

states to engage in “hit-and-run” violations by innovating novel requirements and hurdles on foreign academic (or other) service providers as needed on the expectation that *faits accomplis* cannot readily be undone.

Hungary argued that the Commission was driven by political motivations, and that the concern of international trade in the infringement procedure was fabricated. This argument was apparently reinforced by the Trump administration’s failure to voice any concerns regarding Hungary’s expulsion of the CEU—suggesting that the 2017 amendment generated no genuine risk of international liability for the EU and that the GATS was used as a pretext to protect fundamental rights. These circumstances could have been relevant given that, in WTO law, member states are the sole legal beneficiaries of trade concessions and they alone have standing to enforce them. From a cynical perspective, the Commission made up a hypothetical trade dispute and then solved it by bringing an infringement proceeding. The Court rejected this objection rather summarily as irrelevant: “the Commission enjoys a [full] discretion as to whether or not to commence such proceedings, which is not for review by the Court” (para. 56). Stated another way, law is law and, so long as legal claims are based on a plausible interpretation of legal texts, the Court can adjudicate them.

CSONGOR ISTVÁN NAGY

ELKH Center for Social Sciences, Budapest

University of Szeged, School of Law

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Inter-American Court of Human Rights—right to a healthy environment—Indigenous rights

INDIGENOUS COMMUNITIES OF THE LHAKA HONHAT (OUR LAND) ASSOCIATION V. ARGENTINA.

Merits, Reparations, and Costs, Judgment. At https://www.corteidh.or.cr/docs/casos/articulos/seriec_400_ing.pdf.

Inter-American Court of Human Rights, February 6, 2020.

On February 6, 2020, the Inter-American Court of Human Rights (Court) declared in *Lhaka Honhat Association v. Argentina* that Argentina violated Indigenous groups’ rights to communal property, a healthy environment, cultural identity, food, and water.¹ For the first time in a contentious case, the Court analyzed these rights autonomously based on Article 26 of the American Convention on Human Rights (ACHR)² and ordered specific restitution measures, including actions to provide access to adequate food and water, and the recovery of forest resources and Indigenous culture. The decision marks a significant milestone for protecting Indigenous peoples’ rights and expanding the autonomous rights to a healthy environment, water, and food, which are now directly justiciable under the Inter-American human rights system.

The case concerned a request for recognition of land ownership by over ninety Indigenous communities that make up the Association of Indigenous Communities Lhaka Honhat (Association) in the Argentine province of Salta. Although the communities have occupied

¹ Indigenous Communities of the Lhaka Honhat (Our Land) Ass’n v. Argentina, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 400 (Feb. 6, 2020) [hereinafter *Lhaka Honhat*].

² American Convention on Human Rights, Nov. 22, 1969, 1144 UNTS123 [hereinafter ACHR].

the area since at least 1629, the state never recognized the ancestral lands (para. 49). Non-Indigenous settlers and the state itself had engaged in a series of activities within the territory that reduced forest resources and biodiversity and ultimately affected how the communities traditionally sought food and water (paras. 23, 36, 51–52).

At the heart of the case is the lack of delimitation, demarcation, and title to ancestral lands. In 1998, the Association filed a petition before the Inter-American Commission on the breach of Argentina's obligations to respect, protect, and adopt measures to effectively guarantee the enjoyment of their right to communal property. The petition was based on the construction of public works and the exploitation of hydrocarbons in traditional Indigenous territory, without free, prior, and informed consent, and allowing other illegal actions by private individuals such as livestock farming, installation of fences, and illegal logging (paras. 2, 171, 186).³ Unlike previous cases related to resource extraction, forest reserves, or other state or private ventures in Indigenous territories, *Lhaka Honhat* involved the presence of Creole peasants on lands claimed by Indigenous communities, at least some of whom are themselves rural inhabitants in vulnerable situations.⁴

When admitting the petition, the Commission noted that the state had several opportunities to promote adequate protection of the Association's property rights, but unduly delayed pronouncing a final decision.⁵ The petitioners alleged that the lack of implementation of land demarcation and titling policy violated the rights to a judicial guarantee and judicial protection, as well as freedom of thought and expression connected with political rights. In its 2012 Merits Report, the Commission found violations of several ACHR rights and made recommendations for Argentina to secure the Association's ancestral lands.⁶ Six years later, the state had still not carried out the measures recommended (paras. 253, 268). The Commission referred the case to the Court in 2018.⁷

