

Global Human Rights Litigation Report



Copyright © 2021 Open Society Foundations

This publication is available as a PDF on the Open Society Foundations website under a Creative Commons license that allows copying and distributing the publication, only in its entirety, as long as it is attributed to the Open Society Foundations and used for noncommercial educational or public policy purposes.

Published by:

Open Society Foundations
224 West 57th Street
New York, NY 10019
USA

opensocietyfoundations.org

For more information contact:

Info@JusticeInitiative.org

Acknowledgements

The Global Human Rights Litigation report was written by Taegin Reisman, associate content officer at the Open Society Justice Initiative (OSJI), with substantial input and guidance from Juliana Vengoechea, managing legal officer at OSJI. James A. Goldston and Waikwa Wanyoike made significant contributions to the introduction and reviewed the report. Lia Hansen, Erika Dailey, and Robert O. Varenik also assisted with and reviewed the report. Special thanks to David Berry for his editorial guidance, Laura Peres for designing the report, and Brooke Havlik for her review and assistance.

This report would not be possible without the tremendous efforts of OSJI staff, local and regional partners (both within the Open Society Foundations network and externally), and the brave individuals and organizations that continue to fight injustice and uphold the values of an open society.

The Open Society Justice Initiative uses the law to promote and defend justice and human rights through litigation, advocacy, research, and technical assistance. Working as part of the Open Society Foundations, our staff are based in Abuja, Berlin, Brussels, The Hague, London, Mexico City, New York, Paris, Santo Domingo, and Washington DC.

www.justiceinitiative.org

Why There Is Hope in Strategic Litigation

The Open Society Justice Initiative defines and practices strategic litigation as the fusion of in-court action, legal advocacy, and community engagement to achieve changes in law, policy, practice, and the actual lives of people harmed by injustice. Strategic litigation is rooted in a deliberate process of collaborating with affected people to identify advocacy goals and the legal means to accomplish them, of which in-court action is but one method. The strategic litigation process involves communities, lawyers, and many other actors; draws on the political and social context to craft a potent strategy; identifies both short- and long-term objectives; and deploys the full range of available tactics.

Even as political winds have shifted over the past three decades in ways that disfavor open societies, law, courts, and litigation remain important vectors of power. In all too many places, law is the currency by which authoritarian leaders have consolidated control, suppressed dissent, and hidden theft. It is also one of the principal levers by which corporate power has been magnified and worker power diminished.

But just as law and litigation can repress, so, too, can they liberate. Governments rise and fall, popular opinion can be fickle, policies can be reversed. But the formality, transparency, and finality of court judgments make them hard to ignore. When pursued thoughtfully as part of a multi-pronged strategy, litigation can create space for dialogue, even the playing field, spotlight abuse, and mobilize public pressure—even before a judgment is issued. Wins in court can secure material benefits, shift policy, grant legitimacy to long-silenced claims and narrow the range of available justifications for defenders of oppression.

The Justice Initiative's approach to strategic litigation can be seen in its fight to secure the release of a declassified U.S. intelligence report that established responsibility for the killing of *Washington Post* journalist Jamal Khashoggi. The report confirmed that Crown Prince of Saudi Arabia Mohammed bin Salman directed Khashoggi's brutal murder in 2018. For two years, the Justice Initiative pursued a Freedom of Information Act lawsuit in federal court in the United States to seek disclosure of the report. We are now using new evidence from the report to join Saudi dissidents and other local and regional partners in calling on governments to press the Saudi regime to provide justice and accountability for Khashoggi's murder.

The Khashoggi case is among more than 60¹ that the Justice Initiative has litigated in recent years. This survey of the Justice Initiative's litigation is divided into four sections. Part One takes a closer look at our legal action in 2020 in response to the COVID-19 crisis. Part Two lists cases that the Justice Initiative and/or partners have filed since the end of 2017 which are currently pending final judgment. Part Three highlights cases decided since 2017. Part Four describes cases filed before December 2017 that are still in active litigation.

The Justice Initiative plays multiple roles in the strategic litigation process, working on a variety of legal issues, in an array of different jurisdictions. We act as counsel or co-counsel; file third-party interventions or amicus briefs; and serve in an advisory role or as victims' counsel, civil party, complainant, or plaintiff.

Our strategic litigation defends the citizenship status of naturalized Americans, seeks justice for grave crimes in Syria, and pursues corporate accountability for contributing to climate change and deforestation.

Current cases are being litigated before regional human rights tribunals in Africa, the Americas, and Europe, as well as UN treaty bodies and in more than a dozen different domestic jurisdictions across four continents.

1 The more than 60 total cases referred to throughout this report include two cases filed, staffed, and paid for by the Open Society Policy Center (OSPC), a 501(c)(4) affiliate organization that is a member of the Open Society network. In order to ensure compliance with IRS restrictions, the Justice Initiative may refer potential litigation projects to OSPC for consideration for funding.

1. The Year 2020: Strategic Litigation in Response to COVID-19

The past year has challenged the Justice Initiative and all human rights organizations to develop innovative legal strategies to address the effects of the COVID-19 pandemic. From ensuring fairness and transparency in elections held during the pandemic to protecting prisoners' health to seeking transparency regarding government responses to the virus, the Justice Initiative engaged in fast-moving litigation across multiple continents in support of Open Society Foundations' network-wide efforts to mute the pandemic's impact. COVID-19 has laid bare, and often accentuated, racial, gender, and economic disparities across the globe. Our legal work aims to support marginalized communities, seek equality, and combat the roll-back of human rights by governments. The below cases have all been developed and filed since March 2020 and are pending as of the date of publication.

Fairness and Transparency in Elections

Election integrity, which includes provisions for safe and secure voting and fair processes for registration, is a [priority](#) for Open Society Foundations. COVID-19 has affected multiple elections around the world, including throughout Africa. The following two cases are attempting to establish jurisprudence at the African Court on Human and Peoples' Rights on fairness and transparency in elections.

1. **Elections in Africa during the COVID-19 Pandemic**, filed June 3, 2020, African Court on Human and Peoples' Rights (Co-counsel). [LINK](#)

In Ethiopia, despite the postponement of national elections due to COVID-19, the northern region of Tigray proceeded [in September 2020](#) with parliamentary elections, in defiance of express provisions in Ethiopia's Federal Constitution, which make the organization of elections the responsibility of the National Election Board of Ethiopia (NEBE). In Burundi, the government downplayed the coronavirus threat prior to the country's May 2020 general election, then announced that it would quarantine election observers from the East African Community for 14 days upon arrival, causing many external observers to stay home. In Malawi, during the run-up to presidential elections on June 23, 2020, the president declared a national state of disaster, banning gatherings of more than 100 people and effectively prohibiting political rallies.

In response to these election-related challenges, the Pan-African Lawyers Union (PALU) submitted a request to the African Court on Human and Peoples' Rights seeking guidance for states and regional institutions on how to hold elections during the COVID-19 pandemic. The request asked the court to provide opinions on necessary measures to ensure fairness and transparency in the conduct of elections during the pandemic and to indicate mechanisms for enforcing international law should elections fail to meet international standards.

Together with PALU, the Justice Initiative filed a request for an advisory opinion from the court regarding states' obligations to ensure effective elections during the pandemic. The Justice Initiative argued that while the timing of elections rests within the domestic jurisdiction of the states, how elections are conducted is a matter of continental treaty law, and the responsibility for upholding these laws is within the primary jurisdiction of the African Court on Human and Peoples' Rights. Therefore, the court should assess the question of elections during COVID-19 within the framework of Article 25(b) of the International Covenant on Civil and Political Rights, which guarantees the right to vote and to be elected. Although the court has not yet ruled, arguments made by the Justice Initiative could provide an important marker for the conduct of future elections in Africa.

