exercising his right to an adequate defense. The arrests were not supervised by a competent judge, and noted the lack of judicial action in response to complaints of irregularities in the arrests and in the treatment received by the victims.

Right to personal integrity

The right to personal integrity is a fundamental right that protects the dignity and well-being of all persons, prohibiting any form of physical or psychological violence that affects their physical or mental integrity. This right is enshrined both in the Constitution of the Republic of Ecuador (2008) and in various international treaties, including the American Convention on Human Rights (1969) and the United Nations Convention against Torture (1984), which

establish the absolute prohibition of torture, cruel, inhuman or degrading treatment.

The violation of this right, enshrined in Article 5 of the American Convention on Human Rights, was central to the case. This article protects people against torture and ill-treatment, and guarantees their dignity, especially when they are in state custody. During their detention and subsequent deprivation of liberty, the victims were subjected to acts of torture and cruel and inhuman treatment by the Ecuadorian authorities.

The persons involved reported having been repeatedly beaten by police officers during interrogations, in addition to being subjected to threats, intimidation and humiliating treatment in order to obtain confessions or information. These practices were aggravated by the precarious conditions of confinement, characterized by lack of hygiene, inadequate food and lack of medical care, which increased the physical and emotional suffering of the victims (Inter-American Court of Human Rights, 2016).

This situation was compounded by the lack of judicial protection, as the victims did not have effective access to legal remedies to defend their rights. The judicial system did not act efficiently, impartially or diligently to investigate allegations of torture. No sanctions were imposed on those responsible, perpetuating impunity and aggravating the consequences of the violations committed.

This context reveals a structural problem related to impunity and lack of access to justice in cases of torture and human rights violations. According to the UN Convention against Torture (1984), States have the obligation to conduct thorough investigations and punish those responsible for these acts. However, the omission of

these investigations constitutes a direct violation of the right to justice and reparation for the victims, consolidating a climate of impunity that facilitates the repetition of these practices.

Right to judicial guarantees

According to the American Convention on Human Rights on judicial guarantees:

"Everyone is entitled to a hearing, with due guarantees and within a reasonable time, by a competent, independent and impartial tribunal, previously established by law, in the determination of any criminal charge against him, or of his rights and obligations of a civil, labor, fiscal or any other nature. (Art.8)"

As is universally known, everyone has the right to a fair trial. This includes the right to be heard, every person must be able to present his case before a judge or court with the guarantee that the process will be carried out with due guarantees, that is to say, in a fair manner and in accordance with the law. It is important that the process consists of a reasonable period of time and with the deadlines determined by law, likewise the judge must be a competent and impartial judge and be previously established by law. This right applies to criminal cases, as well as to the resolution of civil, labor or other disputes.

But why is it considered that this right was violated? While the present case is based on the fact that the gentlemen were subjected to both legal and physical situations that influenced this case to become so well known, the main thing was that they were subjected to a judicial process that was neither independent nor impartial, since it was based on evidence obtained under duress, including forced confessions through torture and ill-treatment. The

use of this evidence affected the impartiality of the court, as clear allegations that the evidence was obtained illegally were ignored.

The victims' confessions were obtained under physical and psychological torture, and yet they were admitted as evidence against them. This constitutes a direct violation of the principle of exclusion of evidence obtained under duress. Also during the trial, the victims did not receive an adequate defense. In some cases, requests for consular assistance that were essential to ensure an effective defense were ignored, especially since some victims were foreigners. This left the victims in a situation of unprotection, aggravated by their initial incommunicado detention.

Right to effective judicial protection

Mera & Mendoza (2017) contemplate that:

The right to effective judicial protection is closely related to justice as a human aspiration. Thus, justice has become one of the goals of all the States of the world, which is why they must implement all the necessary public policies to make it effective, considering that it is part of the development of nations and allows the realization of human beings. (p.8).

