The Right to a Dignified Life (Vida Digna): The Integration of Social and Economic Rights with Civil and Political Rights in the Inter-American Human Rights System

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The fundamental right to life includes, not only the right of every human being not to be deprived of his life arbitrarily, but also the right that he will not be prevented from having access to the conditions that guarantee a dignified life (vida digna). States have the obligation to guarantee the creation of the conditions required.¹

I. Introduction

The right to life is the most essential of human rights, in that it is basic to a person’s enjoyment of all other rights. The right is so fundamental in nature that international human rights treaties do not permit the derogation of the right to life even during times of emergency or threat to the life of the nation.² Traditionally, this right,

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which is termed a civil and political right in international law, has imposed a negative duty on States not to interfere with the right to life. Thus, it prohibits the State, and State agents, from taking a person's life except in strictly limited circumstances permitted by law.  

Under its recent controversial interpretation of the right to life, the Inter-American Court of Human Rights (hereinafter “Inter-American Court” or “Court”) has expanded the scope of the right to include a violation even when no one has died. According to the Inter-American Court, a person’s right to life encompasses the right to live a “vida digna,” meaning a “dignified life” or a “dignified existence.” 5 In other words, inherent in the concept of the right to life are considerations regarding quality of life. The Court’s concept of the right to a “dignified life” obligates the State to generate living conditions that are at least “minimum living conditions that are compatible with the dignity of the human person.” 6 or be liable for the violation of the right to life. In this regard, the Court clarified that “the State has the duty to take positive, concrete measures geared toward fulfillment of the right to a decent life, especially in the case of persons who are vulnerable and at risk, whose care becomes a high priority.” 7 The State also has a duty to refrain from inducing conditions that make it difficult or impede people from attaining the basic necessities of life. 8 As such, within the right to life, States have some obligation to provide or at least not interfere with the individual’s rights to the basic necessities of life such as adequate food, drinking water, sanitation, and health care, which are termed


3. The State must also take the necessary positive steps to protect persons from the violation of their right to life by non-State agents, such as common criminals.

4. The website of the Inter-American Court of Human Rights is <www.corteidh.or.cr>.

5. Indigenous Community Yakye Axa Case (Paraguay), Inter-Am. Ct. H.R. (ser.C) No. 125, at ¶¶ 162-4 (June 17, 2005) [hereinafter Yakye Axa]. Many Inter-American Court judgments are written in Spanish, and the English translations of the same word or term may vary from one judgment to another. The Spanish term “vida digna” has been translated as “dignified life” or “dignified existence.” This article generally uses either the Spanish term or the translation “dignified life” which is in accordance with the terminology of other international bodies.

6. Id.

7. Id.

8. Id.
economic and social rights. The Court’s jurisprudence on the right to life thereby integrates the concepts of economic and social rights with civil and political rights within the context of the right to life. This integration arguably contributes to the progressive development of international law by bridging a traditional doctrinal schism in human rights law.

The Inter-American Court has held States liable for a violation of the right to live a “vida digna,” and thus a violation of the right to life, in cases involving children, prisoners, persons confined to State mental facilities, and indigenous peoples who have lost their ancestral lands. In the Yakye Axa and Sawhoyamaxa cases, for instance, the Inter-American Court held that Paraguay violated the right to life of two communities of indigenous peoples who lived miserable existences for several years while awaiting title and restitution of their ancestral lands. The people, who lived on the side of the road at the entrances to the land they claimed, did not have access to drinkable water, sanitary facilities, adequate food, or medicine. Although the Paraguayan constitution provides for the return of ancestral lands in specified situations, government authorities delayed processing the communities’ applications for several years, forcing the communities to turn to the Inter-American human rights system. The Inter-American Court held Paraguay accountable for the violation of the right to life of all members of the Communities, even those who had not died. Judge Garcia Ramirez, in his concurring opinion in the

10. Yakye Axa, supra note 5, at ¶ 50; Sawhoyamaxa, supra note 9, at ¶ 73.61-73.72.
11. Yakye Axa, supra note 5, at ¶¶ 50.92-100 (June 17, 2005); Sawhoyamaxa, supra note 9, at ¶ 73.61-73.72.
12. During this time, thirty people died in the Community, including twenty children who died of preventable or curable illnesses such as measles, dehydration, tetanus, and pneumonia. Sawhoyamaxa, supra note 9, at ¶ 73.74. Even when the parents could bring the children to a hospital or clinic, they did not have the money to pay for the prescribed medication. Id.
13. Yakye Axa, supra note 5, at res. 4 in terms of ¶¶ 160-76 (June 17, 2005). In its first decision concerning the right to life of indigenous peoples, Yakye Axa v. Paraguay, the Court specified in its final resolutions that the State had violated the right to life of the members of that particular indigenous community. Id. Only nine months later in the Sawhoyamaxa Case under almost identical facts, the Court again discussed in the decision the right of the Community to live a vida digna, but it did not specifically hold Paraguay liable for the violation of the right of the entire Community in its final resolutions as it had done in the Yakye Axa Case. Sawhoyamaxa, supra note 9, at ¶ 177.
Sawhoyamaxa v. Paraguay case, stated:

[T]he right to life is restored to its original status as an opportunity to choose our destiny and develop our potential. It is more than just a right to subsist, but is rather a right to self-development, which requires appropriate conditions. In such framework, a single right with a double dimension is set, like the two-faced god Janus: one side, with a first-generation legal concept of the right to life; the other side, with the concept of a requirement to provide conditions for a feasible and full existence.14

Thus, the Inter-American Court recognizes that the right to life is not merely a civil and political right, but also includes the economic and social rights necessary for an individual to have a dignified existence. In reaching this conclusion, the Court makes economic and social rights justiciable within the context of the right to life.

In general, the Inter-American Court's jurisprudence on the right to life has been influential in the developing democracies of the Americas as well as in other human rights systems. Since its first cases, the Court has been repeatedly confronted with gross and systematic violations of the right to life,15 from extrajudicial executions by State authorities16 to the forced disappearances of labor and student leaders by a government-sponsored death squad.17 The Court's rulings on disappearances,18 which involve a violation of the

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15. Gross and systematic violations of human rights are perpetrated pursuant to government policy in such number and in such a manner that the rights to life, personal integrity, or personal liberty of certain sectors of the population are threatened. See CECILIA MEDINA QUIROGA, THE BATTLE OF HUMAN RIGHTS: GROSS, SYSTEMATIC VIOLATIONS OF HUMAN RIGHTS AND THE INTER-AMERICAN SYSTEM 16 (1988). Governments have intentionally used gross and systematic violations of human rights to intimidate and maintain its control over its people. See THE PRELIMINARY REPORT ON DISAPPEARANCES ON THE NATIONAL COMMISSIONER FOR THE PROTECTION OF HUMAN RIGHTS IN HONDURAS: THE FACTS SPEAK FOR THEMSELVES 3, 217 (1994).