The Court issued a final judgment in January 2020. It held Argentina responsible for violating the Indigenous communities' human rights through its failure to recognize and protect their lands (para. 370(1)). It found the state responsible for the activities carried out by the Creole population in the Indigenous territory that affected the environment as well as traditional access to food and water (para. 289). Furthermore, Argentina was responsible for violations of communal property rights, the rights to a healthy environment, cultural identity, and adequate food and water. The Court expanded and clarified the content of state obligations to protect Indigenous peoples' economic, social, and cultural rights under ACHR

³ See also Centro de Estudios Legales y Sociales, *Ancestral Lands: The Inter-American Court Will Intervene for the First Time in a Case from Argentina* (Feb. 23, 2018), at <https://www.cels.org.ar/web/en/2018/02/territorios-ancestrales-de-los-pueblos-indigenas-la-corte-idh-intervendra-en-un-caso-de-la-argentina>.

⁴ See United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, UN Doc. A/HRC/RES/39/12 (Oct. 8, 2018), at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/297/76/PDF/G1829776.pdf?OpenElement>.

⁵ Aboriginal Community of Lhaka Honhat, Petition 12.094, Inter-Am. Comm'n H.R., Report No. 78/06 (Oct. 21, 2006), at <http://www.cidh.oas.org/annualrep/2006eng/ARGENTINA.12094eng.htm>.

⁶ Indigenous Communities of The Lhaka Honhat (Our Land) Association, Case 12.094, Inter-Am. Comm'n H.R., Report No. 2/12 (Jan. 26, 2012), available at <http://www.oas.org/en/iachr/decisions/court/2018/12094FondoEn.pdf>.

⁷ Indigenous Communities of The Lhaka Honhat (Our Land) Association, Case 12.094, Inter-Am. Comm'n H.R., Letter of Submission (Feb. 1, 2018), available at <http://www.oas.org/es/cidh/decisiones/corte/2018/12094NdeREs.pdf>. See Organization of American States Press Release, *IACHR Brings Argentina Case Before the IA Court* (Feb. 23, 2018), at http://www.oas.org/en/iachr/media_center/PReleases/2018/035.asp.

Article 26, and underscored that states must take measures to safeguard Indigenous lands from encroachments by non-Indigenous settlers. Among other reparations, the Court ordered Argentina to clear the communities' ancestral lands of settlers and cattle and give the communities a formal deed to the land (paras. 370(7), 370(9)–(10)).

The first part of the judgment reinforces the Inter-American jurisprudence on Indigenous peoples' territorial rights and the state's obligation to clear, delimit, and convey title to Indigenous communities' ancestral lands (paras. 114).⁸ The basis for this right is the community's spiritual relationship with these lands.⁹ As ancestral lands are fundamental to the transmission of their culture and beliefs to future generations, Indigenous peoples shall continue occupying and asserting collective ownership over them.¹⁰ In *Lhaka Honhat*, the Court definitively established the broad scope of Indigenous land rights and their interdependence with other rights.

The Court implicitly differentiated between “land” and “territory” in recognizing a violation of the right to property.¹¹ The jurisprudence of the Court traditionally limited violations of communal property rights to the concept of “land,” i.e. within a concept of use and production.¹² Territory is broader, and can include water, environment, food staples, and an Indigenous peoples' relationship to the land as an expression of their cultural identity (sep. op., Ferrer Mac-Gregor, J., paras. 12, 24, 28). In enshrining the collective right to property as a matter of self-determination, the Court appeared to adopt the latter, broader concept—alluding that special relationship with the land, which transcends possession and production, and includes material and spiritual elements (para. 154).

Argentina was responsible for ensuring the right to the collective property since there was no adequate normative framework at the national level (paras. 154, 167–68). The Court also issued an unprecedented order, requiring the state to convey to the varied Indigenous peoples belonging to the Association a single property title, without internal subdivisions (para. 5).¹³ Furthermore, the Court ordered Argentina to adopt legislation and specific procedures to address this normative gap (para. 164). Thus, the decision consolidated the Inter-American jurisprudence on property rights and clearly expanded the scope of the right to communal property.¹⁴

The second section of the decision analyzed allegations of environmental degradation and the failure to comply with the obligation to guarantee Indigenous community rights. The

⁸ ACHR, *supra* note 2, Art. 21.