2. **Ado Shaibu and 5 others v. United Republic of Tanzania**, filed November 20, 2020, African Court on Human and Peoples' Rights (Co-counsel).

The October 2020 general elections in Tanzania were marred by irregularities and violence. Tanzania precluded effective participation by anyone other than the incumbent ruling party, and candidates and supporters of opposition parties suffered state-sponsored violence, exclusion, and intimidation. The government shut down independent media, interfered with the internet, and largely excluded civil society from observing the elections. These violations made the elections incompatible with the right to participation under the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights.

The constitutions of both Tanzania and Zanzibar preclude any challenge to elections once results are declared. As a result, there are no remedies in Tanzanian law for these violations. The African Court on Human and Peoples' Rights is one of only two possible forums for remedy (the other being the East African Court of Justice). The Justice Initiative is requesting the court to exercise oversight of elections and their compatibility with regional legal standards, including the right to participation in Article 13 of the African Charter.

Many of the violations in the Tanzanian election occurred as the government sought to instrumentalize the COVID-19 pandemic to optimize the advantages of incumbency in the election. The case seeks remedies for multiple violations of the right to participation, including multiple and compounded violations to the rights of association, assembly, expression, or of physical integrity rights (liberty and security of the person or prohibition against torture). The objective of the process is to force disclosure about the nature and scope of the violations that took place in Tanzania's 2020 general elections.

Right to Health in Prisons

Systemic and endemic health problems in prisons—overcrowding, inadequate health services, and poor living and sanitary conditions, including poor ventilation—characterize penal systems in multiple jurisdictions. These factors catalyze the impact of the COVID-19 pandemic, endangering the lives of detained individuals, prison staff, and the surrounding community. Incarcerated people are particularly vulnerable and at higher risk of contracting the virus, which can spread rapidly due to the high concentration of persons in confined spaces.

The most urgent measure to address this health crisis is reducing the prison population to allow for physical distancing. In the following two cases, the Justice Initiative argued that states have a responsibility to take immediate, appropriate measures to protect the lives and health of incarcerated persons, consistent with the duty under international human rights law to protect the health of those in custody. States also have an obligation to investigate every death in custody and to treat the bodies of the deceased with dignity.

3. *Centro Prodh v. the Governor of the State of Morelos et al.*, filed October 29, 2020, District Court of Morelos (Advisor to Counsel). [LINK](#)

Mexico's prisons are considered epicenters for the rapid spread of COVID-19, as [documented by Open Society Foundations grantees](#). But authorities have not taken meaningful steps to prevent the spread of the virus, failing to enact legal regulations and comprehensive public health policies to properly manage the spread of the virus behind bars.

The situation is especially acute in prisons in the State of Morelos, where incarcerated individuals often face systemic abuse, and where there is long-standing overpopulation, deficient medical care, and insufficient access to water and personal hygiene products. At both the federal and state levels, there are currently no effective and comprehensive COVID-19 guidelines nor public health policies regarding early release and alternatives to detention, access to medical care, preventive measures, physical distancing, investigations of death in custody, and the identification and treatment of the bodies in cases of suspected or confirmed COVID-19 deaths.

In cooperation with the Justice Initiative, the Mexican nongovernmental organization Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. (known as Centro Prodh) filed a public interest *amparo* lawsuit against the governor of the State of Morelos, the Mexican Ministry of Health, and other state authorities. The lawsuit draws upon international and domestic legal standards to argue that the authorities' failure to enact pandemic guidelines and policies breaches their obligation to protect those in the Morelos prison system from COVID-19. Legal filings grounded in human rights law and jurisprudence were supported by expert opinions in epidemiology, public health, forensics, and pretrial justice.

4. **Defensoria Publica and Ministerio Publico in Rio de Janeiro v. State of Rio de Janeiro**, filed June 20, 2020, Court of Justice of the Rio de Janeiro State (Third Party) . [LINK](#)

On April 29, 2020, the Public Defender and the Public Prosecutor’s Office of Rio de Janeiro filed a collective action against the State of Rio de Janeiro, the Municipality of Rio de Janeiro, and the Associacao Filantropica Nova Esperanca, an organization managing a penitentiary health care unit. The collective action, which seeks rapid intervention to address the deteriorating situation in Rio’s prisons due to the COVID-19 outbreak, cites recommendations and resolutions issued by multiple public bodies affirming the need to prevent the spread of the virus in the prison system.

Brazil has the world’s third largest prison population. Overcrowding, lack of sanitation, poor access to healthcare, and the impossibility of physical distancing, combined with high rates of viral transmission, make prisons in the State of Rio reservoirs for the rapid spread of the virus. The plaintiffs pointed to a number of urgent problems, such as a lack of testing, identification, and registration of suspected cases of COVID-19, and condemned the prison system’s lack of transparency regarding the spread of the virus behind bars and measures taken to address it.

As part of its efforts to respond to human rights challenges posed by the COVID-19 pandemic in places of detention, the Justice Initiative, along with Brazilian organizations [Conectas](#) and [Elas Existem](#), filed an amici curiae brief in the case. The brief argues that under international human rights law, a state has a heightened duty to protect the health of those it detains. Adopting a public health lens through which to highlight state obligations toward incarcerated individuals during the COVID-19 pandemic, the brief cites opinions by medical and scientific experts affiliated with [Physicians for Human Rights](#), Yale and Stanford Universities, and the [Oswaldo Cruz Foundation](#), as well as opinions from penitentiary experts from the [Irish Penal Reform Trust](#) and the Italian non-profit organization [Antigone](#).

Access to Information

- 5. Open Society Justice Initiative v. U.S. Department of Defense et al. and U.S. Department of Health and Human Services et al.**, filed July 2 and August 12, 2020, United States District Court for the Southern District of New York (Plaintiff and Co-counsel). [LINK](#)

Since the first U.S. case of COVID-19 was recorded in January 2020, the U.S. government's efforts to counter COVID-19 have been a matter of life and death for the American public. As of March 14, 2021, there were nearly 30 million confirmed cases of COVID-19 in the U.S. and over 544,000 had died. The Trump administration reacted inconsistently and issued widely conflicting statements and often unsound guidance about critical issues, including the threat of the virus, the duration of transmission, the efficacy of preventative measures, and the availability and advisability of testing. These contradictions and incorrect information raised serious questions about the reliability and integrity of the federal government's response to the pandemic.

In response to these concerns, the Justice Initiative filed requests with 14 government agencies and subcomponents under the U.S. Freedom of Information Act (FOIA), seeking the immediate release of government records relating to the Trump administration's COVID-19 response, including information that would point to what administration officials knew, and when they knew it, as well as information regarding problems with testing, political interference, bias, and corruption. Only one agency began producing responsive records, prompting the Justice Initiative to file suits against the other 13 agencies for their failure to comply with their production obligations under FOIA.

The court sided with the Justice Initiative and ordered a production schedule be put in place to release the relevant documents. The court required each agency to produce a minimum number of pages per month. In response to government concerns about the burden of production, the court held that, "to the extent that the agencies lack the resource needed to satisfy the mandate that Congress has imposed on them [under FOIA], the answer is not for courts to roll over and deny plaintiffs the relief they seek under the law; instead, it is for the agencies to seek, and Congress to provide, the resources needed to actually comply with the law." This reasoning is significant and was made available to other FOIA litigators to use in their respective cases. The case remains open, and the Justice Initiative has so far received approximately 12,000 pages of responsive records.