18. The Inter-American Court has specified that "[t]he phenomenon of disappearances is a complex form of human rights violation that must be understood and confronted in an integral fashion." Id. at ¶ 150. "The forced disappearance of human beings is a multiple and continuous violation of many rights under the Convention that the States Parties are obligated to respect and guarantee. The
right to life, have been the basis of subsequent international declarations, treaties, and juridical opinions. Given the Court's history of such influence, its judgments interpreting the right to life as including the right to live a "vida digna" are likely both to invoke controversy and to contribute to the continuing integration of economic and social rights with civil and political rights in international law. In particular, the Inter-American Court's jurisprudence in this area may influence the African human rights system which recognizes a broad spectrum of human rights. 19

Despite its promising inception, the Court has not yet refined this jurisprudence to the extent necessary for petitioners or States to identify the parameters of the right to a "dignified life." A large percentage of the population of the Americas lives in abject poverty. 20 States argue that they do not have sufficient resources to provide even the basic necessities to their entire populations. Under the Court's current case law, it is unclear whether all destitute individuals could claim that the State has violated their rights to a dignified life. In light of this possibility, this article proposes an analysis that the Inter-American Court can apply to distinct classes of applicants who attempt to establish a prima facie case for the violation of this right. This article also proposes defenses for the State and the allocation of kidnapping of a person is an arbitrary deprivation of liberty, an infringement of a detainee's right to be taken without delay before a judge and to invoke the appropriate procedures to review the legality of the arrest." Id. at ¶155. "The practice of disappearances often involves secret execution without trial, followed by concealment of the body to eliminate any material evidence of the crime and to ensure the impunity of those responsible. This is a flagrant violation of the right to life." Id. at ¶ 157.


20. See infra text accompanying notes 113-116. The President of the Inter-American Commission, in his Presentation of the 2005 Annual Report of the Inter-American Commission on Human Rights, stated "currently in Latin American and the Caribbean, there are more than 20 million unemployed persons; seven out of every ten new jobs are informal; ... and many workers do not earn enough to keep their families above the poverty line." Evelio Fernandez Arevalos, Presentation of the 2005 Annual Report of the IACHR by President (Apr. 27, 2006), <http://www.cidh.oas.org/annualrep/2006eng/ANNEXES/Annex%203eng.htm>. He continued, stating, "[i]n its recently released report, 'Poverty Reduction and Growth: Virtuous Cycles and Vicious Cycles,' the World Bank has pointed out once again that Latin America continues to be one of the most unequal regions." Id.
the burden of proof between the applicant and the State.

Part II of this article gives a brief description of the Inter-American human rights system. Part III delineates the interrelationship between civil and political rights and economic, social, and cultural rights in international law. Part IV argues that the lack of basic economic and social rights constitutes discrimination under international law. Part V analyzes the justiciability of economic, social, and cultural rights. Part VI sets forth the merger of civil and political rights with social and economic rights within the context of the right to life in the American Convention. In doing so, it analyzes the Inter-American Court's jurisprudence on the right to a dignified life and evaluates State limitations on this right. In Part VII the author formulates the elements that applicants must set forth to establish a prima facie case of State liability for a violation of the right to a dignified life and outlines defenses which could be argued by the State.

II. The Inter-American Human Rights System

A basic understanding of the structure and functioning of the Inter-American human rights system is necessary to understand the potential impact of the jurisprudence of the Inter-American Court of Human Rights on the right to life. The Organization of American States ("OAS"), a regional organization composed of the States in the Western hemisphere, adopted the American Declaration of the Rights and Duties of Man and later promulgated a treaty, the

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22. OAS, *American Declaration of the Rights and Duties of Man*, art. 1, OAS Doc. OAS/Ser.L/V.I.4 rev. 9 (1948) [hereinafter American Declaration], available at <http://www.cidh.oas.org/Basicos/English/Basic.TOC.htm>. The American Declaration, which is a resolution, was the first international statement of human rights; it was adopted several months prior to the United Nations' adoption of the Universal Declaration of Human Rights. The Inter-American Court holds that the American Declaration creates international obligations for the Member States of the OAS. Interpretation of the American Declaration of the Rights and Duties of Man within the Framework of Article 64 of the American Convention on Human Rights, Advisory Opinion OC-10/89, July 14, 1989, Inter-Am. Ct. H.R. (Ser. A) No. 10 (1989).
American Convention on Human Rights. The Declaration and the Convention set forth the minimum rights to be protected in the Americas. Although the American Declaration specifies a broad spectrum of rights, including economic and social rights, the American Convention is generally limited to civil and political rights. The Convention protects twenty-six substantive rights, including the right to life, but it has only one general provision requiring States parties to take measures to allow for the progressive realization of economic and social rights. Consequently, to provide protection for these rights, the OAS later promulgated the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, also referred to as the "Protocol of San Salvador."  

The American Convention, which entered into force in 1978, is binding on the twenty-four States that are parties to the treaty (States parties). It empowers two bodies, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, to enforce the rights enshrined in the Convention. The Convention also details specific procedures these two enforcement organs must follow in dealing with individual complaints of human rights abuse. Under the American Convention, States parties automatically agree to the right of an individual to file a petition with the Inter-American Commission alleging State violations of individual human rights.

The Inter-American Commission has a dual role in the Inter-
American human rights system. The Commission has the competence to examine individual petitions denouncing human rights violations in any OAS member State, by virtue of State ratification of the OAS Charter. If the State has not also ratified the American Convention on Human Rights, as is the case with both the United States and Canada, the Commission will determine whether the State violated the protections set forth in the American Declaration on the Rights and Duties of Man. For the American States that are also States parties to the American Convention on Human Rights, the Commission determines whether the States have violated the American Convention. Those OAS member States that have not ratified the American Convention are still subject to the American Declaration of the Rights and Duties of Man, which also protects the right to life.28

The Inter-American Court, the sole judicial organ of the Organization of American States, is based in San Jose, Costa Rica.29 The American Convention authorizes the Court to adjudicate contentious cases alleging State violations of human rights, to issue advisory opinions, and to order States to take provisional measures to protect persons who are in grave and urgent danger.30 The Court’s contentious jurisdiction empowers it to adjudicate cases arising from alleged governmental violations of individual human rights protected


29. States Parties to the American Convention that also have accepted the jurisdiction of the Inter-American Court are Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay, and Venezuela. Trinidad and Tobago denounced the Court’s jurisdiction when it denounced the American Convention. Inter-American Court of Human Rights, Information History, <http://www.corteidh.or.cr/historia.cfm?&CFID=355710&CFTOKEN=70670025> (visited Nov. 1, 2007).