Understanding what the author mentions, the right to effective judicial protection means that all persons have the right to have access to justice in a real and effective manner, so that their rights are respected and protected. This right is closely linked to the idea of justice, which is a fundamental human aspiration. Justice is so important that it is considered one of the main objectives of all countries in the world. For this reason, States must take measures and create public policies that ensure that justice is accessible to all. This not only helps the progress of nations, but also allows people to fully develop in society.

The Universal Declaration of Human Rights, Article 10, states: "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him" (United Nations [UN], 1948).

This implies that everyone must be given a fair and equal hearing before an independent - without external pressure - and impartial - without favoritism or bias - tribunal. This principle is applicable both in the resolution of conflicts related to rights and obligations, as well as in the evaluation of any criminal accusation.

The Constitution of the Republic of Ecuador (2008) recognizes effective judicial protection by stating that:

"Every person has the right to free access to justice and to the effective, impartial and expeditious protection of his rights and interests, subject to the principles of immediacy and celerity; in no case shall he be left defenseless. Failure to comply with judicial decisions shall be punished by law. (Art.75)"

Principle of legality and retroactivity

According to the American Convention on Human Rights (ACHR), it mentions that:

No one may be convicted for acts or omissions which at the time of their commission were not criminal according to the applicable law. Nor may a heavier penalty be imposed than that applicable at the time of the commission of the offense. If subsequent to the commission of the crime the law provides for the imposition of a lighter penalty, the offender shall benefit therefrom. (Art.9)

Now, a person cannot be convicted for acts that were not crimes at the time they were committed. Moreover, a more severe penalty may not be imposed than that provided for by law at the time the crime was committed. If after the crime is committed the law is changed and a lighter penalty is established, the offender is entitled to be tried with that lighter penalty. This is one of the most important principles developed in the case of *Herrera vs. Ecuador*, since the citizens in question have suffered from an accusation obtained based on situations that have not occurred, causing a rejection and a mismatch to legality and going against it.

In the case of "*Herrera Espinoza et al. v. Ecuador*," this principle of legality was central. In August 1994, Herrera Espinoza, Jaramillo Gonzalez, Cano and Domingo Revelles were arrested during an anti-narcotics operation in Ecuador. As has already been centrally detailed in this investigation their detention was wrongful, but by addressing this principle the situations they were forced into served as the basis for their prosecution and conviction, which contravenes the principle that no one can be convicted without legally obtained evidence.

Arbitrary Detention

In the case of *Herrera Espinoza et al. v. Ecuador*, the arbitrary detention of the victims was one of the central points that led to the condemnation of the Ecuadorian State for violation of Article 7(2) of the American Convention on Human Rights, which guarantees that no one may be deprived of his or her liberty except for reasons and in accordance with procedures established by law.

The victims, Jorge Eliécer Herrera Espinoza, Luis Alfonso Jaramillo González, Eusebio Domingo Revelles and Emmanuel Cano, were

arrested on August 2, 1994 during a police operation called "Operation Linda", which investigated international drug trafficking. However, this arrest had multiple irregularities. The arrests were based on classified information provided to the police, without prior judicial warrants to support these actions.

It is important to point out that the characteristics and elements that make up an illegal, arbitrary and illegitimate detention may vary according to the perspective from which its nature is analyzed, since not all detentions pursue the same purpose or are executed in the same way. Nevertheless, there is a set of fundamental elements that must be considered as determinant to define this type of acts (Supreme Court of Justice, 2023).

Based on what the author mentions, we can note that not all detentions are the same, nor do they have the same purpose, nor are they carried out in the same way. There are certain key elements that must be considered to define whether a detention is illegal, arbitrary or illegitimate. But in spite of this, the defendants did not respect the basic rights of the detainees, such as being informed immediately of the reasons for their detention.