6. **UK COVID-19 Freedom of Information Request**, filed May 22, 2020, Government Office for Science (Plaintiff and Counsel) [LINK](#)

The United Kingdom has faced devastating consequences from the COVID-19 pandemic, including over 4.49 million cases and more than 128,000 deaths as of May 30, 2021. The Scientific Advisory Group for Emergencies (SAGE), created by the UK government, is responsible for providing independent scientific and technical advice to support the government's decision-making during emergencies. The UK government has activated SAGE 10 times since 2009, most recently to combat the spread of COVID-19.

Prominent scientists and politicians from all parties in the UK have called for greater transparency and scrutiny of SAGE's work relating to COVID-19, to ensure the integrity, impartiality, and independence of the committee and its members. In support of these calls, and in order to enable the public to more fully understand the scientific basis for the government's decisions, the Justice Initiative filed a Freedom of Information (FOI) request seeking the disclosure of all virus-related documents produced by SAGE and provided to the UK government, and all minutes of SAGE meetings since it was activated in relation to COVID-19. In response to the FOI request and significant public pressure, the UK government has been publishing an increasing number of key documents on a rolling basis.

Workers' Rights

7. **Palmer et al. v. Amazon.com Inc. and Amazon.com Services LLC**, filed June 10, 2020, United States District Court for the Eastern District in New York (Third Party). [LINK](#)

Even as much of the U.S. economy shut down in March 2020, healthcare, grocery, warehouse, and delivery workers continued to serve on the frontlines, risking their health so the rest of the public could safely stay at home.

On March 30, 2020, several Amazon workers led a walk-out at Amazon's JFK8 warehouse on Staten Island, New York, seeking stronger health and safety protections and hazard pay. The strikers at JFK8 argued that Amazon was forcing them to choose between their health and a paycheck. To date, tens of thousands of Amazon workers in the United States have contracted COVID-19 and [at least 10 have died](#).

Following the protest, Amazon workers and family members of workers at the JFK8 warehouse filed a lawsuit against the company to force changes to its on-the-job and leave policies, which they argue put them at serious risk of COVID-19 exposure. The Open Society Policy Center, which is part of the Open Society network and shares the Justice Initiative's mission, was lead counsel for 16 members of Congress who filed an amicus brief, arguing for stronger protections for Amazon's JFK8 workers, their families, and the wider communities whose well-being depends on essential workers remaining safe and healthy. In July 2020, the litigation led Amazon to publicly inform workers at its JFK8 facility of a nationwide corporate policy under which the company would not punish its warehouse

workers for insufficient productivity or when taking necessary COVID-19 safety precautions. As of May 12, 2021, the case is on appeal in the United States Court of Appeals for the Second Circuit.

Decriminalization of Vagrancy

8. Decriminalization and COVID-19, December 4, 2020, African Court on Human and Peoples' Rights (Third Party). [LINK](#)

Close to two-thirds of States Parties to the African Charter on Human and Peoples' Rights have domestic laws that make "vagrancy" illegal. British, French, Portuguese, Dutch, and Belgian colonists used vagrancy laws to control the streets. These laws are intentionally broad and vaguely defined, giving law enforcement wide discretion to arrest and detain almost anyone. They are used to target and criminalize some of the poorest and most marginalized individuals in society.

In 2018, the Pan-African Lawyers Union sought from the African Court on Human and Peoples' Rights an advisory opinion on the question of whether States Parties to the African Charter have a positive obligation to amend or repeal vagrancy laws and bylaws to conform to rights protected under the African Charter, the African Children's Charter, and the Protocol to the African Charter on the Rights of Women.

With the onset of COVID-19 and the increased likelihood that the virus would spread in congested places such as prisons, the Justice Initiative intervened in the case to highlight the renewed and urgent need for all States Parties to decriminalize vagrancy. The Justice Initiative argued in particular that a) vagrancy laws disproportionately affect poor people in violation of the prohibition against discrimination in Article 2 and the guarantee of equality in Article 3 of the African Charter and b) there exists a clear connection between vagrancy laws and congestion in prisons.

In December 2020, the court issued an advisory opinion finding that vagrancy laws or bylaws in nearly every country in Africa discriminate against marginalized populations, including women, children, people with disabilities, and others. In response, the Justice Initiative joined partners in calling on African states to implement this advisory opinion by repealing all vagrancy laws still on the books.

2. Other Cases Filed Since 2017 and Pending Before Courts

Listed in this section are cases the Justice Initiative and/or partners have filed since 2017 that are currently pending final judgment.

9. **Centre for Accountability and the Rule of Law et al. v. Sierra Leone**, filed December 2017, ECOWAS Community Court of Justice (Advisor to Counsel). [LINK](#)

Public health compromised by mismanagement of Ebola emergency relief funds. In 2014, Sierra Leone confronted an Ebola outbreak that led to over 14,000 infections and almost 4,000 deaths. A government audit conducted during the outbreak identified significant mismanagement and possible loss of government-held funds earmarked to combat Ebola, thereby diminishing the quality of the emergency response. The suit, filed by Sierra Leonean public interest-plaintiff Centre for Accountability and the Rule of Law (CARL-SL) and two Ebola victims, with the assistance of the Justice Initiative, alleges that the mismanagement and possible loss of funds caused violations of the plaintiffs' rights to life and health under various international covenants. The plaintiffs are seeking damages and other remedies for survivors.

10. **Open Society Institute–Budapest v. Hungary**, filed August 20, 2019, European Court of Human Rights (Counsel). [LINK](#)

Protecting democracy, freedom of expression, and freedom of association in Hungary. In July and August 2018, two pieces of legislation entered into force in Hungary that were ostensibly targeted at groups or individuals judged to be promoting “illegal immigration.” The first measure criminalizes “organizing activities” that support asylum and residence permit applications. The second imposes a 25 percent tax on donations or funding to any group that “promotes migration.” The two provisions are part of a sustained assault on democratic institutions and the rule of law in Hungary that has included a publicly funded campaign vilifying George Soros, the chair and founder of the Open Society Foundations. Open Society Institute–Budapest, part of the Open Society Foundations network, is challenging the two laws before the European Court of Human Rights, primarily on grounds they violate the rights to freedom of expression, association, and assembly.

11. **Contrôle au Faciès**, notice filed January 27, 2021, French Courts (Co-counsel). [LINK](#)

Ethnic profiling by police in France. The practice of ethnic profiling by police during identity checks in France is well-documented, including in a 2009 Justice Initiative [report](#). Ethnic profiling occurs when authorities stop a person based on physical characteristics and imputed or actual racial identity. Police stops based primarily on race or ethnicity have no lawful basis and are discriminatory. Six organizations including the Justice Initiative sent a letter of notice of a class action lawsuit against France's prime minister, minister of the interior, and minister of justice that requests the French government to enact comprehensive measures to end this discriminatory practice.

12. **Democracy and Human Rights Resource Centre and Others v. Azerbaijan**, filed October 15, 2018, European Court of Human Rights (Third Party). [LINK](#)

Challenging the freezing of bank accounts belonging to NGOs and human rights lawyers. Around the world, governments are restricting access to banking for human rights NGOs and lawyers, as a way to silence them and thwart their work. In Azerbaijan, many prominent NGOs and lawyers have had baseless criminal proceedings brought against them, and their bank accounts frozen. The Justice Initiative intervention provides an analysis of the importance, for associations and human rights lawyers, of having access to funds and banking facilities, and the way in which the European Convention on Human Rights protects the right to such access.