30. American Convention, supra note 2, at arts. 62-64.
by the American Convention. It is within the Court’s role as adjudicator of individual allegations of human rights abuse that the Court rendered its judgments on the right to live a dignified life.

III. The Interrelationship Between Civil and Political Rights and Economic, Social, and Cultural Rights

All persons should have the means to acquire the basic necessities of life so as to allow them to live a dignified existence and enjoy the rights and freedoms essential to life. Nonetheless, historically human rights have been conceptually divided into two categories: civil and political rights; and economic, social, and cultural rights. Civil and political rights include *inter alia* the rights to life, humane treatment, a fair trial, assembly, equal protection, property, and judicial protection, as well as the freedoms of expression, religion, and association. These rights and freedoms are sometimes referred to as “first generation” rights in that they were the first human rights formally recognized by States and international law. Generally, civil and political rights have been considered immediately enforceable by a State because they purportedly require very little or no positive action on the part of the government. In other words, theoretically, the government’s obligation to protect and insure civil and political rights has been primarily negative. According to this common conceptualization, the State must merely refrain from interfering with the right or freedom protected. For example, the State may not restrict most forms of speech through acts such as censorship, nor may it inhibit individuals from practicing the religion they choose. Despite this characterization, however, scholars and international bodies emphasize that most civil and political rights do, in fact, require some positive action on behalf of the State. For instance, the right to a fair trial requires, at a minimum, that the State

31. *Id.* at art. 62.


34. *Id.*
provide court houses, judges, and support staff, all of which require positive action and resources on the part of the State.

Economic, social, and cultural rights include *inter alia* the rights to adequate nutrition, clothing, housing, essential health care, work, social security, and free, compulsory, and accessible primary education.\(^{35}\) These “second generation” rights have been referred to as “aspirational goals” because they call for significant positive action on the part of the State, which likely requires time and resources.\(^{36}\) As such, treaties specify that States may achieve the full realization of these rights progressively over a period of time.\(^{37}\) Practical difficulties often inhibit State implementation of generalized norms of economic, social, and cultural rights because they may require substantial State expenditures. The right to a certain level of schooling, for instance, dictates that States provide schools and teachers. The right to adequate mental and physical health may require that States staff health care services.

During the Cold War, Western nations denied that economic, social, and cultural issues could be legitimately classified as rights.\(^{38}\)

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37. The Covenant on Economic, Social and Cultural Rights provides that, “[e]ach State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.” ICESCR, *supra* note 35 at, art. 2(1); The Maastricht Guidelines on Economic, Social and Cultural Rights point out that the full realization of many civil and political rights can also only be achieved progressively. Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, General Comment No. 3, 5th Sess., 8 U.N. Doc. E/C.12/2000/13 (2000)[hereinafter Maastricht Guidelines]; see also American Convention, *supra* note 2, at art. 26.

The Right to a Dignified Life

In the view of the West, civil and political rights were the only valid enforceable rights. Conversely, the Soviet bloc stressed economic, social, and cultural rights to the exclusion of others, arguing, for example, that the right to vote was irrelevant if an individual did not have food. As a result of these differences, the United Nations could not draft one comprehensive human rights treaty including all the rights enshrined in the Universal Declaration of Human Rights. Instead, it promulgated two separate human rights treaties: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Today, almost all the world’s States have ratified or acceded to both treaties. One hundred and sixty States are parties to the ICCPR and 155 States are parties to the ICESCR.

As expressed by the Vienna Declaration adopted at the 1993 World Conference on Human Rights, most international law scholars and activists now consider human rights to be “universal, indivisible, interdependent and interrelated.” Other international instruments have also adopted the position that all human rights, which include economic and social rights as well as civil and political rights, are essential to the actualization of individuals in society. The preamble to the Protocol of San Salvador, for example, recognizes that “the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social, and cultural rights as well as his civil and political rights.”

40. ICESCR, supra note 35.
41. ICCPR, supra note 2; ICESCR, supra note 35.
44. Protocol of San Salvador, supra note 25, at preamble.
IV. The Lack of Economic, Social, and Cultural Rights as Discriminatory

When the right to life is jeopardized because individuals do not have the resources to secure adequate food, potable water, or basic necessary medical care, the State may be deemed to be discriminating against those whose rights it has pledged to protect. Human rights treaties require that the signatory states ensure the rights protected to all persons without discrimination.45 Within this context, the American Convention and other human rights instruments specifically prohibit States from discriminating against persons on the basis of their "economic status."46 States must protect and ensure the human rights of those subject to their jurisdiction whether they are poor or rich. The United Nations Human Rights Committee considers that the right to life, in conjunction with the prohibition on discrimination, gives the right a social and economic content.47

When individuals cannot acquire the basic necessities of life, they may despair and become angered by the perceived injustice of their life situations. That desperation could lead to violence and a breakdown of society, inducing further violations of human rights. Franklin Delano Roosevelt stated that "essential to peace is a decent standard of living for all individual men and women and children in all nations. Freedom from fear is eternally linked with freedom from want."48 Mary Robinson, former U.N. High Commissioner of Human Rights, terms poverty and related social ills as "problems of injustice" rather than simply "problems of inadequate resources, or lack of

45. American Convention, supra note 2, at art. 1(1).
46. Id. The Convention also prohibits discrimination for "any other social condition." Id. See CECILIA MEDINA QUIROGA, THE AMERICAN CONVENCIÓN AMERICANA: TEORÍA Y JURISPRUDENCIA, VIDA, INTEGRIDAD PERSONAL, LIBERTAD PERSONAL, DEBIDO PROCESO Y RECURSO JUDICIAL 118-23 (Universidad e Chile, 2005). See The Maastricht Guidelines, supra note 37, at ¶ 11; See ICESCR, supra note 35, at art. 2(2).
48. President Franklin Delano Roosevelt, State of the Union Address in 90 CONG. REC. 55, 57 (Jan. 14, 1944).
The Right to a Dignified Life (Vida Digna)

political will.” The Inter-American Court holds that States are obligated “to guarantee the creation of the conditions required” so that people can live dignified lives.

V. Justiciability of Economic, Social, and Cultural Rights

A long-held argument against the view that economic, social, and cultural goals are “rights” is that they cannot be enforced in a court of law, i.e., that they are not justiciable. Conversely, other experts posit that some economic, social, and cultural rights are self-executing, and as such, may be enforced directly by State judicial authorities. The United Nations Committee on Economic, Social and Cultural Rights, which holds many of these rights to be justiciable, has mandated that, “appropriate means of redress, or remedies, must be available to any aggrieved individual or group, and appropriate means of ensuring governmental accountability must be put in place.” The Maastricht Guidelines on Economic, Social and Cultural Rights specify that “victims of violations of economic, social, and cultural rights should have access to effective judicial or other appropriate remedies at both national and international levels.”