⁹ See *Saramaka People v. Suriname*, 2007 Inter-Am. Ct. H.R. (ser. C) No. 172, para. 95 (Nov. 28, 2007); *Plan de Sánchez Massacre v. Guatemala*, 2004 Inter-Am. Ct. H.R. (ser. C) No. 116, para. 85 (Nov. 19, 2004).

¹⁰ Jo M. Pasqualucci, *International Indigenous Land Rights: A Critique of the Jurisprudence of the Inter-American Court of Human Rights in Light of the United Nations Declaration on the Rights of Indigenous Peoples*, 27 WIS. INT'L L.J. 51 (2009).

¹¹ ACHR, *supra* note 2, Art. 21.

¹² Eduardo Ferrer Mac-Gregor, *Lhaka Honhat y los derechos sociales de los pueblos indígenas*, 39 REVISTA ELECTRONICA DE ESTUDIOS INTERNACIONALES (2020), available at <https://dialnet.unirioja.es/descarga/articulo/7461795.pdf> (making a distinction between “tierra” and “territorio”).

¹³ Angel Cabrera, Daniel Cerqueira & Salvador Herencia, *Comentarios a la sentencia de la Corte Interamericana sobre el Caso Lhaka Honhat vs. Argentina*, JUSTICIA EN LAS AMÉRICAS BLOG (Apr. 30, 2020), at <https://dplfblog.com/2020/04/30/comentarios-a-la-sentencia-de-la-corte-interamericana-sobre-el-caso-lhaka-honhat-vs-argentina>.

¹⁴ Juan Jorge Faundes Peñañel, Cristóbal Gonzalo Carmona & Pedro Pablo Silva Sánchez, *La Corte Interamericana de Derechos Humanos: Hermenéutica del derecho al medio ambiente sano, a la identidad cultural y a la consulta, a la luz de la sentencia “Lhaka Honhat (nuestra tierra) vs. Argentina,”* 10 REVISTA BRASILEIRA DE POLÍTICAS PÚBLICAS 643 (2020) (on what the decision means in the national constitutional context in Argentina).

Commission and the Court had previously recognized the environmental dimensions of violations of fundamental human rights, such as the right to life and health.¹⁵ However, the lack of explicit mention of environmental rights in the Inter-American system has been a significant gap in the regional human rights system.

Here, the Court went further in applying the rights to a healthy environment, adequate food, water, and cultural identity as autonomous and justiciable rights under ACHR Article 26 (paras. 197–200).¹⁶ *Lhaka Honhat* was the first contentious case involving these rights (para. 201). The Court relied heavily on the reasoning in Advisory Opinion 23/17 of 2018, in particular on the content and scope of the right to a healthy environment (para. 203).¹⁷ In its view, as an autonomous right, the right to a healthy environment protects the components of the environment, such as forests, seas, and rivers, indicating an openness to recognizing the rights of nature. The Court explicitly recognized the protection of nature because of its importance for other living organisms, rather than for its “usefulness” to or “effects” on human beings (*id.*).

The Court specified that the right to a healthy environment—and the rights to food, water, and participation in cultural life—requires not only an obligation to respect but also a positive duty to guarantee environmental protection.¹⁸ This obligation extends to the private sphere. States must, at all times, monitor and supervise activities to ensure the protection of human rights from actions of public entities and private individuals. The duty encompasses legal, political, administrative, and cultural measures that safeguard human rights and ensure that violations are treated as unlawful. In the Court’s view, prevention implies the state’s obligation to take measures to prevent environmental damage *ex ante*—as it will often not be possible to restore the situation after the damage has occurred. The Court adopted a standard of due diligence proportionate to the risk of environmental harm, whereby states must use all means at their disposal to prevent activities causing significant environmental damage from being carried out within their jurisdiction.¹⁹ States can fulfill this duty by (1) regulating, (2)