13. **Open Society Justice Initiative v. the United States Department of Justice et al.**, complaint filed March 11, 2020, United States District Court for the District of Columbia (Plaintiff and Co-counsel). [LINK](#)

Freedom of Information Act complaint on the denaturalization of U.S. citizens. The Trump Administration accelerated the use of denaturalization and passport revocation, resulting in numerous rights violations including arbitrary deprivation of nationality, statelessness, and permanent separation from family members. The Justice Initiative is seeking disclosure of records regarding the U.S. government's activities and policies on the use of criminal and civil denaturalization of U.S. citizens, the revocation of derivative citizenship of family members, and policies and practice concerning statelessness in relation to denaturalization.

14. *Sentsov and Kolchenko v. Russia*, filed April 2, 2019, European Court of Human Rights (Third Party). [LINK](#)

Fair trial rights violated due to compelled imposition of nationality. Following the unlawful annexation of Crimea (Ukraine) in March 2014, the Russian Federation imposed Russian citizenship on all Crimean residents, in violation of their nationality rights. Illegally stripped of Ukrainian citizenship, these forcibly nationalized Russians were considered by Russia to fall under the state's legal jurisdiction in all matters, including movement, allegiance, and criminal liability. Russia also [transferred more than 4,700 civilian prisoners](#), who were Ukrainian citizens detained in Crimea, to penal colonies across the Russian Federation, where they were tried in Russian courts and imprisoned in Russian facilities, contrary to international human rights and humanitarian law. The Justice Initiative filed a third-party intervention considering the legal effects of imposed Russian citizenship on the applicants' fair trial rights under Article 6(1) of the European Convention of Human Rights, read alongside international humanitarian law, in particular the law of occupation.

15. *German Federal Public Prosecutor v. Anwar R.*, indictment October 22, 2019, Higher Regional Court of Koblenz (Victims' Counsel). [LINK](#)

First prosecution of Syrian government officials for crimes against humanity. The accused is the most senior former Syrian government official to be arrested and prosecuted in Europe for atrocity crimes allegedly committed in Syria, under the principles of universal jurisdiction. German prosecutors have charged him with crimes against humanity over his alleged role in the torture and abuse of over 4,000 detainees allegedly held under his command between the end of April 2011 and the beginning of September 2012. He faces 58 related murder charges due to the deaths of detainees, as well as charges of rape and aggravated sexual assault. The Justice Initiative submitted dossiers of incriminating evidence to the Office of the German Federal Prosecutor prior to Anwar R.'s arrest, and also represents five survivors of torture carried out under Anwar R.'s command.

16. *German Complaint regarding Chemical Weapons Attacks in Syria*, complaint filed October 5, 2020, Office of the German Public Prosecutor (Victims' Counsel and Complainant). [LINK](#)

First criminal complaint against Syrian government officials for chemical weapons attacks. The infamous attacks on Eastern Ghouta and Khan Shaykhun are two of the Syrian conflict's deadliest chemical weapons assaults. The use of chemical weapons in the attacks constitutes a war crime and a crime against humanity. The Justice Initiative, together with two partners, filed with the Office of the German Federal Prosecutor the first-ever criminal complaint related to the use of chemical weapons in Syria. The complaint includes findings from the most detailed investigations to date into the sarin attacks on Eastern Ghouta in 2013 and on Khan Shaykhun in 2017, including new evidence and investigative leads, and provides credible information that identifies a number of Syrian government officials and chains of command responsible for the attacks. The Justice Initiative also represents 14 survivors of the chemical weapons attacks.

17. French Complaint regarding Chemical Weapons Attacks in Syria, complaint filed March 2, 2021, French Investigative Judges (Victims' Counsel and Civil Party). [LINK](#)

French criminal investigation of the Syrian government for chemical weapons attacks. The Justice Initiative, survivors, and other NGOs are seeking a criminal investigation by French authorities into the sarin attacks on Eastern Ghouta and Douma in 2013. The complaint filed with French investigating judges points to the Syrian government's alleged responsibility in carrying out the attacks, which killed more than 1,000 people, including children. These attacks constitute war crimes and crimes against humanity.

18. Swedish Complaint regarding Chemical Weapons Attacks in Syria, complaint filed April 19, 2021, Swedish Police War Crimes Commission (Complainant). [LINK](#)

Swedish criminal investigation of the Syrian government for chemical weapons attacks. The Justice Initiative, survivors, and civil society organizations are asking Swedish judicial authorities to open an investigation into the Syrian government's sarin attacks on Eastern Ghouta in 2013 and Khan Shaykun in 2017. The complaint contains first-hand testimonies from victims of the attacks and hundreds of items of documentary evidence, including photos and videos. The evidence submitted provides details on the Syrian officials and chains of command responsible for these attacks, which constitute war crimes and crimes against humanity.

19. Bumbuş v. Romania, filed July 18, 2019, European Court of Human Rights (Third Party). [LINK](#)

Freedom of expression and assembly in Romania. In August 2013, the Romanian government submitted to Parliament— without any prior public consultation—a draft law that would have advanced a controversial gold and silver mining project. The following day, activist Mihail-Liviu Bumbuş and three others chained themselves to the gate of a government building in protest. Romanian authorities arrested and fined Bumbuş for engaging in a protest without providing advance notice to authorities. A central question of the case, in which the Justice Initiative submitted an expert opinion, is whether the court should protect a small, spontaneous, and minimally obstructive protest as an expression of political opinion under Article 10 of the European Convention of Human Rights or as an assembly under Article 11.

20. Nubian Rights Forum et al. v. the Honourable Attorney General of Kenya et al., filed February 14, 2019, Kenyan High Court (Co-counsel). [LINK](#)

Discrimination and privacy violations in Kenya's digital identification system. In January 2019, the Kenyan government announced the launch of a national identity card system requiring that the personal and biometric information of all ID-holders be entered into a centralized national database. The lawsuit, filed by partners in collaboration with the Justice Initiative, claims that: the identity card system and mandated enrollment will result in indirect discrimination, the harmonization and interlinking of databases in the system carry a high risk of privacy violations, and the system is highly vulnerable to data security breaches due to the centralized way in which it would store information. Civil society and human rights organizations are asking that a comprehensive regulatory framework be put in place to address both data privacy concerns and the exclusionary nature of the system.

21. Tenants of Mjølnerparken v. Danish Ministry of Transport and Housing, filed May 27, 2020, Danish Domestic Court (Advisor to Counsel). [LINK](#)

Copenhagen residents facing eviction under "Ghetto" law. In March 2018, the Danish government announced the "Ghetto Package"— a bundle of over 20 different legislative proposals that appear to stigmatize and discriminate against Muslims and persons of migrant descent in many areas of public life, including housing, education, and criminal justice. The government's stated aim is to "eradicate" within 10 years areas designated by the state as "ghettos." The primary factor in determining if an area is designated as a "ghetto" is whether the majority of residents are classed by the government as being of "non-Western background." The laws have far-reaching consequences, including the threat of eviction for thousands across Denmark. Those affected include a group of residents in Copenhagen, who are taking legal action alleging violations of the European Union's Race Equality Directive and the European Convention of Human Rights.