50. Street Children, supra note 1, at ¶ 144.


53. Id. at General Comment No. 9: The Domestic Application of the Covenant, 19th Sess., ¶¶ 2, U.N. Doc. E/C.12/1998/24 (Dec. 12, 1998). The Committee on Economic, Social and Cultural Rights defines justiciability in this context to mean the authority of domestic courts to “take account of Covenant rights where this is necessary to ensure that the State’s conduct is consistent with its obligations under the Covenant.” Id. at ¶ 14.

Although international bodies, such as the Committee on Economic, Social and Cultural Rights have argued that all persons have the right to a dignified life, the Inter-American Court is the first international court to hold that economic and social rights are justiciable within the context of the right to life, which has heretofore been the quintessential civil and political right. The European Court of Human Rights has also merged civil and political rights with economic, social, and cultural rights, but in the context of the right to be free of inhumane or degrading treatment.

Judgments of the Inter-American Court automatically become part of the national law in some States. When economic, social, and cultural rights are codified in national legislation, plaintiffs can rely on these statutory rights in domestic courts and they are more likely to be enforced. Thus, the Inter-American Court's holding that the right to life includes the right to a dignified life can have a direct effect on the people in the Americas.

VI. Merger of Civil and Political Rights with Social and Economic Rights Within the Context of the Right to Life of the American Convention

Article 4(1) of the American Convention provides that "[e]very person has the right to have his life respected." The Inter-American Court holds that protection of the right to life is "essential for the exercise of all other human rights" protected by the American Convention. Consequently, the Court does not view the right to life


57. See Kenneth Roth, Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organization, 26 HUM. RTS. Q. 63, 66 (2004). At a minimum, rights must be sufficiently defined to allow courts to adjudicate complaints that the State has violated these rights and then for the court decisions to be feasibly implemented.

58. American Convention, supra note 2, at art. 4(1). Article 4(1) continues "[t]his right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life." Id.

59. Street Children, supra note 1, at ¶ 144; see also Juvenile Reeducation Institute Case (Paraguay), Inter-Am. Ct. H.R. (ser. C) No. 112, at ¶ 156 (Sept. 2,
restrictively. In fact, the Court interprets the State’s duty to respect the right to life to include both the negative obligation to refrain from jeopardizing life and the positive obligation to adopt appropriate measures to guarantee life. Under the State’s negative obligation, it must not arbitrarily deprive individuals of their right to life. Thus, extrajudicial executions, disappearances, and the extension of the death penalty to include punishment for political offenses or related common crimes violate the right to life. Under the State’s positive obligation, the State must not only protect people from the criminal acts of others, but in addition, according to the Court’s recent jurisprudence, States must guarantee the creation of conditions to ensure that the right to life is not violated. Describing this expansive

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60. Street Children, supra note 1, at ¶ 144. The United Nations Human Rights Committee has also stated that the right to life “is a right which should not be interpreted narrowly.” U.N. Hum. Rts. Comm., General Comment No. 6: The Right to Life (art. 6), at ¶ 1, (Apr. 30, 1982). The Committee noted in its General Comment 6 that “the expression ‘inherent right to life’ cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures.” Id. at ¶ 5.


62. States have a duty to prevent State agents from violating any person’s right to life. Street Children, supra note 1, at ¶ 144. The right to life is violated when someone is summarily executed by agents of the State without a trial. Many of the victims of extrajudicial executions are persons who have been targeted as “internal enemies.” See Myrna Mack-Chang, supra note 59, at ¶ 139. For example, Guatemalan anthropologist Myrna Mack, was killed for conducting research and publishing a book about the internally displaced indigenous people in Guatemala and the military’s role in massacres and human rights violations. Id. at ¶ 143. The Inter-American Court held that the death of Myrna Mack was “the result of a covert military intelligence operation carried out by the Presidential General Staff and tolerated by various authorities and institutions.” Id. at ¶ 140. Other victims of extrajudicial executions are often those who are considered vulnerable and friendless. In the Street Children case, five Guatemalan youths who lived on the streets of Guatemala City were summarily killed by members of the National Police Force, and their bodies were dumped in a public place. Street Children, supra note 1, at ¶ 142, 147.

63. American Convention, supra note 2, at art. 4(4).

64. Sawhoyamaxa, supra note 9, at ¶ 151 (citing Pueblo Bello Massacre Case
perception, the Inter-American Court stated that,

States must adopt any measures that may be necessary to create an adequate statutory framework to discourage any threat to the right to life; to establish an effective system of administration of justice able to investigate, punish and repair any deprivation of lives by state agents, or by individuals; and to protect the right of not being prevented from access to conditions that may guarantee a decent life, which entails the adoption of positive measures to prevent the breach of such right.\textsuperscript{65}

Thus, pursuant to the State’s positive obligation, the Inter-American Court holds that the right to life includes the right of individuals to develop their lives in a dignified manner. Persons cannot be made or allowed to live permanently in inhumane and degrading conditions.\textsuperscript{66} According to the United Nations Committee on Economic, Social and Cultural Rights, the human rights necessary for people to have a dignified life, or a “full, free, safe, secure and healthy life,” include the “basic necessities of work, food, housing, health care, education and culture.”\textsuperscript{67}

The Inter-American Court more generally specifies that the State, pursuant to its duty to guarantee life, has the obligation to generate living conditions that are at least minimally “compatible with the dignity of the human person.”\textsuperscript{68} The State also has the duty not to create conditions that result in impediments that make life more difficult for people.\textsuperscript{69} In this regard, the Court clarified that the State “has the duty to take positive, concrete measures geared toward fulfillment of the right to a decent life, especially in the case of persons who are vulnerable and at risk, whose care becomes a high priority.”\textsuperscript{70} As explained by Judge Cancado Trindade’s concurrence (Colombia), Inter-Am. Ct. H.R. (ser.C) No.140, at ¶ 120 (January 31, 2006)). A limited positive obligation can also be attributed to the State in this context to take the necessary measures to protect an individual from the criminal acts of other individuals.

\textsuperscript{65} Sawhoyamaxa, \textit{supra} note 9 at ¶ 153 (citing Juvenile Reeducation Institute Case, \textit{supra} note 59, at ¶ 156; Street Children, \textit{supra} note 1 at ¶ 144.

\textsuperscript{66} Juvenile Reeducation Institute, \textit{supra} note 59, at ¶¶ 170-171.


\textsuperscript{68} Indigenous Community Yakye Axa Case (Paraguay), Inter-Am. Ct. H.R. (ser. C) No. 125, at ¶ 162 (June 17, 2005).