¹⁵ See, e.g., *Yanomami v. Brazil*, Case 7615, Inter-Am. Ct. H.R., Resolution No. 12/85, OAS/Ser. L/V/II.66, Doc. 10, rev. para. 1 (Mar. 5, 1985); *Kawas-Fernández v. Honduras*, Judgment, Inter-Am. Comm’n H.R., (ser. C) No. 196, para. 148 (Apr. 3, 2009); Report on the Situation of Human Rights in Ecuador, OEA/Ser. L/V/II.96 (1997); Access to Justice and Social Inclusion: The Road Towards Strengthening Democracy in Bolivia, Inter-Am. Comm’n H.R., OEA/Ser.L/V/II, Doc. 34 (June 28, 2007); Access to Justice and Social Inclusion: The Road Towards Strengthening Democracy in Bolivia, Follow-up Report, Inter-Am. Comm’n H.R., OEA/Ser/L/V/II.135, Doc. 40 (2009); *Kawas-Fernández v. Honduras*, Merits, Reparations, and Costs, Judgment, (ser. C) No. 196, para. 148 (Apr. 3, 2009); *Indigenous and Tribal People’s Rights Over Their Ancestral Lands and Natural Resources*, Norms and Jurisprudence of the Inter-American Human Rights System, Inter-Am. Comm’n H.R., OEA/Ser.I/L/V/II, Doc. 56/09 (Dec. 30, 2009), available at <http://www.oas.org/en/iachr/indigenous/docs/pdf/ancestrallands.pdf>.

¹⁶ Cabrera, Cerqueira & Herencia, *supra* note 13.

¹⁷ The Environment and Human Rights (State Obligations in Relation to the Environment in the Context of the Protection and Guarantee of the Rights to Life and to Personal Integrity: Interpretation and Scope of Articles 4(1) and 5(1) of the American Convention on Human Rights), Advisory Opinion OC-23/17, Inter-Am Ct. H.R. (ser. A) No.23, para. 59 (Nov. 15, 2017), available at https://www.corteidh.or.cr/docs/opiniones/seriea_23_ing.pdf. See Maria Antonia Tigre & Natalia Urzola, *The 2017 Inter-American Court’s Avisory Opinion: Changing the Paradigm for International Environmental Law in the Anthropocene*, 12 J. HUM. RTS. & ENV’T. 24 (2021).

¹⁸ ACHR, *supra* note 2, Art. 1.1.

¹⁹ Maria Antonia Tigre, *Lhaka Honhat Association vs. Argentina: The Human Right to Environment in the Inter-American Court*, GNHRE (Apr. 10, 2020), at <https://gnhre.org/2020/04/10/lhaka-honhat-association-vs-argentina-the-human-right-to-environment-in-the-inter-american-court>.

supervising, (3) requiring and approving environmental impact assessments, (4) establishing contingency plans, and (5) mitigating in cases of environmental damage (para. 208).

Drawing on regional and universal human rights standards, the Court concluded that the right to food can also be derived from ACHR Article 26. States must respect and guarantee the right and prevent third parties from interfering with it (para. 221). In particular, the right to food entails not only suitable nutrition but also food security—i.e. accessibility for present and future generations (para. 220). Similarly, states must guarantee access to water (also derived from ACHR Article 26), both by ensuring the progressive realization of this right and implementing immediate measures to guarantee that access to water is provided in a non-discriminatory manner (paras. 229–30). Applied to Indigenous peoples, the right to water must be understood in light of their uses and customs for their full enjoyment, as well as ensuring its supply and management, and freedom from interference, such as, for example, being free of contamination (para. 227). Moreover, states must adopt measures and policies to ensure that all persons can exercise the right to cultural identity and measures to protect it and prevent third-party interference (para. 242).

Following the reasoning in *Lagos del Campo v. Peru*,²⁰ the majority of the Court interpreted any potential violation of the right to a healthy environment—as well as the rights to water, food, and cultural identity—as directly justiciable and subject to the Court’s compulsory jurisdiction.²¹ The Court disaggregated the components of the social, cultural, and environmental aspects of Indigenous territory that were previously understood under the concept of communal property.²² Certain rights, while related to “land,” are better understood within the broader concept of “territory.” The Court analyzed land and territory together and interpreted them according to the Indigenous community’s worldview.²³ This also broadened the scope of available reparations. Reparations for communal property violations were traditionally limited to the restitution of “land” or addressing shortcomings relating to process, such as free, prior, and informed consent. By contrast, the reparations ordered in *Lhaka Honhat* attempt to redress the violation of social, cultural, and environmental rights related to Indigenous territory broadly construed.²⁴

The Court found Argentina responsible for violating each of these rights, in a closely divided decision (3–3, with the president breaking the tie).²⁵ Judges Vio Grossi and Sierra Porto dissented, arguing that the request expressly referred to the rights to life and personal integrity.²⁶ The judges argued that extrapolating justiciability to the right to a healthy environment was unwarranted as it would expand the contentious jurisdiction of the Tribunal without states’ consent (para. 370). Judge Sierra Porto specifically questioned the separation of the concepts of land and territory and their legal translations (part. diss., Sierra Porto, J.,

²⁰ *Lagos del Campo v. Peru*, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C), No. 340 (Aug. 31, 2017).