22. Ana Matilda Gómez Ruiloba v. Panama, filed October 26, 2020, Inter-American Court of Human Rights (Third Party). [LINK](#)

Prosecutorial independence and freedom from reprisals or intimidation. In January 2010, the Supreme Court of Panama voted to remove Attorney General Ana Matilda Gómez from office. The press later reported that a group of prosecutors and lawyers had planned to orchestrate her ouster after she opened investigations into potential corruption by prosecutors and judges. Gomez sought redress, first in domestic courts, and then in the Inter-American Commission and Court of Human Rights. The Justice Initiative's intervention before the Inter-American Court argues that the independence of prosecutors is a key element of the rule of law, that a transparent and accountable process for appointing and dismissing chief prosecutors is essential to secure independent prosecution services, and that criteria for the removal of a chief prosecutor must be anchored in the law and comply with functional immunity.

23. **Wa Baile v. Switzerland**, filed January 21, 2021, European Court of Human Rights (Third Party). [LINK](#)

Ethnic profiling in Switzerland. Mohamed Wa Baile claims to have been subjected to ethnic profiling in 2015, when he was stopped without cause by police officers in Zurich and told to identify himself. Wa Baile is a Swiss citizen and a visible minority. The police subjected him to a search and fined him for not identifying himself. The police report notes Wa Baile's dark skin color and indicates that suspicion was aroused because he allegedly looked away from police officers. The Justice Initiative intervention provides an overview of the legal standard prohibiting ethnic profiling, the legal requirements for lawful police stops and searches, and the measures that states are legally obliged to take to prevent ethnic profiling and protect victims.

24. **Brazil Censorship Cases**, filed April 2020, Brazilian Supreme Court (Third Party).

Strengthening freedom of expression and academic freedom in Brazil. The Justice Initiative and [Article 19 Brazil](#) have filed nine joint interventions with the Brazilian Supreme Court in cases that challenged municipal and state censorship laws around the country. Those cases covered two categories of censorship laws: laws that restricted references to "gender ideology" in school curricula and classrooms, and laws forbidding the use of "any political, philosophical or religious ideologies" in the classroom. Since the first intervention, the Brazilian Supreme Court has declared a number of censorship laws unconstitutional in rulings that have not only strengthened freedom of expression and academic freedom, but also advanced a model of democracy that recognizes minorities' rights.

25. **Bucur Razvan and Bucur Filomela v. Credit Europe Bank Romania**, filed June 7, 2019, Romanian Constitutional Court (Advisor to Counsel).

Applying human rights standards to home repossession proceedings in Romania. In Romania, homebuyers financed mortgages in Swiss francs to obtain larger capital at lower rates. In the aftermath of the 2007 financial crisis, however, the rate of exchange climbed to historic highs and most consumers owing their payments in Swiss francs found themselves in a dire financial situation. In this case, when plaintiffs filed suit in 2016 to prevent the lender from repossessing their home, they owed 83 percent more on their mortgage than at the time of the loan origination in 2007. The Justice Initiative is advising a local lawyer on relevant EU human rights law as the case moves through domestic courts.

26. **German and Belgian Chemicals Export Complaints**, filed June 3, 2019, Prosecutors in Germany and Belgium (Complainant). [LINK](#)

Accountability for exporting to Syria chemicals used to make sarin. Export documents and investigative work indicate that three companies—BASF Antwerpen NV, Sasol Germany GmbH, and Brenntag AG and its Swiss subsidiary—may have been involved in shipping the chemicals isopropanol and diethylamine to Syria via Switzerland in 2014. Both chemicals are used in the production of pharmaceuticals, but isopropanol can also be used in the production of sarin, a deadly chemical agent that has been used by the Syrian government against civilians. The Justice Initiative and two partners have filed criminal complaints with prosecutors in Antwerp, Hamburg, and Essen, asking authorities to open an investigation into the role of these companies in shipping chemicals to Syria.

3. Cases Decided Since 2017

The cases listed in this section have reached final judgment since 2017.

27. **Vereda La Esperanza v. Colombia**, August 31, 2017, Inter-American Court of Human Rights (Third Party). [LINK](#)

States must conduct effective investigations into serious human rights abuses committed during armed conflict. The court ruled that the state violated the right to due process and judicial protection, which includes the duty to investigate the facts of the case. The court also found violations of the rights to personal integrity, property, and privacy.

28. **Koša v. Hungary**, November 21, 2017, European Court of Human Rights (Third Party). [LINK](#)

Collective claims for Roma education discrimination. Collective redress procedures allow NGOs to make claims on behalf of a distinct but indeterminate class of discrimination victims. An NGO in Hungary brought a case in the domestic courts on behalf of all the schoolchildren forced to attend a Roma-only school, arguing that the policy was discriminatory. The Hungarian courts rejected the claim, and one student brought her case to the European Court of Human Rights. The court found that the applicant failed to exhaust domestic remedies and declared the case inadmissible because the applicant's individual situation was different from those involved in the domestic lawsuit.

29. **Mhlungwana v. the State and the Minister of Police**, November 19, 2018, Constitutional Court of South African (Third Party). [LINK](#)

Peaceful protest should not be a crime. Fifteen activists from the Social Justice Coalition held a small protest in Cape Town to demand better sanitation services. More people joined the demonstration. However, South African law made it a criminal offense for more than 15 people to gather without prior notice to the authorities, and police arrested them. The protesters argued that it is unconstitutional to make the failure to give prior notice of an assembly a crime. The court held that the criminalization of not giving notice for a protest deters the exercise of the right to assemble and “deterrence by its very nature limits the exercise of this right.”

30. **Anudo v. United Republic of Tanzania**, March 22, 2018, African Court on Human and Peoples' Rights (Third Party). [LINK](#).

Deprivation of nationality without due process leads to statelessness. Anudo Ochieng Anudo lived his entire life as a citizen of Tanzania, where he was born and held a national identity card and a passport. When he applied for a marriage license, the authorities accused Anudo of misrepresenting his identity, confiscated his personal documentation, and expelled him from Tanzania to Kenya, where he was promptly arrested and convicted of being in the country illegally. Anudo challenged Tanzania's actions under the African Charter on Human and Peoples' Rights and international law, which prohibit arbitrary deprivation of nationality. The court ruled that Anudo had been a national of Tanzania, and that authorities in Tanzania did not observe procedural safeguards prior to withdrawing his nationality, in violation of the African Charter.

31. **Big Brother Watch v. United Kingdom**, September 13, 2018, European Court of Human Rights (Third Party). [LINK](#)

UK mass surveillance requires enhanced safeguards. In 2013, former U.S. National Security Agency employee Edward Snowden leaked information revealing that the United States and other governments use a wide range of techniques to spy on people at home and abroad. The public also learned that the UK has a mass surveillance program that allows it to acquire enormous amounts of personal information without a person's consent or knowledge, including both the content and metadata of communications. In a landmark decision on mass surveillance, the European Court of Human Rights held that the UK's bulk interception regime violated the right to privacy due to its lack of sufficient oversight and safeguards.

32. **Al-Nashiri v. Romania**, European Court of Human Rights, May 31, 2018, European Court of Human Rights (Co-counsel). [LINK](#)

Romania participated in rendition, secret detention, and ill-treatment at CIA "black-site" prison. Sometime between June 6, 2003 and September 6, 2006, Romania hosted a secret CIA prison in the basement of a government building in Bucharest, where Abd al-Rahim Husseyn Muhammad al-Nashiri was held incommunicado and ill-treated before being rendered out of the country. The court unanimously ruled that al-Nashiri's treatment violated several provisions of the European Convention on Human Rights, including the prohibition on torture, right to liberty and security, right to an effective remedy, and right to a fair trial.