\textsuperscript{69} \textit{Id.}

\textsuperscript{70} \textit{Id.}
in the *Villagrán Morales* case,

The arbitrary deprivation of life is not limited, thus, to the illicit act of homicide; it extends itself likewise to the deprivation of the right to live with dignity. This outlook conceptualizes the right to life as belonging, at the same time, to the domain of civil and political rights, as well as economic, social and cultural rights, thus illustrating the interrelation and indivisibility of all human rights.\(^7\)

The individual has the primary obligation to fulfill his or her own basic needs through individual efforts and the use of private resources.\(^7\) It may not be possible, however, for every person to satisfy elementary needs when that person has no access to resources or cannot exert efforts due to a handicap or to detainment. The disenfranchised poor, the disabled, children, or persons who are imprisoned or institutionalized may not have access to the necessities that will fulfill even their most basic human needs.

**A. Extra Protection for Vulnerable Groups**

Although the State must respect and ensure the right to life of all people under its jurisdiction,\(^7\) the State’s obligation to take positive action is even more pronounced for those who are vulnerable and powerless in society. The Inter-American Court holds that “any person who is in a vulnerable condition is entitled to special protection, which must be provided by the States if they are to comply with their general duties to respect and guarantee human rights.”\(^7\)

The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights specify that the groups who suffer disproportionate harm include “lower-income groups, women, indigenous and tribal peoples, occupied populations, asylum seekers, refugees and internally displaced persons, minorities, the elderly, children, landless peasants, persons with disabilities and the

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71. Street Children, *supra* note 1, (Cancado Trindade and Abreu Burelli, concurring at ¶ 4).


73. American Convention, *supra* note 2, at art. 1(1).

homeless." This list is broader than the list of vulnerable groups identified to date in the case law of the Inter-American Court. Specifically, the Inter-American Court has adjudicated cases involving the right to a dignified life for children, the aged, prisoners, mentally handicapped persons who are confined to State-run facilities, and indigenous populations that have lost their ancestral lands. Where the right to life of persons in these groups is at risk, the Court has mandated that the State take special actions to prevent or remedy the violation of the right to live a dignified life.

i. Children and Pregnant Women

The Inter-American Court has held that the State’s obligation to protect the right to life “has special modes regarding to minors.” With respect to children, the Court holds that “[t]he measures that the State must undertake, particularly given the provisions of the Convention on the Rights of the Child, encompass economic, social and cultural aspects that pertain, first and foremost, to the children’s right to life and right to humane treatment.” In other words, the State’s role as guarantor obligates the State to prevent situations that might lead, by action or omission, to adverse effects on the right to a dignified life of children.

Under the Convention on the Rights of the Child, “parents have the primary responsibility to secure, within their abilities and financial capabilities, the conditions of living necessary for their children’s development.” This widely-ratified treaty also specifies that when necessary and within the State’s means, the State must take measures to assist parents with nutrition, clothing and housing needs. The

78. Id. (citing Bulacio Case, Inter-Am. Ct. H.R. (ser.C) No. 100, at ¶ 138 (Sept. 18, 2003)).
79. Juvenile Reeducation Institute, supra note 59, at ¶ 149.
82. Id. at art. 27(3).
supplemental responsibility of States set forth in the treaty is in line with the jurisprudence of the Inter-American Court.

The Inter-American Court has also stated that the State must provide special attention and care to pregnant women. Especially during the period of the pregnancy, birth and breast-feeding, the State should guarantee access to adequate medical attention and services. This accords with its responsibility to children.

ii. The Aged

Persons of advanced age merit special consideration by the State. In the *Yakye Axa* case, which primarily addressed the right to the ancestral lands of an indigenous people, the Court stated that in respect to the elderly the State must “take measures to ensure their continuing functionality and autonomy, guaranteeing their right to adequate food, access to clean water and health care. Specifically, the State must provide care for the elderly with chronic diseases and in terminal stages, to help them avoid unnecessary suffering.”

iii. Indigenous Peoples Who Have Lost Their Ancestral Lands

Other vulnerable groups, such as indigenous peoples who have been excluded from their ancestral lands and cannot, thus, provide for themselves, may require special State protection to fulfill their right to live dignified lives. In the *Yakye Axa* and *Sawhoyamaxa* cases against Paraguay, the Inter-American Court held that the State, by delaying the processing of their applications for the restitution of the communities’ ancestral lands, exacerbated their living conditions and thereby violated their rights to live dignified lives. The community members lived for several years along side the roads leading to the entrances to their ancestral lands, awaiting the domestic resolution of their petitions for land restitution. The Court found that the people had lived in “extremely destitute conditions” because of the precariousness of their temporary settlement and the related difficulties of obtaining food, clean water, adequate housing, and

83. *Sawhoyamaxa*, *supra* note 9, at ¶ 177.
84. *Id.*
85. *Yakye Axa*, *supra* note 5, at ¶ 175.
86. *Id.*
87. *Id.* at ¶¶ 168, 176.
88. *Id.* at ¶¶ 50.8, 164.
health care. In the *Yakye Axa* case, the Court required that while the Community was in a state of vulnerability without its ancestral lands and without the ability to resort to its traditional means of subsistence, the State was obligated to periodically provide food, latrines, potable water, and medical attention and medications especially for the children, elderly and pregnant women. Thus, the Court held, the State was liable for the violation of the right to life of the Yakye Axa People for not adopting positive measures in the face of the conditions that affected their possibility of having dignified lives.

iv. Detainees or Those Interned in State-run Facilities

The Inter-American Court holds that the State has a special obligation to provide persons who are subjugated by the State with the conditions for a dignified life. The Court stated that "all persons detained have the right to live in prison conditions that are in keeping with their dignity as human beings and that the State must guarantee their right to life and their right to humane treatment." In this regard, the Inter-American Court established that, the State has a special role to play as guarantor of the rights of those deprived of their freedom, as the prison authorities exercise heavy control or command over the persons in their custody. So there is a special relationship and interaction of subordination between the person deprived of his liberty and the State; typically the State can be rigorous in regulating what the prisoner's rights and obligations are, and determines what the circumstances of the internment will be; the inmate is prevented from satisfying, on his

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89. *Id.* at ¶¶ 164-68.
90. *Id.* at ¶ 221.
91. *Id.* at ¶ 161. These decisions have arguably been the most controversial of the Court's jurisprudence on the right to a dignified life. They open the possibility that wide-ranging groups or classes of individuals could bring cases before the Court.
93. *Id.* at ¶ 151; See also Bulacio Case (Argentina), Inter-Am. Ct. H.R. (ser. C) No.100, at ¶¶ 126, 138 (Sept. 18, 2003); Hilaire, Constantine and Benjamin et al. Case (Trinidad and Tobago), (ser. C) No.94, at ¶ 165 (June 21, 2002).
own, certain basic needs that are essential if one is to live with dignity (vida digna).\footnote{95}{Juvenile Reeducation Institute, supra note 59, at ¶ 152.}