²¹ ACHR, *supra* note 2, Art. 26.

²² Ferrer Mac-Gregor, *supra* note 12.

²³ Digno José Montalván Zambrano, *The Protection of Lands and Territories of Indigenous Peoples Through Human Rights: The Controversy Raised in the Case of Lhaka Honhat (Nuestra Terra) v. Argentina*, RIVERS PROJECT (July 9, 2020), at <https://rivers-ercproject.eu/the-protection-of-lands-and-territories-of-indigenous-peoples-through-human-rights>.

²⁴ *Lhaka Honhat*, *supra* note 1 (sep. op., Ferrer Mac-Gregor, J.).

²⁵ Judge Eugenio Raúl Zaffaroni, an Argentine national, did not take part in the proceedings or deliberation.

²⁶ *Lhaka Honhat*, *supra* note 1 (diss., Vio Grossi & Sierra Porto, JJ.).

para. 18). Judge Pérez Manrique also dissented, arguing that the case should be analyzed on the thesis of simultaneity (based on the indissoluble relationship between the rights to land, healthy environment, water, and cultural identity) rather than declaring violation of autonomous rights. On the other hand, Judge Ferrer Mac-Gregor welcomed this advance in the Court's jurisprudence (sep. op., Ferrer Mac-Gregor, J. paras. 12, 40). Despite the significance of the decision for the development of economic, social, cultural, and environmental rights in the Inter-American system, the division of votes leaves uncertainty as to the growing "green" jurisprudence of the Court.²⁷ Still, the reparations ordered attempt to redress the violation of each right violated, further broadening the reach of the remedies available to plaintiffs.

The Court ordered the state to adopt various measures of reparation within six years. These include demarcating the Association's land title, transferring the Creole population outside the territory, and adopting legislative measures to ensure property rights of Indigenous communities. Additionally, Argentina must present a study and action plan related to the lack of access to drinking water and food (para. 332), the conservation of water, a guarantee of permanent access to water, access to food in a nutritious and culturally appropriate way (para. 333(a–b, d)), and recovery of forest resources (para. 333(c)).

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The Inter-American Court's decision represents a milestone for two reasons. *Lhaka Honhat* represents the first occasion in which the Court recognized autonomous and directly justiciable rights to a healthy environment, food, water, and cultural identity related to Indigenous people and communities. The decision further protects the components of nature and the possibility of recognition of violation of Indigenous rights to natural resources apart from the right to property, that is, the exclusive control over their lands. The Court's approach to the living and changing nature of international instruments represents a vital strategy to promote human rights' protection and implementation. Particularly significant is the holistic view of Indigenous rights, which recognizes that Indigenous peoples' lives are woven around their territory. The individualized rights newly recognized by the Court enable Indigenous communities to maintain their discrete cultural identities.²⁸ However, the enhanced authority of the Court is not without controversy. Given the significance of the Court's voice in human rights law, the expansion of the Court's scope beyond "traditional" rights has been met with resistance.²⁹

Some groups are more affected by environmental damage than others—including but not limited to Indigenous peoples and communities. International human rights law obliges states to treat all vulnerable groups equitably and without discrimination (para. 209). The

²⁷ The Advisory Opinion 24/17 on LGBTQ rights brought similar criticism. See Gender Identity, and Equality and Non-discrimination of Same-Sex Couples (State Obligations Concerning Change of Name, Gender Identity and Rights Derived from a Relationship Between Same-Sex Couples: Interpretation and Scope of Articles 1(1), 3, 7, 11(2), 13, 17, 18 and 24, in Relation to Article 1 of the American Convention on Human Rights), Advisory Opinion OC-24/17, Inter-Am Ct. H.R. (ser. A) No. 23 (Nov. 24, 2017).

²⁸ Silviana Ramírez, *Lhaka Honhat vs. Argentina – Comentario sobre la primera sentencia de la Corte Interamericana que protege derechos indígenas*, DIÁLOGO DERECHOS HUMANOS (Apr. 17, 2020), at <https://dialogoderechoshumanos.com/blog/634-comentario-sobre-la-primer-sentencia-de-la-corte-interamericana-que-protege-derechos-indigenas>.

²⁹ See, e.g., Jorge Contesse, *Judicial Interactions and Human Rights Contestations in Latin America*, J. INT'L DISP. SETTLEMENT (2021).