Some victims were not informed clearly and immediately about the reasons for their detention and the charges against them. This particularly affected Mr. Revelles, who did not have an adequate defense in the early stages of the process. There was no timely judicial review of the detentions to ensure their legality. The Court emphasized that judicial oversight is essential to avoid abuses of power. The detentions took place in the context of the application of anti-drug policies in Ecuador, which, according to the analysis of the case, were characterized by discriminatory treatment of foreigners, such as the victims, who were Colombian, Spanish and French nationals.

The victims faced long periods of pretrial detention under inhumane conditions, including physical and psychological torture. Irregularities in the judicial process perpetuated the situation, as the authorities failed to remedy the abuses committed since the initial detention. Although pre-trial detention is a precautionary measure that involves keeping a person in custody prior to trial to ensure that he or she does not interfere with the investigation or evade justice. However, this measure should be exceptional and applied only when strictly necessary. In many cases, victims face long periods of pretrial detention without a final sentence. These prolonged periods can be unjustified or abusive, as pretrial detention is sometimes used excessively and indiscriminately, without demonstrating the real need for the measure. Living conditions in prison in these cases are often inhumane, including overcrowding, lack of access to adequate medical care, insufficient food, and even physical and psychological violence.

According to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), it is established that:

"Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation" (art. 14).

Torture and cruel, inhuman or degrading treatment.

Torture and cruel, inhuman or degrading treatment constitute one of the most serious violations of human rights, violating the dignity and integrity of individuals. The Convention against Torture and

Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) establishes certain guidelines that each State must comply with to prevent such situations and not only these but also every human being, as well as the imposition of sanctions on those responsible. In the case of *Herrera Espinoza et al. v. Ecuador*, acts of torture were evidenced during the process faced by those involved. This analysis highlights the importance of guaranteeing justice, preventing impunity and strengthening the mechanisms for the protection of fundamental rights. .

According to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) recommends:

Each State Party shall ensure in its legislation that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation (Art.14).

The purpose of the general comment is to help States that are party to the Convention against Torture understand their responsibilities under Article 14 of the Convention. This article states that:

State obligations: States must ensure, through their laws, that victims of torture are entitled to redress and fair and adequate compensation.

It includes rehabilitation: This reparation should include means to achieve the fullest possible rehabilitation of the victims.

Universal application: The article applies to all victims of torture and ill-treatment, regardless of their origin or other conditions, guaranteeing equality and non-discrimination.

Thus, for a human being suffering from such damages can cause irreversible traumas that although there is a monetary reparation this often does not fulfill the role of forgetting what happened, on the contrary, this can generate a resignation on the part of people who have suffered some kind of abuse and that as the days go by have not managed to erase the unpleasant moment they have spent during that time.

In the sentence under study there are several factors to develop in which we consider torture as any intentional act that causes severe pain or suffering, whether physical or mental, for specific purposes, such as obtaining information or confessions, punishing someone for something they did or are suspected of doing, and intimidating, coercing or discriminating against a person. Torture always involves the participation, consent or tolerance of a public authority (such as a government official). It is considered one of the most serious human rights violations (Semanate,2015).

On the other hand, cruel, inhuman or degrading treatment can be considered as actions that, while not rising to the level of torture, also cause significant physical or mental suffering. Unlike torture, they do not necessarily have a specific purpose, such as obtaining confessions, and may include neglect or abuse that humiliates, denigrates or causes serious harm to a person's dignity. To understand more fully how such persons were subjected to such treatment as they were subjected to beatings or physical abuse without causing extreme suffering, severe humiliation, such as public acts that undermine dignity, and inhumane conditions of detention (such as extreme overcrowding or lack of food).

It also highlights acts that constitute torture and cruel, inhuman or degrading treatment, such as detention and physical and psychological torture in which the victims were subjected to physical blows and multiple traumatizations, death threats, including situations in which weapons were pointed at them, cold baths at night, forced to kneel for hours with their arms raised, stomping and blows to the abdomen and calves.