The State must assume special responsibilities to guarantee to prisoners and others interned in state-run facilities the conditions necessary to live dignified lives. A person who is deprived of liberty must still be permitted to enjoy those rights that cannot be restricted under any circumstances as well as those rights that need not be restricted because of the internment.\footnote{96}{Id. at ¶ 153.} The privation of liberty does not deprive a person of all human rights.\footnote{97}{Id.}

In the \textit{Juvenile Reeducation Institute} case, incarcerated minors were exposed to violence, insecurity, abuses, corruption, and promiscuity.\footnote{98}{Id. at ¶ 170.} Quite literally, a policy of the survival of the fittest, with all its deplorable consequences, was imposed on all the inmates.\footnote{99}{Juvenile Reeducation Institute, supra note 59, at ¶ 170.} The Court found that the conditions at the Institute never permitted those interned there “deprived of their liberty to live with dignity.”\footnote{100}{Id.} According to the findings of the Court, the State permitted its agents to threaten the inmates and to subject them constantly to cruel, inhumane, and degrading treatment resulting in a “vida indigna” [undignified life] that affected the prisoners’ development, their right to life, and their life projects.\footnote{101}{Id.} Consequently, the State had not complied with its obligation to “necessary positive measures to ensure” conditions for a dignified life to those deprived of their

\begin{quotation}
\textbf{[t]}he concept of a “life plan” is akin to the concept of personal fulfillment, which in turn is based on the options that an individual may have for leading his life and achieving the goal that he sets for himself. Strictly speaking, those options are the manifestation and guarantee of freedom. An individual can hardly be described as truly free if he does not have options to pursue in life and to carry that life to its natural conclusion. Those options, in themselves, have an important existential value. Hence, their elimination or curtailment objectively abridges freedom and constitutes the loss of a valuable asset, a loss that this Court cannot disregard.
\end{quotation}

\textit{Loayza-Tamayo Case (Peru) (Reparations), Inter-Am. Ct. H.R. (Ser. C) No. 42 at ¶ 148; see Pasqualucci, The Practice and Procedure of the Inter-American Court of Human Rights, supra note 28, at 270-72.}
The Court mandated that the State, in its role as guarantor, "has an obligation to design and apply a crisis-prevention prison policy." Alternatively, the Inter-American Court could have held solely that abysmally poor prison conditions are a violation of a detainee's right to humane treatment rather than a violation of the right to life. The Court has held that unlivable prison conditions are both a violation of the right to life and the right to humane treatment. The American Convention provides that "[a]ll persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person." If they are not, it is a violation of the traditional civil and political right to humane treatment, i.e., to have their "physical, mental, and moral integrity respected." In similar circumstances to those considered by the Inter-American Court, the European Court of Human Rights has focused on the violation of the right to humane treatment rather than a violation of the right to life. A violation of the right to humane treatment may be found by the European Court based on such factors as cell size, sanitary conditions, the degree of overcrowding, opportunities for exercise and recreation, and medical treatment. The ill-treatment of the detainee must reach a minimum level of severity to constitute a violation of the right to be free of inhumane treatment.

B. Limitations on the State's Liability for Violation of the Right to a Vida Digna

Many States argue that they do not have financial resources available to provide for the alimentary, sanitary, and educational necessities of all of their citizens. In the Sawhoyamaxa Indigenous

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102. Juvenile Reeducation Institute, supra note 59, at ¶ 176.
103. Id. at ¶ 178 (quoting Urso Branco Prison Case (Brazil) Provisional Measures, Inter-Am. Ct. H.R., (ser. E) ¶ 13 (July 7, 2004)).
104. Montero Aranguren et al. (Bolivia) (the Catia Detention Center Case), Inter-Am. Ct. H.R. (ser. C) No. 150, at ¶ 104 (July 5, 2006) [hereinafter the Catia Detention Center].
105. American Convention, supra note 2, at art. 5(2).
106. Id. at art. 5(1).
108. Id.
109. Id. at ¶ 94. The European Court stated in this regard that "[t]he assessment of this minimum is relative: it depends on all the circumstances of the case, such as the duration of the treatment, its physical and/or mental effects and, in some cases, the sex, age and state of health of the victim." Id.
Community case, Paraguay argued that its ability to provide essential services was limited by its relatively undeveloped economic state, the inequality of international commerce, and its own financial limitations. In the “Juvenile Reeducation Institute” case, the Paraguayan government asked the Inter-American Court to consider the government’s limitations and lack of resources which kept the State from responding in an optimal manner to the plight of the children detained in the Institute. Paraguay reminded the Court that even the United Nations Rules for the Protection of Juveniles Deprived of their Liberty provide that “[t]he Rules shall be implemented in the context of the economic, social, and cultural conditions prevailing in each Member State.”

The unequal division of wealth in Latin America results in large populations of vulnerable persons in some States. For example, according to the Inter-American Development Bank, only 23% of Nicaraguan and 40% of Honduran residents have access to adequate sanitary facilities. The United Nations Development Project reports that in El Salvador 18% of the population does not have sustainable access to an improved water source. In Bolivia, 62.7% of the population lives below the national poverty line. In Guatemala, 56.2% and in El Salvador, 48.3% live below the national poverty lines.

Considering such practical impediments, the Inter-American Court has recognized limitations on the State’s obligation to protect and insure the right to a dignified life. The Court states that “[t]he
object and purpose of the [American] Convention, as an instrument for the protection of the human being, requires that the right to life be interpreted and enforced so that its guarantees are truly practical and effective."118 Accordingly, the Court recognized that:

[A] State cannot be responsible for all situations in which the right to life is at risk. Taking into account the difficulties involved in the planning and adoption of public policies and the operative choices that have to be made in view of the priorities and the resources available, the positive obligations of the State must be interpreted so that an impossible or disproportionate burden is not imposed upon the authorities.

Thus, the Inter-American Court holds that a State must adopt the necessary measures within the scope of its attributions that, judged reasonably, could be expected to prevent or avoid the risk to the life of those subject to the State’s jurisdiction.119

Not all international bodies take such a restrictive view of States’ obligations. The Maastricht Guidelines, citing to the Committee on Economic, Social and Cultural Rights, go beyond the jurisprudence of the Inter-American Court in specifying that the State has a duty to satisfy the minimum core obligations of essential food, primary health case, and basic shelter and education “irrespective of the availability of resources” or of other difficulties.120 The Guidelines provide that “[r]esource scarcity does not relieve States of certain minimum obligations in respect of the implementation of economic, social, and cultural rights.”121 Moreover, international development organizations often find that “poverty and severe deprivation [are] a product less of a lack of public goods than of officially promoted or tolerated policies of social exclusion.”122 Thus, according to this

118. Catia Detention Center, supra note 104, at ¶ 64; Baldeón-García Case (Perú), Inter-Am. Ct. H.R. (ser. C) No. 147, at ¶ 83 (April 06, 2006).
120. Sawhoyamaxa, supra note 9, at ¶ 160.
122. Id.
123. See Kenneth Roth, Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organization 26 HUM. RSS. Q. 63, 72-73 (2004). The right to a dignified life, and therefore the right to life, is violated when the State government is corrupt and that corruption diminishes or drains the public coffers. Should the State also be responsible for inept management or for favoring one sector of society over another? For instance, if the government
viewpoint, State policies should be questioned to determine whether the lack of economic resources is due to an intentional governmental course of action or intentional exclusion.