Lhaka Honhat case is complex because it involved competing claims by multiple vulnerable groups (Indigenous and non-Indigenous). The Court thus noted that Argentina must comply with its human rights obligations concerning Indigenous communities while also guaranteeing the rights of the Creole population, taking into account the vulnerability of both groups (para. 137).

In addition, the Court could have been more precise in justifying the inclusion of the right to water in the catalog of autonomous and justiciable rights. The right to water was not alleged by the petitioners but was included in the judgment under the principle of *iura novit curiae* (the court knows the law). The decision could help define the scope of the right and the minimum measures of protection required by the state. For example, the Court ordered Argentina to develop an emergency plan regarding water shortages and conduct a study on how to protect water sources. Argentina should further guarantee adequate, sufficient, permanent, and accessible ways to provide water suitable for human consumption to Indigenous communities together with other environmental protection measures for the full enjoyment of rights. The state should also guarantee access to water without discrimination. These obligations are particularly relevant as Latin America still grapples with the COVID-19 pandemic, in which access to water is essential.³⁰

The decision in *Lhaka Honhat* ultimately brings the recognition of the seriousness of the current ecological crisis to the Inter-American system. It specifically uses human rights to respond to environmental damage. The demands to address this damage, usually brought about by the inability of states and their legal systems to fulfill environmental protection, are increasingly frequent and comprehensive. They may now potentially include climate litigation claims within the Inter-American system. However, despite being an innovative decision strengthening the intersection of human rights and the environment, a great deal of legal development is required for this approach to have broader effects in international and national forums.³¹

While the decision represents a significant first step in the expansion of human rights and their justiciability under ACHR Article 26, there is still more follow up work for the Court. It is vital to delineate the legal meaning of the concept of “territory” and its application, and the autonomous rights to a healthy environment, food, and water. What do these rights mean in practice? What are the specific obligations for states resulting from these rights?

At this point, the Court’s environmental jurisprudence remains restricted to environmental damage that affects Indigenous or ancestral communities.³² The Court has not yet heard cases involving pollution, contamination, environmental disasters, or cases involving climate change or climate refugees. Yet, recognizing an independent and justifiable right to a healthy environment in *Lhaka Honhat* opens the door to these new categories of claims in the Inter-American system, including the protection of the environment itself. This means that damage to the environment can potentially be justiciable even without evidence of damage to

³⁰ Maria Antonia Tigre, et al., *The Inter-American System During COVID-19: Development of Green Human Rights on Indigenous Cases at the Regional and National Levels*, 15 REVISTA DE DERECHO AMBIENTAL 7 (2021).

³¹ Maria Antonia Tigre, *O reconhecimento do direito ao meio ambiente pela Corte-Interamericana em Lhaka Honhat vs. Argentina*, 100 REVISTA DE DIREITO AMBIENTAL 229 (2020).

³² Adriani Marques França Tavares, Mariane Morato Stival & Sandro Dutra e Silva, *A Restrita Jurisprudência Ambiental da Corte Interamericana de Direitos Humanos e Possíveis Inovações sobre Proteção Ambiental Urbana*, 17 VEREDAS DO DIREITO: DIREITO AMBIENTAL E DESENVOLVIMENTO SUSTENTÁVEL 241 (2020).

individuals. This is especially important during the current global pandemic, in which several countries, including Brazil and the United States, have relaxed environmental protection rules.³³ Similarly, the recognition of autonomous, enforceable rights to water and food is increasingly influential in the context of the pandemic, which has created shortages in Latin America.³⁴ As the Court delineates the parameters of the human rights recognized in *Lhaka Honbat* in future decisions, environmental justice may find a new avenue for justiciability.

MARIA ANTONIA TIGRE

Sabin Center for Climate Change Law, Columbia Law School

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³³ Maria Antonia Tigre, *Inter-American Court of Human Rights Recognizes the Right to a Healthy Environment*, 24 ASIL INSIGHTS (June 2, 2020).

³⁴ Tetevi Davi, *Judicial Dialogue Between the Three Human Rights Courts on the Impact of COVID-19 on Human Rights: Extracting the Essentials*, OPINIO JURIS (Sept. 25, 2020), at <https://opiniojuris.org/2020/09/25/judicial-dialogue-between-the-three-human-rights-courts-on-the-impact-of-covid-19-on-human-rights-extracting-the-essentials>.