33. **Khadzhiyev and Muradova v. Turkmenistan**, April 28, 2018, UN Human Rights Committee (Co-counsel). [LINK](#)

Death in custody of human rights activist after secret trial. The UN Human Rights Committee concluded that Turkmenistan was responsible for several violations of the International Covenant on Civil and Political Rights, including failing to properly investigate Muradova's torture and death.

34. **Girleanu v. Romania**, June 26, 2018, European Court of Human Rights (Third Party). [LINK](#)

Protecting the right of journalists to possess classified information. In 2005, a Romanian journalist received confidential information related to national security. The journalist neither published the information nor provided it to the security authorities when they requested it. Months after the leak, as part of the investigation, the journalist was temporarily detained, charged, and later fined. The court found that Romanian authorities acted disproportionately in violation of the journalist's freedom of expression under the European Convention on Human Rights.

35. **Magnitsky v. Russia**, August 27, 2019, European Court of Human Rights (Counsel). [LINK](#)

Deprivation of medical care in case against whistleblower. Sergei Magnitsky uncovered a fraud through which more than \$230 million was allegedly stolen from the Russian Treasury, spirited out of the country, and laundered through a network of criminals and government officials. When he publicly accused specific government officials of being involved in the fraud, those same officials opened a spurious investigation against him. The police arrested Magnitsky, denied requests to see his family, and refused him essential medical treatment resulting in his death 12 months later. The court found unanimously that the authorities had deprived Magnitsky of important medical care, had failed to comply with their duty to protect his life, and had not carried out an effective criminal investigation into alleged medical negligence as the cause of death.

36. **Freedom FM v. Cameroon**, September 18, 2019, African Commission on Human and Peoples' Rights (Counsel). [LINK](#)

Denial of broadcasting license. Freedom FM applied for a license to broadcast as an independent current affairs radio station in 2002. The government of Cameroon first ignored the application. When the station announced a date for its first program, the government shut down Freedom FM, confiscated its equipment, and brought criminal charges against its owner. After the parties agreed to a settlement, the government of Cameroon reneged and refused to grant Freedom FM a license. The African Commission agreed with the station that the amicable settlement had been ineffective and found Cameroon's licensing process and seizure of broadcasting equipment to be in violation of several provisions of the African Charter on Human and Peoples' Rights.

37. **Right to Nationality of Children Born in Colombia**, January 17, 2020, Colombian Constitutional Court (Third Party). [LINK](#)

Arbitrary denial of Colombian nationality to children born to Venezuelan migrants. This case concerned the arbitrary denial of Colombian nationality to children born in Colombia to Venezuelan parents with regular immigration status. The court ruled in favor of the applicants, finding that the Colombian government had “violated the rights to nationality of the applicants and legal personality of the children of the applicants by omitting to consider the risk of statelessness in which the children were at the time of birth.”

38. **Laura Codruța Kövesi v. Romania**, May 5, 2020, European Court of Human Rights (Third Party). [LINK](#)

Summary removal of chief anti-corruption prosecutor in Romania. In July 2018, Laura Codruța Kövesi was dismissed from her position as chief prosecutor of the National Anticorruption Directorate. The justice minister justified the firing on the basis of performance, despite no evidence of legal wrongdoing on the part of Kövesi nor any managerial concerns that would justify her dismissal. Kövesi was unable to challenge this decision before national courts. The European Court found Romania violated her right to a fair trial and her freedom of expression under the European Convention on Human Rights.

39. **Citizens Against Violence in Kenya and Others v. the Attorney General of Kenya and Others**, July 27, 2020, High Court of Kenya (Advisor to Counsel). [LINK](#)

Accountability for police shootings. Police shot dead more than 400 Kenyans during the post-election violence that brought chaos to many parts of Kenya in early 2008. Four Kenyan NGOs and 15 victims of police shootings filed a lawsuit against six Kenyan government officials for failing to investigate and prosecute the perpetrators of the shootings. The court granted the claims of one petitioner, ruling the police illegally shot and killed his daughter. It further held that the government violated the rights to information of two additional petitioners but dismissed the claims of all remaining petitioners.

40. **La Java**, September 20, 2020, Colombian Constitutional Court (Advisor to Counsel). [LINK](#)

Right to information for victims of grave crimes. Among the many challenges faced by victims seeking redress for human rights violations that occurred during the longstanding internal armed conflict in Colombia, access to official information stands out as a barrier to justice. The ability of lawyers to properly represent victims and build a strong case relies on having adequate access to all necessary documentation. The court ruled that access to information is a procedural guarantee enabling victims to effectively participate in criminal proceedings and that, when considering requests for information concerning grave crimes violations, the prosecutor’s office must favor disclosure on the grounds of public interest.

41. **Coalition on Violence Against Women and Others v. the Attorney General of Kenya and Others**, December 10, 2020, High Court of Kenya (Advisor to Counsel). [LINK](#)

Accountability for sexual and gender-based violence. In breach of Kenyan and international law, the Kenyan government has prosecuted only a handful of the perpetrators of the more than 1,000 rapes, sexual assaults, and other gender-based violence that occurred during Kenya's 2007 and 2008 post-election violence. The court awarded four million Kenyan shillings (roughly 35,000 USD) to each of the four survivors of sexual violence for the violation of their constitutional rights. The court concluded that the government had failed in its "positive obligation to investigate and prosecute violations" and had failed to protect the four petitioners' rights to life and security.

42. **Yenina Esther Martínez Esquivia v. Colombia**, October 6, 2020, Inter-American Court of Human Rights (Co-counsel). [LINK](#)

Wrongful removal of a Colombian prosecutor. This case pertains to the 2004 removal without cause of Colombian Delegate Prosecutor Yenina Esther Martínez Esquivia after she ignored her superior's orders to close an investigation into corruption by a public official. The court found that Colombia violated Martínez's fundamental rights when she was dismissed from her position, and that her removal violated the guarantee of stable tenure that protects the ability of prosecutors to act independently and objectively. The court also ruled that Colombia violated her right to due process because no reasons were given for her dismissal.

43. **Zhao v. Netherlands**, December 29, 2020, UN Human Rights Committee (Co-counsel). [LINK](#)

The right to nationality for child born in the Netherlands. Denny Zhao, the son of a Chinese mother, was born in the Netherlands but was registered in the Dutch civil registry as having an "unknown" nationality. This registration denied him access to Dutch nationality and prevented him from being recognized as "stateless," leaving him in legal limbo. More than 13,000 children in the Netherlands are in the same situation. The committee determined that by registering the child as "nationality unknown," the Dutch authorities violated his right to international protection, as well as his right to seek a nationality.

44. **Open Society Justice Initiative v. Central Intelligence Agency (CIA) et al.**, February 2021, United States District Court for the Southern District of New York (Plaintiff and Co-counsel). [LINK](#)

Freedom of Information Act complaint regarding the murder of Jamal Khashoggi. The murder in Istanbul in October 2018 of Washington Post journalist Jamal Khashoggi, who had been a vocal critic of the Saudi government and Saudi Crown Prince Mohammed bin Salman, has been the subject of intense public and congressional debate. On December 4, 2018, the Justice Initiative filed requests with several U.S. government agencies under the Freedom of Information Act seeking disclosure of the CIA's findings, among other records, relating to the Khashoggi's murder. In February 2021, after a two-year court battle, the U.S. government released the intelligence report that found the Saudi crown prince to be responsible for Khashoggi's murder.