VII. Proposed Analysis for the Violation of the Right to Live a Dignified Life

Although the Inter-American Court has determined that there is a right to a dignified life, the question arises as to whether the Court will limit this right only to those vulnerable groups that it has recognized, extend it to all traditionally vulnerable groups, or further extend the right to any person or group that is known by the government to be in dire circumstances through some action, negligence or inaction of the government. The most expansive protection of the right to a dignified life would recognize the right as available to anyone. Extending the right to all people would acknowledge that every person has the inalienable right to a life with basic necessities such as food, water, and sanitation. It would be the State’s responsibility to provide the means for people to fulfill their own needs, not obstruct peoples’ ability to satisfy their basic needs, and, when necessary, to assist them in meeting those needs. International court judgments holding States liable for a violation of the right to a dignified life then would support civil society in its efforts to hold governments accountable for financial decisions and compel governments to enter into a dialog about the relative use of public funds. Importantly, it would apply additional pressure against governmental corruption and self-aggrandizing projects.

A less expansive view, while still recognizing a right to a dignified life, would make the right justiciable only for vulnerable groups. The Court could limit the right to those groups it has recognized, such as those incarcerated by the State, children, the aged, and landless indigenous peoples or it could extend the right to other vulnerable groups who have traditionally suffered social exclusion and discrimination. These groups and individuals often encounter innate impediments in satisfying their basic necessities, and thus, it could be argued that they merit additional assistance from the State. Furthermore, from a practical standpoint, if only certain vulnerable 

attempts to further international trade so as to increase its foreign currency reserves to pay its foreign debt and as a result does not have the resources to provide basic social services to the poor, should it be liable internationally for failing to provide a dignified life to part of its population?
groups could allege a violation of the right to a dignified life, the burden on international protective organs would be more manageable.

There is, of course, the perspective that the enforcement of a right to a dignified life is impractical and should not be judicially recognized. This position relies on the long-held argument against the recognition of economic and social rights in general; that the attempt to enforce them would dilute the protection afforded civil and political rights. According to this position, the vast numbers of persons who live in abject poverty would overwhelm human rights organs and monitoring bodies with claims that States have violated their right to live a dignified life. As a result, other cases involving important issues such as extrajudicial executions, freedom of expression, and rights to a fair trial would languish, due to the backlog in the system. In the Inter-American system, the Commission and the Court would arguably be overwhelmed if even a small proportion of those in the Americas who suffer from aggravated poverty were to file such complaints. This would also be true for the African human rights system which already ensures many economic and social rights.

A. Essential Elements

The Inter-American Court has held that three elements are essential to any case against a State for violation of the right to a dignified life. The applicants first must show that they lack the most basic necessities of life, such as access to potable water, sufficient food, sanitary facilities, and basic health care. Second, the applicant must show that the State knew or had reason to know of the vulnerable situation that was jeopardizing the right to life of groups or individuals within its jurisdiction. Third, a causal relationship must exist between the States’ action, negligence or omission and the deplorable living conditions of the alleged victims. The initial burden to prove these elements must be on the applicants, who allege that

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124. Sawhoyamaxa, supra note 9, at ¶ 157. “In order for this positive obligation to arise, it must be determined that at the moment of the occurrence of the events, the authorities knew or should have known about the existence of a situation posing an immediate and certain risk to the life of an individual or of a group of individuals, and that the necessary measures were not adopted within the scope of their authority which could be reasonably expected to prevent or avoid such risk.” Id. at ¶ 155 (citing to Pueblo Bello Massacre Case (Colombia), Inter-Am. Ct. H.R. (ser. C) No. 140, at ¶ ¶ 123-24 (Jan. 31, 2006)).
the State has violated their rights to a dignified life, since the burden of proof generally lies with the party alleging any human rights violation.

**B. Potential Applicants**

Applicants could be divided into three groups for the purpose of analysis: those living under the exclusive control of the State, alleged victims who belong to vulnerable groups and, alleged victims who do not belong to any traditionally recognized vulnerable group.

1. **Persons Living Under Exclusive State Control**

When the applicants are under the exclusive control of the State, such as persons in prison, child detention centers, or state mental health facilities, they generally do not have the opportunity to meet their own basic needs. Nor should they be dependent on their families or charity to provide their necessities. The State must be responsible for providing them with sufficient food, potable water, basic sanitation, and adequate living space. In addition, the State must supply them with basic security, like humane treatment by guards and protection from other inmates. The Inter-American Court has cited the Standard Minimum Rules for the Treatment of Prisoners, which could supply the minimum standard of treatment required in prisons.\(^{125}\) Another applicable non binding standard drafted by the UN is the Body of Principles for the Protection of all Persons Under Any Form of Detention or Imprisonment.\(^{126}\)

The alleged victims may provide evidence in the form of accounts of witnesses and experts, as well as national or international records or reports that they are interned by the State and that they lack the minimum necessities required for a dignified life. When the applicants carry this burden, it should raise an irrebuttable presumption that first, the State had knowledge or reason to know of the deficiencies, and second, the lack of basic necessities is caused by the omission of the State. This presumption should be applied even when the State has contracted with private companies to provide facilities normally supplied by the State because these private parties


serve as agents for the State.

Regardless of other issues, it is the sole responsibility of the State to provide at least the minimum requirements for a dignified life to persons who are under its exclusive control. The European Court holds in this regard that a "lack of resources cannot in principle justify prison conditions which are so poor as to reach the threshold of treatment contrary to [freedom from torture and other inhuman or degrading treatment or punishment]." Moreover, it should not be necessary for the applicants to show that the State had actual knowledge as State agents are in charge of the facilities. Alleged victims living under the exclusive control of the State should bear a lesser burden than other groups.

1. Persons in Vulnerable Groups other than those Interned by the State

A more stringent test could be applied to other alleged victims who belong to vulnerable groups. Initially, these applicants should demonstrate that they lack the basic necessities of life and that they belong to a vulnerable group. According to current Inter-American case law, in addition to those interned by the State (who would be subject to the previous analysis), these additional vulnerable groups have included children, pregnant women, the elderly, and indigenous and tribal peoples who have lost their land. The Court could extend the category of vulnerable groups, in accordance with the Maastricht Guidelines on Economic, Social and Cultural Rights, to include "lower-income groups, women, occupied populations, asylum seekers, refugees and internally displaced persons, minorities, landless peasants, persons with disabilities and the homeless."

