

## **DUARTE'S CASE: INTER-AMERICAN COMMISSION ON HUMAN RIGHTS COMMENCES ADMISSION PROCESS**

by Estefania Medina & Adriana Greaves, Co-founders of TOJIL México

After more than five years of pursuing justice in the case of Javier Duarte —former Governor of the Mexican State of Veracruz— we have finally reached the doors of the Interamerican Commission on Human Rights (IACHR). The IACHR commenced the admission process by requesting the Mexican Government's position concerning our initial petition, in which we alleged the Mexican authorities violated our human rights by denying our participation as victims of corruption in Duarte's case.

This case derives from a criminal complaint filed by TOJIL in 2018 regarding possible acts of corruption involving officials of the Attorney General's Office and Javier Duarte ([case details here](#)). After depleting all national legal means, we submitted an initial petition before the IACHR in 2020. However, the Executive Secretary of the IACHR rejected our petition on December 23, 2020. In response, we requested the Commission to re-analyze our petition, and it finally decided to initiate the admission process by notifying the Mexican State on October 24, 2023. Although several steps are pending to obtain a favorable admissibility report from the IACHR and, eventually, the Interamerican Court of Human Rights, this is a crucial stride towards a precedent that will enhance and strengthen the fight against corruption.

The latter significant achievement would not be possible without the support and feedback that TOJIL has received from the UNCAC Coalition's Victims of Corruption working group, of which we have been part since 2020. This group has facilitated in-depth transnational discussions and exchanges of information that were essential to construct the legal strategy that allowed us to reach the IACHR. This working group's labor is essential to develop and implement joint advocacy strategies among civil society experts concerning victims' remedies and compensation for damages caused by corruption. Working Group Chair Juanita Olaya and Jose Ugaz underscored the paradigmatic characteristics of TOJIL's case in a [letter submitted to the IACHR in support of the admission of TOJIL's petition](#), and that can be summarized as follows:

- The case will allow the IACHR to apply its criteria reflected in the Corruption and Human Rights Report of 2019 concerning the obligation of the State Parties "to adopt necessary measures to facilitate the access —both for victims and for those who report acts of corruption— not only to adequate and effective means to report these crimes but also to effective means to achieve a proper damage reparation and thus contribute to avoiding its repetition. Likewise, during the process of investigation and prosecution of such cases, the victims must have wide opportunities to participate and be heard, both in the clarification of the facts and in the punishment of those responsible, as well as in the search for a fair remedy."
- The case will permit the IACHR to set a compelling precedent and reinforce the State Parties' obligation to identify victims of corruption, especially in gran corruption crimes, "—who may be social groups represented by human rights defenders— to ensure a fair reparation of the damage since corruption is not an abstract crime without a passive subject."
- The case will enable the IACHR to analyze the link between corruption and human rights violations, particularly how it impacts due process and hinders access to justice for collective and diffuse human rights as an individual.

- The case represents a crucial opportunity to link the implementation of human rights mechanisms and obligations provided under other relevant Conventions that address human rights aspects, such as the United Nations Convention Against Corruption (UNCAC). Article 13 of the UNCAC establishes the State's duty to "promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations, and community-based organizations, in the prevention of and the fight against corruption." In this regard, the Working Group on Asset Recovery of the UNCAC has argued that "while the Convention does not provide a definition of who is a victim of corruption, it is important to adopt a broad and inclusive approach, recognizing that individuals, entities, and States can be considered victims of corruption and furthermore, civil society and non-governmental organizations play an important role in ensuring that victims are represented in corruption proceedings, and as such, should be able to report crimes, give evidence, represent victims or bring public interest litigation."

In this context, the 10th Conference of State Parties to the United Nations Convention Against Corruption (COSP10) is an outstanding opportunity to advocate for the legal recognition of NGOs, collective groups, and individuals as victims of corruption within domestic procedures and to strengthen the role of regional courts and international mechanism to address justice and restoration in grand corruption cases from a global perspective. Thus, more than ever, worldwide efforts from civil society organizations are crucial to identify commonplaces and solutions to tackle corruption.