45. **Grant v. the County Registrar from the County of Laois**, March 7, 2019, High Court of Ireland (Advisor to Counsel).

Applying human rights standards in home repossession proceedings in Ireland. This case challenged a lower court's failure (i) to assess the terms of the applicant's mortgage for unfairness and (ii) to conduct a proportionality assessment (as required by EU law) before entering a possession order in mortgage enforcement proceedings. The applicant had been targeted to refinance their mortgage in 2007 without any meaningful legal or financial advice. A private equity fund purchased their loan in 2012 and, two years later, filed for repossession. Despite the plaintiffs making payments for 12 years, the fund claimed the plaintiffs still owed more than the worth of their home. The court found that the EU Charter of Fundamental Rights and European Convention on Human Rights must be taken into consideration when the loss of the home is at stake.

46. **UK Prevent Study Freedom of Information Request**, filed June 19, 2019, Home Office and Cabinet Office (Plaintiff). [LINK](#)

Release of research on UK government counter-extremism strategy. In May 2018, a specialist police publication reported the existence of research carried out by the Behavioural Insights Team, an expert consultancy partly owned by the Cabinet Office. The research appears to challenge the effectiveness of the government's controversial counter-extremism strategy, known as "Prevent." The Justice Initiative filed a Freedom of Information request to make the research public, and after an initial refusal to disclose the requested documents, the Home Office later confirmed the report would finally be published in the spring of 2021. The UK Information Commissioner's Office determined the Cabinet Office failed to comply with its legal obligations in its handling of the request.

47. **Right to Protest in Brazil**, December 4–14, 2020, Brazilian Supreme Court (Third Party).

Defining reasonable parameters on the right to protest in Brazil. The case challenged the prosecution and fining of several Brazilian labor unions that held a demonstration against a large engineering project to divert the course of the San Francisco River. The intervention by the Justice Initiative and [Article 19 Brazil](#) identified aspects of the government's actions that exceeded the limits of international law, including the interpretation and application of the obligation to provide prior notice of a demonstration. The court ruled there is no need for an "official notice" of a protest, but rather that any sharing of information that enables public authorities to ensure that the exercise of the right occurs peacefully and does not frustrate another assembly held in the same place will satisfy the constitutional requirement of prior notice.

48. **Hanan v. Germany**, February 16, 2021, European Court of Human Rights (Third Party).

Failure to investigate extraterritorial airstrike that killed civilians. In 2009, Germany carried out an airstrike in Afghanistan that killed up to 100 civilians. The applicant argued that the investigation fell within Germany's jurisdiction under the European Convention of Human Rights and that Germany had failed to properly investigate the incident. The court found that the procedural obligation to investigate applied to the conduct of German forces and was within Germany's jurisdiction. The court further reasoned that "special features" of the case meant that Germany had jurisdiction, including the fact that Germany had a duty to investigate grave breaches of international humanitarian law and that Afghanistan was not capable of conducting an effective investigation. However, the court concluded that Germany had conducted a sufficient investigation to satisfy its obligation.

49. **Open Society Justice Initiative et al. v. Donald J. Trump et al.**, April 2, 2021, United States District Court for the Southern District of New York (Plaintiff). [LINK](#)

Executive Order that violates freedom of speech and irreparably harms work in support of international justice. In June 2020, former President Donald J. Trump issued Executive Order 13928, threatening severe sanctions, monetary penalties, and imprisonment for persons who assist the International Criminal Court (ICC). The Executive Order exceeded its legal authority, impermissibly prohibited speech, and failed to provide notice regarding the people and activities it covers. The Justice Initiative and four law professors, all of whom have engaged extensively with the ICC, sought a declaration from the U.S. Federal Court that the Executive Order and its implementing Regulations violate the U.S. Constitution and statutory law. On April 2, 2021, the Biden administration rescinded the Executive Order and removed sanctions placed on the current ICC prosecutor and a top aide.

50. **El Sharkawi v. Arab Republic of Egypt**, Communicated April 23, 2021, African Commission on Human and Peoples' Rights (Co-counsel). [LINK](#)

Detention under Egypt's emergency law. Mohammed El Sharkawi was held under Egypt's emergency law without charge or trial and subjected to torture for over 14 years. Authorities released him from detention in 2011, but they did not acknowledge that his detention violated his human rights, nor was he given redress. The African Commission found that Egypt violated several provisions of the African Charter on Human and Peoples' Rights and requested the state take all necessary measures to put in preventative safeguards to avoid the recurrence of similar violations. The commission also ordered Egypt to acknowledge El Sharkawi's suffering as a result of the violations, issue a public apology, and pay adequate compensation to him in the amount of one million Egyptian Pounds (approximately 140,000 USD at the time of filing).

51. **Nestlé USA and Cargill v. Doe**, June 17, 2021, United States Supreme Court (Third Party). [LINK](#)

U.S. corporations' liability for human rights violations perpetrated abroad. This lawsuit was brought by formerly enslaved children, who alleged they were trafficked from Mali to work on cacao farms in Côte d'Ivoire, where they labored without pay and were subjected to physical abuse. The children alleged the U.S. corporations that were the defendants in the case aided and abetted these abusive practices and were therefore liable under the Alien Tort Statute (1789). The Open Society Policy Center, which is part of the Open Society Foundations network and whose work aligns with the Justice Initiative's mission, served as co-counsel for 21 members of U.S. Congress who filed an [amicus curiae brief](#) in the case. The brief provided the court with a record of congressional work to combat modern-day slavery, such as the creation of criminal liability for human trafficking, including when it occurs abroad, as well as the enactment of a corresponding civil remedy in the Trafficking Victims Protection Act and its reauthorizations. The Supreme Court [ruled](#) that the lawsuit could not go forward because the facts put forth were not enough to trigger jurisdiction. Importantly, the court did not foreclose future suits against U.S. corporations for aiding and abetting human rights violations that take place overseas. The Open Society amicus brief was the only one cited in the court's decision.

4. Ongoing Cases Filed Before December 2017

The cases listed here are in active litigation, awaiting final judgment, or in the implementation stage. The Justice Initiative began litigating these cases prior to December 2017.²

52. Home Funding Corporation Ltd. v. Steven Martin Mannion and Breda Mannion, filed June 9, 2017, Circuit Court of Ireland (Advisor to Counsel) (Pending Judgment).

Applying human rights standards in home repossession proceedings in Ireland. In this case, the plaintiffs obtained a mortgage with an interest rate of 29.2 percent. The mortgage was for the amount of €31,743 in 1997, which increased to €268,051 by 2017 despite 17 years of regular payments. The plaintiffs argue that pursuant to the Unfair Contract Terms Directive, the interest rate term was unfair and adjustments should be made to the amount owed, and that repossession is not a proportionate response to any breach of contracts terms on their part. The Justice Initiative is advising counsel on relevant EU human rights law.