These injuries were confirmed by a medical report dated August 9, 1994, which confirmed injuries consistent with physical abuse that occurred approximately eight days prior to the examination. These included contusions, ecchymosis and damages that caused temporary disabilities and psychological trauma to the victims. Likewise, the gentlemen reported that they were held incommunicado for the first six days of the detention, the victims remained incommunicado, which was considered by the Court as an inhumane act that aggravated their suffering.

Instead, their confessions were obtained under duress by forcing them to sign statements through physical and psychological coercion, including assaults in the presence of officials such as prosecutors. These facts violate Article 5 of the American Convention on Human Rights and Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, as established by the Court.

Habeas Corpus

The Constitution of the Republic of Ecuador (2008) establishes that the habeas corpus action is implemented when:

The purpose of the habeas corpus action is to recover the liberty of anyone who is illegally, arbitrarily or illegitimately deprived of it, by order of a public authority or any person, as well as to protect

the life and physical integrity of persons deprived of liberty. (Art. 89).

Habeas corpus is a legal action designed to protect the right to personal liberty. Its main objective is to help someone who has been deprived of his or her liberty in an unlawful, arbitrary without reasonable justification or illegitimate manner that is against the law. This action applies not only when the detention is ordered by a public authority, but also if any other person deprives someone of his or her liberty improperly.

In addition to guaranteeing liberty, habeas corpus also serves to protect the life and physical integrity of persons who are deprived of their liberty. For example, if a detainee is being mistreated, tortured or exposed to conditions dangerous to his or her health, habeas corpus allows a judge to review the situation and act to protect his or her rights.

After having identified what habeas corpus is, we can develop and identify it in the present case, thus, in the case of Herrera Espinoza et al. vs. Ecuador, the Inter-American Court analyzed the ineffectiveness of the writ of habeas corpus in the context of the Ecuadorian legal system in force at the time of the facts, considering several key points such as the presentation of the writ by Eusebio Domingo Revelles, Revelles filed a habeas corpus on May 19, 1998 before the Mayor's Office of the Metropolitan District of Quito, in accordance with Article 93 of the Ecuadorian Constitution of 1998, which established that this writ should be processed by the mayor or equivalent authority (Bajaña,2023).

The appeal was rejected on June 1 or August 25, 1998, and the appeal was dismissed by the Constitutional Court on November 9, 1998. As a result, it was considered an inefficiency of the system,

the writ of habeas corpus was heard by an administrative authority, which was contrary to Article 7(6) of the American Convention, which requires a judge or court to review the legality of the detention. The Court noted that this structure created obstacles for habeas corpus to fulfill its objective of being a "simple and rapid" remedy to review the legality of the deprivation of liberty.

Although the Constitutional Court reviewed the appeal, it did so with significant delay, more than two months after the initial rejection. This violated the principle of a decision "without delay" established in the American Convention. The Constitutional Court's review did not address the international standards for justifying pretrial detention. The decision was limited to general criteria, which allowed Revelles' pretrial detention to be arbitrarily prolonged for more than four years.

Inter-American Commission on Human Rights

A petition was presented on October 31, 1994 by Sister Elsie Monge, director of the Ecumenical Human Rights Commission (CEDHU). Torture, arbitrary detentions and violations of due process related to "Operation Linda" in Ecuador were denounced. Here, a decision on the admissibility of a complaint, petition or appeal was postponed until other relevant aspects of the case were evaluated.

On April 21, 2003, the IACHR decided to apply Article 37.3 of its Rules of Procedure, which allows the admissibility to be deferred until the debate and decision on the merits of the case. Continuing with the process on August 2, 2012, the IACHR asked whether the grounds for the petition subsisted, as more than 7 years had passed since the last action. Receiving a response from CEDHU on September 14, 2012, CEDHU confirmed that the grounds

remained and requested to continue the proceedings, arguing that the State had not yet investigated the facts.

Following all these events the Inter-American Commission on Human Rights on July 17, 2014, the IACHR issued Report No. 40/14, in which it concluded that Ecuador had violated multiple articles of the American Convention on Human Rights and the Inter-American Convention to Prevent and Punish Torture.