In contrast to applicants who are interned by the State, this analysis would propose that others in vulnerable groups must

127. Poltoratskiy v. Ukraine, Eur. Ct. H.R., App. No. 38812/97, ¶ 148 (2003). "The Court has also borne in mind, when considering the material conditions in which the applicant was detained and the activities offered to him, that Ukraine encountered serious socio-economic problems in the course of its systemic transition and that prior to the summer of 1998 the prison authorities were both struggling under difficult economic conditions and occupied with the implementation of new national legislation and related regulations." Id.

128. Juvenile Reeducation Institute, supra note 59, at ¶ 134(37) (stating that the Paraguayan government was officially advised of the tension and high level of risk in the Institute).

129. Maastricht Guidelines, supra note 121, at 20.
demonstrate by a preponderance of the evidence that the State had actual knowledge or reason to know of the alleged victims' living situation. State knowledge was shown, for instance, in the case of the Sawhoyamaxa Community, when government agencies received requests from the Community detailing its precarious living situation, lack of medical attention, and the resulting deaths from easily curable diseases.\(^\text{130}\) Evidence was submitted to the Court showing that the Paraguayan executive acknowledged this information by issued an emergency decree pursuant to which the State provided periodic but insufficient assistance to the communities.\(^\text{131}\)

Finally, to establish a prima facie case that the right to a dignified life has been violated the applicants in vulnerable groups must demonstrate causation. They must show that their situation is the result of State action, negligence or omission. In the \textit{Yakye Axa} and \textit{Sawhoyamaxa} cases the Court held that the communities' living conditions were due, in part, to the State's failure to take necessary actions. Paraguay had failed to opportunely process the communities' application of the return of their ancestral lands. As a result the people could not manage their own subsistence by hunting, fishing and gathering and they did not have access to natural resources such as clean water or medicinal plants.\(^\text{132}\) In proving causation, applicants may show that the State engaged in arbitrary or discriminatory policies regarding the distribution of basic necessities, governmental mismanagement of its resources such as excessive spending on self-aggrandizing projects, or corruption resulting from the official appropriation of scarce public resources with impunity. The applicants' satisfaction of all three elements would raise a rebuttable presumption that the State is liable for a violation of the right to a dignified life.

\textit{iii. Applicants Not Belonging to Traditionally Vulnerable Groups}

Persons lacking the basic necessities in life are not limited to those in traditionally vulnerable groups. The State may act or omit acting in such ways that have a detrimental effect on any person or group. For instance, if the State were to evict or relocate subsistence

\(^\text{130}\) Sawhoyamaxa, \textit{supra} note 9, at \S\ 158-9. Community leaders also submitted an anthropological report. \textit{Id.}

\(^\text{131}\) \textit{Id.}

\(^\text{132}\) \textit{Yakye Axa, supra} note 5, at \S\ 164.
farmers who lived in an area which was to be flooded by a State dam project, and as a result of the State's intervention those people lost their land and subsequently lacked the basic necessities for a dignified existence, a violation of their right to a *vida digna* could be attributable to State action. The State could also fail to act, and due to that omission or negligence violate the right to a dignified life. In the *Juvenile Reeducation* case, in which a fire in a children’s detention center injured and killed inmates, Paraguay had not taken sufficient preventative measures to deal with the possibility of a fire in the Institute. Like applicants in traditionally vulnerable groups, other applicants must show that they lack the most basic necessities of life. They must also demonstrate state knowledge or reason to know of their plight, and that the State caused their dire circumstances through action, negligent or omission. They may demonstrate state causation by showing a specific action that directly and negatively affected the applicants lives or more generally that the State engaged in mismanagement, corruption or the arbitrary and discriminatory distribution of its resources. These applicants would not have the benefit of a presumption in their favor.

**B. State Defenses**

The State can set forth defenses to the applicants’ case by showing any of the following: the applicants are not suffering from a lack of necessities; the applicants’ precarious situation is self-imposed in that there is paid work available which the applicants arbitrarily choose not to accept; the applicants are not members of a vulnerable group (when this element is necessary to the applicant’s case); or the government has not caused the circumstances that resulted in the applicants living situations. The government also can dispute the final option by showing that it is making a genuine effort to progressively comply with its international obligations on economic, social, and cultural rights by distributing scarce resources equitably and to the benefit of all groups in society, especially the most vulnerable. The burden of proof should be on the State when its defense is that it is unable to fulfill minimum subsistence rights for

133. *Juvenile Reeducation Institute*, *supra* note 59, at ¶¶ 178-79.

134. *Id.* at ¶ 178. There were no evacuation plans in case of fire, and there were no alarms or fire extinguishers. Guards had no training in how to handle emergency situations. *Id.*
reasons beyond its control.  

VIII. Conclusion

States may be in violation of the right to life under the American Convention even when there is absence of actual death. The Inter-American Court has expanded the interpretation of the right to life to include a qualitative aspect to live a dignified life. In doing so, the Court has made an inroad in merging civil and political rights with economic, social, and cultural rights and has reinforced the position that a human being needs a broad spectrum of rights to live a quality existence. In its jurisprudence, the Inter-American Court has emphasized that States must adopt positive measures to provide for this right, particularly in regard to vulnerable and at risk persons. The Inter-American Court’s integration of basic economic and social rights within the context of right to life, which is arguably the most basic of the civil and political rights, makes a contribution to the development of international human rights law. In doing so, it minimizes the division between the two types of rights, and, thus, supports the stance that human rights are universal and indivisible.

The difficulty arises in determining the point at which the State is liable for a violation of the right to a dignified life. Ideally, all individuals would have the right to the basic necessities required to live a dignified life. The high level of poverty in many American States, however, means that the human rights enforcement organs could be overwhelmed by complaints alleging a violation of the right to life. The Inter-American Court recognizes that the State’s obligation with respect to a dignified life should not be interpreted so as to impose an impossible or disproportionate burden on States, many of which argue that they lack the necessary economic resources. This article provides a legal analysis for distinct classes of applicants who could allege a violation of the right to live a dignified life. Applicants must first prove that they lack the basic necessities of life due to State action, negligence or omission. When the applicants are not under the exclusive control of the State, they must also prove that the State had actual knowledge or reason to know of the alleged victims dire circumstances. The burden of proof would fall most lightly on applicants who are incarcerated or institutionalized in State facilities, where they have no means of meeting their own basic needs.

135. See Maastricht Guidelines, supra note 121, at 19.
Other traditionally-recognized vulnerable groups such as children, the handicapped and those such as indigenous peoples, who have been systematically discriminated against would bear the additional burden of demonstrating State knowledge. All other applicants would have a weightier burden but would still have the possibility of bringing a case for the violation of a dignified life before the Court. Finally, the State could raise at least four defenses to dispute its liability or to show that it is taking adequate measures to assist the applicant in compliance with its international obligations.