53. Claudia Medina v. Secretaría de Marina and Fiscalía General de la República, filed April 2017, Federal Tribunal of Administrative Justice (Co-counsel) (Pending Judgment). [LINK](#)

Tackling Mexico's systematic pattern of torture and sexual abuse. In 2012, the Mexican Navy unlawfully detained, tortured, and raped Claudia Medina while covertly holding her incommunicado in a Navy base and seeking to force a confession for a crime she did not commit. Far from discharging its constitutional obligation to protect human rights, the Prosecutor's Office (Fiscalía General de la República) violated Medina's due process and fair trial rights and later launched a spurious investigation against her. Yet the Prosecutor's Office failed to launch an effective and prompt investigation into the serious human rights violations committed against Medina, depriving her of an effective recourse and access to justice. This legitimized the earlier violations perpetrated by the Mexican Navy and contributed to the rampant impunity the Navy enjoys. The Justice Initiative, with Mexican partner organization Centro Prodh, filed administrative claims seeking reparations from both the Navy and the Prosecutor's Office.

² Information about other Justice Initiative cases filed and decided before December 2017, and which have since been closed, may be found in Open Society Justice Initiative, Global Human Rights Litigation Report (2018), available at <https://www.justiceinitiative.org/publications/global-human-rights-litigation-report>.

54. **Bueno v. Dominican Republic**, filed February 28, 2008 before domestic courts, filed June 1, 2010 before the Inter-American Commission on Human Rights (Co-counsel) (Pending Judgment). [LINK](#)

Deprivation of citizenship for Dominicans of Haitian descent. The petitioners argue that the Dominican Republic government's retroactive denial of Emildo Bueno's citizenship left him at risk of statelessness and massively disrupted both his life and that of his family, in breach of several provisions of the American Convention of Human Rights.

55. **Seydi and Others v. France**, November 9, 2016, Cour de Cassation (Advisor to Counsel), filed May 8, 2017, European Court of Human Rights (Co-counsel) (Pending Judgment). [LINK](#)

Ethnic profiling by the police. Young people from ethnic minority groups in France are disproportionately stopped by the police for identity checks. The Cour de Cassation concluded that in some circumstances this was unlawful discrimination. After advising local lawyers in domestic courts, the Justice Initiative is co-counsel in the case at the European Court of Human Rights.

56. **Dabetić v. Italy**, filed September 30, 2013, European Court of Human Rights (Co-counsel) (Pending Judgment). [LINK](#)

Italy's protracted statelessness status determination procedures. After waiting seven years, Italy granted Velimir Dabetić's request for recognition of his statelessness status. Before the European Court of Human Rights, the Justice Initiative argued that the government may not, without sufficient reason, leave a person without legal status for such a long time.

57. **Zeshan Muhammad v. Spain**, filed April 7, 2014 before domestic courts, May 5, 2017, European Court of Human Rights (Counsel) (Pending Judgment). [LINK](#)

Ethnic profiling in Spain. National Police in Spain stopped Zashan Muhammad and asked for his identity card because of the color of his skin. The Justice Initiative argued that Spain's treatment of Muhammad violates a range of provisions of the European Convention on Human Rights, including the right not to be subjected to discrimination on grounds of race, color, or ethnic origin.

58. **Ruziyev v. Republic of Uzbekistan**, filed May 12, 2014, UN Human Rights Committee (Co-counsel) (Pending Judgment). [LINK](#)

2005 Andijan massacre. A survivor of the May 2005 massacre, during which hundreds were killed in Andijan, Uzbekistan, filed a petition before the UN Human Rights Committee accusing the Uzbek police and security services of subjecting him to torture and illegal detention in 2003 and 2004, violating his right to life through the indiscriminate use of force. On his behalf, the Justice Initiative argued that the authorities also failed to investigate and prosecute the persons responsible for the massacre and torture.

59. **Huseynov v. Azerbaijan**, filed December 18, 2015, European Court of Human Rights (Counsel) (Pending Judgment). [LINK](#)

Azerbaijan's deprivation of citizenship to silence critics. Emin Huseynov is a reporter and human rights activist. The Justice Initiative argued that his arbitrary deprivation of nationality and effective expulsion from Azerbaijan amounts to a violation of his right to private and family life. Because the deprivation was in retaliation for his reporting and civic activism, it also violated his right to freedom of expression, and the government's actions amounted to ill-treatment in violation of the European Convention on Human Rights.

60. **Nubian Community in Kenya v. Kenya**, Decided February 29, 2015, African Commission on Human and Peoples' Rights (Co-counsel). [LINK](#)

Discriminatory denial of citizenship. Unlike most other Kenyans, Kenyans of Nubian ethnicity are forced to go through a lengthy vetting process to obtain ID cards that are essential for everyday life. The commission found their lack of effective access to citizenship leaves them with a second-class status in breach of the African Charter of Human and Peoples' Rights.

61. **Bagdonavichius v. Russia**, Decided October 11, 2016, European Court of Human Rights (Counsel). [LINK](#)

Russian government destruction of Roma village. Russian authorities bulldozed and burned the houses of Roma in the village of Dorozhoe. The court found that this violated their right to home and ordered compensation of more than €250,000.

62. **Moidunov v. Kyrgyzstan**, Decided July 19, 2011, UN Human Rights Committee (Co-counsel). [LINK](#)

Death in police custody. Despite evidence of Tashkenbaj Moidunov's death in police custody, there has never been a proper investigation. The UN Human Rights Committee found that he had been killed in custody, and called for a proper investigation, prosecution, and reparations.

63. **Akmatov v. Kyrgyzstan**, Decided October 29, 2015, UN Human Rights Committee (Co-counsel). [LINK](#)

Beating to death by police. The UN Human Rights Committee found Kyrgyzstan responsible for Turbubvek Akmatov's torture, and for violating his right to life. The committee called on the government to pay reparations, conduct a proper investigation, and to prosecute those responsible.

64. **Akunov v. Kyrgyzstan**, Decided November 18, 2016, UN Human Rights Committee (Co-counsel). [LINK](#)

Killing of political activist in police custody. The UN Human Rights Committee concluded that Kyrgyzstan was responsible for Bektemir Akunov's torture, and for violating his right to life, and that the authorities had failed to conduct an effective investigation into the circumstances of his death. The committee called on Kyrgyzstan to provide reparations, conduct a proper investigation, and prosecute those responsible.

65. **Ernazarov v. Kyrgyzstan**, Decided March 25, 2015, UN Human Rights Committee (Co-counsel). [LINK](#)

Death in custody. Rahmanberdi Ernazarov was charged with a sexual offense and placed in a cell with six other men, who abused him. He then died in unexplained circumstances. The committee found that, in breach of their obligations, the authorities failed to protect Ernazarov and did not conduct a proper investigation.

66. **Deyda Hydara Jr. and Others v. The Gambia**, Decided June 10, 2014, ECOWAS Community Court of Justice (Advisor to Counsel). [LINK](#)

Assassination of Journalist. The ECOWAS Court found that the National Intelligence Agency of The Gambia had not conducted an impartial investigation into the assassination of distinguished journalist Deyda Hydara—which the agency had been accused of complicity in.

67. **Children of Nubian Descent in Kenya v. Kenya**, Decided March 22, 2011, African Committee of Experts on the Rights and Welfare of the Child (Co-counsel). [LINK](#)

A child's right to nationality. Members of the Nubian ethnic group are not registered as Kenyan citizens at birth and thus grow up with reduced life prospects. The committee found that such discrimination leading to statelessness violates African human rights standards.

68. **Askarov v. Kyrgyzstan**, Decided April 21, 2016, UN Committee against Torture (Co-counsel). [LINK](#)

Torture of human rights defender. The committee found that the state had failed to protect human rights activist Azimjan Askarov from torture, failed to investigate what had happened, and subjected him to an unfair trial.