Initially a warning was given in which they were to:

- Make full reparations to the victims.
- Conduct a serious and effective investigation into acts of torture.
- Implement administrative and criminal measures against the responsible officials.
- Adopt measures to avoid the repetition of the events.

After issuing said resolution, the Ecuadorian State was notified on August 21, 2014, the IACHR notified the State of the report and gave it a period of two months to report on compliance with the recommendations. After said time elapsed and upon receiving no response from the Ecuadorian authority, the IACHR submitted the case to the Court on November 21, 2014, arguing the need for justice and requesting Ecuador's declaration of international responsibility.

Although Ecuador has legal norms prohibiting abuse and cruel treatment, these have not been effective in practice. The State did not implement the recommendations of the IACHR nor did it develop the necessary programs and mechanisms to prevent

human rights violations, especially against persons deprived of liberty, it was necessary to develop effective systems of oversight and accountability, particularly to ensure the proper treatment and protection of the health of persons in prison. The objective was to avoid the repetition of violations such as those that occurred in the case under analysis.

Inter-American Court of Human Rights

The case of Herrera Espinoza et al. v. Ecuador was notified to the Ecuadorian State and the victims' representative on February 2, 2015 (IACHR Court, 2016). The victims were represented by the Ecumenical Human Rights Commission (CEDHU), specifically by César Duque, while the State appointed Ricardo Velasco as its principal agent.

On April 6, 2015, the representative of the CEDHU filed a brief before the Inter-American Court of Human Rights (IACHR Court), complying with the provisions of Articles 25 and 40 of its Rules of Procedure. In said brief, he formulated requests, presented legal arguments and announced evidence within two months from the notification of the case. Although its allegations largely coincided with those of the Inter-American Commission on Human Rights (IACHR), unlike the latter, it did not request a declaration of violation of Article 2 of the American Convention on Human Rights, as the Commission had done when submitting the case to the Court (IACHR Court, 2016).

The Ecuadorian State submitted its response on June 26, 2015, in which it included various preliminary objections, arguing reasons why it considered that the case should not be admitted or should be dismissed. Among these exceptions were the alleged lack of jurisdiction of the Court by virtue of the temporality relating to the

Inter-American Convention to Prevent and Punish Torture, the failure to exhaust domestic remedies, and the rejection of the violations alleged by the victims (IACHR Court, 2016).

Subsequently, on August 19, 2015, both the victims' representative and the IACHR submitted a brief of observations on the preliminary objections raised by the State. In said document, they made a well-founded request for these to be rejected, arguing that they did not fit the facts or the legal grounds of the case (IACHR Court, 2016).

On December 10, 2015, the President of the Court convened a public hearing to discuss the preliminary objections and, if necessary, analyze the merits of the case, reparations and costs. This hearing was held on February 22, 2016 at the Court's headquarters in San José, Costa Rica, and included the statement of Eusebio Domingo Revelles, as well as the presentation of the oral closing arguments of the parties and the IACHR (IACHR Court, 2016).

The IACHR Court also ordered the receipt of the statement of the alleged victim and of an expert proposed by the IACHR. The victim's statement was made on the scheduled date, confirming the facts that occurred in Ecuador. For its part, on December 15, 2015, the Commission requested that the expert's statement be made before a notary public instead of in a public hearing, a request that was accepted by the President of the Court as permitted by the Rules of Procedure (IACHR Court, 2016).

The State presented its final arguments on March 22, 2016, and the IACHR together with the victims' representative did the same on March 23, 2016. Subsequently, the submission of additional documentation was allowed, and the parties were granted

deadlines to make observations. In this context, on May 4, 2016, the Court requested the Ecuadorian State to submit certain regulatory documents as supplementary evidence, to which the State responded on May 13 and 25. The IACHR and the victims' representative presented their final observations on May 27 and 30, 2016, respectively (IACHR Court, 2016).

The IACHR Court began deliberation of the case on August 31, 2016, and issued the final judgment on September 1, 2016. In its decision, it addressed the preliminary objections, merits, reparations and costs. The Court rejected the preliminary objections filed by the State, finding that it had jurisdiction to hear the investigative omissions since 1999, the year Ecuador ratified the Convention against Torture. It also concluded that the domestic remedies were neither effective nor adequate, and therefore the exhaustion requirement was not met. The Court admitted documentary evidence, testimonial and expert statements, as well as additional documents submitted by the parties (IACHR Court, 2016).

CONCLUSIONS

After learning about this case and analyzing the actions of each of the parties involved and the respective in-depth analysis of each issue that encompasses human rights violations, in particular torture and cruel, inhuman or degrading treatment, in accordance with the obligations established by international legal bodies. In this context, several relevant controversies arise regarding the application of international law and the effectiveness of the measures adopted by States. For in providing reparation, one of the crucial debates lies in the effectiveness of such reparation.

While monetary compensation is a key mechanism, it cannot always reverse the physical and psychological suffering caused by torture. The observation that victims of such abuse often fail to forget what happened is key. The irreversible trauma that results cannot be remedied by financial compensation alone, which raises the need for comprehensive rehabilitation that encompasses psychological, social and medical aspects. The controversy arises as to whether the judicial and governmental systems are really prepared to offer such rehabilitation in all its complexity (Pontón Buitrón, 2017).

The case of *Herrera Espinoza v. Ecuador* shows how the ineffectiveness of judicial remedies, such as habeas corpus, can perpetuate impunity. Despite the fact that habeas corpus should be a quick tool to guarantee the freedom of those who are arbitrarily detained or subjected to abuses, in this case there was an obstruction in the legal system. The appeal was rejected by an administrative authority, in contravention of the obligation that it be processed by a judge. In addition, the delay in judicial decisions and the lack of effective treatment for victims underscores a problem of access to justice in the judicial systems of many countries. This raises a fundamental question: how can States ensure effective and prompt justice for victims of abuse when the legal mechanisms that should protect them are ineffective or corrupt?

Finally, the implementation of structural reforms in the justice and security systems remains an important issue. Although legal norms prohibiting abuse and cruel treatment exist, they are not always translated into effective practices within national judicial systems. The lack of effective oversight and accountability mechanisms to ensure that the rights of persons deprived of their liberty are respected reflects a contradiction between international standards

and their practical implementation. This disconnect between laws and their effective enforcement highlights a continuing challenge for States and the Convention in the fight against torture and other cruel treatment.

The case of *Herrera v. Ecuador* evidences the existence of torture, cruel and inhuman treatment in the Ecuadorian judicial system, as well as the absence of an effective investigation and adequate judicial remedies for the victims. The lack of due diligence on the part of the State allowed the violations to the personal integrity of the detainees to go unpunished, which generated a context of vulnerability and lack of protection in the judicial proceedings.

This case gives a clear view of structural problems in Ecuadorian legislation at the time, highlighting the need for the process to be resolved exclusively by judicial authorities to ensure the protection of the fundamental rights of persons deprived of liberty. The Inter-American Court of Human Rights emphasized that the victims did not have effective judicial remedies and that the violations were facilitated by a legal framework contrary to the norm. It considered that the prolonged processing of the case was not the responsibility of the IACHR, but of the State, which delayed in providing effective responses and actions.

The investigation confirms that the available defense resources were ineffective in guaranteeing the protection of the rights of the detainees. In addition, procedural irregularities were identified, as well as the use of evidence obtained under duress and the absence of a fair trial, which violated the fundamental principles of due process and unjustifiably prolonged the detention of the victims. The Inter-American Court of Human Rights ordered comprehensive reparation measures, including compensation for the victims, as well as the implementation of human rights training

programs for state officials. It also emphasized the need for structural reforms in the Ecuadorian justice system to prevent future human rights violations and ensure that arbitrary detentions and acts of torture are not repeated.

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